

The Role of the Civil Harmony Law in Consolidating the Rules of Transitional Justice in Algeria

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ABSTRACT

In order to restore peace and security in Algeria, in what is called transitional justice, several laws and agreements have been adopted, the latest of which is the armistice agreement in 1997, which constitutes the basis for the Civil Harmony Law, which enshrined the principle of transitional justice, as the President of the Republic Abdelaziz Bouteflika raised the slogan of amnesty for the success of His endeavor to end the period of bloody conflict that lasted for ten years.

Keywords: Security, transitional justice, harmony law, peace

INTRODUCTION:

Thirty years ago, Algeria experienced the tragic phenomenon of terrorism, which began with the deterioration of the security situation. This phenomenon altered the value system of Algerian society and negatively affected the cohesion and unity of the Algerian national identity. Consequently, the Algerian legislator adopted punitive and deterrent mechanisms to confront and eliminate terrorism. However, after the failure of this penal policy, the legislator pursued a different approach by relying, in a second phase of its criminal policy, on incentive-based mechanisms aimed at reducing the phenomenon of terrorism.¹

Since 1995, the Algerian State has adopted pacification strategies that culminated in the signing of a truce and attempted to contain the armed groups. The 1997 truce agreement constituted the legal foundation for the Civil Concord Law, which enshrined the principle of transitional justice. At that time, President Abdelaziz Bouteflika adopted the slogan of forgiveness to ensure the success of his initiative and to bring an end to the bloody conflict that had lasted for ten years. These laws were subsequently approved through a public referendum in 2005.²

The gradual approach adopted by the Algerian State in addressing these tragic events, beginning with the Clemency Law and followed by the Civil Concord Law, which was ultimately complemented by the Charter for Peace and National Reconciliation, represents a significant shift toward the consolidation of the principle of transitional justice. This principle has become one of the most effective approaches for resolving the political and security crises experienced by many countries around the world, particularly on the African continent.

Accordingly, the central issue addressed in this research paper concerns the extent to which the Civil Concord Law contributed to establishing and consolidating the principles of transitional justice in Algeria.

Research Problem:

To what extent did the provisions of the Civil Concord Law contribute to the establishment of the principle of transitional justice in Algeria?

The following sub-questions arise from this research problem:

- What is the concept of transitional justice?

- What are the fundamental principles upon which transitional justice is based?
- What are the main provisions contained in the Civil Concord Law?
- To what extent did the provisions of the Civil Concord Law contribute to reducing armed violence and to the effective implementation of the principle of transitional justice?

Study Plan:

To address this research problem, the study is structured into two sections. The first section examines the concept of transitional justice and the fundamental principles upon which it is based. The second section discusses the Civil Concord Law as a strategy for establishing and consolidating the principle of transitional justice.

Research Methodology:

In this research paper, we adopt the descriptive approach to define and describe the concepts and legal provisions related to transitional justice and the Civil Concord Law. We also employ the analytical approach to analyze certain legal provisions, as well as the extent to which the parties to the conflict were able to overcome the consequences of the dispute.

SECTION ONE: THE CONCEPT OF TRANSITIONAL JUSTICE

The term transitional justice is a legal and political concept that applies during periods of political transition experienced by certain countries. This issue will be examined in the first subsection, while the second subsection discusses the fundamental principles upon which transitional justice is based.

Subsection One: The Concept of Transitional Justice

Considerable debate has arisen regarding the definition of this concept, and no universally accepted definition has emerged due to differences in its characteristics, mechanisms, and strategies. Transitional justice is regarded as one of the modern approaches concerned with democratic transition through peaceful means and with finding political and legal solutions to overcome the consequences of political violence under authoritarian regimes.³

The concept of transitional justice has become governed by the rules of international law established by the United Nations. Consequently, its definition and application can no longer be determined independently of these rules, nor according to the political doctrine of a particular regime, or in a manner that serves the interests or preferences of a specific group, sect, nationality, or religion. Accordingly, transitional justice has evolved into a universal principle and approach, while the instruments and mechanisms for its implementation remain national and regional in nature, governed by the particular circumstances experienced by each State during its transitional period. Transitional periods also differ in nature. For example, the transition following a war between two States differs from transitional periods resulting from internal armed conflicts and non-violent political disputes.

Based on the foregoing, this subsection seeks to examine the principal attempts to define transitional justice and then identify its main characteristics and distinguishing features through the following two branches.

Branch One: Definition of Transitional Justice

Although the international community has not yet agreed upon a unified and comprehensive definition of transitional justice, this reflects the evolving nature of the field, which continues to develop within the framework of the principles and concepts established by the United Nations.

Transitional justice may be defined as a set of judicial and non-judicial legal measures, as well as institutional reforms, undertaken by the State and society to uphold the rule of law.

In the international context, the term transitional justice is a composite concept that refers to the

establishment of justice during a transitional period. It is adopted by States as a means of restoring peace in the aftermath of an armed conflict.

whether internal or international. It represents a transitional phase from a dictatorial regime to a democratic system.⁴

The former Secretary-General of the United Nations defined transitional justice as encompassing "the full range of processes and mechanisms associated with a society's attempts to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice, and achieve reconciliation."⁵

Likewise, in his 2004 report entitled "The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies," the United Nations Secretary-General affirmed that the concept encompasses all the processes and mechanisms adopted by a society to address the legacy of the past, establish justice, and achieve reconciliation. These mechanisms may include varying degrees of international involvement, criminal prosecutions, reparations, truth-seeking initiatives, constitutional reform, vetting procedures to identify past abuses, dismissal from public office, or a combination of these measures.⁶

Furthermore, this concept was reaffirmed in the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, adopted by the United Nations General Assembly in January 2005. In October 2011, the Human Rights Council also established the mandate of the Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-Recurrence to support efforts aimed at implementing transitional justice.⁷

It is noteworthy that the concept of transitional justice has become closely associated with internal tensions and political upheavals in certain Arab countries, such as Tunisia and Libya, where national legislation has been developed in connection with this concept.⁸

Other attempts have also been made to define transitional justice. The International Center for Transitional Justice (ICTJ) defines it as:

"The set of judicial and non-judicial measures implemented by different countries to address legacies of massive human rights violations. These measures include criminal prosecutions, truth commissions, reparations programs, and various forms of institutional reform."

Accordingly, transitional justice is regarded as a mechanism for consolidating the transition from insecurity to security, that is, from conflict to stability. It also recognizes the right of actual or potential victims to seek accountability for those responsible for such violations, to uncover the truth, and to provide reparation for the harm suffered. This constitutes the fundamental importance and ultimate objective of transitional justice.⁹

Branch Two: Characteristics of Transitional Justice

There are three principal characteristics that distinguish transitional justice:¹⁰

1. **A comprehensive and integrated approach:** Transitional justice adopts a comprehensive and integrated approach to addressing the legacy of gross human rights violations. It does not merely focus on investigating crimes, identifying those responsible, and holding them accountable; it also seeks to provide reparations, restore the dignity of victims, ensure justice for them, adopt measures to prevent the recurrence of violations, rebuild trust between citizens and the State, and promote peace and democracy.
2. **Balancing multiple objectives:** Transitional justice is characterized by its ability to maintain the necessary balance among its various objectives and purposes, taking into

account the specific characteristics of each society, the realities on the ground, and the prevailing balance of power.

3. **A victim-centered approach:** Transitional justice is also distinguished by placing victims at the center of its approach. Restoring their dignity and ensuring justice for them constitute some of its primary objectives. This requires making every possible effort to ensure that the transitional justice process adopted by a State supports victims, encourages their participation and engagement, and enables them to benefit from its outcomes.

It is worth noting that transitional justice is generally implemented in countries that have experienced gross violations of human rights. Such countries are therefore required to address the abuses of the past while simultaneously confronting present-day challenges related to establishing stability and security, promoting democracy, and strengthening the rule of law.

Subsection Two: The Foundations of Transitional Justice

International experiences in the field of transitional justice have established a set of fundamental pillars based on international human rights law and on the standards that have evolved for addressing human rights violations and defining their principles and components.

The transitional justice framework consists of five fundamental components: accountability, truth-seeking, reparation, institutional reform, and reconciliation.

The order in which these five components are presented does not imply that one is more important than another. Rather, this arrangement is adopted solely for methodological purposes and does not establish any hierarchy among them. A transitional justice approach should address these components as an integrated and complementary framework.

as a comprehensive and integrated framework. However, the priority accorded to one component over another, the degree to which the intended objectives of each component are achieved, the pace of their implementation, and the realization of their respective goals all depend on the specific context of each transitional experience, the requirements of each country, and the stage of its democratic development, together with its challenges, constraints, and available resources. This is what makes transitional justice part of a broader strategic vision for building a State based on the rule of law.¹¹

The five components may be briefly explained as follows:

1. Accountability

Alex Boraine—Vice-Chairperson of the Truth and Reconciliation Commission of South Africa and founding President of the International Center for Transitional Justice (ICTJ)—described the application of the principle of accountability as follows:

"All international efforts to achieve justice reflect highly pragmatic political compromises. We all know that the establishment of courts is merely an imperfect substitute for preventive action, and that prosecuting some perpetrators of human rights violations while leaving many others unpunished simply reflects political reality. In other words, the law has its limits. Whenever large-scale human rights violations occur—as in the former Yugoslavia, Rwanda, or Sierra Leone—it becomes impossible to prosecute everyone. Although international criminal law provides a measure of accountability for the most serious crimes, there are limits to what it can achieve."

Nevertheless, criminal accountability remains one of the principal mechanisms for addressing a legacy of gross human rights violations. Its primary objectives are to deter the commission of future violations and to express the State's clear and official condemnation of such crimes,

thereby demonstrating its commitment to building a society founded on respect for the rule of law.

2. Truth Commissions

For truth commissions to be effective, credible, and accepted by the parties to a conflict, they must possess several essential characteristics. They should function as fact-finding bodies, be formally established by the State while remaining independent from it, operate under a clearly defined legal mandate, and have a specified period of operation. They must also be non-judicial bodies whose work focuses on investigating past events, particularly gross violations of international humanitarian law and international human rights law, as well as any violations defined by their founding legislation. Moreover, they should give priority to victims and their suffering.

It is worth noting that truth commissions have significantly contributed to supporting democratic transition processes in many countries by providing a comprehensive response to gross human rights violations.¹²

3. Reparation

The concept of reparation should extend beyond merely providing financial compensation to victims. It should also constitute an acknowledgment of the State's responsibility for human rights violations and form part of restoring victims' dignity by taking into account the impact of those violations on their professional status, financial situation, property, and their families.

Reparation takes several forms, including individual reparation, which is directed toward victims and their families and includes compensation, medical treatment, rehabilitation, reintegration, and healthcare. There is also collective reparation, which targets communities and regions that have suffered from systematic repression, extermination, or widespread marginalization because of their political positions or support for a particular political group. Finally, gender-sensitive reparation seeks to address the specific circumstances and needs of women who have been victims of human rights violations.¹³

4. Institutional Reform

Institutional reform is an essential element of democratic transition because wars and armed conflicts often result in the extensive destruction of State institutions and seriously affect their functioning. Consequently, transitional periods require comprehensive institutional reform as one of the principal safeguards against the recurrence of human rights violations. Priority is generally given to reforming the security sector because of its central role during periods of widespread human rights abuses.¹⁴

5. Reconciliation

From the perspective of transitional justice, reconciliation is both a means and an objective. It is built gradually through a broad societal process that embraces all components of society, strengthens mutual trust, and fosters hope, reassurance, and confidence among citizens.¹⁵

SECTION TWO: THE CIVIL CONCORD LAW AS A STRATEGY FOR CONSOLIDATING THE PRINCIPLE OF TRANSITIONAL JUSTICE

In this section, we seek to highlight the content of the Law on the Restoration of Civil Concord and the procedures for benefiting from its provisions in the first subsection. The second subsection examines the extent to which this law contributed to the establishment and consolidation of the principle of transitional justice.

Subsection One: The Law on the Restoration of Civil Concord

The Law on the Restoration of Civil Concord is considered one of the incentive-based measures adopted after the failure of the deterrent approach. This prompted the Algerian legislator to pursue a different path by developing an incentive-oriented criminal policy designed to encourage terrorists to renounce terrorist activities, repent, and reintegrate into society. These incentive mechanisms were implemented through three successive phases.

Branch One: Definition of the Civil Concord Policy

Former President Abdelaziz Bouteflika defined the Civil Concord policy on numerous occasions through several speeches. At times, he presented it as a purely security-oriented policy, while on other occasions he emphasized that its objectives extended to several fields, most notably the economic and social spheres, as well as the international dimension, with the aim of restoring Algeria's image and standing within the international community.

The first official announcement of President Bouteflika's adoption of the Civil Concord policy was made on 29 May 1999. In a speech addressed to the nation, he declared his intention to adopt a policy in favor of armed individuals willing to repent. He stated:

"Inspired by a profound belief in the values of tolerance and goodwill... I officially address those who have returned to God and to their homeland, and I affirm unequivocally that I am fully prepared to take, without delay, all the necessary measures that will enable them to return with dignity to the embrace of their nation, in full respect of the laws of the Republic." ¹⁶

Regarding the objectives of the Civil Concord policy, the President further stated:

"The concept of Civil Concord, as I have presented it to the people... represents a comprehensive process intended to resolve the crisis and eliminate its consequences... It is about solving the problems facing our country. First, it is institutional, based on restoring the authority and prestige of the State. Second, it aims to revitalize social life as a whole through the revival of economic and cultural activity... Furthermore, it seeks to change the way others perceive our country, while ensuring that responsibility is assigned to those who truly bear it." ¹⁷

Branch Two: The Content of the Provisions and Rules of the Civil Concord Law

The Civil Concord Law consists of 43 articles divided into six chapters, as follows: Chapter One (General Provisions), Chapter Two (Exemption from Prosecution), Chapter Three (Suspended Prosecution), Chapter Four (Mitigation of Penalties), Chapter Five (Procedures), and Chapter Six (Special Provisions).

The following is a brief overview of the content of the Law on the Restoration of Civil Concord, followed by the procedures for benefiting from its provisions.

First: The Content of the Civil Concord Law

The Law on the Restoration of Civil Concord contains both substantive and procedural provisions.

1. The Substantive Provisions of the Civil Concord Law

The Civil Concord Law first establishes a general rule concerning those eligible to benefit from its provisions. It stipulates that any individual involved in terrorist or subversive activities must voluntarily present himself before the competent authorities and disclose all terrorist activities in which he has participated in order to benefit from one of the measures introduced by the legislator under this Ordinance, namely:

- Exemption from prosecution;
- Suspended prosecution;

- Mitigation of penalties.

a. Exemption from Prosecution

Exemption from prosecution is provided for under Articles (3), (4), and (5) of Ordinance No. 99-08.

Article (3) exempts from prosecution any person who had previously belonged to a terrorist organization, whether inside or outside the country, provided that he neither committed nor participated in any of the offenses set forth in Article 87 bis of the Penal Code resulting in the death of a person, permanent disability, rape, or the use of explosives in public places or locations frequented by the public. To qualify for this exemption, the individual must, within six months from the date of promulgation of the Ordinance, notify the competent authorities that he has ceased all terrorist or subversive activities and voluntarily present himself before those authorities.¹⁸

Article (4) likewise exempts from prosecution any person who voluntarily surrenders weapons, explosives, or other material means to the competent authorities.

However, beneficiaries of Articles (3) and (4) are, in all cases, deprived of the rights provided for in Article (8) of the Penal Code for a period of ten years, commencing from the date of the decision granting exemption from prosecution.¹⁹

Article (5) further provides that beneficiaries of exemption from prosecution are deprived of all national and political rights, as well as the right to receive any official decoration.

b. Suspended Prosecution

Suspended prosecution consists of the temporary suspension of criminal proceedings for a specified period in order to verify the complete rehabilitation and good conduct of the individual concerned. This measure is administered by a committee known as the Suspended Prosecution Committee.²⁰

The following categories of persons may benefit from suspended prosecution:

- Persons who previously belonged to one of the terrorist organizations referred to in **Article 87 bis (03)** of the Penal Code;
- Persons who have informed the competent authorities that they have ceased all terrorist or subversive activities;
- Persons who voluntarily appear before the Suspended Prosecution Committee, whether individually or collectively.²¹
- Persons who formerly belonged to terrorist organizations but who did not commit mass killings or use explosives in public places or places frequented by the public, and who collectively and voluntarily informed the competent authorities that they had ceased all terrorist or subversive activities and voluntarily appeared before those authorities. Such persons are required to submit a declaration confirming the accuracy of the information provided regarding the weapons, explosives, ammunition, and other material means in their possession and to surrender them to the authorities before whom they appeared. The declaration must also include the acts they committed or participated in committing.²²

c. Mitigation of Penalties

The legislator also established mitigating circumstances under which persons involved in terrorist acts, regardless of their nature, may benefit from reduced penalties. The law specifies the penalties applicable to each offense by determining both the minimum and maximum limits of the sentence. These provisions are contained in Articles (27), (28), and (29) of Ordinance No.

99-08, which distinguish between offenders according to both the nature of the offense committed and the offender's degree of responsibility.²³

d. Special Provisions

In addition to the substantive rules discussed above, the legislator introduced a number of special provisions to address particular situations.

Under Article (36), all persons, whether imprisoned or not at the time of the promulgation of Ordinance No. 99-08 on the Restoration of Civil Concord, are entitled to benefit from its provisions.

Furthermore, persons who had already been convicted at the time of the promulgation of the Civil Concord Law are entitled to immediate conditional release for the remainder of their sentence, notwithstanding any contrary legal provision, as stipulated in Article (37) of the Law.

Likewise, persons who voluntarily appeared before the competent authorities and informed them, prior to the promulgation of the Civil Concord Law, that they had ceased all terrorist or subversive activities—and who were either accused or convicted, whether imprisoned or not—may benefit, provided that they satisfy the conditions governing suspended prosecution, either through release or the postponement of the execution of their sentence, depending on the circumstances.

Finally, Article (41) provides that the provisions of this Law apply only to persons belonging to organizations that voluntarily and unconditionally decided to end acts of violence and placed themselves entirely at the disposal of the State.²⁴

2. Procedural Provisions of the Civil Concord Law

According to the provisions of this Law, persons wishing to benefit from its measures must comply with a number of procedural requirements. These procedures are divided into two categories: preliminary procedures and the procedures of the Suspended Prosecution Committee.

a. Preliminary Procedures

Individuals wishing to benefit from the provisions of this Law are required to:

- Voluntarily appear before the competent authority within the legally prescribed period, which the Law sets at a maximum of **six months** from the date of its promulgation.
- Notify the competent authorities that they have ceased all terrorist or subversive activities.
- Submit a declaration attesting to the accuracy of the information concerning the weapons, explosives, ammunition, and other material means in their possession, and surrender these items to the authorities before whom they have appeared.
- Submit a signed declaration specifying the acts they committed or participated in committing.

Where an individual voluntarily appears before a non-judicial authority, whether civilian or military, that authority must immediately notify the territorially competent Public Prosecutor (Procureur Général). The latter may order that the person be placed under temporary residence in the nearest appropriate facility under the authority of the Armed Forces, the National Gendarmerie, or the Police, and designate the authority responsible for implementing this measure.²⁵

b. Procedures of the Suspended Prosecution Committee

These procedures are governed by Articles (6) to (26) of Ordinance No. 99-08. A Suspended Prosecution Committee is established within the territorial jurisdiction of each province (wilaya)

and is entrusted with the following responsibilities:²⁶

- Deciding whether an individual should be placed under suspended prosecution;
- Determining the measures and obligations applicable to the person placed under suspended prosecution;
- Certifying the completion of the suspended prosecution period and issuing the corresponding certificate;
- Appointing a Suspended Prosecution Delegate.

Similar to the powers granted to the territorially competent Public Prosecutor in classifying criminal acts, the Algerian legislator, through Ordinance No. 99-08, granted the Public Prosecutor (Procureur Général) broad discretionary authority to determine the appropriate legal treatment of each case. Accordingly, the Prosecutor may decide to grant exemption from prosecution, mitigate the penalty, or place the individual under suspended prosecution, without guaranteeing the exercise of the right of defense before the case and the individual are referred to the Suspended Prosecution Committee.²⁷

However, **Article (16/2) of Law No. 99-08** expressly provides that:

"The right of defense shall be guaranteed and respected throughout all stages of the procedures relating to suspended prosecution."

After examining the case file and, where appropriate, hearing the person concerned or his legal representative, the Suspended Prosecution Committee deliberates and adopts its decision either by consensus or by a majority vote of its members. In the event of a tie, the Chairperson has the casting vote.

Upon completion of its examination, the Committee certifies the termination of the suspended prosecution period by issuing a certificate delivered by the **Public Prosecutor (Procureur Général)**. Upon issuance of this certificate, **criminal proceedings become permanently time-barred** with respect to the acts that justified the granting of suspended prosecution.

It should also be noted that **Article (5) of Ordinance No. 99-08** deprives beneficiaries of exemption from prosecution of the rights provided for in **Article (8) of the Algerian Penal Code**. The deprivation of civil rights is limited to the following:

- Removal and dismissal from all public offices, senior positions within the State or political parties, and any functions related to the offense committed;
- Deprivation of the right to vote, to stand for election, and, more generally, of all national and political rights, as well as the right to receive any official decoration.²⁸

Subsection Two: The Role of Civil Society in Promoting Transitional Justice

Civil society organizations play a significant role in promoting democracy in both developed and developing countries. These organizations represent a form of social capital through which centralization and the abuse of governmental authority can be challenged by forming pressure groups capable of gaining the support of members of the legislative branch. Some scholars believe that the existence of a vibrant civil society sector is an essential prerequisite for the establishment of a democratic political system.²⁹

First: The Role of Civil Society in Accountability and Truth-Seeking

Civil society plays a fundamental role in the process of democratic transition by identifying those responsible for human rights violations, uncovering the truth, providing reparation and compensation to victims, and promoting the institutional reforms necessary within State institutions. In addition, it performs an educational role by disseminating and strengthening democratic values

and a culture of human rights, thereby helping to prevent the recurrence of past violations.

The issue of impunity—namely, the criminal accountability of perpetrators of enforced disappearance, torture, and other gross human rights violations—constitutes one of the most complex and controversial issues in democratic transition experiences, particularly those emerging from armed political conflicts and returning to civilian rule, or from political crises accompanied by armed violence, as well as transitions from authoritarian or totalitarian regimes to democratic governance. Although the pursuit of accountability represents a noble objective, it has remained a contentious issue, especially in light of the suffering endured by victims during armed conflicts, civil wars, military rule, and authoritarian regimes.³⁰

Moreover, the sustained and intensive efforts of the human rights movement, democratic forces, the resilience of victims and their families, and the positive developments that have characterized the global human rights landscape in the struggle to end all forms of gross human rights violations and combat impunity have prompted the Moroccan State to respond to these pressures and challenges by expressing its determination to overcome the painful legacy of past gross human rights violations under the slogan of "turning the page on the past."³¹

Second: The Role of Civil Society in National Reconciliation

Civil society, as a voluntary and independent sphere within the State, provides the most appropriate environment for individuals to exercise the rights and freedoms guaranteed under both domestic and international law. Various civil society organizations enable individuals to exercise their rights and freedoms in an organized and lawful manner that safeguards their rights and ensures their effective enjoyment without resorting to violence or other unlawful means. The existence of diverse and independent institutions and organizations gives individuals channels through which they can freely express their opinions and viewpoints, even when these differ from government policies, thereby enabling them to defend their interests and protect their rights.³²

When the concept of national reconciliation comes to mind, it is often associated with Charles de Gaulle, the French leader who linked it to the crimes and debts resulting from the French occupation of Algeria. The concept was later embraced by French President François Mitterrand as a guarantor of national unity. Subsequently, Nelson Mandela, the liberator of South Africa, employed it in the context of consultations concerning the return of exiles following the activities of the African National Congress. As previously discussed in defining transitional justice, national reconciliation constitutes both a form of transitional justice and one of its principal objectives.³³

Transitional justice processes and Disarmament, Demobilization, and Reintegration (DDR) initiatives each play an important role during post-conflict transitional periods. Both contribute to preventing the recurrence of violations and promoting reconciliation. Although they are distinct and limited processes, they should be encouraged as complementary components of a comprehensive framework for supporting societies recovering from conflict.

These efforts must be context-specific and inclusive of all relevant stakeholders, including State institutions and civil society organizations. The relationship between DDR programs and transitional justice measures varies according to the national context, the nature of the conflict, the manner in which it ended, and the role of the international community, among other factors.³⁴

It is important to note that the Truth and Reconciliation Commissions, as implemented in South Africa, generally pursue three principal objectives. First, they seek to preserve the historical record and establish the truth regarding human rights violations by determining why they occurred, identifying the extent of the responsibility of the parties involved, clarifying how the violations were

committed, identifying the victims, and determining their current circumstances. Second, they aim to provide reparation to victims and their families by listening to their grievances, acknowledging their suffering, offering apologies, granting compensation, and facilitating their rehabilitation, all with the objective of promoting reconciliation and forgiveness. Third, they seek to implement political and institutional reforms designed to prevent the recurrence of violations and to consolidate democracy through constitutional reform, legislative reform, and the reform of the security, judicial, and media sectors.³⁵

David Tolbert, President of the International Center for Transitional Justice (ICTJ), welcomed the awarding of the 2015 Nobel Peace Prize to the Tunisian National Dialogue Quartet in recognition of its contribution to the country's democratic transition. He emphasized that the determination and courage demonstrated by Tunisian civil society and the Tunisian people constituted the cornerstone of the profound transformations witnessed by the country in addressing past human rights violations and moving forward. He further acknowledged the decisive role played by civil society in confronting the legacy of widespread human rights violations.

CONCLUSION

In conclusion, the successful implementation of transitional justice requires the existence of a comprehensive and clearly defined national strategy that addresses all the legal, social, psychological, political, and economic elements necessary to achieve its objectives. Such a strategy should be preceded by a comprehensive assessment of the prevailing conditions and the measures required, through dialogue with all relevant stakeholders, particularly victims and civil society organizations, while ensuring compliance with the fundamental international standards of transitional justice.

Based on the foregoing, the following recommendations are proposed:

- Civil society organizations should work toward developing a national vision that includes policies and mechanisms capable of serving as a foundation for achieving comprehensive national reconciliation.
- Transitional justice should be approached primarily as a human rights issue rather than merely a political one.
- Appropriate mechanisms should be established to ensure justice for victims and accountability for those responsible, while avoiding any spirit of revenge.

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Footnotes

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² Ibid., pp. 70–71.

³ Hend Malik Hassan; Asaad Taresh Abdul Redha. "Transitional Justice: A Study of the Concept and Mechanisms." *Journal of Political Science*, University of Baghdad, No. 59, 2020, p. 120.

⁴ El Am Rachida. "Transitional Justice within the Framework of the United Nations." *Al-Mufakkir Journal*, University of Biskra, Vol. 12, No. 1, 2017, p. 9.

⁵ Report of the Secretary-General of the United Nations on *The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies*.

⁶ Massoud El Bali; Abdelaziz Aqaqba. "Transitional Justice: A Political and Human Rights Approach." *Algerian Journal of Security and Development*, University of Batna, Vol. 6, No. 2, 2017, p. 50.

⁷ Alaa Shalaby, Haidy Ali El-Tayeb, and Karam Khamis. *Transitional Justice in Arab Contexts*. 1st ed., Arab Organization for Human Rights, Cairo, Egypt, 2014, p. 39.

⁸ In Tunisia, for example, Article (1) of the Draft Law establishing the Truth and Dignity Commission, submitted to the Tunisian National Constituent Assembly, defines transitional justice as follows:

"For the purposes of this Law, transitional justice is a comprehensive process consisting of mechanisms and means adopted to understand and address the legacy of past human rights violations by uncovering the truth, investigating and holding those responsible accountable, providing reparation to victims, restoring their dignity, achieving national reconciliation, preserving and documenting the collective memory, establishing guarantees against the recurrence of violations, and facilitating the transition from authoritarianism to a democratic system that contributes to the consolidation of the human rights framework."

(See: Organic Law No. 53 of 2013, dated 24 December 2013, relating to the establishment and

organization of transitional justice, *Official Gazette of the Republic of Tunisia*, No. 105, issued on 31 December 2013, p. 4335.)

⁹ Houari Kada. "Transitional Justice and Its Impact on the Human Rights System." *Journal of Law and Society*, University of Adrar, Vol. 6, No. 2, 2018, p. 138.

¹⁰ El Habib Belkouch. *Transitional Justice in Arab Contexts (Concepts and Mechanisms of Transitional Justice)*. Arab Organization for Human Rights, 1st ed., 2014, p. 40 et seq.

¹¹ El Habib Belkouch. *Transitional Justice in Arab Contexts*, previous reference, p. 41.

¹² El Habib Belkouch. *Transitional Justice in Arab Contexts*, previous reference, p. 46.

¹³ Ibid., pp. 47–48.

¹⁴ El Habib Belkouch. *Transitional Justice in Arab Contexts*, previous reference, pp. 48–49.

¹⁵ Ibid., p. 49.

¹⁶ Parliamentary Study Day on National Reconciliation, previous reference, p. 20.

¹⁷ People's Democratic Republic of Algeria. Presidential Decree No. 96-438 of 26 Rajab 1417 AH, corresponding to 7 December 1996, concerning the promulgation of the constitutional amendment approved by referendum on 28 November 1996, *Official Gazette*, No. 76, issued on 8 December 1996, p. 17.

¹⁸ Mokam Abdelkader. *Culture of Peace*. Dar Al-Gharb for Publishing and Distribution, Algeria, n.d., p. 1.

¹⁹ Ibid., p. 3.

²⁰ The Suspended Prosecution Committee consists of:

- The territorially competent Public Prosecutor (Chairperson);
- A representative of the Ministry of National Defence;
- A representative of the Ministry of the Interior;
- The Commander of the National Gendarmerie Group of the Wilaya;
- The Chief of Wilaya Police;
- The President of the Bar Association, or his duly authorized representative.

²¹ Under this Ordinance, the legislator fixed the period for benefiting from suspended prosecution at six months from the date of promulgation of the Law for persons who had previously belonged to terrorist organizations, and three months for those who had neither committed mass killings nor used explosives.

Placement under suspended prosecution entails deprivation of the rights provided for in Article (8) of the Algerian Penal Code. The legislator established a minimum duration of three years and a maximum of ten years for suspended prosecution.

Upon the expiration of the suspended prosecution period, criminal proceedings become permanently time-barred. The limitation period for prosecuting acts discovered after the expiration of suspended prosecution shall commence, in accordance with the general rules of law, from the date on which the suspended prosecution period ends.

²² Mokam Abdelkader, previous reference, p. 113.

²³ Mokam Abdelkader, previous reference, p. 116.

²⁴ Mokam Abdelkader, previous reference, pp. 119–120.

²⁵ Reda Baba Ali. *The Legal Nature of the Procedures under the Civil Concord Law*. Master's Thesis in Law, University of Algiers, Ben Aknoun, Academic Year 2005/2006, p. 115.

²⁶ Reda Baba Ali, previous reference, p. 115.

²⁷ Ibid., p. 116.

²⁸ Reda Baba Ali, previous reference, p. 115.

²⁹ Ahmed Ibrahim Mallawi. "The Importance of Civil Society Organizations in Development." *Damascus University Journal of Economic and Legal Sciences*, Vol. 24, No. 2, 2008, p. 264.

³⁰ Abdul Hussein Shaaban. "Transitional Justice: Arab Approaches to the International Experience." *Al-Mustaqbal Al-Arabi Journal*, No. 413, Center for Arab Unity Studies, Beirut, July 2013, p. 117.

³¹ Abdelkarim Abdel Laoui. *The Experience of Transitional Justice in Morocco*. Cairo Institute for Human Rights Studies, Cairo, 2013, p. 127.

³² Karim Barakat. *The Contribution of Civil Society to the Protection of Human Rights*. Master's Thesis in Law, Specialization in International Human Rights Law, Faculty of Law and Commercial Sciences, Mohamed Bougara University, Boumerdes, 2004, p. 37.

³³ Mohamed Mokhtar Kandil. "A Perspective on the Concept of Transitional Justice." *Al-Hiwar Al-Mutamaddin*, No. 3808, 29 July 2012. Available at: www.ahewar.org (accessed 4 August 2024).

³⁴ Annual Report of the United Nations High Commissioner for Human Rights on Human Rights and Transitional Justice. Human Rights Council, Eighteenth Session, General Assembly Document A/HRC/18/23, July 2011, p. 20.

³⁵ Yousra El-Azzabawi. *International Experience and the Necessity of Restorative Justice*. Arab Center for Research and Studies, 2015. Available at: www.acrseg.org (accessed 5 August 2024).