

Fast and slow politics – Some observations on transitional justice, expectations, disappointments, and pitfalls in Tunisia’s transition

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Dates, durations, and deadlines, questions about when things are done or when they happen: time has political value and is essential to political processes.¹ The critique of assumed linear temporalities in peace and transition processes has become increasingly popular in scholarship. Looking at current events in Tunisia through the lens of conflicting temporalities, with a focus on the transitional justice process, can help us make sense of the hopes/expectations, pitfalls, and disappointments that have been shaping the current situation.

In the direct aftermath of Kais Saied seizing power at the end of July 2021, many commentators talked about an ‘Egypt moment’, drawing parallels between the coup of 2013 and the ‘failure’ of Tunisian democracy. Thus, we could observe “*temporal Othering*”², as the developments in Tunisia as “currently strange phenomena”³ were linked to events with a known endpoint to make them more intelligible and, potentially, “more amenable to [...] intervention.” Such temporal Othering, however, neglects the very different temporalities in Tunisia, not only with regard to political developments over the last ten years that may make the situation different to the one in Egypt, but also with regard to conflicting temporalities that may have shaped the Tunisian transition and its struggles and conflicts.

We can observe the political value of time beyond observers’ tropes. This essay will zoom in on two issues: first, it will outline the initially existing but then lost sense of urgency with regard to dismantling old and creating new structures, leading to or resulting from conflicting temporalities. Second, it will discuss the tension resulting from fast and slow approaches towards reparations, looking at (fast) ad hoc measures, the (slow) planned reparations process that should integrate and ‘offset’ ad hoc measures, and the political struggles that have led to further delays.

Urgency and thoroughness: Fast and slow politics in transition

After the fall of the Ben Ali regime in 2011, Tunisia very quickly started developing a ‘new political architecture’⁴ and dealing with its repressive past. While the first transitional justice measures were ad hoc and scattered, subsequent explorations for a more structured transitional justice project that would be “strategic and viable”⁵ took place in a very timely manner. These explorations led to the development of an ambitious, comprehensive, transitional justice project, regulated in a transitional justice law that passed in December 2013. Transitional justice was also fixed in the 2014 constitution.⁶

The transitional justice project had both backward and forward-looking tasks. It should not only establish a historical record about violence, marginalization, and repressive rule, but also form the basis for vetting and reforming institutions and state structures, for example the judiciary, the administration or the security sector, as well as other crucial areas, such as the media.⁷ It was therefore supposed to influence who could keep and gain positions of power and to contribute to the dismantling of structures and networks that were pillars of authoritarian rule.

Notwithstanding the timeliness of both ad hoc measures and the initiation of a more structured transitional justice project, several of my interview partners perceived transitional justice as ‘delayed’

¹ Elizabeth Cohen, *The Political Value of Time: Citizenship, Duration, and Democratic Justice* (Cambridge University Press, 2018), <https://books.google.de/books?id=PoJIDwAAQBAJ>. (p. 7)

² Andrew Hom, *Angst springs eternal: Dangerous times and the dangers of timing the ‘Arab Spring’*, *Security Dialogue* (2016), p. 173 italics in the original.

³ *Ibid.* p. 173

⁴ Term used by ministerial staff member in an interview, Tunis, March 2015

⁵ Personal interview with Tunisian law professor, Tunis, October

⁶ Article 148, 9

⁷ Article 43, TJ law

in Tunisia.⁸ Thus, on the one hand one could observe a decoupling of the ad hoc measures from what became to be perceived as ‘transitional justice’ in Tunisia:⁹ the ad hoc measures were perceived as ‘messy’¹⁰, contributing to conflict rather than helping to bring about justice. ‘Proper’ transitional justice was only to start with the structured project codified in the transitional justice law.¹¹ On the other hand, the thoroughly planned transitional justice process was perceived to be slow¹² and to take too much time, so that those who should have been vetted and whose power structures should have been dismantled “gained time”¹³ and the momentum for the plans to actually come into effect would be missed. Once the sense of urgency that initially drove the transitional justice process¹⁴ faded, the harder it would become to actually implement reforms.

According to some of my interview partners, the sense of urgency for transitional justice faded with the 2013 National Dialogue, an acute conflict-resolution forum, that brought the stalled constitution-making process back on track.¹⁵ While the National Dialogue fostered understanding between adversary political factions¹⁶, it also paved the way for a return of the ‘old regime’ into politics, and as a result, vetting and reforms lost their urgency. An expectation for social closure¹⁷ developed.¹⁸ However, temporalities have been conflicting, since simultaneously, the ‘slow’ transitional justice project progressed because it was anchored in the constitution.

Looking at recent events, the failure to establish the constitutional court, which is crucial for enabling Saied to grab power in the way he did, is another example for this tension between fast and slow politics, between urgency and thoroughness in procedure. Rather than urgently being nominated by, for example, the National Constituent Assembly, the establishment of the constitutional court first required the establishment of the supreme judicial council, which alongside parliament and the president would have the competence to nominate judges.¹⁹ However, the establishment of the council only happened after the deadline for establishing the constitutional court so that the momentum to secure the establishment of this safeguarding institution was missed.

Reparations: politics of rashness, politics of waiting?

Another area in which we can observe the political value of time, and potentially conflicting temporalities, is reparations. Reparation and compensation measures were part of the ad hoc measures that were introduced very quickly after the revolution in a rather unstructured manner. They were one of the measures that were described to me as rushed and ‘messy’ and therefore as potentially fostering conflict because it was hard to comprehend who would get what and why.²⁰ The slow, thoroughly planned transitional justice project, therefore, was supposed to develop a more ‘just’ approach to reparations that would somehow account for – and off-set – the previous fast measures.²¹ However, following the procedures within the work of the Tunisian Truth and Dignity Commission, which should

⁸ Personal interviews with NCA members, civil society representatives, (former) government/state institution representatives, academics.

⁹ Mariam Salehi, 2019, “Droits de l'homme, bien sûr”: human rights and transitional justice in Tunisia, in:

¹⁰ Personal interview with transitional justice professional, Tunis, May 2014.

¹¹ Personal interview with member of the National Constituent Assembly, Tunis, April 2014

¹² Personal interviews with for example truth commissioner and ARP member, Tunis, March 2015.

¹³ Personal interview with with labour and human rights activist, Tunis, October 2015.

¹⁴ Personal interview with head of Tunisian branch of international human rights NGO, Tunis, March 2015

¹⁵ Personal interviews, for example with Tunisian transitional justice professional, Tunis, May 2014

¹⁶ Tereza Jermanová, “From Mistrust to Understanding: Inclusive Constitution-Making Design and Agreement in Tunisia,” *Political Research Quarterly* (2020) (accessed September 27, 2021).

¹⁷ Mueller-Hirth, Natascha. "Temporalities of victimhood: Time in the study of postconflict societies." In *Sociological Forum*, vol. 32, no. 1, pp. 186-206. 2017.

¹⁸ Personal interview with former government minister, Tunis, October 2015

¹⁹ Constitution Art. 118 https://www.constituteproject.org/constitution/Tunisia_2014.pdf

²⁰ Personal interviews with transitional justice professional and with politician, May 2014.

²¹ Personal interview with truth commission members, Tunis, March 2015.

have been the basis for determining eligibility for reparations, took a long time. Thus, at the end of the Truth and Dignity Commissions mandate, there was a rush to send out reparation decisions, leaving potential recipients without any idea of when they might actually be able to access what they have been promised.²² As Natascha Mueller-Hirth notes: “To delay reparations for an uncertain time contributes to senses of continuity with the past, which transitional justice precisely seeks to disrupt.”²³ Again, fast and slow politics are at tension, because neither approach seems suitable for evoking a sense of justice.

Concluding remarks

Single deadlines appear somewhat arbitrary, they don't allow for nuance and “for the fact that time [...] is not static.”²⁴ For example, cut-off dates that determine who may be eligible for reparations do not leave room for the ongoingness of grievances. Looking again at current events in Tunisia, it is important to recognize that those who fought for change ten years ago may not be the same as those who protest now – although grievances or justice problems may be very similar. Whether someone is eligible for reparations, for example, may therefore appear to be somewhat arbitrary and less related to their grievances or what potential marginalization or violations they have suffered (or are still suffering), and more to how time matters.

In Tunisia, it has been hard for transitional justice- both fast and slow – to meet hopes and expectations and create a sense of justice. Fast transitional justice measures were at times perceived as ‘messy’ not well thought through and therefore unjust, while slow transitional justice measures bore the danger of missing the momentum for initiating change. While these tensions between fast and slow politics may be hard to resolve, recognizing them, as well as their ongoingness, may help us to better understand why it has been so hard to do the right things at the right time in Tunisia's transitional politics.

²² Phone interview, transitional justice professional, May 2020.

²³ Natascha Mueller-Hirth. "Reparations and the politics of waiting in Kenya." *Journal of Eastern African Studies* 15, no. 3 (2021): 464-484.

²⁴ Cohen, p.55