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Country matrix 2024

Tunisia

The country matrix adopts and adheres to the coding standards adopted in the "Gender Justice and the Law" initiative.

General framework of the State

Has the State ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)? Does it have any reservations on the implementation of the provisions of the Convention?

Tunisia ratified the Convention in 1985. However, at the time, Tunisia maintained its general declaration confirming that Tunisia will not take any regulatory or legislative decision that contradicts article 1 of the Tunisian Constitution, which states that Tunisia is a free, independent, sovereign State; its religion is Islam, its language Arabic, and its system republican.

Does the Constitution refer to gender equality and non-discrimination?

According to article 23 of the Constitution (2022), citizens are equal before the law without any discrimination.

If customary law is a valid source of law under the Constitution, is it valid if it violates constitutional provisions on gender equality or non-discrimination?

Customary law is a source of law under certain circumstances. In the event it contradicts the law, or rather the Constitution, then the law and the Constitution will take precedence over it. According to article 543 of the Code of Obligations and Contracts, custom and customary law do not contradict

the explicit text. Also, article 23 of the Personal Status Code refers to customary law in matters relating to the mutual obligations of spouses.

If personal law is a valid source of law under the Constitution, is it valid if it violates constitutional provisions on equality or non-discrimination?

According to the Constitution, Tunisia is a civil State based on citizenship, the will of the people and the supremacy of the law. In Tunisian law, Shariah is not a source of legislation. It is not clear whether courts would consider personal status laws unconstitutional if they contradict the principle of equality.

Do national laws clearly define the mandate and jurisdiction of informal justice systems, where they exist, in terms of their enforcement of formal and informal laws, both of which must conform to international standards, including non-discrimination?

The law does not define or specify the mandate and jurisdiction of informal justice systems.

Is there a law on discrimination that prohibits both direct and indirect discrimination against women?

Based on article 23 of the Constitution, citizens are equal before the law, without any

discrimination, and the Code on the Elimination of Violence adopts a definition of discrimination consistent with the definition upheld by the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). However, there is no normative anti-discrimination legislative framework that explicitly prohibits indirect discrimination.

Is there a national action plan or policy to address violence against women and girls that is overseen by a national mechanism with the mandate to monitor and review implementation?

In 2021, the Tunisian Council of Ministers adopted a new national strategy on the elimination of violence against women based on four main axes, these being:

- Prevention of violence against women.
- Protection and the provision of a variety of appropriate services to assist the victims.
- Governance and coordination.
- Developing public policies and reviewing, supporting and enforcing laws.

Are there budgetary commitments provided for by government entities for the implementation of legislation addressing violence against women and girls by creating an obligation on the Government to provide a budget or allocation of funding for the implementation of relevant programmes or activities?

The State's Finance Code stipulates a gender-responsive budget, in particular through article 18, which places on those in charge of programmes the responsibility for respecting fairness and equality between women/girls and men/boys when setting goals, and the relevant indicators in article 21 of the Constitution of 2014.

Is there a national strategy or action plan currently in place containing measures to ensure full and equal access to the entire range of sexual and reproductive health information, services and supplies, with budgetary, human and administrative resources allocated for its implementation?

There is a strategy for sexual and reproductive health entitled "The National Sexual and Reproductive Health Plan 2021–

2030", which covers all aspects of information and services related to sexual and reproductive health. The strategy is accompanied by operational plans and a plan for monitoring and evaluation that includes clear quantitative indicators. However, it is still not clear whether there is any budget allocated for its implementation.

Are there laws that explicitly require the production and/or dissemination of gender statistics?

No legislation indicates that statistics should be provided disaggregated by sex. A review of laws and regulatory texts related to statistics in Tunisia does not conclude that there is any specific provision related to gender as a major component of the statistical process. However, some legal texts include

provisions on statistics classified on the basis of sex.

Is legal aid mandated and guaranteed in criminal matters?

The law facilitates recourse to the judiciary for this purpose, and also guarantees the provision of legal aid to those who are financially unable to bear the costs of legal services. The law clearly stipulates that legal aid must be provided in criminal cases, but it sets some conditions for its granting in cases where the penalty does not exceed three years.

Is legal aid mandated and guaranteed in civil/family matters?

The law clearly provides for legal aid in civil cases and at all levels of trial

Legal capacity and public life

Do women and men have equal rights to apply for passports?

The law does not impose any restrictions on women to apply for a passport.

Do women and men have equal rights to obtain an identity card?

The law does not impose any restrictions on women to apply for an identity card.

In civil law matters and procedures, are women required to obtain permission from judicial or administrative authorities,

spouses and other family members prior to initiating legal action?

Women have equal rights to file lawsuits in civil matters, as the law provides that every competent person with interest has the right to file lawsuits before the court. Women are not required to obtain permission from the judicial or administrative authorities, spouses or other family members before initiating legal action in civil matters. Likewise, every person can enter into contracts and agreements and bear civil liability unless otherwise provided by law.

In personal/family law matters, are women required to obtain permission from judicial or administrative authorities, spouses and other family members prior to initiating legal action?

Women have equal rights to file lawsuits in personal/family matters, as the law provides that every person with capacity and an interest has the right to file lawsuits before the court. Women are not required to obtain permission from the judicial or administrative authorities, spouses or other family members before initiating legal action in personal matters. According to the Personal Status

Code, there are no restrictions on women to enter into a marriage contract, and they can do so without requiring anyone's approval.

Does a woman's testimony carry the same evidentiary weight in court as a man's?

A woman's testimony before the courts in Tunisia carries the same evidentiary weight as a man's in all courts.

Can a woman enter into a contract the same way as a man?

According to article 3 of the Code of Obligations and Contracts, every person has the right to enter into contracts and agreements and to bear civil responsibilities unless otherwise provided by law.

Does the law allow for women to register businesses the same way as men?

There are no legal restrictions on women's eligibility to register businesses. Their right to register businesses has been confirmed in political and

strategic frameworks. Every person, with the exception of minors, has the right to conduct business.

Do women and men have equal rights to own, access, and control or use property?

According to article 29 of the Constitution, the right to ownership is guaranteed and cannot be infringed upon except in special cases with guarantees provided by law. Laws governing the right to ownership do not contain any discriminatory provision against women.

Do women and men enjoy equal rights and access to hold public and political office (legislature, executive, judiciary)?

Article 51 of the Constitution of 2022 guarantees the following: "equal opportunities for women and men to access all levels of responsibility in all fields. The State seeks to achieve equal representation of women and men in elected councils". According to article 39, the State seeks to ensure women's

representation in elected councils.

Are there quotas for women (reserved seats) in the national parliament?

Decree No. 55 of 2022 abolished the principle of parity between women and men running for legislative elections, and the rule of alternating between them in the electoral list under the penalty of rejection of the list in certain conditions stipulated by the 2014 Law on Elections and Referendums. However, the amended Constitution in 2022 maintained the principle of parity between women and men in elected councils.

Is there a law that explicitly prohibits violence against women in politics and elections?

According to Law No. 58 of 2017, political violence is every act or practice by which the offender aims to prevent or hinder women from carrying out any political, party or collective activity, or to deny her any of her basic rights and freedoms on the basis of gender discrimination.

Protection from violence against women and girls in the public and private spheres

Is there legislation on domestic violence that includes all forms of physical violence?

The law on eliminating violence against women (Law No. 58 of 2017) includes protection against all forms of physical violence. According to the law, physical

violence is every act that causes physical harm, including hitting, kicking, injuring, pushing, distorting, burning and amputating body parts as well as torturing, killing and detaining.

Is there legislation on domestic violence that

includes all forms of sexual violence?

According to Law No. 58 of 2017, sexual violence is every act or utterance by which a perpetrator aims to subjugate a woman to his desires or the sexual desires of another by using coercion, deception, or pressure or other

means of weakening and taking away the will, regardless of the relationship of the victim to the perpetrator.

Is there legislation on domestic violence that includes all forms of psychological/emotional violence?

According to Law No. 58 of 2017, psychological violence is verbal assault such as slander, abuse, coercion, threat or neglect, or deprivation of rights and freedoms, and insult, disregard, ridicule, contempt, and other actions or words that undermine the human dignity of a woman or intend to scare or control her.

Is there legislation on domestic violence that includes financial/economic violence?

According to Law No. 58 of 2017, economic violence is every action or inaction exploiting or depriving women of their economic resources, regardless of its source, such as through deprivation of money, wages or income, and controlling all of the above.

Are there criminal and civil protection orders available for victims of violence for which a breach (constitutes a criminal offence) has legal consequences?

According to Law No. 58 of 2017, a family judge can prevent a wanted person from contacting the victim or the children living with her in the family home, for example. Anyone who opposes or prevents the implementation of decisions and means of protection is punished. Likewise, anyone who deliberately violates decisions and means of

protection after their implementation will be punished with imprisonment for one year and a fine of 5,000 Tunisian dinars.

Does the law allow mitigating circumstances for femicide?

The articles of the Penal Code which provide for reduced penalties for perpetrators of "honour crimes" against women and girls were annulled under Law No. 93-72 of 12 July 1993.

Does the law criminalize female genital mutilation (FGM) or cutting if practised?

Article 221 of the Criminal Code, as revised in 2017, prohibits the mutilation or removal of female genitalia in whole or in part.

Does the law criminalize adultery?

Adultery is a crime under article 236 of the Penal Code.

Does the law criminalize marital rape?

Marital rape is not specifically criminalized in the Penal Code or the Act on the Elimination of Violence against Women (2017). Article 23 of the Personal Status Code requires both spouses to "fulfil their marital duties according to custom". Therefore, sexual relations between spouses are considered a marital duty. While the Act on the Elimination of Violence against Women does not include the phrase "marital rape", its provisions enable the criminalization and punishment of marital rape, as article 2 stipulates that Law No. 58 of 2017 includes "all forms of discrimination and domestic

violence against women, based on gender discrimination, regardless of the perpetrators (husband, father, son or others), in whatever domain (the family, workplace or street...)", and article 3 of the Code defines sexual violence as "every act or utterance by which a perpetrator aims to subjugate a woman to his desires or the sexual desires of another by using coercion, deception or pressure or other means of weakening and taking away the will, regardless of the relationship of the victim to the perpetrator".

Does the law include exoneration if the offender marries his victim?

The law previously allowed rapists who married their victims to be acquitted under articles 227 bis and 239 of the Penal Code. However, these provisions were annulled from the Penal Code by the Code on the Elimination of Violence against Women.

Do laws that criminalize rape act based on absence of consent without requiring proof of the use of physical force or penetration?

According to Article 227 of the Penal Code, rape is any act that leads to sexual penetration, whatever its nature, and the means used against a female or male without her or his consent.

Is sexual harassment defined in any legislation?

According to article 226 (3) of the Penal Code, sexual harassment is defined as: every assault on another person through acts, gestures or words that are likely to hurt a person's dignity or morals with the aim of coercing

the person to submit to the sexual desires of the offender or by applying harmful pressure to weaken the person's will to resist these pressures.

Is there a provision in the law that criminalizes cyberviolence against women and girls?

Tunisia has adopted a criminal policy to protect the rights of individuals and society and address the victims of cyberthreats which doesn't specifically address violence against women and girls. This right is enshrined in the Constitution (article 24), which states that private life and the

confidentiality of personal correspondence, communications and data must be protected. This right is also guaranteed by the Penal Code and the Communications Code.

Are sex work and prostitution criminalized?

The Labour Code criminalizes prostitution practised without regulation by the Code (article 231). The Decree issued on 30 April 1942 regulates the provisions for the legal practice of sex work in certain houses, subject to medical tests, payment of a special tax and registration with the Ministry of Interior.

Are there comprehensive provisions (punitive, protective and preventive) on human trafficking in any law?

Basic Code 61 of 2016 prohibits all forms of exploitation to which persons may be exposed, especially women and children, and it combats them by preventing human trafficking, punishing the perpetrators, and protecting and supporting victims. The Code stipulates penalties for human trafficking ranging from 10 years' imprisonment to life imprisonment.

Employment and economic benefits

Does the law mandate non-discrimination against women in employment?

Article 40 of the Constitution states that work is the right of every citizen, and the State must take the measures required to provide it on the basis of competence and fairness. Article 5 of the Labour Code states that it is not permissible to discriminate between men and women under the provisions of this Code. The Act on the Elimination of Violence against Women deals with economic violence in the context of work and includes some provisions related to women's rights at work.

Does the law mandate 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 application of the Code.

Does the law mandate equal remuneration for work of equal value?

Although article 5 of the Labour Code does not allow discrimination between men and women, the Labour Code does not include any specific provision regarding equal pay for work of equal value.

Does the law allow women to do the same jobs as men?

The Labour Code includes legal restrictions on the employment of women in night work, mining and scrap metal works.

Does the law allow women to work the same night hours as men?

According to article 68 of the Labour Code, it is not permissible to employ women at night for a period of no less than 12 straight hours, including the period from the time between 10 p.m. and 6 a.m. There are exceptions to this stipulation, referred to in article 68.

Do national labour and civil service-related laws (labour codes, civil retirement acts, etc.) discriminate between men and women in terms of retirement age?

National legislation provides for the same age for male and female workers, as the Retirement Code deals with retirement age and does not

differentiate between men and women.

Do national labour and civil service-related laws grant men and women equal rights to pass on their pensions to their spouses?

The law does not provide for any gender discrimination in the right to pass pensions to spouses.

Does the law prohibit dismissal during pregnancy and maternity leave?

The Labour Code prohibits the dismissal of a woman because of her pregnancy or breastfeeding: "Cessation of work by a woman throughout the period preceding childbirth and following it cannot be a reason for severance of the work contract by the employer. In such case, the woman may claim for damages. But she is required to inform the employer of the reason for her absence".

Does the law provide for maternity leave that meets the International Labour Organization (ILO) standard of 14 weeks?

According to article 30 of the Labour Code, women are entitled to take 30 days' maternity leave, which can be extended by 15 days if there are complications or medical reasons that call for it; this is less than the ILO standard period of 14 weeks.

Does the law provide for paid paternity leave available to fathers?

The current paternity leave is two days. The Ministry of Women and Family Affairs has submitted a draft law on maternity and paternity leave in the public and private sectors that provides for an increase in the period of paternity leave to 15 days.

Does the State provide or subsidize childcare facilities?

Childcare facilities, whether publicly provided or subsidized, are not available in either the public or private sectors. Neither the Labour Code nor the Civil Service Code of 1983 contains a reference to childcare.

Does legislation tackle sexual harassment in the workplace?

Neither the Civil Service Code of 1983 nor the Labour Code contains specific provisions on sexual harassment. However, the provisions of the Criminal Code, which penalize sexual harassment, have been applicable since 2004 (article 226 (3)). The most recent legislation addressing sexual harassment is Law No. 58 of 2017.

Are there provisions allowing for civil claims/remedies for sexual harassment in the workplace?

The Labour Code does not expressly provide for civil remedies for sexual assault and harassment at work.

Does the Labour Law provide protection for domestic workers?

On 30 July 2021, Law No. 37 of 2021 on the regulation of domestic work and the penalties to be applied in the event of violation of its provisions was published in the *Official Gazette of the Republic of Tunisia*. This law regulates the conditions of employment of female and male workers and the rights and obligations of both employer and employee, and it specifies the monitoring and inspection mechanisms and the penalties for violating its provisions.

Is there a public entity that can receive complaints on gender discrimination in employment?

There is a specialized judicial system for labour cases, and litigation procedures are simplified according to the Labour Code. The Human Rights Committee can receive complaints about gender discrimination in employment in its capacity as an independent constitutional body endowed with legal personality and administrative and financial independence. However, there is no specialized public body to receive complaints about gender discrimination in employment.

Family matters (personal status)

Is 18 the minimum age at marriage, with no legal exceptions, for both women and men?

According to article 5 of the Personal Status Code, the legal age of marriage for both spouses is 18 years old. In exceptional cases a marriage contract can be made below the specified age after obtaining special permission from the court; it is only awarded for serious reasons and in the clear interest of the couple.

Is marriage under the legal age void or voidable?

There is no legal text stipulating that marriage under the legal age is void or voidable. Article 21, which relates to conditions of the marriage contract or the reasons for its annulment, does not mention the age limit as a condition of validity or as a reason for invalidity. However, the criteria for the ability or power to annul the marriage are not specified and remain subject to lose judicial discretion.

Do women and men have equal rights to enter marriage (i.e. consent) and initiate divorce?

Women and men have equal rights in most aspects of marriage and divorce. According to the article 3, no marriage can take place without the consent of both spouses, and the Personal Status Code provides for judicial divorce and guarantees equal divorce rights for women and men. Divorce is permissible with the consent of both spouses, at the request of one of them due

to harm resulting from the marriage, or at the request of the husband or wife to divorce on the grounds of harm, which entails lengthy court proceedings.

Does the law prohibit polygamy?

The law prohibits polygamy.

Do women and men have equal rights to be legal guardian of their children during and after marriage?

As the head of the family, the man is the guardian of his children and responsible for providing for his wife and children as far as he can financially. The Personal Status Code was amended by Law No. 74 of 1993 to enable women to practise some powers of guardianship through the cooperation of the spouses in family affairs and shouldering marital responsibilities and obligations.

In 2024, Tunisia adopted a new law on the identification card, granting the mother the right to apply for a national identification card for her minor children, similarly to the father.

Does the law grant women and men equal custody rights of their children?

Custody of children in marriage belongs to both parents. In cases of divorce, the Personal Status Code states that whoever is granted custody of the children is at risk of forfeiture of this status if they change their place of residence (article 61).

Do women and men have equal rights to choose where to live?

There is no clear discriminatory provision against women in this regard.

Do women and men have equal rights to choose a profession?

There are no legal provisions that discriminate against women in terms of the right to choose a profession.

Do women and men have equal rights to own, access, and control or use marital property including upon divorce?

According to article 24 of the Personal Status Code, the husband has no jurisdiction over his wife's assets upon divorce.

Where rights to inheritance are enshrined by law, do women and men have equal rights?

The provisions of the Personal Status Code are based on the rules of inheritance in Islamic law, and there is inequality, especially between daughters and sons, because the daughter inherits half the inheritance her brother receives.

Are there specialized civil courts or civil court processes for family law matters that provide for the equal rights of men and women?

Within the civil courts there is a specialized personal status department. Although

individuals are equal before the courts, these courts do not guarantee equality in the law because they apply the Personal Status Code that still includes some forms of discrimination against women.

Do women have equal rights as men to pass their nationality to children?

Since 2010, women have had the same rights as men in granting Tunisian nationality to their children.

Do women have equal rights as men to pass their nationality to a foreign spouse?

The Nationality Code still contains discriminatory provisions. A non-Tunisian

husband married to a Tunisian woman must apply for citizenship, and Tunisian citizenship can only be granted if the person is an adult, is proven to have knowledge of the Arabic language commensurate with his social position, and is of sound mind and has good morals, and it is shown by his health that he will not be a burden to society or a danger to himself.

Sexual and reproductive health and rights

Do law(s) or regulation(s) exist that guarantee access to maternal health care for all women and girls, irrespective of marital status and without third-party authorization?

There is no law on this matter, but there are policy measures to take care of maternal health. It is not clear whether there are restrictions based on minimum age, marital status or subject to obtaining third-party authorization. Law No. 93 of 2001 on reproductive medicine applies to married couples only, according to article 4.

Do law(s) or regulation(s) exist that guarantee access to contraceptive services for all women and adolescent girls, irrespective of marital status and without third-party authorization?

Tunisia has adopted a policy of access to contraceptive services without restrictions. Neither the relevant strategies nor laws place restrictions on age and parental consent for access to

contraceptives, including condoms.

Do law(s) or regulation(s) exist that guarantee access to emergency contraception for all women and adolescent girls, irrespective of marital status and without third-party authorization?

Access to emergency contraceptive services is not included in any law or regulation, but some policies allow access to contraceptive services without restrictions.

Is induced abortion legal at least when the life or health of the pregnant woman is at risk and in cases of rape, incest or severe fetal impairment, and is abortion decriminalized in any case for both the pregnant woman as well as health-care providers performing it (when consent is fully given)?

While abortion is criminalized in article 214 of the Penal Code, the same article allows it as an

exception during the first trimester of pregnancy, if the abortion is performed by a licensed physician in a licensed hospital, health facility or clinic. After the first trimester of pregnancy, abortion can be performed if there is a risk to the health or mental well-being of the mother from continuation of the pregnancy, or a risk that the unborn child will suffer a serious illness or disability.

Irrespective of the legal status of abortion, do law(s) or regulation(s) exist that ensure access to post-abortion care for all women and girls, independent of their marital status and without third-party authorization?

No law or regulation mentions post-abortion care.

Do law(s), regulation(s) or national policies exist that make comprehensive sexual health education a mandatory component of the national school curriculum?

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Sex education is part of the school curriculum, but it does not cover all topics. There are educational policies that include HIV and sex education in secondary schools but not in elementary schools. In 2019, the Ministry of Education announced the inclusion of sex education in school curricula, targeted at students from the age of 5 to 15 years old.

Do law(s) or regulation(s) exist that guarantee access to voluntary HIV testing and counselling services for all women and girls, irrespective of marital status and without third-party authorization?

The National AIDS and STD Prevention Programme includes prevention and medical, psychological and social care, as well as epidemiological

observation, and does not mention any restrictions based on age, marital status, or parental or spousal consent. It also does not include voluntary testing for HIV. In addition, Tunisia follows a preventive strategy to reduce the incidence of new infections among adolescent girls and young women and their male partners in communities in which the incidence of HIV infection is high.