

TUNISIA



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Gender Justice & The Law

DOES THE LAW ENSURE GENDER EQUALITY AND PROTECTION FROM VIOLENCE?

The colour-coded representation below provides a comparison of the laws identified in the country profile with international human rights standards, the recommendations of the UN Committee on the Elimination of Violence against Women and country recommendations under the country's respective Universal Periodic Reviews.

YES

The law provides for gender equality and/or protection from gender-based violence and is substantially compliant with international standards. A green category does not indicate that the law is perfect or that gender justice in the relevant topic area has been fully achieved.

NO

The law does not provide for gender equality and/or there is no or minimal protection from gender-based violence.

Partly

Some gender justice aspects of the law have been addressed, but important gender inequalities remain.

No available data or inadequate information.

Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)

Tunisia ratified CEDAW in 1985 and lifted all specific reservations to the Convention in 2014. Tunisia maintains a general declaration stating it will not take any regulatory or legislative decision that would violate Article 1 of the Tunisian Constitution, which states that Tunisia's religion is Islam.

Constitution

Article 21 of the 2014 Constitution states that all citizens, male and female, have equal rights and duties, and are equal before the law without any discrimination.

NATIONALITY LAW

NATIONALITY

Women can pass on their nationality to their children in the same way as men. However, they do not have the same rights as men to pass citizenship to a foreign spouse.

CRIMINAL LAWS

Domestic violence

Women and girls are protected by the Law on Eliminating Violence against Women, No. 58 of 2017.

Abortion for rape survivors

Abortion has been decriminalized. Article 214 of the Penal Code permits an abortion during the first three months of pregnancy if it is performed by a doctor in a hospital or licensed clinic.

Female Genital Mutilation / Cutting (FGM/C)

Article 221 of the Penal Code prohibits the mutilation or partial or full removal of a woman's sexual organ.

Marital rape

Marital rape is not specifically criminalized. The Personal Status Code requires both spouses to "fulfil their marital obligations according to custom." However, Tunisia has indicated to the CEDAW Committee that marital rape can be prosecuted.

Sexual harassment

Article 226 of the Penal Code prohibits sexual harassment.

Human trafficking

Law No. 61 of 2016 on Preventing and Combating Trafficking in Persons provides comprehensive measures against trafficking.

Rape (other than of a spouse)

Article 227 of the Penal Code criminalizes rape, which is defined as any act of intercourse with a man or woman without consent, regardless of the nature or the method used.

Honour crimes: Mitigation of penalty

Mitigation for 'honour' crimes committed against women caught in the act of committing adultery no longer applies. Article 207 of the Penal Code was repealed in 1993.

Sex work and anti-prostitution laws

Article 231 of the Penal Code criminalizes prostitution other than as regulated by law. A Decree issued in 1942 regulates the conditions for the legal practice of prostitution in specific residences, with the requirement for sex workers to undergo health screening, pay taxes, and register with the Interior Ministry.

Exoneration by marriage

Article 227 bis of the Penal Code exonerated a rapist if he married his victim. Article 239 exonerated a man from punishment for kidnapping a woman if he married her. These articles were removed from the Penal Code in 2017.

Adultery

Adultery is an offence under Article 236 of the Penal Code.

Sexual orientation

Homosexual conduct is criminalized. Sodomy is prohibited by Article 230 of the Penal Code.

PERSONAL STATUS LAWS

Minimum age of marriage

The legal age of marriage for each spouse is 18 years. It is possible in exceptional cases to conclude a marriage contract below the prescribed age after obtaining special permission from the court, which is given only for serious reasons and for the obvious interest of the spouses.

Guardianship of children

The father is the guardian over his children. The Personal Status Law was amended by Law No. 74 of 1993 to enable women to exercise some guardianship authority.

Male guardianship over women

There is no legal requirement for a male marriage guardian to consent to an adult woman's marriage or to sign the marriage contract.

Custody of children

Judges have discretion in granting custody to the mother or the father based on the best interests of the child. After divorce, the mother loses custody if she remarries unless it is judged by the court to be in the best interest of the child to award custody to a married woman or if the husband is within the prohibited degree of relationship to the child.

Marriage and divorce

Women and men have equal rights in most aspects of marriage and divorce. The law requires consensual marriage. The Personal Status Code provides for judicial divorce and guarantees equal divorce rights for women and men.

Inheritance

The Personal Status Code defines the rules of inheritance, which follow Sharia principles. Women have a right to inheritance, but in many cases receive less than men. Daughters receive half the share that sons receive.

Polygamy

Polygamy is prohibited by the Personal Status Law.

LABOUR LAWS

Right to equal pay for the same work as men

Women have the right to equal pay for the same work as men. Article 5 bis of the Labour Code prohibits discrimination between men and women in the application of the Code.

Domestic workers

Domestic workers do not benefit from the protective provisions of the Labour Code. Their relationship with their employer is subject to the civil law of contracts.

Dismissal for pregnancy

Article 20 of the Labour Code prohibits employers from dismissing a worker because of her pregnancy.

Paid maternity leave

Article 64 of the Labour Code states that women are entitled to 30 days of maternity leave. This is below the ILO standard of 14 weeks.

Legal restrictions on women's work

The Labour Code includes legal restrictions on women's employment in undertaking night work, mining, and scrap metal work.