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**Tunisia\***

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Tunisia is submitting this updated version of the common core document, deposited with the United Nations Secretariat on 8 June 1994 under No. 46, in the light of the changes seen in the years after the Revolution of 17 December 2010 - 14 January 2011. It follows the submission of several periodic reports to the treaty bodies and Human Rights Council and recommendations on applying international human rights standards made by the special rapporteurs and working groups after field visits to Tunisia.

This report replaces the previous common core document and shall be deposited with the Secretary-General of the United Nations.

## **I. General information**

### **1. Historical overview**

1. The Republic of Tunisia is a free, independent and sovereign State. Its religion is Islam, its language is Arabic and its type of government is republican. Tunisia is a civil State based on the principles of citizenship, the will of the people and the supremacy of law. Tunisia, the capital of which is Tunis, is situated in North Africa, between latitudes 30°14' and 37°13'N and longitudes 7°32' and 11°36'E. It is bordered by Algeria to the west, Libya to the southeast and the Mediterranean Sea to the north and east.

2. Tunisia's history dates back over 3,000 years. The original inhabitants were the Amazigh and the Libyans, followed by the Phoenicians, Carthaginians, Romans, Vandals and Byzantines, and various Islamic States, including the Aghlabids, Fatimids, Hafsid and Ottomans. While the Arab-Islamic identity predominates, the mixture of civilizations has been a source of cultural enrichment for the Tunisian people. Christian and Jewish minorities exist and their holy sites and places of worship are protected by the State.

3. In the second half of the nineteenth century, Tunisia experienced periods of economic and financial crisis. These led to popular insurrections that hindered implementation of the Fundamental Pact (*ahd al-aman*, the equivalent of a declaration of human rights) and the 1861 Constitution. France took advantage of Tunisia's indebtedness, its worsening internal situation and stalled machinery of government to impose a protectorate over the country in 1881. After three-quarters of a century of opposition to French colonialism, Tunisia obtained independence in 1956 and proceeded to build a modern State based on its legislative heritage.

4. Following independence, Tunisia achieved much. It introduced essential reforms in a number of sectors, including education and health, and advanced the situation of women. However, this was not accompanied by progress in the exercise of democracy, protection of freedoms, guarantee of rights and provision of social justice.

5. The worsening general situation and obstruction of the political horizon led to the outbreak of a popular revolution that lasted from 17 December 2010 until 14 January 2011 and whose repercussions continue to be felt. Basically, the revolution was led by those worst affected by the general situation, demanding dignity, work and social justice. The former regime was overthrown and elections for the National Constituent Assembly followed on 23 October 2011.

6. A new Constitution, drafted by the elected Assembly, was adopted on 27 January 2014. It lays the foundations for a civil State and guarantees rights and freedoms on the basis of equality between all citizens, male and female. It rejects all forms of discrimination, guarantees freedom of conscience and belief, establishes the concept of social justice and balance between institutions and creates appropriate mechanisms of protection, such as the Constitutional Court, Supreme Judicial Council and a number of

other constitutional bodies. The same year, the first universal, free and impartial legislative and presidential elections were held.

## **2. Demographic, economic, social and cultural information**

7. According to the last population census (2014), Tunisia has a population of 11 million. Demographically, the country would be described as stable. The natural population increase rose slightly from 1.37 per cent in 2011 to 1.489 per cent in 2014. However, the age composition of the population has changed markedly from what was a predominantly youthful population prior to 1994. Children under the age of five have declined from 11 per cent of the total population in 1994 to 8.9 per cent in 2014, while the 5-14 age group has fallen from 21.4 per cent of the population in 1994 to 14.9 per cent in 2014. The economically active proportion of the population (the 15-59 age group) has risen from 56.6 per cent of the total in 1994 to 64.5 per cent at present. In turn, the proportion of the population over the age of 60 rose from 8.3 per cent in 1994 to 10.1 per cent in 2011.

8. In common with developed countries, Tunisia is experiencing a gradual ageing of the population: the proportion of the elderly is increasing and the proportion of children is declining. Thus, the proportion of the population aged 60 and above rose from 4.1 per cent in 1956 to 8.3 per cent in 1994 and 12 per cent in 2014. These demographic changes will pose a series of challenges in coming years, primarily in the form of a growing demand for education, due to the projected rise in the proportion of the population under the age of 15 from 2020, due to the increase in the number of under-fives from 8.1 per cent of the population in 2010 to 8.9 per cent in 2014, as well as a growing need for healthcare and social coverage due to the rise in the proportion of the population aged 60 and over and the increased incidence of chronic disease, which represents 80 per cent of all diseases. Furthermore, there will be a rise in demand for employment due to the increase of the 15-59 age group to 64.5 per cent of the total population.

9. Between 1984 and 2010, raw domestic production increased by 4.5 per cent. However, between 2010 and 2015, growth remained within limits of 1.5 per cent due to recession in several vital sectors, including phosphates and chemicals, and the unstable political, social and security situation during the period of democratic transition.

## **3. Constitutional, political and legal structure**

10. Tunisia's new Constitution regulates the constitutional and political structure of the State. The system of government is participatory, democratic and republican within the framework of a civil State based on citizenship, the will of the people and the supremacy of the law, where sovereignty resides in the people, exercised through the peaceful alternation of power on the basis of free elections. It is a system based on the separation and balance of powers. In accordance with the Constitution, the people are the source of sovereignty, which they exercise indirectly through their elected representatives in the Assembly of the Representatives of the People or directly through referendums. The State guarantees public and individual rights and freedoms and the law is the arbiter between citizens, male and female, all of whom are equal before it in respect of rights and duties, without discrimination. The judiciary ensures that rights and freedoms are protected from abuse.

11. The Constitution guarantees the freedom to form political parties, unions and associations and to engage in the activities thereof in an atmosphere of respect for the Constitution and the principles of financial transparency, while rejecting violence. Political parties provide a framework for the political activity of citizens and promote involvement

in public life on the basis of the principles of participation and plurality.<sup>1</sup> Trade and professional unions contribute to the defence and promotion of the rights and interests of their members.<sup>2</sup> As regards associations, the Tunisian system is one based on permits, which has enabled many previously banned associations to regularize their situation and engage in lawful activity.<sup>3</sup>

12. The Assembly of the Representatives of the People exercises legislative authority and enjoys administrative and financial independence. Members draw their legitimacy and their mandate from the people, who elect them for a five-year period by universal, free, direct, impartial and transparent ballot in accordance with the electoral law. They enjoy parliamentary immunity. The Assembly debates and passes bills; legislative initiatives may be proposed with the support of at least ten representatives. Furthermore, the Assembly oversees what the executive authority is doing. The opposition is an essential component of the Assembly and has rights that enable it to carry out and further its parliamentary duties. By law, the Assembly may authorize the Prime Minister, for a period of not more than two months and for a specific purpose, to issue decrees with the force of law; such decrees shall be put before the Assembly for ratification upon expiry of the said period. The electoral system, however, may not be amended by decree. In the event of dissolution of the Assembly, the President of the Republic may issue decrees with the approval of the Prime Minister; such decrees shall be put before the Assembly for ratification at its next ordinary session.

13. The President of the Republic and the Government headed by the Prime Minister exercise executive authority. The President of the Republic is the head of State, the symbol of its unity and the guarantee of its independence and continuity. He ensures respect for the Constitution. The president is elected for a five-year term by an absolute majority of votes cast in a universal, free, direct, secret, fair and transparent election. The office of the presidency may not be occupied by the same person for more than two full terms, whether consecutive or separate, and the constitution may not be amended to increase the number or extend the length of presidential terms. The President of the Republic, in consultation with the Prime Minister, is responsible for representing the State and setting general policy in areas of defence, foreign relations and national security that are concerned with protecting the State and national territory from internal and external threats. As commander-in-chief of the armed forces, the president chairs the National Security Council, to which the Prime Minister and speaker of the Assembly of the Representatives of the People are invited. Subject to the approval of the Assembly, he can declare war and conclude peace. The President exercises his powers through presidential orders.

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<sup>1</sup> Decree No. 87 (2011), dated 24 September 2011, concerning the organization of political parties, seeks to promote political life by ensuring the right to form parties and enshrining political plurality. Furthermore, it simplifies the conditions for founding a political party.

<sup>2</sup> Since 2011, trade union plurality has been established by the creation of new unions, such as the Union des Travailleurs de Tunisie and Confédération Générale Tunisienne du Travail, alongside the traditional union organization, represented by the Union Générale Tunisienne du Travail (Tunisian General Labour Union). In addition, the right of certain bodies, such as the Internal Security Forces, to form unions, which they had previously been forbidden to do, has been recognized (Decree No. 42 (2011), dated 25 May 2011, amending and supplementing the Basic Statute of the Internal Security Forces).

<sup>3</sup> Decree No. 88 (2011), dated 24 September 2011, concerning the regulation of associations, represents a new legal framework for the exercise of freedom of association by no longer requiring the permission of the Ministry of Interior to form an association and assigning competence in this matter to the secretary-general of the Government. Following the Revolution of 14 January, a significant number of associations dedicated to defending human rights were created. Furthermore, all restrictions on the activity of non-governmental associations and organizations were lifted.

14. The Government consists of a prime minister, ministers and secretaries of State chosen by the Prime Minister in consultation with the President. The Government, which is drawn from the majority party in the Assembly of the Representatives of the People, exercises executive authority and operates under the Prime Minister to implement its programme, while respecting general State policy and the law. The Government is responsible to the Assembly of the Representatives of the People. The Prime Minister exercises general regulatory authority by means of government orders and has the right to delegate his powers to one of the ministers. The Constitution seeks to create balance between both heads of the executive through consultation between them.

15. The judiciary is an independent authority. Judges are independent and, in the discharge of their duties, subject only to the law. They are appointed by presidential order pursuant to a concurring opinion on the part of the Supreme Judicial Council. Judges ensure the protection of rights and freedoms and the administration of justice by guaranteeing the rule of law and supremacy of the Constitution. A judge may not be transferred without his consent and may not be suspended, discharged or dismissed or subject to disciplinary sanction, except pursuant to a justified decision of the Supreme Judicial Council in accordance with the safeguards and in the cases specified by law. Interference with administration of the law is forbidden.

16. The Supreme Judicial Council consists of four bodies: the Judiciary Council, the Administrative Judicial Council, the Financial Judicial Council, and the General Assembly of the three councils. The Supreme Judicial Council ensures the proper functioning of the justice system and respect for its independence. The law guarantees the right to litigation at two levels. The different categories of court are established by law. No special courts may be established or special procedures introduced that may prejudice the principles of fair trial. The Constitution stipulates that military courts have jurisdiction to deal with military crimes. The law regulates the mandate, composition, organization and procedures of military courts and the statute of military judges.<sup>4</sup>

17. A constitutional court has been created. This is an independent judicial body, uniquely competent to oversee the constitutionality of bills at the request of the President of the Republic, the Prime Minister or 30 members of the Assembly of the Representatives of the People. The court may consider treaties presented to it by the President of the Republic before the bill approving them is signed. It may also consider laws referred to it by the courts pursuant to a defence motion challenging the constitutionality of a law. The court's rulings, which must be justified, are binding on all authorities.

18. Local government is based on decentralization, which the State undertakes to adopt nationwide. It takes the form of local authorities consisting of municipalities, districts, regions and any other local authorities that may be created by law. Local authorities enjoy legal personality and financial and administrative independence. They manage their financial resources in accordance with the principles of good governance and under the supervision of the financial judiciary. They manage local interests in accordance with the principle of free administration. Local authorities may cooperate and enter into partnership with one another to implement projects or undertake works of common interest. Local authorities may also establish foreign partnerships and decentralized cooperation. Local authorities have autonomous powers, powers shared with the central authority and powers transferred from the central authority. Local interests are managed by local government within the framework of the unitary State, employing the mechanisms of participatory

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<sup>4</sup> Article 148 of the Constitution stipulates that the military court shall continue to exercise the powers granted to it under the current laws until the latter are amended in accordance with the provisions of Article 110, prohibiting the creation of special courts.

democracy and open government to ensure the widest participation of citizens and civil society in preparing and monitoring development programmes in accordance with the law.

19. The Supreme Council of Local Authorities has been created to represent local authority councils; its headquarters are outside the capital. The council considers issues relating to development and the balance between regions and expresses an opinion on bills relating to local planning, budgetary and financial issues. The administrative judiciary decides in respect of all disputes that may arise between local authorities and central government.

## II. General framework for the protection and promotion of human rights

### 1. General framework for the protection of human rights

#### A. Tunisian engagement with the United Nations system for the protection of human rights

##### Ratification of principal international human rights instruments

20. Tunisia has ratified most human rights conventions, as shown below:

##### International conventions

<i>No.</i>	<i>Convention</i>	<i>Date of ratification</i>	<i>Instrument of ratification</i>
1	Convention on the Prevention and Punishment of the Crime of Genocide	1956	29 November 1956
2	International Convention on the Elimination of All Forms of Racial Discrimination	1966	Act No. 70 (1966), dated 28 November 1966
3	International Covenant on Civil and Political Rights	1968	Act No. 30 (1968), dated 29 November 1968
4	Optional Protocol to the International Covenant on Civil and Political Rights	2011	Decree No. 3 (2011), dated 19 February 2011; Order No. 551 (2011), dated 14 May 2011
5	International Covenant on Economic, Social and Cultural Rights	1968	Act No. 30 (1968), dated 29 November 1968
6	Convention on the Non-applicability of Statutory Limitations to War Crimes and Crimes Against Humanity	1972	Act No. 11 (1972), dated 10 March 1972
7	International Convention on the Suppression and Punishment of the Crime of Apartheid	1976	Act No. 89 (1976), dated 4 November 1976
8	Convention on the Elimination of All Forms of Discrimination against Women	1985	Act No. 68 (1985), dated 12 July 1985
9	Optional Protocol to the Convention on the Elimination of All Forms of Discrimination	2008	Act No. 35 (2008), dated



<i>No.</i>	<i>Convention</i>	<i>Date of ratification</i>	<i>Instrument of ratification</i>
	against Women		9 June 2008; Order No. 2502 (2008), dated 7 July 2008
10	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	1988	Act No. 79 (1988), dated 11 July 1988
11	Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	2011	Decree No. 5 (2011), dated 19 February 2011; Order No. 552 (2011), dated 17 May 2011
12	International Convention against Apartheid in Sports	1989	Act No. 29 (1989), dated 27 February 1989
13	United Nations Convention on the Rights of the Child	1991	Act No. 92 (1991), dated 29 November 1991
14	Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict	2002	Act No. 42 (2002), dated 7 May 2002
15	Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography	2002	Act No. 42 (2002), dated 7 May 2002
16	Convention on the Rights of Persons with Disabilities	2008	Act No. 4 (2008), dated 11 February 2008; Order No. 568 (2008), dated 4 March 2008
17	International Convention for the Protection of All Persons from Enforced Disappearance	2011	Decree No. 2 (2011), dated 19 February 2011; Order No. 550 (2011), dated 14 May 2011
18	Rome Statute of the International Criminal Court and the Agreement on the Privileges and Immunities of the International Criminal Court	2011	Decree No. 4 (2011), dated 19 February 2011; Order No. 549 (2011), dated 14 May 2011
19	Four Geneva Conventions	1957	4 May 1957
20	Optional Protocols of 1977	1979	9 August 1979
21	UNESCO Convention against Discrimination in Education	1969	29 August 1969
22	International Labour Organization, Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19)	1956	12 June 1956

<i>No.</i>	<i>Convention</i>	<i>Date of ratification</i>	<i>Instrument of ratification</i>
23	International Labour Organization, Right of Association (Agriculture) Convention, 1921 (No. 11)	1957	15 May 1957
24	International Labour Organization Forced Labour Convention, 1930 (No. 29)	1962	17 December 1962
25	International Labour Organization, Right to Organise and Collective Bargaining Convention, 1949 (No. 98)	1957	15 May 1957
26	International Labour Organization, Discrimination (Employment and Occupation) Convention, 1958 (No. 111)	1959	14 September 1959
27	International Labour Organization, Equal Remuneration Convention, 1951 (No. 100)	1968	11 October 1968
28	International Labour Organization, Abolition of Forced Labour Convention, 1957 (No. 105)	1959	12 January 1959
29	International Labour Organization, Minimum Age Convention, 1973 (No. 138)	1995	19 October 1995
30	International Labour Organization, Worst Forms of Child Labour Convention, 1999 (No. 182)	2000	28 February 2000
31	International Labour Organization, Employment Policy Convention, 1964 (No. 122)	1966	17 February 1966

### **Regional conventions**

<i>No.</i>	<i>Convention</i>	<i>Date of ratification</i>	<i>Instrument of ratification</i>
1	African Charter on Human and Peoples' Rights	1982	Act No. 64 (1982), dated 6 August 1982
2	Protocol to the African Charter on Human and Peoples' Rights on the Establishment of the African Court on Human and Peoples' Rights	2007	Act No. 47 (2007), dated 17 July 2007; Order No. 2135 (2007), dated 21 August 2007

### **Status of international conventions in the Tunisian legal system**

21. Article 20 of the 2014 Constitution stipulates: "International agreements approved and ratified by the Assembly of the Representatives of the People have a status superior to that of laws but inferior to that of the Constitution". Tunisian law thus recognizes ratified international conventions, including those relating to human rights, and has incorporated them into the domestic legal system, granting them a status superior to that of domestic laws, although inferior to that of the Constitution. This means that, in the event of conflict

between domestic law and a ratified international convention relating to human rights, the courts may apply the latter directly, except in the case of conventions requiring the formulation of a national legal framework relating to crime and punishment. Litigants may plead the provisions of such international conventions before national bodies, including judicial bodies. Indeed, the Tunisian judicial system based a ruling in a personal status case brought before it on the Universal Declaration of Human Rights and Convention on the Elimination of All Forms of Discrimination against Women.

22. It is worth noting that Tunisia promulgated Organic Act No. 53 (2013), concerning the establishment and regulation of transitional justice, creating specialized judicial chambers within courts of first instance in the headquarters of appeal courts. Article 8 of the act affirms that the said chamber shall consider cases of serious human rights violations, as defined in international conventions ratified by Tunisia and the act itself. This is an explicit reference to the substance of international conventions.

23. At international level, Tunisia has accepted the competence of most treaty bodies, either by acceding to the instrument creating the mechanism to receive individual complaints and communications (the Human Rights Committee,<sup>5</sup> Committee on the Elimination of Discrimination against Women<sup>6</sup> and Committee on the Rights of Persons with Disabilities<sup>7</sup>) or submitting a declaration accepting this competence, as in the case of the Committee against Torture, when Tunisia announced acceptance of articles 21 and 22 upon approving the convention,<sup>8</sup> thereby enabling the committee to hear a number of complaints submitted by individuals against the Tunisian State.<sup>9</sup>

24. At regional level, Tunisia accepted the competence of the African Committee on Human and Peoples' Rights following its accession to the African Charter on Human and Peoples' Rights. By ratifying the Protocol to the African Charter on the Establishment of the African Court on Human and Peoples' Rights on 9 June 1998 (the instruments of ratification being deposited on 5 October 2007), Tunisia accepted the mandatory jurisdiction of the African Court. However, the announcement regarding clause 34, paragraph 6 of the protocol, relating to accepting the jurisdiction of the said court to receive complaints from individuals and non-governmental organizations enjoying the status of observer to the African Committee on Human and Peoples' Rights has not yet been made.

## **B. Legal framework for the protection of human rights at national level**

25. Anxious to respect its human rights obligations, Tunisia has established a legal and institutional system to protect and promote human rights. Since 2011, it has sought to speed up the pace of its promotion of and support for these rights by working to harmonize national human rights legislation with the international system which Tunisia has joined. Additionally, government agencies and special independent, national bodies have been created to protect and promote human rights.

<sup>5</sup> Acceded to by Tunisia pursuant to Decree No. 3 (2011), dated 19 February 2011, and ratified pursuant to Order No. 551 (2011), dated 14 May 2011.

<sup>6</sup> Acceded to by Tunisia pursuant to Act No. 35 (2008), dated 9 June 2008, and ratified pursuant to Order No. 2502 (2008), dated 7 July 2008.

<sup>7</sup> Acceded to by Tunisia pursuant to Act No. 4 (2008), dated 11 February 2008, and ratified pursuant to Order No. 568 (2008), dated 4 March 2008.

<sup>8</sup> See website: [http://www1.umn.edu/humanrts/cat/general\\_comments](http://www1.umn.edu/humanrts/cat/general_comments).

<sup>9</sup> See website of the Office of the High Commissioner for Human Rights: [http://tbinternet.ohchr.org/\\_layouts/TreatyBodyExternal/Countries](http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Countries).

**Constitutional protection of human rights**

26. The National Constituent Assembly guaranteed rights and freedoms under the 2014 Constitution, from whose supremacy their supremacy derives. The only thing left to the law is the power to determine the limitations thereof under the terms set out by the Constitution.

27. Article 6 of the Constitution stipulates that the State guarantees freedom of conscience, belief and the practice of religious rites. It devotes an entire chapter (chapter 2) to establishing political, civil, economic, social and cultural rights, the right to development and to public and individual freedoms. It provides for equality between male and female citizens in respect of rights and duties and affirms their equality before the law without discrimination. It makes the right to life sacred and inviolable except in extreme cases determined by law. It obliges the State to protect human dignity and physical integrity and prohibits mental and physical torture. Crimes of torture are not subject to any statute of limitations. It protects the right to private life, the sanctity of the home and the confidentiality of correspondence, communications and personal information. Every citizen has the right to choose his place of residence, to move freely within the country and to leave the country. No citizen shall be deprived of Tunisian nationality, exiled, extradited or prevented from returning to his homeland. The right to political asylum is guaranteed under the terms prescribed by law; the extradition of persons who have been granted political asylum is prohibited.

28. The Constitution affirms the presumption of innocence until proven guilty in a fair trial at which the defendant is granted full safeguards of defence during prosecution and trial. The Constitution establishes the principle of individualization of punishment and punishment may only be imposed on the basis of a legal provision formulated prior to the occurrence of the punishable act, save in the case of a provision more favourable to the defendant. A person may only be arrested or detained if apprehended in the commission of a crime or on the basis of a judicial order. A detainee must be immediately informed of his rights and the charge against him. A detainee has the right to be represented by a lawyer. Periods of arrest and detention are defined by law. Every prisoner has the right to humane treatment that maintains his dignity. In carrying out a punishment involving the deprivation of liberty, the State takes into account the interests of the family and seeks to rehabilitate and re-integrate the prisoner into society.

29. The Constitution guarantees freedom of opinion, thought, expression, information and publication; these freedoms may not be subject to prior censorship. It obliges the State to ensure the right to information and the right of access to information and communication networks. It guarantees academic freedoms, freedom of scientific research and provision of the necessary resources for the development of scientific and technological research. Furthermore, the Constitution guarantees the right to hold elections, vote and nominate candidates, in accordance with the law. The State seeks to guarantee women's representation in elected bodies. The freedom to establish political parties, unions and associations is guaranteed. In their statutes and activities, political parties, unions and associations must respect the provisions of the Constitution, the law and financial transparency and reject violence. The right to join and form unions is guaranteed, including the right to strike; this does not apply to the Tunisian army. The right to strike does not apply to the Internal Security Forces and customs officers. The Constitution guarantees the right to peaceful assembly and demonstration.

30. The Constitution enshrines the right of every human being to health. It guarantees to provide preventative healthcare and treatment and to make available the resources necessary to ensure the safety and quality of health services and free healthcare for those without support and those with limited income. The Constitution guarantees the right to welfare coverage in accordance with the law. The Constitution stipulates that education is compulsory up to the age of 16 and guarantees the right to free public education at all

stages. The State seeks to disseminate the culture of human rights and promote the right to work in decent conditions for a fair wage. The Constitution guarantees the right to property, which may only be interfered with in certain cases under legal safeguards. Intellectual property is guaranteed, as is the right to culture and creative freedom. The Constitution guarantees protection of cultural heritage for the sake of future generations. The State is committed to supporting sports.

31. The Constitution guarantees the right to water and to a healthy and balanced environment. The State seeks to help promote the health of the climate and is committed to providing the means necessary to eradicate environmental pollution. It is further committed to protecting women's acquired rights, to strengthening and developing these rights and to ensuring equal opportunities for men and women in all areas. The State is working toward achieving equal representation of men and women in elected assemblies. It is taking the measures necessary to eliminate violence against women. The Constitution requires parents to uphold the rights of their children, while the State guarantees children dignity, healthcare and education and to provide full protection for all children without discrimination in accordance with their best interests. The Constitution ensures that persons with disabilities are protected from all forms of discrimination and gives each disabled citizen the right to benefit, according to the nature of the disability, from any measures necessary to ensure full integration in society; the State is taking all measures necessary to make this a reality.

#### **Limitations on the rights and freedoms guaranteed by the Constitution**

32. The 2014 Constitution stipulates that no amendment thereto may undermine the human rights and freedoms guaranteed therein. The law determines the limitations on the rights and freedoms guaranteed in this Constitution, without compromising their essence. Limitations can only be imposed for reasons essential to a civil and democratic State to protect the rights of others or pursuant to the demands of public order, national defence, public health or public morals, with due regard to proportionality between the limitations and their justification. The judicial authorities ensure that rights and freedoms are protected from violation (art. 49). As an independent authority, the judiciary is entrusted with ensuring the administration of justice, the supremacy of the Constitution, the rule of law and the protection of rights and freedoms (art. 102). The legal profession is a free and independent profession that contributes to the administration of justice and the defence of rights and freedoms (art. 105). The Constitutional Court may protect rights and freedoms, pursuant to a defence motion challenging the constitutionality of a law (art. 123).

#### **Legislative protection of human rights**

33. While Tunisian legislation had enshrined several rights and freedoms prior to the promulgation of the 2014 Constitution, the pace at which these have been advanced has since been accelerated. This has taken the form of numerous legal provisions giving concrete form to Tunisia's obligations arising from the international conventions it has ratified or acceded to.

#### **1. Legislative protection of civil and political rights**

34. The Penal Code of 1913<sup>10</sup> covers all crimes that are punishable if committed on Tunisian territory. As such, it is the general text on crime and punishment in Tunisia. Several provisions were reviewed and reworded in 2005.<sup>11</sup> It has been revised numerous times pursuant to certain legal provisions, most significantly the act abolishing the

<sup>10</sup> Promulgated pursuant to Supreme Order of 9 July 1913 (Official Gazette No. 79, dated 1 October 1913).

<sup>11</sup> Act No. 46 (2005), dated 6 June 2005 (Official Gazette No. 48, dated 17 June 2005, p. 1412).

punishment of hard labour (1989)<sup>12</sup> and the act incorporating punishment for the crime of torture in the code (1999).<sup>13</sup> It was further revised and supplemented pursuant to a decree of 2011<sup>14</sup> and the act prohibiting corporal punishment of children by those with authority over them, including guardians and teachers (2010).<sup>15</sup>

35. The 1968 Code of Penal Procedure<sup>16</sup> is the general law on criminal judicial procedure, covering detention, prosecution, investigation, identification of the parties involved in the penal process (judicial police, public prosecutor, investigating judges and criminal courts) and the powers of each. It provides safeguards for an accused on remand or in preventive detention at all stages of investigation and trial and sets out the terms of general and special pardon and extradition. The code has been revised several times, most recently in 2016,<sup>17</sup> in order to provide further safeguards for an accused on remand or in preventive detention, including reducing the period of detention and making it subject to the permission of the Attorney General.

36. To enhance safeguards for the accused, an act was promulgated in 2002<sup>18</sup> giving those proven innocent the possibility of demanding compensation for damages.

37. In 2011, a decree<sup>19</sup> granting general legislative pardon was issued, establishing the right of victims of abuse and prosecution under the former regime, particularly those accused of political, freedom of expression or journalism offences, to return to work and receive compensation. This decree was reinforced by the Transitional Justice Act,<sup>20</sup> which created the Truth and Dignity Commission, charged with investigating abuses that took place between 1 July 1955 and the promulgation of the act, holding to account and prosecuting criminals and providing victims with redress and compensation in order to bring about national reconciliation and apply United Nations principles of transitional justice. To give effect to the articles of the 2014 Constitution on political rights, the provisions of the Electoral Code (1969) were repealed and replaced by a new act<sup>21</sup> regulating electoral procedures, nominations for presidential and parliamentary elections, the voting system and campaigning.

38. Organic Act No. 43 (2004), concerning the protection of personal data, is the first instrument of its kind to regulate and set out conditions for the processing of personal data by third parties. A 1968 act<sup>22</sup> regulates the status of aliens in Tunisia and the terms under which they may enjoy temporary or permanent residence. The Nationality Code,<sup>23</sup> which determines acquisition of Tunisian nationality by descent or naturalization, was subsequently revised to give a Tunisian mother the right to pass on Tunisian nationality to her children, if the father is a foreigner.<sup>24</sup>

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<sup>12</sup> Act No. 23 (1989), dated 27 February 1989.

<sup>13</sup> Act No. 89 (1999), dated 2 August 1999.

<sup>14</sup> Decree No. 106 (2011), dated 22 October 2011.

<sup>15</sup> Act No. 40 (2010), dated 26 July 2010.

<sup>16</sup> Promulgated pursuant to Act No. 23 (1968), dated 24 July 1968.

<sup>17</sup> Act No. 5 (2016), dated 16 February 2016.

<sup>18</sup> Act No. 94 (2002), dated 29 October 2002.

<sup>19</sup> Decree No. 1 (2011), dated 19 February 2011, concerning general pardon.

<sup>20</sup> Organic Act No. 53 (2013), dated 24 December 2013, concerning the establishment and regulation of transitional justice.

<sup>21</sup> Organic Act No. 16 (2014), dated 26 May 2014, concerning elections and referendums.

<sup>22</sup> Act No. 7 (1968), dated 8 March 1968, concerning the status of foreigners in Tunisia.

<sup>23</sup> Decree No. 6 (1963), dated 28 February 1963, concerning review of the Tunisian Nationality Code (Official Gazette of 5 March 1963, p. 320), ratified by Act No. 7 (1963), dated 22 April 1963 (Official Gazette of 19-23 April 1963, p. 588).

<sup>24</sup> Act No. 55 (2010), dated 1 December 2010.

39. Following the Revolution, a number of provisions regulating freedom of expression were adopted. These include Decree No. 115 (2011), concerning freedom to print and publish,<sup>25</sup> Decree No. 116 (2011), concerning freedom of audio-visual communication and establishment of the Independent High Authority for Audio-visual Communication (HAICA)<sup>26</sup> and Decree no 41 (2011), concerning the right of access to documents held by public bodies,<sup>27</sup> replaced by Organic Act No. 22 (2016), concerning the right of access to information,<sup>28</sup> which entered into force a year after its promulgation, enabling Tunisia to meet its relevant international obligations.

40. As regards associations, Decree No. 88 (2011)<sup>29</sup> was promulgated, repealing the previous act of 1959<sup>30</sup> and replacing the system of licencing with one of giving notice of the formation of an association. Decree No. 87 (2011), concerning the organization of political parties,<sup>31</sup> repealed the 1988 act<sup>32</sup> to allow the creation of a pluralist and participatory environment in political life and civil society.

## 2. Legislative protection of economic, social and cultural rights

41. Tunisia has adopted several pieces of legislation to protect economic, social and cultural rights, particularly as follows:

- The Family Status Code (1956),<sup>33</sup> regulating the rights of spouses in the domestic sphere, establishing equality and non-discrimination; a number of amendments have been made to the code, principally that of 1993,<sup>34</sup> which introduced greater equality between husband and wife in assuming the burdens and responsibilities of the family;
- An act concerning the regulation of healthcare<sup>35</sup> and an act concerning contagious diseases;<sup>36</sup>
- Orientation Act (2002) on education<sup>37</sup> and Orientation Act (2008) on vocational training;<sup>38</sup>
- Orientation Act (2005) on the advancement and protection of persons with disabilities,<sup>39</sup> an act concerning protection of the elderly<sup>40</sup> and the Child Protection Code;<sup>41</sup> the latter is consistent with the Convention on the Rights of the Child, which it strengthens with provisions protecting children of unknown descent;<sup>42</sup>

<sup>25</sup> Decree No. 115 (2011), dated 2 November 2011.

<sup>26</sup> Decree No. 116 (2011), dated 2 November 2011.

<sup>27</sup> Decree No. 41 (2011), dated 26 May 2011.

<sup>28</sup> Organic Act No. 22 (2016), dated 24 March 2016, concerning the right of access to information.

<sup>29</sup> Decree No. 88 (2011), dated 24 September 2011, concerning the regulation of associations.

<sup>30</sup> Act No. 154 (1959), dated 7 November 1959, concerning associations.

<sup>31</sup> Decree No. 87 (2011), dated 24 September 2011, concerning the regulation of political parties.

<sup>32</sup> Organic Act No. 32, dated 3 May 1988, concerning the regulation of political parties.

<sup>33</sup> Promulgated pursuant to an order dated 13 August 1956.

<sup>34</sup> Act No. 74 (1993), dated 12 July 1993.

<sup>35</sup> Act No. 63 (1991), dated 29 July 1991.

<sup>36</sup> Act No. 71 (1992), dated 27 July 1992, revised by Act No. 12 (2007).

<sup>37</sup> Orientation Act No. 80 (2002), dated 23 July 2002.

<sup>38</sup> Orientation Act No. 10 (2008), dated 11 February 2008, concerning vocational training.

<sup>39</sup> Orientation Act No. 83 (2005), dated 15 August 2005.

<sup>40</sup> Act No. 114 (1994), dated 31 October 1994.

<sup>41</sup> Act No. 92 (1995), dated 9 November 1995, concerning promulgation of the Child Protection Code.

<sup>42</sup> Act No. 75 (1998), concerning the granting of a surname to abandoned children and children of unknown descent, amended by Act No. 51 (2003), dated 7 July 2003.

- The Labour Code as amended, in particular, by the 1993 act,<sup>43</sup> which includes a provision on non-discrimination between the sexes, and an act setting out the general regulations for State officials, local public authorities and public institutions of an administrative character.

## **C. Institutional framework for the protection of human rights**

### **Independent constitutional bodies**

42. The 2014 Constitution devotes a chapter to independent constitutional bodies and requires all State institutions to facilitate their work. Enjoying legal personality and administrative and financial independence, these bodies seek to support democracy. They are elected by the Assembly of the Representatives of the People by qualified majority. The Constitution determines the composition of each, the conditions and term of membership and the manner of renewal. They include:

#### **Independent High Electoral Commission**

43. The Independent High Electoral Commission was established during the 2011 Revolution to supervise elections for the National Constituent Assembly, on the understanding that its duties would terminate once the election results were announced on 23 October 2011. The commission was charged with administering, organizing and supervising the elections and ensuring the integrity, impartiality and transparency of the election process. It was reformed in 2012 under an organic act with a mandate to ensure democratic, free, pluralist, impartial and transparent parliamentary and presidential elections. It is a public body, enjoying corporate personality and financial and administrative independence. It consists of a central board based in Tunis and 16 branch members from the electoral districts; it has offices in provincial government centres and diplomatic missions. The central board determines the commission's composition and structure. The 2014 Constitution describes the commission as an independent constitutional body.

#### **Independent High Authority for Audio-visual Communication**

44. The Independent High Authority for Audio-visual Communication (HAICA) is responsible for regulating and developing the audio-visual communication sector, ensuring freedom of expression and information and a pluralist and transparent media. The 2014 Constitution describes the commission as an independent constitutional body. The commission has regulatory and disciplinary powers in the audio-visual field and an advisory function in all legislative matters pertaining to audio-visual communication. It carries out its duties completely independently, tolerating no interference designed to influence its members or activities.

#### **Commission on Good Governance and the Fight against Corruption**

45. Under Framework Decree No. 120 (2011),<sup>44</sup> the Commission on Good Governance and the Fight against Corruption was created, replacing the National Fact-finding Commission on Bribery and Corruption. Recognized by the Constitution in 2014, the commission contributes to the formulation of good governance policies and to preventing and fighting corruption. It is responsible for following up policy implementation, promoting the culture of good governance and advancing the principles of transparency,

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<sup>43</sup> Act No. 66 (1993), dated 5 July 1993.

<sup>44</sup> Framework Decree No. 120 (2011), dated 14 November 2011, on fighting corruption.



integrity and accountability. These principles represent the foundation on which a comprehensive and indivisible system guaranteeing economic, social, political and cultural rights is established and secured, as stipulated in the international instruments to which Tunisia has acceded. Broadly speaking, the commission is responsible for carrying out all tasks relating to the fight against corruption and establishing good governance. It cooperates with overseas counterparts and specialized international organizations, with which it has the right to conclude agreements in its area of competence, and exchanges documents, research and information giving advance warning of crimes of corruption to enable them to be forestalled.

#### **Commission for Sustainable Development and the Rights of Future Generations**

46. The Commission for Sustainable Development and the Rights of Future Generations must be consulted on bills relating to economic, social and environmental issues and development plans.

#### **Human Rights Commission**

47. Please refer to the section on national institutions.

#### **Other independent bodies**

48. The system envisioned for the protection for human rights is not confined to constitutional bodies but extends to other independent bodies, not mentioned in the Constitution, such as the National Authority for the Prevention of Torture and the Truth and Dignity Commission.

#### **National Authority for the Prevention of Torture**

49. The National Authority for the Prevention of Torture was established pursuant to Organic Act No. 43 (2013) to give concrete form to Tunisia's commitments arising from ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. It is an independent public body, enjoying corporate personality and administrative and financial independence. Its 16 members must be impartial, independent and neutral. Six must be representatives of civil society organizations and associations concerned with the defence of human rights, while the other 10 come from various relevant backgrounds, such as medicine and psychiatry, which enable them to identify the signs of physical and mental torture.

50. Observing the principle of parity in selecting members influences the way the authority treats those of both sexes who have been deprived of liberty. The authority is an official body and members enjoy immunity even after the expiry of their term of membership. Neither the chairman of the authority nor any of its members may be prosecuted or arrested for views or actions relating to the exercise of their duties, even after expiry of their term of membership. Furthermore, they may not be prosecuted for a misdemeanour or felony unless a majority of members of the authority vote to lift their immunity. If the authority so requires, they must be released from custody even if caught red-handed.

51. The National Authority for the Prevention of Torture has a mandate extending to all places of detention, including civilian prisons, juvenile reformatories, juvenile observation centres, detention centres, psychiatric institutes, refugee shelters, asylum centres, migrant centres, quarantine centres, transit areas at airports and sea ports, punishment centres and the means used to transport persons deprived of liberty. Members of the authority may visit all places of detention and associated facilities, conduct private interviews with inmates or any other person who can provide information, without witnesses present or, if necessary,

with the assistance of a sworn interpreter. This gives the authority wide-ranging powers, enabling it to operate without significant restriction, particularly when we realize that the authorities may not object to periodic or unannounced visits to any particular site save for cogent and compelling reasons relating to national defence, public safety, natural disaster or serious disturbance at the intended site, requiring the visit to be temporarily postponed. In this case, written notification must be sent immediately to the chairman of the authority, giving the reasons for and stating the period of temporary denial of access. Anyone in breach of the above requirements will be subject to disciplinary proceedings. The members of the authority were recently elected by the Assembly of the Representatives of the People.

### **Truth and Dignity Commission**

52. Pursuant to the United Nations principles of transitional justice required of all States emerging from dictatorship and in view of the vestiges of the oppressive legacy of violations and abuses, Tunisia promulgated Organic Act No. 53 (2013), dated 24 December 2013, concerning the establishment and regulation of transitional justice. The aims of the act include establishing accountability by means a set of mechanisms designed to prevent avoidance of responsibility and escape from punishment. Specialized judicial chambers created for this purpose hear cases of serious human rights abuses, as defined by the international conventions ratified by Tunisia and the law itself. These include murder, rape and all types of sexual violence, torture, enforced disappearance and extrajudicial execution. However, although reconciliation is one of the goals of the act, this does not mean escape from punishment and avoidance of accountability by those responsible for violations committed in the years from 1 July 1955 (the beginning of Tunisian independence) to 24 December 2013 (the date on which the act was ratified). The members of the Truth and Dignity Commission were elected by the National Constituent Assembly.

The Ministry of Justice, Human Rights and Transitional Justice organized an international forum from 9 to 11 June 2014, attended by Mr Pablo de Grief, United Nations Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence. The transitional justice act defines a victim as any individual, group or corporate person that has suffered harm as a result of abuse. The act also treats as a victim any family member harmed because of kinship to the victim, as well as any person harmed while intervening to help the victim or prevent abuse. The definition also covers any region that was marginalized or suffered systematic exclusion. The act recognizes that redress for victims is a legally-guaranteed right and that the State is responsible for providing adequate and effective reparations, consistent with the gravity of the abuse and the situation of each victim. The available resources of the State are to be taken into account when implementing reparations. The act adds that the system of reparations is one based on moral and material compensation, rehabilitation, apology, restoration of rights, and reintegration. It may be individual or collective and shall take into consideration the situation of the elderly, women, children, the disabled, persons with special needs, the sick and vulnerable groups. The act requires the State to provide immediate care and temporary compensation to needy victims, particularly the elderly, women, children, the disabled and persons with special needs, the sick and other vulnerable groups, without waiting for decisions or judgments on reparations to be issued. The State guarantees to pay the legal costs of victims in all human rights cases, as defined by the act, pursuant to the laws on legal aid and legal aid before the Administrative Court.

### **Means of redress**

53. Victims whose rights as stipulated in the Constitution or conventions to which Tunisia is party have been violated may appeal to the courts. Appeals may be brought before the Constitutional Court, judicial courts or Administrative Court, depending on the nature of the right violated.

54. Tunisian law admits the possibility of claiming compensation under tort liability in civil cases and personal right action in criminal cases.

55. Article 1 of the Code of Penal Procedure frames the general principle governing redress and compensation for victims. It is a principle under which the commission of a crime gives rise to a public prosecution designed to apply punishment. In the event of actual harm, it also gives rise to a civil action for redress. This is a principle that applies to all crimes, including those relating to human rights. A civil action may be brought at the same time as a public prosecution or an independent civil action may be raised before a civil court. This is the right of anyone who has personally suffered harm as a direct result of a crime.

56. Organic Act No. 53 (2013), concerning the establishment and regulation of transitional justice, represents a legal basis for victims of human rights abuses committed between July 1955 and 24 December 2013 (the date on which the act was ratified) to claim compensation, redress and rehabilitation. See the paragraph on the Truth and Dignity Commission for details.

### **Constitutional Court**

57. The creation of the Constitutional Court is one of the major achievements of the 2014 Constitution. It replaced the Constitutional Council, established in 1990,<sup>45</sup> which had only an advisory role and was suspended after the 2011 Revolution. Act No. 50 (2015), concerning the Constitutional Court,<sup>46</sup> was promulgated pursuant to the Constitution. The court is an independent judicial body that guarantees to uphold the supremacy of the Constitution and protect the democratic republican system, rights and freedoms under the terms of its mandate and powers as stipulated in the Constitution and set out in the act. The Constitutional Court has its seat in Tunis.

### **Judicial courts**

58. Under the Constitution, it is the job of the judiciary to safeguard rights and freedoms and uphold justice. The Tunisian judicial system consists of different types of court, some having full jurisdiction and others having limited jurisdiction. Chapter 5 of the 2014 Constitution deals with the judiciary and covers the legal framework for the delivery of verdicts by the courts, the appointment and independence of and necessary safeguards for judges and the composition of the Supreme Judicial Council, Administrative Court and Audit Court

### **The judicial system**

59. The 2014 Constitution stipulates that the judiciary shall consist of the Court of Cassation, first degree courts and second degree courts. It affirms that the public prosecution service is a part of the judicial system and is covered by constitutionally-guaranteed safeguards. The public prosecution service exercises its duties within the framework of the penal policy of the State in accordance with legally-defined procedures. Until an act consistent with the new constitutional framework is adopted, the judicial courts remain subject to the 1967 act.<sup>47</sup> Judicial courts hear all civil and criminal cases unless these are referred by the law to another body. To publish information on the subject and facilitate access by litigants to the justice system and courts, the Ministry of Justice has

<sup>45</sup> Act No. 39 (1990), dated 18 April 1990, concerning the Constitutional Council

<sup>46</sup> Organic Act No. 50 (2015), dated 3 December 2015, relating to the Constitutional Court

<sup>47</sup> Act No. 29 (1967), dated 14 July 1967, concerning the judicial system, Supreme Judicial Council and the organic act on judges.

prepared a set of guidelines on the procedures of the different levels of court and posted these on its official website. The judicial system includes 142 courts, as follows:

### **Court of Cassation**

60. The Court of Cassation acquired its present position at the top of the judicial hierarchy by an order of 3 August 1956. The court has jurisdiction as follows:

- Civil cases: to consider final rulings in the seven instances set out in article 175 of the Code of Civil and Commercial Procedure, particularly regarding infringement of the law; to rule on the assignment of judges and on the censuring of judges;
- Criminal cases: to consider, in accordance with article 258 of the Code of Penal Procedure, substantive, final rulings and decisions, even if already executed, on grounds of lack of jurisdiction, exceeding of authority, infringement of the law or erroneous interpretation of the law.

61. The Court of Cassation considers the assignment of judges and referral of cases from one court to another. Its various chambers consider unification of opinion and evident cases of error. In these cases, the court is composed of the first president of the Court of Cassation, the heads of chambers and the senior adviser of each chamber, with the Attorney General present and with the assistance of the clerk of the court.

### **Courts of appeal**

62. Tunisia has 12 courts of appeal, including two established after 2013.<sup>48 49</sup> The court of appeal has jurisdiction as follows:

- Civil cases: to consider appeals against initial rulings delivered by courts of first instance within its jurisdiction and against summary judgements and payment orders issued by presidents of courts of first instance;
- Criminal cases: in the capacity of court of last resort, to hear appeals against verdicts delivered by a court of first instance in misdemeanour and felony cases;
- Each court of appeal has at least one chamber of indictment that acts pursuant to a referral from an investigating judge and hears appeals against decisions of the investigating judge;
- Administrative cases: to hear appeals in the capacity of a second degree court against decisions by professional bodies, such as the Bar Association; in the capacity of a first degree court, to hear appeals relating to tax assessment and certain other tax-related matters.

### **Courts of first instance**

63. There are 28 courts of first instance distributed throughout all court of appeal districts. Territorial jurisdiction is determined by the boundaries of the governorate or, if there is more than one court in a governorate, a number of administrative districts.

64. The court of first instance has jurisdiction as follows:

- Civil cases: to hold an initial hearing of all cases except those from which it is expressly excluded; to hear appeals against initial rulings by cantonal judges attached to the district or against rulings erroneously described as final; and to consider rulings delivered by employment tribunals;

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<sup>48</sup> Order No. 3234 (2013), dated 7 August 2013.

<sup>49</sup> Order No. 3771 (2013), dated 19 September 2013.

- Misdemeanour cases: to hold an initial hearing of misdemeanour cases, except for those which come under the jurisdiction of a cantonal judge;
- In the capacity of a final court of appeal, to consider appeals against rulings delivered by a cantonal judge attached to the district; a court of first instance located at a court of appeal may hold an initial hearing of felony cases (new Code of Penal Procedure, art. 124).

### **Cantonal courts**

65. There are 85 cantonal courts, distributed throughout all court of first instance districts. Their territorial jurisdiction has been fixed since 2009.<sup>50</sup> In general, the cantonal courts are competent to hear all cases not within the competence of courts of first instance to hear and any other cases assigned to them by law.

### **Property Court**

66. Initially known as the Mixed Property Court,<sup>51</sup> the Tunisian Property Court<sup>52</sup> has, since 1957, had jurisdiction over all Tunisian territory. Consisting of a central court and 15 branches, it is competent to:

- Register property, either voluntarily upon request or obligatorily via the country-wide cadastral survey;
- Update and free property fees;
- Review and adjust decisions;
- Hear appeals against decisions to increase fees by regional bodies or the custodian of property.

### **Administrative judiciary**

67. Under the 2014 Constitution, the administrative judiciary is composed of the Supreme Administrative Court, administrative courts of appeal and administrative courts of first instance. The administrative judiciary is competent to look into abuses of power by the administration and administrative disputes. It also exercises an advisory function, in accordance with the law. Until existing laws are harmonized with the Constitution, the Administrative Court remains under the jurisdiction of the Prime Minister's office. Pursuant to a regulatory stipulation issued in 1972, the seat of the court is in Tunis.<sup>53</sup> Degrees of administrative court — first instance, appeal and cassation — were established in 1996, permitting two levels of litigation in the administrative judiciary. Legal aid to facilitate access to the judicial system for those unable to afford it was introduced in 2011. The Administrative Court is currently headed by a first president and composed, in addition to the commissioners and general commissioners of State, of three chambers of cassation, two advisory chambers, five chambers of appeal, seven chambers of first instance and two advisory sections.

68. The Administrative Court and its various judicial bodies are competent to hear disputes of an administrative nature except those assigned to other jurisdictions by special law. Within this framework, the Administrative Court is generally competent to hear cases of abuse of power, designed to overturn decisions issued in administrative liability cases. Furthermore, it is competent to hear appeals against decisions of the Competition Council

<sup>50</sup> Order No. 2287 (2009), dated 31 July 2009, defining the territorial jurisdiction of cantonal courts.

<sup>51</sup> Act dated 1 July 1885, relating to property ownership.

<sup>52</sup> Supreme Order dated 19 February 1957.

<sup>53</sup> Act No. 40 (1972), dated 1 June 1972, concerning the Administrative Court.

and General Insurance Authority and to hear appeals in cassation against rulings in tax disputes, disputes concerning professional associations and decisions of the Banking Commission. The advisory capacity of the Administrative Court requires it to be consulted on draft orders of a regulatory nature. It provides advice on other draft provisions and, in general, on all issues where legislative or regulatory provisions require its advice. It gives an opinion on issues put before it by the Government.

### **Council of Conflicts of Jurisdiction**

69. Organic Law No. 38 (1996) of 3 June 1996 established a council to settle disputes over jurisdiction between the courts of the judicial system and the Administrative Court. The council is chaired alternately by the first president of the Court of Cassation and first president of the Administrative Court and has six members chosen equally from among the presidents of chambers and advisers to the Court of Cassation and Administrative Court.

### **Financial judiciary**

70. Under the 2014 Constitution, the financial judiciary consists of the various bodies of the Audit Court and is competent to audit and ensure proper use of public funds in accordance with the principles of legality, efficiency and transparency. It decides in respect of the accounts of public accountants, evaluates the management of funds and compels the correction of irregularities. It assists the legislature and the executive to monitor the implementation of financial laws and the closing of the balance sheet. Until the laws governing it are harmonized with the provisions of the 2014 Constitution, regulation of the Audit Court continues to remain, as it has since 1969, under the administrative jurisdiction of the Prime Minister's office. The seat of the court is in Tunis and there are regional chambers in Sousse, Gafsa and Sfax.<sup>54</sup> A court of financial discipline was created in 1985,<sup>55</sup> with competence to try those responsible for committing irregularities in the management of funds belonging to the State, local authorities, public institutions and public projects.

### **Military judiciary**

71. The 2014 Constitution states that military courts shall be competent to deal with military crimes. The law regulates the mandate, composition and organization of military courts, their procedures and the statute of military judges. Until the laws regulating it are harmonized with the new Constitution, the military judiciary remains under the authority of the Ministry of National Defence and responsible for applying criminal laws that come within the jurisdiction of the military courts.

Decree No. 69 (2011) and Decree No. 70 (2011), both dated 29 July 2011, revise and supplement the Code of Military Procedure and Penalties. They set out the statute of military judges and regulate the military judiciary. Furthermore, they introduce important amendments that strengthen safeguards for accused and victims in a manner consistent with the times and modern theories of the fundamentals of criminal justice. The most significant of these amendments are:<sup>56 57</sup>

- Recognition of the principle of two levels of litigation before the military courts;
- Recognition of the possibility of bringing a personal right action and personal liability action before the military courts;

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<sup>54</sup> Act No. 8 (1968), dated 8 March 1968.

<sup>55</sup> Act No. 74 (1985), dated 20 July 1985.

<sup>56</sup> Promulgated by order dated 10 January 1957.

<sup>57</sup> Decree No. 70 (2011), dated 29 July 2011.

- Recognition of the possibility of appealing the decision of a military examining judge to the indictment chamber;
- Harmonization of appeal deadlines in respect of military judgments and decisions with those applied in the civilian judicial system;
- Repeal of the prosecution order issued by the Minister of National Defence.

### **Non-judicial bodies**

72. In general, judges from the judicial system, Administrative Court and Audit Court sit on non-judicial bodies, alongside other members competent in the particular areas of concern of these bodies. Non-judicial bodies include:

(a) Banking Commission, created in 1967<sup>58</sup> and invested, alongside its general mandate in this sphere, with the power to impose fines on those who engage in practices in breach of banking legislation and regulations;

(b) Competition Council, created in 1991<sup>59</sup> and invested, alongside its general mandate in this sphere, with the power to impose fines on those who engage in practices in breach of competition and pricing legislation and regulations;

(c) Financial Market Authority, created pursuant to a 1994 act<sup>60</sup> and invested, alongside its general mandate in this sphere, with the power to impose fines on those who engage in practices in breach of financial market legislation and regulations;

(d) National Telecommunications Authority, created in 2001<sup>61</sup> and invested, alongside its general mandate in this sphere, with the power to suspend those who engage in practices in breach of telecommunications legislation and regulations;

(e) Tunisian Financial Analysis Committee, created in 2003<sup>62</sup> and reinforced by an organic law of 2015<sup>63</sup> investing it, alongside its general mandate in this sphere, with the power to receive and analyse reports of suspect or unusual operations and transactions and to notify the authorities accordingly; the committee can issue an order temporarily freezing assets and placing them in an escrow account;

(f) National Authority for Personal Data Protection, created pursuant to Organic Act No. 63 (2004), dated 27 July 2004, concerning the protection of personal data, and invested, alongside its general mandate in this sphere, with the power to revoke the license of those who engage in practices in breach of personal data processing legislation and regulations.

### **Administrative Mediator**

73. This institution was established in 1992<sup>64</sup> and entrusted with mediating between the citizen and the administration to find solutions to disputes. It is a public institution with an

<sup>58</sup> Act No. 51 (1967), dated 7 December 1967, concerning the regulation of the banking profession; revised and supplemented by Act No. 25 (1994), dated 7 February 1994.

<sup>59</sup> Act No. 64 (1991), dated 29 July 1991, concerning competition and pricing; revised and supplemented by Act No. 60 (2005), dated 18 July 2005.

<sup>60</sup> Act No. 117 (1994), dated 14 November 1994, concerning reorganization of the financial market.

<sup>61</sup> Act No. 1 (2001), dated 15 January 2001, concerning promulgation of the Telecommunications Code.

<sup>62</sup> Act No. 75 (2003), dated 10 December 2003, concerning support for international efforts to combat terrorism and prevent money-laundering.

<sup>63</sup> Organic Act No. 26 (2015), dated 7 August 2015, concerning combating terrorism and preventing money-laundering.

<sup>64</sup> Order No. 2143 (1992), dated 2 December 1992, regulating the mandate and modus operandi of the Administrative Mediator.

administrative character, enjoying corporate personality and financial independence. It operates independently, receiving no instructions from any public authority regarding the exercise of its duties. The Administrative Mediator has four regional offices, in Sousse, Sfax, Gafsa and Le Kef.

74. To facilitate the performance of its duties, the Administrative Mediator has been accorded wide-ranging powers to intervene on behalf of citizens before the administration, public institutions and bodies in charge of managing public services. Recourse may be had to the offices of the Administrative Mediator directly without formal procedure or intermediary, either by presenting in person or by post, fax or email. The Administrative Mediator seeks to address the effects of misconduct on the part of a public service, whether in application of the law, administrative silence or delay in responding to citizens' requests. To enable effective intervention, the law requires ministers and administrative authorities to facilitate the job of the Administrative Mediator by appointing a coordinator from among senior staff with competence to examine and decide on complaints; this may involve allowing subordinates to answer questions and respond to summonses or permitting oversight bodies to conduct investigations within the scope of their mandate. The Administrative Mediator forwards all the recommendations to resolve a dispute to the competent body. If it proves impossible to reach a satisfactory outcome, the Administrative Mediator may submit a special report to the President of the Republic with proposals attached.

## **2. General framework for the promotion of human rights**

### **Role of the Assembly of the Representatives of the People**

75. Tunisia is a unitary State, governed by a centralized political and administrative system, in which a single representative assembly — the Assembly of the Representatives of the People — holds legislative authority. The Assembly forms standing committees and ad hoc committees; if needed, investigative committees can be created. The standing committee chiefly responsible for scrutinizing human rights legislation is the Rights, Freedoms and Foreign Relations Committee. This committee debates laws relating to human rights and public and individual freedoms before passing them to the plenary session for deliberation and assent in accordance with particular measures and procedures consistent with Tunisia's constitutional system, which divides acts into organic and ordinary. The Assembly of the Representatives of the People must pass organic bills by an absolute majority of members and ordinary bills by a majority of members present, with the proviso that the majority be not less than one third of Assembly members. An organic bill may only be put forward for deliberation by the plenary session of the Assembly of the Representatives of the People once at least 15 days have passed since its referral to the relevant committee. Bills relating to the following are held to be organic: approval of treaties; regulation of justice and the judiciary; regulation of the media, press and publication; regulation and financing of political parties, trade unions, associations and professional organizations and bodies; electoral law; freedoms and human rights; personal status; fundamental duties of citizenship; local government; regulation of constitutional bodies; and the budget. As organic bills, those framing rights and freedoms are subject to rigorous procedures. It is expected that local government, the subject of chapter 7 of the 2014 Constitution will, once established, play an important role in protecting and promoting human rights, particularly as the mechanisms of participatory democracy will be adopted.



### **A national human rights institution: the Human Rights Commission**

76. Under Act No. 37 (2008), dated 16 June 2008, the Tunisian legislature upgraded the Higher Committee for Human Rights and Fundamental Freedoms to a national human rights institution, granting it legal personality and financial independence and strengthening its powers. However, the Tunisian Revolution exposed the committee's structural failings and inability to carry out the role of monitoring human rights abuses since it was created (by order of 1992 and act of 2008), particularly abuses committed during the course of the Revolution, including the killing of demonstrators, torture, mistreatment and arbitrary detention. Faced with the committee's shortcomings and limited effectiveness in protecting and promoting human rights, the National Constituent Assembly took the initiative of replacing it in the 2014 Constitution with the more robust Human Rights Commission, an independent constitutional body, granting it independent constitutional status and a mandate to promote and monitor respect for human rights and freedoms and make proposals to develop the human rights system. The commission must be consulted on bills that fall within the scope of its mandate. Moreover, it has the authority to investigate human rights violations and either resolve them or refer them to the competent authorities. To this end, an organic bill was put forward, regulating the new commission within the framework of a participatory approach, based on the engagement of all those involved with and active in the field of human rights, and establishing it as a body in harmony with the provisions of the Constitution and consistent with the international standards, including the Paris Principles, which regulate similar bodies.

### **Dissemination of the culture of human rights and relevant international instruments**

77. Dissemination of the culture of human rights in Tunisia has constitutional status, affirmed by article 39 of the 2014 Constitution, which stipulates that the State shall take action to disseminate the culture of human rights. Article 42 guarantees the right to culture and freedom of creative expression. The State encourages cultural creativity and supports the authenticity, diversity and self-renewal of national culture, stressing the values of tolerance, non-violence, openness to other cultures and dialogue between civilizations. These are the foundations on which human rights are based. Furthermore, the preamble to the Constitution touches on teaching the fundamental principles of human rights.

The World Programme for Human Rights Education has identified three phases of human rights education. The first phase focused on the primary and secondary school systems; the second phase focused on the higher education system and human rights training programmes for civil servants, law enforcement officials and military personnel; the third phase focuses on human rights training for media professionals and journalists. Seeking to implement the first phase of the United Nations programme, on human rights education in primary and secondary education, Tunisia adopted Orientation Act (2002), on education, dated 23 July 2002; a revised version was adopted on 11 February 2008. The Ministry of Education contributes to human rights education on several levels. The first is in terms of the content of textbooks and courses; these include a range of subjects that deal with human rights values generally, as well as a specific subject addressing human rights directly. Level two covers school life and includes citizenship clubs and extra-curricular cultural activities; it also covers the training of club facilitators in how to frame recipients and sensitize them to the concept of rights. Level three involves looking into the possibility of establishing partnerships with other ministries to ensure the success of the strategy. A paper entitled, *Teaching the culture of human rights in the education system*, published in November 2012 by the General Directorate of Programmes and Continuing Education of the Ministry of Education, stressed that change covers all school subjects without exception because all subjects invoke common horizontal capacities. However, social subjects appear to be more suitable than others to convey human rights values and principles and implant them in the minds of learners so that they become first nature for learners, the approach

which guides their thinking and the foundation on which their conduct in private and public life is based.

78. Tunisia is keen to introduce human rights instruction programmes in key ministries, including the Ministry of Justice and Ministry of Interior. Thus Circular No. 504, dated 15 June 1991, on the inclusion of human rights as a subject at all educational levels, was issued to draw the attention of senior staff and officials to the penalties for abuse of power. Furthermore, a guide to human rights for law enforcement officers has been republished, containing updated versions of all United Nations and Tunisian provisions on human rights and constituting a reference manual and tool for law enforcement officers. Following the 2011 Revolution, the Ministry of Interior greatly increased cooperation with specialized United Nations agencies and intensive training materials were produced. Examples of these include a code of conduct for members of the internal security forces when dealing with journalists (with UNESCO); a pocket book on human rights standards for members of the internal security forces (with the Office of the High Commissioner for Human Rights); and a model document for neighbourhood police. Furthermore, the ministry benefits from the expertise of the International Committee of the Red Cross (ICRC), with which it implemented a programme between 2013 and 2016 to improve the treatment of detainees. ICRC training courses have been attended by upwards of two thousand security officers. The ministry also cooperates with the World Organisation against Torture, the Restart Center for Rehabilitation of Victims of Torture and Violence and DIGNITY.

79. The Ministry of Justice cooperates with a number organizations, including the Office of the High Commissioner for Human Rights, with which it organized a training course on “Human rights and visiting places of detention” for officers and senior staff of human rights agencies. Cooperation with the Geneva Centre for the Democratic Control of Armed Forces has extended beyond holding courses to publication of a guide to visiting places of detention. Since 1992, the Higher Institute of the Judiciary has taught the subject of human rights to candidate judges and practising judges in order to supplement their knowledge. Under bilateral agreements of cooperation, the ministry has held training courses for practising judges on human rights in the judicial process, thereby helping to disseminate the culture of human rights among judges and public prosecutors. Training for prison officers and staff has been organized by the ICRC.

80. The Ministry of Defence is keen to implement the final paragraph of article 24 of the *Manual of Rules of General Discipline*, dated 23 January 2002, prohibiting all military personnel from engaging in any cruel or inhuman treatment. The manual states: “It shall be prohibited for military personnel to harm the life of a person, the physical well-being of a sick, injured, or shipwrecked person, captive or civilian, whether by killing or various forms of disfigurement, harsh treatment, abuse and torture”.

81. Institutions of higher education, particularly those which teach the law, offer courses in human rights.

82. The press, audio-visual and electronic media have an essential role to play in disseminating the culture of human rights and raising awareness of rights issues by producing programmes on these subjects and giving media coverage to forums, seminars, training workshops and international human rights days. Journalists and media workers receive training in human rights.

83. Civil society organizations contribute to the dissemination of the culture of human rights and help to raise awareness of rights issues and relevant international charters. They contribute to Tunisia’s periodic reports, submitting parallel reports and monitoring implementation of the recommendations of treaty bodies. Following the Revolution, more than 13 special associations were formed to defend and provide instruction on human rights. These include the Tunisian League for Citizenship, Tunis Centre for Press Freedom,

Tunisian Association for the Development of the Culture of Human Rights and the International Society for Human Rights.

84. Since its creation, the national committee for human rights coordination, reporting and follow-up of recommendations has been engaged in disseminating information on international treaties ratified or acceded to by Tunisia. It seeks to involve all concerned parties in drafting human rights reports prior to these being deposited with the relevant United Nations and regional bodies. It likewise seeks to publish recommendations adopted after the reports have been discussed and the advice of all parties on how to implement the recommendations has been sought.

### **Reporting**

85. In view of Tunisia's delay in submitting its reports on time, the lack of regular and systematic follow-up of recommendations of United Nations and regional human rights agencies and the failure to ensure continuity of the report-drafting committees, the national committee for human rights coordination, reporting and follow-up of recommendations was created, pursuant to Government Order No. 1593 (2015), dated 30 October 2015. It is a standing committee attached to the Prime Minister's office, consisting of representatives of various ministries and headed by the minister responsible for human rights or his representative.

86. The job of the committee is as follows:

- To prepare and submit government reports in timely manner and discuss them with the appropriate United Nations and regional treaty bodies, Human Rights Council, special procedures of the United Nations and regional bodies and institutions;
- To coordinate and cooperate with Tunisian organizations and institutions on the drafting of Tunisian Government reports and the Government response to international and regional human rights reports;
- To cooperate and collaborate, within the terms of its mandate, with United Nations organizations and agencies, regional organizations and non-governmental organizations concerned with human rights;
- To update the common core document as required;
- To coordinate the collection of information and statistics in order to establish an effective and practical system of human rights information and indicators;
- To follow up the comments and recommendations of United Nations and regional human rights bodies, committees and organizations;
- To collect and classify recommendations, analyse the requirements for each, identify the parties involved in implementation and adopt measures and guidelines to ensure coordination between all those involved in implementation;
- To prepare periodic reports on the progress made by the Tunisian Government in meeting its obligations and to monitor progress in implementing recommendations.

87. The committee is keen to enter into partnership with civil society organizations and Tunisian bodies involved and active in the field of human rights.

88. A permanent secretariat has been created within the committee, working under its supervision; its function is to provide everything needed to help the committee in its work. The committee rapporteur is responsible for the running of the secretariat.

89. The order creating the committee affirms that it shall train its members and the staff of the permanent secretariat in the field of human rights.

90. Currently, the human rights capacities in general and reporting capacities in particular of committee members and staff are being developed. The committee updated this common core document and discussed Tunisia's 2016 reports on enforced disappearance and combating torture before the relevant United Nations committees. It is ready to discuss Tunisia's periodic report on the International Covenant on Economic, Social and Cultural Rights. It is also involved in preparing other reports, which have been delayed.

#### **Other information**

91. Following the Revolution of 17 December 2010 to 14 January 2011, Tunisia witnessed its first free and democratic constituent elections, attested by both foreign and local observers and monitors, which resulted in the election of 217 deputies to the Constituent National Assembly. The deputies were charged with drafting a new Constitution, alongside other legislative tasks, including promulgation of an act concerning the temporary regulation of public authorities following suspension of the 1959 Constitution and dissolution of existing parliamentary commissions and constitutional bodies. The Assembly was further charged with enacting the laws required to keep the wheels of State turning, including a new electoral act, under which the first free, transparent and impartial presidential and legislative elections would be held. Tunisia is now in a position to hold its first free local elections, in implementation of chapter 7 of the new Constitution.

92. On 9 October 2015, the Norwegian Nobel Committee announced that the Nobel Peace Prize for 2015 would be awarded to the national dialogue quartet: the Tunisian General Labour Union, Tunisian Confederation of Industry, Trade and Handicrafts, Tunisian Human Rights League, and Tunisian Order of Lawyers. The award was made in recognition of the quartet's decisive contribution to building a post-Revolution pluralist democracy by mediating between the political factions in 2013, when the democratic process was at risk of collapsing after the assassination of several leading political figures and the ensuing social unrest. The national dialogue they fostered led to the formation of a consensus Government that implemented a road map, previously-agreed by the various political factions and based on presidential and legislative elections. The elections took place on 26 October 2014.

### **III. Equality and non-discrimination**

#### **1. Equality and non-discrimination in the 2014 Constitution**

93. The 2014 Constitution states that one of the foundations on which it is based is opposition to all forms of colonization and racism. The Constitution further stipulates that all citizens, male and female, have equal rights and duties and are equal before the law without discrimination (art. 21). The State seeks to guarantee women's representation in elected assemblies (art. 34). The State guarantees equality between women and men in respect of the assumption of responsibility in all spheres of life and seeks to attain parity between women and men in elected assemblies (art. 46).

The State is obliged to provide full protection to all children without discrimination in accordance with their best interests (art. 47) and to protect persons with disabilities from discrimination (art. 48). The Constitution guarantees everyone the right to a fair trial within a reasonable period; litigants are equal before the law (art. 108). Local authorities shall adopt the mechanisms of participatory democracy, in the sense of equality in respect of rights and duties (art. 139).

## 2. International conventions adopted relating to gender equality

94. On the international level, Tunisia has ratified a number of international conventions (see the detailed schedule on pages 9, 10 and 11), including conventions relating to ensuring the rights of women. Other conventions have been ratified, including:

- Night Work (Women) Convention (Revised, 1948), ratified by Tunisia on 25 April 1957; contains 20 articles of which article 3 prohibits the employment of women at night in any public or private sector industrial undertaking;
- Protocol of 1990 to the Night Work (Women) Convention, ratified by Tunisia pursuant to Act No. 114 (1992), dated 30 November 1992; contains five articles, of which article 2 regulates the principle of the employment of women;
- Convention establishing the Arab Women Organization (12 September 2001);
- Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (15 November 2000);
- Act No. 42 (2002), dated 7 May 2002, permitting accession to the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict and Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography;
- Act No. 5 (2003), dated 21 January 2003, approving the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime;
- Act No. 4 (2008), dated 11 February 2008, approving the Convention on the Rights of Persons with Disabilities and Optional Protocol thereto.

95. Since the Revolution, the Tunisian State has remained committed to supporting the rights of women. In 2011, approval was given for withdrawal of Tunisia's declaration and reservations relating to the Convention on the Elimination of All Forms of Discrimination against Women. The ratification procedures were subsequently completed by depositing an official communication with the Secretary-General of the United Nations on 23 April 2014.

## 3. National legislation relating to gender equality

96. Tunisia has been concerned with women's rights since the promulgation of the Civil Status Code in 1956, which abolished polygamy, set the minimum age of marriage, abolished a father's right to force his daughter to marry, instituted judicial divorce and established to a large extent the outlines of subsequent acts seeking to ensure gender equality in all spheres.

97. Continuing to seek to ensure gender equality and eliminate all forms of discrimination against women, the Tunisian legislature has introduced numerous amendments to those parts of the legal system pertaining to women's rights. These include the Nationality Code, which affirms a woman's right to grant her nationality to her children; the Labour Code, which guarantees a woman's employment rights by adopting the principle of gender equality; the Code of Obligations and Contracts, which abolishes all discrimination against women in the sphere of employment; and the Penal Code, which guarantees women protection from sexual harassment in the workplace. These reforms are embodied in several acts, primarily:

- Act No. 75 (1998), dated 28 October 1998, concerning ascription of a surname to abandoned children and children of unknown descent, under which a mother is granted the right to ascribe her surname to her child, so enabling her to request the court to ascribe the father's surname to the child; this act was amended by Act No. 51 (2003), dated 7 July 2003, concerning ascription of a surname to abandoned children and children of unknown descent, under which a mother with custody of a minor child of unknown descent has the right to ascribe a name and her surname to her child;
- Act No. 91 (1998), dated 9 November 1998, relating to the community of property regime; this is a voluntary regime that involves the spouses agreeing, upon conclusion of the marriage contract or thereafter, that the family's real estate acquired after the marriage or after conclusion of the community of property agreement shall be deemed property held jointly between them;
- Act No. 17 (2000), dated 7 February 2000, concerning the cancellation of certain provisions of the Code of Obligations and Contracts, requiring that a husband give his consent to his wife's employment;
- Act No. 93 (2001), dated 7 August 2001, concerning reproductive medicine, which guarantees spouses the right to use modern reproductive medicine in a manner that ensures human dignity and respect for the body;
- Act No. 4 (2002), dated 21 January 2002, revising article 12 of the Nationality Code to allow a Tunisian mother by herself to pass on Tunisian nationality to her children, if the father is deceased, missing or legally incompetent;
- Act No. 32 (2002), dated 12 March 2002, relating to the social insurance regime for certain categories of workers in the agricultural and non-agricultural sectors, which gives female domestic workers the right to enjoy social insurance coverage;
- Orientation Act No. 80 (2002), dated 23 July 2002, guaranteeing the right to school education for all Tunisians without discrimination on grounds of sex, social background, colour or religion;
- Order No. 826 (2006), dated 23 March 2006, revising Order No. 1655 (1993), dated 9 August 1993, and relating to the procedures of the alimony fund and maintenance payments for a divorced woman and her children;
- Act No. 58 (2006), dated 28 July 2006, introducing the regime of half-time employment at two-thirds pay for mothers, while safeguarding their rights in full
- Act No. 32 (2007), dated 14 May 2007, revising the provisions of article 5 of the Personal Status Code to set the minimum age of marriage at 18 years for both men and women;
- Act No. 20 (2008), dated 4 March 2008, revising certain provisions of the Personal Status Code to guarantee the right of a mother with custody of her children to accommodation and full legal safeguards in the post-divorce period;
- Act No 58 (2008), dated 4 August 2008, concerning the allocation of space in prison for pregnant or nursing female inmates and their children;
- Article 55 (2010), revising article 6 of the Nationality Code to read: "A child born to a Tunisian father or a Tunisian mother shall be deemed to be Tunisian".

98. Following the 2011 Revolution, the Tunisian legislature has sought to harmonize the laws protecting women's rights with international standards and bring them into line with developments in social values. This has included adopting new provisions that are

consistent with social changes and affirm the State's commitment to protecting, supporting and developing women's acquired rights.

99. In 2012, an expert committee was set up in the Ministry of Women and Family Affairs to review the legal framework of women's rights in Tunisia and examine the legal loopholes and shortcomings which diminish the effectiveness of laws, regulations and ministerial decisions. Membership of the committee consists of representatives of the ministries of women and family affairs, interior, justice and social affairs and a representative of the Prime Minister's office. One of the most significant results of the committee's work has been the passing of Organic Act No. 46 (2015), dated 23 November 2015, revising and supplementing Act No. 40 (1975), dated 14 May 1975, concerning passports and travel documents, which allows both parents to obtain travel documents for their children to enable them to travel.

100. The 2014 Constitution enshrines the elimination of all forms of gender-based discrimination and guarantees equal opportunities for men and women, particularly in employment. It accords particular attention to the elimination of violence against women, as one of the principle manifestations of discrimination.

101. Faced with worsening violence against women — which is a form of gender-based discrimination — to the point where 47.6 per cent of women aged between 18 and 64 have been affected by it, the *National Strategy to Prevent Violent Behaviour in the Family and Community: Gender-Based Violence across the Life Course* has been revived.

102. Pursuant to Government Order No. 626 (2016), dated 25 May 2016, the Peer Council for Equality and Equal Opportunities between Women and Men has been established to introduce a gender-based approach to planning.

103. Furthermore, work is underway on incorporating a gender-based approach within the planning process at all levels and in all sectors to ensure equality of opportunity and non-discrimination on the basis of gender.

104. Tunisia is in the process of adopting a framework act to protect against and address violence against women; the bill has already been ratified by the cabinet and referred to the Assembly of the Representatives of the People. On 21 July 2015, parliament ratified the act prohibiting trafficking in persons, designed to prevent all the forms of exploitation to which women in particular are exposed and to combat exploitation by preventing human trafficking, punishing perpetrators and protecting and helping victims. The act is designed to strengthen further national coordination and international cooperation in combating human trafficking within the framework of the international, regional and bilateral conventions ratified by Tunisia.

105. Tunisia supports the participation of women in the public sphere and in decision-making and seeks to increase substantially women's presence in political and public life by developing their capacities and equipping them with the necessary tools and knowledge.

106. It is a feature of the Tunisian system that it supports women's rights and has enshrined equality in respect of the enjoyment of economic, social, cultural and political rights.

107. Gender equality in employment has been enshrined by the affirmation in the Labour Code of the principle of non-discrimination between men and women in applying the provisions of the code, which covers all aspects of employment, including hiring, secondment, working conditions and cancellation of employment contract. The joint framework agreement contains provisions relating to gender equality in employment opportunities, demarcation and wages.

108. Action is being taken to empower women economically, help them improve their situation, include them in the development process and enable them to become independent by helping them to start up small-scale projects and promote their products. This programme is designed to disseminate the culture of citizenship, women's rights, gender equality and equal opportunity by raising awareness of the rights gained by both sexes, adopting a gender approach as a way of thinking and method of working and informing the younger generation about women's rights legislation. Specifically, the programme is directed at rural women, for whom it seeks to simplify and clarify the concepts of human rights, provide information about civil rights gained and raise awareness of the values of citizenship, democracy and equality and the importance of participating in public life.

109. Action is being taken to combat school dropout, which particularly affects girls in rural areas due to the distance between home and school and lack of transport, as well as the difficult financial situation of rural families. Care is provided for single mothers and mothers in prison, who are helped to integrate socially and economically following release to avoid the risk of reoffending. Areas of intervention include female inmates and women who have been recently released.

110. It should be pointed out that there is no separate policy on caring for women with disabilities, who enjoy the same benefits that all persons with disabilities enjoy, male or female, on an equal basis.

111. The State has adopted a raft of legislation and measures putting in place mechanisms and action plans to enable women to exercise their right to participate in all spheres of life. This is indicated by the following figures and indicators:

#### **Participation of women in the executive**

112. The new Government has witnessed a remarkable increase in the number of women members. Following the first legislative elections held under the new Constitution in October 2014 and the formation of a government by the party with the largest number of deputies, eight women were appointed to the new Government (six ministers and two secretaries of state), out of a total of 40 members (i.e. 20 per cent).

#### **Participation of women in the legislature**

113. The presence of women in legislative assemblies in Tunisia has increased over the last four years. Beginning with 25 per cent of the National Constituent Assembly, which formulated the 2014 Constitution at the start of the parliamentary era in January 2012, women's representation rose to 30.59 per cent by June 2014. This increase is due to the method of drawing up electoral lists from the beginning on the basis of vertical parity, whereby a departing male member is replaced by a woman from the same list. Out of a total of 217 deputies in the National Constituent Assembly, 67 were women.

114. The October 2017 elections to the Assembly of the Representatives of the People returned 217 members, as follows:

- 144 men (66.82 per cent)
- 73 women (33.18 per cent).

#### **Participation of women in the judiciary**

115. The situation of women in the judiciary is as follows:

- Number of women in the judiciary: 664
- Percentage of women in the judiciary: 32.4 per cent.



116. The proportion of women in the judiciary is expected to rise in the coming years due to the increase in the number of female candidate judges at the Higher Institute of the Judiciary. The proportion of women is as follows:

- Judicial year 2012-2013: 45.5 per cent
- Judicial year 2013-2014: 55 per cent.

117. Presence of women in the Temporary Judicial Commission: Article 5 of Organic Act No. 13 (2013), dated 2 May 2013, states that women judges must be represented in the commission. This has helped to increase the proportion of women in the commission to 45 per cent.

118. We should note that the presidents of the Association of Tunisian Judges and the Tunisian Magistrates Union are women.

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