

Tunisia: Reforms needed to provide justice for victims of gross human rights violations

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As the third anniversary of the opening of trials before Tunisia’s Specialized Criminal Chambers (SCC) is approaching, the International Commission of Jurists (ICJ) denounces the Tunisian authorities’ failure to adopt reforms necessary to advance accountability and justice for victims of gross human rights violations.

Trials before the SCC started on 29 May 2018. Since that first hearing, [evident](#) gaps and shortcomings in the Tunisian Criminal Code, the Code of Criminal Procedure and the Transitional Justice law have undermined efforts to hold perpetrators to account, bring justice to victims and prevent recurrence of gross human rights violations in the future.

“The Tunisian authorities have abdicated their responsibility to ensure the effective functioning of the SCC, depriving judges of basic tools to ensure that trials are conducted without undue delay and consistent with international fair trial standards,” said Said Benarbia, the ICJ’s MENA Programme Director.

Many offences referred by the Truth and Dignity Commission to the SCC are not adequately defined in the Tunisian law. Judicial rotation occurs mid-way through SCC trials, impacting the continuity of trials. Prosecutors are not effectively engaged in the conduct of trials. Accused are absent in most of the SCC trials, and the transitional justice framework does not provide of appeal chambers.

“By failing to address these obstacles, the Tunisian authorities are undermining the right of victims to truth and to effective remedies, and betraying the very promise of a transitional justice process to end impunity,” added Benarbia. “It’s high time for them to reverse course and live up to that promise.”

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Background information

The ICJ has recommended reform to ensure the compliance of SCC proceedings with international law and standards, including through:

- Ensuring the adequate criminalization of gross human rights violations amounting to crimes under international law;
- Fully ensuring the rights of the accused to a fair trial;
- Ensuring the rights of victims, including their families, to an effective remedy and reparation;
- Ensuring the protection of victims and witnesses;

- Ensuring that the collection, admissibility and assessment of evidence guarantee the right of the accused to a fair trial and the victims' right to an effective remedy.

In addition to the above reforms, the Tunisian authorities should remove all obstacles preventing the SCC and other judicial authorities from exercising their function in a manner that complies with international standards. To this end, the authorities should:

- Ensure that the Office of the Public Prosecutor and other investigative authorities carry out their mandate in an independent and impartial manner, as defined under the Code of Criminal Procedure;
- Ensure that the annual judicial rotation, as regulated by Organic Law No. 34 on the High Judicial Council, be consistent with the right of the accused to a fair trial
- Ensure that newly appointed SCC judges and prosecutors receive timely and adequate training in transitional justice as provided for by Organic Law No. 53 on Establishing and Organizing Transitional Justice;
- Ensure that, if the annual judicial rotation occurs mid-way through trials, safeguards be implemented with the view to ensuring that newly appointed judges hearing the case have the appropriate understanding of the evidence and arguments.

These recommendations are informed by the [ICJ Practical Guide Series on Accountability Through the Specialized Criminal Chambers](#) and findings on the role of international law and standards in proceedings before the SCC ([Practical Guide 1](#)), the investigation and prosecution of gross human rights violations under Tunisian and international law ([Practical Guide 2](#)), and the application of principles and best practices on evidence in the administration of justice before the SCC ([Practical Guide 3](#)).

The SCC were established in 2014 to adjudicate cases involving alleged "gross human rights violations" perpetrated between 1955 and 2013 and referred by the Truth and Dignity Commission (Instance Vérité et Dignité, IVD) to the SCC.

At the end of its mandate in December 2018, the IVD's referred to the SCC 200 cases of arbitrary deprivations of life, arbitrary deprivations of liberty, torture and other ill-treatment, enforced disappearance, rape and sexual assault and crimes against humanity committed by the former government.

In a [briefing paper](#) published in October 2020, the ICJ called on the Tunisian authorities to undertake substantial legal and policy reforms with a view to strengthening accountability and removing all obstacles preventing the SCC from functioning effectively.