

# In Search of Righting Wrongs: Women and the Transitional Justice Process in Tunisia

Written by Doris H. Gray

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DORIS H. GRAY, APR 13 2013

*“Where were you in the twenty years before the revolution? Where were you when I was in prison? Where were you after I was released and was not allowed to work? Where were you when our children were denied access to proper schooling?”*

Questions hurled by Nejat Guebsi, a former political prisoner, at a gathering of women and human rights association in the capital city of Tunis are emblematic of the Islamist/secularist schism that plagues post-revolutionary Tunisia. Nejat’s questions stood unanswered in the room and crystallized the divisions at the heart of contemporary discourse on transitional justice in this small North African country, wedged between Libya and Algeria. The largest number of victims of the previous regimes was Islamists, though individual outspoken secular opponents were also incarcerated (Gray 2012). Female Islamists who were imprisoned and tortured can pose a particular dilemma for some sectors of the women’s and human rights community. The goal of political Islam is often understood as eroding women’s rights. “Supporting Islamist women would mean digging our own grave,” is how one secular women’s rights activist in Tunis put it to the author. Tunisia may become a case study of applying rigorous human rights standards to a population that is often marginalized.

Tunisia is the country that set the Arab spring into motion when it overthrew its dictator Zine El Abidine Ben Ali on January 14, 2011. It held its first democratic and transparent elections for a Constituent Assembly ten months later in October 2011. In these elections, the previously banned and severely persecuted moderate Islamist party Ennahda (renaissance) won 89 out of 217 seats. Of the 41 women in the Constituent Assembly, the majority are Ennahda members (Ottaway 2012).

Next, Tunisia became the first country in the world to install a Ministry of Human Rights and Transitional Justice headed by Samir Dilou, himself a previous political prisoner of more than ten years. Though the torture and imprisonment of male Islamists and other dissidents has been well documented and is known about in Tunisia and in the larger international human rights community, the fate of women among them is less known (Willis 2012). The Ben Ali government was successful in playing into Western prejudice that Islamist women are by definition not politically active and therefore there cannot be any female Islamist prisoners of conscience, even though this was not the case.

Within Tunisia, secular women’s rights groups such as the prominent Tunisian Democratic Women’s Association ATDF (*Association Tunisienne des Femmes Démocrates*) admit not having come to the aid of incarcerated female Islamic prisoners. This lack of support is in part due to the fact that ATDF – as all organizations – had to work under the severe constraints of a dictatorial government. However, secular women’s rights associations benefitted from the state-sponsored feminism (Murphy 2003) imposed by the two consecutive governments of post-independence president Habib Bourguiba (1957-1989), followed in a bloodless coup by his successor Ben Ali (1989-2011). Their policies contributed to the development of the most advanced gender egalitarian society in the Muslim Arab world. At the same time, they contributed in no small part to whitewashing the image of a repressive regime that tolerated no dissent. The advancement of women’s rights became a trade-off for the oppression of women suspected of supporting Ennahda.

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## Divisive Islamist – Secularist Discourse

International organizations, which have descended on Tunisia in the wake of the revolution, face the dilemma of having to work with local partner institutions. Historical partners of western-based international agencies were primarily well-funded and organized secular local human and women's rights associations, i.e. the ones that were allowed to exist under the previous regime (Gray 2013). They are staffed by highly-educated professional women, many of whom studied in France. By definition, they speak the language of the West, not only linguistically, but also in terms of understanding western modes of discourse, are at ease in international settings and share most of the values embraced by occidental democracies.

By contrast, women affiliated with the moderate Islamist Ennahda movement are only slowly emerging after spending time in prison or underground. Dissidents were not permitted to continue their studies nor work in the public sector. As members of a banned organization, they were forbidden to meet, let alone organize themselves politically. Since the revolution, countless associations of female Islamist victims have sprung up but apart from an official name, some of them as awkward as "Association for challenging former hangmen" or "Tunisian Active Women," they are in reality little more than local support groups in which victims of the former regime meet informally. Such new civil society associations are trying to assure victims that it is now safe to come out into the open and reclaim their rights as Tunisian citizens. However, decades of oppression, harassment, enforced silencing, and in some cases imprisonment and torture, have left their mark on opponents who oftentimes have come to internalize their state of silence. This is especially true of women who were secondary victims, i.e. wives, sisters or daughters of Islamist political prisoners who had to maintain their families under severe pressures.

Islamists have been demonized within Tunisia as well as on the international stage so that all too frequently there is little differentiation between radical, potential terrorist groups and genuinely moderate Islamists who see themselves more in the mold of the ruling German Christian Democratic Party (CDU) than the Egyptian Muslim Brotherhood. In fact, because Islamist movements were oppressed throughout North Africa, including Egypt, ordinary members had little contact with each other within their own country, let alone across borders with similarly titled movements. Emerging from decades of silence and living in the shadows now makes it difficult to articulate demands in public (Lefèvre 2012).

## Affirmative Action for Female Victims

Mounia Brahim, one of the leading Ennahda members and former head of the women's section, who now is a member of the *majliss shura*, the Supreme Council of the Ennahda movement, explained Ennahda's position to the author: "Moslems have to live within their proper time – by definition this mean we now have to be modern. We have to base our interpretations (*ijtihad*) on the demands of the times we are living in. We are not trying to recreate the models of some distant past. But in some way, of course, we are all "Salafist" if by the proper definition of the word you mean we are following in the line of our ancestors" (see Merone and Cavatora, 2012). Islamist movements are frequently perceived as masculine movements intent on relegating women to a second-class stature. Ennahda women often feel they are judged – in part because they are veiled or wear rather conservative attire – before they are given a chance to elaborate on their views.

This is especially the case of former prisoners. Brahim, whose husband spent 17 years in prison, argues for the introduction of some form of affirmative action for women who were either imprisoned themselves or were secondary victims like herself. In effect, these women became single mothers who experienced tremendous social exclusion and financial burdens. As a result of this, Tunisia must now consider what mechanisms can best provide reparations and serve justice for those who were persecuted due to their religious and political views.

## Transitional Justice Mechanisms

Based on multi-national experience with transitional justice, there are basically four mechanisms, which in isolation are limited in their effectiveness but as a combined approach have yielded the most satisfactory results – accepting the inherent limitations of transitional justice in general (Gray 2013):

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1. Criminal justice (pursuing former perpetrators at various levels);
2. Truth seeking via some form of truth commission;
3. Reparations – financial, medical, psycho-social support etc.; and
4. Institutional reform.

Of these mechanisms, criminal justice is the most limited as it is impossible to bring all perpetrators, even the majority, to justice. At the same time, it is a powerful tool for sending the message that torture is a crime and will no longer be accepted in a country intent on becoming a democracy.

Truth commissions allow for a greater number of victims to come forward and be heard, establishing a pattern of systematic human rights violations and creating a historic record of what happened during the decades of dictatorship. Such a commission would also serve the larger purpose of creating a historical narrative that is distinctly different from the government-created narrative that does not take systematic human rights violations and oppression into consideration. In this way, former victims will have their dignity restored by transforming their previous identity of enemies of the state, terrorists, ex-prisoners and criminals to national heroes and valuable members of society. Especially with regards to women, a truth commission serves the goal of creating a forum that allows them to see that their fate was not a singular one and that they are not alone but part of a larger community of female victims of state repression and violence (Phelps 2004).

In Tunisia, such a truth commission seems essential particularly for female victims as, to date, the numbers of women who were in jail or prison is still not known. Though the Ministry of Human Rights and Transitional Justice has collected approximately 12,000 dossiers of former political prisoners, there are thus far only around 500 women among them. In secular circles Minister Dilou, an Ennahda member, and his ministry are viewed with great skepticism because it is perceived as an Islamist political project (Gray 2013).

Financial reparations are the most difficult approach, as pecuniary value has to be assessed to a person's suffering. The Constituent Assembly has proposed that women should receive an additional 20 per cent of any compensation based on duration of incarceration. Women typically spent five years or less behind bars whereas common prison terms for men were 10-17 years. As well, it is virtually impossible to assign a monetary value to sexual violence. Again, the fact that male prisoners were raped is commonly known in Tunisia and is not a taboo subject because it is understood that a male victim is never complicit or a willing participant in such acts of violence. Cultural norms apply a different standard to women, whose honor and that of her family is lost when she is a victim of sexual violence. These norms are internalized, especially by Islamist women who highly value sexual modesty. The term "former political prisoners" often is synonymous with rape, regardless if this act occurred or not. Consequently, Islamist women require particularly sensitive encouragement to come forward with their testimonies.

The fourth of the transitional justice mechanisms is institutional reform, which, at the time of this writing, has not yet been approached with the required urgency. The police force is widely perceived as being ineffective and inconsistent (Sikkink 2011). The judiciary is slow at being reformed as well. Instead of focusing on the important task of institutional reform, the country is torn apart by the ideological divide between Islamists and secularists.

Still, Tunisia is in a critically important place for transitional justice in the Maghreb and the wider Arab world. The inclusion of women, Islamists in particular as they are the single largest group of victims, early on in the process is important for the overall success of transitional justice and to ensure that women's rights will not be eroded in this country.

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**Dr. Doris H. Gray** is Associate Lecturer in the Department of Modern Languages at Florida State University and the author of *Beyond Islamism and Feminism: Women's Rights in North Africa* (London: I.B. Tauris, 2012), and *Muslim Women on the Move: Women in Morocco and France Speak Out* (Lanham, MD: Rowman and Littlefield, Lexington Books, 2008).

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