

Memorandum

Relating to the reparations due to Tunisian
victims of massive violations of human rights
economic and social rights for which the French
State is partly responsible

**For the consideration of
His Excellency the President of the French Republic**

By virtue of the powers conferred on him by the Tunisian Constitution and by Organic Law 2013-53 of December 24, 2013, relating to the establishment and organization of transitional justice,

And following the decision of the Board of the Truth & Dignity Commission (IVD) dated December 30th 2018 to send a memorandum to the President of the French Republic,

We, President of the IVD, present this memorandum to the President of the French Republic.

After considering:

- **Article 148** of the Tunisian Constitution of January 27, 2014, which states in paragraph 9: *"The State undertakes to apply the transitional justice system in all its fields and within the period set by the legislation relating thereto. In this context, it is not permitted to invoke the non-retroactivity of laws or a pre-existing amnesty or the authority of res judicata or the statute of limitations of a crime or penalty."*
 - **Organic Law 2013-53 of 24 December 2013**, on the establishment of transitional justice and its organization establishing the Truth & Dignity Commission (IVD), an independent public authority tasked with implementing transitional justice;
 - **The Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law** (60/147 Resolution adopted by the United Nations General Assembly on 16 December 2005);
 - **International Covenant on Economic, Social and Cultural Rights** Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966. In particular, Article 1, paragraphs 1 and 2: *"All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence."*
 - **The International Covenant on Economic, Social and Cultural Rights**, adopted by the United Nations General Assembly in resolution 2200 A (XXI) of December 16, 1966. In particular, Article 1, paragraph 2: *"All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence."*
- And in particular Articles 6, 11, 12 and 13 (paragraph 6).

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- **The Geneva Conventions** and their Additional Protocols.
 - **United Nations Resolution 31/11** dated March 21, 2016 on the *"Effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights"*;
 - **United Nations Resolution 34/3** dated April 6, 2017 on the mandate of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights.
 - **Decree no. 2018-211** of February 28, 2018, setting the organization, management and financing terms of the fund for the dignity and rehabilitation of victims of tyranny.
 - **The decision of the Council of the Truth & Dignity Authority (IVD)** dated May 29, 2018 relating to the reparation and rehabilitation program.
 - **The decision of the Board of the Truth & Dignity Commission (IVD)** dated December 30, 2018 concerning sending a memorandum to the President of the French Republic, to the World Bank and to the IMF.

Based on the competences defined by Organic Law 2013-53, the IVD has the obligation to:

- Investigate "all violations under the provisions of the present law, using all means and mechanisms it deems necessary" (Art. 40, para. 3);
- Investigate and remedy "past human rights violations, by revealing the truth, holding those responsible to account, compensating victims and restoring their dignity" (Art. 4).
- Determine the responsibilities of the State apparatus or any other parties in the violations covered by the provisions of the present law (Art. 39, para. 2).
- Elaborate a comprehensive program of individual and collective reparations for the victims of violations, based on the recognition of the violations suffered by the victims and the taking of decisions and compensation measures in their favor (Art. 39, paragraph 3).
These reparations measures must be "sufficient, efficient and proportional to the scale of the violations committed" (Art. 11).
- Formulate "recommendations, suggestions and procedures that consolidate the construction of democracy and contribute to the establishment of the rule of law" (Art. 43, paragraph 3). And recommend institutional reforms aimed at "dismantling the system of corruption, repression and dictatorship, and remedying it in such a way as to ensure that violations do not recur, that human rights are respected and that the rule of law is enshrined." (Art. 14).

Moreover, the IVD is **an independent public authority**, and "carries out its missions and functions in complete **neutrality and independence**, in accordance with the provisions and principles set out in the first title of this law. **No one has the right to intervene in the authority's activities or influence its decisions**" (Art. 38). The period covered by the mandate of the Truth and Dignity Commission **runs from July 1955 to December 2013** (art. 17). Organic Law 53-2013 defines the victim as an individual, a group of individuals, a legal entity, a region or the State.

In seeking to determine responsibility for human rights violations and violations of economic and social rights from 1955 to 2013, the IVD has identified the responsibility of the French state in several of the violations under examination by the IVD.

1- Historical Background to French Colonization

France occupied Tunisia under a protectorate signed in Bardo in 1881, following the accumulation of debts between 1863 and 1865, which left Tunisia at the mercy of its external creditors, including France.

Previously, Tunisia had been a largely autonomous regency of the Ottoman Empire, ruled by a monarch, the Bey of Tunis. Until 1837, it had virtually no public debt. Ahmed Bey (1837–1855) embarked on a vast program of public spending (purchase of military equipment, construction of sumptuous residences), continued by Bey Sadok (1859–1882).

His Prime Minister Mustapha Khaznadar, who had actually ruled the country since 1837, had opened up the country to the influence of European bankers. A corrupt man, he took commissions on all public transactions and amassed a gigantic fortune at the expense of the public treasury. They pursued this policy of squandering public money (buying useless weapons, building high-class consular residences for France and Great Britain...) and consequently over-indebtedness.

Internal public debt increased by 60% during the first three years of Mohamed es-Sadok's reign. Wealthy Tunisians and foreign residents benefited from a policy of internal indebtedness that provided them with a high return.

And it was up to the people to pay the bill, by bearing a tax burden multiplied by 100%, which led to a revolt in the country in 1864, led by Ali ben Ghedhahom.

According to Dr. Eric Toussaint's study: *La dette: l'arme qui a permis à la France de s'approprier la Tunisie*¹:

"The Bey embarked on massive a posteriori repression to extort maximum taxes and fines from the population. On December 4, 1864, the French consul wrote to the Minister of Foreign Affairs in Paris:

'The Bey's government promptly abandoned the system of clemency it seemed

¹ Eric Toussaint, *La dette: l'arme qui a permis à la France de s'approprier la Tunisie* - <http://www.cadtm.org/La-dette-l-arme-qui-a-permis-a-la>

intent on inaugurating...; it reverted to rigor, that which translates into irons and torture, in order to obtain exorbitant war taxes from the coastal provinces... The

fine could only be collected by means of reclusion, shackling, caning and the most illegal rigors from the point of view of our current public law. These include confiscation of property, torture, sometimes to the point of injury or death, and violation of the law of domicile and, finally, the rape of women attempted or consummated under the very eye of fathers or husbands in chains" (March 1865)."

And Toussaint adds:

"Tunisia's first foreign loan dates back to 1863. It was a real scam that led 18 years later to the conquest of Tunisia by France... The borrower (Tunisia) was to receive around 37.7 million francs (78,692 bonds sold at 480 Fr., i.e. 37.77 million) and in exchange it undertook to repay 65.1 million.

According to research carried out by French finance inspector Victor Villet, banker Erlanger took a commission of just over 5 million (around 13% of the sum raised). From the sum that should have been received, 2.7 million Fr. must also be deducted, which was embezzled, certainly by the Prime Minister and banker E. Erlanger. So, for approximately 30 million francs to be received, the Tunisian government undertook to reimburse 65.1 million francs.

[...] Ever since they embarked on the colonization of Algeria in the 1830s, French rulers have considered that France had the right to extend its colonial domain to Tunisia. They had to find the right pretext and the right moment. [...] The proposal to set up an international commission to take control of Tunisia's finances was outlined in writing by France's foreign minister."*

In the same study, Eric Toussaint quotes the Marquis de Moustier in January 1868, who declares:

"It would seem, therefore, that our efforts should be aimed above all at ensuring, if possible, the proper management of the revenues pledged by the Bey's government, and that by succeeding in establishing a serious control over the products of the tax authorities, now abandoned to unqualified or unfaithful hands, we would have taken a major step towards the goal we are pursuing. Should the application of this principle be accepted, it could be entrusted to a commission based in Tunis."

Eric Toussaint continues:

"In April 1868, under the dictation of French representatives, the Bey adopted a draft decree establishing the International Finance Commission. And 15 months later, after France had obtained the final assent of Great Britain and Italy, the final decree was adopted by the Bey.

The text of the decree of July 5, 1869 constitutes a veritable act of submission by Tunisia to its creditors. [...] The Havas agency, which has belonged to banker Erlanger since 1879, took part in a media campaign in favor of French intervention."

a) The Establishment of the French Protectorate

On **May 12, 1881**, at his palace in Ksar Saïd, the Bey signed the so-called *Treaty of the Bardo*, placing Tunisia under French protectorate and ceding his sovereign powers in economic, defense and foreign affairs to the Resident General of France, who henceforth governed in the Bey's name. In October of the same year, the French army occupied Tunis and Kairouan.

From **1881 to 1955**, a general policy favoring French economic penetration and Tunisia's submission to French interests was pursued, often through the use of violence.

Resistance to forced colonization was initially led peacefully by the Tunisian elite, using legal means of expression, as did the leaders of the *Mouvement des Jeunes Tunisiens*, who fought for the right to education denied them by the colonial administration under pressure from the *Prépondérants*.

The historian Charles André Julien mentions in his book *Colons français et Jeunes-Tunisiens (1882-1912)*:

"From 4656 in 1897, the number of Muslim pupils gradually fell to 2927 in 1903. In 1901, ten schools were closed. The point of view of the education department was in line with that of the colonists, whose ideal was to rehabilitate the Kouttab (Koranic school), which French Tunisia claimed was perfectly adapted to the natives."

In addition, a discriminatory tax policy serving the colonial power was implemented, resulting in the impoverishment of farmers and the appropriation of land by French settlers.

Habib Bourguiba, General Secretary of the liberal constitutionalist party (*Neo-Destour*), denounced in a note sent to Vienot, France's Under-Secretary of State for Foreign Affairs, on August 25, 1936:

"This policy of systematic denationalization of the country, which clearly violated treaties, was designed to break up the framework of the Tunisian nation, to turn it into a 'dust of individuals', more malleable, more docile and above all incapable of reacting collectively against the offensive that was being prepared. [...] Hence the system of inequalities and political, economic and fiscal privileges, designed to keep the Tunisian continually in a state of inferiority vis-à-vis the French and even foreigners, and which resulted in a vast movement of displacement of wealth which, reinforced by the general crisis and defective climatic conditions, consummated the ruin of the fellah and culminated in that appalling thing which upset the new Resident General from his first contact with the country: famine... [...] For thousands and thousands of small farmers who, in 1936, still owned a

few animals, a plot of land, or at least a gourbi — their tax receipts bear witness to this — to have been suddenly reduced to begging for a handful of corn to keep from starving to death, we have to admit that the taxman, far from deducting his share from their income, had absorbed their meager capital."

²Charles André Julien, *Colons français et Jeunes-Tunisiens (1882-1912)* https://www.persee.fr/doc/outr_0300-9513_1967_num_54_194_1445

I can only say that the policy of economic exploitation which underlies all colonization, and the political, economic and fiscal privileges which characterized the Protectorate regime for half a century, and which could not fail to result in a displacement of wealth to the detriment of the indigenous element, are largely responsible for the appalling misery which is decimating the Tunisian people.

And Bourguiba reveals how the Tunisian people:

"[...] threatened in their very existence, they had to organize resistance, a fierce, stubborn resistance, by all means, against the criminal attempts made against them. [...] The result was a long and painful period of tension, where mistrust begat mistrust, where the contempt of some provoked the hatred of others, and which culminated, in the last days of the Peyrouton proconsulship, in a veritable state of latent war between the people and the government, between the Tunisian masses subjected to a regime of appalling terror and the French colonies, living in a state of trance, sheltered from tanks and bayonets. [...] If the people are dying, it's because they are literally crushed under the formidable weight of a hypertrophied budget designed to finance a perfectly coherent policy clearly directed against them, and which has fortunately gone bankrupt."

During the **Second World War**, Tunisia was invaded by Axis forces with the acquiescence of the French state — represented by the Vichy authorities — which shirked its duties by handing over Tunisian citizens of the Jewish faith to the Nazis.

The Tunisian sovereign, **Bey Moncef**, had courageously confronted this occupation by declaring Tunisia's neutrality and taking measures to protect citizens of the Jewish faith.

In **May 1943**, when the Allied forces brought the Axis occupation to an end after a devastating battle, Moncef Bey was deposed, illegally sanctioning a popular ruler to please the colonists. France subsequently deported Bey Moncef and deprived him of his freedom; he was kept away from his country and his fellow citizens until his death in exile in September 1948.

b) Politics of Terror 1952-1954

In a note dated **December 15, 1951**, France rejected Tunisian demands for reforms requiring the participation of Tunisians in the management of public affairs, as proposed by the Chenik government with the support of the Bey, and which emanated from a consensus of the entire National Liberation Movement.

Faced with the French government's rejection of political solutions, Tunisia lodged a complaint with the **United Nations** on **January 14, 1952**, which in Resolution 611 of **December 17, 1952** recognized the Tunisians' right to self-determination and called on France to enter into negotiations. Angered by this diplomatic move, Resident General **De Hauteclocque** banned the *Neo-Destour* congress and ordered the arrest of the party's leaders.

The *Neo-Destour* held its congress clandestinely on **January 17, 1952**, and in its general motion, in reaction to this repressive policy, adopted the solution of armed guerrilla warfare, to which it called on all the country's political forces. Bloody clashes broke out between the national movement calling for Tunisian independence and the French army.

On **February 5, 1952**, the Bey of Tunisia addressed a letter to Jean de Hauteclocque, in which he emphasized:

"the extreme severity and disproportion of the repressive measures taken by the French authorities in the country, which undermine the security of persons and property, as well as the exercise of Tunisian sovereignty."

The General Residence reacted with a scorched-earth policy from **1952 to 1955**, declaring a state of siege, setting up military tribunals, and assassinating the leaders of the national movement:

- **Farhat Hached** was murdered on **December 5, 1952** by a criminal organization known as *la Main Rouge*, linked to the French services.
- **Hédi Chaker**, who led the January 1952 congress, was assassinated on **September 13, 1953**.
- **Dr. Abderrahman Mami**, the Bey's reformist advisor, was assassinated on **July 13, 1954**.

For their part, Bourguiba and the *Neo-Destour* leaders were arrested and exiled on **January 18, 1952**. On **March 27**, Prime Minister Mhamed Chenik and his ministers were arrested and deported.

Between **January 1952 and May 1953**, over **2,600 Tunisians** were tried by military courts, including 12 sentenced to death and executed at Sabkha El Sijoumi. General Garbay pursued a policy of terror against the population. Thousands of arrests were made, and the Resident General spoke of overcrowding at the civil prison, designed for 900 people, where more than 2,000 prisoners were crammed in.

MP Robert Verdière reports:

"Mass arrests and roundups continued. Throughout Tunisia, there is talk of abuse and confessions obtained by torture. [...] A man arrested by surprise is kept in a cell several weeks, sometimes two months, in what are known as "petites geôles", the prisons of the gendarmeries. During this time, the detainee has no contact with anyone, including family members and lawyers. [...] In villages and small towns, the system of collective responsibility has been introduced, no doubt with the intention of putting an end to attacks and sabotage. I needn't insist. This must bring back some rather unpleasant memories for many French people.

³**Archives Nationales d'Outre-Mer, Aix-en-Provence.** Cabinet Royal. PalaisRoyal. Kingdom of Tunisia. [Letter from the Tunisian Royal Cabinet to the Ambassador Resident General of France in Tunis (Hammam-Lif, February 5, 1952). 05-02-1952. Archives privées outre-mer. Cohen-Hadria (Élie) (51APOM, 1923/1976). FR ANOM 51 APOM 1.

⁴On July 5, 1956, the Secretary of State for Information, Béchir Ben Yahmed, announced to the local press the arrest in May 1956 of the main leaders of the *Red Hand*, which had been formed in the spring of 1952 and had branches in Algeria. They were led by a commissioner (Gillet) and acted with complete impunity. After interrogation, they were "expelled" to France on September 4 without trial. It would appear that this outcome was the fruit of an arrangement between the Tunisian government and the High Commissioner, who did not want the affair to make waves and be traced "higher up". Reported by the newspaper *Le Petit Matin*. Edition June, July and September- Quoted in **Le Nouvel Etat aux prises avec le complot youssefiste 1956-1958** -Mohamed Sayah- Tome1 pp. 460 à 474.

Torture was systematically practiced, according to official military reports⁶, and collective reprisals were carried out all over Tunis, Sousse and Mateur; sweeps and looting were organized in Makthar and Cap-Bon in Nabeul, Hammamet, Béni Khair, Kélibia and above all in Tazarka, where babies were killed, their mothers raped, men shot and houses blown up; over 200 people were reported dead.

On July 31, 1954, Pierre Mendès France, the new head of the French government, announced⁷ to the Bey his intention to respond positively to Tunisian demands and work towards internal autonomy. Negotiations were opened under Bourguiba's leadership, culminating in the Conventions of Internal Autonomy.

2- The Conventions of Internal Autonomy and the Protocol of Independence

The Franco-Tunisian Conventions proclaiming internal autonomy, which in part restored to Tunisia the internal sovereignty recognized by the Treaty of Bardo, were signed on June 3, 1955. At that date, Tunisia's legal status fell short of that which it had enjoyed in 1881, at the start of the Protectorate.

In the same vein, the decree issued on August 26, 1955 defining the prerogatives of the High Commissioner, who replaces the Resident General, more or less takes over the powers of the Resident General: "The High Commissioner of France is represented, within Tunisia and in the districts whose territorial extent he determines, by Delegates placed under his orders. These officials exercise the powers conferred on them by the Conventions between France and Tunisia of June 3, 1955 and those delegated to them by the High Commissioner (art.3)" "...These provisions govern the conditions under which the General Officer Commanding the Joint Services and the heads of the departments referred to in the present article may, for technical and internal matters, correspond directly with the French ministerial departments. (art. 5) "...".

⁵Robert Verdier before the National Assembly on June 5, 1952. Journal officiel de la République française, Assemblée nationale, 1st session of June 5, 1952, p. 2654.

⁶*Idem.*

⁷Carthage speech <https://www.mendes-france.fr/espace-pedagogique/textes-de-reference-de-pierre-mendes-france/discours-de-carthage-31-juillet-1954/>

The powers previously vested in the Resident General of France are, in so far as they are not contrary to the Franco-Tunisian agreements dated June 3, 1955, transferred to the French High Commissioner in Tunisia.(art. 10)".

Nine months later, on March 20, 1956, the protocol by which France recognized Tunisia's independence was signed by Christian Pineau, Minister of Foreign Affairs, for France, and Tahar Ben Ammar, Prime Minister, for Tunisia.

a) Co-sovereignty or shared sovereignty

The Conventions of June 3, 1955⁸ enshrined shared sovereignty, or co-sovereignty, since the regal powers of the State fell to France (defense, security, currency, etc.) for 20 years! Other administrative powers fell to the Tunisians.

France and Tunisia signed a "Protocole d'Accord" on March 20, 1956, abolishing the Protectorate Treaty of May 12, 1881, and granting Tunisia its **independence within a framework of interdependence**. It stipulates: "*While respecting their sovereignty, France and Tunisia agree to define or complete the modalities of a freely realized interdependence between the two countries, by organizing their cooperation in areas where their interests are common, notably in defense and foreign relations*".

The Conventions on Tunisia's internal autonomy were ratified by the French Parliament on June 3, 1955, and by the Bey of Tunis, and published in the *Journal Officiel de La République Française et Tunisienne*. The Independence Protocol, on the other hand, was neither ratified nor published in the *Journal Officiel*.

Paragraph (b) of the Independence Protocol stipulates that "*any provisions of the Conventions of June 3, 1955 which are in contradiction with the new status of Tunisia as an independent and sovereign State shall be modified or abrogated*".

As it happens, the Convention on Justice, ratified in 1957, was the only one to be the subject of an amendment which abrogated the former convention included in document III dated June 3, 1955. The rest of Tunisia's sovereign powers were obtained "by snatch and grab", without being the subject of a convention as provided for in the Memorandum of Understanding.

A diplomatic note dated June 17, 1959⁹ concerning a dispute over the interpretation of the General Convention of June 3, 1955 states "... *It is true that in several notes, in response to French protests ...the Tunisian government replied very tersely that "since the protocol of March 20, 1956 it can no longer ..."*.

⁸Tunisian-French conventions.

⁹Aide-mémoire of June 17, 1959 qfp/CG.-CIU- Ministère des Affaires étrangères France-Archives diplomatiques.

Reference may be made to the conventions of **June 1955** (notes n°1641 and 1642 of June 2, 1959). But this essentially political statement has no legal value.

In the protocol of agreement of **March 20, 1956**, France solemnly recognized Tunisia's independence, but specified that *"any provisions of the Conventions of June 3, 1955 which are in contradiction with the new status of Tunisia as an independent and sovereign State shall be modified or abrogated."* This protocol therefore had neither the object nor the result of abrogating the Franco-Tunisian Conventions of June 3, 1955. On the contrary, it provided for their total or partial revision to bring them into line with Tunisia's new status.

This was expressly recognized by the Tunisian State when it signed the new **Franco-Tunisian judicial convention on March 9, 1957**, Article 10 of which states that it *"cancels and replaces the judicial convention of June 3, 1955."*

Moreover, if the theory of the automatic and immediate abrogation of the Conventions of June 3, 1955 as of March 20, 1956 were to be accepted, the transfers of powers carried out since that date in the most diverse fields by means of Franco-Tunisian agreements would appear illogical or even incomprehensible.

The **1955 Convention on the Status of Persons** therefore remains in force until such time as the Tunisian government has finally acted on the numerous proposals made to it by the French government to replace it with a new convention on establishment.

3- Effect of French Domination on Tunisians' Security and Physical Integrity

In seeking to determine responsibility for the violations committed during this period, the *Instance Vérité et Dignité (IVD)* deduced that these crimes against humanity were committed by the French army at a time when France had the legal status of **"co-sovereignty"** over Tunisian territories.

After independence, the areas in the north (**Bizerte** and **Menzel Bourguiba**) and south (**Tataouine, Gafsa, Ben Guerdane, Remada**) remained de facto French military zones until **1959**, under the terms of the June 3 conventions still in force. Massive human rights violations were committed by the French army during the period from **March 1956 to July 1961**, resulting in **over 7,000 Tunisian victims**.

The IVD has received 5,052 complaints, including 3 collective ones, relating to violations that took place during the French decolonization — 650 of which concerned the aggression in Bizerte in 1961, with the remainder in Sakiet Sidi Youssef, Gafsa, Tataouine, the mountain of the South-East and South-West and other sites where clashes took place with the French army after independence.

¹⁰See annex for maps included in the June 3 agreements.

a) Bombing in the North-West, Centre-West and South-West

The **French army** was responsible for bombardments and artillery engagements in the Djebels of north-western and central-western Tunisia between autumn **1955** and spring **1957**.

Roger Seydoux, the French ambassador to Tunisia, justified these commitments as follows:

“... Bourguiba concludes that the Tunisian government is now in control of the situation, that its authority is no longer contested and that the maintenance of French armed forces cannot be justified by considerations of public order. [...]

In my opinion, two points should be made. (1) That the picture he paints of Tunisia, without being wrong, is too optimistic. The Youssefist rebellion is far from being eliminated in the South... our troops continue to carry out almost daily operations there. [...]

The presence of the French army in Tunisia is justified by considerations that go far beyond public order. [...] President Bourguiba is unfamiliar with questions of national defense, so he should be familiarized with the problems of defending North Africa, the western Mediterranean and the free world in general. We should try to get President Bourguiba to accept the principle of common defense.”*

Indeed, in an article published by Colonel Jean Bergue entitled *Le 8ème régiment des Tirailleurs Tunisiens (1955-57)*, he gives details of the “**maintenance of order**” operations undertaken by the 8th regiment:

“At Djeurf... during the day of the 24th, the 1/8 maintained contact. A large attack sub-group was formed around the 1/8. It was to be given considerable fire power, for example, a thousand cannon shots for artillery preparation, four aviation bombardment missions, etc.

On September 25, the 1/8 attacked. It fought all day, making difficult progress at the foot of the cliffs in chaotic terrain against an invisible enemy, fortified in numerous caves...

On the morning of the 26th, the 1/8 resumed its advance, then was relieved for mopping-up by a battalion of the 6th Étranger.”

In the same article, Colone Jean Bergue gives details of the Regiment's armed involvement against the Tunisians in the border areas: *"In January 1956, the battalion resumed law enforcement operations on the Algerian border in the Ghardimaou, Djebel Driss and Feriana regions (Operation Epiphany)[...] in Redeyef, where it carried out sustained operational activity for 6 months, with several serious clashes, particularly on June 8 (1956)."*

¹¹Roger Seydoux, French Ambassador in Tunis, to M.Savary, Secretary of State for Moroccan and Tunisian Affairs .T.N°2931 to 2936. urgent. Reserved. Tunis, June 22, 1956. In Archives diplomatiques.

¹² Quoted by **Béchir Turki**, Director of Signals at the Ministry of National Defense, *Eclairages sur les recoins sombres de l'ère bourguibienne*-Tunis novembre 2011-pp191-19

b) Bombardments of Jbel Agri (Tataouine) and Jbel Bouhlel (Gafsa-Kebili) May- June - July 1956 (almost 1,500 dead).

Declassified documents archived at the Centre of diplomatic archives of Nantes (CADN.46tu900-945) containing interrogation reports reveal that the French army did indeed carry out punitive expeditions in the Jbel Agri and Jbel Bouhlel mountains between May and June 1956.

In an intelligence bulletin from Captain Bellot, delegate of the French Embassy in Tataouine, dated July 30, 1956, he mentions these battles and the interrogations of prisoners that followed: "Following the military operations launched in Tataouine on May 29 at Djebel Telila and June¹ at Djebel Gharel Jani, the "Tataouine Liberation Army" commanded by Ajmi Medaouar ...was destroyed... interrogations are being sent under this cover...".

The IVD was contacted by a group of victims from Mount Agri in Tataouine, who reported that the families of the victims of the battle of Agri had been unable to bury the unburied human bones at the edge of the mountains for fear of reprisals. The IVD conducted an investigation and collected some of these bones at Jbel Agri (Tataouine) and Jbel Bouhlel in the protected Dghoumès National Park (Gafsa-Tozeur), which it entrusted to the Pasteur Institute for analysis.

The Forum also published the results of its investigation into these violations in its final report¹⁴.

c) Bombardments of Sakiet Sidi Youssef

On February 8, 1958, under a "right of pursuit" approved by the French Council of Ministers against Algerian resistance fighters who had penetrated Tunisian territory and taken French soldiers prisoner, the French air force bombed the border village of Sakiet Sidi Youssef, killing 80 and wounding dozens; among the victims were school children whose school had been targeted by the air force. Béji Caïed Essebsi, dispatched by the government for the negotiations, testifies¹⁵:
"...disturbances are reported in the South. On February 19 in Remada, in retaliation for resistance fighters having mined the airstrip inside the barracks, causing casualties among his troops, Colonel Mallot

¹³See annexes to this memorandum.

¹⁴Final report Volume II, section 2: Violations from 1955 to 2013.

¹⁵Béji Caïed Essebsi. *Habib Bourguiba, le Bongrainetl'ivraie*. Sudéditions February 2017, pp. 84-86.

who commanded the French forces in the South, invaded the village and had the delegate and National Guard agents kidnapped and taken prisoner. He claimed to be in a position, under the terms of the Conventions of Internal Autonomy, to assume any mission to establish order in his zone, which covered the three southern governorates... Lieutenant Chadi reports that, in response to a journalist's question about the decision to imprison representatives of the Tunisian authorities instead of collaborating with them to calm tensions, Colonel Mallot declared: "Tunisia! Never heard of it! Check 40 km to the north!" meaning that Tunisian authority stops at Tataouine, and that south of this limit, he was giving himself all the power."

d) The Bizerte Attack

The Franco-Tunisian confrontation that shook the town of Bizerte between July 19 and 23, 1961, improperly called the "Battle of Bizerte", was in reality a disproportionate clash between the world's third largest military force, France, and a small country that had just regained its independence five years earlier. The Tunisian army was in the process of being formed from a single artillery group belonging to the army (which was destroyed as soon as the shooting started). It consisted of a few inexperienced infantry battalions. The majority of the troops were civilians from the "Destour Youth" (around 6000¹⁶). The French army, on the other hand, fielded a joint regiment with 4 air and sea defense companies, some thirty defense sections, a fighter squadron and naval aviation flotillas.

General De Gaulle had ordered: "**Strike hard and fast**". In fact, the third and second Marine Infantry Parachute Regiments (3rd RPIMa and 2nd RPIMa) from Algeria attacked industrial facilities¹⁷ (Bizerte cement works); health facilities (ransacking of the Bizerte multi-purpose dispensary); educational facilities; occupation of schools and destruction of school equipment; destruction of the Rimal scout cape; ransacking of administrative buildings: customs office, public works workshops, Cap Blanc lighthouse, the house of the public works engineer at Zarzouna; ransacking of railway stations at Sidi Ahmed and Tindja, and of electricity, water and telephone networks occupation of the prison and detour of supplies intended for prisoners; people stripped of their possessions.

¹⁶Compterendudes événements survenus à Bizerte de juin à octobre 1961 -Vice-Amiral d'escadre Amman, commandant de la base stratégique de Bizerte. Superior command of the Bizerte strategic base. N°114/C.B.S.B./3

¹⁷According to the testimony of Colonel **Noureddine Boujallabia**, commander of the 5th infantry battalion *La Bataille de Bizerte telle que je l'ai vécue- (The Battle of Bizerte as I lived it)*.
Sud Editions Tunis 2004, pp. 77 ff.

One of the paratroopers testifies in a book published in 1998:

"We behaved like killers because we were afraid of being killed... a horde of wolves let loose in the city, which took the Tunisian army by the throat, totally annihilating the companies of Tunisian riflemen and the commandos of young Destourians who thought they could mock our Republic with impunity... As in the days of Hannibal and the Crusades, the palaces of the vanquished must be sacked, especially if they have shown themselves to be cowards!... For the time being, the group has set up camp in a school close to the Medina, where particularly violent fighting has taken place in recent days."

In connection with these events, the Truth & Dignity Commission has received **650 files** relating to the violations that accompanied the battle of *Al-Jalaa*, where around **5,000 people** were killed on the Tunisian side, while **27 French soldiers** were killed in the fighting.

4- Impact of French Domination on the Tunisian Economy

Although the protocol signed on March 20, 1956, recognized Tunisia's independence by putting an end to the Treaty of Bardo, in reality it was not until 1958 that Tunisia regained its economic sovereignty by unpegging the dinar from the franc and abolishing the customs union regime.

In fact, the French state was intent on undermining the sovereignty of Tunisian institutions, while seeking to perpetuate the advantages of certain French companies and maintain their dominant position in the Tunisian economy.

As part of the mission entrusted to the *Instance Vérité et Dignité* (Truth and Dignity Commission) to investigate the excesses and violations relating to the exploitation of mineral resources, and to assess the independence of economic choices and their conformity with the national interest, the IVD has arrived at the following findings, based on the documents collected on this subject.

¹⁸Philippe Boisseau *Les loups sont entrés dans Bizerte*, Editions, France Empire 1998. pp.81, 106, 107 and 120.

¹⁹According to military hospital records, quoted by Béchir Turki, *éclairages sur les recoins sombres de l'ère bourguibienne*. p.81.

²⁰Article 3 of the 1955 Economic and Financial Agreement stipulated that the issue of Tunisian banknotes would continue to be governed by the Beylical Decree of August 5, 1978. France continues to ensure the control of the central monetary authority of the Franc zone over bank note issuance in Tunisia. Article 7 stipulates that the Franc zone foreign exchange office, which is placed under the administrative authority of the Governor of the Banque de France, is responsible for applying foreign exchange regulations in Tunisia. Article 9 specifies that import and export licenses are issued by the Office des Changes.

a) Pre-independence Mining Legislation

As part of its colonial economic policy, France set up a dozen companies and granted them concessions and rights to exploit mineral reserves.

To guarantee the permanence of these advantages, even after independence, a series of legal provisions were introduced to protect French interests (Beylical decree of December 13, 1948; Beylical decree of 1949). These texts established favorable conditions in terms of operating periods, exploration surface areas, the automatic conversion of exploration permits into operating licenses, and the payment of royalties assessed in French francs.

This unbalanced situation continued unchanged after independence, despite the better results achieved with non-French partners.

b) Advantages provided by the conventions of June 3, 1955, not repealed by the independence protocol

Through the Economic Convention of Internal Autonomy signed between Tunisia and France in 1955, which was not repealed after independence, France preserved the economic advantages it had already granted to French companies. Articles 22, 33, and 34 granted preferential treatment to French companies in the exploration and exploitation of natural and mineral resources, while depriving the Tunisian state of its sovereign right to terminate or modify the terms of existing conventions and concessions.

c) Massive Post-independence Exploitation

Independence in 1956 did not bring about a balance in the economic relationship between Tunisia and France. The 775 km pipeline (linking Ain Amenas in Algeria to Skhira in Tunisia), 510 km of which runs through Tunisian territory, has been managed by the French company TRAPSA, created in 1958. This arrangement has not guaranteed the basic rights of Tunisians. Tunisia was excluded from negotiations with the Algerian side, the country of origin of the oil being transported, while France, for its part, did not engage in negotiations with Tunisia.

²¹See appendices, section on Franco-Tunisian agreements.

²²"The Tunisian government undertakes to give preference, on equal terms, to French or Tunisian companies, or to companies created for this purpose by mutual agreement between the two governments, for the award of research and exploitation permits and concessions. (Art 33) "The terms of concessions, agreements and research and exploitation permits, currently concluded or awarded, may only be modified by the public authorities by agreement with the dealer, the contractor or the assignee.(Art 34).

Negotiations were conducted by the French company. Thus, no revision of transport charges or mechanisms for verifying the quantities transported has ever taken place.

This situation of abuse is not confined to this level: Tunisian oil from sites developed with the Italian partner **ENI** is also transported to the port of Skhira under conditions unfavorable to Tunisia's interests, since the pipeline was originally built to transport Algerian oil via Tunisia.

The interference of the former colonial power in Tunisia's strategic economic choices also extended to pressure exerted to abandon plans for the construction of a refinery in the Gabès region.

The Tunisian state has furthermore been disadvantaged by an oil extraction royalty rate that has remained below the world average, resulting in a considerable shortfall in revenues. National production amounted to **30.4 million barrels**, yet the total contribution to the state was limited to **300 million French francs**. This shortfall in income from mining operations stems mainly from the unfavorable terms of the operating agreements signed with foreign partners — of which **seven were French companies out of fifteen in operation**.

This unbalanced relationship and the leonine agreements signed deprived Tunisia of a vital source of funding for national development, job creation, infrastructure, and social services such as health and education.

The contribution of oil operations to the state budget has not exceeded **6% on average**, whereas the worldwide oil extraction royalty rate is above **25%**. In principle, oil revenues should never fall below **40% of gross sales**. The minimum estimated loss is **34% of total production** over the period 1971–2010, which, according to OECD data, represents **1,293 million barrels**, with a shortfall of around **440 million barrels**. The minimum value of this loss, based on the current price of a barrel of Brent (including compensation for default interest), is estimated at **\$27.5 billion** — a figure higher than Tunisia's current public debt of **\$22 billion**.

d) The Burden of Illegitimate Debt

In June 1955, when Tunisia gained internal autonomy, the Tunisian state inherited a public debt of **78,261.8 million francs**, most of which had been contracted by the French colonial authorities with French financial institutions such as the French Treasury and the *Banque d'Algérie et de Tunisie*.

The Convention of La Marsa of June 8, 1883, which supplemented the provisions of the Treaty of Bardo — particularly with regard to financial matters — stipulated in Article 2:

"The French Government will guarantee, at the time and under the conditions it deems best, a loan to be issued by His Highness the Bey, for the conversion or repayment of the consolidated debt amounting to the sum of 125 million francs and the floating debt up to a maximum of 17,550,000 francs. His Highness the Bey will refrain from contracting any future loans on behalf of the Regency without the authorization of the French Government."

This convention was itself supplemented by the creation of an *International Financial Commission*, whose decree stipulated that:

"The executive committee shall collect all state revenues without exception, and no treasury bonds or securities of any kind may be issued without the consent of the said committee, duly authorized by the control committee" (Art. 9).

According to a report published in 1955 by the Tunisian Statistics Service, expenditure on servicing the public debt increased **25-fold** between 1938 and 1955, rising from **201.3 million francs** to **5,052.9 million francs**.

Moreover, when colonial lands were nationalized, the Tunisian state reappropriated lands that had been confiscated from Tunisian farmers during colonization — but only in return for compensation. Once again, this compensation was financed through credits granted by France, which further added to the public debt.

On November 17, 2016, the *Instance Vérité et Dignité (IVD)* organized a public hearing at which agricultural engineer **Gilbert Naccache**, who had just graduated from French schools in 1962 and wished to contribute to the work of the IVD, spoke about his experiences in Tunisia.

²³Cf. Report on the Tunisian economy published in 1955 by the Tunisian Statistics Service (see appendix).

²⁴Cf. Article 6 of the decree-law of May 12 1964 on the ownership of agricultural land, which sets out the principle of compensation according to the value of the land and decides to set up an evaluation commission.

Gilbert Naccache, reflecting on his experience and his country's economy, testified to his surprise at the presence of French officials in the Ministry of Agriculture, who continued France's colonial policy and obstructed the initiatives he proposed that were more in line with Tunisia's national interests.

The same process was observed in the **Tunisification of public service companies** — such as electricity, gas, and phosphates — which were bought from France by the Tunisian state in return for loans granted by France, thereby further increasing the public debt. The expropriation of land and businesses from French occupiers also proved costly for the Tunisian economy, which had to assume heavy debt burdens. For instance, French shareholders in companies affected by the creation of the *Société Tunisienne d'Électricité et du Gaz* were compensated with **4.255 million dinars** in 1968, converted into bonds (debt) bearing **5% annual interest** over a 15-year period.

A large proportion of Tunisia's bilateral public debt is therefore a direct legacy of the colonial period. It worsened after independence as a result of economic dependence and the persistent imbalance in trade relations between the two countries. This debt further increased under the **Ben Ali dictatorship**, where it was primarily used to legitimize and maintain despotic power. Instead of serving economic development objectives, it was diverted to contribute to the personal enrichment of the ruling clan.

Today, **France is Tunisia's largest creditor country**, accounting for almost **39% of total bilateral debts** and holding more than **1,100 million Euros in receivables**. This situation deteriorated further after the fall of Ben Ali, when international partners plunged Tunisia into a cycle of debt under the pretext of providing financial support for the democratic transition.

The **European Parliament** acknowledged this reality in its resolution of May 10, 2012 (paragraph 6), which states:

"It deems the external public debt of the countries of North Africa and the Near East odious, knowing that it was accumulated by dictatorial regimes, mainly through the personal enrichment of political and economic elites."

²⁵<https://www.youtube.com/watch?v=PjLM3dutcW8>

²⁶Law No. 69-36 of June 26, 1969 on compensation for shareholders of companies affected by decree-law No.62-8 of April 3,1962.

²⁷www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P7-TA-2012-0201&language=FR&ring=A7-2012-0104

Between 2011 and 2016, over **80% of the loans contracted by Tunisia** were used to repay the illegitimate debt accumulated by the former regime, plunging the country into a spiral of excessive indebtedness.

At a time when Tunisia is experiencing a profound social and economic crisis, the repayment of this illegitimate debt is absorbing resources that could otherwise be allocated to vital areas such as financing infrastructure projects, improving public services (education, health, transport, etc.), and creating jobs. This situation constitutes a violation of the **economic and social rights** of the Tunisian people.

In this regard, the *Instance Vérité et Dignité (IVD)* recalls **Resolution 40/8** on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights — particularly economic, social, and cultural rights — which states:

"Noting with concern that, despite successive debt reschedulings, developing countries continue to repay more each year than they actually receive in official development assistance;

Recognizing that States have an obligation to respect and protect human rights, even in times of economic and financial crisis, and to ensure that their policies and measures do not lead to an unacceptable setback in the realization of human rights, as recognized in the relevant international human rights instruments, and acknowledging that the Guidelines for Human Rights Impact Assessments are an important reference for Member States in this regard;

Recognizing also that every State has the sovereign right to restructure its sovereign debt, and that this right should not be impeded or limited by any measure emanating from another State."

Conclusion

It is clear from all these elements that the responsibility of the **French State** for the damage caused to individuals, to corporate bodies, to the Tunisian people and to the State is established. This responsibility stems from the measures imposed by the former colonial power.

On February 15, 2017, during his visit to Algeria, President **Emmanuel Macron** declared:

"Colonization is part of French history. It's a crime, it's a crime against humanity, it's a real barbarity and it's part of this past that we must face up to by also apologizing to those towards whom we committed these acts."

We expect the President of the French Republic to act accordingly. By taking such action, France would succeed in purging this heavy dispute that has tainted — and continues to taint — relations still burdened by the liabilities of a colonial legacy. The *France of Human Rights* would only gain by confronting this past with courage, for this is the true price of reconciliation.

As the Tunisian state institution charged with ensuring reparations within the framework of the transitional justice process, the *Instance Vérité et Dignité (IVD)* has established the responsibility of the French State for the violations listed above. Consequently, it requests that France take the appropriate measures to repair the damage suffered by the victims — both individuals and the Tunisian people as a whole — in accordance with the provisions of the Transitional Justice Law, and particularly with respect to economic violations.

This reparation must be reflected in the following actions:

1. **Acknowledgement of the facts** and the presentation of a formal **apology**;
2. **Payment of pecuniary compensation** to individual victims, to victimized regions, and to the Tunisian State in its capacity as victim of unfair financial arrangements;
3. **Restitution of Tunisian archives** covering the period from 1881 to 1963;
4. **Cancellation of Tunisia's bilateral debt**, which is illegitimate. A commission to be established for this purpose will have to assess the damages in detail.

On behalf of the IVD Council,

The President

Siham Bensedrine

As part of its liquidation mission set out in **Decision N°12 of the IVD Council**, dated July 3, 2018, the President of the IVD must be kept informed of the follow-up given to this case with the French authorities.

A copy of this memorandum has been sent to the **Tunisian Ministry of Foreign Affairs**.

Attached to this memorandum are the following documents:

- The **Tunisian Constitution** promulgated in January 2014, in particular **Article 148, Paragraph 9**;
- **Organic Law 2013-53** of December 24, 2013, on the establishment of transitional justice and its organization;
- The decision of the Board of the **Truth & Dignity Commission (IVD)** dated May 29, 2018, relating to the reparation and rehabilitation program;
- The decision of the Board of the **IVD**, dated December 30, 2018, to send a memorandum to the President of the French Republic, the President of the World Bank, and the Managing Director of the IMF;
- **United Nations Resolution 60/147** of December 16, 2005, on *“Basic principles and guidelines on the right to a remedy and reparation for victims of gross violations of international human rights law and serious violations of international humanitarian law”*;
- **United Nations Resolution 40/8**, dated March 21, 2018, on the *“Effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social, and cultural rights”*;
- Tables and documents from the **Ministry of Finance** relating to public debt.

Table of Contents

Based on the competences defined by Organic Law 2013-53, the IVD has the obligation to: ...4

1. Historical Background to French Colonization	5
a) Establishment of the French Protectorate	8
b) Policy of Terror from 1952–1954	10
2. The Internal Autonomy Conventions and the Independence Protocol	13
a) Co-sovereignty or Shared Sovereignty	14
3. The Impact of French Domination on Tunisians' Security and Physical Integrity	15
a) Bombing in the North-West, Centre-West, and South-West	16
b) The Jbel AGRI (Tataouine) and Jbel Bouhlel (Gafsa-Kebili) Bombings, May–July 1956 (almost 1,500 dead)	18
4. Impact of French Domination on the Tunisian Economy	20
a) Pre-independence Legislation on Mineral Exploitation	21
b) Advantages Preserved by the Conventions of 3 June 1955, Not Abrogated by the Independence Protocol	21
c) Massive Exploitation Post-Independence	21
d) The Burden of Illegitimate Debt	23
Conclusion	25