

Women's rights protection instruments ratified by Tunisia:

- **CEDAW**: ratified in 1985 with a general declaration and reservations to articles 9(2), 16 and 15(4)
- **CEDAW Protocol**: ratified in 2008
- **Maputo Protocol**: not signed, not ratified

Ratify! Although Tunisia has ratified the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW), it entered a general declaration stating that only those provisions that are consistent with the Tunisian Constitution will be applied. Tunisia also entered reservations to the following articles: art. 9(2) concerning transmission of nationality; art. 16 concerning marriage and inheritance; and art. 15(4) concerning the choice of residence. The Coalition of the Campaign underlines that these reservations violate international law in that they are incompatible with the object and purpose of the Convention.

The Coalition of the Campaign also regrets that Tunisia has not ratified the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol).

Respect! The Coalition is particularly concerned by the following continued violations of women's rights in Tunisia: the unequal status of the woman in the family and marriage; limited access to inheritance, higher education and political and public life; and insufficient access to and implementation of laws on violence and sexual harassment at the workplace.

/ Some positive developments...

The Coalition of the campaign acknowledges several developments in recent years aimed at improving respect for women's rights, including:

- The criminalisation of domestic violence in the Penal Code in 2005 (art. 218) and the establishment of a national plan to fight domestic violence.
- The ratification in 2008 of the Optional Protocol to CEDAW.

/ But discrimination and violence persist

IN LAW

Many discriminatory provisions persist within statutory law, in particular in the Personal Status Code (*Code du Statut personnel*). Moreover, judges often use Sharia as a source of customary law in matters concerning family law and inheritance.

Discrimination within the family

Marriage: Although the minimum legal age of marriage has been set at 18 years, marriage of minors is still authorised in some cases, with the consent of a guardian and the mother (art. 5, Personal Status Code). The obligation to pay a dowry before

the marriage can be consummated promotes the perception of the wife as a property (arts. 3, 12 and 13, Personal Status Code). Although the Code provides for two marriage regimes, the common property regime and the separate property regime, by default marriages are concluded according to the separate property regimes (art. 7, Law no. 98-91 1998).

Parental authority: Although both parents have custodianship and guardianship of children, the man is head of the family and must provide for the needs of the family (arts. 37 et 38).

Divorce: In case of divorce, the woman is subjected to a period of widowhood of three to four months before being allowed to remarry (Art. 20, Book III). Further, although the mother is allowed to assume sole custodianship of a child, she must not be married, while the husband must have “available to him, a woman who will carry out the responsibility of custody of children” (art. 58).

Transmission of nationality: According to the Nationality Code, the father automatically transmits his nationality to his children while the mother does not (art. 6).

Obstacles to access to property

Concerning inheritance, according to the Personal Status Code, male heirs can inherit twice or three times as much as the female, the argument often being that women have no responsibilities to their husbands and children. Further, by virtue of Sharia law on inheritance, nothing can be bequeathed between a non-Muslim wife and her Muslim husband. Children of such a marriage are considered to be Muslim and cannot inherit from their mother. Discriminatory provisions applied to non-Muslim women limit their rights to own, manage, inherit or transfer their property (Circular dated 1973).

IN PRACTICE

• Discrimination in the family

During a marriage, property acquired by the woman is often held in the name of her husband according to tradition. The common property regime is not well known and therefore seldom applied. Despite the existence of a legal provision guaranteeing maintenance in cases of divorce to assist impoverished women with dependent children (Law no. 93-0065 of 1993) there are still cases of women in need who receive no assistance because of lack of funding or information about this provision.

• Violence

In general, the application of the law against domestic violence is very limited due to the refusal of the police to intervene, considering such violence as a private matter. Moreover article 218 of the Criminal Code states that the withdrawal of complaints by the victim puts an end to proceedings. Although marital rape has been criminalised, no prosecutions were launched in 2008.

• Obstacles to access to education and employment

The lack of orientation of women towards universities contributes to their marginalisation and limits their social advancement. Often, because of tradition, women's access to jobs is hindered because of a discriminatory promotion policy, especially for pregnant women and mothers. Although sexual harassment has been recognised as a punishable offence (Law 2004-73) it is still widespread in the workplace.

• **Under-representation in political life**

Although the law sets a quota of 30% female representation in the majority party in Parliament, the provision is too finely targeted and therefore insufficient.

• **Obstacles to access to health**

Women's access to healthcare facilities is limited because of rising costs and too few family planning centres. Stigmatisation by medical personnel of women who come for abortions is widespread, in particular due to lack of awareness.

The Coalition of the Campaign calls on the authorities of Tunisia to:

- **Revise all discriminatory provisions in statutory law**, in compliance with CEDAW, in particular provisions of the Personal Status Code concerning marriage, parental and marital authority, divorce, inheritance, as well as provisions of the Nationality Code concerning transmission of nationality to the children.
- **Strengthen measures to fight violence against women**, in particular by ensuring prosecution and punishment of perpetrators.
- **Strengthen measures to ensure access of women to education and employment**, in particular by ensuring their access to higher education; and by revising the law on harassment at work to make it more effective.
- **Strengthen women's access to decision-making positions**, in particular by extending the law on quotas to all aspects of public and political life.
- **Strengthen measures to improve women's access to health**, by reinforcing their access to family planning centres, low-cost medical care; and raising awareness of medical personnel on practices such as abortion.
- **Ratify the Maputo Protocol.**
- **Withdraw all reservations to CEDAW.**
- **Implement all recommendations issued by the CEDAW Committee** in June 2002.

PRINCIPAL SOURCES

- Focal Points: ATFD, LTDH
- CEDAW Committee recommendations, June 2002
- www.juristetunisie.com

For more information on women's rights and the actions of the campaign in Tunisia, see: www.africa4womensrights.org

THE CAMPAIGN FOCAL POINTS IN TUNISIA

Association tunisienne des femmes démocrates (ATFD)

ATFD was established in 1989 to fight for equality, democracy and secularity. ATFD provides legal assistance for women, especially through its support centre that offers psychological and legal assistance to advice to women and helps them to find jobs.

Ligue tunisienne des droits de l'homme (LTDH)

Created in 1976, LTDH is a NGO with the mission of promoting and protecting human rights in Tunisia.