



» TUNISIA

Situation report on Violence against Women

March 2018

1. Legal Framework

Tunisia, a pioneering country in the Arab world in promoting women's status, has a wide range of legal resources for defending women's rights. Article 21 of the Constitution of January 2014¹ stipulates that male and female citizens are equal before the law, without discrimination.

According to article 46 of the Constitution, the State must take the necessary measures to eliminate violence against women. Women can be victims of multiple forms of violence, most of which are punished in the Tunisian legal system. The Tunisian Penal Code currently criminalises rape, forms of sexual aggression classified as indecent assaults and sexual harassment. However, if rape is criminalised, other forms of sexual, moral and economic violence are not when committed within the marriage.

A comprehensive law on the eradication of violence against women was adopted on 11 August 2017 and came into force in February 2018. It addresses all forms of violence – physical, economic, sexual, moral and political – and is built on 3 pillars. The first pillar is on prevention and puts emphasis on prevention through education on gender equality. The second pillar deals with support to victims, with a new possibility of obtaining a restraining order in case of domestic violence – and with the concept of domestic violence widened to include violence committed by former spouses and fiancés. The third pillar is judicial and proposes a reform of several Penal Code provisions. The most important of these are a new definition (until now inexistent) of incest; the criminalization of economic and political violence; the suppression of the possibility for a rapist to avoid prosecution if he marries the victim; the criminalization of rape not only against women but also against men (which was until now treated as “indecent assault”) and the widened definition of sexual harassment to include harassment in the street. In addition, the law provides for the introduction of new aggravating circumstances, namely in case the victim is a child, if the perpetrator is a spouse/former spouse or fiancé/former fiancé, and if the perpetrator has abused of his authority over the victim or taken advantage of the victim's vulnerability.

With regard to domestic violence, the law has reformed the Penal Code in that the withdrawal of the complaint by the victim does not result in the dismissal of charges. Moral forms of violence are also incriminated, including within a couple. Women's trafficking for a purpose of professional or sexual exploitation is also criminalised under the new Law to fight human trafficking adopted in 2016.

1. Tunisian constitution, 2014



Tunisia is the first country in the region to have ratified and lifted all reservations to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), and one of only two countries in the region to have adopted the Optional Protocol. Nevertheless, progress on the report to the CEDAW Committee has been slow. The Rome Statute of the International Criminal Court was ratified in 2011, but the Istanbul Convention of the Council of Europe on preventing and combatting violence against women and domestic violence has not yet been signed. However, Tunisia ratified in January 2018 the Convention by the Council of Europe, or Lanzarote Convention, on protecting children against exploitation and sexual abuse.

Additionally, domestic legislation on violence against women incriminates discrimination and explains violence through discrimination between sexes. Following recommendations of the feminist Civil Society, a commission was set up on 13 August 2017 to catalogue discriminatory and intrusive laws on individual freedoms and propose reforms, for instance to set equality in inheritance. This commission is tasked to draft a report recommending a number of reforms aimed at protecting individual freedoms, in accordance with the 2014 Tunisian Constitution and international human rights standards. The release of the report, originally scheduled for February 2018, has been postponed to June of this year.

2. Political Framework

A national survey was conducted by the National Board for Family and Population (ONFP) in 2011², which led to improved advocacy for combating violence against women. Other studies conducted in hospitals and other locations have not, however, been published. Each institution and NGO collects data for internal purposes in the form of registers or files, but this data is not homogenised. A feminist association undertook a data collection task with a network of NGOs and institutions (ONFP) and the Ministry of Women, Family and Children's Affairs (MaFFE) to prepare a unified database useful for decision-making and advocacy. This database is currently used by an NGO that just published a study on its archives on matters of violence.

Intersectoral protocols between the Ministries of Interior, Justice, Health, Social Affairs and for women (MaFFE) were signed in January 2018 to establish a law eliminating violence, which will allow better coordination between the different contributors. It is worth mentioning that NGOs were invited to participate in elaborating these protocols and will take part in their follow-up and evaluation.

However, little funding has been allocated to governmental institutions combatting violence against women: only 0.27% of the government's budget has been allocated to the Ministry of Women, Family and Children's Affairs (MaFFE) for all work on women's rights, including combatting violence against women.

Prevention and training of professionals in contact with victims

Within official study programmes and at all educational levels, there is no teaching material about subjects such as equality between women and men, non-stereotyped gender roles, mutual respect, non-violent conflict resolution in interpersonal relationships, gender-based violence against women and the right to integrity of the person. However, a Masters on gender was created at the FLAHM in 2016 and some personal initiatives are taken by teachers, school principals and by ONFP and women's associations. In accordance to the disposition of the law against violence, these initiatives should be reinforced by an official implication of the Ministries for national education and for higher studies.

Trainings were put in place for professionals (government workers, police, judges, lawyers, doctors, nurses, etc.) concerning violence against women, in all its forms, the prevention and detection of such violence, equality between women and men, the needs and rights of victims, and on how to prevent secondary victimisation. Since 2012 awareness-raising campaigns to influence public opinion have been set up; the annual campaign during the 16 days of activism against gender-based violence has been taken up both at national and local levels by various stakeholders, including NGOs, institutions, UN agencies, etc.



3. Protection Framework and Access to Justice

Hotlines, psychological support and empowerment services

There are hotlines for women who are victims of violence, set up by the Ministry of Women, Family and Children's Affairs (MaFFE), but also by an NGO in Kef. Several psychological support centres have also been set up by NGOs as well as one by the ONFP. However, there are only two public shelters for victims of violence, one in Tunis and one in Sousse, with very low accommodation capacities. The MaFFE centre, managed by an NGO, opened its doors in 2016 in a suburb of the capital. Only one centre was opened by an NGO in the capital and some of the associations supported by international organisations, as well as institutions supported by the UN system or through bilateral cooperation, offer hotlines, psychological support and legal advice.

Access to a non-discriminatory judicial and police system

It is possible for a Tunisian woman to file a complaint over a gender-based violence incident with the police or a court. Furthermore, women's testimonies are considered equal to those of men. There have always been cases of violence against women perpetrated by government agents. Since 2011, complaints have been admissible and legal action possible in such circumstances. Additionally, the media reports on such violence, judicial trials have taken place and public agents have been sentenced, which contributed to shed light on this issue and encouraged victims to denounce.

Nevertheless, especially before 2011, there were many cases of impunity, and even today, some penalties are derisory in view of the harm done. Also, proceedings have taken place in closed hearings (under the pretext of protecting public morality), sometimes despite the objection of the victims who wished to make the problem public to fight against impunity.

If a victim's complaint is withdrawn, the prosecutor can continue the investigation. Legal aid is one of the rights provided to victims by the law on eliminating violence against women.. Women's rights NGOs also offer free legal support. Generally, judges have very conservative attitudes and do not hesitate to trivialise or minimise the attack or harm in order to "protect" the family or social order.

Special vulnerabilities

There is little or no statistical data concerning the different groups of women with special vulnerabilities, such as migrant and refugee women, women with disabilities and domestic workers. There is no system for prevention and social protection, except for women with disabilities, but even they do not have access to specific support measures. The law offers a protection system and sets the legal age for domestic work, but there is no supervision or monitoring mechanism attached to it. Girls and minors are heavily exposed to violence within the family, at school and even in public spaces, especially with the rise of Islamism since 2011. This has led to the emergence of new forms of inequality which can lead to harassment of girls at school and even to them dropping out of school. Single women are subject to severe social stigma and also suffer from discrimination, in particular in their right to access to abortion. The national survey published in 2011 highlighted the difficulties for women in rural areas in accessing public services. Furthermore, these women are also often exposed to gender-based violence³. Female prostitutes only have access to healthcare to combat sexually-transmitted diseases in controlled brothels. They are furthermore subject to severe social stigma, and are more likely to be victims of violence. The law on eliminating violence against women (2017), which incriminates discrimination and economic violence, may contribute to correct these insufficiencies. Same goes with the law on the prevention and repression of trafficking (2016), which includes economic and domestic exploitation, as well as sexual exploitation.

3. Rural women, vulnerable but determined, l'Economiste maghrébin, 2014

4. Tunisia - European Union: a privileged Partnership: Action Plan 2013-2017



4. Combating violence against women in the framework of Europe-Tunisia cooperation

European Union-Tunisia cooperation

The European Union (EU) provided financial support for the process of adopting the law on violence against women, within the scope of the EU-Tunisia Action Plan, as part of the European Neighbourhood Policy. The section on "Promotion and protection of the rights of women and children"⁴ also aims at combatting discrimination and violence against women, and promoting gender equality.

Council of Europe-Tunisia Cooperation

Fighting violence against women is one of the priorities of the joint Programme South III 2018-2020 between the EU and the Council of Europe. The aim is to reinforce institutional capacities in South Mediterranean countries in matters of human rights, rule of law and democracy. As such, the cooperation between the Council of Europe and Tunisia focuses on the implementation of the law on eliminating violence against women, for instance by creating welcome centres and developing intersectoral protocols on service delivery to women victims of violence.

5. Recommendations for the Tunisian government

- Apply the CEDAW recommendations by integrating international instruments for combating violence against women into national legislation;
- Implement the comprehensive law for the eradication of violence against women, in particular through the enactment of legislation for its implementation, the establishment of structures for its monitoring, the adoption of precise budgetary commitments and an obligation to show results in the caretaking of victims
- Make the National Observatory for the Prevention of Violence Against Women, established by Article 39 of the comprehensive law, an independent structure and provide for the obligation to include members of civil society in its composition
- Review the discriminatory provisions of the Penal Code, namely the criminalization of sexual relations between minors aged 16 to 18 and the absence of explicit criminalization of marital rape
- Promote equality by means of a communication strategy through all media;
- Set up a special compulsory education programme in primary and secondary schools and higher education aimed at promoting non-violence against women and gender equality;
- Train all workers, judges, lawyers, police officers, social assistants and all administrative staff involved in cases of violence against women.
- Review all discriminatory laws towards women, including the code on personal statute, to implement gender equality in front of the law (parental authority, inheritance, etc.)
- Ensure egalitarian laws are effectively applied.

