

Specialized Judicial Chambers¹

A Judicial Mechanism to Counter Impunity

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In December 2013, Tunisia began an ambitious process for addressing its legacy of past human rights violations with passage of a transitional justice law. That law sets out a comprehensive framework of mechanisms and tools, both judicial and non-judicial, for understanding, investigating, and addressing abuses committed during successive dictatorships since Tunisia achieved its independence.²

Since that time, Tunisia has made significant progress toward revealing the truth about the serious and systematic infringements of human rights that occurred over those six decades. Most recently during hearings of the Tunisia's truth-seeking body, the Truth and Dignity Commission (TDC), the nation heard the truth about the horrific brutalities committed under the dictatorships of Ben Ali and Habib Bourguiba (including torture, enforced disappearance, rape, extrajudicial execution, and financial corruption) and the wrenching suffering victims endured. The need for accountability by those who perpetrated these crimes has never been clearer.

To end impunity for these crimes, the transitional justice law mandates the creation of specialized criminal chambers with jurisdiction over cases involving gross human rights violations.³ They are to be composed of judges with training in transitional justice who never participated in political trials.⁴ Beginning in August 2014, the government issued a series of decrees establishing the chambers. They are to be situated within the courts of first instance on the premises of nine of Tunisia's Courts of Appeals;⁵ forty-five judges have also been nominated to serve.⁶ Yet as of now, the chambers are not operational. No implementing text has been issued to define litigation procedures before those chambers, the scope of their competence, the binding force of their rulings, the prospects of appeal, and the procedures for governing the role and rights of the victims before those jurisdictions. Meanwhile the TDC is compiling cases ultimately for transfer to the specialized chambers.

To address the immense legacy of past human rights violations in an effective and fair way that is consistent with the Constitution,⁷ clarifications in the laws and procedures that will govern processes at the special chambers are needed. Existing processes for holding those responsible for crimes of financial corruption and gross human rights violations before and after the January 2011 revolution have been characterized by the lack of a comprehensive implementation strategy. Military courts for instance have tried cases of serious human rights violations. However, they are not seen as impartial, transparent, and independent tribunals with sufficient mechanisms for victim participation; and some feel the sentences handed down by them were too lenient. In addition, improvisation in policymaking, and the emergence of political initiatives aimed at distorting and

¹ This report was prepared by International Center of Transitional Justice in collaboration with Charfeddine El Kelil

² In its first article, Tunisia reiterated that Transitional Justice is "a comprehensive process made up of mechanisms and tools that are adopted in order to understand and address "past human rights violations through truth seeking, holding perpetrators to account, and providing reparation and rehabilitation of the victims so as to achieve national reconciliation and preserve national memory...." Organic Law n° 2013/-number 53 of the year 2013, dated on 24 December 2013, pertaining to the establishment and regulation of Transitional Justice, the Official Gazette of the Republic of Tunisia, number n° 105 issued on 31 December 2013, www.legislation.tn/sites/default/files/journal-officiel/2013/2013G/Jq1052013.pdf.

³ Article 8: "Specialized judicial chambers shall be established by decree in the trial courts located in the premises of appellant courts. Those chambers shall be composed of judges to be selected from those who have not adjudicated cases of a political nature, and who will be given specialized training in the area of transitional justice. Mentioned chambers shall adjudicate cases pertaining to gross human rights violations pursuant to the international conventions ratified and in keeping with the provisions of the law herein... Those chambers are committed also to examine the violations related to electoral fraud, financial corruption, misappropriation of public funds and forced migration for political reasons which shall be transferred by the commission of truth and dignity."

⁴ Ibid.

⁵ Decree number 4555 of the year 2014, dated on 29 December 2014, pertaining to the amendment of Decree number 2887 of the year 2014, dated on 8 August 2014, pertaining to the establishment of criminal chambers specialized in Transitional justice in the trial courts located at the appellant courts of Tunis, Gafsa, Gabes, Sousse, El Kef, Bizerte, Kasserine and Sidi Bouzid; Governmental Decree number 1382 of the year 2016, dated on 19 December 2016, pertaining to the amendment of Decree number 2887 of the year 2014, dated on 8 August 2014, pertaining to the establishment of criminal chambers specialized in transitional Justice.

⁶ Decision of the Interim Authority Overseeing Civilian Justice in its general assembly held on 13 November 2015 for the nomination of judges to the criminal chambers specialized in Transitional Justice within trial courts.

Decision of the Interim Authority Overseeing Civilian Justice in its general assembly held on 31 October 2016 for the nomination of judges to the criminal chambers specialized in Transitional Justice within trial courts.

Decision of the Interim Authority Overseeing Civilian Justice in its general assembly held on 30 December 2016 for the nomination of judges to the criminal chambers specialized in Transitional Justice within trial courts.

⁷ Article 6 of the Transitional Justice Law is unequivocal in stipulating that "accountability" is the responsibility of the judicial and administrative authorities and consists of a "set of mechanisms which prevent impunity and the escaping of responsibility."

disrupting these processes, including the draft financial and economic reconciliation law,⁸ have undermined victims' and the public's trust in State institutions and in the transitional justice process.

In the face of these obstacles to the establishment of the specialized chambers, Tunisian civil society has consistently called for a definite and comprehensive strategy for criminal accountability. In response to these demands, the International Center of Transitional Justice co-hosted a national conference with the Tunisian Bar Association in Tunis on December 15 and 16, 2016 on "The Specialized Judicial Chambers: A judicial mechanism to counter impunity." The conference brought together stakeholders expert in international criminal law and courts, judges, Specialized Chamber nominees, lawyers, and members of the Ministry of Justice, the Truth and Dignity Commission, the Interim Authority Overseeing Civilian Justice, in addition to national and international civil society organizations.

Background materials were provided to all participants in advance of the conference to enrich the discussions. They covered the interplay between truth seeking and judicial bodies in other contexts, victim participation, and Tunisia's Transitional Justice Law, among other things.

The conference dealt with the stages of fact-finding, investigation, arbitration, reconciliation within the Truth and Dignity Commission, in addition to the role of public prosecutors and the scope of their investigation under the Transitional Justice law. The discussion also included the role of defense counsel and victims before those jurisdictions.

This conference included breakout workshops covering the following topics: a) the relationship between the Truth and Dignity Commission and the Specialized Judicial Chambers, b) the jurisdiction of and procedures before the Specialized Judicial Chambers, and c) the principle of the legality of the criminal conduct and related punishments in the cases to be tried before the Specialized Judicial Chambers.

The conference contributed to an increased understanding of the relationship between the Truth and Dignity Commission and the specialized chambers as provided for in the law. It also highlighted many of the challenges likely to be encountered by judges and lawyers at the chambers should cases begin to be referred in the absence of clarifying legislation. Given the far-reaching nature of the dialogue over two days, we cannot cover all the many topics raised. Rather we look in depth at the primary challenges, both procedural and constitutional, facing the specialized chambers as it moves forward to achieve accountability in a way that meets the goals set down in the transitional justice law justice, while also rendering justice fairly and effectively and within the bounds of the Constitution. We conclude with some final recommendations.

Criminal Accountability for Serious and Systematic Infringements of Human Rights

Tunisians are clear that criminal accountability for crimes perpetrated under the dictatorship is an essential "obligation" of the State. Tunisia signaled the strength of its commitment to providing justice to victims in Article 6 of the Transitional Justice Law which stipulates that "accountability" is the "responsibility of the judicial and administrative authorities" and is to consist of a "set of mechanisms for preventing impunity." The commitment is a broad one, encompassing accountability not only for physical integrity violations, but also for violations "related to electoral fraud, financial corruption, misappropriation of public funds and forced migration for political reasons."⁹

Anna Myriam Roccatello, deputy program director at ICTJ, reiterated the importance of criminal justice within a transitional justice framework. She emphasized that countries in transition often face challenges when endeavoring to bring the perpetrators of human rights violations to justice. These challenges usually can be attributed to a combination of contextual factors including political resistance, weak state institutions, and a deficient legal framework which does not incorporate serious international crimes into domestic legislation or provide adequate witness protection and fair trial guarantees. Ms. Roccatello described how those challenges have been overcome in other countries through institutional reform initiatives and by providing expert support and resources to national courts.

International expert Howard Varney reflected broadly on the role courts play in society, by *first* and foremost rendering justice to hold perpetrators to account, *second*, establishing the rule of law by countering impunity, and *third* revealing the truth about violations and the reasons behind them. He offered (1) comparative experiences of the relationship between truth commissions and criminal justice bodies (South Africa, Sierra Leone, and East Timor) and (2) examples of special chambers in Bosnia Herzegovina (the War Crimes Chamber), East Timor (the Serious Crimes Unit and Special Panels to the Dili District Court, Guatemala (Court for High Risk Crimes) and Serbia (War Crimes Chamber). Mr. Varney also reiterated the need to take steps necessary to better define how the TDC and the specialized chambers should relate to each other. He considered some options for doing so, including drawing up a memorandum of understanding that could establish common objectives for the Truth Commission and the Specialized Judicial Chambers. The memorandum of understanding should reinforce the complementary role the mechanisms share to ensure accountability and to end impunity, while also determining modalities of cooperation for enforcing their

⁸ Draft organic bill n° 49/2015 dated July 14, 2015, pertaining to the procedures of reconciliation in economic and financial sectors.

⁹ Organic Law n° 2013/number 53 (24 December 2013): Article 8.

respective mandates. He highlighted the main challenge facing Tunisia because of the inherent tension between the desire to rapidly process cases that achieve accountability on the one hand, and the requirement to ensure that the constitutional rights of the accused to a fair trial and other due process norms are observed. Varney also addressed the conference on the potential role of victims in criminal proceedings. He suggested that consideration be given to including some form of participation for victims in the proceedings of the Specialized Chambers, which should be enshrined in the law and the internal rules.

A number of speakers pointed out that Tunisia's 2014 Constitution safeguards against the arbitrary denial of life, liberty, or property by the Government without the sanction of law and requires that the State respect guarantees necessary for the defense of an accused throughout all the phases of prosecution and trial, including *inter alia* equality before the law, the presumption of innocence, the right to a lawyer, and a fair trial. They highlighted how the specialized chambers could run afoul of the Constitution and international principles and norms if further steps are not taken.

A Second Level of Review or Right to Appeal

There was significant debate among participants at the conference over whether and how convictions handed down by the Specialized Judicial Chambers would be subject to appeal. Some argued that because the transitional justice process is limited in time and associated with the mandate of the Truth and Dignity Commission, there is no way to open the door for appeals which are sure to take a long time and run afoul of the State's commitment in the 2014 Constitution to implement the transitional justice system with the timelines set by regulation.¹⁰ Others insisted that the inability to appeal the rulings of the Specialized Judicial Chambers contradicts fundamental fair trial principles¹¹ and Article 108 of Tunisia's Constitution which guarantees a right of appeal—known as “litigation on two levels.”¹²

The Transitional Justice Law is unfortunately silent on the issue of appeals. Article 8 establishes the Specialized Judicial Chambers within the trial courts, that is, primary instance jurisdictions, and does not address how an accused appeals a decision of the court. Although silence on this issue could suggest that the decisions of the specialized chambers are definitive and not subject to any form of appeal or challenge, such a reading would be inconsistent with the Constitution and with existing mechanisms for appealing convictions of ordinary crimes in Tunisia.

Mr. Walid El Melki, a member of both the Interim Authority Overseeing Civilian Justice (IPJJ)¹³ and the Supreme Judicial Council,¹⁴ spoke to this issue. He offered his view that a main challenge facing the proceedings before the Specialized Chambers in Tunisia are constitutional and singled out guarantees of a fair trial, such as a right of review or appeal, for particular mention. He emphasized that although the Transitional Justice Law did not expressly mention a second level of review, it remains an indispensable component of due process and as such specialized appellate jurisdictions should be established in the future.

Many other participants likewise questioned the extent to which fundamental fair trial principles cannot and should not be limited by a specific time frame. Some proposed that the term during which the Specialized Judicial Chambers will be operating should be unlimited in time and its mandate should only expire once all appeals have been decided.

As some argued, if the intent had been to deny defendants their fundamental right to appeal, lawmakers would have done so expressly, much like they did when limiting the applicability of other mechanisms for challenging convictions in the Transitional Provisions of Tunisia's 2014 Constitution. In Article 148(9), the National Constituent Assembly declared the following invocations of law and due process protections inadmissible:

- 1) Non-retroactivity of laws
- 2) The existence of previous amnesties
- 3) The double jeopardy principle
- 4) Statutes of limitation

However, it did not rule out a second level of review of the specialized jurisdiction decisions. As such, appeals of convictions could proceed as they would for ordinary crimes under the Code of Criminal Procedure.

The Principle of Legality of the Crimes and Penalties

¹⁰ Article 148.9 of the Constitution provides in pertinent part: “The State commits to implementing the transitional justice system in all its domains within the timeline set by related legislation...”

¹¹ See, e.g. International Covenant on Civil and Political Rights, Article 14(5) (“Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law.”)

¹² The right to an appeal (or “two levels” of litigation) is regarded as one of the main pillars of fair trial enshrined in Article 108 of the Constitution, “the law shall guarantee litigation on two levels”.

¹³ The Interim Authority Overseeing Civilian Justice (*L'Instance Provisoire de la Justice Judiciaire*) is a temporary body tasked with overseeing the selection, appointment, promotion, and transfer of judges.

¹⁴ The Supreme Judicial Council is a body created by Parliament under the Constitution to oversee the functioning of the courts and to ensure the independence of the judiciary. It is composed of 15 members, including the president of the Court of Cassation, the Attorney General, the president of the Court of Appeals, magistrates, lawyers, and a bailiff. It is tasked with making judicial appointments, arranging for promotions and transfers, initiating disciplinary investigations against judges, among other things.

During the conference questions were raised about how the specialized chambers would prosecute the international crimes specified in the Transitional Justice Law when all those crimes have not yet been fully incorporated into the national legal framework. As a number of speakers emphasized, it is a well-established principle of law that there can be no crime or penalty for any act or omission which did not constitute an offense at the time it was committed.¹⁵ That principle is enshrined in Article 28 of Tunisia's Constitution;¹⁶ and consequently, no one shall be punished for a non-incriminated act for which no legal provision has been promulgated.

However, under Article 8 of the Transitional Justice Law, the serious violations of human rights under the jurisdiction of the Specialized Judicial Chambers include crimes recognized and prohibited under international conventions that have not yet been domesticated in Tunisian criminal law such as enforced disappearance.¹⁷ Other crimes such as electoral fraud and forced migration for political reasons have not been criminalized in Tunisia or by international law.

Some participants suggested that the judges might exercise their discretion when characterizing the facts by relying on similar crimes already regulated under Tunisian criminal law. There was a proposal, for instance, to treat crimes of enforced disappearance as crimes of abduction under Article 237 of the Criminal Code. But according to international experts in attendance, this approach would be highly detrimental to the rights of the victims and their relatives. Enforced disappearance is not abduction, and is a continuous crime not subject to statutes of limitation. This approach could undermine Tunisia's commitments to combatting the crime of enforced disappearance in the eyes of the international community.

In addition, some pointed out that the judges could assume, consistent with Tunisia's Constitution, that the international conventions ratified by Tunisia supersede organic laws, and thus would have binding force over the Tunisian legal system.¹⁸ However, these international conventions (such as the International Convention for the Protection of all Persons from Enforced Disappearance¹⁹) stop short of defining penalties for those crimes.²⁰ As a result, the judges might be limited under the principle of legality from penalizing the defendants for their crimes. As a result, defendants might be convicted, but not sentenced. As such, if these gaps in the law are not remedied, the convictions might be doomed to nullification, which would disrupt the transitional justice process and undermine any potential for accountability.

In the light of this legal issue, it was concluded that legislation is necessary to fill existing gaps in domestic laws so that national law fully incorporates the international conventions ratified by the Tunisian State. In the meantime, some participants suggested that the Truth and Dignity Commission should refer only cases that are governed by clear-cut enforceable laws to the Specialized Judicial Chambers pending domestication.

Competence and Jurisdiction of the Specialized Chambers

There was extended discussion about the competence and jurisdiction of the specialized chambers and the interplay between those chambers and the Truth and Dignity Commission in the exercise of their respective mandates under the Transitional Justice Law.

Investigating judge Mr. Mohamed Kamoun for instance pointed out where the law is clear and where it is vague in places and reflected on how it could be open to multiple interpretations, some contradictory and some mutually reinforcing. Under the Transitional Justice Law as originally passed and as amended, it is clear under Article 8 that the specialized chambers are competent to hear cases involving "serious violations of human rights" and violations related to "electoral fraud, financial corruption, misappropriation of public funds and forced migration for political reasons" committed by the dictatorship. That provision was subsequently amended to expand the universe of

¹⁵ The Latin maxim for that principle is *nullum crimen sine lege, nulla poena sine lege* (no crime without a law, no penalty without a law).

¹⁶ "Punishments are individual and are not to be imposed unless by virtue of a legal provision issued prior to the occurrence of the punishable act, except in the case of a provision more favorable to the defendant." Tunisia's Constitution of 2014, Article 28.

¹⁷ The crime of torture was introduced into Tunisia's Criminal Code in 1999 (article 101*bis* of the Penal Code). Under article 9 of the Transitional Justice Law and article 5(4) of the Code of Criminal Procedure, it is not subject to statutes of limitation. ("*L'action publique se rapportant aux crimes de torture est imprescriptible.*") See Organic Law n° 2013-43 of 23 October 2013, relating to the National Authority for the Prevention of Torture.

¹⁸ Among the conventions ratified or acceded to by Tunisia are the International Convention on Civil and Political Rights (1969); International Convention on Economic, Social and Cultural Rights (1969); Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1988); International Convention for the Protection of all Persons from Enforced Disappearance (2011); Convention on the Rights of the Child (1992); Convention on the Prevention and Punishment of the Crime of Genocide (1956); Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity (1972).

¹⁹ Approved by Decree n° 2011-20f 19 February 2011, approving the International Convention for the Protection of all Persons from Enforced Disappearance. To clarify what might happen if cases were to proceed to trial before the crimes and penalties are incorporated into Tunisian law, Mr. Varney presented the experience of Argentina where defendants were convicted but no penalty was pronounced, which means that the Argentinian courts proceeded with truth seeking but stopped short of any form of accountability.

²⁰ See International Convention for the Protection of All Persons from Enforced Disappearance, Article 7 ("Each State Party shall make the offence of enforced disappearance punishable by appropriate penalties which take into account its extreme seriousness."); Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Article 4 ("Each State Party shall make these offenses punishable by appropriate penalties which take into account their grave nature.")

“serious violations to include not only cases human rights involving violations committed during the dictatorship, but also those against the martyrs and wounded of the revolution.”²¹

But the law is less clear about whether some or all those cases must originate with the TDC or whether cases may be referred to the specialized chambers from others institutions or authorities of the state, and whether victims may initiate cases as civil parties (*parties civiles*). Articles 3 and 8 of the law could be read to give the specialized chambers competence without restriction as to source to exert jurisdiction over “every serious and systematic infringement of human rights by State apparatuses, groups or individuals acting on behalf of the State or under its protection.”²²

Some participants expressed concern that if this approach is taken the specialized chambers could be overwhelmed by cases. They expressed a position that only cases referred by the TDC should be heard by the chambers. Article 8 suggests that cases involving other violations (i.e. for electoral fraud, financial corruption etc.) should be transferred from the TDC to the specialized chambers, however it does not require that cases involving serious violations must come by way of a referral. Rather it at least leaves open the possibility that cases may be initiated in the ordinary course, for instance within the Public Prosecutor’s Office, and be tried before the specialized chambers. In the absence of clarification, it is possible that referrals could begin before a strategy is in place.

The Role of the Public Prosecutor’s Office

There was likewise considerable debate over the role to be played by the public prosecutor’s office in the cases that will come before the specialized chambers. Mr. Kamoun again identified discrepancies between provisions of the law for referring cases to the specialized chambers that could cloud processes necessary for investigating cases, defining charges, and setting cases for trial. Article 42 of the Transitional Justice Law specifies that the Truth and Dignity Commission shall refer cases to the public prosecutor’s office first, while the last paragraph of article 8 of that same law appears to allow referrals to be made directly to the specialized chambers without going through the public prosecutor’s office.²³ Similarly, article 3 of Organic Law 2014-17 stipulates that in the event a file is transmitted to the public prosecutor’s office, it should be sent “automatically” to the Specialized Chambers.

Conference participants unanimously agreed that Law 2014-17 and Law 2013-53 do not relieve the Public Prosecutor’s Office of its role as a catalyst and initiator of criminal cases. The automatic referral provided for in Organic Law 2014-17 could be interpreted as limiting the essential role and power that the prosecution office has under the Code of Criminal Procedure in investigating and characterizing the facts and making decisions about whether to proceed with charges or dismiss them.²⁴ The law does not define who would exercise this important role if the Public Prosecutor does not. This is problematic given that the scope and extent of the TDC’s investigatory powers under the Transitional Justice Law are that of a non-judicial body, as Mr. Kamoun pointed out. There are contexts where prosecutorial discretion has been circumscribed when a full and fair investigation has already been conducted. This is similar to what occurs for example in the handling of customs offences. In those cases, however, although the Public Prosecutor’s Office is bound by the investigation that has already been conducted by the customs department when prosecuting, arraiging, and characterizing the incriminated acts, it retains authority for representing the public prosecution before an investigating or sitting judge, and remains one of the main parties entitled to exercise the right to appeal. As such, participants stressed the importance of resolving these ambiguities in the wording of legal provisions before moving forward to ensure that the public prosecutor is not relieved of one of the most important roles it serves in the ordinary criminal system, exercising discretion in determining the charges against the accused and characterizing the crimes to be prosecuted.²⁵

Recommendations

After two intensive and productive days of dialogue, the conference concluded with agreement about the need to take concrete steps toward implementing the specialized judicial chambers required for achieving

²¹ Organic Law n° 2014/17, dated 12 June 2014, pertaining to the provisions relevant to transitional justice and to cases associated with period extending from 17 December 2010 to 28 February 2011, Official Gazette number 48, (2014) (Article 2. “Attacks having generated the martyrs and wounded of the revolution are considered as violations serious within the meaning of articles 3 and 8 of the organic law n° 2013-53”) http://www.legislation.tn/en/detailtexte/Loi-num-2014-17-du-12-06-2014-jort-2014-048__2014048000171.

²² Article 3 reads in full as follows: “The violation, according to the law herein, is every serious and systematic infringement of human rights by State apparatuses, groups or individuals acting on behalf of the State or under its protection, even if they do not have the status or authority enabling them to act so. It also includes every serious and systematic infringement of human rights committed by organized groups.”

²³ Compare Article 42 (The commission shall transmit to the Public Prosecutor the cases in which serious violations of human rights are confirmed. The commission shall be informed of all subsequent measures taken by the judiciary. The cases transmitted to the Public Prosecutor shall not be opposed by the principle of *res judicata*.) with Article 8 (“these jurisdictions shall adjudicate the violations pertaining to election rigging, financial corruption, embezzlement of public funds, incitement to enforced displacement for political reasons, as referred to them by the Commission”).

²⁴ Art. 3, “In the event of transmission of the file to the public prosecutor by the authority of truth and dignity, in accordance with article 42 of the organic law n° 2013-53...the public prosecutor shall automatically send them to the specialized jurisdictional chambers mentioned in article 8 of the same organic law. Upon their sending to the specialized chambers by the public prosecutor, these files have priority regardless of the stage of the procedure.” www.legislation.tn/en/detailtexte/Loi-num-2014-17-du-12-06-2014-jort-2014-048__2014048000171

²⁵ Article 30 of the Code of Criminal Procedure

accountability for decades of human rights violations. To accomplish that, legislative and structural reforms are needed, including clarifications in the operating procedures of the TDC for implementing the Transitional Justice Law, as well as amendments to the Criminal Code and Code of Criminal Procedure.

To the Assembly of People's Representatives:

1. Expedite adoption of a draft organic law supplementing Organic Law 2013-53 for establishing the procedures that will govern operations at the Specialized Judicial Chambers. Those procedures should—
 - a. Ensure that the rights of the accused to an adequate defense are protected before the Specialized Chambers;
 - b. Reaffirm the jurisdictional primacy of the Specialized Judicial Chambers over cases currently pending before the various civilian and military courts. The latter will, therefore, be compelled to refer case files to the Specialized Judicial Chambers within its the relevant territorial jurisdiction;
 - c. Reaffirm that appeals of the decisions of the Specialized Chambers are to be conducted consistent with existing mechanisms for appealing convictions of ordinary crimes in Tunisia;
 - d. Reaffirm that the Office of the Prosecution shall exercise its power under the Code of Criminal Procedure in investigating and characterizing the facts and making decisions about whether to proceed with charges or dismiss cases referred to the Specialized Chambers;
 - e. Ensure effective access to justice on the part of victims of human rights violations with a right to participate within the proceedings of the Specialized Judicial Chambers.
2. Expedite domestication of the international conventions ratified by the Tunisian State by promulgating laws that include the crimes that are not covered by the Tunisian penal law. Ensure that the legal text stresses that Tunisia would not be criminalizing conduct that was previously lawful but that, it would rather be creating a new jurisdiction for their prosecution, since such conduct were already outlawed in terms of the applicable treaties and /or prohibited in terms of customary international law.

To the Truth and Dignity Commission and the High Judicial Council (Conseil Supérieur de la Magistrature):

3. Share the criteria they developed for the selection of cases for transfer to the Specialized Judicial Chambers.
4. Agree upon a memorandum of understanding to clarify the relationship between the TDC and the Specialized Chambers. That memorandum of understanding should establish common objectives for the Truth Commission and the Specialized Judicial Chambers that reinforce the complementary role the mechanisms share in ensuring accountability and ending impunity, while also determining modalities of cooperation for enforcing their respective mandates. The modalities of cooperation should include procedures for referring cases.

To the Ministry of Justice and the High Judicial Council:

5. Develop comprehensive programs designed to support the judges and members of the Specialized Judicial Chambers. Those programs should include ongoing training, exclusion from annual judicial transfers or reassignments, except in exceptional cases as required by the law and after coordination with the Supreme Judicial Council, guaranteeing their entitlement to professional benefits and promotion.
6. Assign a Public Prosecutor to each specialized chamber with the responsibility for representing cases alleging serious violations of human rights and other violations provided for under the Transitional Justice Law. Support the assigned prosecutors with the required initial and ongoing capacity building..

To all relevant stakeholders:

7. Establish a committee composed of judges, lawyers, and specialists in Transitional Justice to prepare draft legislation to supplement the current Transitional Justice Law as described above; and
8. Agree on a timeline for its submission to the Assembly of People's Representatives.