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# Practices of Memory in Transitional Justice

The construction of a collective memory in Tunisia

Internship Report  
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Author: Nora TAHA  
Supervisor: Chaker MZOUGHI

## Abstract

This report sheds light on the critical relationship between transitional justice and memory. I examine how memorization processes within the context of transitional justice are presented as a healing mechanism for victims. I assess how these processes are often politicized, I examined how this politicization may occur in two instances: firstly, when memorization is practiced by the state for the purposes of building a national collective narrative through practices such as commemoration and creation of truth commissions or memory laws; new regimes use these practices to regain its authority in the public sphere and to give a sense of legitimization to their official narratives. Secondly, politicization may occur through the acts of civil society, their memorization turns into revolutionary conduct to oppose the official narrative of the new regime, hence their processes turn into a continuation to refuse and oppose forms of power, or either to demand an acknowledgment in the official institutions. I observe how politicizing these processes; whether by highlighting certain versions or ignoring others, affect the process of constructing a national and collective memory, and how it affect victims and their rights to truth and memory, which risks the idea of being re-victimized again in the process.

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## ACRONYMS

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ANPP	AL NIDAA POLITICAL PARTY
CS	CIVIL SOCIETY
KADEM	AI-KAWAKBI TRANSITIONAL JUSTICE CENTER
NPP	NAHDA POLITICAL PARTY
MCA	NATIONAL CONSTITUENT ASSEMBLY
PNMC	PRESERVATION OF NATIONAL MEMORY COMMITTEE
TJ	TRANSITIONAL JUSTICE
TIC	TRUTH AND INQUIRY COMMITTEE
TC	TRUTH AND RECONCILIATION COMMISSION
TTDC	TUNISIAN TRUTH AND DIGNITY COMMISSION

This report was conducted through my internship in Al-Kawikibi Transitional Justice center in Tunisia and based on the observation of their project on collective memory and Transitional justice. The report is also a fulfillment for my graduation requirements of the professional master program in Democratic Governance and Human Rights organized by the European inter-university center for Human rights and Democratization EUIC, in cooperation with Ca' Foscari university in Venice/ Italy and The university of Carthage in Tunisia.

## INTRODUCTION

The engagement of Memory in Transitional justice (TJ) has been explored in recent studies, it has been augmented by modern theories that discuss new forms of governance and power exercising, many scholars have advocated for a deeper exploration of this aspect. This report engages in this debate by giving a critical look at this matter, showing while memory is being constructed through memorization processes; it turns into a political conduct.<sup>1</sup> It is thus essential to understand to what extent this affects the path of TJ and its aim for reconciliation, this examination shows how the use of memory for the purpose of addressing past issues shapes new social and political structures, on the other hand this changing of behaviors “have the potential to affect dynamics by which memory is created, recalled, and altered.”<sup>2</sup> If we understand that memory is a “deeply constructive act”<sup>3</sup> then it is fair to examine how states construct and create “invited spaces”<sup>4</sup> like truth commissions and other official sets to practice a form of hegemony

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<sup>1</sup> Francesca Lessa, *Memory and Transitional Justice in Argentina and Uruguay: Against Impunity* (New York: Palgrave Macmillan, 2013), 2.

<sup>2</sup> Richard Lebow, “The Future of Memory,” *the Annals of the American Academy of Political and Social Science* 617 (2008): 1, accessed January 4, 2016, <http://www.jstor.org/stable/25098011>.

<sup>3</sup> Lessa, *Memory and Transitional Justice*, 2.

<sup>4</sup> Paul Gready and Simon Robins, “From Transitional to Transformative Justice: a New Agenda for practice,” *The International Journal of Transitional Justice* 8(3) (2014): 20.

over the past and victim's memories and use them to produce a one-sided narrative or to reposition their power.

In January 2011, citizens of Tunisia were calling for the breakdown of Bin Ali regime by holding several demonstrations, the fall of his regime led to the declaration of a transitional statute followed by issuing a TJ law in 2013. Due to this law the first election was held and led to the success of Al-Nahda Party, an Islamic oriented party, the first act of power affirmation by the newly elected government, which indicates the use of memory, was the illegal publication of the "black book" which contained documents accusing certain elites of dealing with Bin Ali regime.<sup>5</sup> In 12 pages, the "black book" depicted the suffering of NPP leader Moncef Al Marzougi during Ali's regime, thus portraying him in a heroic manner,<sup>6</sup> this portraying in the time of preparing for another campaign emphasizes Habermas' statement that leaders present themselves because "they too need to be packaged and displayed in a way that makes them marketable."<sup>7</sup> The current regime presented by Caed Sibsi tries to maneuver memory and use it to reaffirm power in many ways, including building monuments to regain the public sphere; such practices will be discussed throughout the report.

For the purposes of analyzing such practices in the scope of TJ, I assessed literature review concerning the politics of memory, the construction of collective memory and memorization process, these areas of study have not been the focus of TJ work. However I have noticed a spark in literature after the Arab uprisings. It was of utmost importance to obtain some field visits to certain spaces to analyze the deliberate positioning to certain commemoration which showed the relationship between space, power, and memory. I interviewed two members from the Truth and Dignity Commissions, and two other activists which provided me with a modest overview of certain dynamics.

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<sup>5</sup> Tunisian Government, *the Black Book: Netham Al de'aya wa al e'lan* (Tunis, Journalism and Communication department, 2013).

<sup>6</sup> Waheed Alfarsheshi et al., *Al-Adala Alinteqalya fe Tunis Wa Sodor Alqnoun* (Tunis: Aljame'ya Altunisya lel defa' ann Alhurtiyyat Alfardeya, 2014), 61.

<sup>7</sup> Jurgen Habermas, *The Structural Transformation of the Public Sphere: An Inquiry into a Category of Bourgeois Society* (Cambridge: MIT Press, 1989), 218.

To showcase these practices I sectioned this report into four main chapters, the first one platformed the relation between TJ and Memory and how they interact within a political frame, in the second chapter I presented some state policies towards memory and memorialization by focusing in how the state is trying to regain the public sphere in order to limit any revolutionary acts, I also showcased in this section how memory is being enacted in laws, the third chapter is dedicated to truth commissions, presenting a view of the way its structured and its expected role to document and how their work eventually build up in creating a public memory, the final chapter discuss the essential role of civil society in memorization and how their work becomes as an oppositional act, I present one case of a Tunisian art group, and then focus on the work of the hosting organization KADEM, and how they approach memory through one of their projects.

## **I. ARTICULATING THE RELATIONSHIP BETWEEN MEMORY AND TRANSITIONAL JUSTICE**

The concept of TJ revolves around a dynamic characteristic which is “transition” it implies a movement from a stage towards another. The debate within the TJ field has been characterized through the question of what constitutes the stage of transformation, wounded societies are not only left with memories and images from the past, they are faced with an empirical question on how to deal with these legacies of oppression. From this position, memory becomes an essential part in the study of TJ, as it helps in understanding the way public memory is shaped within political shifts, and how these images are re-used in this sense.

The idea of *how* to deal with the past should be examined under the guidance of this question: do societies have to deal with the past or not? People who advocate for confronting the past using measurements of accountability stress that “if past violations of human rights go unpunished, it will undermine the rule of law and the new democratic institutions which are being built”<sup>8</sup> as it will fail to provide concepts that are being advocated for such as equality before the law, access

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<sup>8</sup> Mike Kaye, “The Role of Truth Commissions in the Search for Justice, Reconciliation and Democratization: The Salvadorian and Honduran Cases,” *Journal of Latin American Studies* 29 (October 1997): 696, accessed 18 June, 2016, <http://www.jstor.org/stable/158356>.

to justice and accountability. On the other hand, opponents in favor of forgiving underline that there is a need to “draw line under past human rights violations and seek national reconciliation rather than pursues the punishment of perpetrators which could lead to renewed confrontations.”<sup>9</sup>

Nonetheless, there are specific instances that should be taken into consideration while addressing the issue of past abuses For example, taking in mind *when* the abuses happened Is essential as the timing is relevant to the intensity of emotions, thereby relevant to the idea of demanding reparations or asking for accountability.<sup>10</sup> This may change the framework of addressing the past and how we react to it; Ester notes that “The decisions made in a process of TJ can depend heavily on the passage of time”<sup>11</sup> He further forms an equation which states that the more time has passed, the lesser the demand for punishment,<sup>12</sup> Other grounds such as the duration of the dictatorship can also affect how societies address the past.<sup>13</sup>

A quote that best illustrates the relationship between memory and TJ is found in what Ariel Dulitzky states, he demonstrate that “Memory must not only remember and try to avoid the most serious forms of violations of human rights, but it must also be a rejection of the new forms of abusive exercise of power”<sup>14</sup> TJ aims to rebuild a futuristic situation that no longer experience past abuses, memory in this regard is the connection between these two states: the past and the future, What is understood from his previous statement is that memory isn’t an act of remembrance but should be a an act of rejection to new forms of abusive exercises, he views memory as a revolutionary act rather than something passive.

However “policies of memorialization are a part of a large arena of TJ politics and cannot be seen independently,”<sup>15</sup> thus memory position itself as an observer of the success of TJ’s policies, in the other hand, memorialization initiatives helps into “recasting political relations.”<sup>16</sup> Lebow

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<sup>9</sup> Ibid.

<sup>10</sup> Elizabeth Mary Herron-Sweet, "The Right to Memory and Truth: Brazil's Transitional Justice Policy and its Consequences, 1979-2009" (Master Thesis., Middlebury College, 2009) 18.

<sup>11</sup> John Elster, “Memory and Transitional Justice” (paper presented in the workshop of Memory of War, MIT, January, 2003).

<sup>12</sup> Ibid., 3.

<sup>13</sup> Herron-Sweet, “The Right to Memory and Truth.” 18.

<sup>14</sup> Ariel Dulitzky, “Memory, an essential element of transitional justice,” *Peace in Progress* 20 (2014), accessed June 24, 2016, <http://www.icip-perlapau.cat/numero20/pdf-eng/Per-la-Pau-n20-ENG.pdf>.

<sup>15</sup> Elizabeth Julian Quoted in Lessa, *Memory and Transitional Justice*, 2.

<sup>16</sup> Pilar Rano Alcalá and Erin Baines, “Editorial note,” *The International Journal of Transitional Justice* 6 (3) (2012): 389.

argues that a growing awareness of a politicization of memory will have serious repercussions in memory practices, such repercussion is an “increased resistance to institutional memory,”<sup>17</sup> this, he argues “not only makes people aware of a process that might otherwise have gone unnoticed but also provides alternative perspectives and choices.”<sup>18</sup>

State intervention in memorization processes are always questioned, they are “typically elite-led and politically instrumentalized in ways that continue to deny the agency of victims.”<sup>19</sup> State memory projects in TJ relies on a deliberative control of spaces to regain a power in the public sphere, to achieve this they practice an “official repression of memories”<sup>20</sup> This repression is used by the new regime to contain any attempt that jeopardize its existence by building an “imagined community” and create a sense of solidarity between citizens, it is usually seen in commemoration, educational textbooks or other national sets that artifacts and produce a national image, thus states look at victim stories as a threat of the sense of security they are creating, these kind of actions contribute in an alienation of victims and positioning victims as “others”.

Evaluating memory initiatives conducted by the state gives an indication of just how influential the old regime is still is, the insist of polishing the image of the autocratic regime or disregarding memories that contain certain crimes, shows that the old regime may still have ties in the new structures, which undermine the process of TJ. In addition it provides an indication of how much the new institution are capable of dealing with such critical issues, like building a national narrative while holding and preserving the rights of victims to be heard.

In the other hand, there is an oppositional memory work that comes from a micro level showed in the practices of everyday life. Oppositional memory“ seeks to unpack the “nationalized memories” produced by state-centric paradigms of remembrance,”<sup>21</sup> This opposition that is done by either challenging the official narrative, breaking a silence, or by shaping and preserving victim’s stories is an act of refusing power repercussions. This engagement of the CS the

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<sup>17</sup> Lebow, “The Future of Memory,” 31.

<sup>18</sup> Alcala and Baines, “Editorial Notes,” 389.

<sup>19</sup> Ibid., 422.

<sup>20</sup> Ibid.

<sup>21</sup> Gready and Robins, “From Transitional to Transformative Justice,” 390.

memory-making process illustrate a statement of a “Censorship” on the government, it also demands an acknowledgment in the official institutions where they have been ignored through autocratic years, the preservation of past abuses memories in everyday life provides a reference point of any new regime politics.

## II. State policies towards memorization

### A. Regaining the public sphere

Memorization in an abstract way is the process where past events are preserved. Its functional aim is to “connect to a narrative or history in the minds of those who experienced it.”<sup>22</sup> Memorization processes in TJ are addressed as a part of the healing and reconciliation process, they are aimed to serve a psychological meaning for victims: a place to be remembered and acknowledged. A paramount point here is the reifications and tools that are being used in tackling the memory of victims, reifications are important in the process of remembrance, without it “the living activities ... would lose their reality at the end of process and disappear as though they never had been,”<sup>23</sup> tools and reifications in this sense means a realization of past events and revealing truth. It is very important to understand what these reifications are and how they are carried out, because memorization processes often have implicit agendas, aimed at serving a political aim, sometimes it is seen as a requirement for a new political stage, for example Bradely states that the FSLN<sup>24</sup> in the process of the state formation in Nicaragua “found itself required to intervene in the production of memories”<sup>25</sup> in order to claim dominance.

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<sup>22</sup> Julian Hopwood, “We Can’t Be Sure Who killed us: Memory and Memorialization in Post Conflict Northern Uganda,” (New York: International Center of Transitional Justice, 2011), accessed May 19, 2016, <https://www.ictj.org/publication/we-can't-be-sure-who-killed-us-memory-and-memorialization-post-conflict-northern-uganda>.

<sup>23</sup> From Hanna Arendt, *the human condition*, Quoted in Stephan Howard Browne, “Arendt, Eichmann, and The Politics of Remembrance,” in *Framing Public Memory*, ed. Kendal Philips (Alabama: University of Alabama Press, 2004), 56.

<sup>24</sup> Frente Sandinista de Liberación Nacional.

<sup>25</sup> Bradely Tatarm, “State Formation and Social Memory in Sandinista Politics,” *Latin America Perspective* 36 (2009): 158, accessed June 15, 2016, doi: 10.1177/0094582X09341981.

Bradley acknowledges that social memory results in the “formation of a political language,”<sup>26</sup> it is very important to keep in mind that context of TJ, where the state is being reformatted, and everything is being challenged and reshaped. Bradley illustrates that “State formation involves material as well as ideological domination,”<sup>27</sup> this ideological domination is attached to the authority that determines the limits of remembrance. Memory in this context turns to a form of power-exercising, where the political dominance acknowledges what is “needed” in the re-formation of the fragmented state and what’s not.

Hopwood’s states that “whilst there has been an agreement of what memorization is, there has, however been less agreement on “ ’why it is undertaken’ “<sup>28</sup> The question *why* itself place memory in a political category. In the end nations needs a background or how Brewer suggests they “need a narrative by which to construct a sense of nationhood ... a sense of collective identity and solidarity ... all of which memories help to supply.”<sup>29</sup>

Hanna Arendt refers to the public as an “organized remembrance,”<sup>30</sup> the act of censorship which involves what is being remembered and how it is being remembered is attached to the construction of the individualistic and collective identity; creating a sense of an “imagined community” this organized remembrance is enforced and created in the public sphere, which produce what Habermas concedes: a “manufactured public sphere.”<sup>31</sup>

In the Tunisian context, we cannot really understand the approach of official memorization processes dispatched from the political sense, to illustrate my point I will show two cases where memory in Tunisia’s transition has been politicized the first incident is the issuing of the “black book” in the period of former president Moncef Marzoughi’s rule in 2013, the black book that contained documents from the presidential archive exposed a list of people claimed to be collaborators with the former regime of Bin Ali which was published in the 3th of December 2013.<sup>32</sup> The repercussions of publishing the book raised pertinent points, it raised the issue of accessing and using archival documents without any censorship from independent legal

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<sup>26</sup> Ibid., 172.

<sup>27</sup> Tatarm, “State Formation and Social Memory,” 159.

<sup>28</sup> Hopwood, “Memory and Memorialization.” 8.

<sup>29</sup> John D. Brewer, "Memory, Truth and Victimhood in Post-trauma Societies," in *the SAGE Handbook of Nations and Nationalism*, ed. Gerard Delanty and Krishan Kumar (London: The Cromwell Press, 2006), 216.

<sup>30</sup> From Arendt, *the human condition*, Quoted in Browne, “The Politics of Remembrance,” 56.

<sup>31</sup> Habermas, *Transformation of Public sphere*, 218.

<sup>32</sup> Alfarsheshi et al., *Al-Adala Alinteqalya fe Tunis*, 68.

committees,<sup>33</sup> the suspicious time of publishing the book where former president Marzougi has been preparing himself of another turn of election,<sup>34</sup> and the idea where the book contained a whole chapter about him showing that he was a strong opponent of Bin Ali regime. All this lead to a discontent public reaction, this specific reaction from the public and the issuing of a verdict from the first instance court preventing from the circulation of this book affected the way archival documents are dealt with later on.<sup>35</sup>

The other case involves the initiative of the current Tunisian regime led by ANNP to re-build a Bou Ragiba momentum in one of the vital streets where the revolution was launched, the return to Bou Ragiba, the former president who served from the 1957 to 1987 well known of his famous quote “what system? I am the system”<sup>36</sup> and was publicly known as a figure of modernity and secularism though he was a dictator, is something worth observing from two points:

- A. The initiative is coming from ANNP that came into power after the Islamic party took over the regime in 2012, ANNP was constructing itself by deconstructing any ideas that NPP was presenting. Essentially ANNP presented itself as a secularist movement in opposition of NPP’s Islamic orientation. In order for this opposition to have a lasting effect, an illustration was needed.
- B. The idea of getting back to Bou Ragiba’s figure despite his dictatorship indicates how regimes react in transitional period in general. There’s always a sense of nostalgia to old “glories”, the exiled president Bin Ali is attached to concepts such as economical crimes, theft, and oppression, while Bou Ragiba was known of his modernization and economical efforts, though both were dictators, this shows that the current regime, in a desperate bid of enforcing its position, decided to re-create the figure of Bou Rigiba.

The installation of the figure itself affirms the idea that “the public memory needs a place of enactment.”<sup>37</sup> On other hand, the figure and the place where it has been installed is problematic, it gives an indication of the direction that the new regime is taking. Brining

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<sup>33</sup> Ibid.

<sup>34</sup> Ibid., 96.

<sup>35</sup> Ibid.

<sup>36</sup> Michael J. Willis, *Politics and Power in the Maghreb: Algeria, Tunisia and Morocco from Independence to the Arab Spring* (London: Oxford University Press, 2014), 51.

<sup>37</sup> Edward S. Casey, "Public Memory in Place and Time," in *Framing Public Memory*, 38.

back Bou Ragiba sense a clear message: human rights violations could be disregarded for the sake of firmly building a new state. Moreover, the placement of the figure in the street where the revolution had started from hides a powerful indication, it reaffirms that authority is regaining the public sphere again.

One of the interviews I had conducted revealed how well the Tunisian youth are about the use of memory as a political tool, Elyes Mejri, a youth activist, point out that “most of the political parties tried to use memorials and the images of martyrs as a way to tackle the emotions of people.”<sup>38</sup> He further mentions an example of how the NPP named a public square “14 janvier” where people were gathering before any demonstration; meanwhile it was facing accusation of having settlement and hidden relations with the Bin Ali’s regime. Mejri explains that these kinds of acts to memorize the revolution place it in a concrete manner, it gives the impression that the revolution reached its dead end, whereas the revolution -he affirms- is an on-going process<sup>39</sup>.

## **b. Laws and Memory**

The analysis of how memory is shaped through laws in TJ is critical; Huyssen claims that there is a “fundamental tension between memory and the law”<sup>40</sup> this relation sets on the table the question of how laws can deal with something so fluid and fragile and how it can turn it into something rigid, the debate within the field of memory laws has been re-rising the question of law’s functions and roles in society, Wartanian states that “While some think memory laws help the state protect social harmony, others argue that it is not the law’s role to write history.”<sup>41</sup>

Nevertheless, what is essential in this regard is what memory laws produce, their enactment of memories create the issue of selectivity, Ya’er Romes argues that “Law... as set of meanings, is loaded with selective memories,”<sup>42</sup> politics of selectivity emerges as a reaction of certain incident

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<sup>38</sup> Elyes Mejri (Activist and artist ), interviewed by author, May 2016.

<sup>39</sup> Ibid.,

<sup>40</sup> Andreas Huyssen, "International Human Rights and the Politics of Memory: Limits and Challenges," *Criticism* 53 (February 2011): 611, accessed on June 13, 2016, doi: 10.1353/crt.2011.0037.

<sup>41</sup> Raffi Wartanian, "Memory Laws in France and their implications: institutionalizing social harmony," *Humans in action*, accessed on June 30, 2016, <http://www.humanityinaction.org/knowledgebase/117-memory-laws-in-france-and-their-implications-institutionalizing-social-harmony>.

<sup>42</sup> Ya’ir Ronen, "the Construction of Memory Through Law and Law's Responsiveness to Children," *Law and Psychology* 9 (2006): 412, accessed July 1, 2016, [https://www.academia.edu/5678003/The\\_Construction\\_of\\_Memory\\_through\\_Law\\_and\\_Laws\\_Responsiveness\\_to\\_Children](https://www.academia.edu/5678003/The_Construction_of_Memory_through_Law_and_Laws_Responsiveness_to_Children).

or within a particular context, for example, Wartanian analyzes that the acknowledgment of the Armenian genocide from France in the Law in 2001 wasn't only a step to engage the Armenian minority in the society, rather he mentions that while The Turkish Government was the one responsible of this genocide, France used this law to "contend Turkey's bid for the EU"<sup>43</sup>, another example which illustrate the political usage of memory in laws and how it can be so limiting is the Budgetary Principle Law which was passed by the Israeli Knesset which aims to "deny funding to any organization, institution, or municipality that commemorates the founding of the Israeli state as a day of mourning"<sup>44</sup> which basically means a denial of the Palestinian's right to acknowledge or to remember their Nakba.

These Laws of Memory are able to encourage social and political structure as they interfere in the creation of public memory; Emanuela states that "political power has imposed legislation mandating a certain collective history."<sup>45</sup> However Memory laws are "negative in their sense"<sup>46</sup> and problematic in many levels, these kind of litigations could be used as a political tool in the hand of the dominant, moreover, they are critical not only because they are responsible of the encouragement of one version of history, but because they have the ability to "sanction anyone who has another version of it."<sup>47</sup>

In a TJ context, the dealing with such laws becomes even more complex, because memory is presented as a healing mechanism for victims, thus any denial, sanctioning and exclusion would have a tremendous effect to victims and the way they are positioned in this new status. Thus, a new legal debate has emerged which talks about forming a right to memory, Philip Lee in his work "towards a right to memory" illustrated how international conventions already acknowledge this right implicitly, he also states that since the International Criminal Court has

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<sup>43</sup>Wartanian, "Memory Laws in France,".

<sup>44</sup> Jillian Kestler-D'Amours, "Israel criminalizes commemoration of the Nakba," *Electronic Intifada*, 29 march 2011, accessed 30 June 2016, <https://electronicintifada.net/content/israel-criminalizes-commemoration-nakba/9289>.

<sup>45</sup> Emanuela Fronza, "The Criminal Protection of Memory: Some Observation about the Offense of Holocaust Denial," in *Genocide Denials and the Laws* ed. Ludovic Hennebel and Thomas Hochmann (New York: Oxford University Press: 2011).

<sup>46</sup>Philip Lee, "Towards a Right to Memory," *Media Development* LVVII(2) (2010): 9, accessed on 30 June 2016, [https://www.academia.edu/10191152/ Gender\\_and\\_the\\_Right\\_to\\_Memory\\_. Media\\_Development. Media\\_Development\\_11-15](https://www.academia.edu/10191152/ Gender_and_the_Right_to_Memory_. Media_Development. Media_Development_11-15).

<sup>47</sup>Archival platform Blog: "The Right to Memory." Blog entry by Jo-Anne, August 2012, accessed on 24 June 2016 [http://www.archivalplatform.org/blog/entry/the\\_right/](http://www.archivalplatform.org/blog/entry/the_right/).

recognized the aspect of “mental harm” in crimes such as genocide, then mental harm would include “the repressive erasure of the sociocultural memories.”<sup>48</sup>

In Tunisia, the transitional justice law issued in 24 December 2013 stated in article 44 the responsibility of truth commissions to preserve the national memory of the victims, it articulates a tendency towards a need to protect memory by laws, nevertheless it hasn't stated how the scope of this “preservation” would be, or the sanctions of not following this task. Other Laws like the 97 decree of 2011 acknowledge the duty of the state to memorize the Jasmine Revolution; either by illustrating a list of martyr's names or in the creation of a special museum, or giving the streets or public spaces names of Martyrs; Moreover, there is the bylaw of 2014 that organize the work of the TDC which created The Preservation of a National Memory Committee that aims to memorize and archive abuses.

The term that have been used in these laws to encourage an acknowledgment of the 2011 uprising is something positive in its sense, though One would argue that the illustration of memory in the Tunisian laws was established in a “reactive” manner, which jeopardize how the application of these law would take place, in the practical sense the application of these tasks has been limited.<sup>49</sup>

### **III. Truth commissions and the construction of collective memory**

TC are seen as a “state-authorized, temporary bodies that investigate a pattern of human rights violations over a specified period of time,”<sup>50</sup> their mandate revolves around exploring past abuses and revealing the truth, but it doesn't amount to a legal mandate such as persecuting or issuing verdicts, this outlook emphasizes how their work becomes more of a “nature and open-minded”<sup>51</sup> and not contextualized in a complex legal manner. It is important to examine their role and how they mandate in its relation to the construction of memory as” truth-finding also

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<sup>48</sup> Lee, “Towards a Right to Memory,” 8.

<sup>49</sup> Alfarsheshi et al., *Al-Adala Alinteqalya fe Tunis*, 86.

<sup>50</sup> Daan Bronkhorst, “Truth Commissions and Transitional Justice: A Short Guide,” accessed 30 June, 2016, [http://ibrarian.net/navon/paper/Truth\\_Commissions\\_And\\_Transitional\\_Justice\\_\\_A\\_Sho.pdf?paperid=312385](http://ibrarian.net/navon/paper/Truth_Commissions_And_Transitional_Justice__A_Sho.pdf?paperid=312385).

<sup>51</sup> Chrisje Brants and Wileem Pompe, “Transitional Justice: History-telling, Collective Memory, and the Victim-witness,” *International Journal of conflict and violence* 7(1) (2013): 2, accessed June 1, 2015, <http://www.ijcv.org/index.php/ijcv/article/view/195>.

promotes the development of a collective memory,<sup>52</sup> but most importantly to find out how the structure of TC deals with memory, especially victim narratives.

Blouin and Rosenberg propose a question of “how people know what they know and what institutions validate that knowledge”<sup>53</sup> which is fairly related to the creation and functioning of TC, Their main tasks are revealing truth through examining and investigating past abuses; they function in a “publicized” manner, Laura and Taylor concludes that the more TC worked on a “public level” the more it will contribute to democratization,<sup>54</sup> the way south African commission in 1995 functioned in public spaces was a way of ensuring victims ,that were excluded from these spaces, that the public space is reclaimed and turned into a space for justice, this is essential on the level of victim testimonies, it shapes how victims are being presented in public after years of exclusion.

Where the truth hearings are taking place and the engagement of the public in the hearing process contribute to the creation of a collective memory, one of successful steps in the SA’s case is the live broad the public hearings in media, in the other hand the Chilean TC and the National Commission on Political Imprisonment and Torture hadn’t held any public hearings in which Ester states that this deprived their work from an “emotive dimension”<sup>55</sup>.

The relationship between TC and the public sphere was noted again in the work of south Africa TC in 1995,<sup>56</sup> what Habermas views as the public sphere as in “including all those who might join in a discussion of issues raised by the state”<sup>57</sup> is relevant in this sense, the victims and the audiences that are invited to participate “reinforce” the public sphere that is being questioned in transition periods. The idea of inviting the public is rather important; for Harris the invitation is seen as a participation “in the official process of imagining the nation,”<sup>58</sup> the invitation of the

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<sup>52</sup> Brants and Pompe, "Transitional Justice: History-telling,"1.

<sup>53</sup> Laura Stoler, "Colonial Archives and the Arts of Governance: On the Content in the Form," in *Archives, Documentation and Institutions of Social Memory: Essays from the sawyer seminar* ed. Francis Blouin and William Rosenberg (Michigan: University of Michigan Press, 2006), 270.

<sup>54</sup> This argument was illustrated generally in their work for more see Laura Taylor and Alexander Dukalskis, “Old Truths and New Politics: Does Truth Commission 'Publicness' Impact Democratization?,” *Journal of Peace Research* 49 (September 2012), accessed June 1, 2016, <http://www.jstor.org/stable/41721632>.

<sup>55</sup> Brants and Pompe, "Transitional Justice: History-telling," 8.

<sup>56</sup> Christopher Blame, *The Theatrical Public Sphere* (Cambridge: Cambridge University Press 2014), 35.

<sup>57</sup> Brent Harris, “The Archive, Public History and the Essential Truth: The TRC Reading the Past,” in *Refiguring the Archive*, ed. Carolyn Hamilton (The Netherlands: Kluwer Academic Publishers, 2002), 173.

<sup>58</sup> *Ibid.*

public to participate in public hearings also breaks the idea of a controlled and selective public, which create eventually a “shared, uncoerced public sphere”<sup>59</sup> that helps in shaping the collective memory of both victims and non-victims.

The public/audiences who are invited to attend the public hearings become a part of “the project of making a meaning”<sup>60</sup> and in TJ the project of making a meaning is the project of building a national identity. According to Habermas, audiences are not only spectators and listeners, but they constitute “a space for speakers”<sup>61</sup>, they become a part of the creation of a social memory by transcending the historical narratives. However, the process of being in public, revealed and exposed, doesn’t necessarily guarantee that the public will take for granted the turnouts; Arthur suggests that “even if new information is presented in the public sphere, people may resist accepting facts that do not fit into heroic narrative of their own community’s past.”<sup>62</sup>

Though, as stated earlier, the participation is seen as engaging in the official process of “imagining the nation”, TC may already have “imagined” the new nation, after all TC are a political tool that want to achieve a political aim, this risk that victims experiences and their narratives would be challenged in the creation of “a new public imaginary”<sup>63</sup>, in the south African experience, the imagined project was already a united black and white state,<sup>64</sup> thus SA truth commission approach in dealing with victim testimonies focused on issue of race, rather than putting it in a colonial context, this puts a huge question on the ethicality of dealing with victims testimonies and how TC can be selective while dealing with these, which eventually shapes how collective memory and history is being constructed.

Victim testimonies are seen as a story-telling of past abuses, while being processed in official sets they turn into something concrete”<sup>65</sup> it is understandable that victim narratives become part

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<sup>59</sup> Onur Bakiner, *Truth Commissions: Memory, Power and Legitimacy* (Philadelphia: University of Pennsylvania Press, 2016), 69.

<sup>60</sup> Harris, “The Archive,” 173.

<sup>61</sup> Habermas quoted from Blume, *The Theatrical Public Sphere*, 23.

<sup>62</sup> Paige Arthur, “Fear of the Future, Live through the Past: Pursuing Transitional Justice in The Wake of Ethnic Conflict,” in *Identities in Transition: Challenges for Transitional Justice in Divided Societies* ed. Paige Arthur (New York: Cambridge university press 2011), 290.

<sup>63</sup> Baknier, *Truth commissions*, 73.

<sup>64</sup> Harris, “The Archive,” 168.

<sup>65</sup> Tamara Hinan, “To Remember, or To Forget? Collective memory and Reconciliation in Guatemala and Rwanda,” *The University of Western Ontario Journal of Anthropology* 18 (2010): 19, accessed June 19, 2016, <http://ir.lib.uwo.ca/totem/vol18/iss1/11>.

of shaping the collective memory and be an assessment in “constructing social solidarity.”<sup>66</sup> However, there are certain context that should be taken into consideration while addressing the formulation of collective memory through these testimonies:

1. **The continuous either implicit or explicit effect of past regime:** victim testimonies holds a truth; which could be problematic if TC are constructed while the old regime still holds some kind of power, Arendt points out that factual truth are “vulnerable to manipulation when they are inconvenient for those in power”<sup>67</sup> It risks a “selectivity” which eventually produces a distorted image and a risk a re-victimizing victims by not giving them a “heard voice”. The manipulation is made in order to renew their abusive image or to evade accountability;
2. **The mandate of truth commissions:** the limits that are set in the work of truth commissions lead to the creation of a partial truth and a focus one-sided historical version Their work could be limited due to certain provisions in the law that created them as Onur state that sometimes “commissioners are discouraged from adjudication politically contentious memory debates”<sup>68</sup> because provisions “set limits on what it can say”<sup>69</sup>, the limited mandate includes also the type and the time of abuses that TC want to reveal which leave some other abuses un-tackled, for example, the Chilean truth and reconciliation commission focused on crimes of disappearance (1991), the Panama truth commissions reported on torture crimes (2000), the truth commissions of Mauritius investigated slavery (2009)<sup>70</sup>. Though this should not be always taken into a negative meaning, TC sometimes becomes reluctant to approach certain issues in order leave an open space for history, in order not to “put restriction on the struggle for social memory.”<sup>71</sup>
3. **Public hearings:** The individualistic understanding is articulated within the interaction of other’s, this interaction, or how Brant refers to it as a competing narrative,<sup>72</sup> is crucial in the construction of a shared social memory, the public hearing of victims engage both

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<sup>66</sup> Brewer, “Memory, Truth and Victimhood,” 2.

<sup>67</sup> Hanna Arendt Quoted from Taylor and Dukalskis, "Old Truth New Politics," 674.

<sup>68</sup> Bakiner, *Truth commissions*, 70.

<sup>69</sup> Ibid.

<sup>70</sup> The United States Institute of Peace listed a digital collection of all truth and recommissions, for more *see* <http://www.usip.org/publications/truth-commission-digital-collection>

<sup>71</sup> Ibid., 71.

<sup>72</sup> Brant and Pompe, “Transitional Justice: history telling,” 7.

victims and citizens in the construction of nation's truth,<sup>73</sup> the refusal of holding public hearings, or the question selectivity of cases in the public hearing affect how collective memory is produced.

In the Tunisian realm, The Transitional Justice law that was issued by the National Council Assembly in December 2013 established TDC. It was defined in article (16) as an “independent commission, that has a legal personality, with financial and administration independence, located in the capital Tunis, and can hold any sessions in any place inside the Tunisian republic” The validity of the independency of the commission's members has been raised, as its members reflected the same political views of the NCA,<sup>74</sup> The law has explained the work of the TC regarding its structure, members, and mandates, article (19) stated that the commission should contain 15 members, in the practical sense, TDC has been functioning with only 11 members<sup>75</sup>, this breach of their law puts a general question on the credibility of the outcomes of their work.

The TDC closed the door of receiving application in June 15, 2016 and the final numbers of complaints reached 65,000<sup>76</sup> In an interview conducted with the head chief of TIC explained that these files go through a selection process, a file to be accepted should meet three main criteria: A. the abuses took place from 1995 to 2013 B. the abuses are conducted from a state part or anyone that enjoys their protection. C. the abuses should be severe and systematic.<sup>77</sup> The mentioned terms are very abstract, which leaves a broad space of interpretation, which risks the issue of limitation and exclusion.

After the selection of files, the hearing processes are held. Private hearings are held with a committee containing members from different discourses such as law, psychology, and anthropology,<sup>78</sup> after the hearing the files are archived through numeric and paper work.

However, the public hearings are acknowledged, yet they haven't taken place, the continuous delay of the public hearings is “unknown”, nevertheless Oula ben Nejma, the head of Truth and Inquiry committee, explained that the public hearings that will be broadcasted through national

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<sup>73</sup> Taylor and Dukalskis, “Old Truths New Politics,” 673.

<sup>74</sup> Alfarsheshi et al., *Al-Adala Alinteqalya fe Tunis*, 44.

<sup>75</sup> Oula Ben Nejma (Head chief of Truth and Inquiry committee), interviewed by author, June 30, 2016.

<sup>76</sup> Ibid.

<sup>77</sup> Ibid.

<sup>78</sup> Ibid.

television are for selected cases that will show a comprehensive perspective, she stated further that the selection process is still on going and the criteria are not settled yet,<sup>79</sup> Though it has been known that public hearings should have started in the early June 2016. When asked about the importance of these public hearings, she stated that “most of people don’t know what actually happened, and they lack an evaluation of these acts, it is important to show that what happened wasn’t something random, it had its reasons and its structures, and it is the right of any Tunisian to know that.”<sup>80</sup>

Due to the importance of final reports as their findings “reflects the power relations in the country”<sup>81</sup> Mrs. Nejma was asked about the final report of the TDC, she stated that several notes are still being discussed in the TDC; such as how it will be drafted and how it will be written,<sup>82</sup> she explained that “the report will not have a judicial dimension as much as it will have a social and psychological one.”

Regarding the PNMC, the interior bylaw of the work of TDC state that one of their aim would be to “control the mechanism that are adopted by the state or any other related institutions that preserve national memory.” article (63), which is article is rather essential, as it indicates the risk if the state institutions worked alone in this subject, and it implies that the PNMC is in a censorship position towards state memorization processes, yet in the practical level, the work of the PNMC only started in January 2016<sup>83</sup>, which leaves a 2 years vacuum and non-observation. The delay of the PNMC could be understood that the preservation of national memory wasn’t a priority.

### **III. Civil society’s approaches to memorization processes:**

CS plays a paramount role in TJ, they work as advocates for human rights, and fill gaps that new institution may not be able to deliver, the engagement of CS is also important and “critical to the

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<sup>79</sup> Ibid.

<sup>80</sup> Ibid.

<sup>81</sup> Brants and Pompe, “Transitional Justice: History-telling,” 9-10.

<sup>82</sup> Ibid.

<sup>83</sup> Saleh Ben Shaded (member of TDC), interviewed by author, June 30 2016.

realization of transitional justice objectives.”<sup>84</sup> However the role of CS in the subject of memory is categorized in a way to challenge the official narrative adopted by the state, or to protect, gather, preserve narratives.

CS activities for the purpose of this report are defined as any initiatives that are not being taken by the state, this selection is to emphasis on the fact that they are out of the politicization circle. One of the CS’s roles in memorization initiatives is getting the attention of the officials or “generate a material support from the government”<sup>85</sup> However the idea of CSs engaging in memory is important for several factors:

- ➔ First it changes the expected roles; thus the CS becomes an observer or a censor of the state’s exercises towards memory and not the other way around;
- ➔ Secondly, the idea that CS is engaged in these initiatives creates a virtual battle which is the “Official narrative vs. the public narrative” and even if it cannot succeed on influencing the state policy towards memory, it could at least demonstrate that there is another version of history that are being challenged;
- ➔ Thirdly as the CV position itself as a representation of the public, then their intervention gives a kind of guarantee to the victims that are being ignored to be heard, and thus contribute on the process of their healing.

One of the memorization attempts at the informal level in Tunisia is the work of a graffiti group called “*Zawawnah*”, their work focuses on drawing graffiti in public spaces that which hold demands regarding accountability and remembrance, the displayed photo hereinafter means “ don’t forget the martyr” and the second means “I shall not forgive” is an example of their work. Their slogans contribute in achieving a collective language that demands accountability of the wrongdoings that were caused by the past regime and not being challenged, by stating that memories are not fading away. However, the work of this group has been challenged from Marzougi’s regime, as a law suit has been filed against them placing their slogans/graffiti as a

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<sup>84</sup> Peter Drush and Oliver Simic, ‘The convergence of Transitional Justice and Art,’ review essay, *International Journal of Transitional Justice* 8(2) (2015): 319.

<sup>85</sup> Hopwood, “Memory and Memorialization,” 11.

“disorderly conduct,”<sup>86</sup> The reaction to their graffiti from the government was erasing them<sup>87</sup> which get us back to the conflict of winning back the public sphere.



(Photo 1)



(Photo 2)

memorization initiatives are characterized within a certain theme; they want to acknowledge and to remember, the aim of the initiatives that are conducted from the CS's side and what they focus on is related to the form of power that have caused these violations, for example memorization processes that had taken place in Uganda focused on erasing the fears between the two groups of Madi and Acholi, they focused on normalizing and humanizing the image of the other<sup>88</sup>, initiatives in Palestine such as the project of “*Abdan lan Ofareq*” focused on collecting oral narratives and testimonies for the purpose of proving an existence to challenge the official Israeli narrative, another project conducted in Lebanon with the title of “*Badna Naaref*” focused on collecting daily life stories from the memory of the 1975 war out of fear that the next generation will be “vulnerable to political manipulation”<sup>89</sup> In Tunisia, the project that is being conducted -which is the focus of this chapter and explained below- is “*Al-Thakera Aljame'a wa Hefth Al-Thakera*” which is being conducted in the time of this report, focus on how the history would be taught after long years of oppression.

One can imagine how big a role the prolonged dictatorship plays in construction social orders. In the aftermath of dictatorships efforts are drown to reconstruct these relations to both liberate as

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<sup>86</sup> Oussama Bouagila (co-founder of *Zawawnah*), interviewed by author, June 2016.

<sup>87</sup> Ibid.

<sup>88</sup> Hopwood, “Memory and Memorialization,” 10.

<sup>89</sup> “Badna Naarf,” About the Project, accessed on 14 June, 2016 [www.badnanaaref.org/index.php/about/2](http://www.badnanaaref.org/index.php/about/2).

well as produce new structures, Barat and Duthi fears that these long legacies will have “long term impacts on social patterns of transmission of memory.”<sup>90</sup> Weldon realizes that legacies of conflict “not only shape the way in which the new social order is conceived, but also the ways in which traumatic knowledge is passed on from one generation to another,”<sup>91</sup> this realization is the main core why social structures like education should be examined.

The project of KADEM revolves around how collective memory is transmitted through education, it contribute to shed lights on the importance of approaching other sets of preserving memory; such as education.

#### About the institution and their project:

KADEM is a non-governmental regional organization specialized in knowledge transfer, expertise-sharing and capacity building in the field of democratic transition, it is founded on the principle of partnership among organizations and experts across the Arab region and beyond. KADEM was set up in Amman, Jordan, in June 2006, following the revolution in Tunisia; KADEM was registered in July 2011 as an association subject to Tunisian law, their work focus on implementing projects regarding democratic transition through conducting studies, publications and training workshops, their objectives are promoting a dialogue between political decision-makers and CS about democratic transition issues, and strengthen cooperation between experts and representatives of CS and political actors in periods of democratic transition.<sup>92</sup>

“Transitional justice Barometer” is the name of one of their projects in a duration of two years conducted between KADEM, Impunity watch and the University of York, the aim of this project is to build a research skills among different levels in order to produce and exchange knowledge in the regard of TJ<sup>93</sup>, Barometer of TJ focus is victim-oriented, it is aimed to engage victims as a way to evaluate the mechanisms that are being under taken in TJ in Tunisia.

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<sup>90</sup> Clara Ramirez-Barat and Roger Duthie, *Education and Transitional Justice opportunities and Challenges for Peacebuilding*, report (New York: International Center of Transitional Justice, 2015): 5 accessed May 23, 2016, <https://www.ictj.org/sites/default/files/ICTJ-UNICEF-Report-EducationTJ-2015.pdf>

<sup>91</sup> Ibid.

<sup>92</sup> "Presentation," Al Kawakibi, 2015, accessed June 27, 2016, <http://kw.pylon-dw.com/presentation>.

<sup>93</sup> Ahmad AlAlawi (field research in KADEM), interviewed by author, May 30 , 2016.

This report is contextualized in one of their sections of this project which is “Collective memory and the preservation of Memory”, the aim of this project is to understand how memory would be taught for the next generations, in this project the target aim is history teachers of elementary and high schools, One of the field researcher in this project, explained that the idea of who will be interviewed was too challenging, because in another meaning it meant who will be responsible to give such results , this kind of hesitation of deciding what approach to use is in itself important, Laura suggests that “ the process of determining what shape a memorial project should take and how memorial space should be used is more important than the physical edifice itself”<sup>94</sup>, eventually they settled by focusing on an educational approach out of the fear of how the historical narrative would be dealt with in critical times.

The interviews of teachers have been focusing on four thematic:

1. Educational approach: questions dealt with the quality of history books; what is being included and excluded, what is being deleted and what is being focused on, and how do they deal with this.
2. Historical narrative: does the historical narrative in history books go along with the individual and collective memory of the students, in what way what is being taught in school is in compliance with what the students absorb in informal places like streets, home, family, and does it affect their identity.
3. Preservation of memory: asking the target group about their opinion of what are the best mechanisms to preserve memory.
4. Bou Ragiba’s figure: a special focus was in how the figure of Bou Ragiba would be taught in schools and history books.

These questions explain the fear of how the historical narrative is being taught and transferred by generations, either by evaluating history books that are adopted in the Tunisian national curriculum or the way teachers deal with this and how much they can be comprehensive.

What is interesting about the approach of the project is the focusing on Bou Rragiba’s figure, one may wonder why the project hasn’t focused on the personality of Bin Ali, especially that the project is considered being taken within the scoop of TJ, Al-Alawi explains that the return to this

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<sup>94</sup> Hopwood, “Memory and Memorialization,” 20.

figure was the effect of the aftermath of the revolution where Bou Ragiba's figure has been raised in an unexpected way<sup>95</sup>, he explains further that this symbolizing during TJ worth studying, the return of Bou Ragiba in the public memory was a reaction to bin Ali's system and the vacuum that it has caused, but for him it rises an essential question too which is "to what extent this is related to this transferring of the historical narrative, why there is no consensus about Bou Ragiba's personality, and in a broader level why the historical narrative is scattered?"<sup>96</sup>

The return of studying the former president attracts interest in the interaction between two memories and what do they produce, the methods of how a society deal with certain memory determine or -as Author suggests-"shape the path of another memory"<sup>97</sup> it also shows awareness of the idea that societies adopt a certain version of history as a reflex of a critical event in a result they tend to lack some objectivity in dealing with these narratives, or exaggerate in ways to show the intensity of the contradictions, thus such initiatives that focuses on how memory will be circulated and taught is highly important.

## **Conclusion Remarks and recommendations:**

Memory for victims demonstrate a continuous reality, it becomes a paramount thing of their identity, these memories reveal their aspirations and what they want in the future, the acknowledgement of their memories, testimonies, and statement, would lead to a mental reparations, however, if the treatment of these memory turns into something politicized that aims

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<sup>95</sup> Ahmad AlAlawi.

<sup>96</sup> Ibid.

<sup>97</sup> Elster, "Memory and Transitional justice." 8.

systematically to oppress memories in order to adopt a one “national” narrative, or to refuse the demands of accountability, these victims return to the victimization circle again. This report concludes that’s the efforts that are being made in Tunisia are not out of this mentioned picture, state’s policies are denying an expansion and transmitting of memories, so it can run away of responsibilities or not wanting to acknowledge a weakness of its institutions in delivering justice, in the same time, it focuses on memorization efforts that may not fulfill victim’s needs, in the contrary it affirms only their authority, and oppress any new movements.

After the examination of the reality of memorialization and memory in Tunisia, this report illustrates some recommend findings:

1. Any memorization attempts conducted from any part should take into consideration victims’ needs and aspiration, as memorialization initiatives are also considered a kind of reparation.
2. TDC should start the promised public hearings, it also should focus on its requested task mentioned in chapter 41 about the preservation of collective memory, and not only on truth-findings, it is recommended to open an interactive space with CS in order to review and benefit from its findings regarding memory’s victims,
3. Government attempts should avoid politicizing, they are recommended to obtain a general memorization process in consistent with the required needs for TJ period.
4. CS attempts are recommended to have some connections in order not to produce contrasting narratives that could lead to internal conflicts.
5. Policy makers should focus in a comprehensive and analytical approach regarding educational curriculums and the way the 14 January revolution will be taught.
6. Mentioned parties should always engage victims in the process of memorization without treating them in a passive manner.

### **Tasks and self-assessment:**

My Main task in KADEM revolved around conducting literature review about their aimed project, I helped them in gathering academic resources for their research, I also handed in some of the office logistics, which helped me gain skills regarding organization and implementation of

projects. Another benefit was being able to witness the work of civil organizations in depth, which have broaden new aspects for me in the topic of TJ that I would not have been able to see it otherwise.

My general stay in Tunisia led me to closely observe the work of TDC and the everyday practices of memory in the Tunisian sphere, which was a great experience to link between theoretical frames and the practical spaces.

This experience taught me how to make priorities and organize myself in limited times, as I had had problems getting to Tunisia, which made me lose a lot of time that could have been used to observe more and build on in this report.

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Name of the DE.MA student: Noura H. Taha

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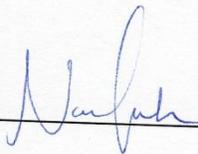
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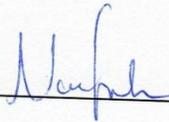
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