

Tunisia

The Constitution enacted in 2014 stipulates that all men and women are equal before the law and have equal rights and duties (Constitution of the Tunisian Republic, 2014: Article 21). In addition, Article 46 indicates a commitment to eradicating all forms of violence against women and protection of women's rights in all domains (Constitution of the Tunisian Republic, 2014: Article 46). Tunisia was the first country in the Middle East and North Africa region to have ratified and removed all reservations to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), and among only two countries in the region to have adopted the Optional Protocol (Euro Mediterranean Human Rights Network, 2017).

1. Discrimination in the family

a) Overarching legal framework for marriage

Following significant reforms in 1956, the overarching legal framework for marriage and divorce is governed by a unified secular Personal Status Code (Code du Statut Personnel, 2012; Wilder Conover-Crockett, 2015: 11). Marriage is conceived as a contract between mutually consenting parties under Article 3 of the Code (Code du Statut Personnel, 2012: Article 3). A valid marriage requires the presence of two witnesses and a dowry (Code du Statut Personnel, 2012: Article 3). According to Article 12, the dowry belongs to the wife and constitutes anything that can be accorded a monetary value (Code du Statut Personnel, 2012: Article 12). Spouses are legally required to treat each other well and without harm, and must fulfil their customary conjugal duties (Code du Statut Personnel, 2012: Article 23). Moreover, forced marriages are prohibited under the terms of Article 21, which annuls marriages in contravention of Article 3 requiring mutual consent (Code du Statut Personnel, 2012: Article 21).

Polygyny is prohibited by law. Those in breach of the law (even in cases where the second marriage has not been legally contracted or registered) face imprisonment and a fine (Code du Statut Personnel, 2012: Article 18). Spouses found in breach of the terms of marriage as stipulated in the Code and continue to live together despite judgement are liable to six months' imprisonment (Code du Statut Personnel, 2012: Article 21).

According to the Constitution, neither customary nor personal law are recognised as valid legal sources (Constitution of the Tunisian Republic, 2014; World Bank, 2016). While customary (*urfi*) or informal marriages are not officially recognised, they are said to be widely practised as a way of circumventing formal laws regarding polygyny (Code du Statut Personnel, 2012: Article 21; Dahlerup, Danielsson and Johansson, 2012: 12).

In September 2017, Tunisia lifted a ban on Muslim women marrying non-Muslim men. This discriminatory legal provision was part of a series of circulars issued by the Ministry of Justice in 1973 (Circulaires du Ministre de la Justice du 5 novembre 1973). The issue gained political traction, with an alliance of NGOs demanding the orders be repealed in light of the rights guaranteed to all citizens in

the Constitution (Belaid, 2017). Cohabitation outside of marriage is criminalised by law (Loi N° 1957-3, 1957: Article 36).

b) Child marriage

The legal age of marriage is 18 years old for both men and women, although marriages of minors under this age may be permitted, subject to the consent of their mother and guardian, and special approval from the judge (Code du Statut Personnel 2012: Articles 5 and 6). By law, the judge is only permitted to grant early marriages in case of “grave reasons”, and this must be “in the interests of the spouses” (Code du Statut Personnel 2012: Article 5).

Child marriage is void under Article 21 of the code, although there are no penalties for those facilitating or knowingly entering into such marriages (Code du Statut Personnel, 2012: Article 21; World Bank, 2016).

According to a Population Reference Bureau report (2013), child marriages are rarely practised in Tunisia, despite legal exceptions to the age of marriage (Roudi-Fahimi and Ibrahim, 2013: 1)

c) Household responsibilities

Only men are recognised as the head of household or family according to Article 23 of the Personal Status Code (Code du Statut Personnel, 2012: Article 23). Following 1993 reforms, wives are no longer required to obey their husbands (Loi N° 1993-74, 1993; Ben Salem, 2010: 8).

In marriage, custody of children belongs to both the mother and father, although the father remains their legal guardian (Code du Statut Personnel, 2012: Articles 57 and 154). Men and women also have different responsibilities to their children: as head of the family, men are required to provide for the financial upkeep of his wife and children according to his means, while women must only do so if she has the means (Code du Statut Personnel 2012: Article 23). Both are responsible for managing the family unit and for the upkeep and education of their children (Code du Statut Personnel 2012: Article 57).

While there are no legal provisions dictating a woman’s choice of where to live, in practice women marrying foreigners face some restrictions since foreign men married to Tunisian women are not granted residence permits (Loi N° 1968-0007, 1968: Article 13; OECD/CAWTAR, 2014: 149; World Bank, 2016).

In cases of divorce, the Personal Status Code stipulates that those granted child custody risk losing this status should they change residence in a way that prevents wardship from the guardian (Code du Statut Personnel, 2012: Article 61). Existing social norms and guardianship laws (for example under Article 67 of the Personal Status Code) means that there is a strong presumption that fathers retain exclusive legal authority over their children, which is often difficult for women to overturn (Code du Statut Personnel 2012: Article 67; International Commission of Jurists, 2016: 13).

d) Divorce

Men and women have equal rights to initiate divorce under Article 30 of the Personal Status Code, and divorces must be legally pronounced by a judge (Code du Statut Personnel 2012: Article 30). Divorces are granted under three conditions: (i) mutual agreement; (ii) fault or maltreatment of one of the spouses and; (ii) at the request of either the husband or the wife (Code du Statut Personnel 2012: Article 31).

Custody and guardianship are legally distinct. While custody is determined by the judge on a case-by-case basis depending on the best interests of the child, legal guardianship remains the right of the father (Code du Statut Personnel 2012: Article 67 and 154). In addition, there are legal provisions that discriminate against a mother's custodial rights. According to Article 58 of the Personal Status Code, a woman who remarries forfeits her rights to custody unless a judge rules otherwise, while no such provisions apply to men (Code du Statut Personnel 2012: Article 58). The father is, however, responsible for providing accommodation for both the children as well as their custodian, in the absence of their own proper residence (Code du Statut Personnel 2012: Article 56; Yassari, Möller and Gallala-Arndt, 2017: 273).

In practice, divorced women are perceived negatively in society and face high levels of stigma, which can sometimes act as a barrier to women seeking to initiate a divorce (Canada: Immigration and Refugee Board of Canada, 2017). For example, an Amnesty International (2015: 20) report notes that women are often blamed for divorce, even where the grounds for doing so is based on harm or spousal violence. In addition, women face challenges in establishing their property rights, and there is no legal requirement for them to maintain their right to the family home; both of which may act as a financial barrier for some women seeking a divorce (International Commission of Jurists, 2016: 13).

The Commission for Individual Liberties and Equality (COLIBE) has drafted some proposals to amend existing laws governing family matters such as considering that, the man is no longer the only head of the household but shares this responsibility with the woman. The mother becomes a guardian of the children in the same way as the father (OECD, forthcoming).

e) Inheritance

Inheritance law is governed by the Personal Status Code, although it is largely influenced by principles of Islamic law (*Shari'a*). According to the Code, daughters are entitled to half the amount of sons, while female surviving spouses are entitled half the amount of male surviving spouses (Code du Statut Personnel 2012: Articles 103, 101-102). No distinction is made between land and non-land assets in this regard (Ben Salem, 2010: 12). In a departure from *Shari'a*, article 143 of the Personal Status Code enables girls to receive the full inheritance in the absence of male heirs (Code du Statut Personnel 2012: Article 143).

The right to make a will is governed by Book 11 of the Personal Status Code. No legal exceptions are noted regarding the right to make a will among men and women (Code du Statut Personnel 2012: Articles 178-180). Although recognised in law, in practice it is rare for Tunisian nationals to make a will (Lawyers Without Borders, 2011)

2. Restricted Physical integrity

a) Violence against women

Article 46 of the Constitution stipulates that the State is committed to taking all measures necessary in order to eradicate violence against women (Constitution of the Tunisian Republic, 2014: Article 46). Tunisia has not yet however ratified the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (African Commission on Human and Peoples' Rights, 2017).

A national strategy combating violence against women was developed and adopted in 2013 by the Ministry of Women, Family and Children's Affairs in collaboration with the UN Population Fund (Amnesty International, 2015). The strategy outlines four key priorities: collecting data and information on the prevalence of violence against women; improving the availability of services for survivors of violence; promoting awareness-raising and public education campaigns to change societal attitudes towards violence against women; and reviewing legislation around violence against women (Amnesty International, 2015). Among these, the strategy also envisages improving the quality of medical, psychological and legal support to survivors, although the extent to which this includes training for professionals is unclear, with some sources suggesting this has been limited to general training given to the police force (Amnesty International, 2015; Euro Mediterranean Human Rights Network, 2017). A report by the Euro Mediterranean Human Rights Network moreover suggests that no training has been provided to legal or judicial professionals working with such survivors (Euro Mediterranean Human Rights Network, 2017).

The efforts by the Ministry of Women, Family and Children's Affairs culminated in the development of a new draft law targeting violence against women and girls. The Tunisian government approved a Draft Organic Law Related to the Elimination of Violence against Women in July 2016. The Tunisian Parliament passed the national law to combat violence against women in July 2017 (Article 19, 2017; Euro Mediterranean Human Rights Network, 2017; UN Women, 2017).

The new law stipulates a broad definition of violence. In addition to physical violence, the law recognises other forms of violence against women and girls, including economic, sexual, political and psychological (Article 3, 2017). The aim of the law is to create a comprehensive framework to address and eliminate all forms of violence against women and girls, both through the protection and support of victims and survivors, and through investigation and punishment of perpetrators of violence (Articles 6-13, 15, 2017). The new violence against women law spans five chapters and includes the following provisions: outlining preliminary issues relating to violence against women and girls; introducing measures for the prevention and protection against violence targeting women; outlining steps for the prosecution and punishment of perpetrators of violence through reforms to the Penal Code; establishing procedures relating to the investigation of perpetrators; and administrative steps required to remove previous legal provisions rendered obsolete by the new draft law (Article 19, 2017).

Measures within the new law include: the possibility of obtaining a restraining order against perpetrators; extending the existing definition of domestic violence to reflect crimes committed by ex spouses; introducing incest as a crime in the Penal Code; removing reservations to rape committed by

a spouse (often referred to as *marital rape*); widening the definition of sexual harassment to include harassment in public spaces and on the street; and removing restrictions regarding the possibility of men to be victims of rape (Euro Mediterranean Human Rights Network, 2017).

b) Domestic violence

There is no comprehensive legislation explicitly addressing domestic violence, although this is criminalised under the Penal Code. Article 218 stipulates that “any individual who wilfully injures, strikes or commits any other violent act or battery not set out in Article 319 [2] shall be punished by a term of imprisonment of one year and a fine of 1,000 dinars” (Code Pénal, 2012: Article 218; Canada: Immigration and Refugee Board of Canada, 2016). The law does not refer to psychological or economic violence (Amnesty International, 2015: 18).

The penalty for violence committed by a relative, spouse, ex-spouses, boyfriend, ex-boyfriend is two years’ imprisonment and a 2,000 dinar fine, increasing to a fine of 3,000 dinars if the violence is premeditated (Code Pénal, 2017: Article 218;). Article 219 imposes more severe penalties for permanent damage or disfiguration caused as a result of the violence (Code Pénal, 2012: Article 219).

Some have criticised the lack of sufficient measures protecting victims from being coerced into dropped charges, and they note that women often face pressure from family members or perpetrators to do so (Canada: Immigration and Refugee Board of Canada, 2016). Before August 2017, under Article 218, not only were all criminal proceedings dropped at the request of the victim, but also all records of the complaint were removed (Amnesty International, 2015: 21). This legal provision was repealed in 2017. Moreover, a report by Amnesty International suggests that domestic violence is commonly perceived as something that must be tolerated, which can act as a huge barrier for survivors coming forward and reporting the crimes (2015:18).

This perception is also prevalent among the police forces who are dismissive towards survivors, as they consider family and spousal violence a private matter, and often lack the relevant training to address issues sensitively (Amnesty International, 2015:19). Police officers reportedly also often attempt to reconcile or mediate between the concerned parties and dissuade survivors from filing a complaint (Amnesty International, 2015:19).

The lack of awareness-raising campaigns or public education measures targeting domestic violence has also been widely criticised (Amnesty International, 2015: 71; Canada: Immigration and Refugee Board of Canada, 2016). A Euro Mediterranean Human Rights Network factsheet notes that just 0.27% of the government’s budget has been allocated to the Ministry of Women, Family and Children’s Affairs; intended to include for all work on women’s rights, including violence and domestic violence (Euro Mediterranean Human Rights Network, 2017).

c) Rape

Rape and sexual assault are criminalised under the Penal Code. A new definition of rape was established in 2017 under Article 227 (new) of the Penal Code. It is considered as, any act of sexual penetration, whatever its nature, and the means used committed on a person without his/her consent. The perpetrator of the rape is punished by 20 years of imprisonment. Consent is considered

non-existent when the victim is under 16 years old. Rape is punishable by the death penalty if accompanied by the use of threat of arms or if committed against a minor below the age of 16 (Code Pénal, 2017: Article 227).

Marital rape is not explicitly codified in law, although an Amnesty International report (2015) notes that Tunisian authorities have indicated that Articles 227 and 228 are intended to cover spousal rape and do not grant spouses impunity (Amnesty International, 2015: 24). In practice, Article 23 of the Constitution requiring spouses to fulfil their marital duties in accordance with norm and custom has widely been interpreted to include sexual relations (Constitution of the Tunisian Republic, 2014: Article 23; Amnesty International, 2015: 24). Moreover, while women are legally permitted to file a complaint under Article 227 of Penal Code, in practice this is seldom invoked, owing to the widespread view and perception of sex as part and parcel of the marital contract (Amnesty International, 2015: 24).

Sexual violence is not explicitly addressed in law, although it can be prosecuted under the terms of Articles 228-229 defining indecent assault (Code Pénal, 2012: Article 228-229). Both men and women can file a complaint for indecent assault, and the perpetrator faces a maximum penalty of six years' imprisonment (Code Pénal, 2012: Article 228-229). In 2017, the Government of Tunisia repealed Penal Code Article 227 bis, which allowed perpetrators, accused of raping a woman or girl under the age of 20 to escape prosecution by marrying her.

Access to psychological or medical facilities for survivors of sexual violence is limited, and tends to be provided for by civil society organisations and NGOs (Amnesty International, 2015). The Euro Mediterranean Human Rights Network reports that there are only two known shelters for survivors of violence in Tunis and Sousse, although their capacity is limited (Euro Mediterranean Human Rights Network, 2017). The report also notes that the Ministry of Women, Family and Children's Affairs operates a hotline for women survivors of violence (Euro Mediterranean Human Rights Network, 2017).

Regarding access to justice, the law is absent of provisions regarding specialised tribunals for survivors for sexual violence, and, while legal aid is guaranteed in the Constitution, in practice accessing forms of legal aid can be very difficult (Constitution of the Tunisian Republic, 2014: Article 108; Euro Mediterranean Human Rights Network, 2017). Medical professionals moreover often lack training in how to collect forensic evidence in cases of sexual violence, which can delay legal proceedings for survivors of such crimes (Amnesty International, 2015: 58).

d) Sexual harassment

Following campaigns by women's rights activists in 2004, sexual harassment is criminalised under the Penal Code (Amnesty International, 2015). Sexual harassment is defined as any act, gestures or words with sexual connotations that are offensive to one's dignity or affect one's modesty with the intention to subject the victim to the perpetrator's sexual desires (Code Pénal, 2017; Article 226 ter). Under the new Article 226 ter, sexual harassment is punishable by two years of imprisonment and a fine of 5 000 dinars (Code Pénal, 2017; Article 226 ter).

There are no additional provisions regarding what might constitute sexual harassment or any indication of whether and how that may vary in different domains, such as cyber harassment or harassment on the streets.

e) Female genital mutilation

Article 23 of the Constitution stipulates that the State shall protect ‘human dignity and physical integrity, and prohibits mental and physical torture’ (Constitution of the Tunisian Republic, 2014: Article 23). There are no documented cases of female genital mutilation although it is technically punishable under Article 219 of the Penal Code, which imposes penalties for permanent damage or disfiguration caused as a result of violence (Code Penal, 2012: Article 219 Ben Salem, 2010: 22).

f) Abortion

Women are freely permitted to seek an abortion during the first three months of pregnancy (Code Pénal, 2012: Article 214). These must be carried out within a medical establishment, and there is no restriction on the age of the woman (Code Pénal, 2012: Article 214). After this period, a woman’s right to seek abortion is restricted to instances of foetal inviability or risk of harm to the physical or mental health of the mother (Code Pénal, 2012: Article 214).

Tunisia has a long history of promoting access to abortion services and has a National Family Planning Office dedicated to family planning, who are authorised to provide free abortion services (Hajri *et al.*, 2015: 3). However, a recent report reveals some of the barriers faced by women seeking an abortion, including opposition from partners, and being turned away from physicians due to being too far in or too soon along their pregnancy (Hajri *et al.*, 2015: 7-10). Single women, who generally face high levels of social stigma, are moreover often subjected to discrimination in their right to access abortion (Euro Mediterranean Human Rights Network, 2017).

More

A law passed in 2016 criminalised women’s trafficking for a purpose of professional or sexual exploitation (Loi N° 29, 2015; Euro Mediterranean Human Rights Network, 2017).

3. Restricted Access to productive and financial resources

a) Secure access to land and assets

The right to own property is guaranteed for all men and women under the terms of Article 41 of the Constitution, and laws regarding land use are gender neutral (Constitution of the Tunisian Republic, 2014: Article 41; Cotula, 2007). There are no restrictions to women inheriting or acquiring land, although among certain rural areas of the South, women generally renounce their land rights to their brothers, who act as their protectors in case of divorce (FAO, n.d.). Married men and women are guaranteed equal rights to own and use property under Articles 23 and 24 of the Personal Status Code (Code du Statut Personnel, 2012: Articles 23 and 24; World Bank, 2016). Tunisia has not ratified ILO Convention 169 on Indigenous and Tribal Peoples (ILO, 2016). No legal restrictions could be found relating to decision-making power over land or property use.

While the default marital property regime is separation of property (Article 7), the law recognises joint property and includes provisions to this effect (Loi N° 98-91, 1998). Couples must, however, include this in their marital contract for this to be recognised (Loi N° 98-91, 1998: Article 7). There are no provisions regarding the requirement for spouses to mutually consent to matrimonial transactions (FAO, n.d.).

Under separate marital property regimes, the original owner retains the right to administer the property as they see fit (Code du Statut Personnel, 2012: Article 24). This applies both during marriage and in divorce. The joint property regime is terminated upon dissolution of marriage (divorce) or in case of the death of one of the spouses (Loi N° 98-91, 1998: Article 18).

Article 11 of the Personal Status Code allows couples to stipulate their own conditions regarding property in the marital contract (Code du Statut Personnel, 2012: Article 11). In case of disagreement between the spouses regarding property ownership, the judge will accord property according to what is commonly understood as ‘men’s and women’s goods’ (Code du Statut Personnel, 2012: Article 26).

It has been noted that women infrequently exercise their right to inherit land and other assets due to discriminatory practices that favour men, as well as the desire to keep property within the family (Abadeer, 2015). This is particularly the case regarding access to land among rural areas, where property is transferred according to a patrilineal model (Lawyers Without Borders, 2011: 39; El Sharif *et al.*, 2016:4). Other sources note that land is seldom registered in a woman’s name, instead usually being registered in the father’s name (Lawyers Without Borders, 2011: 39). Given that inheritance is the primary means through which women come to own land in Tunisia, these practices contribute to discriminating against women’s access and ownership of land (FAO, n.d.).

Other factors impacting women’s access to land rights include: challenges obtaining credit when purchasing agricultural land due to stringent lending conditions imposed on them; lack of training and technical support offered to rural women; and disproportionate access to agricultural holdings, which tend to be dominated by men (FAO, n.d.).

Some have tried to circumvent inheritance laws by gifting estates to their descendants (living will) (Ben Salem, 2010: 13). The government has tried to encourage this through tax exemptions and reduced registration fees and stamp duty under Law 1998 amending Article 20 of the Code of Registration Fees and Stamp Duties.

In terms of government initiatives improving women’s access to land and access, the Support Office for Rural Women was created under Decree No 2001-420 and is responsible for: coordinating with the Ministry of Women and Family (now Women, Family and Children’s Affairs) to develop an action plan for rural women; providing the relevant support to various agricultural bodies to facilitate and improve women’s access to different agricultural sectors; collecting statistics and information regarding rural women; and providing training and mentoring to rural women (2001: Article 14).

In addition, the Tunisian government finances legal literacy programmes designed to strengthen women’s understanding of their legal rights, including the “Espace Tanassof”, which is run by the Association des Femmes Tunisiennes pour la Recherche sur le Développement (AFTURD) and Institut Méditerranée (IMED) and Union Générale Tunisienne du Travail (UGTT) (AFTURD Tunisie, n.d.).

b) Secure access to formal financial resources

There are no legal restrictions regarding women's ability to open a bank account at a formal financial institution or obtain credit, although a report by the French Development Agency suggests that access to credit is one of the largest challenges for women working in the informal sector, as well as for rural women (World Bank, 2016; Agence Française de Développement, 2016). Women do not require the permission of their husbands to open an account (Honwana, 2013). Sources note that women in particular face high interest rates and a lack of collateral (Making Finance Work for Africa Secretariat, 2012:4). While there is nothing to suggest that interest rates are higher than for men, women often do not possess the required collateral to be able to access financial resources and institutions, due to discriminatory practices in inheritance and land ownership (OECD, 2016: 194).

The Tunisian Solidarity Bank, in partnership with the Ministry of Women, Family and Children's Affairs, launched a microcredit programme in 2015 for projects initiated by women (Banque Tunisienne de Solidarité, n.d.). All governorates are in scope for the programme, and women are eligible to receive funding for up to 100% of their project, with a maximum of 10,000 dinars (Banque Tunisienne de Solidarité, n.d.).

c) Workplace rights

The right to work for men and women is enshrined in the Constitution, which states that the State is committed to ensuring the necessary measures to guarantee work on the principles of fairness and on the basis of merit (Constitution of the Tunisian Republic, 2014: Article 40). In addition, Article 5 bis of the Labour Code prohibits all forms of discrimination between men and women, although no penalties could be located regarding companies that do not comply with this (Code du Travail, 2010: Article 5 bis). Although Tunisia has ratified ILO Convention 100 concerning Equal Remuneration, no specific laws mandating this were located (ILO, 2016). A report by the OECD/CAWTAR (n.d.: 4) moreover suggests there is no Ombuds Office tasked with receiving complaints on sex discrimination in Tunisia.

There are no legal restrictions to a woman seeking employment and she does not require the permission of a male guardian in order to do so (World Bank, 2016). However, Article 11 of the Personal Status Code allows couples to include any provisions in their marriage contract they see fit (Code du Statut Personnel, 2012: Article 11). No legal restrictions could be found regarding a woman's right to register a business, although women are free to enter and sign contracts (Code des Obligations et de Contrats, 2005: Articles 2 and 9).

Articles 77 and 78 of the Labour Code prevent women from working in mines or with heavy metals, while night work for women is restricted from 10pm to 6am (Code du Travail, 2010: Article 66, 77 and 78).

Statutory law grants maternity leave for up to 30 days and women are paid two thirds of their wages (Code du Travail, 2010: Article 64; Loi N°. 60-30, 1960: Article 82). This is fully financed by the government (Loi N°. 60-30, 1960: Articles 78, 82 and 88). Women in the public sector are entitled up to 60 days' at full pay as well as up to four months at half pay for parental leave (Loi n° 83-112, 1983:

Article 48). Article 20 of the Labour Code prohibits dismissal of pregnant workers (Code du Travail, 2010: Article 20).

Paternity leave is available for up to one day and paid fully by the government at 100% of current wages (Code du Travail, 2010: Article 122). The leave must be taken on the day of the birth or otherwise within the seven days following (Code du Travail, 2010: Article 122).

A report from the European Training Foundation (2011: 61-62) suggests that women sometimes face discrimination in accessing certain employment or progression opportunities owing to prevailing sociocultural norms favouring men. Other barriers include: poor or restricted transportation limiting women's ability to go to work; the risk of sexual harassment in the workplace; lack of progression opportunities; lack of social support systems to manage family commitments; and widespread discriminatory practices in recruitment that favour men (European Training Foundation, 2011: 61-62).

With regards entrepreneurship, a report by the OECD reveals that women face a number of obstacles in setting up their own business, including: cultural norms and expectations of women; a lack of collateral as a barrier to accessing finance; and low participation of women in the formal workforce, including few women in management or leadership positions (OECD, 2015: 141).

4. Restricted Civil liberties

a) Citizenship rights

Women are freely available to acquire nationality in Tunisia under the terms of the Nationality Code, and do not require the permission of a male guardian to do (Code de la Nationalité Tunisienne, 2016). The Constitution protects the right to retain nationality for all citizens (Constitution of the Tunisian Republic, 2014: Article 25). There are no legal restrictions regarding a woman's right to travel outside the country (World Bank, 2016).

Women (both married and unmarried) have the same rights as men to acquire passports and national identity cards (Loi N° 1975-40, 1975: Articles 8 and 13; Loi N° 93-27, 1993: Article 3). Following amendments in 2010, women now have the right to confer citizenship to their children (Code de la Nationalité Tunisienne, 2016: Article 6). However, women do not have the same rights as men to confer citizenship to children born outside of the country; that is, the law accords citizenship to any child born to a Tunisian father, irrespective of their place of birth, but does not extend this to children born to a Tunisian mother (Code de la Nationalité Tunisienne, 2016: Article 6).

Moreover, the Code only recognises men's right to confer citizenship to non-national spouses (Code de la Nationalité Tunisienne, 2016: Article 13). Non-national spouses married to Tunisian women have the possibility to acquire Tunisian nationality through naturalisation laws without being required to demonstrate 5 years' proof of residence (Code de la Nationalité Tunisienne, 2016: Article 21).

Women who take their spouse's nationality upon marriage (i.e. and become Tunisian) automatically lose it upon termination of marriage (Code de la Nationalité Tunisienne 2016: Article 16). In addition, a Tunisian man who loses his right to citizenship due to acquiring another nationality (for example, in the case where the other jurisdiction requires him to relinquish his Tunisian nationality) may mean

that his wife and children cease to be citizens (Code de la Nationalité Tunisienne 2016: Article 31). However, they are protected from statelessness as this is only permitted if they possess another citizenship (Code de la Nationalité Tunisienne 2016: Article 31).

Tunisia is a member of the ‘Arab Women’s Right to Nationality Campaign’: an initiative started in 2002 by a coalition of women’s rights organisations across the Middle East and North Africa to lobby for gender equality in nationality laws (UNHCR, n.d.). The initiative promotes dialogue with national governments and the CEDAW committee to advance legislative reforms in nationality laws, and to ensure implementation of those laws (UNHCR, n.d.).

According to the law regulating civil status, the father is responsible for registering the birth of his children and must do so within 10 days of this taking place (Loi N° 1957-3 1957: Article 24 and 22). In a review of Tunisia’s third periodic report on the rights of the child, it is noted that positive steps have been taken to improve birth registration, although the response from the Tunisian delegation indicates that there is no available data on this (Child Rights Connect, 2013: 7).

b) Voting

All men and women over the age of 18 years old are entitled to vote (Loi N° 2014-16, 1957: Article 5). The right for women to vote is also guaranteed in the Tunisian Constitution (Constitution of the Tunisian Republic, 2014: Article 54).

In the lead up to the 2011 elections of the Constituent Assembly, the Ministry of Women, Family and Children’s Affairs launched a government initiative to encourage women to exercise their right to vote (Petkanas, 2013: 7). The initiative, called “I must go there”, was launched at the beginning of the election campaign and disseminated across national television and radio to increase women’s awareness of their civic and political rights (Petkanas, 2013: 7). The League of Tunisian Women Voters is another example of an association founded to strengthen women’s participation in public affairs and political life, and support their role both as voters and as candidates (Ligue des Electrices Tunisiennes, n.d.).

Although there was a high proportion of women voters in the 2014 elections, sources note that women still face barriers in exercising their right to vote; particularly illiterate women in rural areas (Ben Amar, 2016). Others have drawn attention to the vast numbers of rural women lacking national identity cards as a barrier to their electoral participation (Gender Concerns International, n.d.).

In response, l’instance Supérieure Indépendante pour les Elections (ISIE) (a publicly-funded body) launched an initiative with the aim of supplying up to 300,000 women with the necessary identity documents for free to encourage them to vote (Institut National Démocratique, n.d.: 33).

c) Political voice

The 2014 law on elections and referenda provides women with the same rights as men to hold political office in the legislative and executive functions (Loi N° 2014-16, 1957: Article 19 and 40). In addition, Article 34 of the Constitution outlines a commitment from the state in ensuring women’s representation in elected bodies, while Article 46 suggests that the government will work towards

parity between men and women in elected Assemblies (Constitution of the Tunisian Republic, 2014: Articles 34 and 46).

The Constitution stipulates that judges are nominated by presidential decree based on approval from the High Judicial Council, while senior positions are based on consultation with the Prime Minister and the Supreme Judicial Council (Constitution of the Tunisian Republic, 2014: Article 106). Assessment of judicial candidates is governed by Law N° 67-29, and there are no legal restrictions regarding women's rights to being appointed to the judiciary (Loi n° 67-29, 1967; International Commission of Jurists, 2015).

Legislated candidate quotas were introduced in 2011, under the requirement for candidates to file their applications on the basis of parity between men and women (Decree No 35, 2011: Article 16; Loi organique n° 2014-16 2014: Article 24). Following reforms of the Electoral Law in 2016, these quotas apply at both the national and local (municipal) levels (UNESCO, 2017: 24). The quota stipulates the requirement of an equal number of men and women represented on electoral lists, as well as alternating men and women candidates on those lists (UNESCO, 2017: 24). Political parties are required to respect the law, although they are free to interpret these as they see fit (UNESCO, 2017: 24). In practice, it is noted that women rarely feature at the top of the list, and as such their chances of being elected are reduced (Ohman, 2016: 13).

A UNESCO report (2017: 25-27) cites a number of barriers to Tunisian women's effective political participation, including: a lack of incentive mechanisms or sanctions to enforce political quotas; lack of financial resources to train and support female candidates to run for public office; and the relatively weak representation of women in media coverage during the electoral campaign.

A recent study on women's political participation reveals that, while quotas have made it easier for women to stand as candidates, in reality, access to political finance remains a significant barrier to women being elected to parliament (Ohman, 2016: 8). Moreover, financial constraints such as a lack of access to financial resources prevent women from running successful electoral campaigns, and hamper their desire to participate in the political process (Ohman, 2016: 8).

Local NGOs and civil society organisations have launched a number of initiatives with the aim of strengthening women's political participation, including the Support to the Electoral Process in Tunisia (SEPT) program. Launched in 2011 and funded by UNDP, the SEPT program aimed to strengthen the capacity of women to participate fully in electoral processes UNDP, 2015: 6). Under the programme, 200 women received political training in conducting electoral campaigns (UNDP, 2015: 6). In 2012, the Centre for Arab Women and Training, in partnership with UNDP, delivered a programme to support women running for the National Constituent Assembly, which included training and guidelines for not only candidates, but also political representatives, the media, voters and religious communities (OECD/CAWTAR, 2014: 135).

d) Access to justice

The Law of Obligations and Contracts recognises women's legal capacity and makes no legal distinction between a man and woman's testimony before court (Code des Obligations et Contrats, 2005; Ben Salem, 2010: 4).

The Truth and Justice Commission was established in 2015 under the Organic Law on Establishing and Organizing Transitional Justice (Organic Law on Establishing and Organizing Transitional Justice, n.d.; Amnesty International, 2015: 11-12). The aim of the Commission is to investigate political, social, and economic crimes and human rights violations dating back to 1955, and a specialised Women's Commission has also been set up within their remit (Amnesty International, 2015: 11). The Commission is tasked with the following: receiving complaints of violations; gather, analyse and document data relating to violations and compile a database of these; orchestrate hearings for victims of violations; develop a comprehensive victim protection program, including compensation and witness protection measures; and examine lawsuits brought before judiciary committees (Organic Law on Establishing and Organizing Transitional Justice, n.d.). The Commission has received over 13,000 complaints, including over 1,500 from women (Amnesty International, 2015: 12).

In terms of protecting women's access to justice, the Tunisian Center for Research, Studies, Documentation and Information on Women (CREDIF), which operates under the Ministry of Women and Family Affairs, runs trainings to protect women from violence in public spaces (Gender International, n.d.; Centre de Recherches, d'Etude de Documentation et d'Information sur la Femme - CREDIF, n.d.). They are also responsible for maintaining and disseminating gender statistics, and function as an observatory on the status of women in Tunisia (Belhaj, 2010; Centre de Recherches, d'Etude de Documentation et d'Information sur la Femme - CREDIF, n.d.).

A report published by the International Commission of Jurists (2016) outlines various obstacles faced by Tunisian women in accessing justice, including: financial barriers, such as requiring survivors of sexual violence to pay for their medical fees and certificates (despite the latter being free according to a 2014 Decree law); geographical barriers, since justice services are usually in remote locations and difficult to access; and social barriers, including: inappropriate handling of crimes by police officers when lodging complaints at the police station; discriminatory attitudes from judges and other senior legal figures during legal proceedings; lack of clear information regarding women's rights and liberties; and deep-rooted social norms and perceptions of women resulting in misinformation given to women, which risk further violations of their rights (for example advising women that they require the consent of their father to access an abortion despite this not being the case). These all affect the judicial processes and ultimately the evidentiary weight granted women in court (International Commission of Jurists, 2016: 18-19).

Women also face additional evidentiary challenges in court, which can undermine the fairness and impartiality of criminal investigations. An Amnesty report (2015) notes that the onus is placed on complainants to demonstrate that they have been the victim of a crime, and they are moreover required to gather evidence themselves (Amnesty International, 2015: 57). With regards to crimes relating to rape and other sexual violence or gender-based crimes, victims are required to provide a medical certificate (*Certificat medical initial*) attesting to the harm endured – although the report acknowledges that judges do not always accept this evidence as authoritative (Amnesty International, 2015: 58).

In addition, the report points to the absence of gender-specific provisions in the legal framework for survivors of sexual violence as a barrier to accessing justice. The report notes, for example, that there have been instances of women survivors being made to share the same waiting room in court as the

alleged perpetrator of the violence (Amnesty International, 2015: 17). In addition, the report highlights the absence of courts and other judicial bodies in rural areas, which can further add to the exclusion and marginalisation of rural women in accessing justice (Amnesty International, 2015: 18).

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