



The African Women's
Development and
Communication Network



Sida

POLICY BRIEF

TOWARDS BREAKING THE WALLS THAT DISREGARD THE HUMAN RIGHTS OF WOMEN & GIRLS

Female genital mutilation - Early and child marriage - Safe abortion



TUNISIA

NOVEMBER 2021

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HIGHLIGHTS

FEMALE GENITAL MUTILATION

- Female genital mutilation is reportedly not practised in Tunisia.

EARLY AND CHILD MARRIAGE

- Child marriage is as low as 2% in Tunisia, as compared to 18 years ago at 7%.
- The legal age of marriage is 18 years old for both men and women, only about 4% of children marry before the age of 18.

ACCESS TO SAFE ABORTION

- Tunisia is the only Arab country where abortion for social reasons has been legal for all categories of women since 1973 and it was the first African country to legalise mifepristone for medical abortion.
- Women seeking abortion services often experience traumatic physical and moral suffering forcing many women and girls to resort to illegal abortion.
- The strict lockdown placed a heavy strain on Tunisia's fragile sexual reproductive health right space in particular the supply of essential services which includes medical abortion pills.

SYNOPSIS

Female genital mutilation and child marriage harmful practices that are not highly practice in Tunisia, however that existing rate continue to threaten lives and the overall health and wellbeing of girls and women. Lack of access to safe abortion continues to present challenges for many women in the region driven by the deteriorating sexual and reproductive health which negatively impacts on women's rights and wellbeing. Any woman with an unwanted pregnancy who cannot access safe abortion is at risk of seeking alternative means of pregnancy termination procedures. Unsafe abortion has a profound effect on the lives of women and girls including morbidities, mortality, and disabilities. Safe abortion is a human right meaning that women and girls have a right to make choices about their lives. Safe abortion has frequently become the privilege of the rich causing health inequalities as wealthier women can afford to pay any qualified health provider using underground networks and most women in Tunisia are poor to benefit from such networks.

This policy brief first provides an overview of FGM, early child marriages, and access to safe abortion in Tunisia. It then analyses the legal system of Tunisia pertaining the above-mentioned issues as well as advocacy initiatives that attempt to end such practices and those that seek to improve access to safe abortion. The brief highlights notable progress, gaps and key challenges experienced in responding to these issues. Finally, the brief proposes some best practices and recommendations and solutions in fighting child marriages and improving access to safe abortion. This brief is a basis and a starting point to influence policy makers, role players and practitioners in order to develop broad strategies on the issues related to FGM, child marriage and access to safe abortion.

2022 policy
brief

BACKGROUND

FEMALE GENITAL MUTILATION

Female genital mutilation is reportedly not practised in Tunisia and there is no legal ban for the practice. In 2013, a member of parliament caused a storm by reportedly saying the FGM was “aesthetic.” However, this was dismissed as a practice which is not supported by the religion and culture.¹

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**FEMALE GENITAL MUTILATION IS
REPORTEDLY NOT PRACTISED
IN TUNISIA AND THERE IS NO
LEGAL BAN FOR THE PRACTICE**

”

EARLY AND CHILD MARRIAGES

Child marriages are rarely practised in Tunisia, despite legal exceptions to the age of marriage.² Child marriage is as low as 2% in Tunisia, as compared to 18 years ago at 7%. The legal age of marriage is 18 years old for both men and women, only about 4% of children marry before the age of 18.³ The majority of marriages of under the age of 18 are permitted, subject to the consent of their mother and guardian, and special approval from the judge. Customary or informal marriages are not officially recognised by the law; however, they are said to be widely practised as a way of circumventing formal laws regarding child marriage. In 2017, the law freed Tunisian women to marry non-Muslim. While this a great achievement, it also calls for a closer observation on the rise of child marriages as some strict religious figures would want to reserve culture and tradition.



ACCESS TO SAFE ABORTION

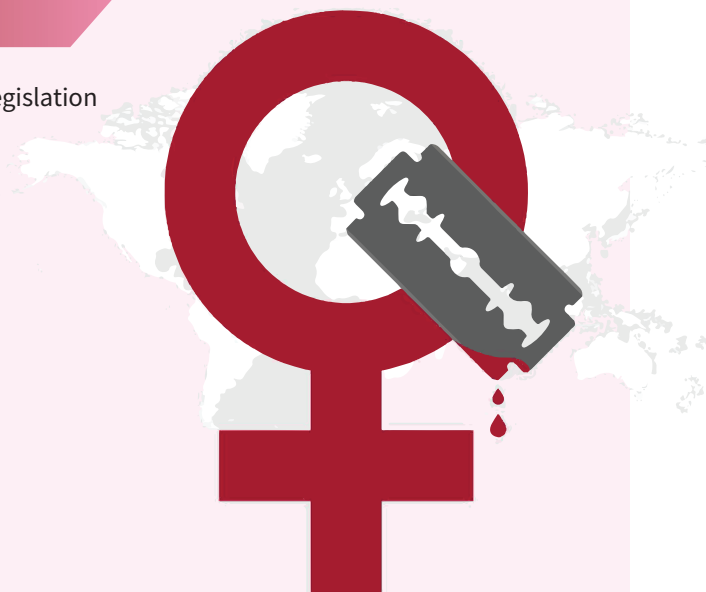
Despite Tunisia's liberal abortion law for more than 40 years, Tunisian women still face significant challenges accessing legal abortion for economic and organizational but also ideological and political reasons. There are various complex factors that are the main drivers for women's inability to access abortion services in Tunisia including the provider's negative attitudes towards the procedure, multiple socioeconomic and cultural factors, political transformations, the variability of rules in medical and administrative institutions, and contradictory interpretations of the legal apparatus.⁴ Attitudes toward the right to abortion in post-revolutionary Tunisia are problematic and that the democratization of local society has brought about unexpected consequences that do not extend but rather reduce women's rights in the domain of sexual and reproductive health⁵. Many religious people refuse abortion which has become more common since the 2010–2011 revolution.



POLICY & LEGAL FRAMEWORK

FGM

The IPU has no information on the existence of specific legislation



EARLY AND CHILD MARRIAGES

CHILD
NOT
BRIDE

Following significant reforms in 1956, the overarching legal framework for marriage is governed by a unified secular Personal Status Code and the Convention on the Rights of the Child. Forced marriages are prohibited under the terms of Article 21, which annuls marriages in contravention of Article 3 requiring mutual consent. According to the Constitution, neither customary nor personal law are recognised as valid legal sources.⁶

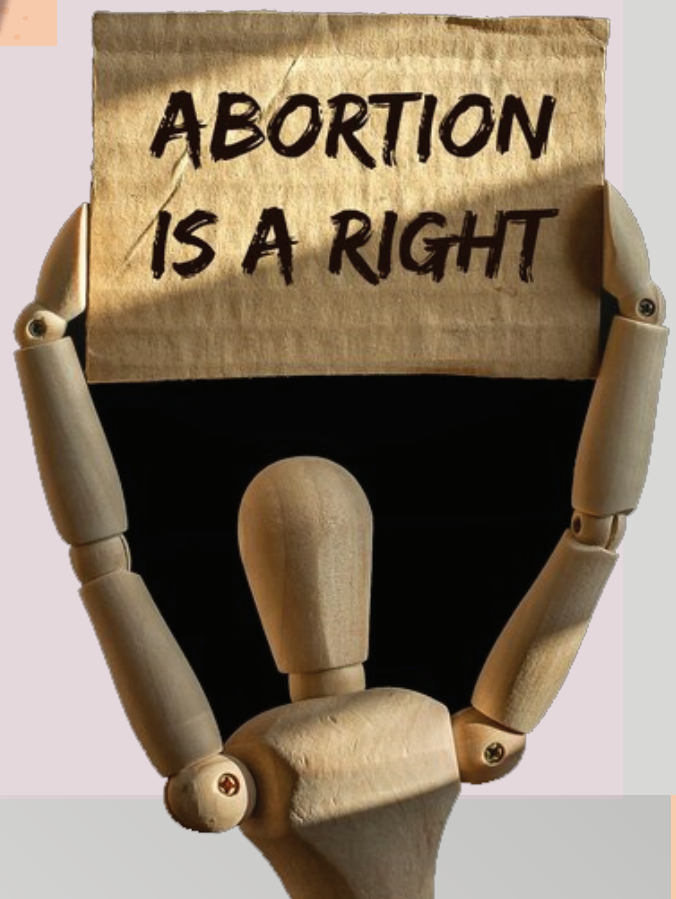
By law, the judge is only permitted to grant early marriages in case of “grave reasons”, and this must be “in the interests of the spouses”. Child marriage is void under Article 21 of the code, although there are no penalties for those facilitating or knowingly entering into such marriages. Children who were raped in many cases would marry their rapists, for an example, in 2013, the Tunisian court approved the marriage of a 13-year-old girl to a 20-year-old relative who made her pregnant. That caused an uproar largely from the civil society resulting in a bill that was proposed in 2014 and approved in 2017. The bill puts an end to impunity for rapists if their victims are under 20 and they subsequently marry them.

ACCESS TO SAFE ABORTION

Tunisia is the only Arab country where abortion for social reasons has been legal for all categories of women since 1973 and it was the first African country to legalise mifepristone for medical abortion. The law allows abortion in medical institutions under the authority of physicians until the end of the first trimester for married and unmarried women without marital consent at no cost. After the first trimester, abortion is permitted in cases of physical or mental health risks to the pregnant woman, or foetal anomaly.

Under the late President Habib Bourgiba, a family planning centre was set up in every region of the country as part of a broader policy strategy to promote women's rights. Despite all these efforts, abortion today remains taboo. Safe abortion advocates feel that the abortion law was not introduced as a women's right but as an exception in the section of the Penal Code regulating "murder."

Tunisia is the only Arab country where abortion for social reasons has been legal for all categories of women since 1973



CHALLENGES & GAPS

EARLY AND CHILD MARRIAGES

Child marriages exist at a very low percentage in Tunisia, however where it exists, it is often secreted, making it difficult to advocate.

ACCESS TO SAFE ABORTION

- In Tunisia where abortion has been legal for 47 years, many women still lack access to abortion services and with such difficulties, more than 1,000 babies are abandoned every year by unmarried women.
- Women seeking abortion services often experience traumatic physical and moral suffering forcing many women and girls to resort to illegal abortion.
- The 2008 global financial crisis, Arab Spring of 2010–2011, and increasing political liberalism, have raised concern about the availability of reproductive health services, including abortion in the country.
- Budget cuts have led to a reduced number of facilities offering abortion services in the country.
- A lack of data on abortion in both public and private facilities make it difficult to evaluate recent changes in abortion access.

CAMPAIGNS

In Tunisia, the issues of FGM are not known or very secreted if ever they exist. In this case there are no campaigns in this area. Child marriages are there at a very low rate and most of them are very concealed especially in the poor regions of Tunisia. The civil society usually uproars when a high-profile case of child marriage takes place.

Tunisia' sexual and reproductive rights health continues to deteriorate, in particular, access to contraception and abortion and this is exacerbated by unstable political situation as well as the Covid-19 pandemic. There has been more advocacy to draw the attention to policy makers to relook and amend current policies as a means to improve the worsening situation of sexual and reproductive health rights services. Activists have also been advocating for competent person to head the Ministry of Health, someone who will give priority to sexual and reproductive health. There have been campaigns on adequate budget and resources to ensure the continuity of sexual and reproductive health services on which includes safe abortion.⁷

COVID 19 IMPACT

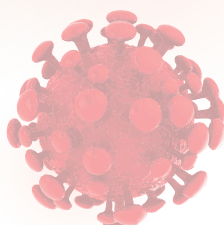


EARLY AND CHILD MARRIAGES

Although there is no detailed evidence on child marriage during Covid-19 lockdowns in relation to Tunisia, with economies shuttered and political systems increasingly strained there is obviously an increase of these cases particularly in the poor regions of the country.

ACCESS TO SAFE ABORTION

Abortion care constitutes essential health care and must remain available during the COVID-19 crisis. Restrictions on access to comprehensive reproductive health information and services, including abortion as well as contraception, constitute human rights violations and can cause irreversible harm, in particular to low-income women and those belonging to racial minorities and immigrant communities. Lockdowns, travel restrictions, supply chain disruptions, the massive shift of health resources to combat COVID-19 and fear of infection continue to prevent many women and girls from care. In Somalia, COVID-19 restrictions implied more unsafe abortions since abortion is mostly illegal in the country unless to save a woman's life. Increase in rape and religious barriers prevent women from reporting abuses – this has been worsened by the coronavirus.



THE ROLE OF MEDIA

THE ROLE OF MEDIA

There is less recorded evidence showing the role of the mainstream or community media in ensuring access to safe abortion in Tunisia. The civil society and research institutions are at the forefront of advocating for access to safe abortion and their work is highly visible in social media and research journal platforms. There are few instances of the media showcasing the lived experiences of people who are denied access to safe abortion and those who have used alternative ways of termination.



CONCLUSIONS AND RECOMMENDATIONS

Tunisia is one of the progressive countries in the Arab world to curb FGM and child marriages, however, it is crucial to improve data in order to totally eliminate such harmful practices. Despite the existence of a relatively liberal abortion law for more than 40 years, the sexual and reproductive health sector is facing serious challenges resulting in limited access to safe abortion and this is worsened by the Covid-19 pandemic. Abortion remains a stigmatized issue in Tunisia perpetuated both by culture and health facilities administrative. This hinders access to safe abortion, particularly for women living in poverty or places where access to effective contraception and safe abortion is limited or unavailable. To improve access to safe abortion in Tunisia, FEMNET recommends that:

CIVIL SOCIETY

There is a need for the civil society to be fully involved in order to play a key role in the development of emergency measures and national strategies, and their implementation in the context of safe abortion.

ADVOCACY

There is a need for strong advocacy interventions in the area of safe abortion which will include working with peer educators to educate girls and communities about the many dangers associated with unsafe abortion. Educating health care providers on access to safe abortion as well as how to attend to patients seeking abortion services. There is a need to create awareness coupled with evidence-based comprehensive sexuality education, and accurate non-biased and evidence-based information on abortion and contraceptive methods.

INFORMATION

There is a need of good referral system that can direct women to facilities with the right supplies, equipment, and availability of essential staff, to safe abortion services as well as post-abortion. It is important that health workers are trained to provide safe and respectful abortion care, to support informed decision-making and to interpret laws and policies regulating abortion.


REFERENCES


- ¹ Tunisia National Assembly
France-Presse, A. (2013, March 15). Tunisia's Islamist party 'against' Female Genital Mutilation. Retrieved from <https://rb.gy/rInto5>
- ² OECD. (2019). Social Institutions and Gender Index. Retrieved from <https://www.genderindex.org/wp-content/uploads/files/datasheets/2019/TN.pdf>
- ³ United Nations Children's Fund. (2018). Accelerating efforts to eliminate child marriage in Africa. New York: UNICEF.
- ⁴ Affes, I. M. (2019, December 9). The Right to Abortion in Tunisia after the Revolution of 2011: Legal, Medical, and Social Arrangements as Seen through Seven Abortion Stories. *Health and Human Rights Journal*. Retrieved from <https://rb.gy/jaq56i> (Raifman, S., Hajri, S., Gerdt, C., & Foster, D., 2018)
- ⁵ Raifman, S., Hajri, S., Gerdt, C., & Foster, D. (2018). Dualities between Tunisian provider beliefs and actions in abortion care. *Reproductive Health Matters*, 26(52), 159-169. Retrieved from <https://www.jstor.org/stable/26605076>
- ⁶ OECD. (2019). Social Institutions and Gender Index. Retrieved from <https://www.genderindex.org/wp-content/uploads/files/datasheets/2019/TN.pdf>
- ⁷ Cheikh, G. T. (2020, August 13). National Tunisian Women's Day Call for an Emergency Action Plan. Middle East, Tunisia: International Campaign for Women's Right to Safe Abortion.

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Women & Girls

Female genital mutilation • Early & Child mariages • Safe Abortion

Tunisia

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