

# كسر القوالب Breaking the mold

#Breaking\_The\_Mold

## Civil Society Actors Influence Policy-Making in the Arab World

Country: **Tunisia**

### Draft Bill to Decriminalize Homosexuality

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#### BACKGROUND OF THE CASE

Interest in passing a bill to decriminalize homosexuality in Tunisia has risen in recent times, especially after the Parliamentary Committee issued the Individual Freedoms and Equality to strengthen human rights and individual freedoms that the state guarantees and protects with the 2014 Constitution. In a report published in August 2017 as an initiative Presidential to achieve equality and protect freedoms, homosexuality was highlighted as individual freedom and gender identity that cannot be adopted as a citizenship criterion. This initial normalization with homosexuality created a debate about public policies that could strengthen gender diversity, especially in light of the routine of arbitrary practices led by homophobia controlling the various state agencies and the social exclusion resulting from prohibitions and rejection led by religious jurisprudence<sup>1</sup>.

In fact, this topic was not discussed in the legislative and political departments during the previous era, but after the fall of the authoritarian regime of Zine El Abidine Ben Ali, the increasing influence of human rights organizations in the “emerging democracy”, and the focused trend towards devoting freedoms and human rights, the homosexuals and their defenders were encouraged to establish organizations and launch campaigns to decriminalize homosexuality. During the first years of the democratic transition, levels of violence against homosexuals and their exposure to threats from Salafi religious groups expanded, which was accompanied by media and human rights interest resulting from the openness to all issues to dismantle all forms of

persecution that the security services have long practiced against homosexuals<sup>2</sup>.

#### PROBLEM'S TIMELINE

The endeavors to homosexuals' rights were actually clarified amid the protest movement in Tunisia after 2011 when calls for social recognition of homosexuals were raised and the cessation of arbitrary practices against them legally and politically, which activists considered a continuation of the previous regime's dictatorship. With the acceleration of the changing paths towards democracy and the keenness of the political and cultural elites to devote to the human rights system in the Second Republic of Tunisia, some human rights activists discussed the criminalization of homosexuality and the suspension of Article 230 of the penal code, which stipulates the sanction against male homosexuals with three years of imprisonment and their exclusion from their area of residence for a period to be determined by the judge, in addition to their arrest by the security services, and exposing them to threats, sexual exploitation, harassment and expulsion from work or family (Reem bin Rajab, 2018)<sup>3</sup>.

Therefore, the calls to decriminalize homosexuality were linked to the paths of transformation towards strengthening individual freedoms and civil rights and were reinforced by public protest movements after the inclusion of individual freedoms in the 2014 Constitution, and the exploitation of conflicts over identity, societal pattern, and human rights references (conservative/secular)

<sup>1</sup> Sarra Hlaoui (2018), *Libertés individuelles et Egalité : Une révolution législative et juridique à la tunisienne*, Business News, <http://www.businessnews.com.tn/libertes-individuelles-et-egalite-une-revolution-legislative-et-juridique-a-la-tunisienne,519,80617,3>

<sup>2</sup> Guillaume Allusson, (2018) *SOCIAL REPRESSION IN A DEMOCRACY: THE CASE OF TUNISIA*, Turkish Policy Quarterly, <http://turkishpolicy.com/article/901/social-repression-in-a-democracy-the-case-of-tunisia>

<sup>3</sup> ريم بن رجب، 31 أكتوبر 2018، المتحولون جنسياً في تونس: عن سير الضياع والانفلات غير المرئية، موقع نواة، <https://nawaat.org/portail/31/10/2018/%D%8A%7D%84%9D%85%9>

between the various actors. Hence, after the announcement of the presidential initiative and the issuance of its report "Individual Freedoms and Equality" (2017-2018), the issue of homosexuality was an opportunity to re-raise issues of national identity, particularly the civil state, in light of the rising voices opposing the bill. Many political actors (Islamists and others) and many activists and well-known religious figures (professors from Al-Zaytuna University, imams of mosques) considered working towards decriminalizing homosexuality as an act of destroying good manners and disintegrating the Tunisian family. Thus, support and anti-homosexuality campaigns arose while preserving the dynamics of the conflict between the modernist secular party and the conservative Islamic one, despite the withdrawal and reservation of many political parties and community groups regarding this issue, most notably leftism, communism, secularism and human rights (Walid Al-Talili, 2018)<sup>4</sup>.

### THE ROLE OF CIVIL SOCIETY REPRESENTATIVES, THEIR PARTICIPATION AND INVOLVEMENT IN THE ISSUE

After 2011, the growth of media and elitist interest in Tunisia increased regarding homophobia and gender-based violence, as a necessity to deal with the underlying dynamics of power and domination relationships within society, which are based on male (religious/cultural) approaches, and are keen to exclude or abuse these groups. Clearly, the precautionary protest movements started with the fall of the Ben Ali regime and the beginning of the democratic transition period, when groups of activists were keen to form organizations defending homosexual rights, such as the Tunisian Association for Justice and Equality (2011), Mawjoudin (We Exist for Equality) (2014), and the Association Shams (2015) that is considered the most active in the field and on social media platforms and has financial and legal support from European countries, particularly the Netherlands (Maaïke Voorhoeve, 2017)<sup>5</sup>. These associations were supported by many media, political, academic and cultural figures in Tunisia and many human rights organizations. However, after the Individual Freedoms and Equality Report (2017) was issued stipulating that decriminalizing homosexuality was brought up to the public opinion and the Tunisian Parliament, anti-and condemnation campaigns emerged in most of the country's governorates with the invitation of some well-known religious figures such as Noureddine Khademi (former Minister of Religious Affairs and a leader in the Ennahda Party). The opposing forces, which include some Al-Zaytuna University professors, activists and social figures, were organized within the "National Coordination for Defense of the Qur'an, the Constitution and Just Development."

### STRATEGIES AND TACTICS: PROBLEM FRAMING AND SETTING-UP THE AGENDA

Adopted by civil associations defending individual freedoms and human rights, the mobilization strategies consisted of employing social media platforms in the field and in the media to pass a bill that recognizes the rights of gender citizenship, decriminalizes it, and refrains from security prosecution, the most prominent of which is the campaigns launched by associations defending homosexual rights: "Mawjoudin Initiative for Equality (2014), Shams (2015), Shouf (2016), and the "Kalimati" coalition (2011).

The majority of these campaigns sought to strengthen and legislate individual freedoms, and were marked by a protest movement on social media platforms against Law 230 that imposes a prison sentence of 3 to 5 years, excludes homosexual



males from the city and demands that it be replaced by explicit laws supporting individual sexual freedoms, as stipulated in the 2014 Constitution. Furthermore, Association Shams launched a radio station called "Shams Radio," and a website called "Shams Magazine" to spread human rights awareness about their cause, break stereotypes, and create a kind of synergy and solidarity among them, not only in Tunisia but also in the Arab world.

In this context, these media and artistic initiatives were adopted as strategies to achieve victory in the cause of homosexuality, such as the opening of the Queer Film Festival organized by the "Mawjoudin" Association (2017), where films documenting the abusive practices and social deprivation that this heterosexual group suffers from in the Arab region were shown. As a result, these associations sought to work toward the current constitutional legislation and presidential-parliamentary initiatives related to the "bill to drop the criminalization of homosexuality" and to raise awareness about the marginalization and persecution experienced by this group, to promulgate public policies according to the following principles:

- 1) Include non-discrimination based on sexual orientation and the promotion of the human rights of LGBT people;
- 2) Establish bureaucratic practices that do not persecute homosexuals;
- 3) Reaffirming that defending, ensuring and promoting human rights includes all forms of discrimination and violence.

Concerning the groups opposing the law, the issue caused a wide religious debate among the public opinion, as they demanded the need to defend the sacred issues and deal with calls for normalization with homosexuality through the organization of the "National Coordination for Defense of the Qur'an, the Constitution and Just Development," demonstrations and campaigns on social media platforms and media affiliated with the conservative movement, workshops and conferences. (Muhammad al-Imam, 2019)<sup>6</sup>.

4 ولید التلیلی، 4 أغسطس 2018، احتجاجات على تقرير الحريات الفردية والمساواة في تونس، العربي الجديد <https://www.alaraby.co.uk/society/4/8/2018/%D%8A%7D%8AD%D%8>

5 Maaïke Voorhoeve, (2017), 'Production Judiciaire Des Normes Et Vigilance De La Socie 'te' Civile: Le Cas De La Sexualite' En Tunisie' 2)16) L'Anne'e du Maghreb 341. <https://journals.openedition.org/anneemaghreb/3114>

6 محمد الإمام، 2019، تقرير لجنة الحريات الفردية والمساواة التونسية: خطوتين إلى الإمام وخطوة إلى الورااء، مؤمنون بلا حدود <https://www.mominoun.com/pdf08-2018/1/mossawatt.pdf>

## INFLUENCING FACTORS AND POLICY NETWORKS

The issue of gender diversity or homosexuality does not need to be one of Tunisian society's priorities during the transitional democratic period. However, the Individual Freedoms and Equality report allowed the discussion of discriminatory practices against this category by society and state institutions on the one hand, and the ambition of the political and human rights elite to ease restrictions on them as an attempt to set a frame for the gender identity in terms of acquired rights on the other hand. Homosexuality was also emphasized as an indicator of inequality in Tunisian society through media appearances and political debates between the conservative and progressive party. Many international reports were issued dealing with high levels of persecution, social stigmatization and violence against them.

## TRANSFORMATIONAL MOMENT

In fact, the pressure to decriminalize homosexuality increased, the influence of interested people increased, the pace of their actions increased. Their network of relations with many international organizations supporting individual freedoms expanded, especially after these efforts fell into an organized framework for associations (Shams / Integration / Mawjoudin) and alliances (The Coalition for Freedoms).

These blocs and associations strengthened the pressure and ability to push towards a transformative path in the country's social policies. Although the paths for recognizing homosexual rights remain a hostage to political support and bargaining between the power parties, they were approved in the Individual Freedoms and Equality report and set for discussion. External pressures and international human rights conventions also helped reduce the level of persecution against this group. The Tunisian government reacted to the criticism of the United Nations Human Rights Council (2016), and pledged to stop conducting anal examinations for the violations they represent. The most important transformation was the inclusion of individual freedoms in the new Tunisian Constitution issued on January 27, 2014, which has become a constitutional concept of the same value as human rights in their universality and comprehensiveness. It is compatible with the nature of the civil state (Article 21) and protecting the right to privacy and the inviolability of domicile. (Article 24), and the prevention of psychological and physical torture (Article 24). Moreover, the 2014 Constitution contains an article (Article 49) that protects individual freedoms and prohibits retreating from the rights guaranteed under this Constitution.

The anti-terrorist campaigns led by the Coordination and many social or religious figures in the Tunisian governorates are among the factors that make an impact regarding homosexuality, as joint mobilization was developed through supportive media and the threats to members of the Individual Freedoms and Equality Committee on social media by the so-called e-militias. In addition, mass demonstrations rejecting the bill were held after Friday prayers for several weeks in most of the Tunisian provinces. On the other hand, the resisting groups addressed homosexuality as a perversion and religiously forbidden practices and invoked slogans of contradictory dichotomies in their campaigns such as the modernist style - Islamic identity, freedoms - good morals, the civil state - Tunisia whose religion is Islam, the protection of individual freedoms - the protection of sacred issues and confronting sedition, Sharia phobia - Contradicting the provisions of the Qur'an (Abdul Majeed Al-Jamal, 2018)<sup>7</sup>.

Despite this, the movement's strategies were almost identical. They created a sharp bilateral polarization on social media platforms, with a clear predominance of anti-campaigns in which ordinary citizens participated. The anti-movement demonstrations were also distinguished by their large size compared to the few demonstrations in the capital in support of the decriminalization of homosexuality. In addition, there is a heavy media presence, raising the issue and turning it into a public opinion issue, through the participation of more supportive intellectuals in exchange for the anti-campaign being limited to the clergy and the pressure on the political-legislative departments from secular figures and external forces (Abd al-Latif al-Harmasi, 2018)<sup>8</sup>.

## POLITICAL RESULTS

Practically and over time, partial policy changes began to develop. The National Council of the Medical Order (2017) decided to urge legally forced doctors to refuse to conduct short medical examinations on arrested homosexuals. The current government promised the United Nations Human Rights Council to end these examinations by the beginning of 2018 completely. However, it still insists on refusing to annul Article 230, which criminalizes homosexuality. No laws have been issued to protect this category of arbitrary and exclusionary social and economic practices represented by dismissal from work, marginalization and harassment.

On another level, other forms of cooperation developed between LGBT organizations (defenders of the homosexual), legislative committees and decision-makers in Tunisia by monitoring the violations, receiving complaints, and providing psychological and legal support to those affected, intending to show the risks of Article 230 on physical sanctity and the human dignity of homosexuals. Leaders in the Islamic Ennahda Party pledged to protect homosexual freedom and strive to decriminalize. However, other party leaders considered homosexuality a deviation and a mental disorder that must be treated. However, other political actors involved in the decision-making process, from the left political wing, secularists and democrats, remained indifferent, which was remarkable by the absence of any statements or media statements they had about the issue (Rahmat Al-Bahi, 2018)<sup>9</sup>.

عبد الطيف الهرماسي، 2018، تزامنا مع صدور تقرير لجنة الحريات الفردية والمساواة: التسوية في 8  
الإرث ثورة ثقافية نخوية لا مطلب مجتمعي <https://ar.lemaghreb.tn/%D%82%9D%8B%6D%8A%7D8%9A%D%8A-7>

رحمة الباهي، 2018، تقرير لجنة الحريات الفردية والمساواة: إشكالية الدين و الدولة المدنية 9  
<https://ultratunisia.ultrasawt.com/%D%8>

عبد المجيد الجمل، 2018، الجدل حول المساواة في الإرث بين حراس الشريعة والحدائثيين في تونس 7  
، والخارج، قسم الدراسات الدينية، مؤمنون بلا حدود <https://www.mominoun.com/pdf08-2018/1/irt.pdf>

## CONCLUSION

It is worth noting that the protest movements of activists and human rights organizations supporting homosexuality in Tunisia took a large part of the media attention and political disputes and were supported financially and legally by international organizations for fear of the domination of conservative forces in the transitional period. However, the policies and laws criminalizing all forms of racism did not receive the same attention, nor did they receive sufficient support from the media or civil society organizations and decision-makers. The societal movement had different forms, but the presidential initiative to abolish the criminalization of homosexuality had two forms; the first one was protectionist, in which the state sought to protect the marginalized, and the second one was nationalistic, which was adopted by the authority to encourage the involvement of homosexuals and their integration with narratives of fear from the conservative Islamic project.

Whether against or with gender diversity, monitoring this movement requires following up the reactions of decision-makers in the coming months to test the validity of accusations of populist recruitment of homosexual rights and the strength of conservative actors to establish abusive practices, as well as the willingness of Tunisian society and the legislature to interact with the stakes of democracy and all the individual freedoms listed in the 2014 Constitution.



## Case Model

### Law Criminalizing All Forms of Violence Against Women in Tunisia

#### BACKGROUND OF THE CASE

After the 2011 revolution in Tunisia, it became evident that there are gaps in women's earnings and serious obstacles that make them excluded from effective participation in society and decision-making, despite a firm belief that they have obtained a set of progressive legislations and their liberation since the early years of the independent state, (modest in senior positions/party or union participation / economic violence/marriage of the rapist to the victim/paternity problems ...).

This research contribution sheds light on the feminist human rights movement and its depth of influence on the formulation of public policies and legislation against violence against women in Tunisia after 2011.

In fact, what distinguishes this societal movement against all forms of discrimination against women is not only the adoption of bold laws that are compatible with the recommendations of international human rights treaties but also the discussion and presentation of accurate definitions of concepts of gender and gender-based violence (the August 2017 Law) (Abdul Majeed Al-Jamal, 2018)<sup>10</sup>.

It cannot be denied that the mentality of gender-based violence underlies its arguments from the male hierarchical behavior rooted not only in social relations but also in many religious jurisprudences, which shows the institutional resistance movement as a feminist movement critical of this traditional interpretation of the Qur'an and the dominant patriarchal behavior that reproduces it.

Hence, the signs of the Tunisian revolution showed firm forms of male domination in the societal mentality and the legislative system and concluded that the categories of women's rights have always been used as a tool for authoritarian hegemony and praising the previous regime's image, which created gaps in the economic rights, political participation and legal rights for women. (Domestic violence / sexual and economic violence)<sup>11</sup>.

#### PROBLEM'S TIMELINE

What distinguishes the feminist protest experience after 2011 is its representation of the various challenges and contradictions that women suffer from, and which in some way involves discrimination and violence, as women's organizations negotiate with various influential parties in decision-making on legislation that criminalizes all forms of discrimination against women and reforms that achieve gender equality. Therefore, the feminist movement started after 2011 as a response to protect the earnings of Tunisian women from the exacerbation of the dominant masculinity accompanying the signs of the political transition, as the levels of symbolic and physical violence against activists who represented in the popular imagination a continuation of the previous regime, while the new rulers wanted to marginalize women's issues under the pretext of precision of the transitional phase<sup>12</sup>.

10 عبد المجيد الجميل، 2018، الجدل حول المساواة في الإرث بين حراس الشريعة والحداثيين في تونس 10 <https://www.mominoun.com/pdf08-2018/1/irt.pdf>

11 Amal Grami, 2018, *Women, Feminism and Politics in Post-Revolution Tunisia: Framings, Accountability and Agency on Shifting Grounds*, *Journal of Feminist Dissent*, pp56-23 <https://journals.warwick.ac.uk/index.php/feministdissent/index>

12 Eva Gondorova, 2014, *The Position of Women in Post-Revolutionary Tunisia*

Protest movements against gender-based violence developed in the beginning by breaking the barriers of silence against the practices of political violence against feminist figures (politicians/activists/bloggers), then the interest in cases of rape, sexual harassment, marginalization and other manifestations of chaos increased as a result of the weak and non-strict handling of the government between 2011 and 2013 (Muhammad Al-Imam, 2019)<sup>13</sup>.

The conviction for the necessity to Constitution and pass laws that protect women from all forms of violence has been entrenched as a result of the normalization of the Troika government (Ennahda and its allies) and its consolidation of the inferiority of women through the adoption of terms such as "complementary" and "guardianship"... and thus, on November 25, 2016, on the International Day for the Elimination of Violence Against Women, the 16-day campaign against gender-based violence was launched, particularly harassment and domestic violence, which the National Union of Tunisian Women organized, and ended on December 10, corresponding to the International Human Rights Day.

#### THE ROLE OF CIVIL SOCIETY, THEIR PARTICIPATION AND INVOLVEMENT IN THE ISSUE

The human rights presence was strengthened after the fall of the Zine El Abidine Ben Ali regime in 2011, as an extension of their active participation in the Dignity Revolution's protest movement and the increasing interest in decision-making building the second republic.

In this context of democratic transition, there is a need to point out that the Tunisian feminist presence is not reduced to defending women's issues only, but rather to the ability of various feminist organizations and activists to create new spaces for participation and to strengthen alliances with trade unions, civil society and some political parties. During the current stage of the democratic transition, political action was characterized by tacit compatibility with the societal movement by reviewing the legal framework of women's rights established in 1956 and was a progressive reference and strengthened with reforms new laws. In the context of the political-ideological polarization between Islamists and secularists (2011-2014), the levels of feminist movement increased in defense of the earnings of Tunisian women, not only intending to preserve the "Bourguiba" heritage and modernist societal pattern, but also for constitutionalizing gender equality (Article 34/46 of the 2014 Constitution), and the abolition of all forms of discrimination and violence against women in accordance with Chapter 21 (economic/symbolic/physical/domestic/social/sexual violence ...)<sup>14</sup>.

In the Tunisian context, the trends of the feminist movement often unite with the biggest options of the Tunisian state, as happened in the comprehensive bill to combat violence against women,

and Their Role in Political Decision-Making Processes, *Journal of Social History and the History of Social Movements*, [https://moving-the-social.ub.rub.de/index.php/Moving\\_the\\_social/article/view/849](https://moving-the-social.ub.rub.de/index.php/Moving_the_social/article/view/849)

محمد الإمام، 2019، تقرير لجنة الحريات الفردية و المساواة التونسية: خطوتين إلى الأمام و خطوة إلى الوراء؟، مؤمنون بلا حدود <https://www.mominoun.com/pdf08-2018/1/mossawatt.pdf>

14 Rachel Roberts, 2018 July 2017, *Tunisia: 'Landmark' new law gives women protection from rape and domestic violence*, *Independent Journal*, <https://www.independent.co.uk/news/world/tunisia-law-women-protect-rape-domestic-violence-north-africa-landmark-rights-abuse-sexual-a7864846.html>

which the Ministry of Women presented in 2016 to amend the penal code, and many civil society organizations supported it. Consequently, state feminism, especially after 2014, still controls the movement's groups and their goals and has witnessed collision and agreement relations with the rest of the "new" women's movement groups on the Tunisian human rights and political scene. It can be said that the laws criminalizing violence against women (harassment/rape/economic exploitation/human trafficking/domestic violence...) have met consensus within the Parliament and in field struggle (demonstrations/workshops...). However, when proposing the bill of equality in inheritance as symbolic discrimination and violence, the positions differed between these radical, Islamic and pragmatic feminist groups. A clear collision and disparities in the position emerged about Tunisian women's concerns and the appropriate references for empowerment. It is noteworthy that the President of the State announced the endorsement of the principle of equality in inheritance in a law issued on Women's Day on August 13, 2018, to empower her with her rights as a citizen and legally affirm the concepts of the secular gender approach<sup>15</sup>.

The ongoing movement to approve a bill criminalizing violence against women witnessed a debate inside and outside the Parliament. The concepts of gender, sexual freedom and consanguinity have become among the most prominent public opinion issues, and accusations are exchanged about them between various parties (state feminism / Islamic feminism / many activists / public figures on social media...). During 27 parliamentary sessions, the points of controversy were reduced to the following: marital rape, the marriage of a minor, the prohibition of the rapist's marriage from the victim, gender, types of violence, the inclusion of incest, the age of sexual capacity and sexual freedom. These organizations and activists sought to make Tunisia a pioneer again in legislation guaranteeing women's rights, and this law was unanimously agreed with the reservation of one member. Examples of progressive laws include the criminalization of the employment of children and minors as household assistants, which are considered a phenomenon in Tunisia, providing an accurate definition of rape, the criminalization of harassment, and the inclusion of economic violence, in addition to charging the state and its institutions a role in preventing violence...

### STRATEGIES AND TACTICS: PROBLEM FRAMING AND SETTING-UP THE AGENDA

Strategies to defend women's rights were evolved and diversified, not only due to changes in the quality of human rights demands but also due to the emergence of new feminist representatives with backgrounds and forms of movement that are different from the work traditions of state feminist organizations.

First, various active parties in civil society, led by the "Center for Research, Studies, Documentation and Information on Women" (CREDIF), "the Organization of Democratic Women" and the Tunisian League of Human Rights, worked in direct cooperation with the Ministry of Women to establish community coalitions to discuss conceptually complicated topics, such as gender, and culturally such as marriage to non-Muslims...

Second, feminist movements have dealt with violence issues based on the stakes in the radical change that each transitional phase towards democracy requires, as well as the strategy of confrontation or agreement with the ruling authority and holding it responsible for all the violations that occur<sup>16</sup>.

15 Isabel Schafer, 2015 *The Tunisian Transition: Torn Between Democratic Consolidation and Neo-Conservatism in an Insecure Regional Context*, EuroMeSCO, IEMed, [https://www.die-gdi.de/uploads/media/Tunisian\\_Transition\\_EuroMeSCO\\_Paper\\_25\\_Isabel\\_Schaefer.pdf](https://www.die-gdi.de/uploads/media/Tunisian_Transition_EuroMeSCO_Paper_25_Isabel_Schaefer.pdf)

16 Elisabeth Johansson-Nogues, (2013) *Gendering the Arab Spring? Rights and (In)*

Third, to pass the law criminalizing all forms of violence against women, these parties relied on media and rhetorical investment for social and human rights mobilization in the face of the spread of conservative Salafism and Islamism after the revolution and demonstrating its risk on the societal pattern.

Fourth, the feminist movements used the European and international support for women's issues in Tunisia, particularly the European Union, whose representatives expressed serious concerns about the high levels of gender-based violence (women/ children), through cooperation mechanisms and bilateral agreements with civil society and the Tunisian government after 2014<sup>17</sup>.

Fifthly, the various activist parties invested in social media and media platforms to mobilize in favor of adopting this law and presenting it to the public while being keen to mobilize against every speech that contradicts the submitted demands.

Sixthly, working to bring back the "Bourguiba" past and the achievements of the first founder of the republic in favor of women's liberation, comparing it to the state of deterioration that some conservative political parties want to consolidate, and working to push the Tunisian president Essebsi to make his historical glory in the footsteps of his predecessor, Habib Bourguiba.

Seventh, re-establishing alliances with secular and social-political representatives (the General Labor Union), as strategies for action in the face of what appeared among the majority of these activists, and as a common challenge to confront conservative ideology or political Islam, and what they believe to be a threat to the emerging democratic experience, the foundations of the civil state and the Tunisian women's earnings.

These necessities to achieve gender equality necessitated creating alliances between the various groups of the movement and the state and developing social-human rights resistance tactics by forming coalitions between large groups of human rights organizations and diversifying struggle issues (violence/ harassment/freedoms...). In addition, the intersection between the various groups of the feminist movement (secular / Islamic / state feminism...), within the framework of criminalizing all forms of violence against women, has become a defense and mobilization strategy, a living community experience and a mechanism for organizing and effective pressure on all gender issues. The intersectionality strategy contributed to the adaptation of the general contexts of the political-ideological struggle in favor of women's rights, whereby negotiations were held with various political actors and decision-makers on managing gender equality problems from the standpoint of state secularism. Hence, issues of identity, citizenship, gender, freedoms, and the state's civility intersected with the central issue, namely equality<sup>18</sup>. In addition, feminist action has regained its momentum since 2013, with the sharp division between secularists and Islamists. These organizations were able to mobilize in favor of the modernist secular current due to the massive campaigns and demonstrations. Its influence increased and returned to decision-making positions for social policies with the secular party's rise to power after 2014.

*Security of Tunisia, Egyptian and Libyan Women, The New Middle East: A Critical Appraisal, Security Dialogue*, p 409-393

17 Euro-Mediterranean Human Rights Network, *Report on Violence against Women, 2017* <http://www.medinstgenderstudies.org/wp-content/uploads/Session-2-EMHRN-Factsheet-VAW-Tunisia-EN.pdf>

18 Debuysere, L. (2016). "Tunisian Women at the Crossroads: Antagonism and Agonism between Secular and Islamist Women's Rights Movements in Tunisia", in *Mediterranean Politics* 245-226 : (2) 21. <https://www.tandfonline.com/doi/abs/10.1080/13629395.2015.1092292/80>

Nevertheless, a feminist return to the state and the reduction of most of its activities to official legislative demands did not offer practical solutions to unemployed rural women (450 victims and 50 women were killed within 5 years in what are known as death trucks that transport them to agricultural lands), or for disabled or black women (marginalized and most of them suffer poverty, social exclusion and racism). In addition, the long-standing feminist organizations have mobilized in associative work since the Burqian era, betting on the public mood that is proud of the modernist social pattern and fearful of its Islamization, as that the image of modernist women and their rights has become a bet and a guarantee that Tunisia will not fall into the circle of reactionary thought that is paradoxical to modernization. With the complexity of discussions in the Tunisian parliament about the law criminalizing violence, the "CEDAW" agreement and other human rights issues, many civil society activists, particularly the coordination of the Qur'an defense for the former Minister of Religious Affairs, Khatami, who opposes the determination of individual freedoms, tried to improve the Islam image and impose the possibility of adopting teachings of Sharia in legal legislation related to women.

### INFLUENCING FACTORS OR POLICY NETWORKS

Normally, legislation entrenching women's rights in Tunisia is in line with the international treaties. Hence, the lifting of Prime Minister Baji Qaid Al-Sebsi in 2011 all the reservations about the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the adoption of the Optional Protocol constitutes a fundamental turning point in favor of the women's earnings, according to the group of secular activists, especially that this step was accompanied by rejection of conservative Islamic forces, and considering the decision unconstitutional and does not respect the components and characteristics of the Tunisian Muslim community. The Tunisian government also ratified the Rome Convention in 2011 and discussed the Istanbul Convention to combat violence against women<sup>19</sup>. The various international agreements helped the adoption and, slowly, many public policies on women's issues.

Feminist human rights demands were based on ideological concerns and positions regarding the constitutionalizing expressions of gender inequality in the Constitution of the Second Republic, especially after many representatives (Ennahdha and others) adopted statements of discrimination while using terms such as "complementary" and not "equal" when dealing with the relationship of women with men. The various stages of issuing the law criminalizing all forms of violence show that the legislative entitlements necessitated the restructuring of power relations and alliances with political parties intellectually close to the secular reference for the feminist movement. Consequently, the signs of the ideological engagement between Islamists and secularists on the sidelines of the 2014 elections and before the 2014 Constitution paved the way for a transformation of public policies to limit the manifestations of discrimination against women in Tunisia. Therefore, demand had been made to present a comprehensive law compatible with global human rights legislation and democratization contexts to address all forms of violence, from domestic and economic violence to human trafficking and political violence against female activists.

### TRANSFORMATIONAL MOMENT

Contrary to the expectation, statistics without frequent politicization provided shocking numbers about the high levels of violence against Tunisian women, as almost 47% of women

between the ages of 18 and 64 subject to various forms of violence<sup>20</sup>. It was evident that the old policies of women's liberation did not achieve gender equality and that most of the legislation did not serve effective economic and social participation, but rather established a human rights system that helped deepen male domination and recognize women's earnings that did not go beyond what was considered religious and cultural barriers of Tunisian society. In addition, historically ancient civil society organizations have mobilized to resist this gender disparity entrenched in mentality by intensifying legislation and working pragmatically to define the mechanisms for its implementation. Activists were committed to the need to achieve an impact from general social policies or legislation in general, to impose a strong influence on the drafting of the law, and strive not to link rights and political will, in the sense of dealing with women's issues from the standpoint of civil reference, citizenship and the rule of law. The primary idea of the transformation in feminist movements against gender-based violence is based on acknowledging the need to aspire to the achievement of full citizenship approved by the 2014 Constitution and not to consider it only human rights earnings.

### POLITICAL RESULTS

The political results related to the feminist protest movements against all forms of discrimination against women multiply and accumulate, as conflicts over the societal pattern and the state's major options played a fundamental role in determining the contents and objectives of public policies. The law criminalizing all forms of violence stems mainly from the traditions of cooperation between civil society and the authority, through a clearer formulation of equality, holding the state and the political actor responsible for passing and implementing these laws, in addition to the effective intervention of these organizations in determining the practical framework for improving and developing the state's social policy. Therefore, this law has been activated in practice by establishing and financing centers for listening, directing and protecting women who are victims of psychological or social violence in security centers and facilitating complaints procedures in cooperation with women's associations. The issuance of this law was also considered a success for the political options and ideological tendencies of the current (secular) leadership. Its ability to control positions opposing some of the chapters of this basic law through the politics of consensus and mobilization. This resulted in political support for the law criminalizing all forms of violence and prompted the Presidency Institution with a legislative initiative to establish a society with full gender equality by approving the draft law on equality in inheritance despite religious and social controversy accusations of political employment.

### CONCLUSION

Certainly, the existence of many differences between how violence was experienced, the approaches adopted to understand it or theorize it and present it to the public to change mentalities impeded reducing gender-based violence or criminalizing it in the popular Tunisian mentality. What characterizes civil society movements in favor of this law is represented in the various mobilization strategies pursued by the founding parties of the discourse in support of individual freedoms and against all forms of gender-based violence that reflected the depth of the transformations within the Tunisian feminist movement itself (radical/Islamic/pragmatic) and the forms of interaction with the power determinants of the societal pattern (secular/conservative).

19 مريم صابير، 2018، «اتفاقية اسطنبول»: أداة لمكافحة العنف الأسري تُفضل الدول العربية البقاء بعيداً، <https://wlahawogohokhra.com/>

الحبيب الميساوي، 2018/11/25، في اليوم العالمي للعنف ضد المرأة: قانون 2017 في وادو الواقع 20 <http://www.alchourouk.com/article/%D%81%9D8%9A-%D%8A%7D%84%9D8%9>

## Case Study

### Policies of Criminalizing Harassment in Tunisia

#### BACKGROUND OF THE CASE

The drafters of the 2014 Constitution were interested in women's rights issues, and it seems that the state of political instability during the transitional period raised awareness among all liberal and Islamic parties inside and outside the Constituent Assembly of Tunisia about the deficiencies of the legal framework and their inability to guarantee equality and gender justice. Many feminist human rights organizations criticized the legislative vacuum and its lack of strictness against forms of gender-based violence, such as sexual harassment. In fact, Tunisia has long been considered a pioneer in women's rights in the Arab world. However, many Tunisian women's daily lives are still governed by high levels of harassment, abuse, and harassment. Hence, when parliament promulgated a law prohibiting violence against women (domestic violence/harassment), it supported it with recommendations reflecting the state's general policy (teaching human rights in primary schools/training police and judges on the forms of dealing with cases and reports of violence)<sup>21</sup>. Therefore, it is crucial to focus and re-enact the strategies of mobilization of Tunisian public opinion, which "CREDIF" organization adopted as a model in raising public awareness about the horror of harassment and its intersection with the culture of normalization with gender-based violence, in addition to motivating and pushing the legislative departments to ratify laws that were introduced on August 11, 2017.

#### PROBLEM'S TIMELINE

The last three years have witnessed an increasingly public debate about harassment and sexual assault of women in Tunisia. Starting October 2017, the global #MeToo movement set sexual harassment and sexual assault among the main headlines within societies. This campaign witnessed a media momentum, as the need for legislative changes in favor of affected victims was seriously raised. The movement groups addressed the phenomenon of harassment as a flagrant issue of gender inequality and the limitations of laws and state agencies to secure a safe public space for women's existence. Campaigns against sexual harassment have coincided with the criminalization of all forms of violence against women since the launch of the legislative initiative of the Ministry of Women in 2016, and its activities have intersected to mobilize civil society groups and political actors in alliances based on similar goals, movement strategies and their starting points such as state feminism<sup>22</sup>. But a study conducted at the time concluded that 53.3% of the women interviewed had experienced some form of violence in the public space.

#### THE ROLE OF CIVIL SOCIETY REPRESENTATIVES, THEIR PARTICIPATION AND INVOLVEMENT IN THE ISSUE

"The harasser does not ride with us" is a slogan of stigmatization and exclusion, through which civil society organizations, in cooperation with the Tunisian state institutions, could break the silence against harassers, especially in public field and transportation means. The Center for Research, Studies, Documentation and Information about Women (CREDIF) launched this awareness campaign, with the support of the European Union and the United Nations Population Fund, in partnership with the Transport Company of Tunisia. It does not reflect the seriousness of harassment and its spread, particularly in metro cars, buses and public roads only. Still, it also expresses an ethical and cultural dilemma of a big part of Tunisian society that insists on statements referring to women's inferiority and the societal legislation to harass them or ignore these sick and disgusting practices of the silent majority.

Maybe more than ever, the female body became a target in the period of democratic transition due to women's presence in public places in greater numbers. Therefore, the women rejected proposals to impose a range of measures to control and exclude them, including the proposed dress code and death threats, violence and sexual assaults<sup>23</sup>. Hence, passing the Anti-Harassment Law and the public's interest in this issue is considered a form of resistance against male domination and the entrenchment of women's inferiority in the social mentality<sup>24</sup>.

Thus, it can be noted that the mobilization in favor of the law of harassment constituted a continuation of the revolutionary struggle, which cannot establish the goals of democracy without success in achieving justice for women's cause, noting that this legislative initiative did not lead to the emergence of mutual accusations between conservative groups and secular parties; but this period witnessed a remarkable irony on social media platforms and in the Tunisian street, and it was turning the discussion about harassment into a debate about issues of dress and individual freedoms.

21 منى غانمي، 2018، التحرش الجنسي على ضوء القانون عدد 58 المتعلق بالقضاء على العنف ضد المرأة، موقع نقطة قانونية <http://www.pointjuridique.com/09/06/2018/%D%8A%7D%84%9D8%AA%D/>

22 Safa Belghith, 5 February 2018, Tunisia: selective feminism and the marginalization of women's struggles, OpenDemocracy, <https://www.opendemocracy.net/en/north-africa-west-asia/tunisia-selective-feminism-marginalization-of-women-s-struggle>

23 Awatef Ketiti, 2014, The Women's movement faced with the challenges of transition and the Islamist movement in Tunisia, Women's Rights and Gender Equality in the Middle East and North Africa, [https://www.academia.edu/32886687/Women\\_Shaping\\_the\\_Public\\_Sphere\\_in\\_Morocco\\_The\\_Arab\\_Spring\\_as\\_a\\_Case](https://www.academia.edu/32886687/Women_Shaping_the_Public_Sphere_in_Morocco_The_Arab_Spring_as_a_Case)

24 Debuysere, L. (2016). "Tunisian Women at the Crossroads: Antagonism and Agonism between Secular and Islamist Women's Rights Movements in Tunisia", in *Mediterranean Politics* 245-226 : (2) 21. <https://www.tandfonline.com/doi/abs/10.1013629395.2015.1092292/80>

## STRATEGIES AND TACTICS: PROBLEM FRAMING AND SETTING-UP THE AGENDA

The awareness campaign organized by the "CREDIF" and many other supportive organizations and institutions adopts silence's risk of harassment. It seeks to build community awareness about it by pushing for the need for collective positions to exclude harassers by affixing slogans condemning the harassment in metro and bus stations. This campaign also included presenting a short documentary film focusing on harassment on social media and in some transportation means. A mobile phone application has also been created to encourage and assist public transport passengers (the silent majority) in shooting the harassment crime, in addition to a second application called "Ishki" (a complaint) that contains a set of necessary and practical directions to support the "victim" woman and facilitate the electronic reporting procedures.

It seems that the "CREDIF" is betting on the success of this campaign by working in the field, in the media and on the virtual platforms, as it has attracted the interest of social media users to share videos monitoring harassment practices and defame their owners. It also attracted many audiovisual media to address the issue and discuss it in depth. Therefore, the methodology of this research contribution sheds light on analyzing the mobilization strategies adopted by the organization to influence and keep pace with the human rights trend inside and outside the Parliament, its reliance on the critical discourse analysis approach, as well as evaluating the effectiveness of these awareness campaigns and anti-violence laws not only on changing mentalities but also in terms of using the victim of her legal right to hold the perpetrator accountable, by conducting interviews with those in charge of the organization and some samples<sup>25</sup>.

In addition, the responses and forms of interaction with the anti-harassment project are the most harmonious among the various feminist groups in Tunisia, which have known diversity after 2011 with the return of Islamic and state feminism and the rise of many independent organizations and activists defending women's rights. Despite its often-elitist character, this new wave of feminism agreed on the need to formulate public policy and pass laws condemning harassment and considering it as sexual exploitation and a threat to women at all levels.

The various groups gathered around the issue of criminalizing the phenomenon that many women face with their social, class and age differences, and examples are what women are exposed to in the public or workplace because of their clothes. This explains the temporary gathering between the various groups, their coordinated and uncoordinated defense of this project and the reluctance to use political and ideological differences during the passage of the law, and the common fears of exacerbating the phenomenon and using it as a weapon to terrorize and exclude women from the public field<sup>26</sup>. However, the movement groups chose a policy of consensus. They worked to pass a law criminalizing harassment. They also addressed a bill criminalizing all forms of violence according to more rigorous approaches and conflict between international human rights modernism and local Islamic rights. In addition, the movement groups share their ability to communicate and deal with their ideological differences and discuss them in parliamentary committees, on social media, in the media, workshops and conferences to eliminate forms of discrimination and gender inequality.



## INFLUENCING FACTORS OR POLICY NETWORKS

There is no doubt that the constitution-making process strengthened the social and political dialogue between the Tunisian elites and community circles concerning women's rights, whereby sexual harassment was considered discrimination and violence against women and an obstacle to their effective and safe involvement in the public space. Feminist openness to European (feminist/legal) experiences, for decades, affected the employment of the general context of democracy and the consolidation of gender equality according to the international human rights standards. It can be said that the high rates of harassment in the Tunisian public field, as it appeared after 2011, helped to enhance feminist groups' aspirations to deconstruct the causes of the phenomenon and deal with it legally and strictly<sup>27</sup>. In addition, the movement's groups considered that the absence of a national policy and a comprehensive strategy to criminalize sexual harassment harms the long-standing democratic and women's human rights experience, in light of the increasing normalization and acceptance of the culture of assaulting and permitting the woman's body<sup>28</sup>. It must be clarified that the rising cases of harassment of women, and the hidden tendency towards restriction, whether at the level of clothing or presence in public, in light of a wave of overwhelming religiosity, the predominance of Salafism and insecurity, encouraged the ease of aggression and bullying of the female body. In this context, the movement's groups assumed that the passage of strict laws condemning harassment would raise legal awareness among various parties to criminalize it and cut off with male domination.

روعة فاسم، 6 يناير 2018، تونس تتخذ جملة من الإجراءات للحد من التحرش الجنسي، صحيفة القدس 25 <https://www.alquds.co.uk/%EF%BB%BF%D%8AA%/>

26 Giulia Daniele, July 2014, *Tunisian Women's Activism after the January 14 Revolution: Looking within and towards the Other Side of the Mediterranean*, *Journal of International Women's Studies*, Vol 15, Issue 2, <https://pdfs.semanticscholar.org/2756/e0f392e9340625b2425cf9bca38a631536d0.pdf>

هانية المسيهلي، 26 جويلية 2016، 80 بالمائة من التونسيات ضحاياها: هل ينهي القانون التحرش؟، 27 <http://archive.alchourouk.com/%-80/1/567/191549>، صحيفة الشروق

28 Tharwa Boulif, August 2, 2016, *Girls in Cosmopolitan Tunis Take Harassment Statistics Personally, We News*, <https://womensenews.org/08/2016/girls-in-cosmopolitan-tunis-take-harassment-statistics-personally>

## TRANSFORMATIONAL MOMENT

On the level of societal mobility, the activist groups invested in the general international trend against harassment, known as MeToo campaigns and other initiatives supported by the European Union, the United Nations and many international organizations. In many countries, particularly Egypt and Morocco, intensive and focused societal movements were launched to criminalize harassment and classify it as a process of violating the law and restricting women in the public field. There is also a turning point that helped bring the issue of harassment out of the blackout into public debate and decision-making process, especially that the historically entrenched "feminism" in Tunisia facilitated the deconstructing of the deep forms of interconnectedness between the social mentality abusing the female body and the permissive laws (difficulty in proving/ignoring the security services' complaints victims/impunity)<sup>29</sup>.

In fact, the campaign to criminalize harassment coincided with international initiatives setting standards for the occurrence of harassment or not, and contributed to monitoring all forms of abuse of women according to international legal standards. In both the harassment campaign and the criminalization of all forms of violence against women, we find that the European Union and many major international organizations were active partners with the movement groups and the Tunisian state that supported and adopted the draft laws (France 24, 2017)<sup>30</sup>.

In addition, this local experience benefited from foreign experiences in achieving gender equality, whether through joint workshops or access to comparative experiences related to anti-violence legislation and access to financial support. All ideologically different parties (state feminism / Islamic feminism / political actors) welcomed it. However, this contribution became a dilemma when the movement raised the level of demands from gender justice to total equality in inheritance and guardianship<sup>31</sup>.

Some parties may have doubts about foreign agendas and varying degrees of interference in Tunisian public policies. However, the core of the partnership with the movement's groups focused on eliminating all forms of gender-based violence, from sexual harassment to the passage of the law criminalizing violence, and currently the interventions to pass a bill abolishing the criminalization of homosexuality in determining individual freedoms and equality.

## POLITICAL RESULTS

In defining sexual harassment, the Tunisian legislator adopted Law 58 of 2017 on combating violence against women and indicated that it is "every assault against others", abandoning its previous formulation indicating that it is "persistent harassment of others." The law also considered that sexual harassment is "any assault against others, by actions, signals or words, that includes sexual overtones undermining their dignity or outrage their modesty to compel them to respond to the desires of the offender, or the sexual desires of others, or by exerting dangerous pressure on them that would weaken their ability to deal with those pressures". The anti-harassment movement demonstrates that historically entrenched secular feminist forces can attract and assimilate the rest of the movement's groups, despite ideological differences, to establish Tunisian women's entitlements. The secular and Islamic groups are also an essential and wide part of Tunisian society. At the same time, mutual recognition and the formation of temporary alliances will revive the democratic process and achieve positive gender change.

## CONCLUSION

After their bloc and return to the paradigm of state feminism after 2014, feminist activism groups are re-posting the dangers of rebuilding the project of elite, split or progressive modernization over the conservative social mentality. In fact, in Tunisian street, despite campaigns aimed at raising awareness of women's rights, no widespread discussion or mobilization campaigns exist against harassment or other forms of gender-based violence, allowing for a change of mindset and leading society benefit from these progressive laws<sup>32</sup>. In addition, the social mentality remains a real challenge in achieving an impact on these progressive public policies, as well as the dilemma of inequality between the modernist spirit of feminism that is open to the standards of the international agreements and the general context that is normalized with forms of gender inequality, especially between administrative, judicial and social forces.

هادية المسيهلي، 26 جويلية 2016، 80 بالمائة من التونسيات ضحاياها: هل ينهي القانون التحرش؟، 29

<http://archive.alchourouk.com/%-80/1/567/191549>، صحيفة الشروق

فرانس 24، «هيومان رايتس ووتش» تشيد بإقرار قانون العنف ضد النساء في تونس و تدعو لتوفير 30

التمويل اللازم، موقع فرانس 24 <https://www.france24.com/ar/%-20170728>

بدر السماوي، 2018/08/27، تقرير الحريات الفردية و المساواة: هل هو استجابة لاستحقاقات وطنية أم 31

رؤسوخ لضغوطات دولية؟، صحيفة الشروق <http://www.alchourouk.com/>

تيري بريزيون، 4 سبتمبر 2018، تونس المساواة في الميراث تثير تساؤلات، موقع 32

<https://orientxxi.info/magazine/article2609>

## BREAKING THE MOLD PROJECT

In mid-2018, the “Civil Society Actors and Policymaking in the Arab World” program at IFI, with the support of Open Society Foundations, launched the second round of its extended research project “Arab Civil Society Actors and their Quest to Influence Policy-Making”. This project mapped and analyzed the attempts of Arab civil society, in all its orientations, structures, and differences, to influence public policy across a variety of domains. This research produced 92 case studies outlining the role of civil society in impacting political, social, economic, gender, educational, health-related, and environmental policies in ten Arab countries: Lebanon, Syria, Palestine, Jordan, Egypt, Morocco, Tunisia, Yemen, and the Arab Gulf

Over two dozen researchers and research groups from the above countries participated in this project, which was conducted over a year and a half. The results were reviewed by an advisory committee for methodology to ensure alignment with the project’s goals, and were presented by the researchers in various themed sessions over the course of the two days

## THE CIVIL SOCIETY ACTORS AND POLICY-MAKING PROGRAM

at the Issam Fares Institute for Public Policy and International Affairs at AUB, examines the role that civil society actors play in shaping and making policy. Specifically, the program focuses on the following aspects: how civil society actors organize themselves into advocacy coalitions; how policy networks are formed to influence policy processes and outcomes; and how policy research institutes contribute their research into policy. The program also explores the media’s expanding role, which some claim has catalyzed the Uprisings throughout the region

## THE ISSAM FARES INSTITUTE FOR PUBLIC POLICY AND INTERNATIONAL AFFAIRS AT THE AMERICAN UNIVERSITY OF BEIRUT

The Issam Fares Institute for Public Policy and International Affairs at the American University of Beirut (AUB Policy Institute) is an independent, research-based, policy-oriented institute. Inaugurated in 2006, the Institute aims to harness, develop, and initiate policy relevant research in the Arab region. We are committed to expanding and deepening policy-relevant knowledge production in and about the Arab region; and to creating a space for the interdisciplinary exchange of ideas among researchers, civil society and policy-makers

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