



The victim zone and collective reparation in Tunisia

Ain Drahem & Sidi Makhlouf
“So rich and yet so poor ...”

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Preface

As part of its research efforts accompanying the process of transitional justice in Tunisia, the Transitional Justice Barometer Project, a partnership involving Kawakibi Democracy Transition Center, the Centre for Applied Human Rights at the University of York and Impunity Watch, is publishing its second study entitled: *“The ‘Victim Zone’ and Collective Reparations - Ain Draham and Sidi Makhlouf: ‘So Rich and yet so Poor’.”*

Addressing violations of socio-economic rights is one of the key elements of transitional justice that this study seeks to highlight. The Tunisian Transitional Justice Law (No.2013-53) incorporates, within the concept of ‘victim’, *“each and every area having been exposed to systematic marginalization and exclusion.”* The expansion of the concept of victim and, accordingly, of the scope of transitional justice is a unique experiment that helps make visible the economic exclusion and marginalization many regions of the country had to endure for long decades as a result of state policy. This evolution in transitional justice can help address the economic and developmental disparities Tunisia has long been experiencing.

As a contribution to this approach that highlights the place of socio-economic rights in the process of transitional justice, the Barometer’s team chose the notion of the “victim zone” to be the subject of the study. The choice was made, late in 2015, jointly with Tunisian transitional justice specialists, development experts and local activists.

Their aim being to carry out a practical field study, the team chose two specific areas that have from systematic marginalization and exclusion in the Governorates of Jendouba and Medenine, respectively. (The Barometer seeks, through its four planned studies, to cover all six districts of the country). Ain Draham (in the northwest) and Sidi Makhlouf (in the Southeast) were thus chosen to be studied as “victim zones”. To that end, extended meetings and panel discussions were held with civil society activists and officials in charge of development institutions and basic services in the two chosen areas, in order to ensure qualitatively driven, detailed conclusions that constitute the essence of this work.

The Barometer’s working team has also provided local associations and groups with technical support in preparing case files of the two chosen areas for submission to the Truth and Dignity Commission. The Ain Draham case file was submitted by the Achbal Khmir Association and the Khmir Association for Environment and Development”, while the Sidi Makhlouf case file was submitted by local civil society activists. These are two of the few “victim zone” case files submitted to the Truth and Dignity Commission which will examine them and suggest appropriate remedial action.

This work is, in the end, a contribution by the Barometer team to the scientific platform that underlies the process of transitional justice in Tunisia; and we hope those in charge of this process will draw on the conclusions, recommendations and suggestions included in this study.

Amine Ghali

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Executive summary

The objective of this report is to provide guidelines for collective reparations as a response to the marginalization, and economic and social exclusion of certain parts of the country. The organic law on transitional justice, adopted in 2013, opened a first route to addressing such legacies by giving the *Instance Vérité et Dignité* (IVD, Truth and Dignity Commission) the task of identifying such regions and proposing solutions for the reparation of structural violations suffered. This report therefore gives voice to residents of two areas that could by law be regarded as *victim zones* to better analyse the complexity of the human impacts of marginalization as it unfolds systematically over generations, to understand the nature of the needs of the populations of these areas and to develop ways to address them within the framework of the transitional justice process.

Two specific communities, Ain Draham (in the governorate of Jendouba) and Sidi Makhoul (in the governorate of Médenine) are the subject of our research. To demonstrate that these areas have been victims of “systematic and organized marginalization”, as required by the transitional justice law, demands the collection of quantitative data and the use of objective indicators to allow a comparison with other regions of the country, as well as proof of the intentionality of the state in this exclusion, for example from a monitoring of the national budget. Whilst such an effort is necessary for the IVD, it exceeds our capabilities here and is not the goal of this report, which seeks rather observe the multiplicity of human impacts of such marginalization, how this is perceived, and its practical consequences on people's lives - including in the achievement of certain fundamental rights such as the right to culture or education. The study also seeks to formulate, on the basis of interviews conducted, recommendations for collective reparations which we hope will resonate beyond the two cases studied.

Conceptual frame

The obligations of the State regarding economic, social and cultural rights

Economic, social and cultural rights (ESCR) are part of the international legal framework of human rights in that they are “universal, indivisible and interdependent.” As civil and political rights, they are designed to protect human dignity by establishing both positive and negative obligations on States.

The recognition of economic, social and cultural rights in transitional justice: a too long absence

According to a broader tendency in human rights internationally, transitional justice has long focused only on “serious violations” of human rights, themselves understood as only including violations of physical integrity and fundamental political and civil rights: torture, imprisonment, murder, arbitrary arrest and detention, etc. Social, economic and cultural rights were implicitly considered secondary, as being part of the structural background of the events studied, and their violations as inherently “less serious”. This marginalization of ESCR in the discourse and practice of transitional justice is beginning to disappear, as their inclusion has been slow to be implemented. Indeed, including the economic perspective invites us to radically change our concept of transitional justice by going beyond mere legal consideration of mass crimes to additionally consider violations of human rights which preceded and were driven by deeper and more structural causes.

Discrimination, marginalization and systematic exclusion: some definitions

International texts, including the two International Covenants of 1966 on Civil and Political Rights (ICCPR) and on Economic, Social and Cultural Rights (ESCR), prohibit all forms of discrimination in the distribution and enjoyment of the rights they define. This prohibition is effective immediately, and not a progressive obligation. The ESCR Committee has defined discrimination as “any distinction, exclusion, restriction or preference or any differential treatment that is directly or indirectly based on the prohibited bases of discrimination, and with the intention or effect of nullifying or affecting the recognition, enjoyment or exercise, on an equal footing, of the rights contained in the Covenant.” Marginalisation in turn was seen as the result of discrimination, and is itself defined as “a process that negates the chances and the outcomes of

those living on the margins, and strengthens the chances and the outcomes of those at the centre.” (TJRC, Kenya). It is systematic when it is the object of a deliberate policy, planned and organized, implemented by the state authorities. For economic marginalization or exclusion to be regarded as systematic, it would thus be necessary to prove that it was not just the *indirect* result of the action of one or more members of the administration, or of the result of a one-time decision indirectly affecting the region. Finally, exclusion concerns not only material conditions such as poverty, but engages also with citizenship and the sense of social belonging of individuals: “excluded” individuals and communities are powerless and unable to influence the decisions that affect their daily lives.

Forms of marginalization in the areas studied: Ain Draham and Sidi Makhlouf

The origins of marginalization: the economic and social development of Tunisia from 1956 to the present, issues and context of regional marginalization

Some observers argue that successive political regimes in Tunisia have deliberately excluded some areas of the country’s interior for tribal or ethnic reasons, or even because of their historical opposition to the central government, but this motivation remains difficult to prove legally. Several reports published after the revolution also emphasize the great disparity between a coastal region that benefited for decades from the fruits of economic development, and the regions of the interior and west that have long been deprived. Some studies published after the revolution emphasize the intentional nature of this discrimination, due to the wide practice of corruption in the system of the previous regime, nepotism prevailing in the investment sector and the highly centralized country, and even the militant and oppositional history of these regions, or their traditional opposition to the Bourguiba regime. Regional councils, predominantly or exclusively composed of members of the Le Rassemblement Constitutionnel Démocratique (RCD, The Democratic Constitutional Assembly) operated on the basis of patronage and were in fact deprived of any decision-making power. Nothing has been put in place to promote the accountability of the regions in the use of public funds, and long loyalty to the regime appeared to be the decisive criterion to be granted public funding.

Some indicators of marginalization: results of the study

The stigmatization of people by themselves and by others

The interviews show, among the inhabitants of the two regions studied, a form of lack of self-worth confirming what has been understood by theories of development on the stigmatizing effects of poverty and overall victimhood. Feeling themselves to be “outcasts” and sidelined, many respondents do not feel Tunisian, and perceive a significant difference between “them” and “others”, which helps to strengthen the dynamics of their own exclusion. Most respondents testify to the existence of a form of apathy, particular to communities long excluded from economic and social development.

Before / after the revolution: between hope and disappointment

The people of the two study areas do not seem to perceive real differences between before and after the revolution. Nostalgia is rife among those surveyed, with many recalling fondly even the colonial era and for some the authoritarian period, especially the secure income offered by the former regime and economic conditions generally perceived as more favourable.

The issue of citizenship (regionalism and discrimination)

The inhabitants of the areas studied no longer seem to consider themselves as belonging to the nation although some still have a certain attachment to their region of origin; some even decided to return after a stay that is often missed in the capital or elsewhere. A majority of respondents seem well aware of the types of discrimination that their region has suffered. However, their interpretations of its root causes differ significantly.

The impact of corruption

A principle cause of the marginalization of regions appears, according to residents, to be related to the corruption of the two pre-revolutionary regimes, and whose impacts survive today in the absence of real reform. This is seen as the primary cause of lost public money. A better representation of the regions, including officials who would truly represent them at the national level, often appeared as a possible solution to this exclusion. Indeed, those interviewed point out that corruption ensures the decay of the administration up to the most local level, hampering any initiative and affecting even the cultural activities of marginalized regions.

Unemployment

As in many parts of Tunisia, but more so in these marginalized areas, the right to work which seems to be the principle concern of the population, and unemployment appears to be the cause of many other social ills. It is thus seen as the root cause of smuggling and petty crime that proliferate while idle youth spend their time in cafés or on the Internet, becoming easy prey for jihadist recruitment. Unemployment also destroys social and family structures, increasing the risk of radicalization. When residents find other means of livelihood, they are often overqualified for the work, which is perceived by them as a new form of stigma or humiliation.

The right to health

The lack of infrastructure and economic marginalization seem also to have impacts in terms of access to health services. Indeed, the absence of institutions and care facilities, and the absence of health personnel, doctors and medical specialists, exacerbate the sense of alienation and emphasize the total disinterest of the State and public authorities. This situation is particularly acute in the rural communities studied, particularly because of the poor roads making access to care more difficult.

Infrastructure and transport

Transport-related difficulties appear at the heart of all violations of economic, social and cultural rights denounced by the inhabitants, affecting the right to health as much as the right to education. The lack of infrastructure leads to isolation from both other delegations and from the capital, as well as challenges to move within these regions marked by a difficult climate, which can further complicate the use of roads.

Education and youth

Poor infrastructure and the harsh climate affect access of the youngest to education: discouraged by the many hours of travel and the harsh conditions of often unheated classrooms during the winter, many children leave school too early. These difficulties in turn affect social ties within these communities, helping to feed petty crime and encourage departure and migration.

Cultural services

The cultural vacuum in the two zones, repeatedly reported by respondents, is an additional factor contributing to marginalization and also indirectly feed crime and disintegrating social ties. Even within regions, inequalities persist, which additionally exclude rural areas - to the benefit of towns, - reduced to depending on the goodwill of civil society associations of civil society for cultural activities which are still too often perceived as a luxury.

Women's issues

As often in situations of marginalization, women are the first to pay the price in unemployment and poverty. The current situation of these regions, with the closure of several factories and businesses, has been particularly damaging to them. When they work, women say they are often abused and exploited, in particular when they work as domestic servants in Tunis. The professional success of women is frowned upon in those areas marked by conservatism: women seem therefore to simply wait to be married.

The phenomenon of migration

Unable to assert their rights, people often prefer to leave. These regions are devastated by massive migration, with multiple effects. Doctors have left, contributing to the depletion of medical services, while women point out that there are too few men in the region, which makes more difficult the establishment of family and social ties. The disappearance of young graduates, in particular, is a significant loss which in turn affects the development potential of these regions.

The problem of land and agriculture

The legal uncertainty that still surrounds the appropriation of land in these areas does not facilitate their exploitation or their development by the inhabitants, and as a result has adverse effects on agricultural production and employment. Successive political collectivisation and liberalization have left deep scars. These problems, which have existed since the 1960s, reinforce the belief of local people that it is the intention of the State to marginalize their region, perhaps for political reasons or with a punitive logic, while such a change in the nature and the allocation of the land would be an easy one to manage nationally.

Tourism

As elsewhere, Tunisia seems to have performed badly in its tourism development, favouring a *low cost* model that has increasingly marginalized these areas, despite their natural strengths. They have suddenly lost their accommodation facilities and their past prestige. This desertion by tourism further feeds unemployment, and residents complain that many too often promised tourism projects remain a dead letter, despite the funding that is sometimes obtained.

Natural resources

The inhabitants of both areas have consistently stressed the mess represented by this underdevelopment, especially given the important natural resources at their disposal. They want to see these riches grow and they want to benefit from them. Unfortunately, none of this wealth is transformed and produced locally, contributing to worsening regional inequalities.

The marginalization of rural areas

This situation of injustice results in areas with a clear divide between urban and rural spaces. Infrastructure and transport are the biggest problem for the daily activities in rural areas, making it more difficult to access health care or education. The state seems almost absent in some of these areas, which experience great difficulties in housing, security, and even access to water and electricity.

The root causes of marginalization

People do not hesitate to see these injustices as a systematic effort to exclude them, for various reasons: including the establishment of regionalism, a perception of these areas as marked by a tribal mentality, and a desire to silence a tradition of dissent or political struggle between Bourguibistes and Youssef

istes. To be recognized as a “victim zone” it is necessary to prove the systematic and intentional nature of a marginalization that appears as much symbolic as substantive: the people regret that the history of the region has not yet found its place at the heart of the national narrative. The greed of the ruling elites and presence of patronage and corruption networks are also often identified as causes.

Collective reparations: a remedy for marginalization and exclusion

In order that monetary compensation strengthens the financial capacity of beneficiaries, and that in turn promotes economic development, requires that reparations be designed to be truly “transformative”, deep and structural, for example by rethinking the how social goods are distributed nationally, through affirmative action and development, or through microcredit programmes. Regional development alone can therefore not be a sufficient remedy. Indeed, it benefits not only the victims but *all* citizens: it refers to “non-exclusive” goods, which are quite poor in terms of direct recognition for specific victims. It is important to always link

these programs with symbolic measures and other pillars of transitional justice. To resolve such injustices will also involve renegotiating more deeply the relationship of the population to the state, including through the provision of more effective basic services, and promoting economic activity and employment in these regions. Reparations therefore must more generally be integrated with guarantees of non-repetition.

The expectations of the inhabitants of the two areas

To implement a structural process of collective reparations in Tunisia first requires that victims be better informed of their rights, so that they can actively participate collectively and to ensure that the remedies provided are adapted to their needs. Interviews reveal however a clear lack of knowledge of the transitional justice process in general, and more particularly of the possibility of submitting a collective application on behalf of a region or a particular area.

Understandings of reparation

The population often talk about the need to “restore moral order,” or gain “moral satisfaction” through reparation, showing well the symbolic understanding they have of it: reparation appears as a way to renegotiate the relationship between the victim zone and the State, and is linked to measures of governance, development, and the fight against corruption. They also refer to a better representation of marginalized regions. The data also show that the marginalization of regions is measured not only in quantitative terms, by GDP or other objective indicators, because it is intrinsically a human experience, linked to a feeling, an increased sense of vulnerability and the failure that follows, and for these individuals to participate and act in the public square. But it is precisely in recognizing the stories that these people have lived, their desire for justice and their right to compensation, and also in providing the means for them to express themselves, that one can guarantee we have equal rights holders: as shown by theories of “human development”, increased social trust leads in turn to a revival of economic growth.

Truth and Recognition

The truth appears in the eyes of the inhabitants of these areas as a fundamental value, benefiting victims both in the collective and as individuals: it is a first step to both material reparation and to changing the behaviour of the state. For this, it is important that thorough investigations be conducted to understand the causes and the deep springs of the system of nepotism and corruption that has placed these regions in such exclusion. The structural and historical nature of marginalization also provides an intergenerational dimension to this recognition: it is necessary that the youngest understand the underlying reasons for the difficulties they face today. Monuments are interesting paths to achieve that recognition, although people are wary of any additional public spending in this precarious situation.

Material and collective reparations

The human impact of marginalization appears, in the eyes of the inhabitants, to be initially of a material nature: it is the lack of infrastructure and services, poverty, or unemployment. In response, reparations programmes can take truly innovative forms: they may comprise preferential structural aid programs granted to the entire communities as scholarships, privileged access to health care or housing, or recruitment to the public sector.

The fight against corruption and institutional reform

The concept of reparation is also strongly linked to the reform of state institutions, to ensure non-repetition of violations in the longer term. The most necessary reform in the eyes of respondents is the fight against corruption and the need to put an end to it at all levels of the administration of the state and regions, particularly in terms of service provision and management of public budgets.

Recommendations

Although marginalization is visible first by its impact on poverty, lack of access to basic resources and the widespread perception of a failure of the state in these areas, the communities interviewed seem to have

understood that reparation must also tackle the root causes of these inequalities, and not just treat the symptoms. Beyond reparation, it is clear that the opening up of these areas will also depend on the revival of the economy.

The question therefore arises whether transitional justice, as driven primarily by the IVD is an asset or a hindrance to it, as is argued by some in the current public space. These debates among various camps since the announcement of the proposed Economic Reconciliation Act, after the Bardo attacks, only served to delay the implementation of actual programmes to support the economic development of marginalized areas and the fight against corruption. Reparation should therefore be considered as one aspect of a broader process of institutional reform that has become urgent and necessary, and in particular will require greater transparency and greater trust between the people concerned in deprived areas and politico-economic elites of the Sahel.

Integrate the issues of economic crimes and corruption in the context of transitional justice

Despite current attempts to bypass it, the IVD remains the main institution responsible for the design and implementation of reparations and institutional reform programmes. To regain its role, the IVD must however strive to quickly organize public hearings in the regions and to accelerate the implementation of reparations programmes. On its side the state must finally understand that it is in its immediate political interest that the IVD works and delivers results, including in the economic field. The IVD is indeed now in a fight against a certain mistrust or even hatred against a political power that has led many young people, particularly in deprived areas, towards radicalization. Recognizing the historical roots of marginalization of areas of the interior would also prevent social conflicts and the resurgence of violence which may arise from the increasing inequality between the coastal areas of northern and central regions and the interior and south of the country.

Defining the victim zone

To provide collective reparations, the IVD must first define what constitutes a “victim zone” within the meaning of the law. To truly confront the legacy of marginalization, it seems wiser to focus on smaller geographical entities, established on the basis of a *community* sharing the same experience of past exclusion, not only in terms of the borders of administrative units.

Selecting victim zones

Due to their marginalization, some areas are still unable, humanly and materially, to present themselves as “victims” in front of the IVD. It is possible that the eight collective complaints currently lodged with the IVD on behalf of geographic entities are not representative of the nature and real scope of exclusion under the former regime. The IVD cannot rely solely on evidence already received within the prescribed time period, due to expire June 15th 2016, but rather should continue to solicit marginalized areas likely to be recognized as “victims” after that time, and itself collect the quantitative and qualitative data needed to establish evidence of marginalization, as well as the most appropriate remedies to address it.

Community participation in the process of repairs

The interviews suggest that a deep overhaul of the governance model, including decentralization of political and economic power, but also a better distribution of goods and effective programmes against corruption, are appropriate forms of collective reparation for these regions; together they are the guarantees of non-repetition. Victims must have a proactive role in all of this work: they must not be mere recipients of aid given, but full participants in the process by which, finally, they are recognised as equal citizens and rights holders.

Truth-telling and symbolic reparations

The search for truth is inherently linked to reparation, and should contribute to better understand the operation of the former regime, including in the field of corruption and financial malfeasance which are often the root cause, the driver and an aggravating factor in other serious violations of human rights committed

otherwise. Neglecting this aspect to only focus on attacks on bodily integrity (torture, rape, arbitrary detention...) would be to overlook a whole section of the country's history. Participatory governance, including in the field of budgeting, would permit citizens and communities to influence more directly the political decisions that affect them, without having to pass through their representatives. It would empower residents of deprived areas, so as to remedy the human effects of political and social exclusion.

Decentralization and participatory governance

The decentralization enshrined in the Constitution of 2014, is an interesting route to help build the new relationship between the state and its citizens. The 284 municipalities that make up the country could well serve as a basis to promote a truly restorative, transparent and participatory approach to the distribution of the national budget.

Summary of recommendations

- The notion of the *victim zone* must be understood as including any area within which a population shares a common experience of marginalization, whether or not this corresponds or to administrative borders;
- Victim zones should not only be recognized through the formal process of testimony before the IVD, but also more proactively, by a search for truth led by the Commission beyond the legal time limit for testimony before the IVD;
- The participation of communities should be valued at each stage of the reparations process, including through the organization of public hearings in which residents can voice their needs and narrate their experiences;
- Existing differences within affected zones must be considered in the development of reparations programs, to avoid creating new forms of marginalization;
- The implementation of reparations, including through development programmes, should not be done in a way that creates new tensions with other areas or regions that have not benefited;
- To ease social tensions, the IVD should quickly organize public hearings and broadcast these on national television, to place again at the heart of public debate issues related to cronyism, corruption and nepotism. This awareness should, in itself, be a powerful advocacy tool to activate and implement the mechanisms provided for by the transitional justice law, particularly concerning arbitration and reconciliation;
- The IVD must thoroughly investigate the forms, causes and effects of the marginalization of regions, at the political and economic level, and with the support of civil society and the regions concerned, in an open and public manner;
- The state must formally recognize its role and responsibility in the history of the marginalization of these zones. This recognition should adopt a form and be on terms determined by the affected communities, through extensive consultations;
- The currently ongoing decentralization process should be more explicitly linked to the reintegration and opening up of inland regions, and the new local structures in place must be seen more clearly as also constituting forms of collective reparation;
- The new local and devolved administrations should try as much as possible to use participatory modes of governance, particularly in budgeting and monitoring of public expenditure;
- The opening up of marginalized areas also depends on economic recovery at the national level: it is important to stop the political bickering that still hinders the implementation of development programmes and the fight against corruption;

- Political elites must understand the interest that transitional justice can represent for them; an enhanced IVD capable of carrying out its tasks, including in economic matters, can indeed contribute to reducing the spiral of radicalization of the youth, soothe social tensions, rebuild a broken institutional trust, and thus boost growth.

Introduction

The objective of this report is to provide guidelines for collective reparations as a response to the marginalization, and economic and social exclusion of certain parts of the country. The organic law on transitional justice, adopted in 2013, opened a first route to addressing such legacies by giving the *Instance Vérité et Dignité* (IVD, Truth and Dignity Commission) the task of identifying such regions and proposing solutions for the reparation of structural violations suffered. This report therefore gives voice to residents of two areas that could by law be regarded as *victim zones* to better analyse the complexity of the human impacts of marginalization as it unfolds systematically over generations, to understand the nature of the needs of the populations of these areas and to develop ways to address them within the framework of the transitional justice process.

Two specific communities, Ain Draham (in the governorate of Jendouba) and Sidi Makhoul (in the governorate of Médenine) are the subject of our research. To demonstrate that these areas have been victims of “systematic and organized marginalization”, as required by the transitional justice law, demands the collection of quantitative data and the use of objective indicators to allow a comparison with other regions of the country, as well as proof of the intentionality of the state in this exclusion, for example from a monitoring of the national budget. Whilst such an effort is necessary for the IVD, it exceeds our capabilities here and is not the goal of this report, which seeks rather to observe the multiplicity of human impacts of such marginalization, how this is perceived, and its practical consequences on people's lives - including in the achievement of certain fundamental rights such as the right to culture or education. The study also seeks to formulate, on the basis of interviews conducted, recommendations for collective reparations which we hope will resonate beyond the two cases studied.

Chapter 1 Conceptual Framework: Economic marginalization at the heart of transitional justice?

1.1 State obligations regarding economic, social and cultural rights

Economic, social and cultural rights (ESCR) are an integral part of the international legal framework of human rights, according to which they are “universal, indivisible and interdependent.” Like civil and political rights, they are designed to protect human dignity by establishing both positive and negative obligations on States. ESCR establish the minimum conditions necessary for individuals to live in dignified conditions, free from fear and want and able to improve their own living conditions. The Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights (ICESCR) define notably among these ESCR, the right to work, the right to fair and just working conditions, the right to form and to join trade unions, the right to protection of the family, motherhood and childhood, social security, the right to an adequate standard of living, the right to benefit from scientific progress, and the right to housing and the right to property. The right not to be subjected to any form of discrimination is itself protected through various treaties and conventions, including the Treaty on the Elimination of Racial Discrimination, the Treaty on the Elimination of All Forms of Violence against Women, the 1989 Convention on the Rights of the Child, the 1990 Convention on the Rights of Migrant Workers and their Families, or the 2006 Convention on the Right of Persons with Disabilities. The African Charter on Human and Peoples' Rights, the African Charter on Children's Rights, and the Additional Protocol of the African Charter on Women's Rights of 2003, also provide guarantees in this regard.¹ According to Article 2 (1) of the

¹ See in particular the preamble, art.1.3 and art. 55 of the UN Charter or art.2.1 of the Universal Declaration of Human Rights.

Convention on Economic, Social and Cultural Rights, “each State party to the present Covenant undertakes to take steps, both by its own effort by the international assistance and cooperation, especially economic plans and technical, to the maximum of its available resources, to progressively achieve the full realization of the rights recognized in the present Covenant by all appropriate means”. The concept of “progressive realization” describes here an essential feature of the state's obligations with respect to economic, social and cultural rights according to international treaties, and an important step for their justiciability. The Covenant therefore recognizes that the full realization of these rights cannot be achieved immediately and may take time, but it nevertheless requires States to take all necessary measures to achieve this goal by using the maximum available resources.

However, not all obligations relating to economic, social and cultural rights are progressive. The Human Rights Committee has made clear that states also have immediate obligations, notably to take deliberate steps, adapted and concrete for the realization of these rights, to the elimination of all discrimination in the enjoyment of the adoption of legislation against discrimination, or to meet certain minimum criteria for each of these rights.

1.2 The recognition of economic, social and cultural rights in transitional justice: a too long absence

According to a broader pattern of human rights practice internationally, transitional justice has long focused only on “serious violations” of human rights, themselves understood as including only violations of physical integrity and fundamental political and civil rights: torture, imprisonment, murder, arbitrary arrest, etc. Social, economic and cultural rights have implicitly been considered secondary, as being part of the structural background of the events studied, and their violations as inherently “less serious”.

This marginalization of economic, social and cultural rights in the discourse and practice of transitional justice is beginning to disappear. But although the importance of broadening the view of transitional justice has been strongly recognized in the discipline in recent years,² this perspective has been slow to be implemented concretely.³ Indeed, including the economic perspective invites us to radically change our concept of transitional justice by going beyond mere legal consideration of mass crimes to additionally consider violations of human rights which preceded them and were driven by deeper and more structural causes.

In its directive of 2010 on transitional justice within the United Nations system, the Secretary-General encouraged transitional justice mechanisms to take greater account of structural causes of violence, particularly the economic and political, and to help implement long-term reforms to prevent its recurrence.⁴ Truth commissions can appear as an appropriate mechanism to establish accountability for violations of economic and social rights committed in the past, more than courts that rely on an individual conception of criminal responsibility. Thus, the Commission for Welcome, Truth and Reconciliation of Timor-Leste (CAVR, in its Portuguese acronym) was responsible, according to its mandate, for considering the “context, causes, precedents and the deep motivations that led to violations”. The CAVR identified violations of economic, social and cultural rights committed during the Indonesian occupation and the consequences of these on civil and political rights. It even described the exploitation of small coffee producers by the Indonesian occupiers as a “crime against humanity”. CAVR also puts, in its final report, a

² Louise . Arbour (2007) Economic and social justice for societies in transition. *NYU Journal of International Law and Politics* , 40: 1-27 a.

³ Malcolm Langford (2008) The justiciability of social rights: from theory to practice, in M. Langford, (ed). *Social Rights Jurisprudence: Emerging Trends in International and Comparative Law*. Cambridge, Cambridge University Press.

⁴ UN (2010), Guidance Note of the Secretary-General: United Nations Approach to Transitional Justice. New York: UN.

strong focus on indirect deaths due to forced displacement, poverty, hunger and general lack of care.⁵ In Sierra Leone also, in order to account for the origins of the conflict and its underlying motives, the Truth and Reconciliation Commission adopted several categories of “economic violations”, such as looting, destruction of property and extortion. It also examined economic, social and cultural violations affecting children and women in particular, and recommended structural changes in the long term, particularly in the promotion of women's rights and social equity, in order to prevent recurrence of violations.⁶ The inclusion of violations of social, economic and cultural rights, in terms of “economic crimes”, was also made in Liberia where the Truth Commission found that because of endemic corruption, the State had failed to fulfil fully its obligation for the realization of economic and social rights for its entire people, and so was responsible. The Truth, Justice and Reconciliation Commission of Kenya (TJRC), whose final report was published in 2013 was based on the international obligations of the Kenyan state according to the International Covenant on Economic, Social and Cultural Rights, to ensure citizens a minimum level of food, basic services, health care, housing and access to basic resources. The report also focuses on the principle of non-discrimination, including it as an obligation, and defines marginalization as “a process that negates the opportunities and chances of those who 'live at the margin', while promoting opportunities and the chances of those who 'are at the centre’”.⁷

Despite these advances and some positive examples, reparations for “economic crimes” and violations of economic, social and cultural rights are still a rarity in the practice of transitional justice. ESCR only appear in fact in the form of the timely distribution of medical care, educational programs or access to social security and housing, which are pledged as reparations for victims of violations of “serious” civil and political rights. This is proposed in the legal texts relating to reparation in Tunisia:⁸ it offered the wounded of the revolution free access to care. But some truth commissions have gone a little further, broadening the spectrum of beneficiaries beyond direct victims to also include their extended families and their descendants (Chile)⁹ or communities themselves (Peru).¹⁰ The issue of reparations for “victim zones” in Tunisia addresses the same questions.

However, these initiatives have also been highly criticized for their limitations: they can indeed cause tensions between the right to reparation and the “normal” obligations of any State in the realization of ESC rights and development assistance to *all citizens*. Furthermore, because of their limited nature, and since reparations are probably insufficient to meet all the needs of victimized populations, it is likely they are

⁵ CAVR (Comissão de Acolhimento, Verdade e Reconciliação de Timor Leste) (2005) *Chega! Final Report of the Commission for Reception, Truth and Reconciliation in East Timor*. Dili: CAVR.

⁶ Truth & Reconciliation Commission, Sierra Leone (2004) *Witness to Truth: report of the Sierra Leone Truth and Reconciliation Commission*. Accra: TRC.

⁷ Truth Justice and Reconciliation Commission, Kenya (2013) *Report of the Truth Justice and Reconciliation Commission 2*. Vol. B, § 42-44. Nairobi: TJRC.

⁸ See especially: "Decree-Law No. 2011-1 of 19 February 2011, on the general amnesty", Official Gazette No. 12 of 22 February 2011; "Decree-Law No. 2011-37 of 27 April 2011, with derogations for recruitment in the public sector for the year 2011", the Official Gazette, No. 30 of 29 April 2011; "Decree No. 2011-97 of 24 October 2011 on compensation for martyrs and wounded of the Revolution of 14 January 2011," Official Gazette No. 81 of 25 October 2011.

⁹ PRAIS (Program of Reparations and Integrated Medical Care), introduced in Chile following the National Truth and Reconciliation Commission, provides medical and dental care specifically to the families of victims, including children, who have access to free education up to 35 years.

¹⁰ Law 28592 of Peru defines collective victims as "communities, indigenous or otherwise, who have been subjected to multiple violations of human rights and have endured serious harm to families and community structures." These communities have received funding to carry out infrastructure projects or to develop basic services, according to terms they define themselves. The projects were to the tune of USD 35,000 each, benefiting more than 1,400 communities and 600,000 victims.

insufficient to either radically transform the structural situation of discrimination, poverty, or the general lack of access to basic services that victims confront. A structural and long term response must therefore be found.

1.3 Discrimination, marginalization and systematic exclusion: Some definitions

Tunisian law does not explicitly define “marginalization” or economic “exclusion”, or even the concept of “region” under section 10 of the Organic Law of transitional justice in its Section 3:¹¹ it only stipulates that “a zone which has suffered a systematic marginalization or exclusion.” can be considered a victim (المنطقة الضحية).

International legal texts can be useful here, to better understand the meaning of discrimination, marginalization and systematic exclusion referred to in law. The UN Committee on Economic, Social and Cultural Rights defines discrimination as:

Any distinction, exclusion, restriction or preference or any differential treatment that is directly or indirectly based on the prohibited bases of discrimination, and with the intention or effect of nullifying or affecting the recognition, enjoyment or exercise, on an equal footing, of the rights contained in the Covenant.¹²

In Article 2.2 the same Covenant states that these rights will be guaranteed “without discrimination based on race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status”. The rights to education, to adequate compensation and to medical care for mothers are specifically conditioned by the same requirement of non-discrimination.¹³

We can suggest definitions of elements of the relevant terms:

- Discrimination is the arbitrary imposition of a distinction, exclusion, restriction, preference or any other preferential treatment whose main purpose is to prevent the equal enjoyment, recognition and full exercise and observance of the rights concerned.¹⁴ It can be direct when a group or individual is treated differently from another for illegal purposes, such as when access to work is determined by the political views of candidates,¹⁵ or indirectly, for example during the application of laws that appear neutral but actually favour a particular group over another.¹⁶ Discrimination is also prohibited when based on the place of residence of citizens, which seems particularly relevant in the case of Tunisia. Indeed according to Additional Protocol 20, enjoyment of ESCR should not be conditioned by geographical location, and additionally “inequalities between localities and regions should be eliminated by ensuring, for example, an equitable distribution in the accessibility and quality of care, primary, secondary, or palliative”.¹⁷
- “Systematic” discrimination means in turn that there is a determined and structured general policy of discrimination against a particular group of people. Apartheid is a good example of such systematic

¹¹ See Law No. 2013-53 of 24 December 2013 on the establishment of transitional justice and its organization (JORT No. 85 of December 31, 2013).

¹² 20th General Comment ESCR, 2009, § 7

¹³ Additional Protocol No. 20, International Covenant on Economic, Social and Cultural Rights, E / C.12 / GC / 20, 2009, §4.

¹⁴ Additional Protocol No. 20, International Covenant on Economic, Social and Cultural Rights, E / C.12 / GC / 20, 2009, §4.

¹⁵ As for example concerning a political exclusion law or "lustration" on the basis of past political affiliations.

¹⁶ As denounced for example in debates around secularism.

¹⁷ Additional Protocol No. 20, International Covenant on Economic, Social and Cultural art.cit., §34.

discrimination, because it prevented the full enjoyment not only of political rights but also economic, social and cultural rights of an entire segment of the population in South Africa.

- Marginalization finally appears as the result of discrimination, but it may also well be due to informal practices. The Truth, Justice and Reconciliation Commission (TJRC) of Kenya, defined marginalization as “a process that negates the opportunities and outcomes of those living on the margins, and strengthens the opportunities and outcomes of those at the centre”.¹⁸ Marginalization, to perpetuate itself, requires the active involvement of a political actor, who treats a person or group, as peripheral or irrelevant. The impact and indices of marginalization although reminiscent of poverty, also include the “lack of resources, capabilities and opportunities, reduced or restricted participation in public decision making, less use of public space, a lesser sense of community and a lack of self-esteem”.¹⁹
- Systematic marginalization concerns a process “done or acting according to a fixed plan or system; methodical”.²⁰ International law understands this notion of systematicity, including through the definition of crimes against humanity which includes in particular attacks that are “systematic ... pursuant to an organizational policy or state”.²¹ Systematicity therefore means a “constant practice or a methodological plan to carry out such violations”;²² it involves planning and a certain method. For economic marginalization or exclusion to be considered the direct result of systematic state action, it would thus be necessary to prove that it was not just the *indirect* result of the action of one or more members of the administration, or the result of a one-time decision indirectly affecting the region. Rather, it is necessary to demonstrate the state deliberately planned and organized these acts, in the context of a considered, articulated policy, and implemented by the state authorities.
- Social exclusion refers to “the process by which individuals or groups are wholly or partially excluded from full participation in society in which they live”.²³ Exclusion does not only affect material conditions or poverty, but also citizenship and social belonging of individuals. It is linked to experience of deprivation: unemployment, poverty, housing, lack of access to resources, but also to a lack of social relationships, and lack of recognition.²⁴ Social exclusion is a relative concept, related to a specific time and a place,²⁵ it corresponds not only to the deprivation of a right but also inequitable

¹⁸ Supra Kenya TJRC, n.7, p.15.

¹⁹ Brodwin, P. (2001) Marginality and Cultural Intimacy in a Trans-national Haitian Community, Occasional Paper No. 91 October. Department of Anthropology, University of Wisconsin-Milwaukee, USA.; Larsen, JE (2002) and Spatialization Culturalization of Social Policy: Conducting Marginal People in Local Communities. Conference presentation "Area-Based initiatives in contemporary urban policy", Danish Building and Urban Research and European Urban Research Association. Copenhagen 17-19 May 2001. www.ihis.aau.dk/gep/publicationer/nr2.pdf, November 23, 2004.

²⁰ Systematic, adj. OED Online. March 2016. Oxford: Oxford University Press.

²¹ Art. 7, Rome Statute of the ICC.

²² Boot Machteld (2002) Genocide, Crimes Against Humanity, War Crimes: Nullum Crimen Sine Lege and the Subject Matter Jurisdiction of the International Criminal Court. Antwerp: Intersentia.

²³ European Foundation for the Improvement of Living and Working Conditions (1995), Public Welfare Services and Social Exclusion: The Development of Consumer Oriented Initiatives in the European Union, Dublin: The Foundation: 4.

²⁴ Arjan de Haan (1998) 'Social Exclusion': An Alternative Concept for Study of Deprivation? *IDS Bulletin*. Brighton: Institute of Development Studies.

²⁵ Phil Agulnik (2002) *Understanding Social Exclusion*. Oxford: OUP: 31

access to resources and opportunities: it is an incomplete form of citizenship.²⁶ Individuals and “excluded” communities are powerless and unable to influence decisions that affect their daily lives.²⁷ Finally, the exclusion has a political dimension in the sense that the state is not a neutral agent but instead favours the ruling class of society and thus perpetuates this injustice.

1.4 Implementing definitions: some practical issues

Efforts to include marginalization and exclusion as part of transitional justice processes are relatively rare, partly because it is very difficult to find clear foundations and criteria for defining groups that are marginalized or excluded in a systematic manner. These criteria may in fact be social or geographic, but also historical. In Tunisia, the transitional justice law refers more explicitly to exclusion on a geographical basis, defined according to victimised “regions” or “zones”. Such spatial marginalization can operate at many levels: for example, some of the poorest neighbourhoods in the suburbs of Tunis are marginalized despite being very close to the heart of the country's economic life. The “victim region” should therefore not be understood as limited to the borders of the governorates. A recent study by the Tunisian Forum for Economic and Social Rights (FTDES) and Avocats Sans Frontières, concludes that the region, by law, corresponds to a governorate, but nothing, *a priori*, seems to justify this limitation legally.²⁸ The concept of “zone”, more flexible and more faithful to the original Arabic text appears here to be more accurate.²⁹

The “zone”, understood in a sociological sense, may cover one or more spaces with which a community identifies. It is linked to a sense of community or shared identity. Thus a city or a district³⁰ could be defined as a “zone” within the meaning of Article 10 paragraph 3 of the law on transitional justice, and would therefore be legitimized to file a complaint as a collective victim. It is this definitional flexibility permitted by the choice of the word “zone” in the Arab legal text, which permitted us to choose for our study Sidi Makhlouf and Ain Draham. It will, ultimately, be only the IVD that can define what falls under the definition of such a “zone”.

In order to operationalize the definitions of exclusion and marginalization discussed above, it is important first to find measurable indicators. Three types of indicators can be distinguished:³¹

²⁶ International Labour Office, "Social Exclusion in the Context of Globalization", Working Paper No. 18, May 2004. See also the EU Report on Social Exclusion, March 5 2004, http://ec.europa.eu/employment_social/soc-prot/soc-incl/final_joint_inclusion_report_2003_fr.pdf

²⁷ See Report on the Human Rights Approach to Participation of Persons Living in Poverty in Decisions That Affect Their Lives, High Commissioner for Human Rights, June 2013: <http://www.ohchr.org/EN/Issues/Poverty/Pages/ParticipationOfPersonsLivingInPoverty.aspx>

²⁸ Avocats sans Frontières / Tunisian Forum for Economic and Social Rights (2015) Request to Declare the Region of Kasserine as ‘Victim’. Tunis: ASF / FTDES.

²⁹ There is a significant terminological shift between the Arabic version (which is binding) and the text of the law in its French version published in particular in the Official Journal. Indeed, the Arabic text of Article 10 refers to "*mintaka*" which more accurately means "zone" and not "region". Region (*al'jiha* in Arabic) refers specifically to the region in the administrative and economic sense (Governorate and the Regional Council): in Tunisia, it is the Northeast, Northwest, Central East, Centre-West, Southeast and Southwest. Each region encompasses a set of governorates and delegations. Thus, to determine what constitutes a "zone" under the law, any criterion can be selected and defined with the help of communities themselves.

³⁰ See in particular Ayeb. Habib (2012) *A Field Study on Issues of marginalization in Tunisia, Saida Manoubia (Tunis) and Zrig (Gabes) as a Model Districts*. Tunis: AIHR.

³¹ Ajit Bhalla and Frédéric Lapeyre (1997) Social Exclusion: Towards an Analytical and Operational Framework, *Development and Change* 28: 413-433.

- Economic: income, differences in wealth;
- Social: access to public goods and services, access to the labour market and social participation (trade unions, civil society etc);
- Policies: personal security, rule of law, freedom of expression, political participation and equal opportunities.

To demonstrate exclusion should therefore require proof of discrimination on the basis of these three indicators, inequities between regions, and the existence of a policy or an effective plan for the state to implement this exclusion. The TJRC in Kenya thus focused on the nature of existing infrastructure, especially roads, but also the number of schools and hospitals, as indicators of the spatial and economic marginalization of certain regions. It also took into account the national distribution of poverty indicators, life expectancy, and education.³² Socioeconomic indicators may therefore, in part, permit proof of systematic exclusion. These indicators may be cited: the unemployment rate, poverty, the rate of infant mortality, level of education, access to electricity, telecommunications, water, or the quality of roads and the remoteness of these regions. The human development index, commonly used by the United Nations Development Programme (UNDP), meanwhile includes life expectancy at birth, literacy rate and GDP.

However, our interviews in Ain Draham and Sidi Makhoul demonstrate that these objectives and measurable indicators are insufficient and must be supplemented by more qualitative elements to better understand the full magnitude the human dimension of marginalization and exclusion for these people. Only such an understanding can define appropriate reparations programs.

Chapter 2 The two regions under study

The choice of the two areas for Investigation emerged from the objectives of the Barometer of transitional justice in Tunisia, established in January 2015. The project has the ambition to cover varied and representative regions of Tunisia. In preparation for the study, meetings with representatives of national civil society and with those from the two selected areas were held.

The delegation of Ain Draham

- **History:** The area has been inhabited since the megalithic era by a variety of civilizations: Numidian, Punic, Roman, Byzantine, Arab, and Turkish. With the French colonization, the area became very important in military terms, in particular because of its natural resources. It became a resort for the French community that was present up to independence in 1956.
- **Geography:** Ain Draham is bounded by Tabarka to the north and Fernana to the south and Algeria to the west. Its total area is 501 hectares, it is 39 km from the centre of Jendouba, and 190 km from the capital. It is situated at an altitude of 800m on the slopes of Jebel Bir.
- **Demography:** Ain Draham has 35,400 inhabitants (17,277 male and 18,123 female), with a density of 77 people / km². It contains 9,472 households is, and 11,904 homes.³³
- **Administration:** Ain Draham delegation is located in the governorate of Jendouba and has 12 *imadas* Ain Draham town, Oueled Sedra, Atatfa, Homran, Tebayneya, Khemeyreya, Sloul, Errouii, Teguma, Slem Ain, Wadi Ezen and Hammam Bourguiba.

³² Supra Kenya TJRC, n.7, p.15.

³³ See the census of 2014, on the website of the National Institute of Statistics: <http://rgph2014.ins.tn/ar/%D8%A7%D9%84%D9%86%D8%AA%D8%A7%D8%A6%D8%AC>.

- **Tourism:** Ain Draham has establishments such as the International Sports Complex, created in 1994, with an area of 13 hectares. The city also has five hotels, the best known being that of Hammam Bourguiba.³⁴
- **Development:** The Human Development Index (HDI) of Ain Draham is 0.089, well below that of the region (0.291). The delegation is ranked 258th out of the 264 delegations in Tunisia. The unemployment rate is 28%, almost double the national average of 15%.³⁵ Access to drinking water does not exceed 35% in rural areas, while it is 99% in Monastir.³⁶

The delegation of Sidi Makhlouf

- **History:** During the first two decades after independence, the region of Médenine received little attention from the authorities. By the 1970s, in the wake of major investments allocated to the tourism sector, mainly based on seaside tourism, regional investments were concentrated in the of cluster of Djerba-Zarzis with little impact on the rest of the territory.
- **Geography and natural resources:** Sidi Makhlouf is located 20 km from Médenine, and has an area of 686 km². The region has relatively large and varied natural resources: vast steppe lands, an important agricultural area, fishing lakes, and great potential of renewable energy (sunlight). The region also has a great historical, cultural and archaeological heritage.³⁷
- **Demography:** The number of inhabitants is 25,206 (11,911 mail, 13,295 female). The number of households is 5,647 with 8,107 homes.³⁸
- **Administration:** Sidi Makhlouf is a delegation in the Governorate of Médenine that contains nine delegations: northern Médenine, southern Médenine, Houmt Souk, Midoune, Ajim, Zarzis, Ben Gardanne, Sidi Makhlouf and Beni Khedache. Sidi Makhlouf is composed of a set of *imadas*: Sidi Makhlouf, Amra Erragouba, Erragouaba West Edarjewa El Gosba El Guerine, Bedoui, Meghraouia, Jorf and Ghabay.
- **Public Services / general interest:** The delegation of Sidi Makhlouf is the most deprived area of the governorate of Médenine. Its economy is based on farming and on remittances, and has been subject to a gradual depopulation. The rate of population not having running water is 58.3%, while only 59.8% of Sidi Makhlouf families have a refrigerator in their home.³⁹ In terms of accessibility of the delegation, this has been quantified as the lowest for the entire governorate of Médenine, well below the national level.⁴⁰ The rate of connection to the sewage network also the lowest nationally. ONAS is absent from the delegations of Sidi Makhlouf, Ben Guerdane, Beni Khedach and rural

³⁴ Regional report on the environmental situation in Jendouba, pp.28, 36 and 82.

³⁵ Regional Report on the environmental status of the governorate of Jendouba, 2014 p. 18.

³⁶ The development strategy of the governorate of Monastir, developed by the Ministry of Regional Development and Planning.

³⁷ Environment Regional Planning and Sustainable Development (PREDD) Governorate of Medenine, GiZ, 2014, p 8.

³⁸ See the census of 2014, on the website of the National Institute of Statistics: <http://rgph2014.ins.tn/ar/%D8%A7%D9%84%D9%86%D8%AA%D8%A7%D8%A6%D8%AC>.

³⁹ "The regional development indicator: pointer difficulties to guide efforts and monitor progress." Report prepared by the Ministry of Regional Development and Planning, September 2012, available here: <http://www.mdc.gov.tn/tn/Gov/indica/mednine.pdf>, p 12.

⁴⁰ For Sidi Makhlouf this indicator is 0.2000, calculated as follows. The share of classified roads classified roads = / = total road (motorway + National Road Regional Road) / (classified road + unclassified roads and farm tracks). This indicator reflects the level of accessibility of each delegation. See "The Regional Development Index, Pointer difficulties to guide efforts and monitor progress," op. cit., p 8.

settlements.⁴¹ The number of pharmacies per 1000 inhabitants is lowest in Sidi Makhlouf and Beni Khedech. Finally, Sidi Makhlouf has a high poverty rate above both the national and regional average: 20%.⁴²

⁴¹ Ibid., p 9.

⁴² Ibid., p 16.

Chapter 3 Research methodology

3.1 Data collection

A first meeting of reflection on the thematic area of the victim zone was held on July 2nd 2015 at the Kawakibi Centre for Democratic Transition (KADEM), with the participation of representatives of Tunisian associations and international organizations⁴³ based in Tunis. Individual interviews with experts and representatives of organizations working in the field of transitional justice were conducted in August and September in Tunis.⁴⁴ In November, two field visits to the delegations of Sidi Makhoulouf and Ain Draham were organized. Focus groups were also held at the Youth Centre of Ain Draham and local offices of the Arab Institute for Human Rights (AIHR) in Médenine. Interviews with residents of the two regions were made during the second visit to each delegation.

The Transitional Justice Barometer then established agreements with two associations: the regional office of the Arab Institute for Human Rights in Médenine, and the Achbel Khmir Association in Ain Draham. The sample of respondents was prepared through a snowball approach that facilitates access to one interviewee from another, by first building a relationship of trust with the people in the study.

The average duration of interviews was 45 minutes and all interviews were recorded with the oral consent of the respondents, who however asked that their names remain anonymous. Therefore names have all been encoded in the analysis. All interviews and focus groups were conducted in Tunisian dialect and audio recordings were transcribed and translated into French, constituting the raw data for analysis. A method of inductive analysis was conducted in this study using an iterative coding of data based on the frequency of terms used and then selecting on that basis relevant passages to yield citations to be presented as low inference indicators in this report.

3.2 Support for partner associations

The Barometer also aims to provide practical and concrete support to communities. During fieldwork in Ain Draham, the research team noted the strong willingness of some local associations to make an application for the delegation as a victim zone before the IVD. As a result, we have conceived a programme of support to the community to achieve the development and presentation of such an application: capacity building in the community and logistical support. The report was presented at a meeting organized for the occasion⁴⁵. In the

⁴³ Association Justice et Réhabilitation (AJR), the Commission for Truth and Dignity (IVD), the Tunisian League for Human Rights (LTDH), the UN High Commissioner for Human Rights (OHCHR), Avocats sans Frontières (ASF), the Karama Association, the Arab Institute for Human Rights (AIHR), Reporters Without Borders (RSF), the Center for Applied Human Rights (CAHR), the Association of Tunisian Women for Development Research (AFTURD), and the United Nations Development Programme (UNDP).

⁴⁴ The United Nations Development Programme (UNDP), the Arab Institute for Human Rights (AIHR), the Association of Tunisian Women for Development Research (AFTURD), the International Center for Transitional Justice (ICTJ), the Commission for Truth and Dignity (IVD), Avocats Sans Frontières (ASF), the UN High Commissioner for Human Rights (OHCHR), the Tunisian Forum for Economic and Social Rights (FTDES), and Avocats sans Frontières (ASF).

⁴⁵ See: <https://drive.google.com/file/d/0B3ErV7DxQoJgVl9oNC1WWnp0MWs/view?usp=sharing>

time that has passed since, activists in Sidi Makhoul have also prepared such a file and presented this to the IVD⁴⁶.

Part One: Forms of marginalization in the two zones

Chapter 4 The origins of marginalization

In view of the definitional elements mentioned above, to establish that a region or area has been effectively marginalized and systematically excluded requires to both demonstrate real inequalities between regions, i.e. the denial of access to basic services compared to other regions, and the concrete intention of the State in maintaining them (including by omission or by the indirect effect of corruption). This criterion of intentionality is here the most difficult to establish, and is not the purpose of this report.

Some observers argue that successive political regimes in Tunisia have deliberately excluded some areas from the interior for tribal, ethnic reasons, or even because of their historical opposition to the central government, but this motivation remains difficult to prove legally. Several reports published after the revolution also emphasize the great disparity between a coastal region that benefitted for decades from the fruits of economic development, and the regions of the interior and west that have long been deprived.⁴⁷

To better measure these disparities, the Tunisian government itself set up a "Regional Development Index" (RDI) including 18 variables, divided in 4 dimensions:

- Education: rate of admission to the *baccalauréat*, literacy, schooling, access to internet and telephone density;
- Wealth and employment: unemployment, number of SMEs, poverty rates, access to safe water, access to sanitation facilities, number of cars;
- Health and population: fertility rates, infant mortality, number of physicians, number of hospital beds;
- Justice and Equity: crime rate, male / female equality in schooling and access to employment.

According to this index, the governorate of Tunis appears best developed, and that of Kasserine the most disadvantaged. Of the 24 governorates, Jendouba is in 21st place and Médenine 13th. At the community level, Ain Drahem is 258th out of 264 delegations, while Sidi Makhoul is in 226th position.

The consequences of these social and economic inequalities are manifold, particularly because of a massive exodus to the capital which further worsens marginalization of the regions concerned. Their isolation also gives rise to discrimination in access to education and health care, as highlighted in the interviews below. Inequalities in access to water have serious effects not only on the health of residents but also, indirectly, on their work and educational capabilities.

⁴⁶ See: <https://drive.google.com/file/d/0B3ErV7DxQoJgRHE3dFM2T0gtUEk/view?usp=sharing>

⁴⁷ Ministry of Regional Development and Planning ("MDRP"), *Measuring Poverty, Inequalities and Polarization in Tunisia (2000-2010)* , (with support from the African Development Bank and World Bank), November 2012, available at: http://www.afdb.org/fileadmin/uploads/afdb/Documents/Project-and-Operations/Measuring_Poverty_Inequalities_and_Polarization_in_Tunisia_2000-2010.PDF. See also World Bank, "The Unfinished Revolution: Creating opportunities, jobs skills and wealth for all Tunisians," *Development Policy Review* , May 2014: <http://www.banquemonnaie.org/fr/country/tunisia/publication/unfinished-revolution> ; or the Regional Development Index, July 2012, p. 17, available at: <https://www.fichier-pdf.fr/2013/03/23/tunisie-indicateur-developpement-regional/tunisie-indicateur-developpement-regional.pdf>

Several studies published after the revolution emphasise the intentional nature of this discrimination, which is the result of the corrupt practices of the Ben Ali regime, nepotism prevailing in the investment sector and the highly centralized administration. The Commission of Inquiry into Corruption and Embezzlement (the “Amor Commission”) has contributed in 2011 to share the scope and consequences of these practices on the economy and also on human rights in general. Policy makers, but also international observers, were for a long time however, more interested in the economic growth of Tunisia in general than the distribution of wealth among its population, and regional inequalities: it is this blindness that partly explains the surprise created by the Tunisian revolution.

Regional inequalities are also explained by the fact that the Tunisian economy is built around tourism and exports, prompting many companies to settle on the coast, the more attractive location from these two perspectives. The industrialization model chosen by Tunisia after 1970 greatly encouraged private investment, exacerbating the trend of opening-up to the outside for the benefit of the few coastal areas and at the expense of the interior. As highlighted in the “White Paper” of the Ministry of Regional Development, as a result of this policy:

The interior areas are constrained, either in agro-rural development schemes or in a logic of domestic migration for the benefit of coastal cities... and have been placed, by political choice, at the margins of any modernization dynamic, their main function being to provide cheap labour for jobs considered low status.⁴⁸

At the political level, the centralization of power in Tunis contributed to feeding these inequalities. Regional councils, predominantly or exclusively composed of members of the RCD were operating on the basis of patronage and were in fact deprived of any decision-making power. Nothing had been established to promote the accountability of the regions in the use of public funds, and long-standing loyalty to the regime appeared to be the decisive criterion to be granted public funding.

The concentration of administration in Tunis and at the coast has also had a devastating effect on the unemployment rate, 75% of non-agricultural employment being concentrated in the coastal region,⁴⁹ while the western regions account for less than 3% of national companies and less than 5% of electricity consumption.⁵⁰ The unemployment rate for graduates reached 40% in Jendouba, against a national average of 23%.⁵¹ Political and economic environment has thus fed the domination of the interior regions in favour of excessive coastal development, in enjoying incomes that there were produced exclusively for reinvestment in the tourist areas of the coast: these have received more than 65% of state investment. The rich tourist attractions in the interior (the Roman pools of Gafsa, the ruins of Sbeitla, the wilderness of Ain Draham, etc.) were gradually abandoned in favour of an exclusively seaside and ‘low-cost’ tourism, unable to create long-term development. A report by the African Development Bank underlines that Jendouba governorate is the least well served in terms of basic health services, with only one general physician per 10,000 inhabitants, against a national average of 2.7.

⁴⁸ “White Paper” of the Ministry of Regional Development, op. cit.

⁴⁹ “Tunisia: Challenges Economic and Social Post-Revolution”, African Development Bank, 2012, p. 28.

⁵⁰ Ibid.

⁵¹ Ibid p. 29.

Chapter 5 The human impacts of marginalization

The stigmatization of people by themselves and by others

The interviews show, among the inhabitants of the two regions studied, a form of lack of self-worth that confirms some theories of development on the stigmatizing effects of poverty and overall victimhood. Feeling like “outcasts”, separate from the rest of society, many respondents do not even feel Tunisian, and note a significant difference between themselves and others, a difference that helps strengthen the dynamics of their own exclusion. “No, I do not consider myself a Tunisian citizen, especially when I decided to go to the capital, there are girls who do not like me, well dressed and coiffed,” said a young rural woman from Ain Draham (ZV25). “Since I am ignored, I’m not Tunisian, I have received nothing,” explains an unemployed man from Sidi Makhlouf (VZ32). “When you see the difficulty of going to the hospital and the lack of education, I see a difference in behaviour compared to other regions,” said the president of the association Khmir Achbel Ain Draham (VZ22). Marginalization has produced very personal effects, transmitted from generation to generation by the inhabitants of the two areas that seem very self-critical. “The major problem with us in Ain Draham, it’s a problem of mentality, the mentality of doing nothing,” says a young unemployed graduate active in civil society in Ain Draham (VZ10), who sees this mentality, and not state policy, as the primary cause of their underdevelopment.” This is the mentality that most prevents us to grow as a region... and I blame the passive mentality of the inhabitants of Ain Draham first, before the state.” Other residents, however, do not fail to acknowledge that the State is still perceived as the main cause of this split, as stated by a high school student from Ain Draham:

No I do not feel like a Tunisian citizen because we from the North are forbidden to make our voices heard, to have clubs or recreation facilities. In other regions the people are more cultured than us, so we lack schools and I blame it all to the state. (VZ13)

This vehemence seems however a minority view, most respondents indicating the existence of a form of apathy, clear here to those communities excluded for too long from economic and social development. “There is a difficulty in Ain Draham,” explains a retired teacher from the area (VZ15). “People do not want to organize themselves to file a complaint maybe because fear of the state still exists among these people, they cannot move, even if they agree on the principle.”

This exclusion is highly internalized, but also very personalized. Indeed, some respondents claim to have been stigmatized by Tunisians from other localities. “I studied in Sousse,” says a young civil society activist in Ain Draham (VZ23). “When I tell them I’m from Jendouba, they behave in a strange way, and I think this is due to historical reasons. Once I took a taxi, at the beginning he refused me the ride because I am from Jendouba.” According to a member of civil society in Jendouba:

Some refuse to say they are from the region because they are known for their aggressive nature while it is actually the contrary, there are even politicians who come here with fear but when they leave they are crying because they discover the kindness of locals. (VZ18)

Because of these multiple forms and effects of exclusion, residents of the two areas seem to have gradually lost interest in public affairs, and have fallen into a kind of apathy. “This marginalization exists primarily because of the silence of the people,” said an architect from Ain Draham (VZ17). “There are no demonstrations or blocking of roads, but if it was otherwise one would be able to have lots of things.”

The victims here are thus characterized by their political invisibility, their historical exclusion having reduced their capacity to perceive themselves as rights holders.

Before / after the revolution: between hope and disappointment

Paradoxically, and perhaps even because of this disengagement and political “transparency”, the people interviewed do not seem to perceive any real difference between their condition before and after the revolution. “For Ain Draham there is no big change, but for me there have been improvements, since I found a job. In the background nothing has changed here, unemployment has increased, many young people are out

of work, “says a cook in Ain Draham (ZV12). “Nothing has changed, one was nevertheless optimistic ... No, nothing has changed even after the revolution,” says a rural woman (ZV25).

Nostalgia is rife among those surveyed, with many having fondness even for the colonial era. “If Ain Draham becomes like it was before I will confirm the success of this justice. Before there was no tax, the colonizers created schools, infrastructure, hotels, institutions, they believed very much in Ain Draham. Since then nothing has been added, one must compare between colonial times and the current state of the region,” to understand these injustices, said a member of civil society in Ain Draham (ZV16). The chairman of an agricultural and fishing group in Sidi Makhlouf confirms: “No, there is no great change. Even projects that are now underway, they were already scheduled before the revolution” (VZ48). “There are no changes, we live in the same situation as before, there was no change for the worse or for the better” asserts a hotel worker (VZ45). A young graduate meanwhile said “nothing has changed, I have always encouraged people to be optimistic, but I have found that there is corruption and that it all depends on geographical origins” (VZ 30).

Others interviewed even express already elements of nostalgia for the authoritarian period, particularly in the secure income offered by the former regime and economic conditions perceived as more favourable. “Before it was better, in terms of safety, because today you cannot move at 2am. Life has become expensive,” said a young hotel receptionist in Ain Draham (ZV26). “The revolution has had a negative impact, we enjoy free speech and freedom in general, but in return the citizen suffers from the revolution of unbearable rising prices,” said a young unemployed graduate (ZV10). “Before the revolution we had the means to enjoy our leisure, before we were more at peace, but especially since the incident of the youth with explosives, it has been more tense,” says a schoolgirl from Ain Draham (ZV13), with reference to the rise of terrorism since 2011. “Before the revolution it was better, with 5 Dinars you could buy enough for dinner and they took care of us more as a region, as opposed to now,” says a young high school student from Sidi Makhlouf (VZ39). “We would like again to make trips as before the revolution, every holiday, but now this is increasingly the circumstances of the country,” he added.

The revolution has had, *inter alia*, a negative impact on the right to leisure of these marginalized people. “”Before the revolution there were clubs, they brought us art teachers, music... but now given the poor economic situation we have no right to it all,” laments a schoolgirl in Ain Draham (ZV13). “”After the revolution, we demanded safety and tranquillity,”“ Says an unemployed man from Sidi Makhlouf (VZ33), indicating a general renunciation of the people, who in a very precarious situation, adjust their desires to a minimum, making entertainment a luxury unattainable in any way. In this sense, two secondary school pupils regret already that in their town, “there are only schools and a mosque, and no recreation centres. One must take transport to go to a club or to practice karate or boxing. For those who have the money, there are no problems.” (VZ39). The others are quickly discouraged.

But it is especially at the economic level that the situation has deteriorated, confirming that marginalization has profound ramifications that major political change will not suffice alone to erase. “After the revolution they closed the forestry department and a nursery that allowed several people to work. Even the handicraft factory, which gave many unemployed work, experienced the same fate,” said a retired worker at a café in Ain Draham (VZ14). A retired teacher (ZV15) continues:

The region of Ain Draham after the revolution has been affected by corruption ... We asked in front of the headquarters of the delegation, during a demonstration, for regional development and the activation of 20 projects already designed and registered with the Ministry of Finance, whose money is blocked for tourism projects and for turfing the municipal stadium. The problem is the government delaying the implementation of the project... This is our situation after the revolution, exactly as before, under different governments, always begging.

A facilitator at the youth centre (VZ37) of Sidi Makhlouf confirms:

Nothing has changed, there is no bank machine or post office, no branch of the STEG or SONEDE:⁵² one has to go to Médénine. Sometimes one is blocked for 20 dinars, now everything is expensive and the cause is not the revolution, it goes back to an earlier period.

The general condition of the affected urban environments have also greatly deteriorated, in part, according to respondents, because of the power vacuum driven by the post-revolution period generally perceived as defined by disorder. "Before the revolution, there was at least one representative who could pass on our problems, but today there are no representatives; it's necessary to go to Jendouba to speak to the authorities, and yet it will be someone one who does not live in the region. Yet the region is rich in human skills," lamented a retired Ministry of Health official in Ain Draham (ZV21). According to a teacher, participating in a focus group in Sidi Makhlouf, "the revolution is not complete when its following the same policies that previously existed and that still imprison us."

The revolution therefore brings a certain freedom of expression, notably resulting in the proliferation of civil society associations. "Only the creation of our association is positive, it is a hope for me because my job is not secure since I have no contract," explains a teacher from Ain Draham (ZV27).

The situation of women since the revolution has not yet been sorted out despite these new associations. "For women, there is nothing since the revolution, before there were workshops and sport, now there is nothing. This is what led young people to spend the day in the café and this is what explains the evolution of crime rates. Fortunately there is the cyber-café, but one needs more monitoring," says a shopkeeper in Ain Draham (ZV24), referring to the danger of the Internet for some uprooted youth who could well be radicalized. Respondents all seem to consider that, from the standpoint of access to culture and leisure in particular, the revolution marked a significant loss.

The impression that dominates is that of a huge mess, the resources of the two areas not having been sufficiently exploited so as to encourage, in particular, tourism. A retiree from the Department of Health in Ain Draham (ZV21) explains:

Our region is excluded from national development, while in 1968 it was ranked as the most beautiful region after Johannesburg. It has become an area to simply pass through, there is nothing attractive here, not even a reserve or park, whereas if we could use the forest and wildlife, it would be a favourite destination for visitors. Why move to the Belvedere?⁵³ It can become the destination of choice for weekends.

The former regime has a share of responsibility for this decline: "At the time of Ben Ali, no one sought to protect the environment and climate of our region. The President wanted to sacrifice the entire governorate for projects to benefit other regions, such as dams," lamented a member of civil society in Ain Draham (VZ16). He adds that "today the tourist area is not operational despite the existence of the plan and available funding since the revolution... and I'm not talking about cable cars or ski resorts!" "The situation in our region deteriorated after the revolution, even in comparison to other cities like Beja, Tunis, Nabeul, and Bizerte," adds a retired engineer from the Ain Draham Department of Equipment (VZ20).

Faced with this cultural, social and economic vacuum which marks the post-revolution era, many people can thus rely only on themselves. "Before, when I fell ill I could visit a private doctor, but now I'm self-medicating," says a shopkeeper from Ain Draham (ZV24). "Nothing has changed, I rely on my own resources," says a member of civil society in Ain Draham (ZV16). Social capital has found itself degraded by this progressive disengagement.

⁵² The Electricity and Gas Company (STEG) and Water Distribution Company (SONEDE).

⁵³ A famous garden and public park in downtown Tunis.

5.1 Relations with the state

The issue of citizenship: regionalism and discrimination

Because of this disintegration of social ties, the inhabitants of the areas studied no longer seem to be considered as belonging to the same nation. “I am a Tunisian citizen only on my identity card,” said a young hotel receptionist in Ain Draham (ZV26). “In 2012, many people wanted to go to Algeria: they do not even have an identity card, they don’t know who the president is,” said a member of civil society in Ain Draham (ZV23). A young unemployed man (VZ29) tells a significant story of the progressive disintegration of the sense of citizenship:

We felt so marginalized at some point after the revolution, we raised the flag of Algeria and even crossed over the border to seek to join Algeria, which gives us more importance than the Tunisian State, every time we visit its territory. If a peaceful demonstration were organized here, we would be attacked by security guards, even if one has done nothing bad, but just to express our opposition to the management of public affairs.

“I am a Tunisian citizen but comparing to other situations in neighbouring countries, I do not feel nationalistic” justifies a craftsman in Ain Draham (ZV17). “No, frankly I do not like Tunisia, because the area I love is really marginalized.”

Despite this, the vast majority of respondents still have a certain attachment to their region of origin, some even having decided to return after time in the capital or elsewhere. “I am at peace in Ain Draham, I spent 6 years in Tunis studying, I could adapt myself but I needed to come to my area despite the poverty and unemployment: it is my home and my birthplace,” says a young teacher (VZ27) who nevertheless adds that “too often, it’s like Ain Draham did not exist on the map of Tunisia.” Several residents finally persist in calling themselves “nationalists”, despite the economic marginalization of which they were the collective victims: “I am Tunisian and nobody can touch that. I love my country despite all the problems, it is an obligation to my country, I drink its water and breathe its air,” sums up a shopkeeper in Ain Draham (ZV24).

Lack of representation at national level

Respondents seem to be well aware of the discrimination their region has historically suffered. However, their interpretations of the root causes of the dynamics of exclusion differ significantly. “This marginalization, I think it was not entirely planned, I also blame the people of Ain Draham for being too passive and not reacting on behalf of their region,” said a young unemployed graduate from Ain Draham (VZ10). He considers, however, that “it is the leaders of the region before the revolution who committed sins against its well-being.” Thus, even today, “there are files with the local authorities of Ain Draham but none of these records will see the light of day,” laments a schoolgirl in Ain Draham (VZ13). As a result, says a member of civil society from Ain Draham (VZ23), “the representatives of the region must be punished.” Indeed, “it’s amazing that there were several governments but none has bothered to promote the region, while the colonizer at the time has recognized its beauty and its richness. You have to see with the officials... There were several governments but nothing has changed,” said a young teacher from Ain Draham (ZV27). The president of the Association for Development and Strategic Studies (VZ50) in Sidi Makhoul continues:

There are no industries or factories that could provide employment, the majority are in the administration. And besides those in these positions in the administration of Médenine are not native to the area. We just asked that there be a better representation and a priority for the youth and graduates from the region to work in government in our region.

These difficulties seem due in part to the lack of representation affecting the regions concerned. “If the government contains no minister from the region, how can one talk about development? The comparison with Monastir and Sousse is clear: many politicians are from these regions. This demonstrates the lack of

representation in the region, and I think the comparison is necessary to see what we lack,” says a member of civil society in Ain Draham (ZV16).

The regional administration has also exacerbated disparities, according to a teacher in Sidi Makhoulf (VZ31):

The delegation of Sidi Makhoulf is ignored internally and nationally, and has no municipality or regional representation. The work of the delegations after the revolution is a disaster, the best example is Ragouba, in the delegation of Sidi Makhoulf, which five years after the revolution still has no regional representative... It is an area which is not structured, there is that politicians who look after their interests, they seek to have additional votes for the elections ... I would be responsible, a regional delegate can always find a solution but it is catastrophic to have no-one responsible, because the state is weak without these structures.

The impact of corruption

The marginalization of regions also appears linked to the corruption of the two pre-revolutionary regimes, and whose ramifications survive today. This fact is viewed by locals as the primary cause of public money lost. “We receive aid during the winter to help people in need, but in reality it ends up in the bellies of officials and wealthier people” denounced two students from Ain Draham (ZV28). “The marginalization of the region began with Bourguiba and continued with Ben Ali, but to different degrees. With Ben Ali there was an improvement but corruption continued to exist and the trafficking network around public works persisted,” says a historian from Ain Draham (ZV11). He continued, “this is a regime and a network that should be punished, officials who have contributed to corruption, be it at local or national level.”

It would be above all public works, including infrastructure, which would have been the object of greed of some leaders, and which explains the poor state of the roads today. “Corruption has affected especially public works concerning the roads, each time we pay money for it, but the roads are still the same,” says a high school student from Ain Draham (VZ13). The money for these regions too often seems to disappear, even if it has been allocated, making proof of the exclusion or intention even more difficult.

The inhabitants of Sidi Makhoulf therefore complain about the lack of state responsibility for the development of their region: “The state is not interested, there is no incentive and monitoring of the region, some people receive grants for projects and then they leave for other regions,” says a historian from Sidi Makhoulf (ZV19). The issue of nepotism in the administration has often been raised. “I have found that there is corruption and that it all depends on one’s origins”, said a young unemployed graduate in Sidi Makhoulf (VZ 30). “Most young people here are graduates but there is a marginalization.”

To repair these abuses, non-repetition appears to residents as a first step towards long-term reconciliation. “Corruption must end, this is a way to reconcile us,” says a retired teacher from Ain Draham (VZ15). For now, unfortunately, nothing seems to have really changed, and the people here also do not see a big difference since the revolution, regrets a member of civil society in Ain Draham (ZV23):

It's not serious, I did an internship with the municipality and I discovered that there is corruption everywhere, so the manager wanted me away from those folders. One delegate wanted to file a complaint against an official of the municipality, and also, it was returned. The old system still exists.

Corruption rots the administration down to the most local level, hampering any initiative and blocking requests from residents. “The Secretary General of the municipality is still missing,” said a shopkeeper Ain Draham (ZV24), denouncing the establishment of these conspiratorial networks. “There is theft especially at the level of the budget,” she says, “and the incompetence of the administrative staff is a problem, they are ignorant of the environment of the area they are supposed to manage.” So, “you must recruit people from the region,” she suggests.

Similarly, the inhabitants of Sidi Makhoulf found that corruption and a lack of state accountability exist at both at local and national levels. A teacher (ZV31) explains:

There is the executioner and the victim: it's Sidi Makhlouf in both cases. There is no real fight for change, the state has no regard for the delegation, there is no structure or municipality, or even elections to empower people... Voluntary work has no value in the region.

Corruption has also affected the cultural activities of marginalized regions. "It's been 7 years that we have no cultural centre, although the money was paid for this project, it never happened. We have no cultural space like a theatre or shows. And in my opinion this whole situation comes down to corruption and trafficking. We suffer a lot of favouritism at all levels," denounced two students from Ain Draham (VZ28). Accordingly, transitional justice must, according to residents, also involve local officials: "Several regional delegates came to steal money intended for the region and for the poor. It is corrupt: the mayor sold the property of the state for his own benefit, the governor has also contributed to this, members of the Assembly of Deputies and the departments: all are responsible," said a retired engineer from the Ministry of Infrastructure of Ain Draham (ZV20). Another retiree (VZ21) explains:

The municipal agent, the governor, the president of the local cell of the RCD, I was myself in this position, representatives, are all responsible. The Chamber of Deputies is also responsible for all decisions. We had to control everything, the municipal officer and the president of the RCD cell had to have information on what was happening here... The municipal officer can do nothing if X or Y do not intervene in his favour.

Beyond this testimony, tangible evidence seems difficult. In Sidi Makhlouf corruption is also at the heart of the administration. "There was a municipal project in Sidi Makhlouf, there was funding of more than one million dinars, they appointed the first head of the delegation responsible for its implementation and appointed three chiefs of services that are not from the region: one of them is almost always absent... It's not serious at all, and they take people for fools," says a participant in a focus group in Sidi Makhlouf.

5.2 Economic and social rights

The marginalization of the two zones, whilst it certainly has civil and political aspects, remains essentially linked to the deprivation of economic, social and cultural rights. "Like many Tunisian regions, in Sidi Makhlouf we lack essential things like health services and specialized doctors. At the social level unemployment is very high and affects all age groups. Culturally the youth centre has been closed for years, since before the revolution, the RCD was already using it as a location for its activities," said a former political prisoner (VZ49). For his part, the president of an association (VZ50) explains:

Beni Khdech and Sidi Makhlouf are the most deprived areas, where there has been the lowest level in terms of development. And at Sidi Makhlouf itself, the small towns are a mess and have an almost zero level of development... Despite the strategic geographical location of Sidi Makhlouf, the fact that it is a coastal region, its natural wealth of fisheries and agriculture, and that it represents a relay point between Djerba and Gabes, that does not stop it being marginalized.

A teacher (VZ31) adds:

The infrastructure is quite old, there is no administrative structure, there is an office for agricultural advice, but there is no office of the Water Distribution Company (SONEDE) or of the Electricity and Gas Company (STEG), or an office of the Insurance Health Fund (CNAM), only a post office... There is nothing concrete, even in state plans, there was a project for a youth centre but that never happened... There is one school, four colleges ... There is health coverage but this is incomplete, especially concerning specialties, there are only generalists, and two pharmacy. There are no private doctors' offices, doctors receive patients directly in their homes.

“We need factories, there is a clinic but it needs to improve, the doctor comes once a week. We must improve the condition of the youth centre and mosque, but also the road to Sidi Makhoulf which leads to the beach and is used primarily for mussel fishing,” demands an unemployed man from Sidi Makhoulf (VZ33). For these rights violations too, it is state representatives who are targeted. “The area has been deprived of certain rights due to the officials,” accuses a cook from Ain Draham (ZV12). But these privations are also aggravated by the natural conditions of these regions, that are more difficult than in the rest of the country, and that require specific attention from the State to help the affected areas to cope. “The climate is hard, we need help in order to keep warm – we need a serious response from those responsible” requests a retired worker in a café in Ain Draham (VZ14), referring to the difficulties faced by the city during the winter. “We have only one gas station, one police station, only one road and one municipality with 12 delegations. There is no Telecom office or office of SONEDE or unemployment office; it’s necessary to go to Tabarka by public transport but it costs 1500 millimes,” lamented a retired teacher from Ain Draham (VZ15). “There is nothing in Ain Draham, no infrastructure or investment. The climate is hard, funding for infrastructure is necessary because there are landslides,” adds a member of civil society (ZV23).

These climate-related difficulties have important consequences in terms of economic but also political rights, and affect in particular the right of children to education, as discussed below. Indeed, “with the glacial climate in winter there is no heating to warm them in the classrooms, not even hot water in high schools to wash the faces and hands of children. Since there is no heating in the dormitories, our children ask for blankets, they sleep with their school clothes for warmth and a single blanket is no longer enough for them,” states a retired engineer (ZV20).

Unemployment

As in many parts of Tunisia, but more so in these marginalized areas, the right to work seems a principle concern of populations and unemployment appears to be the cause of many other social ills. “The young girls are single at home, those made redundant are in the cafes, there are many unemployed, there is only mussel fishing here, there is no longer agriculture or construction,” says an unemployed man from Sidi Makhoulf (VZ33).

But even at this level, political causes are never far away: corruption and networks of the past are seen as major obstacles to access to employment. “We suffer from interventions at the level of hiring: he who knows those that are well placed manages to find work, and the others don’t,” complains a high school student from Ain Draham (VZ13). “Work is what I need,” explains simply an unemployed man from Sidi Makhoulf (VZ32). But social support structures are inadequate and the most vulnerable groups are, again, the first victims of exclusion. To kill time, they spend it at the café. “My cousin is 40 years old but he has never worked in his life,” a fact that astonishes a cook from Ain Draham (ZV12). “There are many unemployed in Ain Draham... They spend all their time in the cafe, just smoking. Take the example of my mother, poor thing, she borrows money to give to my brother to buy cigarettes,” she adds. “If we had work we could avoid many social problems such as alcoholism, which is an escape for these poor people, to forget a little their situation,” explains an unemployed man from Ain Draham (VZ29).

The social consequences are so devastating for the inhabitants, because unemployment is seen as the primary cause of petty crime which also proliferates and destroys the remaining social networks. “Unemployment is destroying families that have no income,” explained two high school students from Ain Draham (ZV28). The ramifications of this criminality is even international, and especially related to the importance of smuggling with Algeria and Libya in these border areas. “The situation is worsening in Sidi Makhoulf since the closure of the border with Libya. Higher education graduates are forced to survive by working in smuggling,” explains a former political prisoner from Sidi Makhoulf (VZ49). The president of the Association for Development and Strategic Studies (VZ50) continues:

Given the lack of job opportunities, people are forced to work in smuggling, and their only hope is the customs checkpoint at Rass Jedir. Sometimes we ask young people to come to

work in return for a salary of 600 dinars per month and they refuse, since they earn more working in smuggling, about 100 to 200 dinars per day.

Sometimes people find other means of livelihood, but too often below their actual skills, which is seen by them as a new form of stigma. "Personally I graduated and I work as a receptionist while waiting for an opportunity, because there is no training, nothing serious, most young people do not work, they prefer easy solutions, to leave or do other things," said the receptionist in a hotel in Ain Draham (ZV26). "I have no fixed salary, only my son helps me. I worked for 10 years in the transport business and now I have nothing more, if I could find a car I could work again for some pocket money, because work on construction sites and agriculture is currently difficult, and I'm sick. But to have a retirement or pension, you need a certificate that I do not have," says one teacher in Sidi Makhoulf (VZ31), while a member of civil society in Ain Draham (ZV23) adds:

The unemployment rate here is 26.6%, I think it is the highest in the country. One should check in at the employment office but most of the unemployed do not even do that... Three factories closed while they were employing 600 people. There were factories before, but the owner was corrupt, it was closed ... The result is unemployment, cigarettes and coffee. Fortunately there is no corruption or they would have integrated the terrorist camps.

The solutions are simple however, and residents do not lack ideas. "One needs two factories to employ most of the unemployed here. Before there was the state carpet factory, in the time of Bourguiba, then it was closed for reasons unknown to me. While men are at the café and women are at home," said a shopkeeper from Ain Draham (ZV24). An unemployed graduate (VZ10) suggests: "To solve it we must start projects, such as a tourist village and a cultural centre. We had an oak tree business which closed its doors, another pottery that closed too, and the factory of artificial flowers. If all these companies reopened their doors, this may solve the problem of unemployment." The State must therefore take responsibility here too. "Even for the CAPES job competition, there were never any results in favour of the people from the region, and even PhD students do not succeed. Sometimes there are vacancies but which unfortunately do not concern the inhabitants of the region," lamented a retired Ministry of Health official in Ain Draham (ZV21).

Positive discrimination in favour of the inhabitants of these areas, would that be a solution? Could this be a form of compensation? The trump cards of these regions should in any case primarily benefit their citizens, and not be exploited for the benefit of other parts of the country. The president of the local unit of social reintegration⁵⁴https://translate.googleusercontent.com/translate_f - footnote53 of Sidi Makhoulf (VZ46) explains:

Sidi Makhoulf is among the poorest areas and yet it contains at the same time the solution to this state of misery... We must have a real will to support the region. Concerning geography, it is characterized in that it is a transit point between various areas, the regions that surround it are the poles of investment, like Tataouine or Djerba.

But the question that always arises is how to reinvest those resources for the benefit of the region itself. The same questioning continues:

One suffers from an infrastructure in disrepair, which makes the region almost isolated, and now we wait with hope for the highway project that will cross Sidi Makhoulf and connect with Djerba. The construction of a bridge will allow exchange between the two regions. Concerning industry, Sidi Makhoulf is an area rich in clay used to make bricks and tiles, but the problem is that raw materials are brought for processing to Médenine, and to

⁵⁴ The local unit is attached to the Ministry of Social Affairs.

Djemmaloun in Sousse, while this wealth could procure resources for the people of Sidi Makhoulf, to create jobs!

“Our oyster harvest is exported - it is a proof of its quality! We can also mention the olives and olive oil that are of the highest quality,” says also the president of a development association in Sidi Makhoulf (VZ50), who regrets that the majority of these raw materials are, again, intended only for export.

The right to health

The lack of infrastructure and economic marginalization seem to have profound effects, especially in terms of access to health services, again emphasising the profound human impact of this exclusion. Thus, a patient “must travel 270 km to be operated,” says a historian from Sidi Makhoulf (VZ19). “No, care is very poor, before there was a service for the lungs, in the time of Bourguiba people even came to Ain Draham for health treatment rather than go to Switzerland, but now there is a lack of medicines, emergency services are limited, there was supposed to be a regional hospital but it was moved and placed in Tabarka,” lamented the president of the Achbel Khmir Association (ZV22). “There is a lack of doctors and a lack of seriousness, there are people who need the white book⁵⁵ but have not been able to access it. People are desperate, there are only lies from the municipality and the governorate,” says a hotel receptionist in Ain Draham (ZV26). “The problem for rural areas in particular, is that we must build clinics,” demands a high school student (VZ13). But medical equipment is also lacking, as well as human resources. “There is only a general practitioner and a psychologist, nurses steal tablets... Some sell these drugs... There are clinics where there is a doctor once a week, and only a few tablets. Most people deprive themselves of drugs anyway because it's too expensive,” says a member of civil society (ZV23). “There are no specialities – to make X-rays one is forced to go private, to move to Jendouba. I have a history with the hospital, it's so negative that I do not want to talk about it”, says a teacher in Ain Draham (ZV27). “We have a problem with the health service, we lack medical specialists, and besides pregnant women must travel to Jendouba to give birth, which can sometimes result in death of the mother or the baby,” regret two high school students (ZV28).

“In an emergency, you go to Médenine hospital and it requires transport that costs between 25 and 30 dinars,” says a disabled resident of Sidi Makhoulf (ZV38), a sum that many people cannot afford. “There is a dispensary with two nurses, the GP visits us on Thursday. One always has to go to Sidi Makhoulf to get a letter and then go to Médenine. Radiology is limited, machines are often broken,” says an unemployed man (VZ 33). Again, people seem to feel that the situation has only become worse. “In colonial times, there were hospitals. But now, there is no regional hospital,” says a member of civil society in Ain Draham (VZ16). “At the time of Ben Ali, the situation was better for farm roads, for the establishment of public structures, there were two hospitals, the University of Jendouba was and has become regional, but with time equipment and medical machines have reduced, the inhabitants of Jendouba are disadvantaged in terms of health until today,” say two members of civil society (VZ18), asking simply for ‘some heaters’ in hospitals.

The isolation of the inhabitants and the disintegration of social links makes things worse. “The problem is that their children have left the region, and so no one can take them to the hospital,” said an architect from Ain Draham (ZV17). Women, again, are often the first affected. “There is no regular monitoring, 70% of women give birth by Caesarean section... It is necessary that the woman suffers travelling to get to the hospital, there are no midwives, no-one wants to support them. Women suffer after the birth and have to work the land and carry wood to live. It can take four months for an appointment,” says a retired Ministry of Health official (VZ21).

Infrastructure and transport

Transport-related difficulties appear at the heart of all violations of economic, social and cultural rights denounced by the population, including the rights to education and work. “The lack of transport for the rural

⁵⁵ This is the book to ensure free care in public hospitals.

areas is the biggest problem, there are little ones who have left school because of that,” says a cook in Ain Draham (ZV12), while a retired engineer from the Ministry of Equipment (VZ20) adds:

We have not had the rights we deserve from the state, such as drinking water; we have no roads, my son must travel 5 km daily to reach school, he goes at 6am and is back at 6pm, and cannot concentrate. At noon the children walk in the mountains instead of being in school, there are no hostels, especially for students who live in remote and poor areas.

“The first thing is unemployment and infrastructure that have isolated rural areas, and this is due to systematic marginalization since the era of Bourguiba... because the lack of roads prevents movement, students cannot move,” says a historian from Ain Draham (VZ11). “The road is under repair for 3 or 4 years, there are no skills. Even in the city centre, since I was young it’s the same situation,” recalls a shopkeeper from Ain Draham (VZ24). As a result, residents are left to rely solely on community solidarity.” “There are no taxis, so at night, when someone is ill, we need the help of a neighbour,” she concludes.

The climate makes things even worse. “The roads which are blocked in the winter are a real problem,” says a historian from Ain Draham (VZ11), “as they are not made in a solid manner, the sole purpose is to redo them the next year and earn more money,” he says. “When it snows all transport is blocked, shops suffer food shortages, there is also no electricity, which is cuts often during these storms. It is necessary that the municipality takes responsibility for all this, and deals more with the region,” demands a cook from Ain Draham (ZV12). The development of the road infrastructure would be the key to everything, and the best way to better protect the rights of the inhabitants of these remote areas. “Before talking about projects you need infrastructure, roads, for private investment,” says the president of the Association Achbel Khmir in Ain Draham (ZV22).

This isolation concerns as much the links between delegations and the capital as those within the region. “There is no bus to the interior of the governorate, one must move by a taxi, the governor agreed to implement urban transport only recently,” say two members of civil society in Ain Draham (ZV18). “The public transport service is very poor, only one to carry everyone, it looks like a tin of sardines and with buses that are in very poor condition. The Minister of Transport visited Ain Draham but the visit lasted only one minute... He left immediately without even giving a moment to listen to us,” laments an unemployed man from Ain Draham (ZV29). The president of a development association in Sidi Makhlouf (VZ50) describes the situation in his municipality:

The infrastructure in Sidi Makhlouf and Beni Khdech is not acceptable at all. Roads are destroyed, and this does not encourage investors to come to settle in the region. Think about the El Jorf Ajim bridge,⁵⁶ it is true that it still seems like a dream but we must think about it seriously to bring Sidi Makhlouf close to Djerba and its airport, and reduce the problems of transportation and travel by boat. The region also needs high voltage electricity to encourage investors to locate themselves here... Recently, a brick factory wanted to settle in the area but due to the lack of a high voltage power line it left the area and settled in Sfax.

The right to water

“Many rural areas are deprived of drinking water and roads, these areas access water via natural water sources but the problems come from mismanagement and corruption, because even if we made a complaint, very quickly the complaint will be blocked because this network is very wide and affects all levels of the Tunisian administration,” says a young historian from Ain Draham (VZ11). “Drinking water is a real problem... It costs 600 millimes per cubic meter and is cut too often... The water is not good, there is no state strategy for a rapid intervention, and it is the citizen who suffers the consequences of leaks by paying the bill and VAT. The state will not help,” says the deputy director of the cultural centre of Sidi Makhlouf (VZ36). “Water is transported on donkeys, it’s miserable here,” laments a rural woman from Ain Draham

⁵⁶ Alluding to the bridge will link the island of Djerba to Sidi Makhlouf.

(ZV25), pointing out the underdevelopment of the rural areas still forced to operate on the basis of wells for access to water. This lack of water affects the health of residents, their hygiene, and agriculture. “At Beni Mtir,⁵⁷ they collect rain water from rain and use wells, which is the main cause of many diseases,” says a young unemployed man from Ain Draham (ZV29).

The case of Sidi Makhoulf is different as a teacher participating in the focus group indicated, “we are deprived of well drilling, the local branch of the Ministry of Agriculture refused permission.” However a hotelier says: “There is work on a project which will be operational by 2017, the desalination of sea water that will decrease slightly this bill to Sidi Makhoulf, so they can finally give us permits for deep wells,” (VZ50). It remains to be seen if these promised projects will be realized.

5.3 Women and Youth

Education and Youth

A lack of infrastructure and the harsh climate all impact on the access of the youngest to education, as evidenced by a historian from Ain Draham (VZ11)

Some people in rural areas cannot continue their studies for two reasons: because of lack of funds or because of the mentality of parents and carers who do not encourage them to follow their studies. The problems of infrastructure and absent roads are another strong argument, which prevents children to travel and reach schools, and thus promotes their interruption.

“There are many who have left school, young ones and even youth at the university, as a result of their financial conditions being so difficult,” laments a cook in Ain Draham (ZV12). “The absence of infrastructure and faculty means many did not continue their studies due to a housing problem, they decided to leave college to devote time to agriculture,” said a receptionist (ZV26). “According to statistics, it is the region with the lowest enrolment rates compared to other regions such as Sousse and Sfax, and the cause is the lack of transport and the weather conditions being so difficult, and also the lack of funds,” said a young schoolgirl in Ain Draham (VZ13). “The climate prevents some studying, then the girls become domestic workers, and the boys leave for the capital. It is only during the festival of Eid that they return to the city,” says a retired café owner in Ain Draham (VZ14), referring to the important phenomenon of migration experienced from these isolated areas.

But the quality of education is also a cause of this high level of dropouts. “There are several colleges in the area, but they recruit teachers from Médenine who give little in return, they are absent and they always take sick leave,” denounced a retired teacher (ZV15). A member of civil society in Ain Draham (VZ 23) adds:

Even the teachers have fled the region, the climate is hard, a student cannot study in such conditions. At the age of 20, they are already suffering from tooth and bone problems. There are girls who leave school for social reasons or because of the infrastructure. There is no transport; some children have to walk 10 km to get home.

“There is often snow in the winter, schools are deprived of heating, there is no transport, when they get there students are often soaking wet,” said a teacher from Ain Draham (ZV27). So, the most vulnerable are, again, those who live far away, in rural areas, and often drop out of school early. “Most people are in school, except those who live far away, they leave school or decide to board,” she continues. “You have to walk 10 km to reach school, poverty weighs heavy here,” added two members of civil society from Ain Draham (ZV28). But nothing seems made to address these obstacles very practically, because as they explain:

Tuition conditions are very difficult, we are missing basic things in our schools like chalk, tables, and have blackboards that are in disrepair, many students leave school to work and

⁵⁷ A village neighbouring Ain Draham.

support their families; they also leave because it's too far for them, especially that there is no hostel and they are forced to walk long distances on foot every day.

Inequalities within the governorate are also highlighted by many residents. “We hear of primary and secondary education, in the towns all goes well, but when we speak of really rural areas, once children reach the secondary level, they stop because of problems of a lack of transportation and the distances between students’ their homes and schools... So, the boys go to work in the tourism sector, or they find a loophole through illegal immigration,” says the president of an association in Sidi Makhoulf (VZ 50).

These difficulties affect therefore in turn the social links of these communities, and sometimes even help to feed petty crime, say residents. A retired Ministry of Health official from Ain Draham (ZV21) explains:

It’s necessary to leave home at 5am to get to school, and there is a bus at 9 pm to go home. In peak hours, waiting for transportation, boys remain in cafes and learn the wrong things. The girls sit at the foot of a tree all day waiting for a bus, they cannot even meet their natural needs.... We need a state intervention strategy and development associations.

A teacher from Sidi Makhoulf (VP31) describes the situation:

The success rate is very low: 9% success last year in the *baccalauréat* in Sidi Makhoulf, while in Médenine it is around 53%. We must make a sociological analysis to understand the causes of these differences because it is an injustice. I would say that at the time of Ben Ali, it was better, I do not defend it but it's the truth. There is discrimination between regions and our region suffers injustice, because the state is unable to resist the holders of capital.

“For education, the local school lacks classrooms and a field for sports activities,” added the president of the village council (VZ47), “and also lacks a revision room to avoid children remaining on the streets during peak hours.” Other residents also stressed that some schools had neither sanitation nor a canteen, as discussed by the deputy director of the cultural centre of Sidi Makhoulf (VZ36).

Cultural services

The cultural vacuum of the two zones, repeatedly reported by respondents is an additional factor of marginalization that indirectly helps nourish crime and further degrade social bonds. Even within regions, inequalities persist, which primarily again exclude rural areas. “There are some activities but they are too limited and centralized downtown, rural areas are deprived,” says a historian from Ain Draham (VZ11). The question relates to “the space and money problems, there is no cultural centre, it was destroyed a long time ago by political will,” said the president of the Achbel Khmir Association in Ain Draham (ZV22). Because “there is only one kindergarten but no other activity, young people are playing with a ball in their leisure time,” says a rural woman of Ain Draham (ZV25). “Culturally Ain Draham is a marginalized region: since 2007 it has no cultural centre: it was demolished and we did not redevelop it, although the funds were granted,” says an unemployed activist in Ain Draham (VZ10). Also in terms of culture the revolution seems to have had an overall negative effect for the population. “Before there were some cultural activities, a private cinema in the region has been transformed into a cultural centre, but it was never operational. Before, there was a municipal swimming pool and tennis courts, which have not worked for 30,” says a member of civil society from Ain Draham (ZV16).

So, residents depend on the good will of civil society associations. “We, as an association, organize cultural and entertainment activities for the young people of Ain Draham, especially in rural areas: movies, concerts, festivals,” says an unemployed graduate active in civil society in Ain Draham (VZ10). Despite these efforts, the situation remains deplorable, and it also has consequences on education. “There is a lack of cultural activities in our region: even if you want to practice your passion you will not find the raw material or the means that enable you to entertain it; a musical instrument or sewing, for example,” laments a schoolgirl

(VZ13). Two other students from Ain Draham (VZ28) conclude that “this lack of cultural activities creates problems, especially among young people, such as delinquency,” despite individual efforts by some.

By way of explanation, the chairman of a grouping from the agriculture and fishing sector of Sidi Makhoulf (VZ 48) thinks that “maybe the rural nature of the region does not let people become too interested in cultural activities, seeing as life is very difficult and you have to work to survive.” Culture would be a luxury, “but that does not prevent ... we, as an association and despite our limited means, we still organize trips”. So explain two high school students from Ain Draham (ZV28):

Activities come from personal initiatives. We young people are trying to create cultural activities but each time they are blocked, either for lack of means or by despair because managers often put a spoke in the wheel. We had a soccer team but has stopped now due to a lack of means.

These initiatives remain limited, however, and too often only blocked at the institutional level. The situation is no better in Sidi Makhoulf, which nevertheless has “a cultural centre, a youth centre and festivals,” says a teacher in Sidi Makhoulf (VZ31). “In Sidi Makhoulf we have a cultural centre and the summer festivals, but where I live, me, there is nothing, there is no means of entertainment for children,” added a disabled youth (VZ38), referring again to the vacuum in rural areas. As a result, “we only have card games and dominoes at the café – these are the daily activities of the inhabitants,” says, for his part, a former political prisoner (VZ49). “There is no cultural activity, except the cinema which has been closed for a while. Apart from associations and the mobile youth centres trying to create a cultural activity, there is nothing else,” says the president of an association in Sidi Makhoulf (VZ 50).

Given the shortcomings of the state, it is civil society associations who do most of the work. “But the region culturally expects much more: we demand that the Ministry of Culture sponsors festivals and supports associations in cultural activities,” says the same interviewee (VZ 50), adding that he believes “culture is a weapon against terrorism.”

The issue of women

As often around marginalization phenomena, women are the first to pay the price in unemployment and poverty. The current situation, with the closure of several factories, was particularly damaging to them. “Recently a company manufacturing artificial flowers closed and laid off a significant number of women: what will be their fate? Their salary was 300 dinars,” asks an unemployed graduate in Ain Draham (VZ10). “We had a carpet factory here but it was closed; even our benefits, we have not received them so we went to court. The courts have reported that the boss was found innocent, and yet we know that the men who worked with us all got their rights,” complains a cook (ZV12).

Women in Makhoulf experience the same difficulties. “Most, even if they are educated, work in agriculture and in the collection of oysters: these fields are not organized and middle-men take advantage of the situation to exploit them,” complains the chairman of the village council in Sidi Makhoulf (ZV47). “Women work from 5 am until 5pm in order to sell cheaper oysters” deplores the president of the local unit of social reintegration (ZV46). “Rural women move at 4am in a covered truck to fish for oysters, and get only 3 dinars per day,” says a teacher at the focus group. “What does it mean when a girl comes to collect oysters for 2 dinars while it costs her 4.80 dinars to come to work? And you know what is the profitability of this sector to the benefit of the state? This is about 78% of state income in the fisheries sector!” He adds.

Women are doubly victimised, and many leave the region to look for work in towns or in the capital. “Among the girls in the area, many want to leave school and they decided to work as housekeepers,” says a rural woman from Ain Draham (ZV25). In Sidi Makhoulf “many are leaving the region to study... but usually it is the men that move” (ZV44). Social practices and widespread conservatism also feed this exclusion of women. Indeed, a young unemployed graduate active in civil society in Ain Draham (VZ10) explains:

The mentality that prevails here is that we prefer to keep girls at home or they work as maids in the capital, they will also be forced to do so by their parents for economic reasons ... The

age varies between 12 and 14 years... early marriage is an important issue in the region, especially the girls themselves seek to marry early, as they do not have any other purpose nor ambition in life.

It is the same in Sidi Makhlouf, which suffers from the conservative mentality of families and certain traditions rooted in the region, which marginalize women in all sectors, including the most basic. Thus, “transport is a real barrier to work.... Taking a taxi might disturb my family, it's a mindset. Girls who succeed bother them, that attitude persists to date. There are no mixed areas for the unemployed,” says a young graduate in Sidi Makhlouf (ZV30). So, women seem intent on ‘settling down’: “They stay at home waiting for the wedding,” adds the same interviewee, and marriage itself becomes a success for the woman: “For girls, their baccalauréat is marriage,” said one worker in Sidi Makhlouf (ZV35).

This mentality also has an impact on the cultural and recreational opportunities of rural women in these two areas, as highlighted by a youth facilitator in Sidi Makhlouf (VZ 37):

Girls, it's a real problem with them - doing an activity at the youth centre is a taboo... They think it is an activity for boys. One day I received two daughters passionate about sculpture, I had prepared all the materials but they were absent twice because their parents refused that they do such activities. The one who studies is lucky while the one who has not is trapped at home, or has to work in the food business for 70 dinars a month until she gets married.

The representative of a development association in Sidi Makhlouf (ZV43) states that “there are festivals but poorly organised, there are only men and women do not participate.” This injustice against women also affects their health protection, because “the clinic does not have a midwife, most of the staff is on leave,” complains a young unemployed graduate (ZV30). “It also impacts the work of young people, especially girls, who go to work as maids in Tunis and elsewhere, creating situations of abuse,” said high school student Ain Draham (ZV13). So, a retired teacher from Ain Draham (ZV15) recommends:

We need positive discrimination for women from the region who live from livestock, rural women trying to survive despite the weather, transport, housing, education of children, it is hard enough. The region is a victim and the woman from Ain Draham is even more so.

The State retains the primary responsibility for this marginalization of women and respondents point out that there is no real political will to improve and promote the status of women. “We all seek to promote the conditions of rural women in Sidi Makhlouf in general, in all sectors, except when talking with an official from the state, it gets only words... They always say, ‘ok, we'll help you’... Then we don't find anything of what we were promised,” lamented a focus group participant in Sidi Makhlouf. “Meetings were made to talk, to make a diagnosis of the situation but the problem is that there is no follow-up afterwards in political structures, there is no political will to work and promote the situation of rural women,” said another speaker.

The phenomenon of migration

The phenomenon of migration is very common in Ain Draham, and often appears as a response to economic, social and environmental difficulties. To escape this situation, many people choose to leave. “The phenomenon of migration is very common among us and it affects all age groups,” says a historian from Ain Draham (ZV11). Unfortunately, most of those who go to Tunis end up in call centres or restaurants, “positions that do not correspond to their skills,” says a teacher (VZ27). The president of the Achbel Khmir Association (ZV22) explains:

There are 1,009 graduates here, and those who have no diplomas are also in poverty, so this explains their move to Tunis, to find opportunities. There are 12,000 people from the area in Tunis, who come back here during Eid according to forecasts of the regional transport company.

The situation is no different in Sidi Makhlouf. “Young people here are leaving the region for Tunis. Most opt for business. Those who remain are desperate,” says a facilitator from the youth centre (ZV37). This phenomenon affects all categories of the population: graduate and undergraduate, married and single, young people, adults and children, and especially young women. Ain Draham is indeed notorious for ‘exporting’ young girls who are school drop-outs to the big cities to work as domestic servants. These girls are often exposed to violence and various forms of assault, including sexual, although this topic remains taboo. “Young people who drop out of school will be directed - for boys - towards agriculture or - for girls - sent to Tunis to work as housekeepers. There have been serious incidents of girls who have been raped,” says a historian from Ain Draham (ZV11). “It bothers me to see young people here looking to attract foreigners in order to go abroad. Most young people sell dried fruit in Tunis, I know four who are computer geniuses,” laments a young unemployed graduate from Sidi Makhlouf (ZV30). In Ain Draham, many young men leave school “to work in cable manufacturing companies in Beja,” says a shopkeeper in Ain Draham (ZV24).

The absence of local industries, the march of poverty, high unemployment, exploitation and marginalization on the part of state officials were the main causes of the emergence and spread of the migration phenomenon. “The absence of industries and companies has led to a high unemployment rate,” said an unemployed graduate in Ain Draham (VZ10). But this flight is also related to the inability of locals to really assert their rights. “The citizen does not have the courage to demand his rights, and so he tries to leave the area,” said a member of civil society in Ain Draham (ZV16). Even those that remain seem dissatisfied with their situation and plan to go whenever they have the opportunity, “Those who are still there, they are desperate,” he adds.

In Sidi Makhlouf also, “there are trips to Djerba and Tunis to find temporary jobs, shops selling dried fruit, work on construction sites. We can’t think of the future here,” recognizes the representative of a development association (VZ 43). “There is an unemployment problem, we must go further to look for work on construction sites, for there is nothing here,” says a retiree (ZV34). The region is becoming increasingly depopulated and some locals are worried. “There are regions that have lost 300 people: we must get them back, I left Ain Draham and came back in 2004, but my generation is gone,” said a member of civil society in Ain Draham (ZV16).

This migration affect, in turn, access to care and the right to health of residents, as doctors have also gradually deserted the region. “There are professionals in Ain Draham but they are moving to Tunis and we see no more of them: there are even great doctors, doctors from the region,” said a retired teacher (ZV15). These movements seem ultimately not to benefit anyone. “Injustice follows us everywhere,” said one member of civil society Ain Draham (ZV16), referring to an Ain Draham youth who left for Tunis only to find unemployment even there.

Internal migration also tears families apart, contributing to the widespread disintegration of social ties, “there are no jobs, so our husbands move to Tunis and we don’t see them any more, they visit for the holidays,” says a rural woman from Ain Draham (ZV25). Young people who go to the coast, Tunis, Sousse and Nabeul, “refuse to come back,” says another member of civil society in Ain Draham (ZV16). “They marry a native of the area and ask all their family join them there,” he continues. These migrants often later disown their regional origins, as explained a speaker of a focus group of Ain Draham: “The greatest catastrophe for us is the migration of graduates to the big cities. Even when they speak of their region thereafter, they pretend not to belong there since they have received nothing from their region.”

5.4 Land issues and resources

Land issues and agriculture

“The problem in Ain Draham is farming, especially as 55% of the area of the region is composed of these agricultural areas,” said a retired teacher (ZV15), who believes that “agricultural land should benefit from

water and electricity.” The distribution of land is also involved in the underdevelopment of these regions. “We must change the laws and implement zoning of private property... For now the citizen has no individual land title: it is either owned by the forest management or the army,” says a member of civil society in Ain Draham (VZ16), who points out that the origins of this injustice are deep, and partly related to educational problems and migration:

There's nobody in the countryside so there is no longer any production ... Thanks to the educational policy of Ben Ali, most of their children continued their studies but afterwards found themselves unemployed, so they left the area. There is no longer production and there is no longer stability due to the lack of employment: if it were otherwise, then young people could help boost production.

The situation is even more catastrophic, as explained by two members of Ain Draham civil society (VZ18) “the earliest agricultural production historically came from this region, it is beneficial for attachment to our region. Encouraging agriculture and planting beets can be beneficial, especially if they sell at raised export prices.”

The issue of land appears also intrinsically related to deeper historical injustices. Indeed, “Sidi Makhlouf is considered among the regions which were punished by Bourguiba since 1964, because of the Yousséfiste movement,⁵⁸ there was a redistribution of Tunisian land... in October 1964 and since then until today nothing has changed to return the land of the Yousséfistes,” complains a teacher participating in a focus group in Sidi Makhlouf. To deal with this phenomenon, we should “take revolutionary decisions regarding collective lands, promoting the national economy and investment in marginalized areas. I think all this needs to be investigated urgently. We cannot wait.” indicates the representative of the Union of the Unemployed in Sidi Makhlouf.

Tourism

For these reasons, tourism in the two regions has suffered a lot, and despite all the benefits it has to offer. Thus, “Ain Draham was named a premier tourist destination during colonial times... besides it is the French who built this village as a barracks at first, but then developed it into an inhabited village,” recalls a historian (VZ11). “Ain Draham was the second most renowned tourist town known worldwide, it is the second site after the Bardo,” said a retiree (VZ14), who recalled the time of the protectorate. “The French had planned to build a cable car from the mountain to Tabarka,” but this project never happened, something many residents still regret. “Before 1957 the area was inhabited by the French, the nobility. Vagrants had no right to visit this region,” believes a retired teacher from Ain Draham (ZV15).

As elsewhere, Tunisia seems to have badly thought its tourism development, favouring a low-cost and short-term model, which has further marginalized these areas despite their natural assets. “Tourism must be environmental and not mass tourism. It is difficult, especially given that our young people are poor, and they may come to accept mass tourism projects simply to work,” lamented a retired teacher from Ain Draham (ZV15). For two members of civil society Ain Draham (VZ18):

We need to advance the region, but tourism has mafias, a rich man can claim his hotel full while it is empty, there are strategies that want to weaken the area... Low end tourism is based on the inclusive formula, and tourists spend very little.

Faced with this desertion by tourists towns have, suddenly, lost their accommodation facilities. “Under the French protectorate, there were several hotels in this area, more than 9, now there are only two, and three residences. Domestic tourism is low-end, there is nothing here, even for the night, now visitors go home or head to Tabarka,” says a retired engineer from the Ministry of Equipment in Ain Draham (ZV20). The lack of tourism, in turn, also affects the unemployment rate and reinforces the discontent of populations against the

⁵⁸ Named for the historical opponent of Bourguiba, Ben Youssef, who was closer to pan-Arab and Islamist tendencies.

central government. “Officials and experts have decided to classify Ain Draham region as a tourist area but I see no effort in this direction: the evidence, the Faj Latlel tourism project⁵⁹ is still not established, yet it could solve the problem of unemployment here,” said an unemployed youth (VZ29), who “would have liked Ben Ali and Trabelsi to have stayed in Tunisia, because then the project would have emerged.”

Natural resources

The inhabitants of both areas have consistently stressed the mess represented by this underdevelopment, especially given the important natural resources at their disposal. “Our area of Ain Draham is very rich, thanks to the generosity of nature”, believes an unemployed graduate from Ain Draham (ZV10). A retiree in Ain Draham (VZ14) cites evidence including “thyme and rosemary, geraniums that can be exploited... If we create associations that can take care of these resources, they can be beneficial. It is a remedy against burns and other ailments.” He adds: “clay and cork, they could do a lot for the region, but rabbit breeding plants and cork production stopped because of difficulties with export and infrastructure.”

The people want to see this wealth grow, and they want to benefit. “The region has 130,000 hectares of forest, or 12 billion dinars worth of cork annually. We ask for 20% of this 12 billion, even 5% would be enough for us,” says the same retiree (VZ14). “If there was a medicinal industry, that could work very well, as the forests of Ain Draham have many plants of a medical nature” said two students (ZV28). Because “the forest is a way of working for young people, to prevent them leaving the area; they must be given the means to exploit the forest... It’s a source of employment that we must preserve,” underline two members of civil society from Ain Draham (VZ18) who recommend creating a ‘forest museum’ to encourage tourism in the region.

Unfortunately, none of this wealth is either locally produced or processed. “The wood, clay, tobacco, everything is exported and young people are unemployed in the café; the city is rich yet our landscape is better than that of Switzerland,” says a retired Ministry of Health official. “There are people who do not have food while there is money in these oak trees, right here, its capital that offers a solution for us. The mountain is wealth, to burn it as a result of terrorism will not be beneficial,” he regrets (VZ21).

Similarly, “the region of Sidi Makhoulf is located on the border, industrial investment can be beneficial especially given that several Libyan trucks pass by daily, this may be good for the two countries... We can invest in renewable energy, really, if we were interested, a little further south it could bring a lot to the country,” says a teacher (VZ31) stressing the strategic location of the city. However, a historian cautions (VZ19):

There is a lack of an investment mentality, people are just looking to make easy money. The state is not interested, there is no incentive or monitoring for the region, there are people who receive grants for projects and they leave for other regions. One must facilitate transportation and export.

5.5 Urban and rural inequalities

This situation of injustice results, even within a single area, in a clear divide between urban and rural. “In the city centre, nothing is missing but those who are in the country lack everything,” considers a craftsman from Ain Draham (ZV17). “Even at the level of Sidi Makhoulf, the small towns are a mess with almost zero development, as in El Gossba,”⁶⁰ says the president of the Development and Strategic Studies Association (VZ50).

⁵⁹ This is a tourist project in Ain Draham, scheduled for 2010, but never realized.

⁶⁰ El Gossba is a rural and very poor *imada* of Sidi Makhoulf.

People in rural areas suffer most from the remoteness of hospitals and doctors, especially specialists. “We have a local hospital and a regional hospital, and also a clinic and some doctors’ surgeries but the problem for rural people is that to get here is a real challenge, people in these areas are struggling, especially because the infrastructure is in poor condition.” regretted an unemployed graduate in Ain Draham (ZV10).

Different rural delegations of Sidi Makhoulouf are also affected by the problem of the remoteness of medical facilities. “There are pharmacies in Sidi Makhoulouf but one must travel 90 km to reach them. Here there is only one clinic with a nurse in the morning just once a week. They spoke of a project for an extension but until now there is nothing concrete. There are no specialists, to see them you have to go to Sidi Makhoulouf.” adds an unemployed man from Gossba (VZ32).

Infrastructure and transport are the biggest problems for the various daily activities in rural areas. “Transport is a big problem especially for rural areas,” confirms a cook from Ain Draham (ZV12), which makes it particularly difficult to access health services or education. Similarly, a high school pupil added (ZV13):

Where I live, the road to my house is a mess despite the money spent for its construction already having been paid, but nothing was done. Rural areas suffer over this issue. To arrive on time - I mean at 8am - my school colleagues have to leave home at 5 in the morning.

People in rural areas also have housing and heating problems. “The problem with wood is that you have to find it to keep warm. Employment and water are among the problems of the region as well as housing. Some here live in houses or huts that are empty and cold,” says the president of the Khmir Achbel Association of Ain Draham (ZV22). Rural areas are also far from the police, and the people live in precarious housing: “I fear the night with my mother, no one can help us, the police station is far away, if we are in danger we have no mobile phone to call,” he added.

Rural areas are also often deprived of water and electricity, unlike urban localities. “Drinking water is there, but of a colour and a quality that is terrible, it is salty. There is a water problem in remote areas,” said a young unemployed graduate active in civil society in Sidi Makhoulouf (ZV30). Rural areas of Ain Draham are also deprived of drinking water and electricity, as a respondent deplored in a focus group in Ain Draham:

That's because of the dirty water, people drink even a small puddle of water in nature, together with dogs, sheep, donkeys. And yet sometimes it is far from their homes, they travel 4 km and 5 km to drink this. Poor women, they will look for it with a child on their arm and the water bottle on top of their backs.

The state appears here always involved, as recalled by a member of civil society in Ain Draham (ZV23): “The water is at the centre of town while other *imadas* have no access, it is necessary to go 10 km or 15 km to find, travelling on animals. I do not know why the municipality does not find a solution with investors.” These injustices in rural areas have an impact on other issues, such as education, “there is not a significant rate of illiteracy in Ain Draham, many here have studied, but on the contrary, in rural areas, dropping out of school is common,” says an unemployed graduate (ZV10).

Chapter 6 The causes of marginalization

Those interviewed are not short of ideas to explain the situation in which their areas find themselves. All point the finger at the government, past and present, and do not hesitate to see these injustices as a systematic effort to exclude them, as suggested by a historian from Ain Draham (ZV11)

For example: the tobacco factory which is located in Kairouan, at the time it was scheduled to be in Ain Draham, but was relocated for political reasons, because those who held power at the time preferred it to be in their home region. It is because of a tribal and regionalist trend and a regionalist mentality that still persists... Ain Draham in the era of Bourguiba was deprived deliberately, it was the result of political will, and this is especially related to regionalism.

But for the president of the Achbel Khmir Association (VZ22), one must go back even beyond Bourguiba to understand this injustice. "I prefer the comparison between the Protectorate and the current situation. The region was the second most famous in the world in tourism, after Johannesburg; reservations for New Year's Eve at the Hotel des Chênes had to be made in the month of September, and the announcement was then published in the newspaper *Le Monde*, everything is archived," he says. A hotel receptionist in Ain Draham (ZV26) explains:

Marginalization is systematic and studied, because culture is disadvantaged in the region, the social side as well, there is no solution... They make a media propaganda to show that the region is poor, while we have all the success factors, we just need projects... There is no party that wants the region progresses, they just want to show that it is poor ... But Tunisia can attract tourism, with snow and the wealth of Ain Draham... All that is needed is the political will, because funding exists... Unfortunately, no parties or leaders want the best for the region.

But it is also "the bureaucracy that prevents Ain Draham benefitting from its rights, it is the cause of broken promises," thinks an unemployed graduate (VZ10). "These violations were systematic and deliberate on the part of the state. We could not make our voices heard by the authorities," said a high school girl (VZ13). "Yes, that is systematic," a member of civil society in Ain Draham doesn't hesitate to share (VZ23). "There are political reasons since the inhabitants of the region are Yousséfistes," he confirms, referring to the historic opponents of Bourguiba, a pan-Arabist group and closest today to the Islamists. "There is discrimination against our region, historically coastal cities have always been favoured, officials and those from the region have never talked about the situation," says a businessman (ZV24).

The regionalism of politicians is the root cause of this exclusion, according to residents interviewed. "The phenomenon of regionalism economically and socially favoured some regions over others, such as Monastir in the time of Bourguiba. and Sousse at the time of Ben Ali: the two governorates have benefited from the greatest development", consider two students from Ain Draham (ZV28). "I must say that Bourguiba was not welcome in the region during his first visit; at the time it was not well received. The people of the region are close to the Yousséfiste movement," recognizes a member of civil society in Ain Draham (VZ16). "This is a proof of the injustice and I ask that the guilty are judged," they conclude. "He who caused this damage is Bourguiba, rest his soul. Whether it is deliberate or not, I don't know, yet he came every *weekend*, he was moving even in the city centre on foot," reports an architect from Ain Draham (VZ17). "At the time of Bourguiba, this was a Yousséfiste region, they even threw tomatoes at him during one of his visits, on his birthday. He made fun of the soldiers of Jendouba, he always looked down on us while we respected him a lot," added two members of civil society from Ain Draham (ZV18). A retired Ministry of Health official (ZV21) recalls:

I remember in 1972, I was at boarding school, the region had everything, but after they did everything to impoverish it they closed the factories; this church was a gym there was a club, there were arm chairs and culture, but everything has gone. There was the Hotel des Chênes, a true part of our heritage, but they sent the employees away. We had land, they encouraged residents to live in the regions and to sell their land, to live in public housing, we needed money to eat so they sent their daughters to work in Tunis. It is a systematic policy to impoverish the people of the region, there are no longer jobs in these areas. Before the revolution, they used a baton to stop all our requests.

The nationalization of land also had devastating effects. “The depletion of the region follows the policy of Ben Salah;⁶¹ and planting oaks destroyed the region,” adds the same interviewee. “It is allowed to burn the area, we cannot cut trees or exploit them. People at the time forced Bourguiba to invest in the region, but since there was this socialist policy that has impoverished many people, it cannot be repaired,” laments the same inhabitant. Yet, concerning the nationalisation undertaken by Ben Salah, “privatization is a problem because there was a shoe factory which employed more than 100 people, but privatization has destroyed its projects,” he says again (ZV21).

In Sidi Makhoulf, people seem more nuanced with respect to the intentional nature of the regional exclusion. “It’s a trick question,” says a young disabled man (VZ38), who continues:

There is rather an underestimation of the region with a form of regionalism, but no deliberate act to marginalize Sidi Makhoulf, because even if people wanted to do that they could not. This is mainly because of the limited capacity of the state that does not allow development in all regions of the country, and because of the underestimation of wealth in the regions... this is not deliberate but it is due rather to negligence and lack of resources of the state that these regions are in this miserable situation.

A former political prisoner from Sidi Makhoulf (VZ49) did not agree, and instead sees behind the marginalization of their region a clear political intention:

Our region is marked by Yousséfisme, which resulted in its deliberate marginalization by Habib Bourguiba. During the period of Ben Ali marginalization continued, this time because of Islamic movements and the membership of some of us in these movements.

The president of a development association (VZ50) confirms:

It is said that after independence the region was classified as a Yousséfiste area, while the government agents who worked here were generally from other regions. This means that the area was very deliberately marginalized, and even professionals from the region were marginalized.

“I think there are two reasons,” says a historian from Sidi Makhoulf (VZ19). “One is historical, related to strained relations between the Bourguibistes and Yousséfistes. The other is economic, the fact of focusing on a few processes, following the 1972 Law,⁶² as well as on the coastal cities to the detriment of the interior.” Because “it is well known that the whole south is close to the Yousséfiste movement” added the Chairman of the village of Sidi Makhoulf (VZ47):

⁶¹ A policy of cooperatives, nationalization of agricultural property and businesses which lasted from 1964 to 1969, named after the Minister of Economy of the time, Ahmed Ben Salah. See: Chouika, Larbi and Gobe, Eric (2015) *Histoire de la Tunisie depuis l’indépendance*. Paris: La Découverte: 22- 24.

⁶² This is the law promoting the establishment of wholly exporting companies.

And until today we suffer from this systematic marginalization. Besides, my father is a former Yousséfiste activist, he asks for nothing more than recognition and is preparing a dossier on his behalf to present to the IVD. We do not need hard evidence, but just to keep an eye on the coastal area as in Sousse and compare it with the South: we understand immediately that this is a systematic marginalization.

In order to be recognized as a 'victim zone', demands proof of this systematic nature, beyond the evidence emphasized repeatedly by the people. "To prove this marginalization we must return to archives and testimonies of people who lived through the situation," suggests a historian from Ain Draham (ZV11). Unfortunately, says a cook (VZ12), "the officials burned the factory to erase all evidence in our favour." So, "only the locals know the truth," says a craftsman (ZV17), and it is this oral history that should now be collected, notably by the IVD.

An unemployed youth from Ain Draham (ZV29) details that marginalization is not only material but also symbolic and linked to memory: these areas do not have their place in national history.

Marginalization was systematic since the time of Bourguiba, it was he who insisted on this so that the regions of the North remain as they are, for fear of revolts, and this continued until the time of Ben Ali. At the time of colonization it was better. The problem is that even in history there is marginalization: our region is never mentioned despite the tribes of Khmir⁶³ that marked history with their presence.

Regional inequalities at the heart of marginalization

These historical injustices, however, are not absolute: as shown in the definition of marginalization, cited above, this is a relative concept, which makes sense only in a comparative sense. But here too, people do not lack examples of these injustices. "There used to be the spring festival in Ain Draham, but it has been organized in Sousse since the revolution, it is a real loss for the city," lamented a retiree from Ain Draham (VZ14). "Cork is transported from Ain Draham to Tabarka, then to an unknown destination, without us profiting from it." It is the same for tobacco, transported to Kairouan or Mégrine. "Today these plants are transported to factories in Sfax to be processed and the choice of Sfax over Ain Draham is justified by a strong regionalism", consider two students (VZ28), who also make accusations of corruption and cronyism. "The leaders are selfish, that is systematic," says a member of civil society (ZV23). "There is a difference between coastal cities and those inland," he added, noting that "the director of the tourism school in Monastir received 5 billion to renovate the school, while the school of Ain Draham received only 2 billion." "There are no big stores," says a teacher (VZ27). "Tabarka and Jendouba and have the General Store and Monoprix, Beja has a huge Carrefour, but we have no large store to reduce the prices of small traders."

"This marginalization is due mainly to the phenomenon of regionalism that is rooted among officials, who prefer to benefit their home areas at the expense of others and usually it's coastal areas that have taken advantage of all that concerns development" conclude two bitter high school students from Ain Draham (VZ28). "There is no regional development," said one member of civil society Ain Draham (VZ16). "Yet crafts existed in Ain Draham under the French protectorate, they even created pottery factories. Now they have moved to Nabeul, they left with our raw material and our craftsmen," he mourns. "When I see projects in other regions," says a young unemployed man (ZV29), "I wonder why not in Ain Draham, and especially why it always takes our raw material... This is surely related to corruption."

⁶³ These are the tribes inhabiting the region of the extreme northwest, the current Ain Draham and its surroundings. The region itself bears the name of "Region Khmir" and mountains of this region bear the same name. In French texts they are sometimes called the "Kroumirie". See: Dabboussi Mohamed (2015) Le milieu naturel et les particularités humaines, économiques et culturelles au *Bilad Khmir* avant 1881. *Revue d'Histoire du Maghreb*, 42th year, num. 160: 185-210.

Part Two: Collective reparations: a remedy for marginalization and exclusion?

Are reparations within the framework of transitional justice a way to deal with structural injustices, sometimes systematic, inherited from the past? Because they involve direct distribution to victims of a set of assets, including the financial, they are often considered to have a greater power to ‘transform’ the lives of victims and their communities, with impacts directly visible and tangible. Monetary compensation strengthens the financial capacity of beneficiaries, and in turn promotes economic development on a larger scale. This however requires that reparations be conceived to be truly transformative, for example by rethinking the redistribution scheme of social goods nationwide, through positive discrimination, development, or micro-credit programs.⁶⁴

‘Collective’ reparations are collective, meanwhile, due to the nature of goods they distribute as reparations, the modes of distribution of these goods, and the fact that beneficiaries are a collective. They are not just symbolic but can also be material, as in the case of the reconstruction of a school building or a hospital for a specific group, marginalized in the past. The problem here is that these development measures will not only benefit the victims but *all* citizens: collective reparations often distribute ‘non-exclusive’ property, and are therefore quite poor in terms of direct recognition for specific victims. Development programs meet urgent and basic human needs, and will therefore be perceived by those who benefit as a right they deserve *as citizens* and not as a specific response related to the recognition of their status as victims. Conversely, to conceive of development in terms of reparations for the victims alone, whether individual or collective, can increase social tensions catalysing the resentment of those who do not benefit, including at a regional level. These initiatives should therefore in no way replace the obligations of the State for individual reparation or its development obligations.

Collective reparations must also be developed on the basis of extensive consultations with beneficiaries, to better understand their needs. Even collective reparations can help build *capacity* among victims, who should be principle development actors, not mere recipients of aid. Without this participatory aspect, it is possible that collective reparations measures, even in the form of access to basic services, appear rather as a way to shield the State from its transitional justice obligations.

The choice to grant collective reparations is based on several criteria. It first appears that possession of a collective identity is not necessary, even if common geographical criteria are, *at a minimum*, desirable. However, it should at least be possible to establish evidence of harm suffered collectively, the violation of a collective right to a community. Unlike development programs, collective reparations must also be linked to a project of recognition and collective memory: the symbolic side of reparations therefore should not be forgotten. If all reparations are necessarily symbolic, the additional construction of memorials or museums in the poorest communities must be considered carefully, and the resources used for this purpose should not be excessive or be at the expense of other development projects.

⁶⁴ Naomi Roht-Arriaza and Katharine Orlovsky (2009), *A Complementary Relationship: Reparation and Development*, ICTJ Research Brief. New York: ICTJ.

Chapter 7 The needs of the inhabitants of the two zones and their understanding of reparation

The impact of marginalisation on the people of Ain Draham and Sidi Makhoul emerges clearly from the data presented above, with populations in the two districts perceiving inequality between their communities and others in Tunisia. Addressing such inequality demands a renegotiation of their relationship to the state, which is demonstrated through the delivery of more effective services, and a guaranteeing of livelihoods, through government action that ensures economic activity and employment. The challenge for the IVD in developing a reparative response to social exclusion is to address the needs of affected populations through a collective approach “in line with the seriousness of the violation and the situation of every victim”.⁶⁵ Here an effort is made to understand how those interviewed perceived routes to reparation, both material and symbolic, in the light of the impacts of exclusion.

The idea of collective reparation for victim zones was not generally well understood: “The problem is that the community is not aware of this process in order to file a complaint on behalf of the area.” says a historian from Ain Draham (VZ11). Other residents were certainly more aware of the possible programmes of reparation and compensation for individuals, including through Decree No. 1 on a general amnesty for former political prisoners, but they still seem unfamiliar with more collective approaches, such as those for victims in the areas of transitional justice law. “Yes, I heard about reparations especially for those belonging to the Nahdha movement which was compensated for prison sentences and who have had financial compensation and job reservation too. But the reparation was for individuals not to areas or regions,” believes an unemployed graduate of Ain Draham (VZ10).

To implement a structural process of collective reparations in Tunisia first requires to better inform victims of their rights, so that they can actively participate as a collective and so that the remedies provided are genuinely adapted to their needs.⁶⁶ In the absence of such knowledge, it is difficult for people to really assert their rights before the IVD and authorities. Several people interviewed did not have a good knowledge of either the IVD or its possible role in addressing the systematic exclusion of regions. “No, I did not know that a community could complain as a group,” stated two high school students from Ain Draham (VZ28). Although some of those questioned certainly had some notion of the role and mandate of the IVD, including concerning reparations for victims, many seem to have few illusions about the politicization of the process and of the IVD in particular, which explains their mistrust and reluctance to engage with it. “In the media, the IVD is poorly presented, television influences people, they simplify things. Many are afraid to meet them: the IVD must put pressure on people to get information,” said a retired Ministry of Health official (ZV21).

7.1 Reparations as development

The UN General Assembly demonstrated the obligation of States to provide reparation with the adoption in December 2005 of the “Basic principles and guidelines on the right to a remedy and reparation for victims of gross violations of international law of human rights and serious violations of international humanitarian law.” Victims of human rights violations are thus granted the right to “adequate, effective and prompt” reparation of the damage suffered. If the State is not directly liable for acts committed by terrorist groups or activists for whom it is not responsible, it is nevertheless encouraged by the resolution to grant reparations to their victims too, in solidarity and to recognize the damage suffered. This UN resolution is thus a crucial

⁶⁵ Article 10.3 of the Organic Law on Transitional Justice 2013-53 of 24 December 2013, *op. cit.*

⁶⁶ For details, see previous report Barometer Transitional Justice: “To participate is to have hope: victim participation in the process of transitional justice in Tunisia” available on this link: [//www.simonrobbins.com/Barometre%20TJ%20-%20Participation%20des%20victimes%20Tunisie.pdf](http://www.simonrobbins.com/Barometre%20TJ%20-%20Participation%20des%20victimes%20Tunisie.pdf).

advance in the relationship of a state with its citizens, and a further step towards the restoration of confidence after a period of crisis and political violence.

Gradually, the right to reparations has spread closer to the issues of development, and the spectrum of beneficiaries is thereby expanded to also include collective and indirect victims. Indeed, reparations programmes are primarily intended to meet the basic needs of victims of grave violations of human rights, but they can also have a positive impact on entire communities. In addition to improving the lives of their beneficiaries, reparations help rebuild public confidence in institutions and thus to the social reintegration of victims and their families. For compensation to constitute reparation, it must however be accompanied by a clear acknowledgment of responsibility, and be linked to other forms of justice such as the search for truth, criminal prosecution, and guarantees non-repetition.⁶⁷

From a purely technical and legal perspective, reparations are expected to compensate for harm suffered by returning victims to the situation in which they would have been if the violations had not occurred. This is also to prevent perpetrators continue to enjoy the profits of their criminal actions and to compel the State to assume its responsibility for past violations. However, repairs can also be carriers of a much larger goal: seeking to truly *transform* models of social redistribution and recognition in transition, including by strengthening the financial capacity of beneficiaries and contributing to economic development. This is especially true if these measures are thought of not only in financial terms but also in the longer-term, for example in the form of micro-credit, vocational training or access to basic services. Only in this way can reparations truly become a means to ensure non-repetition of the violations suffered.

In this sense, reparations as development would also be linked to governance issues, as perceived by many respondents, and this aspect also includes a highly symbolic dimension. The historical exclusion of their region would therefore not only affect their life and their future, but it would also have affected the relationship of these communities with the Tunisian state. Respondents spoke of the need to “restore moral order,” or gain “moral satisfaction” through reparations, “some think that reparations must be material when it is especially important to repair the moral order” said the president of the local social reintegration unit in Sidi Makhoulf (VP46). “What it is necessary to fix is deeper, a relationship with the truth.” “For me, moral satisfaction is more important than material benefits. When we recognize that it is a victim and honour it, that's enough,” said the President of a development association in Sidi Makhoulf (VZ50). So reparations appear as a way to renegotiate the relationship between the victim zone and the state, The chairman of the village council of Sidi Makhoulf (VZ47) said:

Reparations should be made in the form of development projects, it would be a form of reconciliation. I speak as an individual, a person who has suffered a violation must be repaired individually, and it is to her alone to decide whether to forgive or not. Me personally, I place the public interest above my personal interests, and I prefer that reparations benefit the whole region, so that the largest number benefits... I have to do all that is in the interest of citizens, to repair the relationship.

Other people think that reparations will allow them to improve the representation of their area in governance and to ensure that members representing them in the Assembly are all from the region. The symbolic elements of reparations, such as apologies or public recognition, therefore appear dependent on material repairs. “Formal recognition is an element of reparation, a first step, but we also need material compensation” noted a historian from Ain Drahem (VZ11). Some respondents think that apologies are insufficient to cope with the physical effects of exclusion. “An official apology from the state is not enough, this is not what will give us food. We need to boost production and put young people to work.” said a retiree (VZ14). A teacher from Sidi Makhoulf (VZ31) talks of having refused the compensation offered to protest against the failure of the transitional justice process to date, and with respect to the urgent needs of others:

⁶⁷ Rama Mani (2002) *Beyond Retribution: Seeking Justice in the Shadows of War*. Cambridge: Polity.

There are a few suspected cases, the poor have not benefited while some records should not be a priority. There are activists for independence, there are others who were against Ben Ali, in my case, and it was voluntary, I refuse reparation. It must be said that even Hama Hammami⁶⁸ has refused reparation: activism is not for sale. There are people dying that require urgent reparations.

Here we find an idea already presented in the previous report of the Barometer,⁶⁹ the refusal of some victims to consider themselves as such, because they rather see themselves as “militants” or “survivors”.

The economic marginalization of regions is measured not only in quantitative terms, by GDP or other objective indicators, because it is intrinsically human, linked to a feeling, that results in an increased sense of vulnerability and inability of these individuals to participate and act in the public square. It is for this reason that many respondents say they are disappointed with the revolution, and they sometimes even claim to prefer their conditions before the revolution because their expectations were probably less. It is precisely here that transitional justice, in all its aspects, can provide a coherent response to the effects of marginalization and widespread economic exclusion: recognizing the stories that these people have lived, their desire for justice and their right to compensation, and also in providing the means to express themselves, as holders of equal rights.⁷⁰

The concept of *capability* conceptualized by Amartya Sen,⁷¹ illustrates this richer and more subjective dimension of development, advancing the idea that justice concerns not only ‘primary goods’ as measured by GDP that should be included in the notion of development, but also some ‘basic freedoms’ that make us truly *autonomous* agents. Recognition of these capabilities is essential to the process of reconstructing both the identity and the economic capacity of individuals and collectives after political violence, in a period of transition, finally allowing them to be fully-fledged *agents*, and no longer victims. Poverty here is not only a lack of material means, but it is also, and primarily, a poverty that dehumanizes, reducing a person submitting to it to their basic physical needs, and preventing her from participating in public life. It certainly makes the individual unable to satisfy their basic needs, but it is also linked to shame, a darkness that prohibits she who is a victim to enjoy public life.⁷² “As a consequence, the “capacity to aspire”⁷³ of the poorest is further diminished, and they are unable to assert their rights vis-à-vis state institutions. Or, as stated by the UN Special Rapporteur on Transitional Justice, Pablo de Greiff, “the contexts in which we cannot make a claim cannot be legitimately considered spheres of rights”.⁷⁴ In this sense, Ain Draham residents effort to file a case before the IVD as a victim zone is also a way to overcome this confinement caused by marginalization, and may have longer-term structural effects on the collective of a community that finally considers itself as a holder of rights.

Political violence appears, in the light of this study, as invested with intrinsic social meanings: it involves the relationship between the citizen and the state, destroying not only individuals but also their framework of

⁶⁸ Hama Hammami, founder and president of the Workers Party, spokesman of the Popular Front, the main political party of the opposition in the Tunisian parliament, said in July 2012 that he and the party activists could not accept to be compensated for their activism.

⁶⁹ “To participate is to have hope”, *op. cit.*

⁷⁰ UN (2013) United Nations Special Rapporteur on the Promotion of Truth, Justice, Reparations and Guarantees of Non-Recurrence, Report to the General Assembly, 23 August 2013, A / 68/345.UN: New York.

⁷¹ Sen, A. (1993) *The quality of life*. Oxford: Oxford University Press.

⁷² See Andrieu, K. (2012) *Transitional justice. South Africa to Rwanda*. Paris: Gallimard.

⁷³ Appadurai, A., “The Capacity to Aspire: Culture and the Terms of Recognition”, in *Culture and Public Action*, Vijayendra Rao et Michael Walton (dir. publ.) Palo Alto, Californie, Stanford University Press, 2004).

⁷⁴ UN, *supra*, n.69, p.52.

meaning, their standards and social benchmarks. On the contrary, many studies show that an increase in social trust leads to a revival of economic growth.⁷⁵ ‘Human development’ means precisely this process that broadens the capacity of people to choose: the opportunity to live a long life in good health, to education and to enjoy a decent standard of living, but also political freedom, guaranteed human rights and self-respect. UNDP has clearly taken the concept of development formulated by Sen, with his idea that economic resources alone are insufficient to ensure the well-being of a population, and one must also take into account *the goals* to which these resources are used and what they can accomplish.

The Tunisian case seems *a priori* to justify this interpretation: in fact, GDP alone is insufficient to assess the actual degree of development of a country. Until 2010 Tunisia was making notable progress relative to other countries in the region: national income had tripled in three decades, and various reports showed that almost all Tunisian children were in school, the middle class had grown rapidly, that infant mortality had dropped sharply and life expectancy was much higher than in other countries with the same income level. These positive results have however been unable to capture the deep public discontent, the injustices ravaging the country, and this blindness explains in part why the revolution surprised so many people. These indicators have failed to measure the aspiration of people to live a dignified life, free from fear, need, injustice and discrimination.⁷⁶

The reconciliation between transitional justice and development seems to be a possible track to reintegrate these economic and social factors, to make transitional justice not just a one-off tool ‘post’-conflict but also, and more fundamentally, a transformative measure to prevent future violence.⁷⁷

7.2 Truth and Recognition

The search for truth is part of this same dynamic of recognition, and appears in the eyes of the people as a fundamental value, benefiting victims as both a collective and as individuals: it is a first step to both material repair and to change the deep behaviour of the state towards them. For this, it is important that thorough investigations be conducted to understand the causes and the deep springs of the system of despoliation, nepotism and corruption that placed these regions in such a situation. The president of the Development and Strategic Studies Association in Sidi Makhoul (VZ50) explains:

So far, I do not understand the position of the state vis-à-vis our situation. Is it aware? The coming development plans foresee projects in several areas of our region, in order to exit from marginalization. It’s a form of compensation. It may be moral, as with an honour, an apology, or even recognition by building a memorial to remember. But for me, the best compensation is the development of the region. This is both recognition and an indirect apology.

Yet recognition alone is therefore not enough, and makes sense only when accompanied by a material element: “recognition, it is not enough to offset the poverty. Some do not even have money for a coffee, to cut their hair, they still receive the parental allowance. Recognition and forgiveness are not enough, we must also have material compensation”, believes a retired engineer from the Ministry of Equipment in Ain Drahem (VZ20).

⁷⁵ Paul J. Zak and Stephen Knack (2001) Trust and Growth, *Economic Journal*, Vol. 111; and Stephen Knack (2002), Social Capital, Growth, and Poverty: A Survey of Cross-Country Evidence, in *The Role of Social Capital in Development: An Empirical Assessment*, Christiaan Grootaert and Thierry van Bastelaer Cambridge (eds.), UK, Cambridge University Press.

⁷⁶ See *World Development Report 2011, Conflict, Security, and Development* (Washington: World Bank, 2011), chap. 2 and 3.

⁷⁷ Supra Roht-Arriaza and Orlovsky, n.63, p. 49.

The structural and historic nature of marginalization also gives an intergenerational dimension to this recognition: it is necessary that the youngest understand the underlying reasons for the difficulties they face today. “The new generation, and even the one before, is not aware of the injustices that the region has suffered. We must tell them the truth, reveal the causes of injustice,” insists a civil society activist (VZ16). Others interviewed have meanwhile stressed the necessary links between the revelation of truth, the accountability of the state in this exclusion, and the need to end the poverty that is the result of repeated violations.

Memorialization

Some respondents pointed out that collective memory, especially embodied through museums and monuments, is a physical embodiment of truth and recognition to which they aspire, “Of course, a memorial proves the activism of the inhabitants of the region,” highlights the President of the Achbel Khmir Association (VZ22). “Tell the truth and recognize it in public? Yes why not ... But a memorial, it would make us very happy,” says an unemployed rural women from Ain Draham (VZ25). Other residents, however, have no interest in such symbolism, because it would not change their current situation. “We need concrete decisions... A memorial is expensive, it is better to invest funds in projects,” considers a hotel receptionist in Ain Draham (VZ26). “Words are not worth anything today. A memorial is symbolic, it can do nothing,” adds a shopkeeper (VZ24). However, “a memorial is always better than ignorance. It will bring infrastructure, perhaps, but a memorial will not give me anything to eat or a livelihood!” Said an unemployed man from Sidi Makhlouf (VZ33). These mixed views underline the importance of broad consultations with communities prior to any policy on public memory, in particular to develop small projects that do not divert funds that inhabitants crucially needed elsewhere.

7.3 Material and collective reparations

To address the material effects of marginalization, including a lack of infrastructure and services, poverty and unemployment, people also require specific compensation. “If the regions benefit from regional development, the unemployment rate will drop... The state can integrate these areas in the cycle of the economy ... The South is rich in salt, which is easy to export, and also in oil and gas. The region contributes significantly to the national economy, yet it receives nothing in terms of regional development,” regrets a historian from Sidi Makhlouf (VZ19).

Respondents identified three elements that could fit a restorative approach, understood here in terms of economic development: private investment to increase economic activity, investment in infrastructure and local projects, and finally, the provision of better public services. “We need to increase the salaries of people, and create jobs in services and factories,” says a historian in Ain Draham (VZ11). For others, the relationship between individual and collective reparations seems automatic, “Once the area has received reparations, individuals will benefit directly,” explains a high school student (VZ13). In Ain Draham in particular, support for the creation of a more favourable economic environment for investment, particularly in the tourism sector, was often presented as a possible form of reparation, as a way as to return the region to its prestigious past. “I think the tourism sector, in order to restore its status in Ain Draham in the area ... I would launch a cultural association. I think we first need to develop infrastructure and tourism, and create spaces to bring tourists.” proffers a historian (VZ11).

In Sidi Makhlouf, the vice director of the cultural centre (VZ36) identified several industries in need of support, but also considered as it was first the state that should intervene to ensure that good wages were paid, and that businessmen did not exploit their staff:

Mussels can be a major source of employment for the unemployed in the region. But often, people suffer, especially women, they make 2 dinars a day, they exploit people. This is the business lobby, we can't do anything. Yet the region has many resources, not just the mussels: there are also fish, shrimp, but they receive no help from the state.

Market liberalization would be a part of the solution to address the underdevelopment of these regions. But such openness will also require state intervention, not only in the form of investment but also to ensure a more effective regulation of labour. Indeed, the issue of corruption and establishment of conspiratorial networks, both local and national, is still unresolved, pending an effective approach by the transitional justice process, and this is a major barrier to implementation of these measures. To learn how to deal with this legacy will be an essential element of the reform agenda of reparations.

The development of better infrastructure also appears a concrete way to address the material consequences of marginalization, including poor roads and lack of cultural centres, as claimed by two high school students from Ain Draham (VZ28)

The authorities must give us the importance they promise us, build roads, create jobs, develop cultural activities... The least we can do is improve cultural and social life and guarantee distribution of a part of national development benefits for the inhabitants of Ain Draham.

A retiree added (VZ14)

The resources of our region must be returned to us, we want to keep our human capital. People who have committed crimes must be tried... What matters to me is the interest of Ain Draham, that it regains its prestige of the 1960s.

These observations also show that the greatest loss facing these communities is the flight of its inhabitants: the phenomenon of migration, especially of young women who become maids in Tunis, threatens to destroy them completely. Most requests of the population are reparative in nature: they appear first to seek return to the situation they were in, or think they were in, before their exclusion. This story echoes a common definition of reparations as a return to the *status quo ante*. Yet in reality, it is difficult to assess this, over 50 years have passed since the reference point referred to by locals. This difference seems to suggest that an entirely new relationship with the Tunisian state should be constructed: this is precisely the role of reparations when they are actually of a *transformative* nature.

Thus, reparations programmes can take truly innovative forms. There may be structural aid programs granted to entire communities: scholarships, privileged access to health or housing, preferential recruitment in the public sector ... These measures have the advantage of responding to an immediate need, and can have a positive effect on the long-term promotion of social justice in marginalized communities. But if reparations programmes provide only basic services, they risk losing all their symbolic power and true 'restoration' because the property distributed (school, access to medical services, infrastructure...) are all benefits to which citizens have the right *as citizens*, and not specifically as victims.

One way around these difficulties would be to consider some affirmative action programmes as already constituting a form of reparation. Indeed recognition, establishment of a just and egalitarian society does not imply necessarily treating all citizens in strictly uniform and equal manner, especially in a context of transition marked by such strong injustices: to promote equality may instead involve a different treatment of those who are different, for example by promoting their access to employment, health care, or education. It thus creates, temporarily, "the conditions without which a strict practice of distributive justice will perpetuate past injustices and do not take into account the difference in people's situations".⁷⁸ This policy was notably implemented in South Africa through the *Black Economic Empowerment* (BEE) programme. It acknowledged that the mere principle of equal opportunity is insufficient when starting positions are so unequal. In Tunisia, such measures are also consistent with Article 12 of the Tunisian Constitution of 27 January 2014, which states: "The state is working to achieve social justice, sustainable development, a

⁷⁸ Alain Renaut (2005), *Equality and Discrimination* Paris, Seuil, coll. "Points": 19-20.

balance between regions, with reference to development indicators and relying on the principle of positive discrimination.”

7.4 The fight against corruption and institutional reform

The design of reparations is also strongly linked to the reform of state institutions, to ensure non-repetition of violations in the longer term. The most necessary reform in the eyes of respondents is the fight against corruption and the need to put an end to it at all levels of state and regional administration, particularly in terms of service provision and the management of public budgets.

This need was particularly noticeable at the local level, where people feel that the resources for their region have been diverted improperly in the past. Several of those interviewed certainly raised reconciliation as a possibility, but all require first to know the truth about the extent of these practices, and possibly also prosecution, to open the way to forgiveness. “Yes, I am for reconciliation if justice is done first,” believes a historian from Ain Draham (VZ11). “The corrupt should admit their mistakes, ask for forgiveness, and only then can forgiveness be considered, it is important to achieve reconciliation.” This type of argument is not without an echo in the recent debates around a bill for economic reconciliation in the name of boosting growth and investment in the country, led by President Beji Caid Essebsi after the attacks of Bardo.

Chapter 8 Recommendations

8.1 The recommendations of the two victim zones

Although marginalization is visible in its material effects on poverty, lack of access to basic resources and the widespread perception of a failure of the state in these areas, the communities interviewed seem to have understood that reparations must also confront the deep roots of these inequalities, not only their direct symptoms. If the people questioned first require the provision of material aid, they also understood that a real change in their situation will require above all, a transformation of the behaviour of the state towards them.

This confirms the idea that reparations would mark a real turning point in the history of violations: thanks to them, the signal that is sent to residents is that areas such as Ain Draham and Sidi Makhlouf are now treated like all other regions of the country, they are with them on an equal footing. The healing process must begin with an honest and full disclosure of the truth about the past, including the overhaul of the system of patronage and corruption, and a formal acceptance on the part of the Tunisian State of its own responsibility for the marginalization of these disadvantaged areas. This symbolic recognition, however, only actually make sense if it is accompanied by other concrete measures of reparation to have a genuinely positive impact on the lives of these people.

Beyond reparation, the opening up of these areas also depends on reviving the economy. The question therefore arises whether transitional justice, as driven primarily by the IVD, is an asset or a hindrance to this, as discussed in the current public debate. Advocates of the IVD say it is a necessary instrument to further the objectives of the revolution, and it alone can help restore the confidence and legitimacy necessary to the Tunisian State in this time of multiple crises. But critics see it as the relic of a bygone policy era and notably an obstacle to economic growth, particularly due to the broad mandate of the IVD which allows it to also investigate corruption cases and propose arbitration action. The draft economic reconciliation law, supported by the President since March 2015, would reduce the powers of the IVD and allow businessmen and officials implicated in corruption and tax evasion to be granted amnesty by paying a financial contribution of 5% of the sum of repatriated assets through a new arbitration committee placed this time under the tutelage of the executive, and not a part of the IVD. These debates and tensions between different political camps since the announcement of the proposed Economic Reconciliation Act after the bombings of Bardo, have only delayed the implementation of actual programmes to aid the economic development of marginalized areas and the fight against corruption. Reparations should therefore be considered one aspect of a broader process of institutional reform that has become urgent and necessary, and in particular will require greater transparency and greater confidence between the people concerned in deprived areas and politico-economic elites in the Sahel.

8.2 Implementation

The integration of economic crimes and corruption in the framework of transitional justice

Despite these attempts to bypass it, the IVD remains the main institution responsible for the design and implementation of reparations programs, including collective reparations for the “victim zones”. It is important in this respect to recall some figures demonstrating its achievements and its potential: between 2014 and 2015, the IVD received about 22 million dinars of public budget for its operating expenses, including 2 million that can be accessed to compensate in an emergency. Since December 2014, 30,000 applications have been submitted to it, almost two thirds concern violations of civil and political rights, according to IVD. This means that almost one third of the depositions taken are related to violations of economic and social rights. Furthermore, the IVD has received 3,150 requests for arbitration, the majority related to financial crimes and corruption. A ‘fund for dignity and the rehabilitation of victims of the

dictatorship', charged with symbolic and financial reparations, should be implemented in 2016, with substantial support from UNDP, the European Union and Germany.

To regain its role as the central institution in the implementation of these reparations, but also to put an end to attempts by the executive to bypass it, the IVD must strive to finally hold public hearings in the regions and to accelerate the implementation of reparations programs. Only such an approach will prevent the IVD becoming, like the Equity and Reconciliation Commission of Morocco, a forum to simply register the suffering of victims with no effective power. On its side, the state must finally understand that it is in its immediate political interest that the IVD works and delivers results, including in the economic field. The IVD is indeed today in a fight against a certain mistrust or even hatred from political power that has led many young people, including in impoverished regions to radicalization. Recognizing the historical roots of marginalization of inland areas would also prevent social conflicts and violence which may arise from the increase in inequality between North and South, a reality tragically demonstrated in the clashes in the regions in January 2016.

Defining the victim zone

To provide collective reparations, the IVD must first define what constitutes a 'victim zone' within the meaning of the law, which remains ambiguous about its exact nature. Some actors have said that the zones in question must be linked to the administrative borders of governorates, as in the complaint filed by Kasserine with the support of FTDES and ASF,⁷⁹ despite the fact that the law seems more flexible and leaves the definition open. Given the data collected in the interviews, it appears that, to genuinely confront the legacy of marginalization, it would rather be more appropriate to focus on smaller geographical entities, established on the basis of a *community* sharing the same experience of past exclusion. It is this assumption that justified the choice of Ain Draham and Sidi Makhlouf.

Work at the level of delegations, rather than governorates, also allows a better analysis of the particularity of the experience of these communities in all its uniqueness. The responses of residents interviewed here suggest in fact that neighbouring delegations have had fundamentally different experiences that appear to them as less serious. Using a larger geographic area as the basic unit of analysis of marginalization reduces the ability of the IVD to respond effectively to these differences in perception, and the needs that emerge from them. It is important to maintain flexibility in the definition of victim zones to acknowledge the diversity of the human impacts of marginalization.

Selecting victim zones

The interviews suggest that there is both a lack of knowledge concerning procedures for submission of complaint as a 'victim zone' to the IVD, and a real lack of capacity to do so. It is possible that the eight collective complaints currently lodged with the IVD on behalf of geographic areas are not representative of the nature and scope of exclusion under the former regime. It is precisely because of their marginalization that affected communities cannot perform this step: they remain invisible to the state, precisely because they are at *the margins*. The IVD cannot rely solely on the evidence already received within the prescribed time period, due to expire in June 2016. Rather, it should continue to solicit submissions from marginalized areas, potentially to be recognized as 'victims' in order to receive complaints after that deadline, and itself collect - in collaboration with these communities - the quantitative and qualitative data necessary to establish proof of their marginalization and the most appropriate remedies to address them.

Community participation in the reparations process

The interviews suggest that a deep overhaul of the governance model, including the decentralization of political and economic power, but also a better distribution of goods and effective programmes against corruption, are appropriate forms of collective reparation, as well as being guarantees of non-repetition.

⁷⁹ Supra ASF / FTDES n. 33, p. 11 .

However, people seem to often ignore their own role in the exercise of this new form of governance: they formulate demands to the authorities, but forget that they themselves do not always interact with them, and that they remain underrepresented. Channels of communication between these marginalized areas and the political and economic elites must urgently be found, including to better articulate the needs of these communities to the authorities for reparations. It is important that reparations programmes do not focus only on the actions of officials at the expense of victims, risking enhancing the position of passivity of victims. This is precisely the danger of the proposed Economic Reconciliation Act, which gives victims, both individual and collective, no role in the arbitration process, and thus maintains their invisibility. Victims must not be mere recipients of aid given, but full participants in the process by which, finally, they see themselves as equal citizens and rights holders. In order to truly redress past violations, it is necessary instead to create: “programs that enable victims to play a part in critical societal institutions offer a more thorough remedy to past harms by fostering victims’ moral agency.”⁸⁰

This participatory and consultative approach not only meets the needs of residents, but also takes into account the range of needs and diversity of effects of marginalization on them. Indeed, our interviews show that economic and social exclusion does not affect all members of a community in the same way: the differences between urban and rural areas and between genders or age groups were highlighted again. Collective reparations should not therefore treat all members of a community equally, or perceive their needs as homogeneous, but must negotiate a path between the complexity of varied needs and the finite resources available to understand and address them. This differentiated approach is in no way contrary to the principle of non-discrimination, since it allows on the contrary to concretely achieve non-discrimination. The interviews also suggest that positive discrimination would constitute a suitable form of reparation.

8.3 Public truth-telling and symbolic reparations

The revealing of the truth about violations suffered by communities is a prerequisite for the provision of other forms of reparations, including both the symbolic and material. Respondents seem so think that only the public revelation of the truth, by the Tunisian government, will reintegrate them into the Tunisian nation and into the national narrative. It should also contribute to a better understanding of the functioning of the old regime, in the areas of corruption and financial malpractice, which are often the root cause, the driver and aggravating factor in other serious human rights violations abuses committed elsewhere. Neglecting this aspect to only focus on violations of bodily integrity (torture, rape, arbitrary detention etc.) would be to overlook a whole section of the country's history.

This truth must also be revealed in a way that speaks directly to the people involved, and contributes in a participatory manner to the recognition of their experience of exclusion. Ways to achieve this include:

- The holding of public hearings in marginalized communities, during which the latter will share their own experience of economic exclusion, its human and social impacts, and see these disseminated them widely in local and national media (radio, television, social networks etc) to promote recognition this marginalization and its systematic nature at the national level. Specifically trained staff dedicated to this task could be recruited within the regional offices of the IVD.
- Thoroughly investigating the functioning of the system of corruption, nepotism and cronyism of the old regime, to update past abuses and demonstrate the legitimacy of the claims of the concerned regions. This investigation would also counter the executive's efforts towards amnesty for corrupt businessmen without any form of justice, and which notably includes their anonymity in the arbitration proceedings.

⁸⁰ Waterhouse, Carlton (2007) The Good, the Bad and the Ugly. Moral Agency And The Role of Victims Reparations Programs, *University of Pennsylvania Journal of International Economic Law*, 31 (1).

- Officially recognizing the marginalization of these regions, for example through the visit of senior state officials to areas affected to present their apologies in person; disseminating the experiences of people in these areas through a national awareness campaign (documentaries, media etc) on the history of marginalization, on its political causes and human impact in these areas; or through the construction of sites of memory (memorials, museums) in the concerned localities. To ensure that material and symbolic reparations remain associated, one possibility would be to build memorial sites that are also sources of income for the communities concerned, which would also boost tourism.
- Ensuring a better representation of the victim zones at the national level, both by appointing officials from these regions, to represent their interests in state institutions, and by promoting a more efficient and transparent dialogue between the politico-economic elites of the North and the South, finally promoting real integration of the latter in the national administrative system.

8.4 Reintegrating excluded communities

Reparations, according to residents interviewed, are primarily intended to create a favourable economic climate to guarantee residents a certain income and allow them to access basic state services. A profound change in the behaviour of the state, and in its relationship to excluded communities is necessary to ensure non-repetition of violations. The notion of participation is again fundamental, not only in the process of reparation, but also, more broadly, for good governance: a profound transformation must take place in the way these communities perceive their own relationship to the State, and confidence must be restored. Reparations are just a way for the state to make amends in the eyes of these communities, as well as provide basic services, and promote transparency and accountability in budget management.

Decentralization and participatory governance

Decentralization, enshrined in the Constitution of 2014, is an interesting avenue to help build this new relationship. The 284 municipalities that make up the country could well serve as a basis to promote a truly restorative, transparent and participatory approach to the distribution of national expenditure. Otherwise, the principle of 'local governance' risks being an empty shell or, worse, create new opportunities for corruption and patronage for ruling local elites, as has been observed in Kenya following the recommendations of the Truth, Justice and Reconciliation Commission (TJRC).⁸¹ The TJRC had proposed the creation of a 'Community Development Fund' to support development projects at the local level, promoting a more equitable distribution of resources between regions and correcting existing inequalities: 2.5% the state budget was devoted to the fund, but the practical impact on the ground, in the absence of real efforts to fight against corruption, were minimal.⁸² To avoid repeating the same mistake in Tunisia, local authorities must be able to make an accurate and transparent monitoring of the budget allocated to the regions. Actions has already been initiated to this end, including through training local civil society organizations on the monitoring of budgets, provided by the United Nations Office of the High Commissioner for Human Rights. These actions could be pursued with the support of the IVD to explicitly highlight the link between these efforts and the broader context of reparations and guarantees of non-repetition, and therefore with transitional justice itself.

Participatory governance allows citizens and communities to influence more directly the political decisions that affect them, not through their representatives or even through the intermediary of civil society. It helps to empower people in deprived areas, so as to remedy the human impacts of political and social exclusion. Participatory budgeting and monitoring of budgets are therefore interesting possibilities in this regard, to control corruption at the local level while empowering vulnerable groups and people in these areas.

⁸¹ Ryan Sheely (2015) Mobilization, Planning Participatory Institutions, and Elite Capture: Evidence from a Field Experiment in Rural Kenya, *World Development* 67: 251-266.

⁸² Christopher Ngacho Debadyuti and Das (2014) A performance assessment framework of development projects: An empirical study of Constituency Development Fund (CDF) construction projects in Kenya, *International Journal of Project Management* 32 (3): 492-507.

Reparations and guarantees of non-repetition

As emphasized by the residents interviewed, the establishment of new local and national institutions that are trustworthy and accountable to them are routes to halting the marginalization of inland areas, and therefore, also a guarantee of non-repetition. It is here that the state has an important role to play: while it is the role of the IVD to design the modalities of reparations for victim zones, it is the responsibility of the State to transform its own relationship with its citizens. The Tunisian political and economic elite must understand that transitional justice in general is also in their own interest, and even more so in this time of a deep crisis of legitimacy.

The principles highlighted throughout this report, including transparency, participation, and accountability, thus relate not only to reparation but also to all other areas of citizenship. The IVD may help put these issues at the heart of public debate, potentially overcoming current political divisions to build new momentum and showing that transitional justice is as much about the future as the past.

8.5 Summary of recommendations

- The notion of the *victim zone* must be understood as including any area within which a population shares a common experience of marginalization, whether or not this corresponds to administrative borders;
- Victim zones should not only be recognized through the formal process of submission to the IVD, but also more proactively, by a search for truth led by the Commission beyond the legal time limit for submission to the IVD;
- The participation of communities should be valued at each stage of the reparations process, including through the organization of public hearings in which residents can voice their needs and narrate their experiences;
- Existing differences within affected zones must be considered in the development of reparations programs, to avoid creating new forms of marginalization;
- The implementation of reparations, including through development programmes, should not be done in a way that creates new tensions with other areas or regions that have not benefited;
- To ease social tensions, the IVD should quickly organize public hearings and broadcast these on national television, to place again at the heart of public debate issues related to cronyism, corruption and nepotism.
- The IVD must thoroughly investigate the forms, causes and effects of the marginalization of regions, at the political and economic level, with the support of civil society and the regions concerned, in an open and public manner;
- The state must formally recognize its role and responsibility in the history of the marginalization of these zones. This recognition should adopt a form and be on terms determined by the affected communities, through extensive consultations;
- The currently ongoing decentralization process should be more explicitly linked to the reintegration and opening up of inland regions, and the new local structures in place must be seen more clearly as also constituting forms of collective reparation;
- The new local and devolved administrations should try as much as possible to use participatory modes of governance, particularly in budgeting and monitoring of public expenditure;
- The opening up of marginalized areas also depends on economic recovery at the national level: it is important to stop the political bickering that still hinders the implementation of development programmes and the fight against corruption;

- Political elites must understand the interest that transitional justice can represent for them; an enhanced IVD capable of carrying out its tasks, including in economic matters, can indeed contribute to reducing the spiral of radicalization of youth, soothe social tensions, rebuild broken institutional trust, and thus boost growth.

Chapter 9 Conclusions

The success of the transitional justice process in Tunisia depends as much on the restoration of economic and social justice between different regions as on investigations and prosecutions of perpetrators of grave violations of human rights. The IVD, to fulfil this complex mandate, has two important assets: the concept of victim 'region' or 'zone', defined by Organic Law No. 53, and the Sub-committee for Arbitration and Reconciliation to investigate economic crimes and corruption, with the possibility of recovering some looted assets that could in turn benefit marginalized regions. To date, 8 geographical entities have filed their cases as 'victims' to the IVD: the question of how the IVD will now manage these demands, and what types of reparations they will propose for them, remains open.

The interview data collected in Ain Drahem and Sidi Makhoulouf reveal how ordinary citizens perceive the exclusion plaguing their community, and the gap that persists between their current economic situation and that of other regions. They also demonstrate the extent of the human consequences of this marginalization, and its adverse effects on the enjoyment of fundamental rights such as the right to health, culture or education. These results should of course be supplemented by thorough investigations, including using quantitative indicators, and it is not our intention here to prove that this exclusion was systematic or intentional: this will be the role of IVD and the state itself. Rather, we have sought to listen to people, to hear their testimony and thereby understand how decades of marginalization can impact a community.

Exclusion, in fact, affects almost every aspect of inhabitants' daily life. From birth, when access to hospitals and health care is made difficult by the lack of infrastructure, the degraded state of the roads or the lack of specialized doctors, to childhood, when challenging routes to school, the poor quality of education and the absence of any cultural framing discourage the young to continue their education. Young adults decide to leave, and as a result these communities are dying: marginalization, ultimately, threatens their extinction. Women in particular bear the brunt of this exclusion: they are the first to lose their jobs when factories close, and in their work collecting oysters or as maids they are subject to various forms of exploitation and abuse. Early marriage appears to them as the only possible outcome, in the absence of receive a decent education.

More generally, the marginalization of these areas has destroyed the relationship of these citizens to the state: many now refuse to call themselves Tunisians, and perceive the difference in treatment from the regions of the Sahel as a trauma. This stigmatisation, this loss of confidence in themselves, prevents them from claiming their rights or to present their demands to the authorities, reinforcing further their own exclusion. They become *invisible* in the eyes of the state, and this alienation is reinforced by the persistence of corruption in local government, reducing the resources available to the community and preventing them from being properly represented at national level. The people involved feel helpless, unable to act, and many even come to regret a revolution that seems to have brought them nothing.

These effects show that the main role of reparations, in addressing this legacy of marginalization must be permit a renegotiation and transformation of the relationship of these communities with the state. The lack of material resources and infrastructure can be readily repaired through the provision of services and goods that ensure equal treatment with other regions of the country. But more will be needed to rebuild this broken relationship, and it is here that reparation must also be understood as a guarantee of non-repetition. Reparation should include institutional reforms in the long term, demonstrating the will of the State to cease all forms of discrimination and to finally recognize the dignity of the excluded regions. Development aid, affirmative action, the recovery of looted assets, effective local governance and the fight against corruption must always be linked to accountability and the search for truth, in order to genuinely make a form of *reparation* and not simply measures to which these communities have a right anyway *as citizens*.

Despite the criticism it faces, the IVD today represents a unique opportunity to contribute to these efforts and thus to rebuild trust and legitimize a state in crisis. It must be supported because its work can ease ongoing social tensions, boost growth and even help the fight against the radicalization of youth at the margins, finally reintegrating those areas excluded from the social fabric and from national history.

Appendix I. List of interviewees

ZV1	F	UNDP	Tunis
ZV2	M	President of the Arab Institute for Human Rights	Tunis
ZV3	F	ASF	Tunis
ZV4	F	RSF	Tunis
ZV5	F	AFTURD	Tunis
ZV6	F	OHCHR	Tunis
ZV7	M	FTDES	Tunis
ZV8	F	ICTJ	Tunis
ZV9	F	IVD	Tunis
ZV10	F	Unemployed graduate, active in civil society	Ain Draham
ZV11	M	Historian	Ain Draham
ZV12	F	Cook in a restaurant	Ain Draham
ZV13	F	School pupil	Ain Draham
ZV14	M	Retired café worker	Ain Draham
ZV15	M	Retired teacher	Ain Draham
ZV16	M	Civil society activist	Ain Draham
ZV17	M	Artisan	Ain Draham
ZV18	Mx2	Civil society activists	Ain Draham
ZV19	M	Historian	M édenine
ZV20	M	Retired engineer	Ain Draham
ZV21	Mx2	Retired from the Ministry of Health	Ain Draham
ZV22	M	President of the Achbel Khmir Association	Ain Draham
ZV23	M	Active in the Achbel Khmir Association	Ain Draham
ZV24	F	Business person	Ain Draham
ZV25	F	Unemployed rural woman	Zouitina, Ain Draham
ZV26	M	Hotel Receptionist	Ain Draham
ZV27	F	English Teacher	Ain Draham
ZV28	M+F	High school students	Ain Draham

ZV29	M	Unemployed driver	Ain Draham
ZV30	F	Young graduate active in civil society	Sidi Makhlouf
ZV31	M	Teacher	Ragouba, Sidi Makhlouf
ZV32	M	Unemployed	Gosba, Sidi Makhlouf
ZV33	M	Unemployed	Gosba, Sidi Makhlouf
ZV34	M	Retired	Gosba, Sidi Makhlouf
ZV35	M	Worker	Gosba, Sidi Makhlouf
ZV36	M	Deputy director of the cultural centre	Sidi Makhlouf
ZV37	F	Youth facilitator	Sidi Makhlouf
ZV38	M	Handicapped resident	Ragouba, Sidi Makhlouf
ZV39	Mx2	High school students	Sidi Makhlouf
ZV40	F	Rural woman	Bouaicha-Maghraouia, Sidi Makhlouf
ZV41	M	Hospital technician	El jorf, Sidi Makhlouf
ZV42	M	Former politician MDS movement	Ragouba, Sidi Makhlouf
ZV43	F	Member of a development association	Sidi Makhlouf
ZV44	F	Rural woman	El jorf, Sidi Makhlouf
ZV45	M	Hotelier	M édenine
ZV46	M	President of local social reintegration unit	Sidi Makhlouf
ZV47	M	President the village council	Sidi Makhlouf
ZV48	M	President of the agricultural and fisheries group	Sidi Makhlouf
ZV49	M	Former political prisoner of the Islamic movement	Ragouba, Sidi Makhlouf
ZV50	M	President of the Development and Strategic Studies Association	Sidi Makhlouf
ZV51	M	Director of the tourism school in Ain Draham	Ain Draham

Appendix II. Research instrument

Introduction

1. Start by presenting the project of the Barometer and the previous study.
2. Explain the purpose of the second study:
 - Understanding how people lived before the revolution and experienced changes (or not) since;
 - Analyse the possible violations of economic, social and cultural rights and the way these were experienced by the communities;
 - Understand the frustrations and grievances of local people and the ways in which their expectations can be met in the context of transitional justice.
3. Specify that we are not the IVD but seek to influence through our research
4. Clarify that we cannot provide reparation.
5. Explain that all information is confidential and quotes will be used without names.

General information

- 1.1. Name
- 1.2. Age
- 1.3. Sex
- 1.4. Marital status and living arrangements (cohabiting in his family alone)?
- 1.5 Number of children?
- 1.6 Geographical origin (Governorate, delegation, city)
- 1.7. Principle source of income and income level
- 1.8 Level of education (primary, secondary, higher?). General or technical?
- 1.9 Are you a member of an association, a trade union?
- 1.10 Practice political activity? If so is it possible to describe it to us?

Economic situation

- Determine the urgency of material needs.
 - Describe housing (number of people, gender, including children, disabled, elderly, living conditions)
- 2.1 What are the main challenges you face today?
 - 2.2. What are your main sources of income?
 - 2.3. Do you receive material support? Extended family / neighbors / friends or members of the community / civil society / government?
 - 2.4. Your earnings cover your basic needs? Do your children attend school?
 - 2.5. What do you miss most often in case of problems?

Indicators of marginalization

- 3.1 What are the main needs of your community that have not yet been satisfied?

3.2. How did you live before the revolution? Has there been a tangible difference in your material living conditions since the revolution?

3.3. Has your community benefited from equal access to education? Do you know many people who could not go to school? Why? What are the consequences?

3.4. Has your community benefited from equitable access to health care? Do you know many people who could not get the necessary medical care? Why? What were the consequences?

3.5. Has your community benefited you in terms of equal access to work? Do you know many unemployed? Why are they not working, in your opinion? What are the consequences?

3.6. Do you think your community is well served in terms of infrastructure?

- If yes, explain. If not, what is absent in particular (including roads, transport, access to clean water ...)?

3.7. Have you had access to cultural or leisure services (playground, cultural, media)? Have been attempts in this direction? What happened? What are the consequences?

3.8. Do you think your community has been deliberately deprived of certain rights? If so, why (tribal / racial reasons, historically rebellious zone, economic domination etc)? Can we prove it? How?

3.9. If you were given the means, what would your community do today? What are the main assets (cultural, human, tourist ...) that can be developed and how?

3.10. Do you consider yourself a Tunisian citizen, as much as others, for example the people of Tunis? Why?

3.11. Do you feel that the state has treated you differently from others? In which way? Why?

3.12. What would you require to repair that relationship to the state and to restore confidence?

Transitional justice and reparations

4.1. Have you ever heard of "reparations"? What does this mean to you? (*Submit a definition*).

4.2. What should the state do to repair the damage and difficulties you outlined?

4.3. What is a compensation for you? Why is this important? Would you be satisfied without any form of justice or truth?

4.4. Should reparations target individuals or groups / communities? Why?

4.5. What should compensation consist of? (Money? Access to basic services? Development projects?)

4.6. Have you received anything from the authorities?

4.7. Who should get this in your compensation?

4.8. How can one compensate a community as a whole? (With infrastructure? Memorials? The truth?)

4.9. Has your common situation been recognized by the authorities? (For trials, compensation?)

4.10. Would a formal apology be an appropriate form of compensation?

4.11. Is establishing the truth and public recognition an adequate form of compensation?

4.12. Can a memorial be an appropriate form of reparation? If so, what kind?

4.13. What do you understand by "justice"? Recognition? Offsets? Lawsuits?

4.14. Do you think anyone in particular should be punished for what happened to your community (*direct perpetrators, contractors, politicians?*)

4.15. What do you know of the IVD? Have you been in contact with it? Do you think that it can meet the needs of victims in general?

4.16. Have you filed a complaint with the IVD? Are you thinking of doing so? In what capacity?

4.17. Do you know if your community has filed a complaint or not to the IVD?

- If so, who proceeded to this deposit?

- Did you participate in this action?

- If not, have you or your community, l'intention to file a collective complaint l'IVD?

- According to you who could speak for your community to prepare and present the complaint to l'IVD?

4.18. What do you understand by reconciliation? Between whom? How? In what way is reconciliation related to reparation?

4.19. Could you forgive? Under what conditions?

Final questions

5.1. Are there are important points that you feel have not been discussed?

5.2. Do you have any questions or comments?