

# National Situation Analysis Report:

## Women's Human Rights and Gender Equality

**Tunisia**

*Enhancing Equality between Men and Women  
in the Euromed region (2008-2011)  
Programme financed by the European Union*



**EN**

*Translated from French original version*

*Last update: July 2010*

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*"This report has been drafted by independent experts.  
It does not necessarily reflect the views of the European Union."*



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# List of Acronyms

AFTURD	Association of Tunisian Women for Research and Development
APEL	Association for the Promotion of Employment and Housing in Rural Areas
ATFD	Tunisian Democratic Women’s Association
ATM	The Tunisian Mothers’ Association
BTS	Tunisian Solidarity Bank
CAWTAR	Center for Arab Women Training and Research
CEDAW	Convention for the Elimination of all forms of Discrimination Against Women
CNFFPA	The National Council for Women, the Family and the Elderly
CREDIF	Centre for Research, Studies, Documentation and Information on Women
CSP	Code of Personal Status
CT	Labour Code
FTDC	Tunisian Federation for Community-Based Development
GBV	Gender Based Violence
ICPD	International Conference on Population and Development
INS	National Statistics Institute
INSTRAW	International Research and Training Institute for the Advancement of Women
JORT	Official Gazette of the Republic of Tunisia
MAFFEPA	Ministry for Women, the Family, Childhood and the Elderly
MASSTE	Ministry for Social Affairs, Solidarity and Tunisians Abroad
ONFP	National Office for the Family and Population
OTEF	Tunisian Organisation for Education and the Family
PC	Penal Code
SDSA	The Self-Development Support Association
UNDP	United Nations Development Programme
UNFPA	United Nations Population Fund
UNFT	National Union of Tunisian Women
UNIFEM	United Nations Development Fund for Women



UTSS      Tunisian Social Solidarity Union  
WHO      World Health Organisation

# 1. Executive Summary

The programme “Enhancing Equality between Men & Women in the Euromed Region” (EGEP) is of three years duration (15 May 2008 – 15 May 2011); it is funded through the European Neighbourhood and Partnership Instrument (ENPI) and is implemented in the nine countries of the southern part of the European Union (EU) neighbouring area: Algeria, Egypt, Israel, Jordan, Lebanon, Morocco, the Occupied Palestinian Territory, Syria and Tunisia.

The regional programme aims at promoting the following three purposes:

- Purpose 1: Support and reinforce current dynamics that favour both de jure and de facto gender equality and that provide support to the promotion of women’s rights in the region;
- Purpose 2: Improve understanding and knowledge of the various forms of violence against women;
- Purpose 3: Ensure that the Istanbul Ministerial Conclusions on “Strengthening the role of women in society” are being followed up.

The present report is implemented under Purpose 1 of the EGEP programme. With a view to supporting current dynamics and strengthening the capacity of those acting to promote equality between men and women, Situation Analyses have been conducted in eight partner countries (Algeria, Israel, Jordan, Lebanon, Morocco, the Occupied Palestinian Territory, Syria and Tunisia).

The process has been twofold: the drafting of a Situation Analysis Report by a national expert and the presentation, debating and validation of the findings of the Situation Analysis Report at a national, multi-stakeholder validation workshop.

The **objective** of the national report is to conduct a situation analysis of women’s human rights and gender equality, with an emphasis on legal reforms, the participation of women in decision-making in public and private life and violence against women. The situation was assessed and analysed from the following standpoints:

- that of the policies, strategies and programmes implemented at different levels, illustrating the degree of political will;
- that of the results in the different sectors through strategies and programmes (including indicators and statistics), attesting to the progress achieved and the efforts needed;
- that of the actors, both from a sectoral and transversal perspective.

The **methodology** used for the situation analysis was based on an examination of the primary and secondary sources as well as on evaluation interviews with the service providers.

## Main findings: the progress and limitations

The situation analysis of gender equality in Tunisia showed that equality legislation has evolved over the years in such a way that women's rights have advanced in family law and in the social, economic, political and cultural domains. These advances in the area of gender made Tunisian legislation in favour of women a pioneering experiment which remained unique in the Arab-Muslim context for a long time.

Among other international instruments, Tunisia has ratified/adopted CEDAW, the Beijing Platform, the Conclusions of the Istanbul Ministerial Conference and the Optional Protocol to CEDAW. However, although the Constitution provides that all citizens are equal, it does not contain a definition of discrimination in accordance with Article I of CEDAW. Even the revised Code of Personal Status still contains examples of discrimination against women and the reservations to CEDAW remain. These notably concern laws relating to marriage between a Muslim woman and a non-Muslim, inheritance law, the Nationality Code and the concept of patriarchy (the husband as head of the family).

The progress regarding the application of laws shows increasing equality in education and health but gaps remain between urban and rural areas. The illiteracy rate is higher among women, across all areas, and women's access to the labour market remains marked by wage discrimination and discrimination in access to decision-making positions. That said, the impact of family planning on the emancipation of women is obvious: fertility has declined and age at marriage has increased.

The participation of women in the three powers has experienced a clear evolution. Women are increasingly represented in senior posts, ministerial offices, advisory bodies and diplomatic functions. Women are also gaining ground at local government level. However, these rates are only around 10-20% and few women are appointed to executive positions. Only five women are presidents of municipalities. Women have made more significant inroads when access to decision making is more closely linked to merit, as is the case at the level of the judiciary.

The low presence of women in the legislative and the executive reflects their low political involvement and their limited presence in the governing bodies of political parties. The participation of women remains marginal in most cases.

Even though it has not adopted laws on quotas, the increase in the number of women in public decision-making in Tunisia is related to political will and government guidelines on affirmative action.

In terms of public policy, Tunisian women have also benefited from a favourable national context marked by:

- the continuing consolidation process of women’s rights initiated by the reformist movement and President Bourguiba;
- the interest given to the institutional arrangement demonstrated, inter alia, by the creation of a Ministry responsible for Women’s Affairs, which has seen its powers increase over the years and by committees and observatories;
- the integration of gender into the development planning process and its widespread acceptance, which made it possible to translate equality into clear objectives;
- the use of affirmative action.

The gender approach translates itself into the implementation of a national strategy and a strategy for combating violence against women. The adoption of the gender approach by the various departments is neither linear nor identical, however, and there are no monitoring and evaluation measures. In addition, the lack of human and financial resources available to the Ministry (MAFFEPA) and the lack of disaggregated data by gender consequently constitute barriers to implementing a policy of gender equality.

Stereotypes were cited by the actors interviewed as the main cause of the gap which exists between the legislative texts and the reality of women’s status at all levels. The studies have shown that the distribution of tasks between men and women is still done according to a traditional view.

The establishment of a communication strategy aiming to eradicate the stereotypes prevalent in the private sphere and in the public sphere seems necessary in this regard. This must take the ambiguity of the value systems conveyed by Tunisian culture into consideration: a modernist system open to the outside and looking in particular towards the Northern shore of the Mediterranean and another system with its roots in Tunisia’s Arab-Muslim patriarchal system.

## National priorities and perspectives for future action

In light of the findings, the report identifies the following priorities:

- gender mainstreaming
- combating violence against women
- promoting female entrepreneurship
- increasing capacities and women's participation in public and political life

The perspectives for future action put forward by the report result from the situation analysis, from interviews conducted with certain players and from the validation workshop held in Tunis. These perspectives relate to the following points:

- The removal of the reservations to CEDAW and the "effective" implementation of certain provisions of the Convention;
- The strengthening of the mechanisms for implementing and monitoring the Istanbul Conference and the Euromed process;
- The adoption of a specific law on violence against women and the strengthening of measures to implement the strategy;
- The creation of networking among gender focal points; the amendment of the Code of Personal Status in favour of gender equality; and the guarantee of greater visibility of gender in the media;
- The involvement of civil society and the NGOs in the Euro-Mediterranean coordination;
- The studying of the impact of the financial crisis on the situation of women and the handling of the religious extremism that threatens the advances gained by women and their emancipation.

## 2. Introduction and purposes

### 2.1. Programme context

The regional programme “Enhancing Equality between Men and Women in the Euromed region” (EGEP) has been developed within the framework of the Istanbul Ministerial Conclusions on “Strengthening the Role of Women in Society” and is of three years duration (May 2008 - May 2011). It is funded through the European Neighbourhood and Partnership Instrument (ENPI) of the European Union (EU). The programme is implemented in the nine countries of the southern part of the EU neighbouring area: Algeria, Egypt, Israel, Jordan, Lebanon, Morocco, the Occupied Palestinian Territories, Syria and Tunisia.

The overall objective of the programme is to enhance equality between men and women by strengthening the capacities of key players, particularly the States, and by supporting existing positive trends and dynamics relating to women’s role in decision-making in the public as well as in the private domain, and to follow up the Istanbul Ministerial Conclusions.

The programme is based on the following three main purposes:

- Purpose 1: Support and reinforce current dynamics that favour both de jure and de facto gender equality and that provide support to the promotion of women’s rights in the region;
- Purpose 2: Improve understanding and knowledge of the various forms of violence against women;
- Purpose 3: Ensure that the Istanbul Ministerial Conclusions on “Strengthening the role of women in society” are being followed up.

With a view to supporting current dynamics and strengthening the capacity of those acting to promote equality between men and women, Situation Analyses have been conducted in eight partner countries (Algeria, Israel, Jordan, Lebanon, Morocco, the Occupied Palestinian Territory, Syria and Tunisia).

The process has been twofold: on the one hand the drafting of a Situation Analysis Report by a national expert and on the other hand the presentation, debating and validation of the findings of the Situation Analysis Report at a national, multi-stakeholder validation workshop.

## 2.2. Objectives of the situation analysis and expected findings

The **overall objective** of the national report is to conduct a situation analysis of women's human rights and gender equality, with an emphasis on legal reforms, the participation of women in decision-making in public and private life and violence against women.

The **specific objective** of this report is to provide an inventory of the national efforts to achieve gender equality. The report identifies how women have progressed within the economic, political and social spheres through national programmes, legislation and other intervention strategies. The analysis was conducted through the prism of CEDAW and the Istanbul Ministerial Conclusions and also identifies the challenges, obstacles and opportunities as well as the priorities for future action.

The situation was evaluated and analysed from the following standpoints:

- that of the policies, strategies and programmes implemented at different levels, illustrating the degree of political will;
- that of the results in the different sectors through strategies and programmes (including indicators and statistics), attesting to the progress achieved and the efforts needed;
- that of the actors, both from a sectoral and transversal perspective.

### 3. Methodology

The **general methodology** adopted to conduct the situation analysis was based on a documentary examination of the secondary sources and on rapid assessment interviews with stakeholders as primary sources. The analysis of the findings of both the documentary review and the rapid assessment was incorporated into the provisions of CEDAW and the Istanbul Ministerial Conclusions.

The aim of the situation analysis was not to prepare new assessments but rather to create an inventory and bring together the existing information to allow State actors, civil society organisations and other regional and international partners to ensure consistency and reinforce synergies of efforts and interventions. Interviews were conducted with a representative sample of stakeholders to assess the efforts made and the challenges faced in promoting women's human rights at the national level.

In the final stage of the situation analysis process, a national validation workshop was organised to allow the stakeholders to debate and validate the findings of the situation analysis and to agree on a set of national priorities. The planning and organisation of the workshop was conducted under the direction of and/or with the close collaboration of the National Women's Machinery to ensure a process of ownership and commitment at a national level. The workshop brought together representatives of the Women's Machineries, sectoral Ministries, parliamentarians, researchers, civil society and women's organisations, journalists and representatives of donor agencies. The findings of the report were debated and validated with all the participants to build a consensus on the findings, priorities and perspectives for future actions.

The national findings of the situation analysis and the national priorities, validated by the national workshops, were presented and debated at the regional roundtable organised in Brussels on 15-17 March 2010. The roundtable brought together representatives from the southern and northern Mediterranean countries with the objective of sharing, discussing and finalising the national situation analysis reports and the regional compilation report based on the national reports.

The **specific approach** for drafting the report used different sources of information to draw up a progress report on the gender equality process in Tunisia. Amongst others: a review of the literature including Tunisia's reports to the CEDAW Committee, reports relating to the Istanbul Ministerial Conference, the achievements of the Beijing Platform (Beijing +5, +10 and +15 (in progress), its reports to the United Nations High Commission for Human Rights, as well as the reports of the Women and Development Planning Commission chaired



by MAFFEPA; the publications of the Ministry for Women, the Family, Childhood and the Elderly and of the Centre for Research, Studies, Documentation and Information on Women (CREDIF) – especially the reports published by the CREDIF Observatory for the Status of Women – the seminar reports, reviews, brochures, statistics and the MAFFEPA information portal on Tunisian women as well as the CREDIF website. On the other hand, a series of interviews were conducted with key actors from the government, civil society and donors or their representatives.

## 4. National context

Since gaining independence in 1956, Tunisia has focused on the promotion of its human resources to ensure its economic and social development. It has almost 10.2 million inhabitants. In 2007, the GDP per capita was estimated at about 4,415 TND, or € 2,520. Economic growth has thus enabled a significant improvement in the income of the population and the gradual emergence of a middle class. Despite strong economic growth, the unemployment rate remains around 14%. Unemployment is higher amongst young people, especially young graduates, whose unemployment rate exceeds the average rate by approximately three per cent.

### Constitution and political structure

Tunisia has been a Republic since 1957. Promulgated on 1 June 1959 and amended in 1976, 1988 and 2002, the Tunisian Constitution established a representative democracy based on the universal suffrage. The Constitution guarantees equality between women and men, fundamental rights and civil liberties and establishes the organisation of the public authorities.

President Ben Ali has been in power since 1987. He was re-elected for a fifth term as President on 25 October 2009. Parliamentary elections gave the majority to the presidential party (RDC).

### Development

Over the last four decades, development has caused profound structural changes at the economic and social levels. The main achievements can be summarized as follows:

- improvement in real income per capita of 125 percent over the past four decades, this has led to a marked improvement in living conditions, since the proportion of families living below the poverty line decreased from 75% just after independence in 1956 to 3.9% in 2006;
- diversification of the economy with the emergence of new industrial sectors and the declining share of agriculture, the latter constituting the core sector of the economy in the 1950s;
- extension of communal life, especially by urban development: nearly 63.4% of the total population lived in urban areas in 2002, compared to only 33% in 1956;
- significant improvement in life expectancy, which is currently 73 years of age compared to only 47 years of age in the 1950s;

- reduction of the illiteracy rate of the population aged ten and above, from 85% in 1956 to 7% in 2002 thanks to the development of teaching, education, training and new development approaches, notably that of local development tested in disadvantaged zones and districts by the National 26-26 Solidarity Programme.

## Euromed-Tunisia Relations

Tunisia affirms its Mediterranean dimension through its participation in the Mediterranean Forum, its involvement in the “5+5” dialogue and its active role in the Euro-Mediterranean process. It aims to strengthen its foothold in the European Union, its main partner, with which it conducts almost 80% of its trade.

Tunisian-European relations go back a long way: Tunisia and the European Union established a trade relationship in 1976. Tunisia was the first of the Mediterranean countries to sign an Association Agreement with the EU on July 17th, 1995, supplemented and complemented by the Neighbourhood Action Plan (NAP) between Tunisia and the EU, which was adopted in July 2005 in the context of the European Neighbourhood Policy (ENP). Economic and commercial cooperation is a central pillar of this partnership and of the integration process. Tunisia was also one of the first countries to support the Union for the Mediterranean project.

## 5. Legal framework and national context: Women's human rights and equality

### 5.1. The history of the equality process in Tunisia

The emancipation of women, begun in the early twentieth century by the reformist movement, was continued by independent Tunisia thanks to its leader Habib Bourguiba, the first President of the Republic of Tunisia, with the passing of the Code of Personal Status (CPS), on August 13th 1956. Tunisia thereby began a social reform reconciling modernity and authenticity.

Promulgated on June 1st 1959, the Constitution affirms equality before the law for all citizens and opens the way for subsequent laws gradually to give fundamental rights to women in all domains: eligibility and the right to vote, the right to work, the right to free education and to social protection, the right to contract, etc.

In the framework of the strengthening of the foundations of good governance initiated by Tunisia, the law was reinforced as regards the social, economic, political and cultural rights of women, the institutional system implemented for the application of these rights and other measures taken to achieve equal opportunities. The promotion of women's rights is part of the Presidential Programme for the future.

Tunisia's commitment to equality also stems from its adherence to the majority of international conventions related to issues of equality as well as the various international conferences that punctuated the last decade of the twentieth century: the Vienna Convention on Human Rights, the Cairo Conference on Population and Development, the Copenhagen Conference on Social Development and the Beijing Conference on Women. Tunisia ratified the Convention for the Elimination of all forms of Discrimination Against Women in 1985 which was published in the JORT in 1991 and the Convention on the Rights of the Child in 1992. It joined the Beijing Platform in 1995 and is committed to enhancing women's status by adopting a national action programme to promote gender equality. At a Mediterranean level, Tunisia has signed the recommendations of the Barcelona Conference and also adhered to the Ministerial Conclusions of the Istanbul Conference.

Consequently, three steps punctuate the establishment of the gender equality process in Tunisia:

- the pre-independence phase, marked by the birth of the Tunisian feminist movement, then represented by the association of Muslim Women created in the wake of the struggle for independence and encouraged by the founding principles of the reformist movement, whose first claim was the right to education for girls. The movement's activities were mainly implemented in the context of charitable works. It was not until the mid-1940s that women began to take part in "public life" by rubbing shoulders with the activists of the movement for independence and by participating in the freedom movement.
- The post-independence phase, marked by three major developments, namely:
  - a policy of emancipation of women characterised by three achievements: (1) the Code of Personal Status (CSP), promulgated on August 13th, 1956, which abolished polygamy, instituted official civil marriage and legal divorce and established a new family structure based on the equality of the spouses before the law; (2) the family planning policy based on a restriction of the birth rate and (3) literacy programmes opening the way to education and participation in development for men and women.
  - the Constitution, promulgated on June 1st 1959, which states in Article 6 that: "all citizens have equal rights and duties. They are equal before the law", thereby opening the way for subsequent laws gradually granting fundamental rights to women in all domains: eligibility and the right to vote, the right to work, the right to free education, the right to social protection, the right to conclude contracts, etc.
  - the signing of the Convention for the Elimination of all forms of Discrimination Against Women. This adherence will consolidate women's rights given the supremacy of the rights enshrined in the Convention over Tunisian law, especially after it was ratified in 1991.
- The post-change phase, marked by:
  - the continuation of the process started by the reformist movement and President Bourguiba through the consolidation of women's rights. In this respect, the constitutional amendments of 1993 reveal the will of the authorities to move forward on the road to equality.
  - the interest given to the institutional system and shown by the creation of a ministry responsible for the promotion of women, which has seen its powers increase over the years.
  - the adoption of gender as a policy leading to the establishment of de facto equality. The gender approach has been on the agenda of the five-yearly development plans for Tunisia since 1991, i.e. with the preparation of the 8th Plan (1992-1996). The integration of gender into the development planning process (gender mainstreaming) and its widespread acceptance have helped to translate equality into clear objectives. Some of these goals have even been quantified.

- the use of affirmative action in order to reduce the gap between women and men observed in some sectors (i.e. the area of participation in political and public life).

These choices ensured that Tunisia obtained a respectable ranking as regards the enhancement of women, notably in the report on “gender gaps”<sup>1</sup> providing information on economic, legal and social aspects of the gaps between men and women observed in each country. Tunisia is ranked second amongst Arab countries and 103rd overall.

### Ranking of Tunisia in the Global Gender Gap Report 2008

Country	Overall ranking	Economic participation and opportunities	Level of education	Health and survival	Political empowerment
Tunisia	103 0.6295	113 0.4757	93 0.9619	95 0.9697	73 0.1105

Source: *Global Gender Gap Report 2008*

## 5.2. The national legal framework

Tunisian women enjoy favourable and egalitarian laws, both in the private and public sphere, thanks to the passing of the Code of Personal Status in 1956 and of the Constitution in 1959, which established equality as the foundation of legislation. The rights acquired by women in economic, political and cultural fields have been reinforced by social achievements that enabled women to decide over their own bodies, to choose the number of births they wanted, to be educated, to contribute to development by accessing the labour market very early and by participating in decision-making, including politics.

### 5.2.1. The Code of Personal Status and its application

The Code of Personal Status (CSP) has granted some significant rights to women in the family.

#### The consent of both spouses to marriage, monogamy and divorce

The family consists of spouses who are, in principle, freely chosen, since marriage can take place only with their consent. The CSP puts an end to an ancient practice, that of forced

<sup>1</sup> *Global Gender Gap Report*, World Economic Forum, Geneva, 2008

marriage or the right of *Jebr*, which consists of the father or guardian obliging his unmarried daughter to marry. Currently, any intervention by the father or guardian in the choice of husband for the young woman/girl or when the marriage contract is concluded is invalid, since no alternative to freely and personally expressed will is possible except, of course, as provided for by the law. This is the case in a marriage between minors for whom the guardian's consent is considered a condition for the validity of the marriage.

Only one condition is provided for by Article 5 of the Code. This is that the two future spouses must not be subject to one of the impediments stipulated by law. Nevertheless for women, and in the light of an interpretation of this Article by the courts, the choice of a husband comes up against a very tricky problem, that of disparity of faith. Despite the silence of the Code in this regard and the lack of a ban on women marrying non-Muslims, the fact remains that the judicial authorities have interpreted the notion of legal impediment to marriage as stipulated by law as meaning legal impediments stipulated by Islamic law. This has led to an absolute ban on Muslim women marrying non-Muslim men and has enabled some authors to affirm that the law's silence on the matter should be interpreted as an application of the rules of Islamic law and in particular those of the Maliki rite. The social reality and the ever increasing number of mixed-nationality and mixed-religion marriages has led to an increasing number of unions using circuitous routes such as marriage abroad or the husband's conversion to Islam.

**The age of marriage** is an important contribution of the Code. Since the passing of the Code and particularly since 1964, and then since 2008, the marriage of minors and early marriage have been abolished and the age for marriage has been standardised; it has been increased to 18 years of age for both spouses<sup>2</sup>. The restriction on the age of marriage has contributed to pushing back the age of marriage, improved the access of girls to education and the labour market and protected the health of women and children.

Another, equally important, contribution should be mentioned primarily due to the uniqueness of Tunisia: this relates to **monogamous marriage** which was introduced in 1956 pursuant to Article 18 of the Code<sup>3</sup>, which prohibits polygamy and makes it punishable by law.

The acknowledgement of a woman's right to manage her own property should also be noted amongst all these contributions, as pursuant to Article 24 of the Code of Personal Status

<sup>2</sup> See Art. 5 para. 2 of the Code amended by the decree law n°64-1 of 20 February 1964 and by law n°2007-32 of 14 May 2007. Article 5 of the Code nevertheless stipulates that "both future spouses should be free of all legal impediment. In addition, any one of the two future spouses who has not attained eighteen years of age may not marry. Below this age, the marriage may not be concluded except by virtue of special authorisation by a judge who will only grant this for serious reasons and in the interest of the future spouses"

<sup>3</sup> According to Article 18: "Polygamy is prohibited. Anyone who having been contracted in marriage, should conclude another before the dissolution of the preceding one, may be punished by imprisonment of one year and a fine of 240,000 francs or one of these two penalties, even if the new marriage was not contracted in accordance with the law..."

“the husband does not have any administrative power over the property belonging to the woman”. This provision is based on the Islamic rule that ignores the theory of matrimonial systems for safeguarding the property belonging to the traditional family and protecting it against the risks of appropriation by a husband who is a stranger to the wife’s family. Also in the spirit of Islamic law, the Code gives the possibility for both future spouses, pursuant to Article 11, “to include in the marriage deed, any clause or condition relating to persons and property. In the event of non-fulfilment of the condition or a breach of the clause, the marriage may be dissolved by divorce.” In terms of property, this article gives both spouses the flexibility to choose another arrangement than that of the separation of property and to manage their property according to the system of communal estate comprising only property acquired after marriage.

Also since 1956, **divorce** is an acknowledged right for both spouses and may only be pronounced by the courts. There is no possibility for repudiation or unilateral divorce based solely on the husband’s will. This equality, granted to both spouses by the legislature, puts Tunisia in an avant-gardist position compared to Arab-Muslim States where unilateral repudiation by the husband, non-recourse to the courts for divorce and the use of the *Kholôo* procedure are sometimes the rule. The innovations introduced in this field lie in the possibility for the man or the woman to submit the petition for divorce in three events: in the event of the mutual consent of the spouses, at the request of one of the spouses due to damage suffered by him/her, or at the request of the husband or the wife (capricious divorce).

All these women’s rights are reinforced by certain measures supporting the CSP. Amongst the most important measures that were adopted, we should note the introduction of the **communal estate system**. Since 1998, a new law has governed the situation of estate between spouses<sup>4</sup> by making it possible “to make one building or a collection of buildings the indivisible property of the spouses if they are intended for family use”.<sup>5</sup> In principle, the communal estate system between spouses is a very important innovation. It guarantees women the acquisition of part of the estate purchased during the marriage, limiting their impoverishment specifically in the event of a divorce and the dissolution of the marriage. However, this system is not compulsory in nature, as the legislator was content with granting it as an optional system which the spouses could choose when the marriage was concluded or at a later date.<sup>6</sup> Everything depends on the will of both spouses and their agreement, which must be established by a certified deed if it occurs after the marriage certificate.<sup>7</sup>

<sup>4</sup> Law n°98-91 of 9 November 1998 relating to the communal estate system between spouses. JORT p. 225

<sup>5</sup> See Article 1 of the law

<sup>6</sup> Pursuant to the first Article of this law, the communal estate system is an optional system which the spouses may chose when the marriage contract is concluded or at a later date.

<sup>7</sup> According to the terms of Article 8 of the law.



**Adoption** was established by the law of 4 March 1958. It is granted to men and women under the same conditions, namely coming of age, marriage, full enjoyment of civil capacity, good morality, good physical and mental health and the guarantee of the means to meet of the needs of the adopted child. In some cases, the judge may exempt a widowed or divorced person wanting to adopt from the condition of marriage always under the condition that the causes and conditions of the adoption will be assessed on the basis of all useful information and taking the child's interests into account.<sup>8</sup>

**Abortion** was introduced into Tunisian law as a right in the first years of independence. Restrictions were first lifted in 1965 for women who were mothers of five living children and if the foetus had not exceeded three months gestation; abortion was definitively organised by the decree law of 26 September 1973. The right to abortion contributed to increasing women's freedom to decide over their bodies and on the number of children they desired, allowing them to create a better balance between her family life (private) and professional life (public).

### **The women's rights protection bodies**

Parallel to the bodies working to enhance women's rights at different levels and in different sectors, Tunisia created a series of specific bodies with a view to protecting and enhancing women's rights in accordance with the spirit of CEDAW and the recommendations of Istanbul. These mechanisms include:

**The family judge:** created in accordance with the terms of the new Article 32 of the CSP, he is appointed by the President of the Court of First Instance from amongst its vice-presidents to lead reconciliation attempts and to ensure the smooth running of legal divorce proceedings. This judge must personally ensure that the spouses concerned are issued with the notifications relating to the evolution of the proceedings. This provision aims to eliminate all possibility of divorce by default, notably by guaranteeing the wife the right to be informed of the proceedings in progress. The same Article established a dissuasive measure to abolish all malicious manipulation and to discourage any attempts to obstruct the legal divorce proceedings, of which women are generally the victims. The reform of the stages of legal divorce proceedings was inspired by a desire for better protection for women, children and the family.

**The guarantee fund for maintenance and annuities:** established pursuant to law n° 93-65 of 5 July 1993, it is funded by a contribution from the State budget and managed by the National Social Security Fund (CNSS). It is responsible for distributing the amounts of pensions or annuities that have been the subject of firm rulings and which could not be paid to the divorcees and their children by the party ruled against, due to their stubbornness; this is

<sup>8</sup> See article 9 paragraph 2, 3 and 4 of the law.

under the conditions stipulated by the law that created the said fund (Article 53 of the CSP). An ad hoc commission was formed at the level of the Prime Ministry in order to evaluate the impact of the fund and to examine the problems inherent in the application of the law which created it. The situation analysis showed that 9,735 families benefited from it between its creation in 1998 and 2007.

**Child protection delegates:** Article 28 of the Child Protection Code (C.P.E) stipulates the creation of the position of child protection delegate in each governorate, with the possibility of creating one or several more positions in the same governorate, depending on requirements and population density. Pursuant to Article 35, the child protection delegate has the authority to carry out investigations, to take urgent and suitable measures in favour of the child and to draw up a report which is submitted to the family judge. In the event of a threat, the child protection delegate may decide either to leave the child in the family, while taking all the measures necessary to remove the source of the threat, or to place the child temporarily in a foster family or any other appropriate social and educational institution. The C.P.E. has established a “duty to report” for all persons, including those bound by professional secrecy, with a view to notifying the child protection delegate of anything that “may pose a threat to the health of the child or its physical or moral integrity in accordance with the paragraphs (d and c) of Article 20 of this Code” (habitual maltreatment of the child, sexual exploitation of a boy or a girl).

### **The barriers to non-discrimination and the equal participation of women**

The inequalities that persist in the CSP can be identified with manifestations of patriarchy. These are:

**The dowry** (Articles 12 and 13 of the CSP) is a condition of the validity and consummation of the marriage. It is an illustration of this inequality and reflects patriarchal practices and traditions and relationships of domination in the family, as it is the husband who has to pay it to his wife in return for the consummation of the marriage. Although the political authorities have attempted to reduce its amount, it nevertheless remains a form of discrimination against women.

**Keeping family authority** in the hands of the father, who is the head of the family and holds the monopoly on family authority. He gives his name to the family and unconditionally gives his nationality to his children. His domicile is that of his family. No changes have affected this monopoly since 1956. Nevertheless in the neighbouring Maghreb countries, in Morocco in 2004 and Algeria in 2005, the father’s authority was abolished and replaced by parental authority over the family.

Nevertheless, although the father continues to be the head of the family, one of his corollaries was abolished by the Tunisian legislator, that of the wife's duty of obedience to her husband. Until 1993<sup>9</sup>, obedience was linked to the husband's duty to treat his wife with kindness, which placed the burden on women and confined her to a situation of submission towards him, depriving her of any sense of initiative and responsibility within the family. Currently, since the removal of this duty of obedience, "both spouses must fulfil their conjugal duties in accordance with the traditions and customs". This is, certainly, an improvement over the former provision in the Code but the fact of having to ensure, according to the terms of the law "accordance with the traditions and customs" in the fulfilment of conjugal duties is all the more equivocal, as these customs and traditions almost always refer to the ancestral practice and ancient traditions that reflect the dominant, patriarchal social order and in a sense the superiority of men over women despite the, albeit slow, change in mentalities.

With the introduction of the concept of cooperation between spouses in 1993, marriage gives the woman the right "to cooperate with her spouse in conducting family affairs". As a consequence of this, the woman will share some responsibilities together with the husband vis-à-vis underage children. She participates in the marriage of her underage child.<sup>10</sup> In the event of divorce she is, generally, awarded **custody**. Nevertheless, conditions must be fulfilled for the granting of such custody, including not being married or being married but retaining custody if the judge believes that this is in the interest of the child, if the husband is related to a prohibited degree to the child or is its guardian or if the custody-holder fails to claim this right for a year after learning the marriage has been consummated<sup>11</sup>. In 2008, and again in order to protect divorced women who have custody, the CSP was amended to recognise the right of mothers with custody of their children to remain in the premises if the father, who owns the premises, is required to house her with the child<sup>12</sup>.

With regard to **guardianship**, when the code was passed, it was almost always attributed to the father or the male guardian, with the exception of the event of the death or incapacity of the father, when guardianship would then pass to the mother and would cover all areas except that of marriage<sup>13</sup>. Since 1993, women have enjoyed certain guardianship prerogatives in relation to

<sup>9</sup> See paragraph 2 of Art. 23 modified by law n°93-74 of 12 July 1993

<sup>10</sup> Pursuant to Article 6 of the Code amended in 1993 by law n°93-74 of 12 July 1993, "the marriage of a minor is subject to the consent of the father or guardian and the mother".

<sup>11</sup> These are the terms of Article 58 of the Code

<sup>12</sup> Law n°2008-20 of 4 March 2008 amending certain provisions of the Code of Personal Status (Article 56). JORT n°21 of 11 March 2008, p. 883

<sup>13</sup> In this regard, Article 8 of the Code explicitly stipulates that it is "the closest agnate relation who must consent to the marriage of the minor. He must be of good mind, of the male sex, and have come of age."

the education, travel and financial transactions of children<sup>14</sup>. If custody of the child was granted to the mother after a divorce, she continues to benefit from the prerogatives of guardianship as regards the child's travel, its studies and the management of its financial accounts<sup>15</sup>. Despite its importance, this guardianship is not automatic. It remains connected to the situation of the father, whether he is alive, absent or dead and remains contingent on the will of the judge who will make his decision taking the interests of the child into account. In all cases, it is not considered as a right inherent to the status of the mother but as a right, the exercising of which is conditional and never challenges the authority of the father as the head of the family.

The other inequality that should be mentioned relates to the **law of succession**. Despite the measures introduced, such as the law on communal estate, the CSP maintains the privilege of masculinity in the division of succession according to gender by applying the Islamic rule that grants men double the women's share<sup>16</sup>, even if the justifications for this inequality have disappeared as a result of women's access to professional life and their almost widespread participation in the household expenses and as a result of the different amendments to the Code which were insistent about obliging women to provide for their family if they had any property.<sup>17</sup> Until now, one of the changes made is that which took place in 1959 and which led to the granting girls the possibility of ousting from the succession of their parents certain agnatic heirs of the category of brothers, paternal uncles and their descendants as well as the Treasury. These are the new provisions of Article 143 b of the Code.

In 2006, another text was also created to relax, or even circumvent the rule of unequal succession such as the rule exonerating gifts between ascendants and descendants and between spouses. This technique aims at guaranteeing the transfer of property by circumventing the strict rules of succession, as it takes place during the lifetime of the parties and may consequently result from their own will and their deliberate choice to grant equal parts to their children of both sexes as a free transfer of property. This is consequently an opportunity to circumvent the legal obstacles.

The legislator has given **women** the right to pass on **their nationality** to their children since 1993, but this is conditional on the prior consent of the father<sup>18</sup>, or in the event of negligence on the part of the father or his absence, from 2002.

<sup>14</sup> After the amendment of Article 23 of the CSP, paragraph 3 states that both spouses: "shall cooperate in the conducting of family affairs, good parenting of the children, as well as the management of the latter's affairs, including education, travel and financial transactions"

<sup>15</sup> Paragraph 4 Article 67 of the CSP

<sup>16</sup> Article 103 of the Code. See S. Bouraoui, the constant inequality between the sexes or the conflict between domestic law and international conventions. RTD1983, p. 425

<sup>17</sup> According to Article 23 last paragraph, "women must contribute to the family costs if they own property"

<sup>18</sup> The Nationality Code was amended in 1993 to allow women to give their nationality to their children after having obtained the consent of the father (see Article 6 of the new Nationality Code)

### Situations ignored by the Code: single mothers and children born outside of marriage

These mothers are not only subject to discrimination and inequality, they are primarily not recognised by the legislator and bear the weight of ancient customs and patriarchal traditions that do not 'legally' allow the existence of sexual relations outside of marriage. They are socially marginalised and unrecognised due to a legal vacuum and the absence of rules that protect both the mother and her so-called "natural" child. According to the *hadith*, "the child must be attached to the *Firash*, the lover must be stoned"<sup>19</sup>. The concept of the *Firash* was defined by the judge as meaning lawful marriage irrespective of how it is concluded. This appears to bar the way to any possibility of recognition.

However, the legislator has found ways to recognise the rights of natural children and, as a priority, of those who have been abandoned. In 1998, pursuant to a new law, it decided to allocate a **surname** to these children. Thus "the mother who has custody of her underage child whose parentage is unknown must give it a name and her surname or request authorisation to do so in accordance with the provisions regulating civil status".

The Code of Personal Status holds a special place and serves as the basis for the modernist politics of the State, for responding to human rights' violations and the principles it contains have been endowed with a constitutional value in the same way as the values of the Republic, the sovereignty of the people and human rights since the constitutional amendments of 1997 and 2002. But even if the legislator has innovated in many cases by freeing itself from religious rules, thanks to the use of exegesis, and by setting standards in accordance with developments in the real status of women, it has not managed to challenge the patriarchal order which is stamped with religiosity and maintains various inequalities in relation to women. This explains why reservations have been formulated against international conventions, particularly the Convention on the Elimination of all Forms of Discrimination Against Women.

#### 5.2.2. Economic and social rights

Since the enactment of the Tunisian Constitution, on June 1st 1959, women's work, like that of men, has been considered one of the achievements and guarantees of the republican government, even though the Constitution has not as yet recognised the principle of non-discrimination between the sexes, merely stating in Article 6 "that all citizens are equal before the law". In the wake of the CSP, a law was adopted that is an important symbol of modernity, namely the law of 1958 which made widespread **free education** for children of both sexes, without any discrimination and which helped to achieve the right to work.

<sup>19</sup> Cass.civil. n°4393 of 6 January 1981.RJL1981 n°2 p. 61

The Tunisian government has implemented the principle of non-discrimination between the sexes through the ratification of international conventions<sup>20</sup> and the adoption of social legislation.

In the Tunisian administration, which applies **Civil Service Law**, the principle of non-discrimination between the sexes goes back to the 1983 law which stipulates in Article 11 that: “subject to special provisions necessitated by the nature of positions and that may be applied in this respect, no distinction is made between the two sexes for the application of this law”. Recognition of this principle will result in the prevalence of equal admissibility principles for all in recruitment, equal treatment throughout the career or at its end and equal pay. The legislator has, however, provided for some exceptions. It is permitted to differentiate between the sexes due to the nature of the position and this opens the path to restrictions unfavourable to women. The most flagrant example is that of job recruitment processes reserved for men for recruitment in certain job categories such as, for instance, the profession of postman.

In the private and para-Statal sectors, it can be noted that the **Labour Code** did not include the principle of non-discrimination between the sexes when it was enacted in 1966. It was in 1973 that the Collective Framework Agreement, as an agreement concluded between employers and workers’ organisations concerning working conditions, guaranteed this principle in relation to women’s rights by stipulating that “this agreement is applicable without distinction to workers of either sex. Young girls and women who fulfil the required conditions may access all jobs on the same grounds as young and adult men, without discrimination in classifications and remuneration”. In 1993, an Article 5 bis was added to the Labour Code explicitly to include this principle, stating that “there may not be any discrimination between men and women in the application of the provisions of this Code and the texts for its application”. Contrary to Article 11 of the Civil Service Law, it leaves no room for exemptions.

In relation to specific situations and in order to protect working women, they were granted specific rights to consolidate the principle of non-discrimination. In this way, Tunisian labour law included the provisions of the International Convention of the International Labour Organisation on the prohibition of women working in underground environments and in areas of establishments and sites where the recovery, transformation or storage of scrap metals takes place.

Legislation has stipulated rules for **pregnancy and maternity** for women. Pregnant women may terminate their employment contract without a period of notice and without having to pay compensation for breach of contract and this even if they are in a non-statutory and

<sup>20</sup> Such is the case with the International Labour Organisation Conventions such as Convention n°100 concerning equal remuneration for male and female labourers for work of equal value (1951), Convention n°111 concerning discrimination in terms of employment and professions (1985), Convention n°118 concerning equal treatment (social security) (1962), Convention n°122 concerning employment policy (1964) and Convention n°19 on equal treatment (accidents at work).

contractual situation. In the same way, a woman's illness due to pregnancy or following childbirth may not be used as grounds for a termination of the employment contract on the part of the employer, under penalty of damages payable to the woman. Working women have the right to maternity leave of 30 days, which may be extended twice on production of a medical certificate if they work in the private or para-Statal sectors and to two months' leave if they work in the public sector. This, very limited, leave (eight weeks), is always postnatal and may not be combined with prenatal leave. This explains why Tunisia has not ratified the International Labour Organisation Conventions on this subject since Convention n°3 (1919), to Convention n°103 (1952) and Convention n°183 (2000), which has extended the period of maternity leave from twelve weeks to fourteen weeks with the requirement of granting prenatal leave. When she is breastfeeding, a working mother has the right to breastfeeding leave of up to two half-hour sessions per day, during working hours, to breastfeed her baby and she may do so for a year starting from the child's birth. If companies employ at least fifty women, a special room will be reserved for them for breastfeeding their young babies.

That said, the applicable legislation thereby attributes responsibility for caring for and bringing up children to women and not to men. To this end, the legislation has not, as yet, been modified to recognise **the social dimension of the reproductive function** and to replace maternity leave with parental leave.

As examples:

Unpaid leave is permitted for working mothers for a renewable, two-year period so they can raise one or more children under six years of age or children suffering from disabilities that require constant care. Since 1999, the general Law on office and public institution personnel has allowed for the possibility of one of the parents, depending on their choice, taking unpaid leave to bring up one or more children or take care of a child suffering from a profound disability.

Early retirement is recognised to mothers, as an exception to the normal retirement of civil servants or public officials. Early retirement is granted to women according to specific conditions that take account of the number of underage children they are responsible for (3) or the profound disability from which the child suffers, their status as mothers and the actual number of years they have worked in the administration (15).

Part-time work is regulated at 2/3 of the salary for women employees. Despite widespread part-time employment in public service since 1983, in 2006 a new law, dated 28 July, was enacted to establish a special system for part-time work with the benefit of two thirds of the wages for mothers. Only female public servants may benefit from this system by order of the Minister, taking account of the need for the service and the budgets available. Civil service mothers who benefit from this system retain their rights to advancement, promotion,

social cover, and holidays. However, it appears that female civil servants perceive this special system as discrimination against them and they are very reluctant to use it because, during the budget debates of 2008, the report of the sixth Committee of the Chamber of Deputies showed that the number of requests had dropped from 1,504 in 2007 to 504 in 2008.

### **Application of the principle of non-discrimination in employment**

Despite the affirmation of the principle of non-discrimination, women's work is dependent on several factors that impact on its practice and effectiveness. Widespread free and obligatory education and the other measures adopted have helped women to leave the private sphere and access the labour market. Studies now show that finding employment is a priority for many girls and women, before marriage. That said, there is a discrepancy between the legislation that promotes the principle of non-discrimination and the actual position of women in the labour market.

The nature of women's work depends on their level of education. Women's work also depends on the environment of crisis and globalisation which has resulted in greater unemployment amongst women than men, the feminisation of poverty and the precariousness of women's employment. In the private sector, women are primarily concentrated in the textile industries, where they suffer the difficulties inherent to this sector: they are recruited on a fixed-term contract or without a contract or through placements initiating them into professional life at low wages. Generally, women are more likely to be in precarious situations. The situation of domestic workers, who are subject to a law dated 1 July 1965, but who work outside the law, is emblematic.

One of the limitations to the better application of the legal framework is the absence of available data disaggregated by gender in the private sector. Moreover, none of the legal texts that enshrine the principle of non-discrimination between the sexes has provided measures or affirmative action to guarantee this right and to allow its effective execution. In parallel, no provision provides for enforcement measures or sanctions against the discriminatory attitudes of company managers or directors. Thus, job offers sometimes require the completion of military service or the absence of family obligations.

Finally, no effort has so far been made to consolidate the position of women in the systems for the defence of workers' rights, since women are almost entirely absent as either members or leaders from the Central Workers' Organisation, the General Union of Tunisian Workers. They do not represent more than 1.10% of all union officials.



## 5.3. The participation of women in decision-making

### 5.3.1. The political rights of women

Tunisian women did not get the **right to vote** just after independence because Tunisian constitutional law complied with a long heritage of excluding women from the right to vote. It was only with the enactment of the Constitution, on 1 June 1959, that this right was fully and completely acknowledged and the first electoral code<sup>21</sup> was issued in its wake, recognising men and women as voters, explicitly stating in Article 2: “All Tunisians, both men and women, aged twenty years and over, having held Tunisian nationality for five years and who enjoy their civil and political rights and are not in any way incapacitated as stipulated by law are eligible as voters”. This definition of voters is still in force, thereby allowing women to enjoy their right to vote and be voted for, to stand for presidential, parliamentary and municipal governments under the conditions set by the Electoral Code, which does not provide for any affirmative action in their favour, such as a rule regarding the quota or equal representation to guarantee their presence in decision-making bodies.

Nevertheless, Tunisian women have gained access to the political bodies (Parliament, municipal councils, consultative bodies) thanks to favourable legislation and confirmed political will. Affirmative action measures have been adopted by the party in power, the RCD.

Exercising the **freedom of association** is also granted equally to men and women, but the existence of conditions inhibits the formation of so-called autonomous or “independent” associations. Moreover, the rights of Tunisian women, although guaranteed by law, remain inadequate insofar as their application is impeded by cultural, social, economic and political resistance, which prevents women from actually enjoying their rights and limits their participation in the development process.

### 5.3.2. The Presidential electoral programmes

The presidential electoral programmes from 1999-2004 and 2004-2009 acknowledge the importance of women’s participation by dedicating a special chapter to this subject. Following on from this, initiatives have been taken to consolidate their participation in political life and their presence in positions involving decision-making and responsibility. Point 5 of the presidential programme (1999-2004) entitled “New horizons for women” has allowed

<sup>21</sup> Law n°59-86 of 30 July 1959 relating to the election of the President of the Republic and the members of the National Constitutional Convention and the texts which amended and completed it.

access for over 20% of women to decision-making posts and electoral bodies. Point 16 of the presidential electoral programme (2004-2009), entitled “Women, equality in active partnership”, aimed to achieve a minimum of 30% women in positions involving decision-making and responsibility before 2009. The evaluation and monitoring of the implementation of this last point was debated in Ministerial Councils, in order to ensure that the objective decreed by the presidential programme was achieved.

In this regard, the MAFFEPA is involved, in partnership with other national governmental, non-governmental and international organisations, by:

- Producing a report on the presence of women in decision-making positions (2004-2007);
- organising training sessions by the CREDIF, at central and regional levels, that contribute to building the capacities of women and increasing their self-empowerment in terms of leadership and participation in public life;
- involving male senior executives and human resource promotion managers in institutions and companies in the debate on women’s access to decision-making positions, which has made it possible to increase their awareness of the importance of allowing women to participate in decision-making at an institutional and corporate level.

### 5.3.3. Progress in political representation

The participation of women in the three governmental powers has increased significantly since independence. Women are increasingly represented in senior posts, ministerial cabinets, advisory bodies and even in diplomatic positions. The percentage of women present in the Chamber of Deputies increased from 4.3% in 1989 to 11.5% in 1999 and 22.7% in 2004, with 43 elected female deputies. There are 15 female members of the Chamber of Councillors, which is a rate of 15.2%.

Women are gaining ground at local government level: the percentage of women in regional councils and governorates has increased to 23%. In municipal Councils, the percentage of female councillors increased from 13.3% in 1990 to 16.6% in 1995, to reach 26% in 2005. The growing percentage of women in municipalities is connected to the decision of the President of the Republic to increase women’s presence on municipal councils to a minimum of 25% of seats. However, municipalities held by women are the exception: only 5 women are Presidents of municipalities.

Women have made more significant inroads when access is connected more to merit, as is the case at the judicial level. Women’s participation at this level is highly symbolic. In 2007, women held 29% of magistrates’ positions and 31% of lawyers’ positions.

The low presence of women in legislative and executive functions reflects their low political engagement and their limited presence in the executive committees of political parties. The participation of women remains marginal here in most cases. This general statement should be qualified according to the parties, whose position with regard to the presence of women remains dependent on their manifestos and their leaders. The opposition parties timidly support a policy promoting the position of women in political life; women are poorly represented at the grassroots level and in the leadership structures. However, we are witnessing a revitalisation of this participation, as women are accessing the executive committees of their parties: a woman is the leader of the Democratic Party for Progress, PDP, four women are active in the Political Management of the Green Party for Progress, three women are on the executive committee of the Socialist Democratic Movement (MDS) and one woman holds a position on the executive committee of the Popular Union Party, PUP. The integration of women can also be seen on the electoral lists of some of the opposition parties.

The increasing number of women in politics reflects the will of the State to promote women and illustrates women's aspirations to greater participation in positions of power, but progress remains slow and numbers low. To this end the political efforts of the XI<sup>th</sup> Development Plan during the 2007-2011 period will focus on increasing training programmes targeting the political "empowerment" of women as well as on information, communication and awareness programmes with a view to changing mentalities and behaviour and laying the foundations of a culture of equality and the partnership between men and women.

## 5.4. The autonomy of women: health, education and employment

### 5.4.1. Modernisation and demographic indicators

It is important to analyse the quality of life of Tunisian men and women, as this has a definite impact on their participation in development and decision-making. It is characterised by continued growth in living standards and a slow growth in economic development in the inland regions. An analysis of quality of life in terms of gender suggests that:

- living standards have improved greatly but there are disparities;
- expenditure per person per year has increased;
- access to household appliances is rising but a large portion of the population remains excluded;
- access to radio, television and telephone has become accessible to the general public;

- housing is becoming increasingly comfortable;
- the introduction of household appliances has changed the lives of women. Access to radio and television has reduced their isolation and has been a preferred source of entertainment and access to information. Telephone and new telecommunications technologies have opened up new perspectives.

### Evolution of demographic indicators

Year	2003	2004	2005
Gross birth rate per 1000 inhabitants	17.1	16.8	17.1
Gross mortality rate per 1000 inhabitants	6.1	6.0	5.9
Natural rate of increase (in %)	1.03	1.08	1.1
Total fertility rate	2.06	2.02	2.04
Infant mortality rate per 1000 births	21.1	20.7	20.3
Life expectancy at birth (m)	71.1	71.4	71.6
Life expectancy at birth (f)	75.1	75.3	75.5
Life expectancy at birth (m+f)	73.1	73.4	73.5

Source: National Statistics Institute

The report on the state of the world population maintained a demographic rate of increase of 0.1 for Tunisia between 2005 and 2010. The urban population represents 66%, with a growth rate of 1.6.

The age at first marriage is in the 30-34 age range. It has been pushed back for both sexes following changes and social and economic transformations. Early marriage is not encouraged in Tunisia. The number of single people has increased significantly: in the 20-24 age range, the percentage of single people increased from 27% in 1966 to 58.8% in 1984 and to 83.6% in 2004 and in 2006.

The birth rate has fallen significantly, dropping from 50 per thousand in 1956 to 32.3 per thousand in 1984 and down to 17.1 per thousand in 2003. The gross mortality rate has followed the same trend, as it was 6 per thousand in 2003 and 5.9% in 2005, compared with 15 per thousand in 1966. This resulted in a decrease in the natural rate of increase to 1.10% in 2003, although it exceeded 3% in 1956. The total fertility rate was 1.87 in 2007; it is lowest in urban areas at 1.5 (children) and it is highest in rural areas at 2.6.

## 5.4.2. Education

The right to schooling has always been a vital political choice in Tunisia. Laws n° 58.118 of November 1958, n° 91.65 of 29 July 1991 and framework law n° 2002-80 of 23 July 2002, concerning schooling and school education establish this choice. Equal access to education for all, without discrimination, is a right guaranteed by law and a legal obligation punishable by legal action in the event of a breach.

Increasing urbanisation, demographic transition, the change in mentalities and improvements in living standards have boosted the education of girls: this is reflected in the percentages of girls in primary, secondary and higher education which have increased, with a decline in the number of girls dropping out of school and a better success rate for girls. Boy/girl parity has become a reality in all stages of education and a certain imbalance in favour of girls is even starting to emerge in secondary education. The success rate for girls is constantly improving from one year to the next at the different levels of education.

### Development of dropout rates by gender and cycle

Educational cycles	1st cycle of primary education		2nd cycle of primary education		Secondary education		
	Year	1999/2000	2006/2007	1999/2000	2006/2007	1999/2000	2006/2007
Girls		2.6	1.6	7.6	8.2	8.1	9.1
Boys		3.2	2.0	11.8	14.5	11.2	14.4

Source: Ministry for Education

### Development of dropout rates by gender in higher education (%)

University year	1999/2000	2002/2003	2006-2007
Girls	1.3%	1.3%	1.3%
Boys	1.8%	1.7%	2.2%

Source: Ministry for Higher Education and Scientific Research

Apart from the guarantee of equal access to education, the educational system aims to ensure the conditions allowing all children to complete their schooling. In this way, girls benefit from university loans and grants in the same way as boys and these are granted in accordance

with the needs of the students. Affirmative action has been introduced in favour of girls for accommodation in halls of residence.

### Success rate per type of diploma for the academic year (2006/2007)

Type of diploma	Boys	Girls	Overall
University diploma in technological studies	77.1	83.6	80.4
Short cycle	70	78.4	73.5
Masters	58.5	64.4	62.1
Engineering	83.1	90.9	86.8
Specialised Diploma (Bac + 5)	77.2	85.1	82
Doctorate in medicine, pharmacy and dentistry	82.2	89.8	87.1
<b>Total</b>	<b>67.4</b>	<b>72.6</b>	<b>70.5</b>

Source: Ministry for Higher Education and Scientific Research

### Distribution of students per academic year

Academic year	1999/2000		2002/2003		2006/2007	
	Girls	Boys	Girls	Boys	Girls	Boys
Students receiving grants	21,261	16,800	31,713	39,604	40,176	62,458
Students receiving loans	8,453	7,670	2,588	3,244	2,480	4,124
Students receiving accommodation	11,265	33,795	15,394	37,689	14,197	42,589

Source: Ministry for Higher Education and Scientific Research

At university, girls in the faculty of arts and social sciences are in the majority, although the number of girls on scientific courses has increased over the last few years.

The number of girls in vocational training centres represents 32.98% of the overall number of trainees. Girls are present in the different training specialities without exception and in different proportions, an that, depending on their choices.

### The number of trainees in graduate vocational training by gender in 2007

Training institution	Boys	Girls
Tunisian agency for vocational training	40,817	17,853
Agency for the extension of agricultural training	1,006	244
Tunisian National Tourist Office	1,931	539
Ministry for Public Health	778	2,055
Ministry of Defence	377	107
Private Establishments	1,587	2,079
<b>Total</b>	<b>46,496</b>	<b>22,877</b>

Source: Ministry of Vocational Training and Employment

The specific laws and measures taken by the State are therefore likely to promote a greater quantitative and qualitative presence of women on the employment market in the future and to improve the access of girls to major sectors such as technologies and sciences.

#### 5.4.3. Literacy

A National Adult Education Programme (PNEA) was set up in 2000 with the aim of freeing young people and women who live mainly in rural areas from illiteracy. The number of women benefiting from this programme has increased significantly. In 2006/2007, women accounted for 79.6% of the total number of learners. This has contributed to a sharp drop in the illiteracy rate amongst women from 36% in 1999 to 28.7% in 2006. The overall illiteracy rate has fallen from 85% at the start of independence to the current rate of less than 20%. The national adult education programme has, since its establishment in 2000, succeeded in helping over 370 thousand citizens escape from illiteracy, or an annual average of 53 thousand beneficiaries, 80% of whom are women. In the coming years, the PNEA plans to expand its activities to illiterate labourers working in economic companies and public bodies and to provide more integrated professional learning for learners and especially for young girls. The UNFT contributes to the implementation of this Plan by making its regional and local facilities (delegations and sections) available, which helps to mobilise illiterate women, notably in rural areas and the peripheries of major cities. The learning programme is supported by incentives for the creation of micro-projects and sources of income for less fortunate families. The programme has made it possible to reduce female illiteracy, has reduced the differences between urban and rural women and has encouraged women to take private initiatives with a view to extricating themselves from poverty and exclusion.

#### 5.4.4. Health

The right to health was recognised as a fundamental right very early on in Tunisia. It is established by the Constitution and repeated in the law of 20 January 1969 concerning the organisation of healthcare. Law n° 91-63 of 29 July 1991 confirms this right. Almost 6% of the Gross Domestic Product (GDP) is allocated to the health sector, notably for the development of healthcare infrastructure to support preventive and curative healthcare, research and training. The policy on women’s health revolves around a number of areas for the promotion, prevention and management of various aspects of the health of mothers, children and the family

The Reproductive Health policy (SR) that targets women of childbearing age has developed over the years. Initially focused on family planning, the women’s health policy developed over the 1980-1990 period towards a more comprehensive concept of family health, and since the Cairo World Conference of 1994 has been focused on reproductive health (RH). This policy was also characterised by the implementation of a legal framework encouraging the achievement of specific programmes and recognising the phenomenon of the individualisation of women’s empowerment in the spirit of the ICPD, Beijing and CEDAW.

In 2004, women’s health indicators showed an average well above that recommended by the international conferences: ICPD (1994) or Beijing (1995): a maternal mortality rate of 50 per hundred thousand live births, infant mortality of 20.6 per thousand births, a total fertility rate (TFR) of 2 children per woman of childbearing age and a life expectancy at birth of 75.3 for women, compared to 71.3 for men.

#### Development of the number of people using reproductive health services (2003-2007)

Health services	2003	2006	2007
Infertility consultations	12,700	12,354	11,939
Consultations/Menopause	13,700	15,142	15,821
Consultation/STI	45,318	38,653	39,404
Cancer Screening/Uterus	23,412	20,841	25,334
Cancer Consultation/Breast	81,886	94,360	94,384
Medical Consultations/Young people	---	52,109	58,868

Source: Ministry for Public Health

A study of the impact of the falling birth rate on a woman’s lifecycle shows that today Tunisian women marry and have children later and later, regardless of their level of education and



their environment: the lifespan devoted to maternity (pregnancy and lactation) has decreased from 24 years in 1966 to less than 5 years in 2006; mothers, who lived 50 years on average in 1966 dedicated 24 years of their lives to pregnancy and lactation. Today they only dedicate about ten years to this, whereas their life expectancy has increased to 75.

### 5.4.5. Employment

Women's economic activity is constantly increasing. The level of activity of women increased from 22.8% in 1999 to 23.8% in 2003, and in 2007 reached 25.3%. Examining the changing structure of the working population by gender shows the upward trend in the percentage of women in the total working population. This percentage increased from 25.1% in 1999 to 26.2% in 2003 and to 27.3% in 2007.

#### Structure of the employed female working population according to the level of education (%)

Level of education of the working population	1999	2005
Illiterate	25.2	20.8
Primary	32.1	28.2
Secondary	31.0	33.5
Higher	11.7	17.5
<b>Total</b>	<b>100</b>	<b>100</b>

Source: National Statistics Institute

However, an analysis of employment by profession shows that women are not present equally in all professions. Some professions are clearly dominated by women, such as the professions "other craftsmen and workers in traditional craft trades" and "office employees". Others are more female-dominated than the average. This shows that women are certainly increasingly present in highly skilled positions and jobs that require a high level of skill (education and training specialists and experts in life sciences and healthcare), but they have difficulty breaking through into many professions, including those involving decision-making and power, which they are trying to improve through the increase in the number of women company directors and by entering the commercial and service sectors: there are 18 thousand women company directors, 79% of whom have completed higher education; likewise, they have represented approximately 20% of estate agents since 2004; in 2007, 27% of women held positions as advertising agents; in 2007, the directors of about 70% of the main companies established in the country in the field of commercial advertising, were women.

### Summary of the participation rates of women in decision-making posts and in certain sectors of activity

Sector	% / (number)
Pharmaceutical sector	72
Scientific Research	50
Secondary Education	48
Primary education	46.9
Medical Professions	42
Further Education	40
The bar	31
Magistracy	29
Journalism	44
Manufacturing Industries	21
Civil service	21
Agriculture and fisheries	16.7
Service sector	37
Working population	27.1
Businesswomen	(18,000)
Female employers	15.7
Members of organisations and associations	42
Executives of associations	20
Chamber of deputies	22.7
Chamber of Councillors	15.2
Diplomatic Corps	24
Government: 6 women (one Minister and 5 Secretaries of State)	13.4
Ministerial cabinets	12
Constitutional Council	25
Governor (2004-2007)	(1)
Economic and Social Council	20
High Council of Magistracy	13.3
High Council of Communication	6.6
Regional councils of governorates	32
Municipal councils	27.4
RCD Central Committee (since the Challenge Congress)	37.9

Source: different Ministries, INS, UTICA, UTAP

Moreover, in 2007 the unemployment rate was 17.8% for women and 12.8% for men. The number of women looking for a professional job and signing on at the employment and self-employment offices increased significantly during the 2000-2007 period, from 53,805

in 2000 to 264,493 in 2007, i.e. a rate of 50.7% of all new job applications in 2007. The percentage of women involved in investment transactions is rising continuously, from 36% in 2000 to almost 44% in 2007.

### Data from various censuses and surveys

Programme	Percentage of women	Year
Job incentive programmes	47%	Average from 1999-2007
Job induction programmes	51.3%	2007
National Employment Fund 21-21 (established in 1999 and intended to improve the qualifications of applicants and to facilitate their integration into the economy)	43.7%	2007
Work experience placement (SIVP I)	56.2%	2007
Work experience placement (SIVP II)	68.9%	2007
Contract of Training in Employment (CEF)	46.4%	2007
Employment and Training Fund (FIAP)	62.6%	2007
Programme for providing 50% of the wage	49.3%	2007
Business Creation/Entrepreneur Training Programme (CEFE)	52.3%	2007
Microcredits	43.9%	2007
Tunisian Solidarity Bank (BTS) (established in 1997 and specialised in granting microcredits at very low interest rates):	38.9%	2007

Source: Ministry for Women, the Family, Childhood and the Elderly (Tunisia) (5<sup>th</sup> and 6<sup>th</sup> combined reports to CEDAW (2008)

In conclusion, advances in the education of women and economic growth in Tunisia have allowed women to improve their position on the labour market although this has not put an end to the discrimination they face. Women continue to suffer unequal treatment on the labour market. With the same level of education and at the same age, the wages they earn remain lower than those of men. This wage discrimination reinforces the discrimination seen in the lower employability of women and by the priority given to the employment of men. This is likely to affect women's participation in decision-making both in their private lives and in public life in general and in political life in particular and, consequently, in the way their needs are taken into consideration. Furthermore, responsibility for domestic duties remains with women, limiting their availability for employment.

**Distribution of time spent on domestic work by gender**

<b>Time spent on domestic work</b>	<b>Men</b>	<b>Women</b>
Preparing meals and provisions	0 h 05	2 h 04
Housework	0 h 03	1 h 20
Washing up	0 h 01	0 h 34
Laundry	0 h 04	0 h 30
Fetching water and wood	0 h 01	0 h 06
Caring for domestic pets	0 h 01	0 h 03
Care of children and dependents	0 h 04	0 h 24
Monitoring the schooling of children	0 h 01	0 h 03
Maintenance of the home, DIY, gardening	0 h 06	0 h 02
Shopping and invoices	0 h 14	0 h 11
<b>Total</b>	<b>0 h 40</b>	<b>5 h 15</b>

Source: Ministry for Women, the Family, Childhood and the Elderly (Tunisia)

## 6. International framework of reference: CEDAW

### 6.1. The reservations to CEDAW

The ratification of CEDAW by Tunisia in 1985 came up against the formulation of reservations against some of its provisions, relating primarily to the status of women in the family. In Tunisia, as in the majority of Arab States that ratified this Convention, the main reservations were formulated with regard to Articles 9, 15 and 16 of the Convention. It should however be noted that Tunisia is the only country in the region to have ratified the Optional Protocol (2008).

Moreover, after the publication of the CEDAW ratification in JORT, (i.e. in 1991), an ad hoc committee was formed at the direction of the President of the Republic. It consisted of multi-disciplinary experts, lawyers, sociologists, theologians and feminists, and tackled the reforms to be introduced into Tunisian legislation to bring it into compliance with the Conventions to which Tunisia was a party and particularly CEDAW. The recommendations of this committee were announced by the President of the Republic in the form of legislative and institutional measures in his speech of 12 August 1992 and appropriate amendments were introduced into the legislation between 1992 and 1993.

Other measures were introduced following the comments and recommendations of the Committee for monitoring the implementation of CEDAW (in 1995 and 14 June 2002 for combined reports 3 and 4), when the reports from Tunisia were presented.

That said, reservations remain. The reservations concerning articles 15 and 16 relate to granting women the same rights and responsibilities in marriage and on its dissolution, as parents, and regardless of their marital status for questions relating to guardianship and custody of their children, the adoption of children or similar institutions. They also concern the name and domicile of the family and the enjoyment of the same rights by both spouses as regards the acquisition, management, and administration of property.

For all these reservations, the Tunisian government did not consider itself bound by the provisions that grant the same rights to women and men in terms of marriage and with regard to any children and by the provisions relating to the family name and the acquisition of property by inheritance, because they are inconsistent with the provisions of the Code of Personal Status.

Another reservation was formulated along the same lines concerning the provisions of Article 9§2 of the Convention on Nationality. The reservations relate to the provisions of the Nationality Code, despite the fact that Article 6 of this Code relating to granting nationality to children and the loss of nationality, grants women the right to give their nationality to their children but with the consent of the father or in the event of his absence.

In addition to these specific reservations, a general declaration was formulated to complete the specific reservations. It calls on the competent authorities to refrain from taking any administrative or legislative decisions that may contravene constitutional provisions and existing laws.

These reservations show the predominance of the patriarchal social order. The general declaration was initially made to avoid any conflict with the Tunisian Constitution, on the one hand, and the references made in the substantive law to the provisions of Islamic law, on the other hand. It recalls that the Tunisian government will not take any measures that are likely to go against the first Article of the Tunisian Constitution, according to which the State religion is Islam. By giving precedence to religion over international conventions, the State emphasizes the application of domestic law to the detriment of international law.

Consequently, domestic law, with its religious foundations, takes precedence; this goes against Article 32 of the Constitution, which states the superiority of duly ratified conventions over domestic laws.

## 6.2. The advertising and media coverage of the CEDAW report

Tunisia submitted a total of four reports (on two occasions: 1995 and 2002) and is about to present its 5<sup>th</sup> and 6<sup>th</sup> combined reports covering the period from 1999 to 2007.

Today, the presentation of Tunisia's reports to the CEDAW Committee is known to all, through the website of the United Nations Women's Committee. However, the presentation of reports is generally followed by press conferences given either by the Minister for Women, the Family, Childhood and the Elderly in person or by a member of the delegation who accompanied him to New York. Those who speak to the press highlight the positive remarks of the Committee to a greater extent than those that show any failings.

The reports are also presented before the members of the Council for Women, Family and the Elderly, comprising representatives of governmental and non-governmental mechanisms.

## 6.3. The role of NGOs in preparing reports

The approach followed by the MAFFEPA was to convene the partners represented at the National Council on Women, Family and the Elderly (CNFFPA) and to send a letter to the institutions and NGOs involved in the CEDAW report, requesting that they provide the data and information required by the report. Some MAFFEPA representatives replied by sending the documentation requested. For those representatives who did not reply, the MAFFEPA had to collect the information and data regarding them, so that all the fields (articles) would be covered by the report.

## 7. National Initiatives: Public policies and strategies for women’s human rights and equality

Tunisian women have benefited from a favourable national context characterised by:

- the continuation of the process to consolidate women’s rights introduced by the reformist movement and President Bourguiba, notably through the 1993 amendments;
- the interest given to the institutional system, demonstrated by the creation of a Ministry responsible for the promotion of women, which has seen its powers increase over the years;
- the integration of gender in the development planning process and its mainstreaming have made it possible to translate equality into clear objectives. Some of these objectives have been quantified;
- the use of affirmative action.

### 7.1. Institutional mechanisms

#### 7.1.1. The Ministry for Women, the Family, Childhood and the Elderly (MAFFEPA)

The creation of the first Ministry for Women and the Family goes back to the early 1980’s. Created in the wake of the results of the Nairobi conference, the young department experienced difficulties that resulted in its dissolution. Until August 1992, issues concerning women were consequently tackled in a limited and transitory manner by the sectoral ministerial departments. During the Eighth Development Plan, a new government body was created: the Secretary of State for Women and the Family (SEFF) which was responsible for issues concerning women and the family and which proved a turning point in the consideration of the specific needs of women and improved programming in their favour.

In August 1993, the State Secretariat to the Prime Minister, responsible for women and the family, was elevated to the rank of Ministry responsible to the Prime Minister and in 1996 to that of an independent Ministry; at the same time, it saw its powers strengthened. Its mission was then to develop government policy on the promotion of women and the family and to coordinate the actions of the different Ministries involved in its domains of action.



Since 2002, the Ministry for Women and the Family (MAFF) has successively been given the domain of childhood (September 2002) and the elderly (October 2004), and has become the Ministry for Women, the Family, Childhood and the Elderly (MAFFEPA).

MAFFEPA plays a key role in the design, implementation and leadership of gender equality policies. Since its creation, this mechanism has seen its duties grow. The ministerial department was initially exclusively concerned with women and the family. Conceived as a cross-functional department for coordination, not action, few human and financial resources were made available.

The latest reorganisations have progressively increased its duties. It is now responsible for two major categories, namely childhood and the elderly. The addition of the categories of childhood and the elderly to the duties of the MAFFEPA constitutes an opportunity in itself. It makes it possible to consider the issue of women according to a lifecycle approach. In this way, issues such as GBV, stereotypes and education in women's rights are considered differently during the different stages of a woman's life. For example, the issue of GBV has allowed the detailed examination of violence against children and particularly against small girls. In the same way, the category of "the elderly" is now taken into account in the examination of the time budget for women. "The elements specific to the concept of gender are vectors for the coordination between the four focal areas of the MAFFEPA, namely childhood, women, the elderly and the family"<sup>22</sup>. These coordinating vectors are the lifecycle of people, individual differences and the social relationship between women and men.

On the other hand, extending the duties of the Department has resulted in greater responsibilities for the MAFFEPA, especially as unlike the "women and family" dossiers, handled in coordination with the other technical ministerial departments, the issues of childhood and the elderly require the involvement or even the direct intervention and management of MAFFEPA services. In effect, the centres and other institutions responsible for children and the elderly require continuous supervision, not to mention the two strategies relating to them that the Ministry supervises and implements in partnership with its government and civil society partners. Therefore, the issue of women has been "diluted" into the issues of other categories considered more vulnerable, at a time when efforts are being directed towards gender mainstreaming.

The Ministry operates according to **four distinct strategies** for the duties/bodies for which it is responsible. Regarding gender, a consistent strategy of intervention during the lifecycle of women may be the cornerstone of MAFFEPA's work. Currently it appears essential to reinforce the interactive consistency between MAFFEPA departments. Likewise, in the light of the human and financial resources allocated to it, the MAFFEPA does not always have the

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<sup>22</sup> "Report on gender budgeting in Tunisia": Nalini Burn, 2006

capacity to assume easily the assignments entrusted to it and the diverse issues for which it is responsible.

The increase in the prerogatives of MAFFEPA also led to the creation in 2005 of seven **regional offices** (districts), with a view to administrative decentralisation and to raise awareness of the different characteristics and unique features of the environments.

MAFFEPA's primary role is to coordinate the action of the various government institutions, with a view to promoting the status and condition of women and the family, to improving the integration of women into the development process, to evaluating the programmes carried out to promote women and to applying the dynamism of women's associations. In order to achieve this, it is authorised to propose bills and to undertake development programmes. Essentially it remains a Ministry for action and horizontal impetus. It acts at a decision-making level, as the Minister participates in the ministerial councils chaired by the Head of State and as the Ministry's programmes are adopted by the government. In terms of execution, the MAFFEPA essentially plays a role in social communication, with the development programmes it initiates being executed either by the technical ministries concerned or by NGOs.

The MAFFEPA is assisted in achieving its mission by three important structures: the National Council on "Women and Family", which is a consultative body, the Centre for Research, Studies, Documentation and Information on Women (CREDIF), which is its scientific and technical body and the National "Women and Development Commission", a consultative planning and evaluation structure, in the context of national planning. Since its creation, the Ministry has implemented numerous action plans in favour of women and the family, while providing mechanisms and infrastructure, including the Observatory for children's rights and the Observatory for the family, a helpline and referral system and a support mechanism for micro-enterprises run by women.

### 7.1.2. The National Council For Women, Family and the Elderly (CNFFPA)

Established in 1992, the National Council for "Women, Family and the Elderly" is the advisory body called on to assist the MAFFEPA in its policy guidelines. Chaired by the Minister for Women, the Family, Childhood and the Elderly, it is composed of representatives of different ministries, government institutions and structures, non-governmental organisations active in areas concerning women, the family and the elderly as well as resource people chosen for their skill in these areas.

The CNFF is considered the instrument of coordination between governmental and non-governmental players in considerations concerning the policy for enhancing the status of

women and the family and is an area of active partnership with civil society, whose role is considered essential to basically extend, reduce and support the actions of the public authorities.

In September 1997, the structure of the CNFF was consolidated by the creation of three working committees, called on to support the CNFF and to provide it with clarification on a number of questions. These committees are responsible for drawing up and submitting an annual report to the Council including recommendations and action plans, each in the area of their competence. Once approved, these action plans are submitted to the MAFFEPA for implementation and monitoring. These committees are:

- the committee for monitoring the image of women in the media;
- the commission for the enhancing of equal opportunities and monitoring the application of laws;
- the commission for preparing national and international deadlines relating to women and the family.

In order to conform to the current priorities as defined in the context of the 11<sup>th</sup> Plan Committee, these committees have been replaced by the following three:

- the committee for promoting the participation of women in public life;
- the committee for the reconciliation of family and professional life;
- the committee for promoting the elderly.

It should be noted that the new committees created are interested in the relationship between family and public life, as well as in participation in decision-making, which are themes which were commented on by the CEDAW implementation monitoring committee at the presentation of combined reports 3 and 4. This interest in reconciling family and public life may be explained by Tunisia signing up to the gender approach and by the need to find suitable means to allow women easily to fulfil their three roles: procreative, productive and social.

### 7.1.3. The Centre for Research, Studies, Documentation and Information on Women (CREDIF)

Established in 1990 and considered as the scientific body of MAFFEPA, the Centre for Research, Studies, Documentation and Information on Women essentially has the following tasks: to encourage studies and research on the role and status of women in Tunisian society; to collect data and documentation relating to the situation of women and to ensure their dissemination and to draw up reports on progress in women's affairs in Tunisian society.

The CREDIF, which is a public institution placed under the supervision of MAFFEPA, was supported by bilateral and multilateral cooperation which contributed to the development of expertise at the CREDIF and to its strategic positioning in the national, regional and international environment. In addition to its departments for research, studies, training, information and communication, the CREDIF also has complementary structures, including:

- The **Observatory for the status of women**, which provides policy-makers with the data and indicators required for decision-making and for planning programmes and allows researchers and NGOs to access the information required;
- The **Women's Information Network for Tunisia (RIF) and the Maghreb (REMIF)**, for which it is the focal point;
- A facility for **international training** on Gender and Development;
- The **UNESCO Chair in Women Status Studies** intended to encourage research on gender issues and to promote exchanges between research institutions in the North and the South;
- A **Mechanism for monitoring the image of women in the media**, which is intended to analyse the representation of gender roles as transmitted by the written and audiovisual media.

#### 7.1.4. The decentralisation of institutions and facilities

Inequalities have been noted in the reports by MAFFEPA and its subsidiary body, CREDIF, between the status of women in large cities and that of women in inland regions, in terms of the application of laws and the enjoyment of rights. These inequalities can be seen particularly in difficulties for women in inland regions to access resources, their low participation in decision-making and their higher level of illiteracy. This explains the creation of new mechanisms at the regional level to respond to the recommendations and wishes expressed by women at the different meetings. This involved:

- The establishment of regional committees for the promotion of rural women by Decree n° 2001-2902 of 20 December 2001, with the aim of achieving the non-exclusion policy and the gender approach;
- The creation of seven districts in charge of issues concerning women, the family and the elderly. Such mechanisms, which are the regional antennas of the MAFFEPA, help to analyse the state of equality in the regions and propose ways for the MAFFEPA to intervene to propel women into decision-making posts and target actions to combat GBV.

### 7.1.5. Support mechanisms for rural women

Institutional support mechanisms for rural women have been set up to help reduce the disparities between women from urban environments and those from rural environments, while taking account of the specific requirements of rural women. These mechanisms include the **National Commission for Rural Women**, established in 2001 and chaired by the Minister of MAFFEPA; this committee is divided into regional sub-committees chaired by the governors of the region, whose mission is to ensure the monitoring of the implementation of the action plan for the promotion of rural women, to evaluate achievements and to present recommendations for the improvement of the content and the means of implementation.

### 7.1.6. The Observatory for the Tunisian family

Created in 2006, with the assistance and technical support of the United Nations Development Fund for Women (UNIFEM), this observatory has a dual purpose: to analyse changes experienced by Tunisian families, marked by the end of the classic, traditional family model on the one hand and to assess the family policy field on the other, identified in terms of systems and programmes to benefit families.

One of the main roles of this observatory will, in future, consist of collecting, analysing and disseminating quantitative and qualitative data on the development of the Tunisian family which is currently dispersed and difficult to access. In future, the observatory will be a source of information for policy-makers, so that in the light of the developments and changes recorded, they can consider the measures to be taken to increase women's participation in development and responsibility-taking as well as in combating all the different aspects of GBV: social, economic and political.

### 7.1.7. The National Women and Development Commission

Tunisia was one of the first countries in the Arab region to make efforts to integrate women into development. The 8th Development Plan (1992-1996) was a genuine turning point in that a Women and Development Commission was created for the first time by presidential decree, like the twelve other sectoral commissions in the plan, to examine the situation of women closely in all development sectors and to develop a specific strategy to promote women, with objectives and precise monitoring and evaluation indicators.

Chaired by the Minister for Women and the Family, the "Women and Development" Commission today brings together representatives of ministerial departments, representatives of NGO's for women and development, unions of workers and employers, as well as experts,

academics and resource persons. Its mission is to evaluate the situation of women in all development sectors and to propose specific action plans and positive actions to promote them, with the aim of reducing gender inequalities in all sectors. This same commission is subdivided into specialised sub-commissions, created according to the priorities of the time and the guidelines adopted by the development plans under preparation, for example: the development of female human resources; women and economic development; means and mechanisms to promote women, women and specific categories. Like the sectoral reports prepared within the framework of the preparation of the development plans, the reports submitted by the five sub-committees are subject to consultation at regional and local level by the local authorities as well as the executives of governmental and non-governmental structures, with a view to adapting the objectives chosen to the specific requirements of the regions as well as possible.

## 7.2. Civil society institutions

### 7.2.1. The Assistant General Secretariat for Women's Affairs in the Democratic Constitutional Group

Created in 1992, this Assistant General Secretariat of the largest party in the country is the second post in the party hierarchy after the General Secretariat; it covers over 1,500 women's units throughout the entire country. Thanks to these units and to the concerted action of 24 assistant general secretaries entrusted with women's affairs in the regional structures, the assistant General Secretariat plays a role in raising awareness at the grassroots level, in mobilising female elites and in promoting women at all levels, centrally, regionally and locally.

### 7.2.2. Professional organisations

In the context of the major national, professional organisations, Tunisian women are grouped into women's structures to allow a better defence of their specific interests. These include: The National Chamber for Women Company Directors (CNFCE), established in 1990 within the Tunisian Union for Industry, Trade and Craftsmanship (UTICA), the National Female Agriculturalists' Federation (FNA), established in 1990 within the Tunisian Union for Agriculture and Fisheries (UTAP) and the National Commission of Working Women, established in 1991 within the Tunisian General Workers' Union (UGTT – central union). The CNFCE, the FNA and the women's commission of the UGTT are located throughout the country via regional branches.

The issue of women's participation in decision-making at union level remains crucial and little explained. In 2002, there were 27 female delegates out of 484 delegates at the conference of the UGTT (Tunisian General Union of Labour), i.e. 5.9%. Four of them stood for election as members of the executive but none were elected. The men in the union appreciate and acknowledge the presence of women in the unions but they refuse to cede power to them and women do not vote for women. They prefer to vote for men, even in more highly feminised sectors such as education, health and textiles.

### 7.2.3. Non Governmental Organisations

#### Women's NGOs

Since 1989, more than twenty women's NGOs have been set up, working in the various political, economic, social, cultural and scientific domains. Tunisian women participate in community life: women represented more than a third of the members of the 9,063 associations in the country in 2007. Women also held 21% of the leading positions in national and professional associations and organisations. The involvement of women in civil society is strategic insofar as it seeks to extend and promote their activism and stresses their ability to create new rights towards full citizenship in everyday life. As is often the case, NGOs have a pioneering role in handling some sensitive subjects, as is the case with gender-based violence.

The largest women's associations in terms of both numbers and means carry out diversified activities relating to both the socio-economic and political rights of women.

The National Union of Tunisian Women (UNFT) and the Tunisian Mothers' Association (ATM) are represented nationally and even internationally. They act for a better balance between private and public life via support measures for their members, such as kindergartens, nurseries, the training and mentoring of women who are responsible for bringing in family income. Their representatives are generally candidates for the decision-making positions at a regional level on the lists of the RCD party. In the same way, these two NGOs tackle the issue of violence at national and a regional level through help lines and counselling, through shelters for female victims of GBV. The UNFT plays a role in advocating increased women's rights and women's access to decision-making positions and through the organisation of awareness seminars at both a central and regional level.

The Tunisian Democratic Women's Association (ATFD) is more interested in issues of political debate. In addition to the organisation of seminars and meetings on current political themes, the ATFD promotes women's fundamental rights, by supporting the legal and psychological framework for women who have been victims of violence and also by increasing women's

rights in accordance with the spirit of CEDAW, the content of which it tries to disseminate on a large scale.

That said, the different components of the network of associations do not enjoy the same State benefits as regards complementarity between governmental and non-governmental actions, as is testified by the premises housing the associations, the number of staff assigned to these NGOs', the activities organised during the year and especially their presence at the regional level. Apart from the UNFT and the ATM, the other associations have a very low presence at a regional level: it can only be seen in some sporadic demonstrations organised in the governorates.

The National Chamber of Women Company Directors (CNFCE) works to develop the economic potential of women through its mentoring actions for young creative women. Finally, other associations such as the women's association "Tunisia 21", the "Women for Sustainable Development, Enda Inter-Arab" association, the "Women and Sciences" association and the "Women and ITC" association contribute to increasing women's participation in economic, scientific and technological decision-making, each according to its mission.

### **Development NGOs**

Women are increasingly present in associations working in other voluntary sectors. More than thirty of these associations are chaired by women. Several NGOs acting in the development field and in combating poverty in rural and suburban areas and working to foster a community development dynamic, have moreover directed their actions to the needs of women, by integrating a gender component into their projects. Amongst these NGOs, we should mention the APEL Association, the EI KEF Foundation, the ASAD Association, ENDA Tunisia, the UTSS and the FTDC<sup>23</sup>. The interest of these NGOs resides in the fact that the projects initiated to promote women have helped to develop self-esteem and other capabilities which support decision-making both in the family and in society.

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<sup>23</sup> See the list of logos



## 7.3. Public policy and measures promoting women’s human rights and equality

### 7.3.1. Positive actions for women’s access to decision-making

To resolve the differences noted in the report of the Commission on “Women and Development” , measures have been taken to promote women’s access to employment in general and to decision-making positions, in particular. These involve:

- **women’s focal points** appointed to project management positions in the cabinet of each Ministry with a view to coordinating actions targeting gender equality and being the counterpart of the MAFFEPA for the implementation of its strategies. It should be noted that the function of these focal points has been poorly understood, as they were considered links between the MAFFEPA and their department, but were not granted prerogatives to give them some margin to intervene with the technical departments.
- the **National Equal Opportunities Commission** was established in 1997, within the National Commission on Women and Family. In its report, presented in late 1998, the Commission notably recommended a set of measures for promoting equal opportunities in employment. These include the recommendation to consider a law on sexual harassment. This was done in 2004. However, this same commission had to be invited to consider equal opportunities in other sectors such as education, health and politics. However, the decision was made to postpone the commission as part of an overhaul of CNFFPA commissions.
- in 1998, the **joint circular from the Ministry of the Interior and the Ministry of Women’s Affairs and the Family** invited the regional governors systematically to appoint at least two women as designated members of each Regional Council. They currently represent 32% within the regional Councils of the 24 Governorates. These women are virtually the only women in the interior regions who participate in decision-making at regional level, as the opportunities for promotion to senior posts are minimal for women in the public and private sector at a regional level.
- **The National Plan for the promotion of rural women:** the importance of this plan vis-à-vis the issue of women’s participation in politics lies in the fact that one of the themes of this plan focuses on the women’s participation in community life. Measures are being taken in the context of this action plan to introduce women to decision-making at a community level. There are currently twelve extension centres established in rural areas, whose aim, in addition to training rural women in traditional sectors, is to raise women’s

awareness of participation in public life, by supporting them in the creation of development associations and by initiating them in participation in debates at film showings.

- **The National Action Plan for the family** is considered one of the key instruments of family policy, which began in the early 1990s. The purpose of public intervention in favour of the family is explicit. It aims to “promote the conditions for the balance and stability of the family, as an essential framework for the growth and well-being of the individual in a changing environment”. The plan focuses on four main areas, namely: marital relations, child socialisation, the physical and mental health of the family and the family economy and includes a set of actions to develop the educational and social functions of the family as well as its productive capacities, particularly through the creation of a mechanism for technical and financial support to families’ and women’s micro-enterprises. The merit of this Plan was in training women in their productive role within the family while equipping them with the capabilities required for the creation of micro-projects, sources of family income. These interventions have had the merit, moreover, of encouraging women’s participation in decision-making in the private sphere and of introducing participation in decision-making in the public sphere.

### 7.3.2. The mainstreaming of the gender approach

Tunisia has adopted a policy of integrating women into development and, more recently, measures to promote gender in order to achieve women’s rights through experience. Since 1991, before the Beijing Conference in 1995, which enshrined the gender approach at an international level, Tunisia had included equal opportunities for girls and boys, men and women in its planning policy. The concept of integrating women into development, adopted during the 7<sup>th</sup> plan, paved the way in this regard and a series of measures have contributed to the adoption by the MAFFEPA and its partners of the gender concept in their planning. The integration of women into development and the mainstreaming of gender prepared by the 9<sup>th</sup> Development Plan (1997-2001), is set with the 10<sup>th</sup> Plan (2002-2006).

A further step was made on the path to anchoring the gender approach with the 11<sup>th</sup> Plan (2007-2011): in fact, the chapter devoted to women anticipates the introduction of gender budgeting as a financial approach aiming at the national and regional consolidation of equal opportunities. To this end, executives in the departments of the interior and local governments, finance and regional development were initiated into this approach through training sessions. Likewise, it is expected that the MAFFEPA will initiate a gender audit programme in partnership with five pilot departments which are: the Ministries of Economic Development, Finance, Public Health, the Interior and local government and civil service.

The adoption of the gender approach by the various departments is neither linear nor identical. As an indication, the Ministry of Health has taken specific initiatives for the mainstreaming of the gender approach. A project to integrate gender into healthcare statistics is being carried out in collaboration with the MAFFEPA and with the technical support of the Swedish International Development Cooperation Agency. Several attempts have been made within the Ministry of Health to integrate the gender approach into planning and into the budget preparation process. Gender training workshops have been for staff at the Ministry of Health. However, lobbying for the gender approach in the sector was carried out in a sporadic, non-continuous way and without any monitoring and evaluation.

### 7.3.3. The MAFFEPA helpline and counselling centre

Established in 1992, MAFFEPA's helpline deals with over a thousand requests each year and is active in making the rights of women and the family known. It has increased its services with the creation of a voice server (1840), intended to bring the Ministry's services even closer to citizens. It has two lines: 1308 that provides data, information and practical knowledge regarding health, family planning and personal status, and 1392 that receives and processes requests from women relating to marital and family relationships and violence in all its forms, with the aid of a multidisciplinary team of consultants: a psychologist, a lawyer, a sociologist and a social worker. Assistance is requested from other specialist fields if the situation requires it. Since the adoption of the national strategy for combating GBV, the MAFFEPA helpline has specialised in responding to questions on this subject by training its staff to listen and to give counselling.

## 7.4. Strategies and actions for combating gender-based violence

### 7.4.1. The absence of specific legislation

The GBV issue has been addressed in Tunisia through the combined efforts of civil society, in particular women's NGOs and state mechanisms (MAFFEPA and ONFP), and through the support of international donors, mainly UN agencies and bilateral cooperation in Europe.

The GBV issue was of interest to NGOs working to achieve women's human rights before it was of interest to State mechanisms. The authorities were silent for a long time regarding

violence suffered by women, refusing to treat it as a social phenomenon resulting from historically unequal social relationships and treating cases of violence on a case-by-case basis.

There is no specific law on violence against women and the reforms that have been introduced have focused on both spouses but not specifically on women. Thus, in the Code of Personal Status, it is possible for a woman or a man to request divorce due to injury suffered but conjugal rape is still ignored by the law and may not serve as the basis for criminal action against a rapist husband. On the other hand, the Penal Code mentions aggravating circumstances in Article 218 paragraph 2, amended in 1993, in the event of violence and threats if the perpetrator of the aggression is a descendant or a the spouse of the victim: it doubles the imprisonment and the fine<sup>24</sup>.

In the same way, the Penal Code has criminalised sexual harassment since 2004 following the recommendations resulting from women’s meetings (“Women and Development” Commission) and campaigns led by NGOs for women’s rights, notably including the ATFD. Nevertheless, Article 226 ter of the Penal Code, added by the law of 2 August 2004, has remained incomplete.

On the one hand, the emphasis is not on the specific nature of the act of sexual harassment as an act of authority by which the harasser is abusing their hierarchical power. Article 226 ter defines sexual harassment as “any persistence to the embarrassment of others by the repetition of acts or words or gestures likely to damage their dignity or affect their modesty and this with the aim of causing them to submit to the perpetrator’s sexual desires or to the sexual desires of another party, or by exerting pressure on them to weaken their will to resist these desires”. This failure to take the specific nature of harassment into account explains why this is not included in the Labour Code or in the civil service law, even though it is most frequent in the workplace, at school and at university. In addition to a definition that places the emphasis on abuse of power or authority, specific sanctions such as dismissal should, for instance, have been mentioned in the Labour Code and the civil service law.

On the other hand, Article 226 quater states that “if a nonsuit or acquittal is pronounced then compensation shall be owed to the victim of the false accusation”, i.e. to the harasser.

#### 7.4.2. The national strategy and partnerships

As regards the socio-economic handling of the issue, it was not until the NGO ATFD opened a women’s help and counselling centre in 1993 that women victims of violence started, little by little, to talk about their suffering and to break the silence. The help and counselling centre

<sup>24</sup> Article 218 paragraph 2 stipulates: “if the perpetrator of the aggression is a descendant or spouse of the victim, the penalty is two years imprisonment and two thousand Dinars”

for women victims of violence has gained extensive experience since then in supporting women victims of violence but also in lobbying through reports that have been drawn up and sent to policy-makers since 2001.

In 2002, the GBV issue was addressed by policy-makers, notably MAFFEPA. A study was conducted by the Ministry to determine the prevalence of the phenomenon, the categories of women most affected by violence and the factors behind violence against women and to propose guidelines for a strategic plan for combating GBV. Although they only partially responded to the issues mentioned, the results provided a basis for further reflection on the issue. Thus, a strategy was developed in 2007 to prevent and to combat violence against women (with support from the UNFPA and UNDP and with Spanish cooperation).

The national strategy for “combating violence in the family and in society” which includes a component on “Gender-based violence (GBV)” has been implemented by MAFFEPA in partnership with the various governmental and non-governmental stakeholders. That said, GBV has been diluted into a broader concept of violence within the family and in society.

The implementation of the strategy “Gender equality and the prevention of violence against women” is essentially carried out by the National Office for Family and Population (Tunisia) (the ONFP).

These two national strategies on GBV are based on four main areas, namely:

- the establishment of a strategy of awareness, training, information and lobbying in combating GBV amongst policy-makers and stakeholders and the launching of strategic thinking in order to define the needs of each stakeholder within the sector and the counselling of women victims of violence;
- the creation of a multidisciplinary team for the design and integration of gender-based violence (reception and care of women victims of violence in the services concerned);
- the implementation of a sectoral system for referral, counselling and support for these victims;
- The development of a system for collecting and analysing data on GBV in partnership with the structures involved. An intelligence, monitoring and evaluation agency for gender-based violence, through the creation of a national database on gender-based violence (GBV), must be put in place together with programmes for combating GBV.

The focuses of the strategies are intended to resolve the difficulties faced by MAFFEPA, the ONFP and their partners when they were created, namely the absence of a definition of gender-based violence, the lack of any exchange of data and results of studies and research, the absence of any collection of specific data tailored and standardised across the sectors and institutions involved (police, national guard, health service, social affairs, NGOs).

The implementation of the national policy for combating violence, which was to start in 2008, still faces difficulties in completing its various stages. The cross-functional nature of the issue, the coordination difficulties between governmental institutions and voluntary organisations, and the lack of human and financial resources remain the main causes for the slow implementation of the national strategy. In the context of the introductory visit of the programme for “Enhancing Equality between Men and Women in the Euromed Region” (EGEP), the possibility was raised of Tunisia benefiting from the regional method to be developed in 2009 by EGEP.

In this context, the cooperative project on “Gender mainstreaming and combating gender-based violence” (MAFFEPA, UNFPA, UNDP), which began in 2007, aims to contribute to the development of the operational plan of the national strategy for combating gender-based violence and its implementation at national, regional and sectoral levels. The project aims to make data available that will make it possible to identify the phenomenon, to develop relevant and appropriate interventions and to develop methodologies, tools and systems of reference for creating and/or consolidating support services for women who were victims of violence. Furthermore, this project aims to support the work of coalitions in combating violence against women through lobbying aimed at changing attitudes and the application of laws.

Other incentives to raise public awareness of the phenomenon of GBV have been deployed, for instance, on the occasion of the celebration of the International Day for the Elimination of Violence against Women, or 25 November each year. In its press release of 25 November 2008, MAFFEPA thus announced the launch of a freephone line for help and counselling for women who have been victims of violence. Moreover, the ONFP has produced tools for raising public awareness of the incidence of GBV, such as a documentary broadcast in its centres and delegations and plays.

### 7.4.3. NGO initiatives

Although the national strategy is supervised by MAFFEPA, the involvement of NGOs in dealing with the violence suffered by women is also important.

As an example, the NGO ATFD has undertaken action to combat violence since its creation in 1989, through legal advice, support through referral to the relevant services and awareness-information through campaigns. In March 1993, the association set up a Centre for Help and Counselling for Women Victims of Violence (CEOFVV), whose involvement includes legal referral services and psychological support. The Centre is also a place of free speech, condemnation of violence against women and making the different stakeholders and decision-makers aware of the phenomenon of GBV. The association has thereby acquired substantial

experience in listening and social and psychological care. However, the lack of resources available to the association has prevented it from increasing its involvement at a regional and local level and from improving its provision of care, its monitoring of women victims of violence and networking with the other NGO or institutions involved in GBV.

The UNFT provides support for women victims of violence by providing them and their children with accommodation for a period not exceeding three weeks at two centres created for this purpose: one in Tunis and the other in Sousse. These two centres have the following aims:

- to welcome women and girls over 18 years of age who have suffered violence;
- to guarantee temporary accommodation for threatened women with the assurance of moral assistance and medical supervision;
- to allow threatened women/victims to access the legal system and learn about their rights and the help mechanisms available;
- to help with reconciliation between the woman resident and her spouse;
- to ensure continued monitoring of the parties involved and to facilitate their reintegration in social and economic life.

As an indication, the UNFT centres welcomed and referred 1,266 cases in 2006, 1,187 in 2007 and 420 in 2008. The actions and interventions of the two UNFT centres are consolidated by the office of social action, whose task is to advise, to inform, to guide and to intervene.

AFTURD is also active in combating GBV, specifically through the project “Positive actions for women’s citizenship rights and equal opportunities in the Maghreb” within the framework of the Euro-Mediterranean partnership, supported by the Mediterranean Institute (IMED or Istituto per il Mediterraneo, Rome). The overall objective of this project is to contribute to the preservation, promotion and development of women’s rights. It aimed to set up three Homes for Women, one in each of the three countries covered by the project (Tunisia, Algeria and Morocco: situated in Tunis, Algiers and Tangiers). These Homes are multifunctional centres and are intended to raise awareness of women’s rights and equal opportunities, to provide information, listening, counselling and legal and psychological assistance and to monitor the status of women’s rights (permanent observatory of rights).

AFTURD made the Home for Women in Tunis, set-up in 2001, into a headquarters that is used to launch activities relating to violence. The booths for listening and legal and psychological assistance are mechanisms maintained by specialised experts who offer legal advice and counselling (family law, labour law, union law, etc.), health information and counselling (sexuality, reproductive health, STDs) and listening and psychological support (mental health, relationship and educational difficulties). Amongst its actions to combat GBV, AFTURD has also mobilised young people to produce a short film about violence.

One of the shortcomings experienced when considering the national strategy for combating violence, which has also been noted in other sectors, concerns the lack of data disaggregated by gender. This fact was already reported by the Committee for monitoring the implementation of CEDAW, in 2002, during the examination of combined reports 3 and 4. There is very little data on: prostitution, women with special needs, women who suffer violence, single mothers, women who are the head of the family and female prisoners, amongst others.

With the aim of addressing the lack of data disaggregated by gender on the phenomenon of violence and its prevalence in all environments and in all regions, the ONFP started a survey on the prevalence of GBV in the context of a regional Arab project.

#### 7.4.4. Combating human trafficking

Furthermore it should be noted that the CEDAW Committee invited "Tunisia to include information and data on the trafficking of women and girls and the exploitation of prostitution in its next report and to indicate the measures taken to prevent and combat it and to protect and rehabilitate women and girls who have been victims of it"<sup>25</sup>. To this end, we note that Tunisia has ratified and adhered to several **international instruments** on human trafficking. These instruments include:

- The United National Convention against Transnational Organised Crime (pursuant to law n°2002-63 of 23 July 2002);
- The Additional Protocol to the United Nations Convention against Transnational Organised Crime to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (pursuant to law n° 2003-5 of 21 January 2003);
- The Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the UN Convention against Transnational Organised Crime (pursuant to law n° 2003-6 of 21 January 2003);
- The two Optional Protocols to the UN Convention on the Rights of the Child. The first on the sale of children, child prostitution and child pornography and the second relating to the involvement of children in armed conflict (pursuant to law n° 2002-42 of 7 May 2002).

In the process, legislative and institutional measures were taken for the prevention and abolition of the trafficking and the prostitution of women and girls as well as the integration of prostitutes.

The following **legal mechanisms** form the basis for the State initiatives to eradicate the human trafficking phenomenon:

<sup>25</sup> See the final observations of the CEDAW Committee: Tunisia.2002, A/57/38, para.197



- The **Child Protection Code** (CPE) protects girls against all forms of trafficking;
- The **Penal Code** (PC) protects women and girls against all forms of trafficking, by criminalising the abduction of a person by fraud, violence or threats, child abandonment, the sexual abuse of children, the sexual abuse of children by relatives or persons with a moral influence over them, the sexual exploitation of children and their subjection to prostitution, incitement to riot or incitement to the corruption of minors, rape committed with violence, the use or threatened use of weapons, the ban on the prostitution of women outside the legal framework and the punishment of illegal prostitution even if occasional or temporary, with six months to two years imprisonment and a fine. Any person who had sexual relations with one of these women, committed sexual harassment, false imprisonment or lived off immoral earnings shall be considered an accomplice and be liable to the same penalty. The PC also stipulates an extraterritorial clause (crimes committed outside the country) and the ban on stays for offenders.
- The **Judicial Police**, Social Welfare Sub-Department, Department for the Protection of Minors under the Ministry of the Interior and Local Development, is making an effort to investigate crimes of sexual and economic exploitation perpetrated against children and is working to fight against sex tourism and against crimes committed through the use of new technologies.

## 7.5. Monitoring and implementing the Istanbul Ministerial Conclusions

Tunisia, which adhered to the Barcelona Process and participated in the Istanbul Conference (2006), expressed its full commitment to the implementation of the Istanbul Ministerial Conclusions. Tunisia's annual questionnaires on the implementation of the Conclusions of the Conference have been the subject of periodic reports prepared on the initiative of the European Union. In the context of the different Istanbul follow-up reports drawn up by EGEP, Tunisia mentions the priorities for action in the coming years (beyond 2009) as the issue of GBV, women's economic rights and access to employment, empowerment of rural women and the implementation of a national strategy for equality for women. That said, although almost five years have passed since it was held, few people are aware of the Istanbul Conference and even fewer of the scope of its Conclusions. In interviews held in the context of this report, few people, except for the executives of MAFFEPA and people belonging to women's NGOs, seemed to us to have understood the Conclusions and the degree of commitment on the part of Tunisia to the Istanbul process.

The people who understand the Conclusions are unanimous about the need to strengthen women's rights in accordance with the spirit of the Conclusions, namely the three pillars of human rights: political-civil, socio-economic and cultural.

Although the reports for Tunisia show the progress made in strengthening women's civil, political, social, economic and cultural rights, actions could usefully be developed to eradicate all forms of discrimination against women in accordance with CEDAW, Beijing and Istanbul. Moreover, at a national level, the follow-up of Istanbul is not yet structured insofar as it has not led to the establishment of a national commission responsible for drawing up periodic reports for Istanbul.

The priority areas for Tunisia reflected in the interviews held with Tunisian players for following up the Istanbul Conclusions focus on:

- combating violence against women;
- disseminating the culture of women's rights;
- promoting intercultural exchange;
- statistics disaggregated by gender and gender budgeting;
- reconciliation between professional and family life;
- promotion of female entrepreneurship, capacity building;
- the participation of women in public and political life.

Consequently it appears that the results of the interviews for this report correspond with the priorities expressed by the Tunisian Government in its responses to the follow-up questionnaire from the European Union concerning the Istanbul Ministerial Conclusions.

## 8. Analysis of the results and priorities for future action

### 8.1. Main results of the situation analysis

In view of Tunisia's achievements in promoting equality in terms of laws, mechanisms, policies and programmes and commitments aiming to implement the Conventions to which it subscribes, notably CEDAW and the Conclusions of the Istanbul Ministerial Conference, the opportunities offered by the national context for achieving gender equality and the obstacles and resistance that limit women's full enjoyment of their equal rights include:

#### **Legal reforms**

The Tunisian State has taken a series of measures to eliminate discrimination and to achieve de facto equality. Efforts were concentrated on the legal and institutional aspects, including the setting up of new institutional mechanisms.

The analysis of the state of gender equality in Tunisia has shown a non-discriminatory Constitution and egalitarian laws which have evolved over the years in such a way that women's rights have progressed in the family and in social, economic, political and cultural fields, but the impact and pace of these differs from one field to another.

Progress in terms of equality has made Tunisian law favourable to women. This pioneering experience remained unique for a long time in the Arab-Muslim context. This is especially true as Tunisian laws were strengthened due to Tunisia's ratification of the international Conventions on the status of women, headed by CEDAW. Tunisia has also endorsed the Beijing Platform with its twelve priority areas, as well as the Conclusions of the Istanbul Conference, with special attention paid to gender-based violence, in addition to strengthening the rights enshrined in CEDAW. Tunisia also ratified the Optional Protocol to CEDAW in 2008.

However, although the Constitution states that all citizens are equal, it does not include a definition of discrimination in accordance with Article I of CEDAW.

Oscillating between modernity and tradition, between reformism and conservatism, between continuity and change, between reconciliation and a break with Islamic law, the Code of Personal Status is a significant contribution to the changing of attitudes and traditions, but it is still part of the patriarchal order of which it is a manifestation and its foundations are

supported by unequal or discriminatory rules in cultural and religious references and in the sanctification of these rules.

Therefore, from a legal standpoint and despite the major reforms in Tunisian legislation, some shortcomings remain, notably those which were the cause of the reservations to CEDAW. These notably include laws relating to the marriage of Muslim women to non-Muslims, inheritance law, the Nationality Code and the concept of patriarchy (the husband is the head of the family). To make the legislation comply with the commitments involved in the ratification of CEDAW and the adherence to the Beijing Platform, the State should introduce the necessary legal amendments. This is both possible and conceivable, as Tunisia has introduced pioneering amendments in the past.

In order to remove the reservations, an advocacy action must be engaged involving government institutions and segments of civil society. The different messages that could be prepared by mutual agreement between the parties concerned, and depending on the target groups: policy-makers, lawyers, parliamentarians, Imams, etc., could circulate as advocacy instruments for the lifting of the reservations.

### **Combating stereotypes**

Resistance to stereotypes has been cited by the players interviewed in the context of this report as the main cause for the discrepancy that exists between the legislative texts that are considered egalitarian and the reality of the status of women at all levels. Studies have shown that the division of tasks between men and women is still done according to a traditional view. A recent study by the MAFFEPA has shown that the difference between the genders is most striking in the time spent on domestic chores. Across all categories, women spend eight times more time than men in carrying out domestic chores and caring for children and the family's dependents.

The creation of a communication strategy for the eradication of the stereotypes prevalent in the private sphere and the public sphere seems necessary in this regard. It should take the ambiguity of the value systems spread by Tunisian culture into consideration: a modernist system open to others and particularly turned to the northern shore of the Mediterranean and another system that finds its roots in the patriarchal system of Arab-Muslim Tunisia. The great fear is that the latter system will gain the upper hand in the wake of the rise of fundamentalism and religious fanaticism that has affected pioneering and egalitarian reforms of almost a century.

The different groups must be targeted, by different means and different media in order to disseminate a culture of equality.

Concerning schooling, this means carrying out a major overhaul of all teaching textbooks so that gender equality becomes a fundamental principle in education. The emphasis may be placed on the different roles assumed by women in all sectors and areas of private and public life.

The teaching of human rights and the propagation of a culture of women's rights, in particular, would help to reduce resistance to the application of gender equality in daily life, as well as to entrench values of equality at a decision-making level in both private and public life in current and future generations. It would be important in the context of a communication strategy to increase the number of women's human rights training workshops and the amount of training targeted at the young, to ensure a better acceptance and spreading of women's rights.

In order to make egalitarian values take root, the association of the media to such a strategy is of paramount importance; all the more so as the studies conducted on the image of women in the media have shown that the image reflected is in no way objective, nor does it conform to the status of Tunisian women or to the role they fulfil within the family and in society.

The family is another major player in the combating of stereotypes. To change attitudes within the family, MAFFEPA may benefit from the various national action plans for which it is responsible. Actions may be carried out to target the attitudes and behaviour adopted by different members of the family: men, women, young people and children. As society is the extension of the family, any changes in attitudes that occur will have a definite impact on women's enjoyment of equality in the public sphere.

Finally, a major communication campaign should be planned aimed at the authorities, where the resistance of the stereotypes that bar the way to women's participation in decision-making can be seen. Far from being created by legislation or regulations, this resistance to the penetration of women onto the labour market and in particular decision-making posts is the work of individual behaviour. Making policy-makers sensitive to gender would therefore be a major component in the communication strategy to be planned.

### **Institutional and financial capacities for gender equality**

The State has taken the initiative to create mechanisms able to enshrine the declared equality in the legislation. The efforts of the mechanisms have produced positive results and progress at different levels. However, much remains to be done to deal with ever-greater expectations in terms of gender equality in various fields.

The lack of human and financial resources made available to MAFFEPA and the lack of data disaggregated by gender are also barriers to the implementation of a gender equality policy.

An analysis of the implementation of the Action Plan for the Advancement of Rural Women at a central and regional level, headed by MAFFEPA in partnership with other ministerial departments and NGOs for women and development, illustrates the impact of the lack of financial resources, as the project was first postponed and then its objectives were reduced.

Despite the political will, the institutional and legal reforms and the policies and strategies adopted, in terms of budgets, women's issues have never been considered as a priority over development issues. This situation is not unique to Tunisia as the evaluations have shown that the majority of national women's mechanisms around the world, created after the Beijing Conference, lack funding and the resources appropriate for their mandate. Where available, the resources allocated to the "women's" component or to "gender" action plans in budget planning are often woefully inadequate and do not make it possible to achieve the stated objectives<sup>26</sup>.

Historically, bilateral and multilateral donors intervened to help fund programmes and activities relating to gender equality and women's rights. In this way, Tunisia has benefited from technical and financial support from donors so that it could achieve equality and the integration of gender into national planning. A number of projects have been implemented in the context of bilateral cooperation (mainly with European partners) and multilateral cooperation (mainly with the UN system). Thanks to this support, MAFFEPA and its governmental and non-governmental partners are involved in the implementation of national strategies. However, this funding poses the question of the sustainability of the efforts and the accountability of national budgets.

In terms of data disaggregated by gender, despite the efforts made by the National Statistics Institute (INS) to include gender in the statistical system, some sectors have not introduced gender in a systematic way and do not consider the place occupied by women in their programmes and actions. Numerous national reports evaluating economic and social policy do not carry out an analysis by gender. The generalisation of gender in statistics would allow greater control over the status of equality as well as more a focussed planning of public intervention.

### **Economic empowerment of women**

Despite non-discriminatory laws in the economic sphere, discriminatory practices persist, impeding the full participation by women in economic life and slowing down their access to decision-making. This is related to the fact that the State is still not always able to guarantee equality in employment, especially in the private sector. There is a risk that the situation will become complicated because of the negative effects of globalisation on women's work and

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<sup>26</sup> Nabila Hamza: analysis of mechanisms (Tunisia)-RWEL- EUROMED; 2006

notably in threatened sectors, particularly the textile, clothing and leather industries, where women represent over 76% of the workforce and 25% of the working female population. The Tunisian State must consequently face the challenges represented by globalisation, the freeing up of the markets and the liberalisation of the economy, by adapting its economy to the demands of globalisation in terms of innovation, quality and flexibility. Likewise, the redeployment of the female workforce should be the subject of a plan for government intervention under MAFFEPA and its partners.

### **The participation of women in political decision-making**

The political participation of women remains limited and does not truly reflect the role played by Tunisian women at a social and economic level. Through affirmative action and in accordance with the recommendations of CEDAW, the Tunisian State has consequently quantified the objectives to be achieved in terms of the presence of women in decision-making positions. The plan was to increase the percentage of women in decision-making positions to 30% by the end of 2009, which coincides with the end of the Presidential programme (2004-2009). The rate is currently 22.5% in the civil service, where women represent 40% of the personnel.

That said, despite the political will, the quota has not been stipulated by law, which would commit the political parties and would lead to a better consideration of women's needs. In other sectors, particularly at a government level, it would be necessary to provide "quotas" for official positions in order to achieve the 30% target. These quotas could be introduced by means of a circular from the Prime Minister following the example of what has been achieved at governorate level as regards the appointment of members of the regional councils, which stipulates at least two women in each Council.

## **8.2. Priorities for future action**

Priorities and strategic interventions are the summary of what the actors interviewed expressed and what emerged from the national strategy assessment reports or the reports on the implementation of international conventions and platforms.

### **8.2.1. Gender mainstreaming**

The efficiency of a gender policy does not only depend on its adoption by MAFFEPA. Quite the contrary, to be able to talk of gender policy, all the ministerial departments and all the partner institutions of MAFFEPA in the implementation of the various strategies should include gender in their work policy both at a central level and at a regional/local level. This means

the integration of gender at a statistical level and the systematic adoption of the approach at all levels and in all the different sectors.

### 8.2.2. Combating violence against women

The MAFFEPA is expected to start to implement the various components of the national strategy to combat GBV, together with the ONFP, including the sectoral plans and the communication strategy which supports the implementation of the action plan. This means mobilising the general public and the media regarding the impact of GBV on women, the family and society.

### 8.2.3. The promotion of female entrepreneurship

Although the participation of Tunisian women in economic life is increasing and the fact that women's economic rights have been strengthened in practice by the creation of several effective mechanisms, such as the support mechanism for women's economic initiatives, women represent 26.6% of the working population in Tunisia, which does not reflect the breakthrough of young girls into all educational cycles and their success rates in different degrees.

Experience has shown the economic vulnerability of women in times of crisis. It is therefore essential to equip the first line participants (MAFFEPA, NGOs) with the aim of strengthening the economic capacitation of women. In other words, this means better access to resources, better mastery of new technologies, access to profitable employment and a better participation in decision-making in the private (family) and public (workplace) spheres.

### 8.2.4. Increasing capacities and women's participation in public and political life

Empowering women is a way increasing their participation in decision-making in the public sphere and of reducing the gaps found at this level, in order to achieve gender equality. The programmes and projects currently being carried out by the different actors are certainly welcome. Nevertheless, other actions could be considered, especially in terms of communication and reconciliation between professional, family and political life.



## 9. Prospects for future action

The prospects for future action given below are the result of the situation analysis, interviews with certain actors and the validation workshop held on 11<sup>th</sup> August 2009 at the headquarters of CAWTAR in Tunis. These prospects relates to the following points:

### CEDAW

The reservations to CEDAW must be lifted and certain provisions of the convention must be implemented “effectively”.

### The Istanbul Conference and the Euromed process

The recommendations of the Euromed Human Rights Network (EMHRN) must be taken into consideration regarding the implementation and monitoring of the Istanbul Conclusions. Namely: ensuring countries’ commitment to respecting gender equality and having international standards as a reference; creating a follow-up mechanism at a regional level; including equality in the title of the conference; making financial commitments for the implementation of conclusions; establishing an independent follow-up mechanism ; improving the position of women in the decision-making bodies of the Euromed process and promoting equality in decision-making through affirmative action.

### GBV

The stakeholder partners must be trained in the implementation of the national strategy for combating GBV so that they can advocate, and a specific law on violence against women must be adopted.

### Gender equality

It is necessary to: create networking between “gender” focal points; change the laws so they are based on equality (e.g. amendment Article 23 of the Code of Personal Status to remove the authority of the father as the head of the family and replace it with parental authority, which implies a shared responsibility between both parents); work to improve the visibility of gender in the media, in order to create attitudes favourable to the improved integration of women; ensure the creation of the gender focal points; stimulate reflection on the gender

issue in various areas of life (work, school, university, private life); and create skills for the integration of gender.

### **The involvement of civil society and NGOs**

It is necessary to promote Euro-Mediterranean coordination at the UfM level and at the level of the neighbourhood policy, involving NGOs.

### **Women and international crises (economic and cultural)**

It is necessary to study the impact of the financial crisis on the status of women in terms of equality, involvement in decision-making and GBV, in order to take adequate measures. It is also necessary to face up to the threat of religious extremism, which presents a serious threat to the advances gained by women and their emancipation.

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in the Euromed region (2008-2011)  
Programme financed by the European Union*

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