Criminalising the Truth

The Sihem Bensedrine Verdict and the Criminalisation of Transitional Justice as a Method

HuMENA For Human Rights and Civic Engagement
HuMENA pour les Droits de l'Homme et l'Engagement Civique
هيومينا لحقوق الإنسان والمشاركة المدنية

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About

HuMENA for Human Rights and Civic Engagement

HuMENA for Human Rights and Civic Engagement is an independent, non-profit organization dedicated to protecting and expanding civic space in the Middle East and North Africa. With headquarters in Brussels and a regional office in Beirut, HuMENA supports human rights defenders and civil society actors, particularly those in exile and diaspora, through strategic advocacy, evidence-based research, and capacity-building initiatives.

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Acronyms

ABCI — ABCI Investments Ltd (claimant, ICSID Case No. ARB/04/12)

ASF — Avocats Sans Frontières (Lawyers Without Borders)

BFT — Banque Franco-Tunisienne (Franco-Tunisian Bank)

CEH — Comisión para el Esclarecimiento Histórico (Guatemala)

CICIG — International Commission Against Impunity in Guatemala

CNV — Comissão Nacional da Verdade (Brazil)

CONADEP — Comisión Nacional sobre la Desaparición de Personas (Argentina)

CSM — Conseil Supérieur de la Magistrature (High Judicial Council)

CVR — Comisión de la Verdad y Reconciliación (Peru)

FIDH — International Federation for Human Rights

IACHR — Inter-American Court of Human Rights

ICCPR — International Covenant on Civil and Political Rights

ICJ — International Commission of Jurists

ICSID — International Centre for Settlement of Investment Disputes

ICTJ — International Center for Transitional Justice

IER — Instance Équité et Réconciliation (Morocco)

IVD — Instance Vérité et Dignité (Truth and Dignity Commission, Tunisia)

LTDH — Ligue Tunisienne des Droits de l'Homme

OMCT — World Organisation Against Torture

REMHI — Recovery of Historical Memory project (Guatemala)

SCC — Specialised Criminal Chambers (Tunisia)

SNJT — National Syndicate of Tunisian Journalists

Executive summary

On the night of 25 to 26 June 2026, the Specialised Criminal Chamber for financial corruption at the Tunis Court of First Instance sentenced Sihem Bensedrine, former president of Tunisia's Truth and Dignity Commission (Instance Vérité et Dignité, IVD), to twenty-five years in prison across two connected cases arising directly from her mandate. The sentence is unlawful as a matter of Tunisian and international law, and it exemplifies a method of repression that reaches beyond one defender: the use of ordinary criminal law to punish transitional justice work, and to bypass the statutory protection that the Organic Law on Transitional Justice was written to provide.

Three findings anchor the analysis. First, the conduct the prosecution punishes is placed beyond liability by Article 69 of Organic Law No. 2013-53, which provides that Commission members shall not be held liable for the contents, conclusions, points of view or recommendations of the report. This protection was written to survive the Commission itself, and it is the contents of the report, and the exercise of the reconciliation mandate, that the forgery and abuse-of-function charges target. Second, the factual premise of the central charge collapses on chronology: the report said to have harmed the State in an international arbitration was published after the arbitral tribunal had already decided liability, and the arbitration ended in 2023 with the dismissal of the claimant's multi-billion-dollar demand. Third, the case belongs to a documented pattern in which states turn ordinary criminal law against the people who staff accountability. Guatemala is the closest parallel; other transitional-justice settings show related but distinct failures. Tunisia has produced the pattern in an unusually direct form, prosecuting the author of a truth report for the report itself.

The verdict is more than a legal error. It reaches three protected rights: the right of victims to truth, justice and reparation, which the Commission's record was built to serve; the right of human rights defenders to work without reprisal; and the fair-trial guarantees owed to the accused. These are the standards against which the study measures the prosecution.

Whether the IVD report contained methodological flaws and whether Bensedrine committed a crime are two different questions. The first belongs to audit, parliamentary oversight and scholarly review. The second cannot be answered in the affirmative on these facts, because the law forbids treating the report's contents as a crime. The prosecution is therefore unlawful even if one accepts, for argument's sake, every methodological criticism ever levelled at the report.

Methodology and limitations

This study is based on publicly available legal materials, the primary text of the relevant Tunisian legislation, United Nations communications, the statements and reports of international and Tunisian human rights organisations, and Arabic, French and English press reporting, together with publicly reported accounts from the defence. HuMENA has not reviewed the full written judgment, the indictment chamber's decision, or the case file, none of which is public at the time of writing. Where a claim depends on court documents or case-file materials that are not public, the analysis says so. The legal argument on the survival of Article 69 after the Commission's dissolution is a construction from the statutory text; it has not been ruled upon by a Tunisian court, and it should be read as legal analysis to be confirmed against the defence's domestic-law arguments, not as a settled position of Tunisian law. The primary documents whose production would allow several points to be confirmed are listed in the recommendations.

1. Introduction and thesis

Sihem Bensedrine spent much of her working life documenting state violence in Tunisia. She was imprisoned under Habib Bourguiba, harassed and driven into exile under Zine El Abidine Ben Ali, and after the 2011 uprising she was chosen to lead the body that would compile the official record of six decades of repression and corruption. Established by Organic Law No. 2013-53, the Truth and Dignity Commission was mandated to investigate gross human rights violations and financial corruption committed by the State between 1955 and 2013, and empowered to refer cases to specialised chambers for trial [1]. In June 2026 a Tunis court sentenced her to twenty-five years for the work she was appointed to do.

The thesis is that the verdict is an instance of the criminalisation of transitional justice: the use of ordinary criminal law against the institutions, records and personnel of a transitional justice process, in a way that defeats the protection those processes were given. In Tunisia the method works through two moves. The State recharacterises protected conduct, the drafting of a report and the exercise of a reconciliation mandate, as forgery and abuse of function; and it prosecutes that conduct through courts whose independence has been dismantled since 2021. The result reaches past Bensedrine to the report she signed, the tens of thousands of victims whose testimony it holds, and the cases the Commission referred for trial. The clearest comparative parallel is Guatemala, where justice operators were prosecuted through ordinary charges for their accountability work; other settings show related failures, and the study treats them with that distinction rather than flattening them into a single template.

Section 2 sets out the structure of the verdict. Sections 3 to 5 build the legal argument: the Penal Code provisions used, the statutory protection the prosecution had to override, and the chronological impossibility of the central charge. Section 6 separates methodological critique of the report from criminal liability for it. Section 7 situates the case in international law. Sections 8 and 9 provide the Tunisian record, the capture of the judiciary and the wider assault on civil society. Section 10 sets the case in comparative context. Section 11 records the international response, and section 12 sets out what should now be done.

2. The structure of the verdict

[1] African Transitional Justice Hub (Centre for the Study of Violence and Reconciliation), Tunisia Truth and Dignity Commission (2014–2019) (2023).

The court that issued the sentence was the Specialised Criminal Chamber for financial corruption cases at the Tunis Court of First Instance, sitting within the Economic and Financial Judicial Pole. This chamber should not be confused with the Specialised Criminal Chambers established under the transitional justice framework to hear the cases the IVD referred: the former is an anti-corruption chamber of the ordinary economic-crime jurisdiction, the latter are the dedicated transitional-justice courts discussed in section 8. It heard two cases together and delivered both verdicts in the early hours of 26 June 2026. Bensedrine learned the outcome from her lawyers that morning, after a hearing that ran past one o'clock [2].

The first case concerned an arbitration and reconciliation agreement that the IVD had concluded with the businessman Slim Chiboub, a son-in-law of former President Ben Ali, under the reconciliation mechanism of the Organic Law. The court held that Bensedrine and Khaled Krichi, the former head of the Commission's arbitration and reconciliation committee, had exploited their capacity as public officials to procure an undue advantage for a third party and to cause material harm to the administration. It sentenced each of them to five years, sentenced the former Minister of State Domains Mabrouk Korchid to six years, and sentenced Chiboub to five years for complicity, all with immediate effect. It imposed a fine reported at 1,776,170,000 dinars on each defendant, with joint liability to restore the same amount to the State [3]. (Two outlets, La Presse and Mosaïque FM, printed this figure with three additional zeros; that rendering is an evident transcription error and is not used here.)

The second case concerned the chapter of the final report dealing with the Franco-Tunisian Bank. The defendants were Bensedrine, Krichi, Korchid and Abdelmajid Bouden, the bank's former chairman. The court again convicted Bensedrine, Krichi and Korchid of abusing their public-official capacity to harm the administration, sentencing Bensedrine and Krichi to five years each and Korchid to six, and convicted Bouden of complicity, sentencing him to six years. It fined each defendant a sum reported at 16,985,003 dinars and 774 millimes, with joint restitution [4]. Against Bensedrine alone it added convictions for forgery and for the possession and use of forged documents. Treating those offences as an indivisible set under Article 55 of the Penal Code, it retained the penalty for the gravest of them and sentenced her to fifteen years [5].

The twenty-five-year total is the sum of five years in the first case and, in the second, five years for abuse of function and fifteen years for the forgery cluster.

3. The criminal provisions and their application to a truth commission

[2] Agence France-Presse, Tunisia: Bensedrine sentenced to 25 years in prison (report and interview, 26 June 2026), via JusticeInfo.net.
[3] Tunisie Numérique, Sihem Ben Sedrine condamnée à 25 ans de prison dans des affaires de corruption financière (26 June 2026); Business News, Sihem Ben Sedrine condamnée à 25 ans de prison (26 June 2026).
[4] Assarih, 'السجن 25 سنة لسهام بن سدرين.. تفاصيل الأحكام' (26 June 2026); JDD Tunisie, '25 سنة سجنا ضدّ سهام بن سدرين في قضية البنك التونسي الفرنسي' (26 June 2026).
[5] Tunisie Numérique, Sihem Ben Sedrine condamnée à 25 ans de prison dans des affaires de corruption financière (26 June 2026); Kapitalis, Lourdes peines de prison pour Bensedrine, Korchid, Krichi, Chiboub et Bouden (26 June 2026).

The charges rest on identifiable provisions of the Tunisian Penal Code, and their application to the work of a truth commission is where the legal abuse begins.

The abuse-of-function counts engage Article 96 of the Penal Code, which in its long-standing form punished with ten years' imprisonment a public official or equivalent, charged by virtue of their post with the sale, manufacture, purchase, management or safekeeping of any property, who exploited that position to obtain an unwarranted advantage for themselves or another, or to cause material harm to the administration. Law No. 2025-14 of 28 July 2025 amended the article, reducing the penalty from ten to six years, adding a requirement of intent, so that the exploitation must now be deliberate, and broadening the category of persons covered [6]. The six-year terms imposed on Korchid and Bouden correspond to the amended text. The definition of the public official on which these counts depend is supplied by Article 82 of the Penal Code, and it reaches Bensedrine only because Article 35 of the Organic Law deems IVD members public officials for that purpose. The State therefore relied on a protective provision of the transitional justice law to satisfy an element of the criminal charge.

The forgery counts engage the Penal Code provisions on faux et usage de faux, Articles 172 to 178, under which the penalty ranges from fifteen years for forgery by a private person (Article 175) to life imprisonment for forgery by a public official (Article 172). Published reporting establishes that Bensedrine received fifteen years for the forgery cluster, treated as an indivisible set under Article 55 of the Penal Code, but no source names the specific article the court applied, and no court document is public, so the point is not pressed here. What matters for the analysis is not which forgery article was chosen but what the forgery charge is about, and that question is taken up in Section 4.

4. The protection the prosecution had to override

Tunisia's Organic Law No. 2013-53 of 24 December 2013 protected the members of the Truth and Dignity Commission through three provisions [7]. They are set out below, followed by the two objections a prosecutor would raise, because the strength of the argument depends on meeting them rather than assuming past them.

The three provisions are these. Article 69 provides that "the Commission members and employees as well as any other person having performed the tasks entrusted by the Commission shall not be held liable for any report contents, conclusions, points of view or recommendations expressed by virtue hereof." Article 34 provides that the president and members may not be prosecuted for an activity related to their work unless the Commission lifts the member's immunity by a two-thirds vote, with an exception for a member caught in the act. Article 35 deems the members civil servants under Article 82 of the Penal Code and obliges the State to protect them against attacks during and after their service.

[6] N Brahmi, La loi n° 2025-14 portant réforme de quelques articles du code pénal: jeu et enjeux? (Leaders, 2025).

[7] Organic Law No 2013-53 on Establishing and Organizing Transitional Justice (Official Gazette (Rائد Rasmi) No 105, 31 December 2013; quoted here in the ICTJ translation published by OHCHR).

A prosecutor will raise a first objection: that Article 34 immunity lapsed when the Commission dissolved in 2018, so by 2023 there was no immunity left to lift and nothing to circumvent. That objection has force against Article 34, and the argument does not depend on defeating it. Article 34 is a procedural immunity attached to the office; it is at its strongest while the office exists. The provision that carries the argument is Article 69, and Article 69 is different in kind. It is not an immunity from process but a substantive bar on liability, and it is drafted to outlast the mandate. It protects "any other person having performed the tasks entrusted by the Commission," language that looks past the end of service, and it attaches to the report, which exists precisely because the Commission has finished its work. A non-liability clause that expired when the Commission dissolved would protect nothing, because the report's consequences, including any prosecution over its contents, can only arrive after the Commission is gone. Read to have any effect at all, Article 69 survives dissolution. Article 35's protective duty points the same way, since it binds the State to protect members "during or after performing their tasks." That the immunity of IVD members is the natural frame for this case is not HuMENA's reading alone. Bensedrine's fourteen-lawyer defence committee has argued from the outset that the proceedings violate the legal guarantees protecting the immunity of the Commission's members and agents in the exercise of their mission [8].

A prosecutor will raise a second objection, and it is the harder one: that Article 69 shields opinions and findings, not fabrication, and that forging a document is a discrete criminal act outside the drafting function the provision protects. This objection has to be argued, not brushed aside. The answer turns on what the charge actually concerns. The allegation against Bensedrine is that the published report differed from an earlier version, that a section on the Franco-Tunisian Bank was added or altered before publication. That is an allegation about what the final report contains and how its text was settled between drafts. Deciding the contents of the report, including which findings to include and in what form to publish them, is the drafting function itself, and Article 69 names "report contents" as the first thing it protects. The State cannot escape the provision by relabelling a contested editorial decision as forgery; if it could, Article 69 would protect nothing, because any disputed finding could be recharacterised as a fabricated one. For the forgery charge to fall outside Article 69, the State would have to identify a discrete act of fabrication that is genuinely separate from the drafting of the report, a forged external instrument, a falsified signature, a counterfeit record, rather than a disagreement about the report's own text. Nothing in the public record describes such an act. On what has been published, the forgery charge is an allegation about the contents of the report, which is the core of what Article 69 places beyond liability. The burden should rest on the State to show otherwise, in open proceedings, which it has not done.

The two provisions that survive the Commission, Article 69 and the protective duty in Article 35, together cover the conduct the prosecution punishes. The reconciliation agreement now charged as abuse of function was an exercise of the mandate under Articles 45 to 50, whose settlements Article 50 makes final. The report decisions now charged as forgery fall under Article 67, which requires the comprehensive report and its publication in the Official Gazette, and under Article 69, which bars liability for its contents. Article 42, which provides that cases the Commission referred to prosecution may not be met with the defence of res judicata, confirms that referral and reporting were core mandate functions, not private acts. The prosecution reaches its result only

[8] Tunisia: Why Bensedrine Is in Jail (JusticeInfo.net, 2025), reporting the position of the defence committee.

by treating protected conduct as ordinary crime.

5. The chronological impossibility of the central charge

The most serious component of the sentence, the fifteen-year forgery term, rests on the allegation that Bensedrine inserted or altered the chapter of the final report dealing with the Franco-Tunisian Bank, and that this exposed the Tunisian State to loss in an international investment arbitration. The allegation fails on dates.

The arbitration was ABCI Investments Ltd v. Republic of Tunisia, registered at ICSID in 2004 (Case No. ARB/04/12), and it arose from a dispute over the Franco-Tunisian Bank that predated the Commission by decades. After a jurisdictional phase, the tribunal issued its decision on liability on 18 July 2017 [9]. The disputed passage of the IVD report was published on the Commission's website on 26 March 2019 and in the Official Gazette in 2020, well after the tribunal had already ruled on liability. A document published in 2019 cannot have produced a liability finding reached in 2017.

The eventual outcome removes the premise entirely. Emboldened by the 2017 liability decision, the claimant inflated its damages claim from the roughly 900 million US dollars advanced at the outset to some 12 billion. On 22 December 2023 the tribunal issued its award dismissing those claims for over 12 billion dollars and ordering only a nominal sum, reported at about 300,000 US dollars, close to three thousandths of one per cent of the amount claimed, with the case formally discontinued at ICSID in November 2024 [10]. The report did not cost the State billions; it produced a nominal award against Tunisia, and it could not in any event have caused a loss decided before it existed. Bensedrine's own account identifies the purpose she attributes to the case: to obtain a judicial basis for removing the report from the Official Gazette, because for as long as it remains published it binds the State [11]. Whether or not one accepts that reading of intent, the factual foundation of the forgery charge does not survive the chronology.

6. Methodological critique is not a crime

[9] ABCI Investments Ltd v Republic of Tunisia, ICSID Case No ARB/04/12, decision on liability (18 July 2017); award (22 December 2023); discontinuance (November 2024); see also UNCTAD Investment Policy Hub, case record.

[10] Quinn Emanuel Urquhart & Sullivan, Victory for the Republic of Tunisia (ABCI Investments Ltd v Republic of Tunisia, ICSID Case No ARB/04/12); Law.com International, Quinn Emanuel Helps Defeat $12B Arbitration Claim Against Tunisia (4 January 2024); Daily Jus, 2025 Arbitration Year in Review – Tunisia (2026).

[11] O Belhassine, In Tunisia, the 'Falsified' Report That Threatens Transitional Justice (JusticeInfo.net, 2020); Agence France-Presse, Tunisia: Bensedrine sentenced to 25 years in prison (report and interview, 26 June 2026), via JusticeInfo.net.

Two questions must be kept apart. The first is whether the IVD's final report was methodologically sound. The second is whether Bensedrine committed a crime in producing it. The prosecution's strategy depends on merging the two, so that a contestable editorial judgment becomes a felony.

On the first question, a genuine record of criticism exists, and it predates Kais Saied's consolidation of power in 2021. The ICTJ, reviewing the Commission's treatment of corruption, found that the IVD had performed the basic functions of a truth commission and had connected corruption to political repression, but that it had fallen short in parts of its mandate and had weakened its own credibility through a lack of transparency in its arbitration and reconciliation process. The ICTJ noted that these shortcomings had prompted the State Litigation Agency and the parliamentary anti-corruption committee to accuse the Commission of falsifying the final report [12]. A dispute over the report also arose inside the Commission itself, where a former member alleged that the published version differed from the version transmitted to the President in December 2018 [13]. The Court of Auditors examined the Commission's accounts over roughly ten months, from January to mid-October 2018. Its report identified administrative and definitional shortcomings, including the reclassification of victim files and a small number of irregular payments, but it did not substantiate the financial abuses subsequently alleged against the Commission's leadership [14].

These are the proper forums for testing a truth commission's work: audit, parliamentary oversight, peer and scholarly review, and the implementation mechanism that Article 70 of the Organic Law itself contemplates. Disagreement about whether a report named enough names, estimated assets correctly, or handled a reconciliation file transparently is the ordinary substance of transitional justice scholarship. It is resolved by correction, rebuttal and revision.

On the second question, none of that supports a criminal conviction. Forgery and abuse of function carrying a twenty-five-year sentence are the wrong instrument for a dispute about editorial method, and the Organic Law says as much. Article 69 exists so that commissioners can exercise contested judgment about a difficult historical record without fear of prosecution for the result. To convert a methodological criticism into a forgery charge is to punish the exercise of a protected function. The conclusion follows even on the counterfactual that the report was flawed: flaws in a truth report are not crimes, and the law forbids treating them as such. The prosecution borrows the credibility of legitimate critique to give a reprisal the appearance of a fraud case. Separating the two questions strips that appearance away. What is lost when the two are merged is the victims' right to truth as much as a defender's liberty, because a report that can be criminalised for its contents is a record the State can intimidate into silence.

7. The international legal framework

The verdict engages both the specific standards developed for the protection of transitional

[12] International Center for Transitional Justice, The Truth About Corruption: Reviewing the Tunisia Truth and Dignity Commission's Report on Corruption Under Dictatorship (2024).
[13] O Belhassine, In Tunisia, the 'Falsified' Report That Threatens Transitional Justice (JusticeInfo.net, 2020).
[14] O Belhassine, Attacks Resume Against Tunisia's Truth Commission (JusticeInfo.net, 2024).

justice and the general fair-trial guarantees of the ICCPR, to which Tunisia is a party.

There is no single treaty that codifies immunity for truth commission members, but a settled body of standards requires states to protect the work and legacy of such bodies. The right to truth, now recognised as an autonomous right in international practice, is codified in the Updated Set of Principles to Combat Impunity and elaborated in the OHCHR study on the right to truth [15]. The Basic Principles and Guidelines on the Right to a Remedy and Reparation anchor the victims' rights that the Commission's referrals were meant to vindicate [16]. The mandate of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, created by Human Rights Council Resolution 18/7 and held successively by Pablo de Greiff, Fabián Salvioli and, from May 2024, Bernard Duhaime, has repeatedly addressed the design and protection of truth commissions, including in a thematic report that followed de Greiff's mission to Tunisia [17]. The comparative study of truth commissions confirms that their independence and the protection of their records are treated as conditions of their function, not optional features [18].

United Nations experts have already applied these standards to this case. Four special rapporteurs wrote to the head of government in February 2021 warning that criminal investigations must not be used as a reprisal for the facts contained in the work or reports of the IVD, and recalling that international norms require states to guarantee the work and legacy of truth commissions and to protect their members. Experts returned to the case in 2024 and, in February 2025, called for Bensedrine's immediate release and invoked Article 69 of the Organic Law by name [19].

The proceedings also breach the ICCPR. Article 9 prohibits arbitrary detention, and the pre-trial detention imposed from August 2024 to February 2025, which triggered a hunger strike and hospitalisation, was grounded in the peaceful exercise of a protected function; the Human Rights Committee requires that detention be both reasonable and necessary in the individual case [20]. Article 14 guarantees a fair and public hearing before an independent tribunal, with adequate time and facilities for the defence and equality of arms, requirements the Committee has elaborated in detail [21]. The defence had not received the indictment chamber's decision detailing the charges before the first hearing on 1 June 2026; the trial was then set for 18 June 2026, the day of a national lawyers' strike; and the public, the family, journalists and civil society were excluded from the June hearings without stated reasons, while international observers were admitted, a selective and unreasoned exclusion inconsistent with the public-hearing guarantee [22]. Article 15

[15] Updated Set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity, UN Doc E/CN.4/2005/102/Add.1 (8 February 2005); Office of the UN High Commissioner for Human Rights, Study on the Right to the Truth, UN Doc E/CN.4/2006/91 (9 February 2006).

[16] Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law, UNGA Res 60/147 (16 December 2005).

[17] Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, Pablo de Greiff, UN Doc A/HRC/24/42 (28 August 2013).

[18] P B Hayner, Unspeakable Truths: Transitional Justice and the Challenge of Truth Commissions (2nd edn, Routledge 2011).

[19] OHCHR, Communication of UN Special Rapporteurs to the Government of Tunisia on the Truth and Dignity Commission (8 February 2021); OHCHR, Tunisia: UN Experts Demand Immediate Release of Former Truth Commission President Sihem Bensedrine (February 2025).

[20] Human Rights Committee, General Comment No 35 on Article 9, UN Doc CCPR/C/GC/35 (2014).

[21] Human Rights Committee, General Comment No 32 on Article 14, UN Doc CCPR/C/GC/32 (2007).

[22] International Commission of Jurists, Tunisia: End Sham Prosecution of Truth Commission's Former President Sihem Bensedrine (2026); Amnesty International, Tunisia: 25-Year Prison Term for Prominent Human Rights Defender Sihem Bensedrine an Outrageous Injus-

requires that criminal liability be foreseeable, and a commissioner performing functions the law both mandated and immunised could not reasonably have foreseen prosecution for them. Article 19 protects the authorship and publication of a state-mandated report, and criminal punishment for its contents is a disproportionate restriction on that protection.

8. A judiciary repurposed: the Tunisian context

The prosecution is intelligible only against the reconstruction of the Tunisian judiciary that began in 2021. The court that convicted Bensedrine was not an independent tribunal in the sense Article 14 requires.

In February 2022 President Saied announced the dissolution of the High Judicial Council, effected by Decree-Law 2022-11 and followed by a provisional council in which the President appoints a portion of the members and holds influence over senior nominations. On 1 June 2022 Decree-Law 2022-35 granted the President the power to dismiss judges by decree on broad grounds, and on the same day Presidential Order 2022-516 dismissed fifty-seven judges and prosecutors, named in the Official Gazette [23]. The Administrative Court suspended the dismissal of forty-nine of them, and the Ministry of Justice declined to reinstate them. The 2022 constitution then reduced the judiciary from a power to a function and permitted the trial of civilians before military courts.

These changes reached the transitional justice process directly. The Organic Law created thirteen Specialised Criminal Chambers to try the cases the Commission referred, but after 2021 the executive used its control over judicial assignments to stall them. Impunity Watch's 2025 monitoring found that, with judicial rotation suspended and transfers ordered through ministerial memoranda, the chambers were paralysed for a second consecutive year, and that of the thirteen only the Tunis chamber continued to hold hearings, under a March 2025 work memorandum from the President of the Tunis Court of First Instance, while the others remained inactive more than seven years after their creation without a single judgment [24]. The mechanism designed to deliver accountability to victims has been frozen, at the same time as the commissioner who fed cases into it has been imprisoned.

The case against Bensedrine can be traced to a dispute inside the Commission. A former commissioner alleged in 2019 that the published report differed from the version handed to President Béji Caïd Essebsi at the end of 2018, describing discrepancies across roughly thirty pages; critics of the report focused in particular on an added section dealing with the Franco-Tunisian Bank. Bensedrine's account is that the Council adopted the final report on 30 December 2018 and gave members until the end of January 2019 to incorporate previously validated corrections, a process recorded in the minutes [25]. In December 2020 the chair of a parliamentary anti-corruption committee urged the state-litigation officer to file a complaint; the State

tice (26 June 2026).

[23] Human Rights Watch, Tunisia: Arbitrary Dismissals a Blow to Judicial Independence (10 June 2022).

[24] Impunity Watch, The Specialised Criminal Chambers in Transitional Justice: Tunisia Monitoring Newsletter (2025).

[25] O Belhassine, In Tunisia, the 'Falsified' Report That Threatens Transitional Justice (JusticeInfo.net, 2020).

complaint followed in early 2021. The investigation opened in 2023, a travel ban was imposed the same year, and detention followed in August 2024. Much of this internal chronology rests on the reporting of a single specialist outlet, JusticeInfo.net, and should be corroborated against the case file and the Commission's minutes where possible before it is relied upon in adversarial proceedings.

The procedural history is set out below:

- **1955 to 2013:** the period the Commission was mandated to examine.
- **9 June 2014:** the IVD is constituted under Article 16 of the Organic Law.
- **17 November 2016:** the first public, televised hearing is held in Tunis.
- **31 December 2018:** a version of the report is transmitted to President Essebsi.
- **26 March 2019:** the report is published on the Commission's website.
- **2020:** the report is published in the Official Gazette.
- **March 2023:** investigation opened; travel ban imposed.
- **1 August 2024:** pre-trial detention ordered at Manouba prison.
- **14 January 2025:** Bensedrine begins a hunger strike; she is hospitalised later that month.
- **19 February 2025:** the Court of Appeal orders provisional release on bail; the travel ban is maintained.
- **April 2026:** she is summoned in three further cases connected to her mandate.
- **1 June 2026:** first hearing; adjourned because the defence had not received the indictment decision.
- **18 and 25 June 2026:** hearings during the national lawyers' strike; the public is excluded.
- **26 June 2026:** verdict of twenty-five years.

9. The wider assault on civil society

The Bensedrine verdict is one element of a broader campaign that uses ostensibly neutral legal instruments against organisations, journalists and lawyers.

Decree-Law 88 of 2011 governs associations. Its Article 45 sets out a graduated procedure of written warning, a period to remedy the alleged violation, a court-ordered suspension of up to thirty days, and possible dissolution. The government has used this route against the country's most established organisations. On 24 April 2026 the Tunisian League for Human Rights, founded in 1976, the oldest such organisation in the region and part of the Nobel-winning National Dialogue Quartet, was suspended for a month; its president described the decision as political in substance and judicial only in form [26]. On 5 May 2026 Avocats Sans Frontières was suspended under the same article. Amnesty International reported in May 2026 that courts had issued thirty-day suspension orders against at least twenty-five organisations over the preceding year and that dozens faced the risk of dissolution [27]. The anti-racism association Mnemty reached the dissolution stage, and its founder Saadia Mosbah was detained and later sentenced to eight years in prison. The treasurer of the Tunisian Forum for Social, Economic and Cultural Rights was barred from travel in April 2026 amid a financial investigation. A draft law to replace Decree-Law 88 with a more restrictive framework is pending.

Decree-Law 2022-54 on cybercrime has been used against expression. Its Article 24 provides up to five years' imprisonment and a fine of fifty thousand dinars for the online dissemination of false information, and doubles the penalty where a public official is the target. Press-freedom monitors record dozens of journalists prosecuted since the decree took effect: the National Syndicate of Tunisian Journalists reported that around twenty-nine journalists were facing investigation or prosecution by September 2025, and Reporters Without Borders has documented a comparable figure of journalists prosecuted for their work. In October 2025 a court sentenced Saber Chouchane to death over Facebook posts before he was pardoned, and the lawyers and commentators Sonia Dahmani, Mohamed Boughalleb, Mourad Zghidi and Borhen Bsaies were prosecuted under the same period [28]. The prosecutions of opposition figures under the heading of conspiracy against state security run in parallel.

The pattern is consistent. Association law, cybercrime law and the ordinary Penal Code are applied in sequence to dismantle the institutions and individuals that document abuse and demand accountability. The prosecution of a truth commissioner sits at the centre of that sequence.

10. The comparative pattern

Placing the case beside others has a limited and specific purpose: to show that the criminalisation of accountability workers is a recognisable practice with an identifiable mechanism, not a Tunisian peculiarity. The comparison should not be pushed further than the evidence allows, and the cases divide into two groups that should not be merged.

[26] Front Line Defenders, Suspension of LTDH and ASF Signals Further Crackdown on Civil Society in the Country (2026); WHBL, Tunisia Suspends Nobel Peace Prize-Winning LTDH Rights Group (24 April 2026).
[27] Amnesty International, Tunisia: Dozens of NGOs at Risk of Dissolution as Crackdown on Civil Society Intensifies (May 2026).
[28] Amnesty International, Tunisia (MDE 30/9372/2025, 5 June 2025); Human Rights Watch, Tunisia: Death Sentence for Social Media Posts (8 October 2025); Reporters Without Borders, Tunisia: Press Freedom and Civil Liberties Defenders Organise to Repeal the Repressive Measures of 'Decree-Law 54' (2025).

The first group, of which Guatemala is the clearest example, matches Tunisia closely, because it involves the criminal prosecution of the people who carried out accountability work. After the Church's REMHI project published Guatemala: Nunca Más in 1998, its director, Bishop Juan Gerardi, was killed within days; the UN-backed CEH then attributed the large majority of documented violations to state forces [29]. The later anti-impunity commission, CICIG, and the special prosecutor's office secured many convictions before the commission's mandate ended in 2019, and a wave of reprisals followed against the operators themselves. The prosecutor Virginia Laparra was arrested in 2022 and convicted twice, once for abuse of authority and again in 2024 for revealing confidential information, before going into exile; Amnesty International declared her a prisoner of conscience and the UN Working Group on Arbitrary Detention found her detention arbitrary [30]. Other justice operators, among them the lawyer Claudia González and the prosecutor Juan Francisco Sandoval, were detained or forced to flee. The mechanism is the one visible in Tunis: ordinary charges, abuse of authority or disclosure of secrets, used against the lawful exercise of an accountability function. Guatemala is therefore the comparison that carries real weight.

The second group, El Salvador, Peru, Brazil, Argentina and Morocco, is a different failure mode and is offered only as contrast, not as part of the same pattern. In El Salvador, Brazil and, for a period, Argentina, the obstacle to accountability was amnesty and impunity rather than the prosecution of commissioners; amnesties shielded perpetrators, and in Argentina were later annulled so that trials could resume, which shows that the outcome is a political choice [31]. Peru is closer to the Tunisian case in one respect, because a legislator once sought to have the truth commissioners investigated for the content of their report, an early attempt to criminalise the act of reporting. Morocco shows containment, a commission barred from naming perpetrators and producing no prosecutions, against which the Tunisian Commission's power to refer cases to court was a genuine advance [32]. Grouping these under a single label would overstate the similarity; the honest point is narrower, that transitional justice can be undone in several ways, and Tunisia combines two of them, the paralysis of the courts meant to deliver accountability and the prosecution of the person who documented the case for it.

What Tunisia adds to the Guatemalan pattern is directness. It does not only prosecute an operator for procedural conduct; it prosecutes the author of a truth report for the contents of that report. Whether this recurs elsewhere is a matter for monitoring, and the indicators worth watching are visible here: criminal charges built around the contents of a report, the paralysis of specialised chambers, and the suspension of the organisations that document abuse, arriving together.

11. International response

[29] Comisión para el Esclarecimiento Histórico, Guatemala: Memory of Silence (1999).

[30] Amnesty International, The Whole System Against Us: Criminalization of Women Justice Operators and Human Rights Defenders in Guatemala (AMR 34/8103/2024, 2024).

[31] United Nations, Report of the Commission on the Truth for El Salvador: From Madness to Hope, UN Doc S/25500 (1993); Gomes Lund et al ('Guerrilha do Araguaia') v Brazil (Inter-American Court of Human Rights, 24 November 2010); Herzog et al v Brazil (Inter-American Court of Human Rights, 15 March 2018).

[32] P B Hayner, Unspeakable Truths: Transitional Justice and the Challenge of Truth Commissions (2nd edn, Routledge 2011).

The response to the verdict was immediate. Amnesty International's Secretary General, Agnès Callamard, called it an utter travesty of justice and an assault against transitional justice and accountability for victims; Human Rights Watch's Bassam Khawaja noted that the sentence would keep Bensedrine in prison until she was a hundred years old; the ICJ described the prosecution as a sham; and FIDH and OMCT called the charges groundless and read the message of the case as a declaration that seeking the truth is forbidden and the Ben Ali dictatorship untouchable [33]. FIDH also observed that the prosecution ran against the statutory rule that Commission members are not to be held liable for the contents of the IVD's reports.

12. Recommendations

To appeal counsel and the defence.
Without displacing the assessment of Tunisian counsel, the legal architecture of an appeal includes the misapplication of Article 69 of Organic Law No. 2013-53; the failure to distinguish the protected contents of the report from any independent criminal act; the absence of causation in the Franco-Tunisian Bank and ABCI allegation, given that arbitral liability was decided before the report existed and the award was nominal; the breach of legality and foreseeability under a provision the law immunised; the fair-trial violations in the conduct of the hearings; and the disproportion of a twenty-five-year sentence for conduct within a statutory mandate.

To the Working Group on Arbitrary Detention.
Consider the deprivation of liberty under Categories I, II and III: the absence of a legal basis, since Article 69 removes liability for the conduct charged; the penalisation of protected expression and human rights work; and the grave fair-trial breaches identified in section 7.

To the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on the independence of judges and lawyers. Issue a joint communication to the Government addressed to the conviction itself, grounded in Article 69 and in ICCPR Articles 9, 14, 15 and 19, and treat the case as a reprisal against a transitional-justice actor in thematic reporting on the protection of truth commissions.

To the European Union and its institutions.
Make the annulment of the conviction and the release of Bensedrine and her co-defendants an explicit element of bilateral engagement, and review cooperation, including the migration partnership, in light of the documented capture of the judiciary. The benchmark for any reassessment is annulment on appeal, the restoration of the transitional-justice Specialised Criminal Chambers to function, and the reinstatement of the suspended associations.

[33] Amnesty International, Tunisia: 25-Year Prison Term for Prominent Human Rights Defender Sihem Bensedrine an Outrageous Injustice (26 June 2026); Human Rights Watch, Tunisia: Rights Defender Given 25-Year Sentence (26 June 2026); International Commission of Jurists, Tunisia: End Sham Prosecution of Truth Commission's Former President Sihem Bensedrine (2026); International Federation for Human Rights and World Organisation Against Torture, Joint Statement on the Sentencing of Sihem Bensedrine (2026).

To the Tunisian Bar Association and international trial monitors.
Ensure the appeal hearings are observed and public, and that the defence's access to the case file, including the written judgment and the indictment chamber's decision, is documented.

To the Tunisian authorities.
Quash the conviction and drop the connected cases; restore the independence of the High Judicial Council and reinstate the judges the Administrative Court ordered restored; lift the suspensions imposed on the Tunisian League for Human Rights, Avocats Sans Frontières and other associations; and repeal or amend Decree-Law 2022-54 and the provisions applied in this case.

To civil society and the documentation community.
Establish and maintain a public monitoring file on all cases arising from the IVD mandate, recording for each the charges, the defendants, the court, the procedural status, and the connection to the Commission's original mandate, so that the pattern can be tracked rather than met case by case, with Guatemala as the primary comparative reference.

Annex – Table of principal legal provisions

Provision	Legal function	Role in the prosecution	Assessment
Organic Law art. 34	Procedural immunity of Commission members; lifting requires a two-thirds vote	Never invoked; no immunity lifted	Likely lapsed at dissolution (2018); not the load-bearing provision
Organic Law art. 35	Deems members public officials (Penal Code art. 82); duty of State protection during and after service	Used to reach Bensedrine as a public official	Protective provision turned into an element of the charge
Organic Law arts. 45–50	Arbitration and reconciliation mandate; settlements final (art. 50)	Reconciliation agreement recharacterised as abuse of function	Mandated conduct treated as crime
Organic Law art. 42	Referred cases not met with res judicata	—	Confirms referral/report were core mandate functions
Organic Law art. 67	Comprehensive report; publication in Official Gazette	Report contents recharacterised as forgery	Publication is a statutory duty, not a wrong
Organic Law art. 69	Non-liability for report contents, conclusions, views, recommendations	The provision the prosecution had to override	Central bar; argued to survive dissolution
Organic Law art. 70	Government to implement recommendations within one year	—	Context: mandate designed to bind the State
Penal Code art. 82	Definition of public official	Supplies an element of the abuse-of-function charge	Reaches Bensedrine only via Organic Law art. 35
Penal Code art. 96	Abuse of function by an official managing property	Abuse-of-function counts	Amended 2025 (six years; intent required)
Penal Code art. 55	Non-severable offences: penalty of the gravest	Forgery counts treated as one set (fifteen years)	Procedural, not substantive to guilt
Penal Code arts. 172–178	Forgery and use of forged documents	Forgery counts	Applied article not confirmed in public record
ICCPR arts. 9, 14, 15, 19	Liberty; fair trial; legality; expression	—	Basis of the international-law challenge (section 7)