

UNITED NATIONS DEVELOPMENT PROGRAMME
GENDER IN THE NEW TUNISIAN CONSTITUTION – FACT SHEET

TUESDAY 28 JANUARY 2014

The new Constitution of Tunisia was adopted by an overwhelming majority of the country's National Constituent Assembly on Sunday evening, January 26 2014, and signed and promulgated in a ceremony at the Assembly on January 27 2014. It is a historic moment for Tunisia; the country's first democratic constitution, and a particularly significant event for Tunisian women.

The constitution is ground-breaking in its provisions to assure women's equality, in explicitly committing to eliminate violence against women, in promoting women's assumption of positions of responsibility in all sectors, and in working towards parity in all elected bodies within the country. Such clear recognition of the importance of equality and of the state's responsibility to enable the realization of equality is rare in constitutions anywhere in the world.

The activism of Tunisian women for equal rights has long been a feature of Tunisian society and an inspiration to other countries of the region. Equality was guaranteed in the previous constitution and in legislation on personal status. The new constitution extends these rights, reflecting the results of an inclusive and intensive process of dialogue throughout the country on the content of the new constitution.

Tunisia's National Constituent Assembly has a relatively high proportion of women members; 65 of 217 or 27%, placing it in the upper range of democratic parliaments. The high proportion of women members, as well as activism of women in civil society, meant that gender issues were treated seriously during the national constitutional dialogue and in the Assembly discussions and debates. The electoral law under which Assembly members were elected in the first free democratic elections after the revolution, in October 2011, ensured that women would be equally represented on party lists, and in alternate order of preference.

It is notable that the most expansive and contentious of the gender-related provisions, Article 46 on protection of women's rights, was supported by 85% (50 of 65) women deputies, compared with 59% of the Assembly as a whole, and 51% of male deputies. It is also important to note that the equality provisions garnered support from women across the political spectrum.

In terms of specific provisions on gender equality:

- The preamble frames the constitution in the context of the "equality of rights and duties between all citizens, male and female"

- Article 21 confirms equality of rights and duties and outlaws prohibits gender discrimination: “All citizens, male and female, have equal rights and duties, and are equal before the law without any discrimination.”
- Article 34 guarantees women’s representation in all elected bodies
- Women’s accrued rights are guaranteed, effectively constitutionalizing equality provisions already existing in laws such as the Personal Status Code (article 46)
- The state is required to ensure that women and men “have access to all levels of responsibility in all domains”; this provision was broadened in discussions just before adoption of the constitution, so that it will cover the private as well as public sector (article 46)
- The state will work towards parity in all elected bodies, including not only the new parliament, the Assembly of the Representatives of the People, but also in local elected councils. Discussion during the constitutional debate suggested this would require parity in candidacies of women and men (article 46)
- The state will take “all necessary measures in order to eradicate violence against women.”

UNDP has been supporting the democratic transition in Tunisia since the revolution of 2011, and is the main international partner to the National Constituent Assembly in supporting the constitutional process, parliamentary strengthening, and national dialogue, a project which runs from 2012 to 2015. This work is carried out in parallel to UNDP’s other governance projects in Tunisia, which include support to the election process and to the justice system.

Particular emphasis has been placed by UNDP on assisting the National Constituent Assembly in ensuring an inclusive constitutional process, including extensive public consultation and engagement with civil society organizations across the country. Gender issues and the importance of entrenching women’s equality in the constitution have been key themes in the dialogue. UNDP has supported Tunisian parliamentarians’ knowledge of international best practice on gender equality, quotas, and constitutionalization of equality provisions, including by sponsoring an international seminar in 2012 that brought South African women MPs to Tunis to share their experiences in the democratic transition in South Africa.

The equality provisions as well as the other rights and freedoms outlined in the Constitution will need to be entrenched in organic and ordinary laws that implement the constitutional framework, and the UNDP project will be working to support the new Tunisian parliament in these legislative responsibilities.

More detailed information is available from the UNDP project supporting the constitutional process, parliamentary strengthening, and national dialogue: Jonathan Murphy, Chief Technical Advisor, UNDP Tunisia,

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