

EDA WORKING PAPER

Executive Summary

Competing for Justice: Transitional Justice and Stabilisation in the Middle East/North Africa

Dr Zinaida Miller

- From the beginning of the uprisings in the Middle East and North Africa (MENA), the call for transitional justice was constant. In the aftermath of conflict or radical political change, the question today is almost never *whether* transitional justice should take place but rather *which form* it should take, *when*, and *how*. Layered on top of calls for equality, redistribution and social justice in MENA, the calls for transitional justice echoed global exhortations to fight impunity and ensure accountability. A range of processes have followed: trials, battles over international criminal jurisdiction, truth commissions, reparations and lustration.
- Transitional justice often serves the purpose of consolidating and legitimising a new regime. In countries where the new regime shares much with its rights-violating predecessor, where conflict is incipient or constant, or where political compromise remains fragile, contests over the shape and nature of justice become struggles over the distribution of power, resources, victimhood and memory.
- This paper identifies factors that shape the (de) stabilising potential for transitional justice in the MENA region: (1) the choice and design of mechanisms; (2) the conditions of transition; (3) the inclusion of economic factors; and (4) the role of memory, history, and reconciliation.
- Each of these factors offers a different lesson:
 1. an over-emphasis on criminal prosecution can narrow the parameters and outcomes of justice;
 2. halting, interrupted, incomplete, and ongoing transitions make justice processes sites of explicit political contestation;
 3. the inclusion of socio-economic inequalities and corruption is both inescapably necessary and deeply threatening to entrenched elites; and
 4. the ways in which memory is institutionalised and history is written distributes symbolic and material identity by defining victimhood.
- Together, these lessons suggest the inability to draw a clear line between stabilisation and justice in the abstract. Resistance and revolution unbalance existing distributions of power and resources. As those forces founder, continue, surge, or return, transitional justice provides a new site for contestations over identity and community as well as human and material resources. Depending upon the legitimacy of the processes, the investment of the actors, the shape of popular dissatisfaction, and the distributive impact of justice, that site can offer an alternative to violent conflict or become an arena for further battles.