Tunisia

Tunisia has a population of 10.9 Million, of which approximately 99% are Sunni Muslims. The remaining 1% are comprised of small Christian, Jewish, Shiite and Baha’i communities.

In 2011, Tunisia became the spark that ignited the transnational pro-democracy uprising known as the ‘Arab Spring’ when a young vegetable vendor, Mohamed Bouazizi, set himself on fire after suffering repeated humiliation by police officers. After 28 days of mass protests against authoritarianism, corruption, poverty, and political oppression, the Tunisian President Ben Ali officially resigned, putting an end to his 23-year-long rule.[ref]https://www.aljazeera.com/indepth/inpictures/2015/12/tunisian-revolution-151215102459580.html[/ref] Tunisia’s transition to democracy began soon after that, with some notable improvements: a progressive new constitution was adopted in 2014, legislative and presidential elections were held and laws were adopted to enshrine greater gender equality.[ref]https://www.hrw.org/news/2020/02/28/tunisiaunfinished-rights-business[/ref] However, restrictions on the rights of freedom of expression, religion or belief continue to persist.

Tunisia is a member of the League of Arab states (LAS), as well as the Organization of Islamic Cooperation (OIC).
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<td>The non-religious are barred from some government offices (including posts reserved for particular religions or sects) State legislation is partly derived from religious law or by religious authorities</td>
<td>Religious or ideological instruction is mandatory in all or most state-funded schools with no secular or humanist alternative</td>
<td>Systemic religious privilege results in significant social discrimination Prohibitive interreligious social control (including interreligious marriage bans) Religious control over family law or legislation on moral matters It is made difficult to register or operate an explicitly Humanist, atheist, secularist or other non-religious NGO or other human rights organization</td>
<td>Expression of core humanist principles on democracy, freedom or human rights is severely restricted ‘Blasphemy’ is outlawed or criticism of religion is restricted and punishable with a prison sentence</td>
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<td><strong>There is systematic religious privilege</strong></td>
<td><strong>There is state funding of at least some religious schools</strong></td>
<td><strong>There is significant social marginalisation of the non-religious or stigma associated with expressing atheism, humanism or secularism</strong></td>
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<td>Preferential treatment is given to a religion or religion in general</td>
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<td>Discriminatory prominence is given to religious bodies, traditions or leaders</td>
<td><strong>Criticism of religion is restricted in law or a de facto ‘blasphemy’ law is in effect</strong></td>
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<td>There is an established church or state religion</td>
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**Constitution and government**

After the Tunisian uprising in 2011, Tunisia undertook to create a new constitution. Continuing disagreement between Islamists and secularists caused delays, but it was finally agreed in January 2014. Key demands of the Islamist lobby were met, while other proposals were dropped. In general the influence of religion on society became more prominent in the first years after the Tunisian uprising than it was under the regime of former president Ben Ali.

The 2014 constitution begins with “In the Name of God, the Merciful, the
Compassionate” and ends with “And God is the guarantor of success.” The constitution is considered an expression of “commitment to the teachings of Islam”, recognizing an “Arabo-Islamic identity”, “desirous of consolidating our cultural and civilizational affiliation to the Arab and Muslim nation”. Clearly this language is exclusory of other ethnic and faith groups and flatters pan-Arabic and Islamist ambitions. Article 5 considers Tunisia as “part of the Arab Maghreb”.

Article 1 of the constitution declares that Islam is the state’s religion, and that “This article cannot be amended”, precluding any future secular reforms. Article 6 “guarantees freedom of conscience and belief, [and] the free exercise of religious practices” but stipulates that “The state is the guardian of religion”, which would appear to be a justification for blasphemy laws and the current criminalisation of any criticism of Islam. The state undertakes to disseminate “the protection of the sacred, and the prohibition of all violations thereof. It prohibits calls for Takfir (Muslim accusations of apostasy against other Muslims) and the incitement of violence and hatred.” Religious freedom can be restricted in the name of protecting the rights of third parties, national defense, public security, morality, and health.

Atheists and religious minorities are banned from the presidency, which is constitutionally restricted to those who hold “Tunisian nationality since birth” and “whose religion is Islam” (Article 74). In these terms there is little improvement over the 1959 constitution, which also stipulated that the official religion is Islam and that the state sought to “remain faithful to the teachings of Islam”. There were similar provisions stating that only a Muslim could serve as president.

The government subsidizes mosques and pays the salaries of imams. Local religious committees and imams must be approved by the religious affairs directorate. The president appoints the grand mufti of the state. The government allows the Jewish community to worship freely and pays the salary of the grand rabbi. It also provides some security for all synagogues and partially subsidizes some restoration and maintenance costs. The government recognizes all Christian and Jewish religious organizations established before independence in 1956. The government permits Christian churches to operate freely, and formally recognizes the Roman Catholic Church through a 1964 concordat with the Holy See.
**Education and children’s rights**

Islamic religious education is mandatory in public schools. The courses on Islam take up roughly one hour per week non-Muslims are able to request an exemption. The religious curriculum for secondary school students also includes the history of Judaism and Christianity.[ref]https://www.state.gov/wp-content/uploads/2019/05/TUNISIA-2018-INTERNATIONAL-RELIGIOUS-FREEDOM-REPORT.pdf[/ref] The state allows other religious groups to educate in private schools.

In public primary schools, textbooks for the Islamic education course emphasize the ethical and moral aspects of Islam. Religious tolerance toward Christians, Jews and nonbelievers is highlighted as a key Islamic value and the importance of pan-human solidarity is stressed.[ref]https://carnegie-mec.org/2012/08/13/religious-education-and-pluralism-in-egypt-and-tunisia-pub-49078[/ref]

**Family, community and society**

Codified civil law is based on the Napoleonic code, Islamic law (Maliki law school) and customary law. As in most Muslim-majority countries, Islamic law is mainly used in family and inheritance disputes. Tunisian family law is often seen as more progressive and liberal in women right’s, than other neighbouring countries. For instance, Polygyny was already banned in the first civil code under the first president Bourguiba in the 1950s and Tunisian women enjoyed in general a more liberal divorce law, whereas other Muslim-majority countries as for instance Morocco and Egypt introduced similar reforms only after the Millennium. Islamist party representatives tried to abolish Article 18 that bans men from having more than one wife at the time in the new constitution but failed. Tunisia is beside Turkey until today the only Muslim-majority country that prohibits Polygamy. In April 2014 the government lifted its reservations in the ratification of CEDAW, declaring however, not taking any decision that would conflict with “Islam as the state religion”. In November 2015 the parliament adopted a new law allowing women to leave the country with their minor children without the permission of their father.

First president Bourguiba banned women from wearing Niqab and Hijab in
schools, referring to the veil as a “miserable rag”. Later under Ben Ali as well, the ban (Article 102 of 1986) became a cause for harassment by security forces on the streets, as well as other visible signs of faith as the man’s beard. As a result for instance, university students who did not want to show their hair in public used a hat to hide it instead of the Hijab. Since 2011, however, the number of women wearing Niqab and Hijab on the streets has increased. But Islamist attacks and the resulting tightened procedural controls by the security officers of the state for security reasons led to media debates over a Niqab ban in public.[ref]tunisialive.net/2015/08/26/hijab-essebsi-tunisia[/ref]

In 2012 a young woman was raped by two police officers. In the following trial she was herself accused of indecency after being alone with her fiancé at the time the police officers found her. At the end the both police officers convicted of rape were sentenced 2014 to 15 year prison terms.

As of 2017, the Tunisian government took steps to allow women to marry outside of Islam, and to grant equal inheritance rights, despite strong opposition from religious groups. The Government passed legislation that is hoped to curtail violence against women, including the removal of a loophole that allowed rapists to escape punishment if they married their victims.[ref]theguardian.com/global-development/2017/sep/04/we-are-an-example-to-the-arab-world-tunisias-radical-marriage-proposals[/ref]

Although many Tunisians are deeply religious, the secularist policies of former presidents Bourguiba and Ben Ali have left traces in Tunisian society, including possibly a higher number of non-religious individuals than previously. The clash between conservative religious and more liberal opinion has led in recent years to public debate about enforcement of religious fasting. In 2013, Adel Almi, a Tunisian preacher, threatened to publish pictures of those who publicly disobeyed religious fasting rules during the month of Ramadan. A number of Tunisians reacted with a Facebook page posting pictures of themselves eating during the day. In the following years an online map was created, which marked all restaurants and coffee shops that stay open during the fasting period.

The old “Mzali circular of July 1981” called for closing cafes and restaurants during Ramadan, but was that time cancelled only two days after it was released by president Bourguiba. However, still today, numerous cafe owners are harassed and intimidated by security forces for keeping their cafes open during fasting
times. Former Tunisian minister of religious affairs Noureddine Khademi stated in July 2013 that opening cafes during fasting time in Ramadan was not permitted by religion and that “if a person doesn’t want to fast, he is free, but he doesn’t have the right to say it, much less do it, publicly.”[ref]al-monitor.com/pulse/culture/2014/07/tunisia-ramadan-restaurants-opening-hours-vague.html[/ref]

The sale of alcohol to Muslims is technically prohibited by the penal code, however, alcohol is sold freely, except on Fridays and the month of Ramadan.

**Freedom of expression, advocacy of humanist values**

The right to freedom of expression, including media freedom, was declared a foundational principle for the country at the dawn of the Arab Spring. In practice, this freedom remains contested, with more conservative and religious groups opposing expressions that criticize Islam or traditional social conventions. It remains to be seen whether the new constitution will provide the legal and institutional framework to better protect freedom of expression.

The Constitution provides for freedom of conscience and free practice of religion (Article 31) when it “does not disturb public order.” It is illegal for non-Muslims to proselytize Muslims, as the government views such efforts as “disturbing the public order.” The penal code restricts the freedom of speech by criminalizing speech that “causes harm to the public morals”. Another provision of the penal code criminalizes undermining public morals by “intentionally disturbing other persons in a way that offends the sense of public decency.” The telecommunications code criminalizes “harming others or disrupting their lives through public communication networks.” Speech that is deemed offensive to traditional religious values, including speech deemed blasphemous, is prosecuted under these provisions. Citizens have the right to sue the government for violations of religious freedom.

Further, violence and Islamist attacks since Tunisia’s transition in 2011 have led to restrictions on the freedoms of expression and association on counterterrorism grounds.
Although religious conversion is legal, some converts express concerns about threats of violence and a significant societal pressure against converting or deconverting out of Islam.

**Highlighted cases**

**Jabeur Mejri and Ghazi Beji (social media users)**

On 28 March, 2012, two atheist friends, Jabeur Mejri and Ghazi Beji were sentenced to seven and a half years in prison, and to a large fine, for posting images on Facebook deemed blasphemous. Mejri and Beji were put on trial following a complaint lodged by a group of residents in Mahdia. While Jabeur Mejri is in prison, his friend Ghazi Beji sought refuge in Europe. Mejri and Beji were convicted under Article 121 (3) of the Tunisian Penal Code, which states that: “The distribution, putting up for sale, public display, or possession, with the intent to distribute, sell, display for the purpose of propaganda, tracts, bulletins, and fliers, whether of foreign origin or not, that are liable to cause harm to the public order or public morals is prohibited.” After two years of international uproar and media attention, Jabeur Mejri received a presidential pardon in 2014.

**Testimonies**

“I will not shout from the rooftops that I am irreligious, but I don’t hide it. I am not obliged to tell it to everybody, because I think it is a personal thing. What would it help to tell it to my university colleagues for instance? It would just cause more problems for me. Anyway, if there are discussion on science, politics, or religion, you can figure out very fast that I am agnostic. Honestly, I don’t have a real problem due to my religious convictions. I have friends that are practising Muslims and female friends that wear the Hijab and they accept me as I am. At high school it was not always easy, but I think this was more linked to the fact that as a teenager we all tend to be a little bit mean.”

— Sarah

“I don’t talk a lot about my atheism. If I tell it to certain people, it is people with a certain intellectual level or very tolerant people, otherwise I would be marginalized and rejected by the most part of society. You shouldn’t tell that
you are an atheist if it concerns your work or professional life, because you would risk rejection. My family is very understanding and my mother is an atheist as well, however that is not the case for all atheists and the most of their parents don’t know that their children are atheists. It is like in other developing countries, there is no tolerance and especially none for minorities.”

— Ahmed