

TUNISIA, STILL A CRUCIAL MOMENT FOR WOMEN TO DEFINE THEIR FUTURES

The Legacy

For decades Tunisia has been considered one of the best performing countries in the Arab and Muslim world in terms of women's rights.

Many people attribute this title to a "privileged" start with former president Habib Bourguiba (1956-1987) and a certain continuity in the development of women's rights under Ben Ali (1989-2011). **Bourguiba**, whilst constructing an authoritarian state which actually curtailed the feminist movement¹, unbelievably also **laid the foundation for the position women hold in Tunisia today**. In 1956 Bourguiba introduced the still-famous Code du Statut Personnel (CSP) which granted women an equal right to instigate divorce, set a minimum age for marriage, required both parties to consent to a contract marriage, abolished polygamy and granted women the full right to work, move, open a bank account, and start a business without the permission of their husbands. Bourguiba's rule also saw women given the vote in 1957. In the early 1990s, while the freedoms of the women's movement staid limited², **Ben Ali's reforms granted women some further rights** such as the right to pass citizenship to their children, to receive alimony in cases of divorce, and to obtain custody of children upon the death of their husband. Ben Ali had also allowed for reforms in labour laws that guaranteed women equal pay and removed the requirement that a woman must get her husband's permission to work.

Both of these waves of reform have underpinned Tunisia's fame as a champion for women's rights in the region. While the first wave of reforms were linked to a top-down system concerned with moving power away from patriarchal, kin-based organisations, the second wave of reform was due in large part to the influence of women's rights advocates that arose following independence and put both direct and indirect pressure on the regime.

The Turning Point

Tunisia is now a country in the midst of its post-revolutionary transition, and the status and legal position of women since the 2011 "Jasmine Revolution" is central to this transition.

Regarding the status of women, it has to be stated that **with the revolution finally a real independent women's movement arose**, although it is still diverse and does not present a coherent vision of women's position in Tunisian society and politics. Prior to the 2010–2011 uprising, the women's movement was defined by close collaboration with the regime, working alongside the administration. Currently, a part from more established organisations, such as the national labour organisation UGTT, which have served the women's rights cause in the past and continue to do so today, a plethora of other organisations – small and large, domestic and international, independent NGOs and political think tanks – also operate in Tunisia. The **power of these new movements and the influence of women's rights advocates** was broadcasted when the 2012 draft Constitution proposed an article stating that men and women are "complementary" in the family, as opposed to equal partners. The fear of women to lose their status quo led to a massive media campaign and large demonstrations which achieved the drop of the article and which somehow led to the National Dialogue Quartet's negotiations. However, it also exposed an underlying identity crisis regarding

¹ Only the women's affairs committee of Bourguiba's own party was allowed to operate.

² The "independent" organisations were supposed to support, not challenge, the government, and they had to be approved by the Ministry of Culture.

the role Islam should hold in the new Tunisian state. In fact, while the Arab Spring opened up an opportunity for progressive constitutional change, it also reinforced forces of social conservatism in Tunisia which may act as a constraint to advances to gender equality.

The **increased direct influence of women in the shaping of national rules and laws** was also reflected during the drafting of the 2014 Constitution, with 27% of women being part of the Transitional Assembly in 2011.

The new Constitution enshrines the principle of gender equality and is more precise in the area of women's rights. It does not set forth ground-breaking new rights for Tunisian women, but it guarantees their already celebrated status. The only real extension of women's rights is the inclusion of article 46, which states that "the state commits to protect women's established rights and works to strengthen and develop those rights" and guarantees "equality of opportunities between women and men to have access to all levels of responsibility and in all domains."

In June 2016 Tunisia's Parliament approved an **amendment to the electoral law ensuring that women have greater representation in local politics**. Another significant step towards an inclusive government, equal opportunities and gender equality. The Parliament is also collaborating with external advisors³ to ensure greater women's participation in politics.

Unfinished Business

With many women's rights guaranteed in different national laws and now also in the Tunisian Constitution, **much about women's real empowerment and progress will be related to the implementation and development of this legal supportive framework**.

An issue, for example, is the ambiguous nature of the constitutional text itself, which specifies that international treaties and conventions (such as the crucial Convention on the Elimination of All Forms of Discrimination against Women - CEDAW) are superior to domestic law, but does not specify what weight should be given to sharia law vis-à-vis international treaties. It is as well unclear about the role sharia is to play in relation to other legal authorities. The courts of law will have to settle these ambiguities as well as conflicts and ultimately determining how the constitution is implemented. With this priority of international treaties over domestic law, **appropriate court rulings could help the country further address sensitive women's issues** (such as inheritance and citizenship rights). But this will obviously depend on judges' knowledge about these international standards and their will to apply them.

Finally, **some changes still have to happen also from the legal point of view so to achieve women's empowerment especially in the private sphere**. For example, although Tunisia formally withdrew its major reservations to CEDAW in 2014, it maintained a reservation for the implementation of reforms that conflict with Islam. Inheritance law is one such issue, in which progress towards women's equality has been limited. Such discriminatory provisions support conservative social norms regarding the status and role of women in Tunisian society.

There are still other international treaties related to women's rights which Tunisia has not yet ratified and, apart from the inheritance rights, there are also still many other **unequal rules in national legislation**: women do not have an equal right to pass citizenship to a non-Tunisian spouse; custody of children in the case of divorce is also problematic; marital rape is not a crime in Tunisian law which means that married women lack protection against sexual violence in the home.

³ In 2016 UN Women initiated a project with parliamentarians in Tunisia that involved advocacy sessions around the legislative agenda, capacity building, networking and support for the implementation of the women's caucus.

Obstacles in the Path

The general socio-economic situation in Tunisia, with big socio-economic disparities and unemployment at high levels, is not the only barrier to women's full advancement.

Although women in Tunisia are granted equality in many aspects of everyday life, and have protections under the law, **implementation of these rights and protections in everyday life may be limited by a whole array of societal and cultural factors**. Tunisia remains a patriarchal society and gender-based discrimination persists. Conservative social norms support beliefs regarding the status of women that strongly deviate from the rights enshrined in the formal legal framework.

Although women have active roles in politics and civil society, traditional gender relations persist and cultural and religious norms also continue to influence policy reforms. In spite of labour laws that mandate equal wages and access to employment, women are underemployed and have lower salaries than men. While some polls show a general increase in support for women's political participation in Tunisia, support for equal employment opportunities for women is still mixed. Also within the political parties there is still a quite patriarchal system and some aspects of the political process take place in a way that women are excluded from. They are also still very few women in decision-making positions. And women entrepreneurship, with only 6,5% of women owned businesses registered at UTICA, is not much developed.

As Ms. Ben Mlouka, professional advisor and treasurer of the *Chambre Nationale des Femmes Chefs d'Entreprises -CNFCE-* (who has been interviewed for this article) confirms, **one of the keys to foster women's empowerment in the country will be changing the mindset and working on the persistent patriarchal culture**. Both the public sector and the civil society will have to act on that and only with this changing, women will really have the opportunity to achieve equal access to decision-making in the private and in the public sector.

Your Future, Your Turn

With the existence of laws guaranteeing women's rights, women's empowerment in Tunisia is thus not yet granted. **Tunisian women have a golden opportunity** to stay politically, socially and economically active but they are also responsible for avoiding possible setbacks and ensuring that laws are implemented as intended.

And not only women have to be active in this path. **It will need supportive men** who really believe in the benefits of a greater gender equality and also a more inclusive new generation. In fact, **youth empowerment represents a critical challenge** upon which the resilience of the democratic achievements, also the women's rights, may depend. Young Tunisians are the key group to involve, empower and give a voice because they represent the majority of Tunisia's population and will be the dominant class of tomorrow.

In the specific case of women's economic empowerment, **women's participation in formal economic and business life has to increase**. It is thus critical to **promote women's entrepreneurship** in Tunisia and provide women with the tools to create new economic pathways that support both career and family. As particularly young women are a group who have been held back by unemployment and the ongoing difficulties, **especially the promotion of entrepreneurship among young women** will make up the perfect mixture for a more sustainable development towards full women's empowerment.

Another article by the same author about the importance of women entrepreneurship is available at: <https://insme.wordpress.com/2016/05/13/why-the-world-needs-women-entrepreneurs/>

Additional data on the performance of Tunisia in terms of gender equality are available in the Tunisia chapter (page 344) of the Global Gender Gap Report 2016: http://www3.weforum.org/docs/GGGR16/WEF_Global_Gender_Gap_Report_2016.pdf

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The Chambre Nationale des Femmes Chefs d'Entreprises (CNFCE) is one of the major businesswomen and women entrepreneurs associations in Tunisia. It was founded as non profit NGO in 1990 under the initiative of the Union Tunisienne de l'Industrie, du Commerce et de l'Artisanat (UTICA). The CNFCE and the ILO are currently working on a report about women's socio-economic rights in Tunisia which will be published in the association's website soon. <http://cnfce.org>