



EXECUTIVE SUMMARY

ASSAULTED AND ACCUSED

SEXUAL AND GENDER-BASED VIOLENCE IN TUNISIA

AMNESTY INTERNATIONAL



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Cover photo: Protesters chant slogans during a demonstration against charges of indecency that were filed against a woman raped by two police officers; Tunis, 2 October 2012.
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In September 2012, a woman known as Meriem Ben Mohamed was charged with “indecentry” after she reported rape by two police officers. By speaking out, Meriem shed light on the deep flaws in Tunisian legislation and sparked a campaign demanding legal change and protection to survivors of sexual and gender-based violence. “Raped and accused” became a phrase that highlighted the entrenched prejudices and discrimination against survivors of sexual and gender-based violence who, like Meriem, are often victimized and held responsible for the crimes they have suffered.

All too often, survivors of sexual and gender-based violence in Tunisia are blamed and punished for the crime they have suffered. A woman who is raped is held responsible for her assault and rejected by her family and community. A wife who is beaten by her husband is told to remain in the abusive relationship rather than bring “shame” on the family. A gay man who is attacked is more likely to be prosecuted than his attacker. A sex worker working illegally is abused and blackmailed by the police.

Tunisian law fails to protect those most in need of protection. It allows rapists of women aged under 20 to escape punishment if they marry their victim. It fails to recognize marital rape; indeed, it implies that a woman’s marital duty is to have sexual relations with her husband whenever he pleases. It criminalizes consensual same-sex sexual relations, making it virtually impossible for lesbian, gay, bisexual, transgender and intersex (LGBTI) people to lodge complaints about sexual assaults and paving the way for blackmail and other abuses by police.

Such social attitudes and failings by the state are particularly harmful in a country where sexual and gender-based violence remains prevalent. Nearly one in two women (47%) has experienced violence. Of these, around one in six has suffered sexual violence. These figures emerged from the first national survey of such issues, conducted in 2010 by the Office National de la Famille et de la Population (ONFP – National Board for Family and Population).

The true scale of sexual violence is unknown as it is under-reported. Many survivors do not come forward out of fear of being accused of complicity in the crime and publicly shamed. As a result, many suffer in silence. When the crimes go unreported, the perpetrators are emboldened to repeat abuses and impunity is entrenched. According to women’s rights defenders, media reporting of violence against women is often sensationalist and contributes to the stigmatization of survivors.

Over the years, the Tunisian authorities have taken important steps to promote gender equality and combat gender-based and sexual violence, including by amending legislation. Despite this, the law continues to reflect discriminatory social attitudes against women and preserve the general interest of the family over the needs of survivors of violence.

Articles in the Penal Code criminalizing sexual violence are in a section dealing with assault on a person’s decency, thus emphasizing “honour” and “morality”. Rape and sexual assault

of women and girls are seen as acts that undermine the family's reputation rather than a violation of the victims' bodily integrity.

Other laws and policies fail adequately to protect survivors of sexual and gender-based violence. The Penal Code does not define clearly what constitutes an act of rape, although provides for the death penalty when "non-consensual sexual relations" are committed "with violence". This fails to capture the reality that, in many cases, rape should be defined by lack of consent and is often committed without the use of force.

Family violence is commonly accepted in Tunisia despite being recognized as a crime. Complaints of assault are often withdrawn because of pressure from the perpetrator or family members, or because of the perceived "dishonour" it might bring on the victim. The law does not provide adequate protection against victims being pressured or coerced into dropping complaints. For instance, a complainant cannot apply for a protection order that could stop a perpetrator contacting the victim.

Police officers lack the necessary training to intervene in cases of family violence, which is seen as a private and intimate issue. There are no specialized police units to deal with family and sexual violence, and the number of women police officers is low. Police officers often dismiss reports of marital violence filed by women, or blame them for the violence. In many instances, instead of enforcing the law and protecting women from further violence, police see their role as promoting mediation and reconciliation to preserve the family unit.

Few survivors of family violence pursue judicial remedies, mainly because they are not financially independent or because they are pressed by their own families to forgive their husbands. The lack of sufficient emergency housing and shelters for victims of family violence also prevents survivors from seeking justice as they have nowhere safe to go.

Many of the women who complain about family violence do so in the context of fighting for divorce on the basis of harm suffered, usually after enduring years of violence and humiliation. While family violence is accepted as grounds for divorce, the burden of proof falls on survivors and the judicial police (the investigative arm of the security forces) has no units [or officers] specialized in investigating such cases. In general, the judge ruling on divorce cases only accepts a penal conviction or the accused's confession as evidence of harm. As a result, such divorce procedures are lengthy, costly and complicated.

Existing social and health services for survivors of sexual and gender-based violence remain limited and inadequate, mainly due to a lack of financial resources. Such services are largely supported by the international community and led by civil society organizations.

In cases of sexual violence, medical treatment is often separate from the collection of evidence, and referral pathways are almost non-existent. Medico-legal centres, which are often the first point of contact with a medical professional, do not provide emergency contraception in cases of sexual violence. No testing for sexually transmitted infections is available on the spot, survivors are not systematically referred to gynaecologists, and no psycho-social support is available.

The criminalization of some forms of consensual sexual relations between adults places

additional constraints on survivors of sexual and gender-based violence who want to seek justice. Adultery laws are sometimes misused to blackmail victims and dissuade them from reporting the crime. The adultery laws also impact disproportionately on women, reinforce harmful gender stereotypes and deter some rape victims from reporting the crime because they fear prosecution if they fail to prove rape.

Criminalization of consensual same-sex relations discriminates against LGBTI people and fuels violence against them. Perhaps the most vulnerable group are sex workers, who rarely report crimes against them because their work is illegal.

Sex workers and LGBTI people report high levels of extortion, physical assaults and sexual abuse by state agents, especially the police. Homophobic and transphobic crimes are not investigated. Police often tell LGBTI survivors to drop their complaints if they want to avoid being prosecuted themselves for engaging in same-sex sexual relations.

In August 2014, Tunisia's transitional government announced that it was drafting a comprehensive law to combat violence against women, with the help of a committee of experts that included Tunisian women's rights defenders. Among other things, the draft proposed to repeal provisions criminalizing consensual sexual relations, including same-sex relations, between adults; and introduce laws criminalizing clients, procurers and operational aspects of sex work. Meanwhile, senior government officials promised to repeal legal provisions giving impunity to rapists who marry their victim, increase penalties for sexual harassment against women at work, and improve access to legal aid and health services for survivors of violence.

However, work on the draft law appears to have stalled since the formation of a coalition government in January 2015. The authorities seem to be prioritizing security issues, especially following the deadly attacks at the Bardo Museum in Tunis and at a beach resort in Sousse that killed 61 people. In a meeting with Amnesty International in March 2015, the Minister of Women, Family Affairs and Childhood said that the proposed, bold legislative reforms would require greater social awareness. The draft law has yet to be agreed by the new government and discussed by parliament.

Amnesty International welcomes steps taken by the Tunisian authorities to comply with the recommendation repeated over several years by the Committee on the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) that Tunisia adopts a comprehensive law on violence against women. Amnesty International stresses that adopting legislative reform in line with international human rights standards would go a long way to address the gaps that hinder survivors of sexual and gender-based violence obtaining redress. Importantly, it would encourage survivors to come forward and report crimes, and ultimately would help combat impunity.

Amnesty International is publishing this report with the aim of supporting efforts by Tunisian civil society to combat sexual and gender-based violence. Based on 40 interviews with survivors of sexual and gender-based violence in particular rape (including marital rape), domestic violence and sexual harassment, in addition to meetings with medical professionals, women's rights defenders and social workers, this report is calling on the authorities to address such violence by taking three key measures among other recommendations included

at the end of the report:

- publicly condemn all forms of sexual and gender-based violence, including violence based on gender identity and sexual orientation;
- end discrimination based on gender, sexual orientation and consensual adult sexual activity in law and in practice, and introduce legislation criminalizing sexual and gender-based violence in line with international human rights law and standards;
- ensure effective, independent and impartial investigations into all forms of sexual and gender-based violence, including against women and girls, LGBTI people and other vulnerable people such as sex workers

WHETHER IN A HIGH-PROFILE CONFLICT OR A FORGOTTEN CORNER OF THE GLOBE, **AMNESTY INTERNATIONAL** CAMPAIGNS FOR JUSTICE, FREEDOM AND DIGNITY FOR ALL AND SEEKS TO GALVANIZE PUBLIC SUPPORT TO BUILD A BETTER WORLD

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I WANT TO HELP



ASSAULTED AND ACCUSED

SEXUAL AND GENDER-BASED VIOLENCE IN TUNISIA

A woman is raped and blamed for her assault. A wife is relentlessly beaten at home and told to bear it. A gay man is attacked and is more likely to be prosecuted than his attacker. A sex worker working illegally is abused and blackmailed by the police. All too often survivors of sexual and gender-based violence in Tunisia are blamed and punished for the crimes they have suffered.

Despite many positive steps by Tunisia to promote gender equality and combat sexual and gender-based violence, the law fails to protect survivors. It allows rapists to dodge punishment if they marry their teenage victim. It fails to clearly define rape or recognize marital rape. It criminalizes consensual same-sex sexual relations and adultery, deterring survivors from speaking out for fear of prosecution.

This report, which includes interviews with dozens of survivors, highlights how the blame culture and legal failings are particularly harmful in a country where sexual and gender-based violence remains prevalent. It also shows that survivors face inadequate support and numerous obstacles if they dare to seek justice.

Amnesty International calls on the Tunisian authorities to take urgent action to protect survivors by amending the law, ensuring effective remedies and providing comprehensive health and social services.

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