

Coalition for Children's Rights
Civil society report on the status of children's rights,
Submitted to the 4th UPR of Tunisia 2022
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This report is the fruit of collaboration of the association listed below:

PCPA, Soyons Actifs/Actives, Solidarité Laïque, the Youth association Ado+

With the contribution of: Amal Association for Child and Family, Our Students Association, Earth Children Network Association, Tunisian Scouts, Mawjoudin Association

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1. **SOYONS ACTIFS / ACTIVES** is a capacity building program for Tunisian and French civil society organizations working to reduce inequality in access to rights. Supervised by the *solidarité laïque* organization, this program coordinates between various stakeholders. So far it includes 85 different stakeholders: associations, unions, cooperatives, local authorities and public authorities from both shores of the Mediterranean.
2. **ADO+ Youth Association** is a Tunisian non-profit association established in 2011, working for and with adolescent girls and boys. The ADO+ Association works to enhance civic and cultural skills among adolescent girls and boys, invites and encourages all adolescents to express and enhance their potential in an environment free from all forms of discrimination; on the basis of race, sex, origin or individual choices, in a climate of mutual respect, free from acts of exclusion and prejudice.

Context

1. At the conclusion of the third cycle of the universal periodic review, Tunisia agreed to a set of recommendations made by the Human Rights Council related to the implementation of children's rights. The Tunisian government also received a set of final observations from the Committee on the Rights of the Child on the combined fourth to sixth periodic reports, related to a follow-up on the implementation of the Convention on the Rights of the Child, which was presented and discussed in May 2021.
2. Accordingly, and based on the set of these observations and recommendations, and in preparation for the fourth cycle of the UPR for the period 2017-2021, the PCPA program "Let us be active" and the youth Association ADO+, in cooperation with the Amal Association for the Family and the Child, the Earth Children Network, "Our Students" Association, Mawjoudin Association, the Tunisian Education League, the Tunisian Organisation for Defense of People with Disabilities and the Tunisian scouts Sfax Section provide through this report, an analysis of the extent to which children's rights are respected and implemented.
3. Although, we congratulate the Tunisian government for its efforts made for the sake of children, especially after the issuance of the classification of the Kids Rights Index for the year 2017, in which Tunisia ranked ninth globally and first in the Arab world in the field of children rights protection, among 115 participating countries and 165 countries ratifying the international Convention on the Rights of the Childⁱ.
4. We want to draw the Council's attention to several points regarding the situation of children's rights that are of concern and merit further consideration.

International commitments:

5. With satisfaction our associations welcomed Tunisia's approval of recommendations 125-2, 125-3 and 125-4 regarding the ratification of the Third Optional Protocol to the International Convention on the Rights of the Child and the Council of Europe's Convention on the Protection of Children from Sexual Exploitation and Abuse as well as the state's positive reaction to these recommendations by effectively ratifying the Optional Protocol on a communications procedure in June 2018, and approving accession to the Lanzarote Convention following the promulgation of an organic law relating to this Convention in January 2018.
6. Despite the remarkable measures that have been taken in this regard, we regret that the government did not review any of its national legislation to be in alignment with its commitments to these international and regional charters, nor did it make any significant efforts to publicize these charters among children or on a large scale, in order to provide better protection for children.

Accordingly, we recommend:

- a. The need to harmonize the legislative framework related to children with the principles of international covenants that the state is bound by;
- b. Take all measures to publicize the provisions of the two ratified international documents, as they are effective mechanisms for filing complaints, protection and prevention from sexual assaults, and to do so through appropriate and effective means accessible to adults and children alike;

- c. Allocate adequate human, technical and financial resources.

Legislation:

- 7. The associations participating in the drafting of this report noted the intention of successive governments since 2010 and their belief in revising the Child Protection Code. The government indicated in the 2017 Universal Periodic Review, GE.17-01925, in its paragraph 85 related to strengthening the protection of children's rights, that it has launched a review of the Child Protection Code in order to add a section related to the protection of the child victim. Thus, during a hearing held by the Assembly of People's Representatives on July 5, 2021, the Tunisian Minister of Justice expressed the proposal to amend the code by adding a section on the child victim and the child witness.
- 8. Based on this information, we note with regret that all these projects have not seen the light of day, for more than ten years.
- 9. Additionally, the modification referred to in more than one address, are only regarding adding a chapter related to the child victim and child witness. Whereas, one of the main areas of criticism directed at the Child Protection Code -in addition to the absence of mechanisms and procedures for providing protection to child victims and child witnesses- is that it is merely a protection document, not a bill of rights.

Therefore, we urgently demand the Tunisian government to

- a. Expedite the review of the Child Protection Code;
- b. Base the review on a vision that considers the child as a right holder and not an object of protection;
- c. Strengthen the implementation of national legislation related to children.

Children and youth participation:

- 10. The work to ensure the participation of children in the development of the country's general policies, witnessed a remarkable improvement, as the state made an effort to listen to children when drafting the 2016-2020 development plan. Through organizing regional consultations for this purpose, and formulating a national action strategy that takes into account children's suggestions.ⁱⁱ
- 11. However, these efforts have not been carried through. The drafted plan of action to develop children's participation, a result of the consultations mentioned above, remains a forgotten document.
- 12. The current situation related to the right to participation is also an area of concern and is actually witnessing a serious regression as the draft submitted to amend Decree No. 88 of 2011 -related to the organization of associations- raised many concerns, especially regarding the right of children to form associations as the legal age to be able to form an association was increased from 16 to 18 years old. This is considered a serious regression in the context of legislative guarantees related to children's rights to express opinion, form associations and peacefully assemble.
- 13. In clear contradiction with the proposed amendment, the government has enabled children from the age of 16 to participate in the national consultation on the economic, social and political reforms proposed by the Presidency of the Republic, without suggesting a version that is appropriate to their age.
- 14. As associations advocating for children's rights, we fear that the purpose behind engaging adolescents in this consultation does not reflect the government's awareness of the need to listen to children and adolescents, but rather a political strategy to

achieve the desired participation rate for this consultation.

15. In addition to the involvement of state institutions entrusted with protecting children's rights in this process, the Child Rights Observatory launched a campaign to ensure children's participation in this consultation on February 11ⁱⁱⁱ, i.e. near the end of the consultation period, which confirms the previous hypothesis.
16. According to these worrying information, representing a clear decline in the established rights for children and adolescents, especially in the absence of a legal text regulating their participation at national and local levels to ensures that they are heard in the various matters that directly concern them, and protect them from both exclusion and exploitation.

We urgently call on the Tunisian government to

- a. Guarantee freedom of expression for all children;
- b. Ensure the right to form and join associations and peaceful assembly;
- c. Expedite the review and improvement of laws in order to implement the rights of children in general without any restrictions or conditions;
- d. Base legislative reforms affecting the participation of children and adolescents on the provisions of the Tunisian Constitution and the International Convention on the Rights of the Child, including Article 12 of the Convention on respect for children's rights to expression, Article 15 on freedom of association, and on the General Comment of the Committee on the Rights of the Child on the right of the child to be heard CRC/C/GC/12;^{iv}
- e. Respect non- regression principal when it comes to the established children's rights;
- f. Recognize the necessity of issuing a legal text related to local participation to ensure that children are heard;
- g. Recognize the necessity of establishing a legal text for local participation to ensure the children are being heard;
- h. Establish a national policy that lays out clear mechanisms to ensure that children are heard in all areas and procedures that concern them;
- i. Refrain from using children in political disputes, whether at the legislative or advisory levels;
- j. Ensure that children and young people of all ages are supported and encouraged to form their own associations and initiatives;
- k. Support initiatives related to listen to children at national, regional and local levels;
- l. Work on taking children's views into consideration and not just hearing them;
- m. Allocate adequate budgets.

Violence against children:

Physical violence:

17. When it comes to addressing violence against children, Tunisia has adopted a policy that relies mainly on its national legislation, starting with the issuance of the Child Protection Code in 1995, especially its article 20 regarding forms of threats and article 24 that defines “normalized abuse”. In addition, the Law No. 40 of 2010 amending the provisions of Chapter 319 of the Penal Code, covers the exclusion from punishment of those responsible for raising children. Children’s rights have been guaranteed in accordance to the 2014 constitution provisions, namely articles 38, 39, 47 and 48 and moreover with the promulgation of organic law No. 58 of 2017, regarding the elimination of violence against women and children.
18. While the multiplicity of these texts can be considered important legislative achievements to provide better protection for children from all forms of abuse and mistreatment, the situation is in fact characterized by a large disparity between the texts and their application.
19. The statistical report issued by the Child Protection delegates for 2019 indicates that the figures available to them do not reflect the reality of violence against children, as “the available figures and data related to the detection and identification of children who are exposed to various types of threats are not representative of the reality of the situation. [...] What is unknown to the system is quantitatively more significant than the cases that have been uncovered.”^v
20. The absence of an independent monitoring and follow-up mechanisms, which confirms the weakness of government mechanisms in handling incidents.
21. Nevertheless, our associations encourage the Tunisian government to pursue efforts aimed at eliminating the practice of violence against children and ensuring that all forms of impunity are addressed.
22. We consider that the measures taken by the state in light of violence against children remain timid and insufficient, taking into consideration the heavy social legacy imprinted with socially accepted violent disciplinary methods.

We thus call upon the Tunisian government to:

- a. Effectively enforce the prohibition of corporal punishment in all circumstances;
- b. Take concrete and effective measures to combat impunity for perpetrators of violence against children;
- c. Expedite the reform of the Child Protection Code to ensure appropriate care for children victims of violence and children witnesses of violence;
- d. Develop a comprehensive strategy to prevent and combat all forms of violence against children, including domestic violence, neglect and sexual abuse, and implement awareness-raising and education programs, with the participation of children;
- e. Intensify awareness-raising and capacity-building programs, especially for children, parents, teachers, and social protection workers;
- f. Work to establish an independent monitoring and follow-up mechanism;
- g. Allocate sufficient resources.

Sexual violence:

23. Tunisia has accepted the recommendations Nos. 125-150, 125-151, 125-152, 125-153 submitted by the Human Rights Council regarding addressing sexual violence against women and girls, and responded positively, through the issuance of organic law No. 58 of 2017^{vi} relating to eliminating violence against women. By doing so the amendments of articles 227 and 227 bis of the Penal Code are related to rape and the inclusion of both male and female children into the definition of crimes of sexual violence against children, and secondly to sexual assault of a female with her consent under the age of legal majority.
24. Organic Law No. 58 of 2017, although being crucial in reviewing the provisions relating to children's protection from sexual exploitation, did not specify the age of sexual maturity for children and did not address or regulate sexual relations between children. Thus, exposing children between the ages of 16 and 18 years to being judged by a set of regulations and laws intended to the elderly aggressors, even if there is consent between both parties.

Accordingly, our associations suggest:

- a. Determining the age of sexual majority among adolescents;
- b. Expedite the development of procedures and provisions for adolescents who commit sexual assaults;
- c. Decriminalization of sexual relations between adolescents, in which the elements of sexual maturity and consent are present.

Child trafficking:

25. Our associations welcomed Tunisia's fulfilment of its international obligations resulting from its ratification of the Palermo Protocol on the Criminalization of Trafficking in Persons, and the diligent work done in this regard. This was manifested in the issuance of Organic Law No. 61 of 2016^{vii} related to the prevention of trafficking in persons, the creation of the National body to Combat Trafficking in Persons in 2017, and the issuance of its first report in 2019.^{viii}
26. Our organizations observe the results of the work of the National Anti-Trafficking body with satisfaction and the quality of its report issued in 2019, especially the way it deals with issues related to children trafficking.
27. However, it has to be noted that this achievement has been weakened by the absence of mechanisms for dealing with child victims of trafficking, the complete absence of any measures to allow their re-integration, and the reliance on the numbers contained in the reports of the delegation for children protection.

In view of the inadequacy of procedures, we encourage the Tunisian state to:

- a. Establish a database for the national body to combat Human Trafficking and not rely on the numbers mentioned in the reports of the delegation for child protection and the other government reports;
- b. Allocate a sufficient budget to ensure publicity around the national body and the nature of its activities, since the number of cases that directly contacted the authority has not exceeded 21 cases;^{ix}
- c. Expedite the development of mechanisms and procedures relevant to ensuring that the state pays the costs of

- treatment and psychological care for victims;
- d. Develop clear work programs and adequate budgets for the re-integration of children victims of trafficking crimes.

Quality of education:

An incomplete reform path:

28. Our organizations and associations salute the Tunisian government's approach in the national legislation towards children's rights around compulsory and free quality education without any form of discrimination. These rights are also included in the Tunisian Constitution, in article 39 regarding compulsory and free education^x, and in article 4 of the Law on Education regarding free education and equal opportunities for all children.^{xi}
29. We also appreciate the multiple and continuous attempts to reform the Tunisian educational system, the latest of which was the announcement made by the current Minister of Education in January 2022, regarding a new program to reform the primary educational system, starting from February 2022.
30. As our associations express their support for such reform efforts, they regret the continued failure of all these attempts and the lack of results. We consider that this failure is due to improvisation and the absence of a clear national vision and policy in the field of education.
31. Meanwhile, it is shameful that reform programs depend on the intentions and judgments of officials instead of relying on scientific evaluation based on clear and accurate standards and indicators.

Decline in quality and rise in absence and drop-outs:

32. Tunisia ranked 84th in the global quality index issued by the World Economic Forum in Davos in 2021^{xii}. This position related to the educational quality indicators is a clear evidence of the continuous failure of the educational policy in the country, if not its complete absence.
33. Moreover, this adds to the continuous and dangerous rise in the school drop-out rate, which rose from 100,000 students between 2012 and 2013 to 109,333 in 2018.^{xiii}
34. The dropout includes all educational levels: secondary (50,055), lower secondary (42,882), primary (10,639), although education is compulsory from the age of 6 to 16.
35. In addition, 55,000 adolescents are at risk of dropping out of school each year according to UNICEF statistics.^{xiv}
36. The ranking led the parents to resort quickly, and perhaps with blind confidence in some cases, to private sector education. This has also been a result of the state's general policies and its positioning towards reducing the burden of the public education system on the state budget, while throwing this burden on the shoulders of the families.
37. The quality of education declined, and free education turned into a mere slogan. In reality, Tunisian families incurred material expenses in order to educate their children.
38. The most dangerous phenomena is the Tunisian educational system's loss of unity, which for decades represented one of the manifestations of its strength and a factor for its success.

Discrimination is an essential driver of the educational system:

Discrimination against immigrants and refugees

39. The Tunisian educational system's problems do not only affect the quality and dropout rates, but also extend to the right to access to education itself, a right struck by many shortcomings.
40. The system does not cater for the integration of refugee and immigrant children. This comes in addition to problems related to language barriers and the absence of training for those working with refugee or immigrant children.^{xv}

Discrimination against girls and entities:

41. Discrimination also significantly affects poor groups and regions with high dropout rates tied to social and economic status. The main reasons for girls dropping out of school are school failure in 48% of cases, followed by total disinterest in education for 30%, and an inability to cover school fees for 28% of cases.^{xvi}
42. Additionally, the lowest rates of school enrolment and the significant increase of the number of girls leaving school to work as "house helpers" were recorded in the north and center-west regions. These dropouts are driven in order to support themselves and meet the needs of their families.^{xvii}
43. This exposes them to other risks and abuses such as rape and sexual assault.^{xviii}

Discrimination against children and adolescents with non-normative sexual identities:

44. Children and adolescents with non-normative sexual orientation and gender identities face discrimination and bullying within the school environment, not only from their peers but also from the educational personnel, which may lead to an increase in their absenteeism rates, a decline in their academic level, their isolation as well as dropouts.
45. In a demographic study that included 288^{xix} people, 10% expressed that they had to leave school because of their sexual orientation or/and their gender identities or/and their gender expression.
46. In a study that included 300 people and was related to violence based on sexual orientation^{xx}, gender identities and included violence within the school setting and violence by the educational personnel, 41% of the respondents expressed their exposure to verbal harassment in the school environment at least once, 25% to physical harassment, and 10% of them experienced frequent and serious physical violence.
47. 65% of surveyed, indicated that they were subjected to forced disclosure of their sexual tendencies by the educational personnel, and 35% of them were exposed at least once to touching their sensitive areas or forced to touch the sensitive areas of others, while 22% of them indicated being subjected to rape or attempted rape.
48. We express our deep concern about these results, and note that the seriousness of this situation has led to the deterioration of the public education's value, a decline in the right to access it, a decrease in schooling rates, poor yield, dropouts, high costs and violence on a qualitative level due to weak curriculum and pedagogical methods.

Inequality deepens during crises: COVID-19

Inequality and discrimination have deepened during the COVID 19 pandemic, the access to online education has been subject to multiple restrictions: equipment availability, network and connection quality, difficult social conditions, and the family environment.

49. Taking into consideration that only 36.7% of Tunisians have access to internet at home (related to the place of residence); with 44.1% in urban areas and 18.9% in rural

areas.^{xxi}

50. This is in addition to the high rate of violence against children during the Covid period, and the significant lack of awareness-raising campaigns about how to specifically deal with children during crises.

In the face of this dangerous reality for the future of our children and the future of our country, we call on the Tunisian government to:

- a. Urgently establish a comprehensive evaluation of the current educational system, based on scientific indicators and standards. These must be based on the priorities and actual needs of the country, and considered as the foundations for any educational reform process;
- b. Amend the Education Directive Law of 2002 to ensure innovations in educational curricula;
- c. Combat early school dropouts, improve the quality of school life as well as improve the students' relationship with school and the educational system;
- d. Reconsider private educational institutions;
- e. Ensure the unification of education in Tunisia and achieving the principle of equal opportunities;
- f. Provide appropriate training for the education staff working with refugee and migrant children with different needs;
- g. Address language barriers;
- h. Conduct awareness-raising activities aimed at putting an end to stigmatization of children;
- i. Train the education staff to ensure a non-discriminatory treatment and acceptance of others and differences;
- j. Increase the number of psychological and social interventions, and ensure psychological protection for children who are victims of social stigma;
- k. Amend the budget allocated to education to become more responsive to the needs of the sector;
- l. Consider the necessity of the state's obligation to provide all types of protection for all children without discrimination;
- m. Take into account the environmental issue when updating official programs;
- n. Enhance the youth's environmental awareness, and capability to be climate resilient
- o. Encourage educational institutions to establish partnerships with civil society to train young people in conflict resolution, sustainable use of resources and adaptation to climate crises (drought/floods);
- p. Launch a continuous national awareness campaign in cooperation with public opinion leaders targeting children to educate them about their environmental rights and duties towards their surroundings and ways to adapt to climate changes.

Appendix

Appendix

Appendix 1: References

- ⁱ <https://files.kidsrights.org/wp-content/uploads/2017/05/14215912/The-KidsRights-Index-2017.pdf>
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- ^{xix} LGBTQ+ People in Tunisia: A demographic study of the socio-economic situation of LGBTQ+ people in Tunisia
- ^{xx} Quantifying violence against LGBT individuals; political and legal issues
- ^{xxi}
https://www.unicef.org/tunisia/media/2986/file/SITAN-11-2020.pdf?fbclid=IwAR2aRKjH7vMtZ2i3fvlw05_kA3YPFuJL74vsZqixahZtIs--OVt2s0aYv7c

Appendix 2: Partners

1. **Amal Association for the Child and the Family:** a non-profit social development association, founded in Tunisia, in 2000. It aims not only to assist children with difficulties within the framework of human rights approach, but also to support single mothers. Thus, offering support for social and economic integration for single mothers who decide to keep their child, thus combatting children abandonment
2. **Our Students Association/ Tlamthetna:** is a human rights, educational, awareness raising association, founded on April. It aims primarily to defend students' rights inside and outside of educational establishments, and work in partnership with not only the Ministry of Education but also all Ministries involved in any children related matters.
3. **Children of the Earth Network / Réseau Enfants De La Terre:** Is an Association working on promoting sustainable development's principles, economical growth, and social justice. As well as preserving the environment and natural resources.
4. **MAWJOUNDIN** is an officially registered not-for-profit NGO that is based in Tunisia, and works towards achieving equality, human rights, bodily rights and sexual rights for the LGBTQI+ community and other marginalized groups and individuals through advocacy, documentation, capacity building, awareness-raising, safe spaces and lobbying. Page FB : /mawjoudin.tn; LinkedIn : /mawjoudin; Instagram : mawjoudin_we_exist; Twitter : @mawjoudin; Site web : www.mawjoudin.org YouTube : <https://youtube.com/channel/UC34XymcWejgyjbuTYnLowog>
5. **The Tunisian Education League /La Ligue Tunisienne de l'Education (LTE):** created in 2012, is a network of Tunisian associations operating in the education field, that work to help promote quality, fair and inclusive civic education for all.
6. **The Tunisian Scouts Sfax Section / Scouts Tunisiens section Sfax Hay Lahbib:** is association affiliated to the International Scouts movement
7. **The Tunisian Organization for the Defense of the Rights of People with Disabilities:** is an independent apolitical and non-confessional legal organization. The

7.

Association innocence



8. Lam Echaml



9. Association Jeunes Actifs



10. Association de Développement et d'Encadrement des Jeunes et de l'Enfance



11. Younga Solidaire Mahares



12. Tunisian Forum for Youth Empowerment

