

# Tunisian women in politics: From constitution makers to electoral contenders

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>>> The role of women in Tunisia's democratic transition has attracted much attention. Heirs to a reformist tradition introduced by Tunisia's first post-independence president, Habib Bourguiba, Tunisian women early on enjoyed more rights than their regional and some of their international counterparts. The paternalist Bourguiba regime had promoted gender-related reforms as part of a broad programme of social transformation toward a strong modernist state, which were continued by the self-interested Ben Ali regime to divert Tunisia's international partners' attention from more serious issues such as severe restrictions on political freedoms and human rights abuses. These reforms were decisive for the creation of a reformist tradition that paved the way for women's participation in the transitional process as both protesters and legislators following the 2011 uprisings.

Promulgated on 13 August 1956, a few months after independence, the Tunisian Personal Status Code (PSC) profoundly reformed family law in terms of marriage, divorce and custody, expanding women's rights by introducing pioneering provisions such as the abolition of polygamy. Women's right to vote and be elected introduced the following year placed Tunisia at the forefront of the region in terms of gender legislation. But this reformist policy was developed through a unilateral top-down approach under both Bourguiba and his successor Ben Ali. Later on, the restriction of the public space, in particular under Ben Ali's authoritarian regime, strongly limited the role of women's organisations

## HIGHLIGHTS

- Tunisia's post-2011 transitional process confirmed the country's position at the forefront of women's rights in the region, with a strong involvement of women as protesters, constitution-makers and electoral contenders.
- Women decisively impacted the Tunisian constitution-making process and contributed to entrench the parity principle in Tunisia's legislation.
- Increased efforts and mobilisation of the state, political parties and civil society actors to turn women's constitutional gains into political practice are critical challenges for the future of Tunisia.

»»»»» that had started to emerge in the 1980s and 1990s. They were either tolerated by the regime – with the aim of constituting a bulwark against what was perceived at the time as the rising threat of Islamist fundamentalism, the *bête noire* of Ben Ali’s regime – or co-opted by it, in an attempt to portray Tunisia as embracing modernity, *inter alia*, under the heading of state feminism.

The wave of protests in winter 2010-2011 that resulted in the fall of the Ben Ali regime, far from being guided by gender-based issues, was supported by demands for freedom and dignity and to end socio-economic marginalisation. Women’s rights were not a priority of the ensuing Tunisian constitution-making process either, whose main task was to establish new institutions to break with decades of authoritarian rule. Both processes, however, marked a turning point for the role of women in the public space, as they opened unprecedented opportunities for women to be directly involved in the promotion of their rights.

### **THE PATH TO REPRESENTATION: PARITY, STEREOTYPES AND PARTY POLITICS**

In an attempt to encourage female participation in the 2011 National Constituent Assembly (NCA) elections, the new electoral code adopted in the aftermath of the revolution introduced the principle of vertical parity. According to this innovative provision, male and female candidates had to alternate for a party’s lists to be valid.

As a result, around 5,000 women were able to run in the October 2011 NCA elections. However, even though parties and independent candidates respected the letter of the law, they did not respect its spirit, as most of them failed to designate women as heads of lists. One of the few exceptions was the progressive coalition, the *Pôle Démocratique Moderniste* (PDM), which had 16 women heads in its 33 lists. In total, only 7 per cent of the roughly 1,500 lists presented were headed by women. This, combined with the fragmentation of the votes that often resulted in only

heads of lists being elected, produced an outcome that was below expectations in terms of female representation, although still remarkable compared to the number of women representatives in other regional and international parliamentary assemblies. In the October 2011 elections, 59 women were elected out of a total of 217 seats in the NCA, representing 27 per cent of the deputies. Notably, 42 belonged to the Islamist party Ennahdha (which won 41 per cent of the total vote). The principle of vertical parity also enabled more women to join the NCA later in the process, as some male representatives resigned or died, and according to NCA rules of procedure these should be replaced by the next candidate on their electoral lists – a woman according to the vertical parity principle. The final number of women deputies reached a total of 67 members (31 per cent), by which Tunisia outpaced by far not only the Arab region’s average of 17.8 per cent, but also the European (25.3 per cent) and the US (25.6 per cent) ones.

By securing almost one-third of the seats in the Constituent Assembly, women deputies were in a position to decisively influence the drafting of Tunisia’s new constitution. Women were represented in most NCA decision-making bodies: Meherziya Laâbidi, a leading member of Ennahdha, was appointed First Vice-President of the Assembly, and three out of the seven members of the bureau supporting the President of the Assembly (‘assessors’) were also women. Numerous women deputies also joined the six constituent committees in charge of drafting the various chapters of the constitution. Some were appointed rapporteurs within these committees, but only one, Farida Laâbidi (Ennahdha), was named president of a constituent committee, albeit of a particularly significant one: the sensitive rights and freedoms committee in charge of addressing most issues related to women’s rights.

But women NCA representatives did not constitute a homogenous group. Having very diverse educational levels and professional backgrounds, and ages ranging from 23 at the time of the election (the youngest NCA member) to between 60-

70 years old, women deputies were above all characterised by their diverse political experiences and ideological leanings.

As such, addressing constitutional issues – in particular gender-related ones – through these various lenses and experiences, and attempting to reconcile views that ranged from extremely liberal to more conservative ones, constituted one of the main challenges faced by women NCA representatives. Despite their overall agreement that women's rights should be maintained and – if possible – advanced, the deputies' diverse backgrounds and political affiliation, as well as their sometimes-diverging conceptions of what should be the role of women in society, influenced their decisions and sometimes led them to defend different interests. As a means to share ideas and promote women's issues beyond party lines, the creation of an informal women caucus was proposed early on in the process.

However, internal disagreements and above all the reluctance of their own parties to see some of their members acting outside their control quickly brought an end to this initiative.

## Political parties must increase their efforts to promote women in party leadership positions

Women outside the NCA also faced challenges related to constitutional work. The various members of women's organisations who mobilised during the process encountered the same difficulties of reconciling diverging ideological backgrounds and dealing with social stereotypes as did their parliamentary counterparts. However, through their presence in – sometimes rivalling – marches and demonstrations, as well as their participation in consultations organised by the NCA to comment on the various constitution drafts, civil society actors brought an additional feminine voice to the process and contributed to draw greater attention to women's issues.

This direct commitment of women at both the NCA and civil society levels and the opening of a

genuine public debate on gender issues contributed to the emergence of a new bottom-up approach to women's issues that broke with the previous regimes' top-down policies. But above all, it brought to the NCA a topic that was not a priority initially.

## WOMEN'S RIGHTS IN THE NEW CONSTITUTION

While the question of women raised heated debates during the NCA electoral campaign, especially between the broadly defined 'secularist' and Islamist camps, interest for gender issues was not immediately reflected in the constitutional debate. Some of the most critical changes in terms of women's rights were actually only effected during the very last phase of the article-by-article vote on the constitution.

The debate on women's issues was also distorted from the very beginning by the climate of mistrust that emerged between secularists and Islamists during the electoral campaign and which persisted throughout the constitution-making process. The secular camp had sought to position itself as the defender of women's historical gains and feared that the Islamists' more conservative positions could bring about a regression of the modernist legislation in place since the 1950s. The Islamists' relative victory in the NCA elections – securing 89 of the 217 seats, thus forming the largest parliamentary group, including the largest group of women – did little to reassure the more secular members of the NCA about the future status of women in the new constitution.

Along the drafting process, the gender debate thus revolved almost exclusively around the principle of 'equality', and the Islamists had to constantly demonstrate their good intentions with regard to women's rights. But the prevailing suspicion led to serious blockages in the constitutional debate.

The first crisis emerged in August 2012 regarding a provision included in the first draft of the con-

»»»»» stitution. Article 28 on the status of women provoked a serious controversy. It stipulated that:

*The state guarantees the protection of women and supports their achievements, considering them as men's veritable partners in building the nation, and the roles of men and women complement one another within the family [...] The state guarantees equal opportunity between men and women in carrying out different responsibilities. The state guarantees the elimination of all forms of violence against women.*

A mistranslation of the concept of 'complementarity', which was interpreted as contradicting the equality principle, was widely commented by national and international media, and provoked a heated controversy that resonated far beyond the walls of the NCA. Opposition parties and feminist organisations, as well as ordinary citizens, mobilised in mass to denounce the article. A major demonstration was held on 13 August 2012, Tunisian Woman's Day. In order to appease tensions, NCA members removed the provision from later drafts and replaced it in the final text by another that stated that 'all male and female citizens are equal in rights and duties' (Article 21).

The second major crisis occurred during the very sensitive final stage of the article-by-article vote and revolved around the wording of Article 46 on the protection of 'women's achieved rights'. Initially broadly defined as 'women's gains' by the constitution's drafters, this was interpreted by some opposition members as including 'gains from the religion', thus leaving the door open to a regressive interpretation of previous women-related legislation. The controversy resulted in a blockage of the entire voting process and was only resolved through the formulation of a new and more consensual article, which included a provision on parity: 'The state shall implement the parity between men and women in elected assemblies'. This was possible due to the joint efforts of a pressure group within the NCA – mainly women from various parties – and was later acknowledged as a major achievement of the new Tunisian constitution.

## **THE WAY FORWARD: BUILDING UPON THE SPIRIT OF THE CONSTITUTION**

Constitution-making does not end with its adoption. Women's political participation, although promoted in various articles of the constitution, now has to be implemented. According to the constitution, the state has only an obligation of means but not of results in this regard. This means that sustained mobilisation by female politicians and civil society actors will be needed to encourage the state and political parties to increase women's opportunities to really participate in public life.

The elaboration of a new electoral law framing the 2014 legislative and presidential elections was a first test for the implementation of the new constitution. Beyond the vertical parity on candidates' lists that was already introduced in 2011, the initial draft law presented to the Assembly included a provision for horizontal parity, aimed at ensuring equal representation of men and women as heads of lists. However, this provision was not approved and the parity principle remains the same. Despite the lack of progress in this regard, it must be acknowledged that the vertical parity principle has become an integral part of the Tunisian legal *acquis* and has not been questioned since it was first introduced in 2011, during neither the constitutional nor the electoral law debates. This *acquis* enabled Tunisian women to set a new electoral record during the legislative polls of 26 October 2014, securing 68 seats (31 per cent) in the new parliamentary Assembly.

But additional efforts are still needed to turn legal theory into political practice. Political parties and independent candidates that ran in the October 2014 legislative polls – notably those who supported the horizontal parity principle and promised to implement it regardless of the law – failed once more to appoint a sufficient number of women as heads of lists. Of around 1,300 candidates' lists, only 145 were headed by women (less than 10 per cent), while 47 per cent of the candidates were women. Reluctance of politicians to put into practice the principles they sometimes vocally support shows that there is still some way to go before equality overrides short-term political calculations.

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The 2014 presidential race is even more telling with regard to women's political participation: only one of the 27 presidential candidates – judge and former President of the Tunisian Association of Magistrates Kalthoum Kannou – is a woman, who is running as an independent candidate. Political parties must increase their efforts to promote women in party leadership positions (they are practically absent) in order to strengthen their capacity and ability to become political leaders and potential candidates in future polls. So far, there are only few notable exceptions such as the Secretary General of Al Joumhouri party, Maya Jribi, or the numerous women represented in Ennahdha's powerful Shura Council – even though the members of this party's Executive Bureau are still all men.

There is also a need to promote women in non-elected public positions beyond electoral periods, including in local and regional public administrations. The successive Tunisian governments during both the previous regimes and the transitional period have poor records in terms of women in key ministerial positions. The most striking case is the position of governor, which seems to remain the exclusive preserve of men. In Tunisia's modern history, only one woman, Saloua Mohsni Labiadh from the former RCD, has ever been appointed governor, of Zaghuan from 2004 to 2008.

Deeply-rooted mentalities seem to remain the main obstacles to a larger participation of women in political life, in spite of constitutional advances. Civil society actors should continue the constructive work initiated during the constitution-making process and actively seek to raise awareness on women's constitutional rights, as well as their capacities to be active members of their communities. The increased representation of women in the new legislative Assembly should also provide a renewed opportunity for women to be at the forefront of the promotion and implementation of their rights. What coalitions will emerge from the new political configuration of the Assembly and whether parties holding opposing views will be willing to cooperate remains unclear at this stage. Nevertheless, whatever their parties' choices, women should try to collaborate beyond party lines

on issues of common interest – notably women's rights – and revive the constitution-making spirit to further promote their constitutional gains.

## CONCLUSION

Throughout the two and a half years of the constitution-making process, the language related to women's rights dramatically evolved. It has not only preserved the rights acquired thus far by women in Tunisia but it also encourages the state to support and further extend these rights. But the process has not been free of challenges for women and all actors involved, and new obstacles could emerge in the subsequent phase of implementation of the text. The election of a larger number of women in the new legislative Assembly is a positive step toward ensuring the implementation of constitutional women's rights, but sustained vigilance and mobilisation, especially from civil society actors, as well as renewed efforts from political stakeholders, are necessary to move from legal theory to concrete practice. Building on the spirit of the new constitution is thus the next challenge for Tunisian stakeholders, if their country is to retain its prominent place as promoter of women's rights and political participation in the Arab world.

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