

## **AGORA Arab Digest**

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### **The Arab States & Transitional Justice**

The sudden collapse of the Tunisian regime in 2011 stimulated protests from Egypt to Yemen. Some of these movements managed to topple regimes, while others lead to renewed social contracts. Transitional justice is one of the key elements to ensure a sound evolution towards democratic rule and the maintenance of social cohesion. It is an approach to achieve accountability by recognizing the rights of victims and strengthening the rule of law.

Parliaments play a vital role in the reconciliation process as they serve as national debating chambers and platforms for information exchange. Parliaments can play many key roles in relation to the following areas:

- 1- Truth commissions: enact legislation, appoint commissioners, support and implement recommendations
- 2- Reparation programs: enact legislation, establish the programs i.e. Chile and Germany, individual and collective recognition of the victims
- 3- Justice reforms: adopt vetting or lustration legislation and, support the adoption of legal and constitutional reforms in line with human rights standards
- 4- Amnesties: ensure that laws are in conformity with international law
- 5- Trials: ensure the adoption of legislation and appropriate budgeting to secure judicial and prosecutorial independence

Thus a parliament which is truly representative of all components of society, and which offers a national platform for a free and open exchange of views, is in itself an important sign that reconciliation is under way. It is also an important factor in consolidating the reconciliation process and the rule of law.

For more information on the role of parliaments in reconciliation, please click [here](#).

This Arab Digest will look into the mechanisms applied by parliamentarians to promote transitional justice in the wake of the Arab Spring.

In **Tunisia**, two bills on transitional justice were submitted to National Constituent Assembly. The first bill provides for the creation of an independent authority responsible for examining violations committed from January 1, 1955 until the date of its establishment. The second bill, a political exclusion bill, prevents anyone who served in the former government or the dissolved Constitutional Democratic Rally (RCD) party from returning to political life<sup>1</sup>.

The two bills have not been adopted yet and are causing a wide stir in the political life in Tunisia and a reshuffle in the government<sup>2</sup>. Additionally, Tunisia joined the International Criminal Court, becoming the first North African country to do so and a Tunisian court sentenced Ben Ali and his wife to 35 years in prison in absentia on corruption charges<sup>3</sup>.

In April 2013 **Libya**'s parliament, the General National Congress, passed the Political Isolation Law penalizing officials who held public office between 1969 and 2011. This Law stipulates that all those who held high political office under the Qaddafi regime will be prevented from holding any high positions<sup>4</sup> in the post-Qaddafi era for ten years<sup>5</sup>. A new authority (the Political Positions Standards Implementation Authority) was created, whose members are chosen using laws used to appoint judges. Members of this authority have legal immunity.

**Yemen**'s Parliament approved the inclusion of a draft law on transitional justice and national reconciliation on its agenda<sup>6</sup>. The law was designed to reveal the violations that took place in the past so that lessons can be learned. It includes redeeming the victims financially, preserving the national memory and immortalizing the victims as well as procedures that prevent future violations, including an institutional amendment for civil and military facilities and establishing a neutral authority to protect human rights.

This law has yet to be ratified by Yemen's parliament because of disagreements on how far back in time historical allegations of human rights violations and abuses should be considered. Given the Gulf Arab transition deal, the Yemeni parliament has unanimously approved a law giving the country's outgoing president immunity from prosecution in return for his stepping down<sup>7</sup>.

**Egypt**<sup>8</sup>: The nature of Egypt's transition is still contested. Despite the unsuccessful efforts in drafting and enacting a new constitution, the Shura Council Human Rights Committee recommended the establishment of a court for "transitional justice". Following the People's Assembly elections in 2012, the parliament amended the draft vetting law which prevents former Mubarak appointees and associates from running for presidency.

**For more information and updates on parliaments and transitional justice, please visit the AGORA Portal at [www.agora-parl.org](http://www.agora-parl.org).**

**For questions or comments, contact the AGORA Team at [info@agora-parl.org](mailto:info@agora-parl.org).**

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<sup>1</sup> [http://legal-agenda.com/article.php?id=522&folder=articles&lang=ar#.UjwrIn\\_s3gl](http://legal-agenda.com/article.php?id=522&folder=articles&lang=ar#.UjwrIn_s3gl)

<sup>2</sup> <http://allafrica.com/stories/201306230109.html>

<sup>3</sup> <http://edition.cnn.com/2011/WORLD/africa/06/24/tunisia.icc/index.html>

<sup>4</sup> Article one stipulated that any person who held a position as prime minister, minister, the revolutionary guards, ambassadors, deans of universities, heads of university departments, heads of local councils, members of the Green Book promoting agencies, heads of security agencies, army, police, heads of students unions, heads of special courts, heads of Qaddafi's media organs and anyone who was opposed the February 17<sup>th</sup> Revolution – is to be barred from any future high positions.

<sup>5</sup> Read more: <http://www.libyaherald.com/2013/05/05/political-isolation-law-passed-overwhelmingly/#ixzz2foAOVBK6>

<sup>6</sup> UNDP in collaboration with Ministry of Legal Affairs run a transitional justice project in Yemen. See link, <http://www.ye.undp.org/content/dam/yemen/General/Docs/UNDP-YEM-Results%202013.pdf>

<sup>7</sup> <http://www.hrdreport.fco.gov.uk/human-rights-in-countries-of-concern/yemen/>

<sup>8</sup> <http://www.yementimes.com/en/1688/interview/2525/Mohammed-Al-Mikhlafl-Minister-of-Legal-Affairs-about-%E2%80%9Ctransitional-justice%E2%80%9D.htm>