



HUMAN
RIGHTS
WATCH

“So What If He Hit You?”

Addressing Domestic Violence in Tunisia



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“So What If He Hit You?”

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Glossary

CEDAW: the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), adopted in 1979 by the United Nations General Assembly, is an international legal instrument that requires countries to eliminate discrimination against women and girls in all areas and promotes women's and girls' equal rights.

Domestic violence: refers to the exertion of physical, psychological, sexual, or economic violence against women by family members and/or (ex)partners.

Family violence: refers to violence committed by fathers, brothers, uncles, in-laws, and other family members, and other relatives.

Femicide: refers to the intentional murder of women because they are women. It is the most severe form of violence against women.

Male Violence against Women: while legislation tends to refer to “violence against women,” violence against women is a male issue. It is the cause and consequence of the patriarchal order that fosters men’s social, economic, and political domination over women. While women, including female relatives, also commit acts of violence against other women, the overwhelming majority of abuses against women are inflicted by men.¹

Ministry of Women: refers to the Ministry of Family, Women, Children and Seniors.

Survivor(s): refers to women who have experienced physical, psychological, sexual, or economic forms of male violence against them.

¹ UN Women, “Facts and Figures: Ending Violence against Women,” <https://www.unwomen.org/en/what-we-do/ending-violence-against-women/facts-and-figures> (accessed October 10, 2022).

Acronyms

ADDCI Association pour le Développement Durable et la Coopération Internationale de Zarzis (Association for Sustainable Development and International Cooperation of Zarzis)

AFC Association Femme et Citoyenneté (Association Women and Citizenship)

ASF Avocats Sans Frontières (Lawyers Without Borders)

ATFD Association Tunisienne des Femmes Démocrates (Tunisian Association of Democratic Women)

CREDIF Centre de Recherches d'Etudes de Documentation et d'Information sur la Femme (Research Center for Documentation and Information Studies on Women)

CNAV Coalition Nationale Civile pour l'élimination des violences à l'encontre des femmes et des filles (National Civil Coalition for the elimination of violence against women and girls)

LBT Lesbian, bisexual, and transgender

LGBT Lesbian, gay, bisexual, and transgender

ONFP Office National de la Famille et de la Population (National Office of Family and Population)

Summary

My father was very violent with me, and my mother treated me differently from my siblings. I thought that by getting married I'd escape my family's violence. But it only got worse. My husband started beating me on our wedding night. I had my period and did not want to have sex, but he wouldn't accept it. He hit me, held me down, and forced me to do things. He calls me a worthless whore all the time. In bed, he forces me to do things that make me so ashamed I cannot pray and face God for days. I clean every inch of our house but he always finds a reason to beat me.

I didn't want to complain, but in March 2021, he hit me on the head with a brick. He said he could see the devil in me and that he wanted to destroy me. I had no choice but to complain. I got a medical certificate from the hospital that prescribed seven days of rest. I went to the police to show them the certificate and the death threats that my husband had sent me on WhatsApp. But after my husband spoke with them, the police dissuaded me from filing a complaint. The following day, I went to court to file a complaint there. Meanwhile, my husband apologized, and I dropped the complaint.

He became more violent. In September 2021, I went to a different police station to ask for a protection order. They refused to help me, so I went to court. When they refused to help me too, I opened the window to jump off the tribunal's second floor. Someone held me back.

I know my husband won't change. He tells me he isn't scared of the police. He knows I won't try to complain anymore because I have no money and nobody to support me. If I did put him in jail, what would happen to me? Who else will look after me? How will I survive with two kids on [his post-divorce financial support] of 250 dinars (US\$80) a month? My family doesn't want to take me and my children in. If I didn't have kids, I would just live on the street. I've called shelters but they rarely answer the phone

and when they do, they say they can't take me in. I feel like I am walking to my own grave.

As of September 2022, “Nahla,” a 40-year-old from Ben Arous interviewed by Human Rights Watch, was still living with her husband.²

Key Findings

Nahla's experience reflects how the compounded failures of different authorities can leave women with no alternative than living with an abusive partner, leaving them at risk of abuse and femicide.

Women have reported harrowing experiences of domestic abuse to Human Rights Watch. Men had locked them up; beaten them with objects; threatened to kill them; raped them; forced them to work for them in austere conditions without compensation; deprived them from food while pregnant; confiscated their money; abandoned their household; or verbally humiliated them, daily, at times in public.

During 2021, the police registered nearly 69,000 complaints of violence against women and girls.³ The most recent national survey on violence against women, published in 2010, reported that half of Tunisian women had experienced at least one form of violence in their lives.⁴ The real magnitude of domestic violence is however difficult to gauge, in part due to poor data collection and the social and economic pressure on women to tolerate men's violence.⁵

² Names first introduced in quotation marks indicate the use of pseudonyms chosen by respondents –as in Nahla's case or by Human Rights Watch.; Human Rights Watch with “Nahla,” Tunis, Tunisia, December 8, 2021.

³ See official publication about preliminary findings of the 2022 Annual Report of the Ministry of Women on the Elimination of Violence Against Women (ARABIC) Available at: <http://www.femmes.gov.tn/ar/2022/08/08/%d9%88%d8%b2%d8%a7%d8%b1%d8%a9-%d8%a7%d9%84%d8%a3%d8%b3%d8%b1%d8%a9-%d9%88%d8%a7%d9%84%d9%85%d8%b1%d8%a3%d8%a9-%d9%88%d8%a7%d9%84%d8%b7%d9%81%d9%88%d9%84%d8%a9-%d9%88%d9%83%d8%a8%d8%a7%d8%b1-%d8%a7-2/> (Accessed September 2, 2022).

⁴ National Office for Family and Population and the Spanish Agency for International Cooperation for Development, *Enquête Nationale Sur La Violence A L'égard Des Femmes En Tunisie*, 2010, pp. 67-68, <https://evaw-global-database.unwomen.org/en/countries/africa/tunisia/2010/enquete-nationale-sur-la-violence-a-legard-des-femmes-en-tunisie> (accessed December 20, 2022).

⁵ Ibid.

This report examines Tunisian authorities' response to domestic violence, five years after the adoption of Law 2017-58 on the Elimination of Violence Against Women (hereafter Law-58), one of the most progressive legal framework aiming to eliminate physical, moral, sexual, economic, and political forms of violence against women in the Middle East and North Africa.

Law-58 has introduced progressive prevention, protection, and prosecution provisions, and assured survivors' access to appropriate services. It introduced unprecedented protection measures and orders aimed at keeping abusers away from the spousal domicile and survivors. It toughened sentences for some crimes where the abuser is a family member or (ex-)spouse/fiancé and introduced new crimes relating to economic and psychological violence. The law also abrogated provisions that had allowed for the termination of proceedings or the quashing of convictions if a survivor withdrew her complaint; and provisions that had allowed for impunity or lenient punishment of abusers such as provisions that exempted a rapist from punishment if he married the survivor.

The adoption of Law-58 appears to have marked a distinct shift in public awareness of violence against women in Tunisia. The 2019 #EnaZeda (#MeToo) movement and the public communications around the five-fold increase in reporting of violence against women under Covid-19 lockdowns in Tunisia, likely also contributed to this change.

Overall, the report finds that, despite considerable legislative and institutional progress, and the genuine commitment of individual state officials and service providers to assist survivors, the insufficient allocation of financial means toward Law-58's implementation problematic attitudes among the police and judiciary have led to inconsistencies and failures in the state's response to domestic violence. Ultimately, a woman's ability to exercise the rights granted to her by Law-58 is contingent on the will of service-providers addressing her complaint; the proximity of savvy nongovernmental organizations to accompany her; and her individual characteristics and persistence.

Tunisia's 2022 constitution guarantees equality of women and men before the law, and Law-58 obligates the state to adopt measures to prevent violence against women including

to take every necessary measure to eliminate all discriminatory practices against women.⁶ However, women continue to face discrimination in law and practice that can leave them vulnerable to violence. Moreover, some of Tunisia's Constitutional provisions could be used to limit women's rights based on interpretations of religious precept.

The Ministry of Women in its 2020 report remarked that discriminatory codes and laws against women hindered the implementation of Law-58.

Tunisia's 1956 Personal Status Law, adopted shortly after its independence from France, was historic in how progressive it was in advancing women's rights compared to countries across the region as well as France and other European countries. However, discriminatory provisions that remain – for instance deeming men as heads of households, language that can suggest an obligation on spouses to conform to stereotypical gender roles, and discriminatory inheritance provisions – leave women more exposed to violence. Moreover, public morality laws and the criminalization of same-sex relations under Article 230 of the penal code may deter lesbian, bisexual, or transgender women (hereafter LBT women), as well as women abused by partners to whom they are not engaged or married, from reporting domestic violence to authorities to avoid risks of facing prosecution instead of receiving protection or justice.

State policies reinforce women's role as providing unpaid domestic care, and leave women financially dependent on men, contributing to their exposure to male violence against women, which comes with significant social, economic, and developmental costs for the state.

Law-58 also directed ministries and state institutions to prevent and combat violence against women including through education, training, detection, awareness raising, and providing information, care, and ongoing support to survivors.

However, efforts to inform women of their rights and the services available to them are deficient, especially among rural and illiterate populations. Street signage and banners indicating the location of support services and Law-58's key provisions in strategic venues

⁶ The Republic of Tunisia's Constitution, 2022, https://legislation-securite-tn.translate.google.fr/law/105310?_x_tr_sl=ar&_x_tr_tl=en&_x_tr_hl=fr&_x_tr_pto=wapp (accessed 2 September, 2022 (ARABIC)).

are rare. The detrimental impact of weak public communication efforts is compounded by the failure of overwhelmed, under-trained, or negligent frontline respondents to clearly inform women of their rights to protection orders, legal aid, shelter, and other support.

In a positive move, only six months into the law's implementation, the Ministry of Interior established 128 specialized units across the country for the elimination of violence against women dedicated to the investigation of cases of violence against women, as the law required. However, the specialized units are only operational during administrative hours and not all units guarantee privacy or include female staff to interview complainants. Problematic attitudes and practices in the response by specialized units and regular police officers to domestic violence persist. They include lack of communication of survivors' rights, dismissive attitudes, and continued recourse to pledges or family mediation that force women to reconcile with their abusers rather than informing them of their rights to protection under the law. Mechanisms to identify risks of femicide requiring immediate protection have not been rolled out throughout the country.

Law-58 provides for temporary protection measures that the police can request from prosecutors at the survivor's request, as well as longer-term protection orders that courts can issue without the survivor needing to file a criminal complaint or divorce. This permits authorities to forbid alleged abusers from approaching survivors and their children, while allowing survivors to remain safely in their homes while they decide on their next steps. UN Women describes protection orders as "among the most effective legal remedies available to complainants/survivors of violence against women."⁷ However, lack of available data on the number of protection measures or protection orders issued prevents an accurate assessment of their use and impact.

One of the biggest barriers that six women complained about is that police insisted on arbitrary evidentiary requirements – namely, recent medical certificates – to launch investigations or provide protection measures, even though Law-58 does not require this. Women reported differing time limits that police considered to be valid for medical certificates, sometimes as little as 48 hours, in order to take action. Such requirements deprive women from protection as authorities may turn them away if their medical

⁷ United Nations, *Handbook for Legislation on Violence Against Women*, 2022, <https://www.un.org/womenwatch/daw/vaw/handbook/Handbook%20for%20legislation%20on%20violence%20against%20women.pdf> (accessed June 15, 2022).

certificates are deemed too old, ultimately exposing them to further risks of violence. Survivors often need time until they decide whether or not they want to complain against their abusers.

“Ahlem,” 26, from Sidi Bouzid, who was beaten, humiliated, and forced to work without compensation for seven years by her husband, said the police had turned her down when she had decided to file a complaint against him in August 2021:

When I got to the police station, the police told me I could not do anything with my [four] medical certificates [issued in 2020 and 2021] because all of them had been issued more than 15 days ago. I felt so discouraged. I am illiterate and no one had told me my certificates would lose their validity after a couple of weeks. Why aren’t women allowed to keep them as weapons under their pillows to use once they are ready to fight back?⁸

Law-58 provided for survivors’ right to medical, psychological, and social support and follow-up. However, in most regions, only medical certificates have been issued free of charge to survivors of domestic violence, and some women have reported having had to pay for medical certificates.⁹ Fees for additional medical examinations, along with transportation costs, can have a dissuasive effect on survivors. In 2022, the Ministry of Women and the Ministry of Health issued a ministerial note (n°5-2022) to address this gap in implementation and reaffirm survivors’ right to free initial medical certificates and to flexible payment schemes for other medical expenses.¹⁰ Overstretched medical staff rarely inform survivors of their rights or refer them to psychologists or other support services. The police and judiciary overly rely on medical certificates to launch an investigation or in conviction, and yet access to forensic expertise is limited in most of the country. Due to the lack of forensic doctors, the prevailing practice is for general physicians to examine complainants of domestic violence, yet both general physicians and forensic doctors lack guidelines on how to determine physical incapacitation in domestic violence cases. In

⁸ Human Rights Watch interview with “Ahlem,” Sidi Bouzid, Tunisia, November 24, 2021.

⁹ Until 2022, their gratuity of initial medical was restricted to cases of intimate partner violence.

¹⁰ Circular n° 5 of March 14, 2022, relating to the free preliminary medical certificate, granted to victims of violence, and the facilitation of procedures for the reimbursement of the costs of medical examinations and accommodation which they should benefit from, <https://legislation-securite.tn/law/105234> (accessed September 2, 2022).

2020, the only public counseling center in Tunisia dedicated to survivors' psychological wellbeing closed due to lack of funding.

Law-58 significantly broadened the scope of criminal law to combat male violence against women in its physical, moral, sexual, economic, and political forms, and set out free support services for survivors. However, the judiciary's response to domestic violence has been characterized by lengthy proceedings, alleged reluctance of some family judges to implement the law, failure to investigate withdrawn complaints, and the complainants facing challenges accessing provision of free legal aid or had ineffective legal assistance. During the first weeks of Covid-19 lockdowns in 2020, the Ministry of Justice failed to prioritize cases of domestic violence.

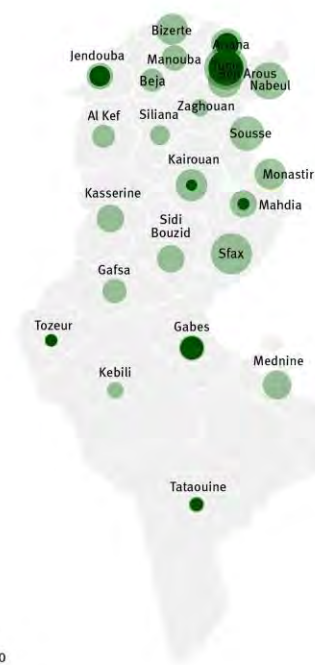
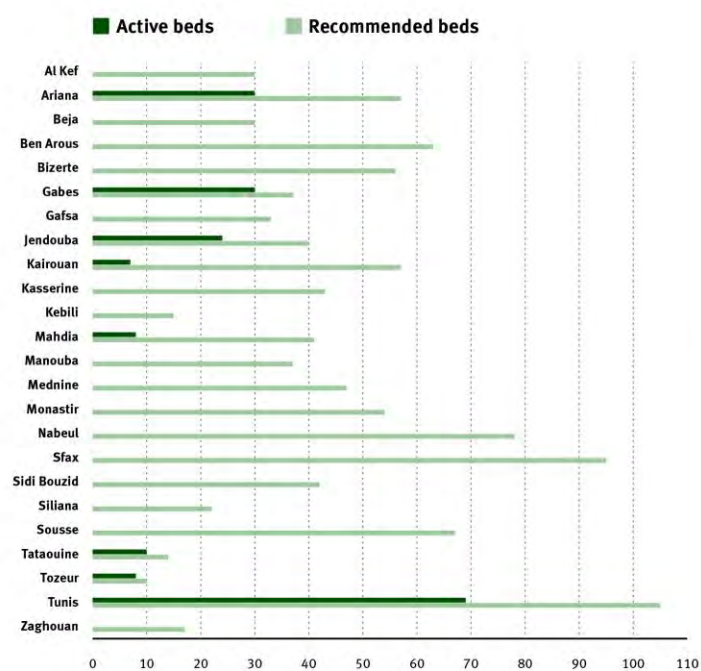
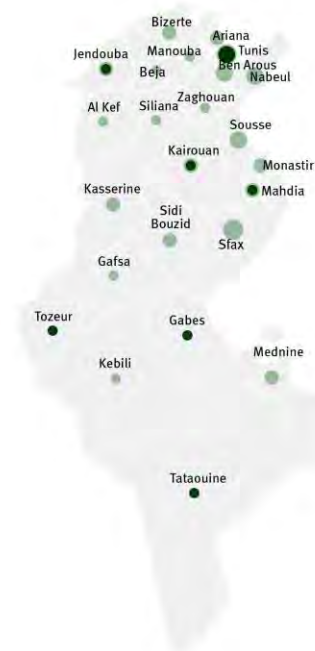
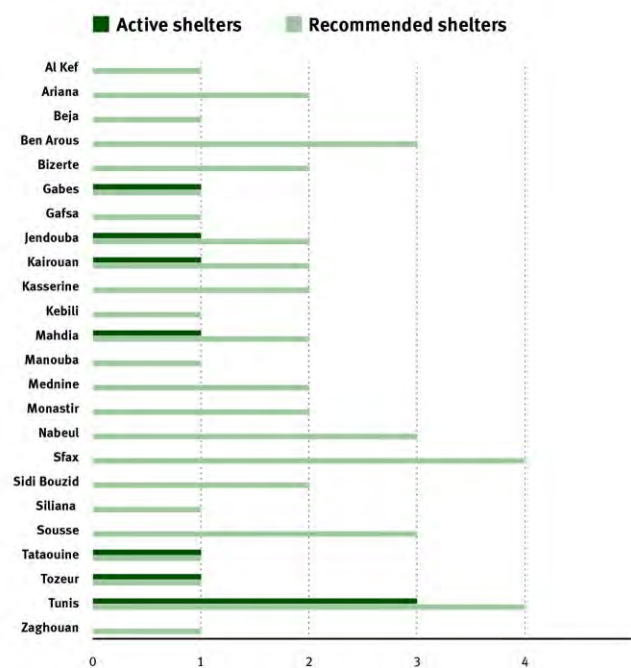
Shelters for survivors are essential to an effective response to domestic violence. Law-58 set out that survivors have a right to emergency shelter, but did not specify the number of shelter spaces to be made available or their funding mechanism. Without enough shelters, organizations and state institutions have nowhere to refer women to. The number of operational shelters for survivors has fluctuated since the law's adoption, especially outside of the capital, and remains insufficient. In 2021, only five shelters, with a cumulative hosting capacity of approximately 107 women and children, were operational - only one of which was outside of the governorate of Tunis. In a positive move, in the summer of 2022, the Ministry of Women and its international partners supported the opening of five additional shelters.¹¹ At time of writing, the total hosting capacity of shelters across the country is estimated at 186 women and children, based on Human Rights Watch's mapping of available shelters.¹² The Ministry of Women plans to open more shelters to ensure at least one shelter is operational in each of Tunisia's 24 governorates by 2024.¹³

¹¹ Tunisian Ministry of Women, "La Ministre de la Famille et de la Femme lors de l'annonce des résultats du rapport national sur la lutte contre la violence faite aux femmes," 9 August, 2022, <http://www.femmes.gov.tn/fr/2022/08/09/la-ministre-de-la-famille-et-de-la-femme-lors-de-lannonce-des-resultats-du-rapport-national-sur-la-lutte-contre-la-violence-faite-aux-femmes/> (Accessed October 12, 2022).

¹² <https://www.hrw.org/video-photos/interactive/2022/11/29/map-tunisia-shelters>; <https://www.hrw.org/video-photos/interactive/2022/11/29/map-tunisia-shelter-beds>.

¹³ Public intervention by Minister Dr Amel Belhaj Moussa from the Ministry of Family, Women, Children, and Seniors during a EuroMed Rights conference organized in Tunis, Sheraton Hotel, on October 7, 2022, "Support for the Fight against Violence against Women: Dialogue and Capacity Building."

Mapping the Shelter Gap



Survivors and service providers who spoke to Human Rights Watch pointed to the lack of financial aid as the biggest impediment to women breaking free from their abusers, especially for those with children. Law-58 guarantees integration and housing services to survivors of violence and their children, as such the state should set out timely financial assistance to meet women's needs and assistance in finding them long-term accommodation.

While Law-58 paved the way for the establishment of a National Observatory for the Elimination of Violence Against Women in 2020, the observatory has not provided since its creation sufficient data on male violence against women or on authorities' interventions to protect survivors and prosecute abusers.

Law-58 is one of the strongest laws on violence against women in the region. It contains many important legal measures to prevent violence against women, protect survivors, and prosecute abusers. However, as this report finds, poor implementation of the law, along with discriminatory laws and practices, continues to leave women exposed to violence and fails Tunisia's own obligations under its constitution and domestic and international legislation.

Despite Tunisia building a reputation of being one of the most progressive states in the region on women's rights during the 66 years since independence, many now fear that such rights are at risk in the political climate instilled since President Kais Saied's 2021 power grab.

To comply with domestic and international law, Tunisia must dedicate effort to the implement Law-58's ambitious provisions. The state should ensure that: the police protect women and launch investigations whenever domestic abuse is reported, without requiring initial medical certificates; the judiciary duly processes all cases of domestic violence, in all its forms; and promised support services (medical care, legal aid, shelter, and others) are available to survivors throughout the territory.

Ending male violence against women should be prioritized by the entire government and judiciary as a human right, women's right, and as a public health and economic issue.

Key Recommendations

To Tunisian Authorities

- Repeal discriminatory provisions in the Personal Status Code to ensure women have the same economic and social rights as men; and repeal Article 230 of the penal code, which criminalizes same-sex relations, as well as morality-related provisions in the Penal Code, to ensure no woman is prosecuted on the basis of her sexual life, sexual orientation, gender identity, or gender expression;
- Issue a decision to instruct police officials and prosecuting authorities not to require medical certificates from survivors before receiving their complaints, launching investigations or providing them with protection measures;
- Ensure doctors include comprehensive observations on the harms inflicted on survivors in initial medical certificates and refer them to psychologists or forensic doctors as required and based on survivors' consent;
- Ensure the police take all available measures to protect women and investigate cases when they receive complaints of domestic violence, without requiring the provision of an initial medical certificate;
- Develop and institutionalize the use of tools to identify femicide risks requiring immediate intervention among frontline respondents;
- Ensure courts handle domestic violence complaints expeditiously, including in crisis contexts such as lockdowns;
- Ensure sufficient shelters are operational and accessible throughout the territory;
- Ensure women victims of domestic violence have access to support services, including effective free legal aid, competent psychological support, and economic assistance;
- Invest in efforts to increase survivors' awareness of their rights and of the services available to them;
- Establish complaint mechanisms for survivors to report inadequate responses by public servants and monitor authorities' implementation of Law-58;
- Improve data collection on male violence against women – including by disaggregating data, monitoring femicides, and providing detailed figures on protection and prosecution measures taken by authorities.

Methodology

Human Rights Watch conducted research between September 2021 and September 2022 on Tunisia's response to domestic violence, in particular its implementation of Law 58-2017 on the Elimination of Violence Against Women.

Human Rights Watch conducted interviews with 103 people (90 in person, and 13 remotely) in the towns and cities of Al Kef, Ben Arous, Gabes, Mahdia, Sidi Bouzid, Tunis, and Zarzis.

Human Rights Watch conducted in-depth interviews with 30 survivors of domestic violence. These women were all Tunisians and ranged in age from 18 to 44 years old. They included two black women, a lesbian woman, and three transgender women. They came from different social and economic backgrounds, but most were unemployed or underemployed and lived in rural areas rather than in cities. They had different levels of education, but most had completed only primary school education. Human Rights Watch makes no statistical claims based on these interviews on prevalence of domestic violence.

Due to access and scope limitations, this report does not reflect all situations of women including those experiencing other various intersecting discrimination drivers such as being older (defined as those over 60 years old), having a disability, or being a migrant. It also excludes the situation of children.

Human Rights Watch also interviewed 73 other people, including state officials, police officers, staff of governmental and nongovernmental organizations providing services for survivors of domestic violence, gender experts, lawyers, judges, psychologists, journalists, and health personnel.

Human Rights Watch informed all interviewees of the purpose of the interviews, as well as how information collected would be used and received verbal consent. Survivors were also informed of their right to pause or stop the interview at any time, or to withdraw permission to use their statements any time after the interview was conducted. None of the interviewees received monetary or other incentives for speaking with Human Rights Watch. All interviews were conducted in Tunisian Arabic, English, or French.

The report uses pseudonyms — indicated in quotation marks — for 22 survivors and withholds other identifying information to protect their security and privacy. The remaining eight survivors insisted we use their real names.

Human Rights Watch also examined additional laws, government data, medical certificates, surveys, and United Nations documents, academic research, and media articles.

Human Rights Watch wrote multiple letters, annexed to this report, to the head of government and various ministries in September 2022, requesting information for incorporation into this report and meetings with officials who could discuss relevant policies. At the time of publication, only the Ministry of Health has submitted a response to our letters.

Background

Legal Reforms on Women's Rights

Tunisia has been a pioneer in the domain of women's rights.¹⁴ Just six months after independence from France in 1956, the country adopted its Personal Status Code, which criminalized polygamy and provided women with an equal right with men to divorce, marking firsts in the region.¹⁵ The Code also allowed both spouses to divorce by mutual consent without needing to prove fault, which was well ahead of many countries including France, Germany, and the United Kingdom.¹⁶

In 1973, Tunisia became the first country in the Middle East and North Africa to legalize and provide free abortion on demand for all women within the first three months of pregnancy, earlier than European countries, including France.¹⁷ In 2000, authorities allowed women to enter a work contract without their husband's authorization and in 2010, allowed Tunisian women to pass nationality to their children on an equal basis with men.¹⁸

¹⁴ UN Committee on the Elimination of Discrimination against Women, UN Doc. CEDAW/C/TUN/CO/6, Concluding Observations on Tunisia, 2010.

¹⁵ N.B.: Notwithstanding some discriminatory elements of the Personal Status Code which are explored herein.

¹⁶ In France, the Reform Act 1975, which came into force in January 1976, amended the French Civil Code to provide for divorce by mutual consent, see Glendon, Mary Ann, "The French Divorce Reform Law of 1976," *The American Journal of Comparative Law*, vol. 24, no. 2, 1976, pp. 199–228, <https://doi.org/10.2307/839954> (accessed 1 Aug, 2022). In Germany, the then two states passed different laws prior to unification: the German Democratic Republic (East Germany) passed Family Law Code on 20 December 1965 which provided for divorce based on the irretrievable breakdown of marriage, likewise the Federal Republic of Germany (West Germany) passed the First Marriage Law and Family Law Reform Act in 1976 which also allowed for a divorce based on irreparable breakdown of the marriage, see Müller-Freienfels, W, "The Marriage Law Reform of 1976 in the Federal Republic of Germany," *The International and Comparative Law Quarterly*, vol. 28, no. 2, 1979, pp. 184–210, <http://www.jstor.org/stable/758595> (accessed 1 Aug, 2022). In the UK, the Divorce Reform Act 1969 reformed the law to enable couples to secure a no-fault divorce after they had been separated for two years if they both desired a divorce, or five years if only one wanted a divorce. In June 2020, the UK passed the Divorce, Dissolution and Separation Act, which came into force in April 2022, which now provides that there is no requirement to assign fault when filing for divorce, see "No-Fault Divorce," *The Law Society*, April 5, 2022, <https://www.lawsociety.org.uk/topics/family-and-children/no-fault-divorce>. (Accessed 1 August, 2022).

¹⁷ Decree-Law No. 73-2 of September 26, 1973, amending Article 214 of the Penal Code, <https://legislation-securite.tn/fr/law/44573>, (accessed August 17, 2022); Law No. 75-17 of January 17, 1975, relating to the voluntary termination of pregnancy, <https://www.legifrance.gouv.fr/loda/id/JORFTEXT000000700230/> (accessed August 17, 2022).

¹⁸ Law no. 2000-17 of February 7, 2000, repealed art. 831 of Code of Obligations and Contracts, issued December 15, 1906, <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/65194/61345/F1279300680/TUN-65194.pdf> (accessed February 8, 2022). See also UN Committee on the Elimination of Discrimination against Women, "Combined Third and Fourth Periodic Reports of States Parties: Tunisia," U.N. Doc. CEDAW/C/TUN/3-4, August 2, 2000, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fTUN%2f3-

In 2017, Tunisian women were allowed to register their marriage to non-Muslims after authorities rescinded a decree which had prevented such registration.¹⁹ The same year, former President Caïd Essebsi appointed an independent commission on individual liberties which, in 2018, made bold recommendations to equalize rights between men and women, including in inheritance, and to decriminalize homosexuality.²⁰ In November 2018, the Council of Ministers approved a draft law which would have amended the 1956 Code of Personal Status, to provide gender equality in inheritance as the default, but it remains pending.²¹

Since his 2019 election, President Saïed has done little to advance women's rights. Feminists are concerned he is "gradually destroying" women's status in Tunisia.²² Under his power grab beginning on July 25, 2021, parliament has been suspended and then dissolved, making it impossible for parliamentarians to adopt any further legislation that could help in combatting violence against women, such as ratifying the Council of Europe's Istanbul Convention for action against violence against women and domestic violence.

Saïed opposes equality in inheritance.²³ While Saïed's 2021 appointment of a female prime minister, Najla Bouden, is a first in the Arab world, he has granted her little to no political autonomy according to experts who spoke to Human Rights Watch.²⁴

4&Lang=en (accessed February 8, 2022); Yasmin Houamed, A Foreigner in My Own Country," Inkyfada, July 7, 2020, <https://inkyfada.com/en/2020/07/07/tunisian-nationality-law/> (accessed October 27, 2022).

¹⁹ In September 2017, the Justice Ministry rescinded a 1973 directive prohibiting the registration of marriage of a Tunisian woman to a non-Muslim man unless the man provides a certificate of conversion to Islam. Amna Guellali, "One Step Forward, One Step Back in Tunisia," Human Rights Watch Dispatch, September 15, 2017, <https://www.hrw.org/news/2017/09/15/one-step-forward-one-step-back-tunisia> (accessed February 3, 2022).

²⁰ "Tunisia: Parliament Should Back Gender Equality in Inheritance," Human Rights Watch news release, December 4, 2018, <https://www.hrw.org/news/2018/07/26/tunisia-landmark-proposals-gender-bias-privacy>; "Tunisia: Landmark Proposals on Gender Bias," Human Rights Watch news release, July 26, 2018, <https://www.hrw.org/news/2018/07/26/tunisia-landmark-proposals-gender-bias-privacy>.

²¹ Ibid.

²² "Sana Ben Achour : Kaïs Saïed est un conservateur à l'image de la société patriarcale !" *Business News*, August 17, 2021, <https://www.businessnews.com.tn/sana-ben-achour-kaïs-saïed-est-un-conservateur-a-limage-de-la-societe-patriarcale-520,111267,3> (accessed November 7, 2021).

²³ Kenza Ben Azouz (Human Rights Watch), "President Saïed Derides the Economic and Social Rights of Tunisian Women," Op-ed, *Nawaat*, September 1, 2022, <https://www.hrw.org/news/2022/09/01/president-saïed-derides-economic-and-social-rights-tunisian-women> (accessed September 8, 2022).

²⁴ Agence Tunis Afrique Presse, "PM's Activities in Combating Discrimination and Upholding Equality between Social Groups Rather "Negative" (Aswat Nissa)," December 22, 2021, <https://www.tap.info.tn/en/Portal-Society/14707613-pm-s-activities-in> (accessed 14 August, 2022).

Following a controversial referendum that took place on July 25, 2022, President Saïed promulgated a new constitution by presidential decree.²⁵ Retaining some of the 2014 Constitution's provisions, the 2022 Constitution stipulates women and men are “equal in rights and duties and are equal before the law without any discrimination,” and commits the state to take measures to eliminate violence against women.²⁶

However, the 2022 Constitution introduced a new provision stipulating “Tunisia is part of the Islamic Umma [community/nation]” and making the realization of Islamic values a responsibility of the state (Article 5). Such provisions could be used to justify curbs on rights, notably women's, based on the interpretations of religious precepts, as observed in other states in the region.²⁷

Law n°58-2017 on the Elimination of Violence Against Women

After decades of advocacy efforts to adopt a dedicated criminalizing violence against women, Tunisia adopted Organic Law n°58 of 2017 on the Elimination of Violence Against Women (hereafter Law-58), 11 August, 2017, which took effect on February 1, 2018 and constitutes one of the most progressive legal frameworks to combat violence against women in the Maghreb and Mashreq.²⁸

The law seeks to put in place measures to eliminate violence based on gender discrimination against women with a view to achieving equality.²⁹ It has a comprehensive

²⁵ Tunisian Constitution, 2022. https://legislation--securite-tn.translate.google.fr/law/105310?_x_tr_sl=ar&_x_tr_tl=en&_x_tr_hl=fr&_x_tr_pto=wapp (accessed September 2, 2022 (ARABIC)).

²⁶ Arts. 21 and 46 of the 2014 Constitution, https://www.constituteproject.org/constitution/Tunisia_2014.pdf (accessed February 8, 2022); Art. 23 of the 2022 Constitution, https://legislation--securite-tn.translate.google.fr/law/105310?_x_tr_sl=ar&_x_tr_tl=en&_x_tr_hl=fr&_x_tr_pto=wapp (accessed 2 September, 2022 (ARABIC)).

²⁷ “Tunisia's Constitutional Referendum,” Human Rights Watch Q&A, July 13, 2022, <https://www.hrw.org/news/2022/07/14/qa-tunisias-constitutional-referendum> (accessed February 8, 2022).

²⁸ Association Tunisienne des Femmes Démocrates, “Retour sur l'Histoire pour un Avenir Sans Violences à l'Encontre des Femmes : Que disent les archives du centre d'écoute et d'orientation des femmes victimes de violence ?” 2017, p. 10. <https://tunisia.unfpa.org/sites/default/files/pub-pdf/Etude%20archives%20ATFD.pdf> (accessed June 3, 2022); The fact that the law is ‘organic’ means it has higher normativity than other national laws; “Tunisia: Landmark Step to Shield Women from Violence,” Human Rights Watch new release, July 27, 2017, <https://www.hrw.org/news/2017/07/27/tunisia-landmark-step-shield-women-violence> (accessed February 8, 2022); At time of writing in September 2022, 11 countries or autonomous regions in the Maghreb and Mashreq have specific laws or regulations on domestic violence, including Algeria, Bahrain, the Kurdistan Region of Iraq, Israel, Jordan, Kuwait, Lebanon, Morocco, Saudi Arabia, Tunisia, and the United Arab Emirates. These laws vary in the degree to which they comply with international standards.

²⁹ Law 58, Art. 1.

definition of violence against women including in public and in private sphere, and in its physical, moral (i.e. psychological, sexual, economic), and political forms, in line with the UN Women's Handbook for Legislation on Violence against Women.³⁰ It also provides for various prevention, protection, and prosecution mechanisms and support services.

Prevention measures include obligations on the state to eliminate all discriminatory practices against women, directing ministries and state institutions to prevent and combat violence against women including through education, training, detection, awareness raising, and providing information, care, and ongoing support to survivors.

Protections for survivors include providing for the rights of survivors and their children to legal protection, equitable reparation, free support services for survivors including access to emergency shelter, legal aid, medical, psychological, and social support, and follow-up.³¹ It introduced emergency protection measures and longer-term protection orders in Tunisia, a best practice, according to the UN Handbook on the Elimination of Violence Against Women.³²

Prosecution measures include establishing new crimes of violence against women in the Penal Code and providing for harsher sentences for abuses committed by family members, spouses, fiancés, as well as former spouses and fiancés – among other aggravating circumstances. It also repealed Penal Code provisions that allowed for impunity or lenient punishments of abusers, including Article 218, which allowed termination of proceedings or conviction if the survivor forgave the abuser, and colonial-era relics Articles 227 bis and 239, which exempted a rapist or a kidnapper from punishment if they subsequently married their victim.³³ It establishes specialized units within every national guard (gendarmerie) and police station to handle crimes of violence against women, obligates the authorities to investigate cases of violence against women, inform and refer survivors

³⁰ Law 58, Art. 3.

³¹ Law 58, Art. 13.

³² Law 58, Arts. 30-38.

³³ Art. 15 of Law 58 repealed arts. 208, 226 ter, 227, 227 bis, 229, paragraph 2 of art. 218, paragraph 3 of art. 219, the paragraph 2 of art. 222 and paragraph 2 of section 228 of the Penal Code. See also Rothna Begum (Human Rights Watch), "Middle East on a Roll to Repeal 'Marry the Rapist' Laws," Op-ed, *Al-Jazeera*, August 24, 2017, <https://www.hrw.org/news/2017/08/24/middle-east-roll-repeal-marry-rapist-laws> (accessed September 10, 2022), and "Tunisia: Landmark Step to Shield Women from Violence," Human Rights Watch, July 27, 2017.

to services and protection mechanisms, and sanctions officers who pressure survivors to forgo their rights, modify or withdraw their complaint.

Law-58 called for the establishment of a National Observatory for the Elimination of Violence Against Women (Article 40) to collect data on violence against women and evaluate the effectiveness of laws and policies aimed at combatting it. However, the observatory was only effectively set up in 2020, and its agenda remains unfulfilled.³⁴ There is limited data on violence against women and on the protection, prosecution and support services delivered to survivors by authorities. The last national survey conducted on domestic violence dates to 2010.³⁵ According to Monia Kari, who directed the Observatory from July 2020 to December 2021, the body lacked the budget and autonomy to fulfill its mandate and is hampered by the relevant ministries' insufficient data collection and sharing.³⁶ The limited monitoring of authorities' implementation of the law diminishes state accountability. While the Ministry of Women provides data on women who report violence against them, it is limited to a breakdown of their age, relationship to the abuser, employment status, and educational level. This restriction impedes the identification of categories of women who may be at a greater risk of domestic violence and the development of strategies to address their needs.

For all the significant breakthroughs in the law, its impact has been hampered by the fact that no budget or funding mechanism have been put into place toward implementing the law. Organic Law-15 on gender-sensitive budgeting, adopted on February 13, 2019, to support gender equality, does not explicitly include allocation of money toward implementing Law-58.³⁷

This report examines how authorities have adhered to the law's provisions, the gaps that exist and what is needed to ensure that the law's aim of "eliminating violence based on gender discrimination against women with a view to achieving equality" is realized. While

³⁴ Pursuant to Government Decree No. 2020-126 of 25 February 2020, <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/112202/140106/F1534506342/TUN-112202.pdf>. (accessed February 8, 2022).

³⁵ UN Women, "Enquête nationale sur la violence à l'égard des femmes en Tunisie," 2010.

³⁶ Human Rights Watch Interview with Monia Kari, Tunis, Tunisia, December 7, 2021.

³⁷ Tunisian Finance Ministry, "L'aspect genre accompagne le Projet de Loi de Finances 2020," December 11, 2019, <http://www.gbo.tn/fr/actualites-et-evenements/laspect-genre-accompagne-le-projet-de-loi-de-finances-2020> (accessed February 20, 2022)

the law commits to address all forms of violence against women, this report specifically examines how the law has been applied to deal with domestic violence.

International Human Rights Obligations

Tunisia's failure to adequately prevent women from domestic violence, provide protection and services to survivors, and ensure access to justice and prosecution of such violence is contrary to Tunisia's international human rights obligations.

Tunisia ratified in 1985 the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which calls on states to take various measures to eliminate all forms of discrimination on the basis of sex, including by private actors, so as to ensure women's full enjoyment of their human rights.³⁸ The CEDAW Committee, the UN expert body that monitors implementation of CEDAW, has made clear that gender-based violence is a form of discrimination and is a violation of CEDAW, whether committed by state or private actors, and that a "women's right to a life free from gender-based violence is indivisible from and interdependent with other human rights, including the right to life, health, liberty and security of the person, the right to equality and equal protection within the family, freedom from torture, cruel, inhumane or degrading treatment, freedom of expression, movement, participation, assembly and association."³⁹

In 2014, the country withdrew all the reservations it had raised to CEDAW and ratified its Optional Protocol (CEDAW-OP), which establishes inquiry mechanisms for groups or individuals seeking to file complaints for "grave or systemic violations" of their CEDAW rights.⁴⁰ However, Tunisia has maintained its general declaration indicating it would not adopt any administrative or legislative decision that might go against the provisions of its Constitution. Such declarations have been consistently found to be unacceptable by treaty monitoring bodies, as the application of international human rights treaties should not be limited by domestic laws, including constitutions. In 2020, the CEDAW Committee urged

³⁸ The Convention on the Elimination of All Forms of Discrimination against Women, adopted and opened for signature, ratification and accession by General Assembly resolution 34/180 of 18 December 1979, <https://www.ohchr.org/sites/default/files/Documents/ProfessionalInterest/cedaw.pdf> (accessed September 2, 2022)

³⁹ CEDAW GR 35 - para. 15, https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1_Global/CEDAW_C_GC_35_8267_E.pdf (accessed July 26, 2022)

⁴⁰ "Tunisia: Landmark Action on Women's Rights," Human Rights Watch news release, April 30, 2014, <https://www.hrw.org/news/2014/04/30/tunisia-landmark-action-womens-rights> (accessed January 9, 2022).

Tunisia to withdraw its general declaration, highlighting the absence of any contradiction in substance between the Convention and Islamic law.⁴¹

Violence prevents women from enjoying a host of other rights stipulated in other treaties ratified by Tunisia including the Convention on the Rights of the Child (CRC), the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.⁴² These rights include the rights to life, health, physical integrity, nondiscrimination, an adequate standard of living (including housing), and freedom from cruel, inhuman, or degrading treatment or punishment.

In 2018, Tunisia became a party to the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (the Maputo Protocol), which requires states to take comprehensive measures and legislation to end violence against women.⁴³

Tunisia is also a member of the United Nations Economic and Social Commission for Western Asia. The Commission's Committee on Women, in its seventh session in 2016, adopted the Muscat Declaration "Towards the Achievement of Gender Justice in the Arab Region," requiring parties to "harmonize national legislation with international and regional commitments ratified by member States, so as to ensure the repeal of all discriminatory laws."⁴⁴

In August 2020, Tunisia's Ministry of Women initiated the process to adopt the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic

⁴¹ Concluding Observations of the Committee on the Elimination of Discrimination against Women, October 22, 2010, CEDAW/C/TUN/CO/6. Available at: <https://www2.ohchr.org/english/bodies/cedaw/docs/co/CEDAW-C-TUN-CO-6.pdf> (accessed January 9, 2022).

⁴² Convention on the Rights of the Child (CRC), ratified January 30, 1992; International Covenant on Civil and Political Rights (ICCPR), ratified March 18, 1969; the International Covenant on Economic, Social and Cultural Rights (ICESCR), ratified March 18, 1969; and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, ratified September 23, 1988, <http://hrlibrary.umn.edu/research/ratification-tunisia.html> (accessed November 1, 2022).

⁴³ Organic Law No. 2018-33 of June 6, 2018, approving the accession of the Republic of Tunisia to the protocol of the African Charter on Human and Peoples' Rights relating to the rights of women in Africa, <https://legislation-securite.tn/law/104294> (accessed September 2, 2022); Protocol to the African Charter on Human and Peoples' Rights on the Rights of the Women in Africa, <https://www.ohchr.org/sites/default/files/Documents/Issues/Women/WG/ProtocolontheRightsofWomen.pdf> (accessed August 16, 2022).

⁴⁴ E/ESCWA/ECW/2015/IG.1/7/Report, <https://digitallibrary.un.org/record/1309379?ln=fr> (accessed September 2, 2022).

Violence, known as the Istanbul Convention, after it was invited in April of that year by the Council of Europe to do so as a non-member state.⁴⁵ Tunisia has until 2025 to finalize the accession process.⁴⁶ Adopting the Convention would require Tunisia to, among other things, allocate appropriate financial and human resources to the adequate implementation of measures to prevent and combat all forms of violence, including measures carried out by nongovernmental organizations; set up appropriate, easily accessible shelters in sufficient numbers to provide safe accommodation for and to reach out pro-actively to victims; undertake femicide risk assessments; and the inclusion of stalking, forced marriage, forced abortion or forced sterilization in its definition of forms of violence against women.⁴⁷

⁴⁵ “Kazakhstan and Tunisia invited to accede to the Istanbul Convention,” Council of Europe news release, April 29, 2020, available at: <https://www.coe.int/en/web/istanbul-convention/-/kazakhstan-and-tunisia-invited-to-accede-to-the-istanbul-convention> (accessed February 13, 2022).

⁴⁶ “Five Years Validity of an Invitation to Sign and Ratify or to Accede to the Council of Europe’s Treaties,” October 5, 2022, <https://rm.coe.int/16806cac22> (accessed October 27, 2022).

⁴⁷ Art. 8 Council of Europe Convention on preventing and combating violence against women and domestic violence, <https://rm.coe.int/168008482e> (accessed February 13, 2022); Art. 23 Council of Europe Convention on preventing and combating violence against women and domestic violence, <https://rm.coe.int/168008482e> (accessed February 13, 2022); Art. 51, Council of Europe Convention on preventing and combating violence against women and domestic violence <https://rm.coe.int/168008482e> (accessed February 13, 2022); Arts. 7, 32, 34, 37 and 39 Council of Europe Convention on preventing and combating violence against women and domestic violence, <https://rm.coe.int/168008482e> (accessed February 13, 2022).

Failure to Prevent Violence Against Women

Historically unequal power relations between men and women, or patriarchy, manifest in discriminatory laws, policies, and social norms, is the root cause of male violence against women.⁴⁸ Out of the 30 women who spoke to Human Rights Watch, most described putting up with violence and self-sacrifice as part of a “good” wife and mother’s role.

General Comment 35 on the Committee on the Elimination of Discrimination against Women’s calls on states to:

Adopt and implement effective legislative and other appropriate preventive measures to address the underlying causes of gender-based violence against women, including patriarchal attitudes and stereotypes, inequality in the family and the neglect or denial of women’s civil, political, economic, social and cultural rights, and to promote the empowerment, agency and voices of women.⁴⁹

Law-58 obligates the state to take all necessary measures to eliminate all discriminatory practices against women including in wages and, and sanctions discrimination against women too.⁵⁰ However, women continue to face discrimination in law and practice, in violation of Tunisia’s international human rights obligations. This discrimination can increase their vulnerability to violence. The Ministry of Women in its 2020 report remarked that discriminatory codes and laws against women hindered the implementation of Law-58.⁵¹

⁴⁸ United Nations General Assembly resolution 48/201, “Declaration on the Elimination of Violence against Women,” December 20, 1993, <https://www.ohchr.org/en/instruments-mechanisms/instruments/declaration-elimination-violence-against-women> (accessed December 28, 2021).

⁴⁹ CEDAW/C/GC/35, General recommendation No. 35 on gender-based violence against women, updating general recommendation No. 2017, https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1_Global/CEDAW_C_GC_35_8267_E.pdf (accessed December 28, 2021).

⁵⁰ Law 58 Arts. 6, 19, and 21.

⁵¹ Tunisian Ministry of Women, National Annual Report of the Ministry of Women on the Elimination of Violence Against Women,” 2020, p.50, <http://www.gbo.tn/sites/default/files/2021-08/Rapport%20sur%20la%20lutte%20contre%20la%20%20violence%20%C3%A0%20l%27encontre%20des%20femmes.pdf> (accessed September 2, 2022).

Discriminatory Laws

While Tunisia's 1956 Personal Status Code, and its subsequent amendments, is progressive in many respects, it retains discriminatory provisions such as deeming men as heads of households, requiring marital duties in line with custom and tradition, language that could encourage marital rape, and discriminatory inheritance provisions.

Gendered Roles and Rights

The Personal Status Code requires spouses to “fulfill their marital duties according to customs and traditions.”⁵² This ambiguous clause allows for discrimination to continue in practice, as it can be interpreted as an obligation on spouses to conform to stereotypical gender roles that are disproportionately harmful to women.

The Code also specifies that “the husband, as the head of the family, must support his wife and children to the extent of his means” including providing spousal maintenance (*nafaqa*) to his wife.⁵³ The same article that elevates men as heads of household because they are required to provide for their wife and children specifies that “a wife must contribute to family expenses if she has possessions.” Even if she does contribute financially, the law does not accord her the status of sole or joint head of household.

As the legally recognized heads of households, husbands are the primary recipients of state health care and social assistance to which the family is entitled under the Social Security Law 60-30.⁵⁴ Unless they are in the process of divorce, or are divorced or widowed, women are not systematically eligible for these benefits.⁵⁵ This leaves married women economically dependent on their husbands, which can act as a barrier to leaving abusive spouses.

⁵² Tunisia Personal Status Law 1956, as amended in 1993, art. 23, <https://bit.ly/2XOlliz> (accessed February 8, 2022).

⁵³ Tunisia Personal Status Law 1956, as amended in 1993, art 23. Art. 38 specifies that the husband is obligated to provide maintenance to his wife following consummation of the marriage. Art. 50 clarifies that maintenance includes food, clothing, housing, education and what is considered necessities in accordance with custom and norms.

⁵⁴ Law No. 60-30 of December 14, 1960, relating to the organization of Social Security schemes, <https://www.ilo.org/dyn/travail/docs/782/Loi%20no.60-30%20relative%20%C3%A0%20l'organisation%20des%20r%C3%A9gimes%20de%20s%C3%A9curit%C3%A9%20sociale.pdf> (accessed August 25, 2022).

⁵⁵ Human Rights Watch telephone interview with Hassan Haj Messaoud from Lawyers Without Borders, December 3, 2021.

This differentiation reinforces gendered roles in which men are expected to work while women remain at home. It also facilitates discrimination against women in the labor market, as employers may be more likely to employ men who are considered by law as heads of household.⁵⁶ In addition, by recognizing men as heads of households based on providing financially for the family, it downplays the crucial role of providing care within the family, which in practice is left largely to women.

Marital Rape

In 2010, the Committee on the Elimination of Discrimination against Women expressed its concern at the results of 2004 national surveys that found that male spouses had sexually assaulted 20 to 40 percent of Tunisian women.⁵⁷

While the Penal Code considers rape a grave crime, marital rape is not explicitly criminalized in the Penal Code or Law-58's definition of sexual violence.⁵⁸ Law-58, however, broadly defines sexual violence "whatever the relationship between the perpetrator and the victim," suggesting that crimes of sexual violence should apply even in cases of marriage.⁵⁹ According to judge Faten Sebei, some investigative judges have used Law-58 to refer cases of marital rape to trial but, so far, no judgments have yet passed in such cases.⁶⁰

Language in the Personal Status Code can allow for or encourage sexual violence in marriage, including marital rape. Some women may also not report sexual violence because they may believe that they owe sex to their husbands. Article 13 of the Personal Status Code states that

⁵⁶ "Being a woman considerably increases the probability of being out of the labour force (economic inactivity), and this is even more marked among married women (see table 8). Correlatively, their probability of having a job, especially as employee (with a wage), is significantly lower (the effect is stronger for married women, for both formal and informal jobs)." Mansuy Michele and Patrick Werquin, "Labour market entry in Tunisia: The gender gap," *Work4Youth Publication Series*, No. 31., 2015, pp.17-20, https://www.academia.edu/en/20036758/labour_market_entry_in_Tunisia_the_gender_gap (accessed 14 April 2022). The informal economy employs around 60 percent of working men and 83 percent of working women under the age of 40. See "Informal Economy Expands," *Economist Intelligence*, June 6, 2016, <https://country.eiu.com/article.aspx?articleid=324281816&Country=Tunisia&topic=Economy&subtopic=Forecast&subsubtopic=Economic+growth&u=1&pid=987817283&oid=987817283> (accessed August 25, 2022).

⁵⁷ Committee on the Elimination of Discrimination against Women. Forty-Seventh Session. Concluding observations of the Committee on the Elimination of Discrimination against Women, CEDAW/C/TUN/CO/6– Paragraph 54, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/TUN/CO/6&Lang=En (accessed April 25, 2022).

⁵⁸ Penal Code, arts. 227-229.

⁵⁹ Law 58 Art.3.

⁶⁰ Human Rights Watch Email Correspondence with Judge Faten Sebei, August 25, 2022.

men may not force their wives to consummate the marriage without providing the *mahr* (dowry) to her first. This suggests that by providing a dowry, a husband can force a woman to consummate the marriage. The code says nothing more about a spouse's freedom to engage, or not to engage, in sexual relations with their partner. Moreover, the obligation under Article 23 to fulfill their marital duties in accordance with "customs and traditions" leaves open the possible interpretation that a wife is not entitled to refuse sexual relations and therefore has no legal basis to file a criminal complaint against him for sexual assault.

"Sana," 31, from Zarzis, who says her husband had hit her and stolen from her from 2020 to 2021 before she obtained a protection order against him, commented:

In the summer of 2021, I told my husband I wouldn't have sex with him unless he got tested for sexually transmissible diseases, because I knew he'd been cheating on me. A few days later, he asked me if I wanted an uncontested divorce and I refused. [...] He told me I was depriving him of his legal right to sex and failing in my spousal duties. I got scared and preferred to end the conversation there. I went to bed feeling defeated, crying.⁶¹

Unequal Inheritance

Based on interpretations of Islamic law, the Personal Status Law stipulates that sons inherit twice the sum daughters inherit from parents or siblings. The denial of women's right to equal inheritance fuels gender inequality and violence by placing them in a position of social, economic, and symbolic dependence on men.⁶²

Public Morality Laws

Law-58, which increases sentences for some crimes depending on who the perpetrator is, refers to some people in intimate or formerly intimate relationships: husbands, ex-husbands, fiancés, and former fiancés. While this is important, by not referring to "partners" or ex partners more generally, the law creates ambiguity around whether

⁶¹ Human Rights Watch Interview with "Sana," Zarzis, Tunisia, December 23, 2021.

⁶² Ben Azouz, "President Saïed Derides," September 1, 2022.

women can seek protection when they are neither married nor engaged to their abusive partners.

Moreover, unmarried women may be dissuaded from turning to the authorities when they face abuse by men in intimate relationships for fear of facing punishment under other laws. While Tunisia does not criminalize nonmarital heterosexual relationships, some unmarried couples have faced arrests and been convicted under accusations of engaging in a “customary” marriage or in “prostitution.”⁶³ They could also face punishment under the Penal Code for “offenses against good morals or public mores,” and “public indecency.”⁶⁴ Adultery is also a crime, for both partners involved.⁶⁵

Same-sex relations are criminalized by article 230 of the Penal Code, which discriminates against lesbian, bisexual, and transgender women and can also dissuade them from using Law-58 to report violence by an intimate partner or family violence because of their sexual orientation or gender identity.

In 2018, the Commission on Individual Freedoms and Equality, appointed by the president, called for the abolition of the morality laws and recommended decriminalizing homosexuality. The commission recommended eliminating offenses relating to “public indecency” and “public offense to morals” and replacing them with laws to punish a person who “commits a sexual act in public and intends to reveal intimate parts of his body with the intent to harm others.”⁶⁶

Normalizing Domestic Violence

“Some of the women who came to our center said their husband’s violence was proof of their love.”

— Hanine El Kadri, Coordinator at Victory for Rural Women, in Sidi Bouzid⁶⁷

⁶³ Art. 18 of the Personal Status Code provides for sentences of up to one year for both partners; Arts. 231, 233 of the Penal Code provides for sentences of six months to two years for both partners.

⁶⁴ Arts. 226, 226bis, 228, 228 bis and 229 of the Penal Code.

⁶⁵ Art. 236 of the Penal Code provides for a five-year sentence for the individual committing the adultery and the partner involved in the extramarital sex.

⁶⁶ “Tunisia: Landmark Proposals,” Human Rights Watch, July 26, 2018.

⁶⁷ Human Rights Watch Interview with Hanine El Kadri, Sidi Bouzid, Tunisia, November 30, 2021.

While Law-58 requires private and public media outlets to raise awareness about violence against women and to train their personnel on how to cover the topic (Article 13), Inkyfada, an independent Tunisian investigative outlet, found the media's coverage of male violence against women is riddled with victim-blaming.⁶⁸

According to a 2022 study conducted by the United Nations Populations Fund Agency (UNFPA) on partner violence, over two thirds of Tunisian men say domestic violence is normal and justified to protect women from their own impulses.⁶⁹ A 2019 study by the CREDIF on representations of domestic violence, stated that “many” men they interviewed thought Tunisian women enjoy an excess of rights and that the media exaggerated the scale of domestic violence and downplayed women's responsibility in causing domestic conflicts. Judge Faten Sebei told Human Rights Watch, “Law-58 is viewed as women's concern rather than a societal one. Men perceive it as a law that only seeks to advance women's rights rather than one that makes Tunisian society more equal and advanced.”⁷⁰

Divorced and single mothers are socially devalued and stigmatized in Tunisia, which discourages women from leaving abusers, based on interviews with survivors.⁷¹

The larger family context generally conditions survivors' disposition to leave or remain in abusive relationships.⁷² When fathers or brothers are violent towards their daughters or sisters as children, the latter tend to normalize it in their adulthood and in forming their own families.⁷³ A 2019 CREDIF study found that girls over 12 and 18-year-old women were barely aware of Law-58's existence and did not know family violence was considered

⁶⁸ “Traitement médiatique: la double peine des femmes victimes de violences,” Podcast, Inkyfada, March 21, 2022, <https://inkyfada.com/fr/podcast/femmes-en-sursis/4-traitement-mediatique-la-double-peine-des-femmes-victimes-de-violences/> (accessed May 23, 2022).

⁶⁹ UNFPA, « Etude sur les déterminants des violences conjugales, » 2022, p. 20 & p. 36-7, https://tunisia.unfpa.org/sites/default/files/pub-pdf/les_determinants_des_violences_conjugales_o.pdf (Accessed March 14, 2022).

⁷⁰ Human Rights Watch Interview with Judge Faten Sebei, Tunis, Tunisia, December 19, 2021.

⁷¹ CEDAW/C/TUN/CO/6

⁷² For a more detailed commentary on the family's role in the reproduction of domestic violence, see: Kenza Ben Azouz (Human Rights Watch, “The Forest Behind the Trees: Exploring Family Violence in Tunisia,” Op-ed, *Nawaat*, March 16, 2022, <https://www.hrw.org/news/2022/03/16/forest-behind-trees-exploring-family-violence-tunisia> (accessed September 2, 2022).

⁷³ Ginette Larouche and Louise Gagné, « Où en est la situation de la violence envers les femmes dans le milieu familial, dix ans après les colloques sur la violence ? » Volume 23 (2), 1990, p 29. <https://www.erudit.org/fr/revues/crimino/1990-v23-n2-crimino930/017293ar.pdf> (accessed 2 November 2022).

domestic violence.⁷⁴ Most of the survivors who spoke to Human Rights Watch said their families had discouraged them from filing complaints against their abusers.

“Houda,” 34, from Zarzis, who was physically, economically, and sexually abused by her husband, explained how he became more aggressive in response to her family’s inaction:

One evening, we were all in the house. He was playing on his smartphone while the kids were watching television. I asked him not to open the balcony door because of the wind. I have no idea why, but he hit me in the belly and my shoulder. I called my mom, but she refused to send my dad. My husband mocked me: “You think your family will come to help you? There’s nothing you can do against me.” Then he insulted me and hit me more.⁷⁵

Yamouna T., 47, from Zarzis, shared:

After he beat me with a stick, I decided to tell his father: “I could have called the police, but I didn’t want to bypass you. Please speak to your son.” [...] When my husband came back home, he put a knife under my throat and said: “You spoke to my dad? I’ll slaughter you.” I didn’t move an inch; I was scared he’d kill me.⁷⁶

Disempowering Women

While domestic violence cuts across all classes, men are more likely to abuse women who are poorer or less educated than them, in Tunisia and globally.⁷⁷ A national survey on domestic violence published in 2010, found that men committed more violence against

⁷⁴ CREDIF, *Les Violences fondées sur le genre faites aux adolescentes et la réponse à leurs besoins en termes de services*, 2019, http://www.credif.org.tn/PORT/detailstatic.aspx?RSC_BASE=SYRACUSE&RSC_DOCID=64719&TITLE=&_lg=en-US (accessed Nov 1, 2022).

⁷⁵ Human Rights Watch interview with “Houda,” Zarzis, Tunisia, December 23, 2021.

⁷⁶ Human Rights Watch interview with Yamouna T., Zarzis, Tunisia, December 23, 2021.

⁷⁷ 2022 Study on the determining factors in partner violence, the United Nations Population Fund, available at: https://tunisia.unfpa.org/sites/default/files/pub-pdf/les_determinants_des_violences_conjugales_o.pdf (accessed August 10, 2022); Luc Theriault et Carmen GILL, « Les déterminants sociaux de la santé et la violence conjugale : Quels sont les liens ? » *la revue service social*, Volume 53, November 1, 20017,; UNFPA, « Study on the determining factors in partner violence, the United Nations Population Fund, » 2022, p.24., https://tunisia.unfpa.org/sites/default/files/pub-pdf/les_determinants_des_violences_conjugales_o.pdf (accessed May 18, 2022).

women who were unemployed and stay-at-home.⁷⁸ Although Tunisian women are enrolled in greater numbers and perform better than men in higher education, they are less present in the labor force and are paid less than them.⁷⁹

Women in Tunisia dedicate a daily average of eight to twelve hours of unpaid work to their households, including those who have jobs outside the home, compared to 45 minutes for men, according to a 2021 Oxfam study.⁸⁰ This forces many women to forego or limit their own potential professional or educational pursuits to care for their households, and become financially reliant on men, who are freed to pursue paid opportunities outside the household that give them financial resources, which they can allocate to the household or not, as they wish. Most of the women who spoke to Human Rights Watch said they could not work because of their childcare responsibilities.

Economic subjugation is a common tactic for abusers.⁸¹ Three survivors told Human Rights Watch their abusers had prevented them from working outside the home after they got married. Some of the women who spoke to Human Rights Watch reported that their abusers confiscated money they had earned or received from family members, or destroyed their belongings, such as mobile phones, amplifying their economic dependence on them. When women sought to divorce or file legal complaints against abusers, some men responded by depriving them of food or financial maintenance. Such acts constitute crimes of economic violence under Law-58 (Article 3).

⁷⁸ « Enquête Nationale Sur La Violence A L'égard Des Femmes En Tunisie », 2010, pp.37-38, <https://evaw-global-database.unwomen.org/-/media/files/un%20women/vaw/vaw%20survey/tunisia%20vaw%20survey.pdf?vs=2937> (accessed September 2, 2022)

⁷⁹ Samia Hanachi, “Why Do Women Do Better Than Men at School, Yet Worse in the Labour Market?” *Inkyfada*, October 12, 2021, <https://inkyfada.com/en/2021/10/12/inequalities-men-women-school-work-tunisia/> (accessed November 1, 2022); World Bank Database, <https://donnees.banquemondiale.org/indicateur/SL.TLF.TOTL.FE.ZS?locations=TN> (accessed September 2, 2022); National Statistics Institute, National Gender Report, 2015, http://www.gbo.tn/sites/default/files/2022-05/Rapport%20National%20Genre%202015_o.pdf (accessed September 2, 2022).

⁸⁰ Oxfam, *Et s'il y avait une grève dans les foyers ? Étude sur l'impact du travail de soins non rémunéré sur les femmes vivant en Tunisie : accès au travail, autonomisation économique et bien-être*, 2020, <https://policy-practice.oxfam.org/resources/et-sil-y-avait-une-greve-dans-les-foyers-etude-sur-limpact-du-travail-de-soins-621354/> (accessed July 19, 2022)

⁸¹ « Retour sur l'histoire pour un avenir sans violence à l'encontre des femmes », étude publiée par l'association tunisienne des femmes démocrates, 2017, p.33, paragraphe 7, <https://tunisia.unfpa.org/sites/default/files/pub-pdf/Etude%20archives%20ATFD.pdf> (accessed July 19, 2022).

“Fatma,” 44, from Regueb and a mother of four, who filed a complaint against her abusive husband, said:

My husband is not giving us any money since I complained against him. Before, he used to at least give us some money from his crops, especially from the watermelon sales in the summer, but now he stopped completely. He is not giving us a millime and I am the one feeding all of the family with my tiny salary!⁸²

Yamouna T., 47, from Zarzis, and mother of two, one of the two women Human Rights Watch interviewed who owned real-estate property, said:

Whenever we had an argument, my husband would hit me. He would keep pressuring me to sell my house or give it to him. To exert pressure, he would not give me any money to feed the children, or he would give me only 10 dinars (approximately \$3) to buy groceries. If I protested, he would hit or insult me.⁸³

The Maintenance and Divorce Alimony Guarantee Fund, established in 1993 (Law No. 1993-0065) to guarantee women’s financial security where their husbands or ex-husbands “abandoned their families” by neglecting their financial responsibilities toward them has been “empty for years,” according to Bochra Belhaj Hmida, lawyer and women’s rights advocate.⁸⁴ Law-58 mentions women’s pre-existing right to spousal maintenance and guarantees re-integration and housing services to survivors of violence and their children, which should mean that authorities should provide for survivors’ financial needs to rebuild their lives independently.⁸⁵

⁸² Human Rights Watch Interview with “Fatma,” Regueb, Tunisia, November 23, 2021.

⁸³ In 2010, economic activity on the coastal littoral accounted for 85% of Tunisia’s gross development product and 70% of those living in extreme poverty (30% of the population) were concentrated in the interior. See Quattrine, S, “Ide Citizenship in Tunisia: The Situation of Minorities after the 2011 Revolution,” *Minority Rights Group International*, 2018, p.6. Also see Tsouparas, G, “The Other Side of a Neoliberal Miracle: Economic Reform and Political De-Liberalization in Ben Ali’s Tunisi,” *Mediterranean Politics*, 18:1, 2003, 23-41. ; Meddeb, H., “Peripheral Vision: How Can Europe Help Preserve Tunisia’s Fragile Democracy,” 2017; Human Rights Watch interview with Yamouna T., Zarzis, Tunisia, December 23, 2021.

⁸⁴ Human Rights Watch interview with Bochra Belhaj Hmida, in Tunis, Tunisia, October 5, 2021.

⁸⁵ Law 58, Arts. 4, 31, and 34.

There are regional and racial dimensions to this economic inequality. According to a 2010 national survey on domestic violence, women living in the southwest and southeast of Tunisia are more likely to experience economic, physical, sexual, or psychological violence at least once in their lives, at respective rates of 72.2 percent and 74.7 percent (against a 35.9 per cent rate in the center-east of Tunisia, where it is the lowest).⁸⁶

Regional inequality typifies Tunisia.⁸⁷ Southern and interior regions of the country continue to suffer from economic marginalization and state neglect, which some academics, geographers, and economists have argued is rooted in colonial industrialization and post-colonial policies.⁸⁸

Black Tunisian women may be particularly exposed to risks of domestic violence as they mainly live in the south, are more likely to be economically marginalized, and face racial discrimination.⁸⁹ Women from other intersecting backgrounds may also face additional risks to domestic violence but there is little to no disaggregated data from these groups on male violence.

Insufficient Implementation of Prevention Measures

Law-58 obliges the state to undertake prevention measures to end violence against women including awareness-raising campaigns and reforms in educational curricula and state official trainings aimed at eliminating all forms of discrimination against women (Articles 6-12).

⁸⁶ « Enquête Nationale Sur La Violence A L'égard Des Femmes En Tunisie », 2010, pp 37-38.

⁸⁷ In 2010, economic activity on the coastal littoral accounted for 85% of Tunisia's gross development product and 70% of those living in extreme poverty (30% of the population) were concentrated in the interior. See Quattrone, S., *Identity and Citizenship in Tunisia: The Situation of Minorities after the 2011 Revolution*, 2018, and Minority Rights Group International, 2018, p.6; and Friedrich Ebert Stiftung, *Déséquilibres régionaux et inégalités sociales en Tunisie*, 2018, <https://library.fes.de/pdf-files/bueros/tunesien/14418.pdf> (accessed August 24, 2022)

⁸⁸ Also see Tsouparas, "The Other Side of a Neoliberal Miracle," 2003, 23-41; Meddeb, H., *Peripheral Vision: How can Europe help preserve Tunisia's Fragile Democracy*, 2017; Ayeb H., *Marginality and marginalization in Tunisia; Saida Manoubia in Tunis and Zrig in Gabes*. (Arabic and English), AIHR, 2013.

⁸⁹ As documented by the Minority Rights Group <https://minorityrights.org/minorities/black-tunisians/> (accessed September 2, 2022)

Awareness-Raising

Interviews with survivors consistently showed, however, women generally have no knowledge of their rights when they decide to seek help or file a complaint against their abusers. The information they have about the services available to them is contingent on word-of-mouth.

The Ministry of Women has tried to raise public awareness of the provisions of Law-58.⁹⁰ In 2019, the ministry collaborated with the Ministry of Religious Affairs to have imams include information about Law-58 in their sermons.⁹¹ The Ministry has also organized campaigns during the annual United Nations' International 16 Days of Activism to End Gender-Based Violence campaign (November 25–December 10).⁹² By 2020, the Ministry had conducted short-term awareness-raising campaigns in all but four of the country's governorates, according to its 2021 annual report.⁹³

Yet, all staff of nongovernmental organizations supporting survivors interviewed by Human Rights Watch agreed awareness-raising efforts largely fell short of the needs, especially among rural populations.⁹⁴

The 2021 shadow report to CEDAW, jointly prepared by 22 nongovernmental organizations, said the integration of gender equality education in secondary and university education remained “very insufficient.”⁹⁵

Among the 30 women who spoke to Human Rights Watch, only one, Hayet EK., 44, from Tunis, had used the internet to access information on her rights.⁹⁶ None of them had used the national hotline providing information and referrals to survivors of violence against

⁹⁰ In February 2021, with support from the Council of Europe, the Ministry of Women developed a tool-kit entitled “the rights of women victims of violence.” It includes a booklet ('أنا لست وحدي' meaning “I am not alone” in Tunisian Arabic) and flashcards summarizing and simplifying the Law-58's content, to be disseminated to relevant service providers across the country. <https://www.coe.int/fr/web/tunis/-/un-kit-des-droits-pour-lutter-contre-les-violences-faites-aux-femmes-en-tunisie?fbclid=IwAR1zWfGQ5wOpIZ2yQJCHJeXFdaYFMmgs5nMr6IjIlegonuTyXoXR2cTHmJA> (accessed September 10, 2022)

⁹¹ See Tunisian Ministry of Women, National Annual Report of the Ministry of Women on the Elimination of Violence Against Women 2020.

⁹² Ibid., p.22.

⁹³ Ibid., p.24-30.

⁹⁴ Including Zeineb Beji, gender expert at Médecins du Monde, interviewed by Human Rights Watch on October 29, 2021.

⁹⁵ 7th Shadow Report to CEDAW, pp. 3-4, Treaty bodies Download (ohchr.org) (accessed July 19, 2022).

⁹⁶ Human Rights Watch with Hayet EK., Tunis February 3, 2022.

women. The hotline is mainly used by women with secondary or university education seeking legal advice, according to the Ministry of Women's own statistics.⁹⁷

Early Detection

While Law-58 requires the Ministry of Social Affairs to train social workers on the early detection and referral of cases of violence against women to competent authorities (i.e., the prosecutor or specialized units), staff of state-affiliated and nongovernmental organizations interviewed by Human Rights Watch were adamant the majority of social workers lacked the skills to detect and respond to domestic violence. They said that social workers often fail to appropriately address cases of domestic abuse, even dissuading women from complaining against alleged abusers and instead to engage in family mediation. This pattern was attributed to the tendency to exclude social workers from trainings delivered to personnel from the Ministries of Interior, Justice and Women on Law-58.⁹⁸

⁹⁷ See Tunisian Ministry of Women, National Annual Report of the Ministry of Women on the Elimination of Violence Against Women, p.38.

⁹⁸ Human Rights Watch Interviews with Kuds Elhlaiem, Lawyers Without Borders, Tunis, October 22, 2021; Arbia Al-Ahmar, social worker at the National Union for Tunisian Women (Union Nationale pour la Femme Tunisienne (UNFT), Tunis, December 16, 2021; Meriem Bellamine, head of Danner, a network of shelters and counseling centers for survivors in Tunisia, remotely [IS THIS HOW WE INDICATE THAT AN INTERVIEW WAS REMOTE?] December 22, 2021.

Weak Protection of Survivors and Prosecution of Abusers

Under the Tunisian justice system, the power to investigate crimes, including crimes of violence against women, is shared among the police, prosecutors, and investigating judges. In addition to the set-up of specialized police units to handle complaints of violence against women (Article 24) under the public prosecution's authority and control, Law-58 prompted the designation of specialized prosecutors and assistants to receive complaints of violence against women (including the recording of initial testimonies) and to follow up on them.⁹⁹ Survivors have the option to file complaints for violence against women either in court or with the specialized units of the police.

Prosecutors and their assistants systematically refer cases of violence against women involving a potential sentence of more than five years to investigative judges.¹⁰⁰ The latter are vested with substantial powers in matters of criminal investigations, including: the conduct of on-site visits, the gathering of evidence, the interrogation of suspects, and the collection of testimonies from victims and witnesses.¹⁰¹

According to various members of the judiciary, in virtually all cases of violence against women involving potential sentences of less than five years, prosecutors and their assistants refer complainants to specialized units to pursue the investigations.¹⁰² As a result, most investigations pertaining to domestic violence are, in practice, police-led.

⁹⁹ Center for the Democratic Control of the Armed Forces for North Africa, "Comprendre la justice pénale : Tunisie » <https://comprendrelajusticepenale.tn/fr/acteur/officiers-de-la-police-judiciaire-2/> (Accessed 11 October 2022); Article 22 of Law-58.

¹⁰⁰ Investigation by investigative judges is mandatory in matters of crime involving penal sentences of at least 5 years and is optional in matters of misdemeanors and contraventions (see art. 47 of the Code of Criminal Procedures and art. 14 of the Penal Code).

¹⁰¹ Center for the Democratic Control of the Armed Forces for North Africa, "Comprendre la justice pénale : Tunisie » .

¹⁰² According to lawyers Hela Ben Salem and judge Nour Jihène Becheikh , and Judge Feten Sebei, respectively consulted by Human Rights Watch on October 11, 12, and 13 of 2022.

Police Response to Domestic Violence

Since Law-58 first started being implemented, women have complained about pressures police officers had exerted on them and the undignified way in which they were received. We have come a long way, but there are still gaps in the police's response.

— Women's rights advocate, Bochra Belhaj Hmida¹⁰³

Since the passing of Law-58, authorities have taken steps in line with it, notably establishing specialized units across Tunisia's 24 governorates and training their officers to respond to violence against women. However, specialized units' response to domestic violence remains inadequate. There are inconsistencies in the police's response to domestic violence due to operational constraints, including limited operating hours and insufficient vehicles, and poor implementation of the law involving failures to inform survivors of their rights; requiring (recent) initial medical certificates from them to launch investigations or protection measures; dismissive attitudes; and mediation attempts.

This is in breach of Law-58, and goes against Tunisia's obligations under international law. The UN Committee on the Elimination of Discrimination against Women, in its General Recommendation 19, notes: "States may also be responsible for private acts if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence, and for providing compensation."¹⁰⁴

Set-up of Specialized Units

Law-58 obligated the state to establish specialized units within every national guard (gendarmerie) and police station of every governorate to handle crimes of violence against women (Article 24), which is in line with the United Nations' Office on Drugs and Crime recommendations on strengthening the response of criminal justice systems to violence against women.¹⁰⁵

¹⁰³ Human Rights Watch with Bochra Belhaj Hmida, , Tunisia, October 5, 2021.

¹⁰⁴ CEDAW, General Recommendation 19, Violence against women (Eleventh session, 1992), U.N. Doc. A/47/38 at 1 (1993).

¹⁰⁵ See The United Nations Office on Drugs and Crime (UNODC) "Handbook on Effective police responses to violence against women," 2010, p.42, https://www.unodc.org/documents/justice-and-prison-reform/Handbook_on_Effective_police_responses_to_violence_against_women_English.pdf (accessed September 3, 2022).

Before Law-58 was adopted, the police were barely trained and equipped to investigate domestic violence complaints, according to research by human rights organizations.¹⁰⁶ According to a 2010 national survey, this lack of preparedness led to an under-reporting of domestic violence, with only 1 in 25 women who said they had experienced domestic violence at some point in their lives had reported the abuse to police units.¹⁰⁷

Six months after the law's adoption, the Ministry of Interior set up 128 specialized units across all governorates.¹⁰⁸ As of April 2022, two additional specialized units were set up, for a total of 130 units (70 in police stations and 60 in national guard stations), according to Najet Jaouadi, head of Customs Police and former head of eight specialized units.¹⁰⁹

In 2021, specialized units registered nearly 69,000 complaints of violence against women and girls.¹¹⁰ Following the outbreak of the Covid-19 pandemic, in 2020, specialized units registered 38,289 such complaints.¹¹¹ In 2019, specialized units registered 64,979 complaints of violence against women and girls, of which 3,370 had led to legal proceedings, including 2,500 domestic violence cases.¹¹² Jaouadi told Human Rights

¹⁰⁶ Lilia Ben Salem, « Tunisia » in *Women's Rights in the Maghreb and Mashreq: Progress Amid Resistance*, Freedom House, 2010, p.10; EuroMed Droits, « Réseau euro-méditerranéen des droits de l'homme », March 6, 2015; Amnesty International, « Tunisie : état des lieux sur la violence à l'égard des femmes » 2015; Les victimes accusées : violences sexuelles et violences liées au genre en Tunisie (MDE 30/2814/2015).

¹⁰⁷ République Tunisienne, Ministère de la Santé, ONFP, AECID Espagne, Enquête nationale sur la Violence à l'égard des femmes en Tunisie (ENVEFT), Rapport Principal, Juillet 2010, p.10, <http://www.observaction.info/wp-content/uploads/2015/01/Enqu%C3%AAtre-Nationale-Violence-envers-les-femmes-Tunisie-2010.pdf> (accessed July 23, 2022)

¹⁰⁸ Noujoud Rejbi, « Derrière une loi vitrine, le calvaire des femmes victimes de violences continue », *Inkyfada*, October 8, 2020, <https://inkyfada.com/fr/2020/10/08/application-loi-violences-femmes-tunisie/> (accessed May 19, 2022).

¹⁰⁹ Human Rights Watch with Najet Jaouadi, Tunis, Tunisia, April 9, 2022.

¹¹⁰ See official publication about preliminary findings of the 2022 Annual Report of the Ministry of Women on the Elimination of Violence Against Women (ARABIC), <http://www.femmes.gov.tn/ar/2022/08/08/%d9%88%d8%b2%d8%a7%d8%b1%d8%a9-%d8%a7%d9%84%d8%a3%d8%b3%d8%b1%d8%a9-%d9%88%d8%a7%d9%84%d9%85%d8%b1%d8%a3%d8%a9-%d9%88%d8%a7%d9%84%d8%b7%d9%81%d9%88%d9%84%d8%a9-%d9%88%d9%83%d8%a8%d8%a7%d8%b1-%d8%a7-2/> (Accessed September 2, 2022).

¹¹¹ See 2021 Annual Report of the Ministry of Women on the Elimination of Violence Against Women (ARABIC.), pp. 48-49, <http://www.femmes.gov.tn/wp-content/uploads/2021/08/%D8%A7%D9%84%D8%AA%D9%82%D8%B1%D9%8A%D8%B1-%D8%A7%D9%84%D8%B3%D9%86%D9%88%D9%8A-%D8%A7%D9%84%D8%AB%D8%A7%D9%84%D8%AB-%D8%AD%D9%88%D9%84-%D9%85%D9%86%D8%A7%D9%87%D8%B6%D8%A9-%D8%A7%D9%84%D8%B9%D9%86%D9%81-%D8%B6%D8%AF-%D8%A7%D9%84%D9%85%D8%B1%D8%A3%D8%A9.pdf> (accessed September 2, 2022).

¹¹² Tunisian Ministry of Women, National Annual Report of the Ministry of Women on the Elimination of Violence Against Women (FRENCH), p.45; « Tunisie : 14 000 signalements unités spécialisées la violence contre la femme », publié en ligne par web manager center, November 24 2020, paragraphe 7, <https://www.webmanagercenter.com/459566/24/11/2020/tunisie-000-14-signalements-specialized-unitsr-la-violence-contre-la-femme/> (accessed September 2, 2022).

Watch that prior to specialized units' creation, the police registered about 15,000 complaints of violence against women annually, 5,000 of which were for spousal abuse.

Lack of Visibility and Limited Operating Hours

“Unless a woman is about to die, the police will tell her to come back whenever specialized units are available.”

— Monia Kari, former head of the National Observatory for the Elimination of Violence Against Women, December 7, 2021.

Signs informing the public about specialized units' functions and locations are rare. Most of the women who spoke to Human Rights Watch said that before they reported violence by their abusers, they had not heard of the specialized units. They had first gone to regular police units to which no specialized unit was attached before being directed to a specialized unit. By contrast, the two women who had seen signs about the specialized units were able to remember them when they needed to report domestic violence.

Men usually assault women at night.¹¹³ Yet, specialized units operate only during daytime (approximately 8:00-17:00), and on weekdays.¹¹⁴ Outside administrative hours, complainants must turn to regular police. However, the latter have not in general been sufficiently trained on Law-58 to deal with complaints of violence against women.¹¹⁵

In July 2021, after a severe beating by her husband, Fatma, 44, from Regueb, decided to file a complaint against him. Her work schedule as a cleaner prevented her from visiting a specialized unit during administrative hours:

I went twice to the police station in Regueb. The first time they told me the specialized units weren't here and didn't ask me any other question. I felt as if I had bothered them, so I walked back home. A few days later, I went back and they told me to put a file together and submit it to the public

¹¹³ Association Tunisienne des Femmes Démocrates, « L'accès à la justice des femmes victimes de violence », Élaborée avec le soutien d'OXFAM, 2021, P.65, PARAGRAPHE 5, [HTTPS://ATFD-TUNISIE.ORG/WP-CONTENT/UPLOADS/2021/06/LACCES-A-LA-JUSTICE.PDF](https://ATFD-TUNISIE.ORG/WP-CONTENT/UPLOADS/2021/06/LACCES-A-LA-JUSTICE.PDF) (accessed September 2, 2022).

¹¹⁴ Limited reporting hours are highlighted as a challenge in the 2021 annual report of the Ministry of Women on the elimination of violence against women (ARABIC), p.56.

¹¹⁵ According to Monia Kari, former head of the National Observatory for the Elimination of Violence Against Women, Interviewed by Human Rights Watch on December 7, 2021.

prosecutor at the municipal court. But I didn't know how to go about it. I felt confused so I left and gave up.¹¹⁶

Lack of Personnel and Dedicated Rooms

Personnel of specialized units told Human Rights Watch they lacked human resources to fulfill their role.¹¹⁷ Salem Mnafeq, head of the specialized unit in Zarzis, deplored the limitations of his units' human resources, which covers the large territory of the Mednine governorate. He said, "We try to get other police units to support us with arrests and transporting victims when we are short of staff or vehicle, but if, say, something happens in a school that might expose girls to violence, it falls on us and it's almost impossible to handle all case of violence against women at the same time."¹¹⁸

Article 24 of Law-58 states specialized units should include female staff, without specifying quotas, ranks, or responsibilities. Among the women Human Rights Watch interviewed, none of the 20 women who reported domestic violence to the police said they had spoken to a female police officer.

According to Najet Jaouadi, former supervisor of eight specialized units, by April 2022, 32 percent of the specialized units nationwide were headed by women, but that not all included female staff.¹¹⁹ In a 2021 shadow report on Tunisia's compliance with CEDAW, 22 nongovernmental organizations said specialized units did not have enough female police officers.¹²⁰

Given the taboo shrouding domestic violence, especially sexual abuse, the lack of female officers responsible for interviewing survivors may deter women from reporting abuse. Nearly one out of six married women is exposed to sexual violence from their intimate

¹¹⁶ Human Rights Watch interview with Fatma, Regueb, Tunisia, November 23, 2021.

¹¹⁷ Human Rights Watch interview with Ali Joua, head of Gabes' specialized police unit, Gabes, Tunisia, December 21, 2021; Salem Mnafeq, head of Zarzis' police specialized unit, Zarzis, Tunisia, December 23, 2022; and an officer from the national guard's specialized police unit in Sidi Bouzid's governorate who participated in a training attended by Human Rights Watch, Sidi Bouzid, Tunisia, November 2021.

¹¹⁸ Human Rights Watch interviews with Ali Joua, head of Gabes' specialized police unit, in Gabes, Tunisia, December 21, 2021; and Salem Mnafeq, head of Zarzis' police specialized unit, in Zarzis Tunisia, December 23, 2022.

¹¹⁹ Human Rights Watch with Najet Jaouadi, Tunis, Tunisia, April 9, 2022.

¹²⁰ 7th Shadow Report to CEDAW, Treaty bodies Download (ohchr.org).

partner, according to a 2010 national survey.¹²¹ However, survivors of domestic violence rarely disclose sexual violence when filing their complaints due to taboos surrounding sexuality and the insufficiency of female police officers and private rooms in specialized units, according to staff at counseling centers interviewed by Human Rights Watch.

Survivors typically base their complaints to the authorities on non-sexual forms of violence and disclose instances of sexual violence at later stages during the investigation, if ever.

Houda, 34, from Zarzis, told Human Rights Watch that she had felt too ashamed to describe to the male police officer taking her complaint the sexual violence that her husband inflicted on her when she filed a complaint against him for physical and economic abuse in June 2021:

As soon as I could, I went to the specialized units in Zarzis and told them everything about all the years of violence. Actually, I tried to tell them everything but there were things I couldn't say out loud. I was too ashamed. Then, the policeman gave me a pen and paper. I don't know how I found the strength to do it, but I wrote it all; the words suddenly flowed until I had nothing left to say. I wrote about things I had never told anyone about and didn't even let myself think of. Then, I filed my first formal complaint about physical and sexual violence.¹²²

No other survivor reported to Human Rights Watch that police officers had invited them to write down their experiences in case doing it orally was too difficult.

Article 28 of Law-58 also specifies survivors of sexual violence may request to be heard by the police in the presence of a psychologist or social worker, but it does not specify the process for such requests. In practice, this has meant that police do not inform survivors that such an option is available to them. None of the women interviewed by Human Rights Watch who said they had experienced sexual violence were informed of their right to request a psychologist or social worker to assist in their interaction with the police.

¹²¹ Enquête nationale sur la violence à l'égard des femmes en Tunisie, Office national de la famille et de la population (ONFP) et Agence Espagnole de coopération internationale pour le développement (AECID), 2010.

¹²² Human Rights Watch interview with Houda, Zarzis, Tunisia, December 23, 2021.

Most specialized units were set up within the pre-existing stations of the police or national guard. As such, not all specialized units have their own quarters or sufficient rooms to interview survivors privately.

When specialized units lack dedicated rooms for conducting confidential interviews, officers in the unit may ask other officers to leave so they can interview survivors in privacy. The lack of assured privacy in specialized units could deter survivors from reporting domestic violence, according to a coalition of nongovernmental organizations supporting survivors in Tunisia.¹²³

Jaouadi, former supervisor of eight Specialized Units, said new specialized units were being built in Sidi Bouzid and Monastir for instance, with exemplary structures and dedicated space to interview survivors in privacy.¹²⁴ She said United Nations agencies were funding projects to build new specialized stations in Zarzis and Kasserine.

Lack of Vehicles

Law-58 requires specialized units to immediately go to the crime scene to investigate when they learn of *flagrant délit* cases of violence against women (Article 25) and to transport survivors to first aid spaces or shelters as needed (Article 26). However, adequate means of transport have not been allocated to specialized units, according to frontline respondents and police officers interviewed by Human Rights Watch.

The shortage of vehicles hampers the response readiness of specialized units and heightens the vulnerability of survivors who live in remote areas or who cannot afford transportation due to care responsibilities or a lack of means. “I know police officers—men and women—who spent their own money to cover taxi rides for survivors,” said Amal Yacoubi, Oxfam’s gender justice program coordinator.¹²⁵

¹²³ 2021 Shadow Report to Tunisia’s Seventh Report on the Implementation of CEDAW. ATFD.

¹²⁴ Human Rights Watch interview with Najet Jaouadi, Tunis, Tunisia, April 9, 2022.

¹²⁵ Human Rights Watch online interview, November 1, 2021.

Ineffective Training

Handbooks and trainings have been developed to support the Ministry of Interior's training of police officers on Law-58's provisions.¹²⁶

In December 2021, Jaouadi told Human Rights Watch that all staff working in specialized units had undergone trainings on Law-58 organized by the Ministry of Interior in partnership with national and international organizations.¹²⁷

However, most lawyers and frontline respondents who spoke to Human Rights Watch said police trainings on Law-58's provisions had not sufficed to change the dismissive attitudes most police officers have towards women who complain of domestic violence.¹²⁸

Staff of nongovernmental organizations supporting survivors and Monia Kari, former head of the National Observatory for the Elimination of Violence against Women, assessed that police trainings focused excessively on legal and procedural dimensions of Law-58, and insufficiently on raising awareness of the cyclical nature of domestic violence and trauma-sensitive communications skills.¹²⁹

Mishandling Survivor Complaints

For survivors, how the police receive and treat them deeply affects their readiness to take legal action against their abusers.¹³⁰ Survivors' interviews with Human Rights Watch revealed frequently discouraging police responses to domestic violence.

Failure to Investigate

Prior to the adoption of Law-58, Amnesty International documented cases where police discouraged, tacitly or explicitly, women from filing complaints of domestic violence.¹³¹

¹²⁶ Tunisian Ministry of Women, National Annual Report of the Ministry of Women on the Elimination of Violence Against Women (FRENCH) 2020, p.22.

¹²⁷ Including state-affiliated Research Center for Documentation and Information Studies on Women (Le Centre de Recherche d'Etudes de Documentation et d'Information sur la Femme, CREDIF); the United Nations Development Program, and nongovernmental organizations such as EuroMed Rights.

¹²⁸ Including lawyer Iadh Amami, certified to conduct trainings on Law-58 by the Council of Europe.

¹²⁹ Human Rights Watch Interview with Monia Kari, Tunis, Tunisia, December 7, 2021.

¹³⁰ The United Nations Office on Drugs and Crime (UNODC), "Handbook on Effective police responses to violence against women," 2010 p.44.

¹³¹ Amnesty International, "Tunisia: Assaulted and accused," p. 21.

These involved instances of victim-blaming and of prodding complainants to reconcile with their alleged abusers.¹³²

In line with the CEDAW Committee’s recommendation, Law-58 requires specialized units to immediately investigate as a criminal matter all flagrant cases of violence against women.¹³³ Article 25 subjects to a six-month prison sentence specialized unit officers who are found to pressure survivors to forgo exercising their rights under the law, modify their deposition, or withdraw their complaint. Members of the judiciary who spoke to Human Rights Watch said that, to their knowledge, Article 25 had not been led to any police investigation since the law’s adoption.¹³⁴ The Ministry of Interior did not reply to Human Rights Watch’s written request for information about the implementation of Article 25.

Najet Jaouadi, head of Customs Police and former head of eight specialized units, said that, to her knowledge, there had only been one case of a complaint issued against a police officer in light of Article 25 since the law’s adoption.¹³⁵ She said: “It was a lawyer who’d gone to the specialized units to file a complaint for violence against women, around 2018 or 2019. The police officer handling her case had tried to dissuade her from going ahead with it. He didn’t know how educated she was! As a lawyer, she knew her rights and filed a complaint against him.” Jaouadi was unsure whether this complaint had led to any investigation or condemnation of the police officer.

Despite these legal provisions, nine out of the twenty women we interviewed who had complained to the police said they had faced dismissive attitudes.

Sana, 31, from Zarzis, said that when she complained about her husband’s years of physical and economic violence in November 2021, a police officer asked her: “So, do you want to forgive him or should we arrest him?”¹³⁶

Sana insisted she would not forgive her abuser, but not all survivors are the same. Police officers should refrain from suggesting reconciliation and instead treat domestic violence

¹³² Ibid.

¹³³ Para 23, General Recommendation 35, Re States’ responsibility for the prevention of omissions by their own agents

¹³⁴ Human Rights Watch interview with lawyers Hela Ben Salem and Hassina Darragi, October 12, 2022.

¹³⁵ Human Rights Watch interview with Najet Jaouadi, Tunis, Tunisia, April 9, 2022.

¹³⁶ Human Rights Watch Interview with Sana, Zarzis, Tunisia, December 23, 2021.

as the crime that it is, ensuring that they are filing complaints and proceeding with investigating the offense and assisting survivors, regardless of the inclination of any survivor to forgive.

In six cases reviewed by Human Rights Watch, the police actively discouraged survivors from complaining against their abusers and encouraged reconciliation in the name of preserving the family, or refused to take appropriate measures to investigate the alleged crimes. Women's rights organizations and survivors told Human Rights Watch that the police are especially reluctant to investigate complaints against violent family members, as opposed to partners.

"Meriem," 19, from Beja, who said her brother and father had abused her for years, recounted her attempt to file a complaint against them, in 2021:

My dad, granddad, brother, and cousin also came in with me to the police station. They were not far away from me, but I spoke to the police alone. I told them everything that had happened in detail, from the beginning. One of the policemen said: "That must be terrifying." They recorded everything I told them. I was crying and shivering. When I was done, one of the policemen said: "They need to be arrested." But then they just took me to this shelter and didn't do anything to them. I don't know why they didn't arrest them.¹³⁷

Meriem said that she did not hear from the police about whether they conducted any further investigation or the status of her case. She also said they did not inform her of her rights.

Lawyers, staff of nongovernmental organizations, as well as social services supporting survivors must often tailor their assistance to minimize risks that the police will mishandle complaints.

¹³⁷ Human Rights Watch interview with Meriem, Tunisia, February 9, 2022. Location withheld to protect the survivor's anonymity.

Hanan Hnid, a lawyer in Zarzis, said she coordinated with a non-governmental organization to ensure a case worker from their staff could accompany them to specialized units when filing their complaints.¹³⁸

Arbia Alahmar, a social worker at the National Union for Tunisian Women, said every six to eight weeks she had to write letters in the name of her organization asking specialized units to treat individual cases of survivor complaints in a timely manner.¹³⁹ Alahmar said she did so because the specialized units sometimes told women seeking to file a complaint against their abusers “to go home” or “come back later.” Yet, an immediate response by specialized units is necessary to preserve evidence, ensure survivors do not withdraw their complaints, and that they can access protection.

The police also use the lack of shelters as a reason not to issue protection measures or orders.¹⁴⁰ In December 2021 (before the opening of a shelter in the summer of 2022), Ali Joua, head of the police specialized unit in Gabes, said the lack of nearby shelters to host survivors was another reason the police rarely issued protection measures.¹⁴¹

Nahla, 40, from Ben Arous, recounted how in 2021 the police refused to take her complaint and provide her with safe accommodation:

When I went to the police station after my husband hit me with a brick, the chief of the police unit refused to take my complaint and told me: “Just leave and find yourself a place to stay. We have no place to take you to. Figure it out. Unless you’re about to die, the state is not interested in helping you.”¹⁴²

Arbitrary Evidentiary Requirements

Law-58 does not specify evidentiary requirements to prove domestic violence.

¹³⁸ Human Rights Watch Interview with Hanin Hnid, Zarzis, Tunisia, December 23, 2021.

¹³⁹ Human Rights Watch Interview with Abria Alahmar, January 10, 2022.

¹⁴⁰ See chapter ‘Lack of Shelter and Support Services for Survivors’ of this report.

¹⁴¹ Human Rights Watch interview with Ali Joua, Gabis, Tunisia, December 21, 2021.

¹⁴² Human Rights Watch interview with “Nahla,” Tunis, Tunisia, December 8, 2021.

However, interviews with women who sought to file complaints revealed that in practice the police treat initial medical certificates, which are issued by public doctors, as a prerequisite for launching investigations into allegations of violence against women. When the police receive complainants of physical domestic violence, authorities issue them a requisition that they can present to any public hospital to access a free medical consultation and an initial medical certificate.¹⁴³ Women are expected to go to the hospital themselves to acquire a medical certificate, which they must bring back to the police before they will consider launching an investigation.

Police, prosecutors, and judges should not require medical certificates before launching an investigation; a woman's firsthand account should be sufficient. In addition to launching an investigation, they should explain the investigation process and advise women who have physical injuries on how a forensic medical certificate may help support their case for prosecution. Evidence collection, however, should not be limited to medical reports.

The second time Nahla attempted to file a complaint against her abuser, she said the specialized units refused to investigate her case because she had no recent medical certificate:

In September 2021, my husband continued to be violent. When he choked me, I decided to try to file another complaint against him at the police station. The police told me to get a medical certificate. I told them I'd already given them one last time I'd filed a complaint but they refused to do anything. They didn't take me seriously at all. I didn't feel like I had just told them about a crime! I just went back home afterwards.¹⁴⁴

The police did not launch an investigation based on her testimony or on the fact that there was history of violence including complaints filed in the past. They also did not offer to take her to the hospital to help record the injury or inform her of any other rights she was entitled to.

¹⁴³ Circular of the Ministry of Health 2014-39.

¹⁴⁴ Human Rights Watch with "Nahla," Tunis, Tunisia, December 8, 2021.

Police officers also attribute time limitations to initial medical certificates, considering them no longer valid if the complainant brings her certificate to the police beyond what they consider the period of validity. According to women and frontline respondents whom Human Rights Watch interviewed, the period of validity varied from one location to another and ranged from 48 hours to 5 days, or a week or two.

Imposing expiration dates to initial medical certificates undermines the right of survivors to seek justice against their abusers at a time when they are ready to do so. The practice could expose survivors to further violence. It is also problematic as it ignores the reality that domestic violence often results in cumulative smaller physical injuries over time, or other non-physical or less-visible harm such as brain trauma.¹⁴⁵

Jaouadi, the Customs Police Director who drafted the 2019 police protocol for the elimination of violence against women, told Human Rights Watch that no legislation indicates that initial medical certificates should have an expiration date. She said that prosecutors often imposed such requirements in their local practices.¹⁴⁶

Fatma, 44, from Regueb, said the specialized unit of the National Guard in Sidi Bouzid rejected her complaint when she tried to report her husband's violence in October 2021: "The police said the initial medical certificate had to be no more than one week old to allow them to investigate."¹⁴⁷

Ahlem, 26, from Sidi Bouzid, who said she was beaten, humiliated and forced to work without compensation for seven years by her husband, recounted:

In August 2021, I went to the police station in Sidi Bouzid to file a complaint, but the specialized units told me I couldn't do anything with my [three] medical certificates [dating from 2018, 2020, and 2021] because all

¹⁴⁵ Rolf Gainer, "Domestic Violence, Brain Injury, and Psychological Trauma," *Neurological Rehabilitation Institute at Brookhaven Hospital*, December 30, 2015 <http://www.traumaticbraininjury.net/domestic-violence-brain-injury-and-psychological-trauma> (accessed January 13, 2017). It describes how brain injury is often "not understood as the outcome of repeated blows to the head or strangulation attempts depriving the victim of oxygen during a violent attack by a domestic partner. The person who is agitated, depressed, forgetful, confused, having slurred speech, experiencing headaches, pain, vertigo and other physical symptoms that we associate with brain injury may be not appropriately diagnosed and treated."

¹⁴⁶ Human Rights Watch interview with Najet Jaouadi, Tunis, Tunisia, April 9, 2022.

¹⁴⁷ Human Rights Watch interview with Fatma, Regueb, Tunisia, November 23, 2021.

of them had been issued more than 15 days ago. I felt so discouraged. Any woman would lose her strength at that point. I am illiterate; why aren't my rights protected? Why didn't anyone tell me my certificates would lose their validity after a couple of weeks?¹⁴⁸

Once survivors obtain the medical certificate, they must return them to the relevant authority to initiate a criminal investigation. “Initial medical certificates issued by requisition – as opposed to those issued at women’s own request – are important, confidential legal documents. As such, technically, the police should try to obtain it from the doctor or the doctor should give it to the authorities. But in practice, that is very complicated to achieve, so we rely on women to act as intermediaries to deliver the certificate to the police,” explained forensic doctor Wiem Ben Amar, professor of medicine at the University of Sfax and an expert in issues relating to violence against women.

Staff of nongovernmental organizations who spoke to Human Rights Watch voiced concern that the lack of certainty regarding when the initial medical certificates would be ready, and all the back-and-forth involved in obtaining them, could discourage them from pursuing complaints.

Law-58 requires specialized units to immediately go to the crime scene where *en flagrant délit* cases of violence against women are reported, to investigate them (Article 25) and to transport survivors to first aid spaces or shelters as needed (Article 26). With only two exceptions, the women who spoke to Human Rights Watch said that police did not offer to transport them for medical assistance.

Most survivors must ensure their own transportation. The UN CEDAW Committee, in its General Recommendation number 35, stated that “Protective measures should avoid imposing an undue financial, bureaucratic or personal burden on women who are victims/survivors.”¹⁴⁹

¹⁴⁸ Human Rights Watch interview with Ahlem, Sidi Bouzid, Tunisia, November 24, 2021.

¹⁴⁹ UN CEDAW Committee in its General Recommendation number 35, Para 3, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/GC/35&Lang=en (accessed July 26, 2022).

Police units are insufficiently staffed and equipped with vehicles to transport survivors to medical facilities, according to various women’s rights groups who spoke to Human Rights Watch.

“The police go a lot farther when it comes to investigations involving drug consumption than when it is about domestic violence, as if it was not really a crime. The onus is on women to gather evidence,” commented lawyer Iadh Amami, a Sidi Bouzid-based lawyer certified to conduct trainings on Law-58 by the Council of Europe.¹⁵⁰

While a Human Rights Watch researcher was interviewing Saoussen Chelbi, who works at Sidi Bouzid’s Regional Delegation for Women’s Rights, a 46-year-old woman burst into her office. The woman explained her husband had hit her with a chair. She pulled back her headscarf to reveal a black eye. She said her 11-year-old son also beat her. When Chelbi explained she had to go to the specialized police unit to obtain a requisition and then to the hospital to receive a medical certificate, before returning to the police to go forward with her complaint; the woman was discouraged. “I hate the hospital. I will wait there for hours. I don’t even have money to take a taxi there. My son and husband take all the money I make from gardening and selling bread.” Chelbi insisted, “Do you want to give up on your rights? Then go right to the hospital! You will lose your right if you don’t get a medical certificate.” As the woman left Chelbi bemoaned how often survivors abandoned their complaints due to a confusion about complaint procedures and a lack of time and money.

Alleged Police Corruption

Prior to the adoption of Law-58, Amnesty International documented instances of police corruption between 2013 and 2015 that prevented survivors from pursuing justice in cases where the abuser was a police officer or employee of the Ministry of Interior.¹⁵¹ In such cases, survivors’ complaints had been either modified or removed.¹⁵²

¹⁵⁰ Human Rights Watch Interview, Iadh Amami, Sidi Bouzid, Tunisia, November 25, 2021.

¹⁵¹ Amnesty International, *Les victimes accusées*.

¹⁵² *Ibid.*, p.60.

In 2021, five survivors and four staff of organizations supporting survivors told Human Rights Watch they suspected the police had failed to take appropriate action against abusers due to corruption or nepotism.

When explaining why the police had rejected her attempt to file a complaint against her husband after he hit her with a brick, Nahla said: “I am sure my husband gave them money after I gave them my testimony. The police are completely corrupt. Ten or twenty dinars (\$3-6) is enough for them to get themselves some drinks and buy them off.”¹⁵³

According to staff from governmental and nongovernmental organizations supporting survivors, women whose abusers work as police officers or occupy other function under the Ministry of Interior have a weak chance of getting justice in practice.¹⁵⁴ Some women may not report at all because they fear nothing will be done where their abuser has police connections or that they could face repercussions if they did.

“Leila,” 40, from Kasserine, told Human Rights Watch that her then-husband cheated on her, ignored her, and insulted her.¹⁵⁵ As her ex-husband is a former police officer at the National Guard, she said there was nothing she could do against him. She tried filing a complaint against him once but was turned away: “I feel like a volcano inside. I have all the proof and yet I know I cannot do anything against my husband, he is too well-connected.”

On April 18, 2022, the Association Tunisienne des Femmes Démocrates (Tunisian Association of Democratic Women, ATFD) issued a declaration, “How long will police violence and impunity last?” accusing the Satyam police station of rejecting complaints filed by women against police officers who had abused them.¹⁵⁶ Human Rights Watch did not investigate these cases.

¹⁵³ Human Rights Watch interview with “Nahla,” in Tunis, Tunisia, December 8, 2021.

¹⁵⁴ Human Rights Watch interview with Arbia Alahmar, social worker at the National Union for Tunisian Women in Tunisia, , Tunisia, January 10, 2022; Human Rights Watch interview with Naima Gharsallah, from Eve’s Voice, a nongovernmental organization which provides counseling services to survivors in Regueb, , Tunisia, November 7, 2021.

¹⁵⁵ Human Rights Watch interview with “Leila,” in Al Kef, November 10, 2021.

¹⁵⁶ See 18 April 2021 social media post on the official Facebook page of the Association Tunisienne des Femmes Démocrates “How long will police violence and impunity last?” <https://www.facebook.com/153986931339233/posts/7233956266675562/?d=n> (accessed June 3, 2022).

In general, individuals who experience any form of police mistreatment can report it to the public prosecutor, who may launch an investigation into the incident. Given the police's reported pattern of failing to inform survivors of their rights, it is unlikely they would inform complainants of this procedure. Even if they were informed of such procedures, women may not have the literacy, time, or psychological capacity to go forth with such complaints.

Police Violence Against LBT Women

Lesbian, bisexual, and transgender (LBT) women risk prosecution under various clauses of the Penal Code, including Article 230, which Law-58 did not repeal.

Ali Bousselmi, executive director of Mawjoudin, a nongovernmental organization providing support to lesbian, gay, bisexual, and transgender (LGBT) people said:

It is very unlikely that lesbian or bisexual women and especially trans women would report any instance of domestic abuse to the police because they are scared they might be prosecuted if any information pertaining to their sexuality or gender identity was revealed during the investigation.¹⁵⁷

Beyond the fear of criminalization, LGBT rights nongovernmental organizations who spoke to Human Rights Watch said that LBT women were frequent targets of police abuse. In 2021, Human Rights Watch documented cases in which the police in Tunis singled out LGBT activists, including LBT women, for mistreatment at protests.¹⁵⁸ At the same time, police officers have harassed LGBT activists, revealing their personal information including home addresses and phone numbers, and “outing” them.¹⁵⁹

The absence of legislation protecting LGBT people from discrimination enables both security forces and private individuals to target them with impunity and deters LBT women from reporting abuses against them to the police.

¹⁵⁷ Human Rights Watch interview with Ali Bousselmi and Lina Elleuch from Mawjoudin, Tunis, Tunisia, December 9, 2021.

¹⁵⁸ “Tunisia: Police Arrest, Use Violence Against LGBTI Activists,” Human Rights Watch press release, February 23, 2021, <https://www.hrw.org/news/2021/02/23/tunisia-police-arrest-use-violence-against-lgbti-activists> (accessed September 2, 2022)

¹⁵⁹ Ibid.

The three trans women who suffered domestic violence and were interviewed by Human Rights Watch in Al Kef, Sidi Bouzid, and Tunis, said they had been harassed either verbally, sexually, or physically by police officers more than once in their lifetime.

“Alia,” 21, from Al Kef who was physically abused by her father and brothers (abuses varied and included beatings with sticks and burns with boiling water) since age 14, said: “The police always harass me on the street. They tell me to “man up”. There is no way I could turn to them to report violence from my boyfriend or members of my family.”¹⁶⁰

Non-Enforcement of Protection Measures

Law-58 provides for protection measures (Article 26) and protection orders (Articles 30-38) for survivors of domestic violence.¹⁶¹ UN Women describes protection orders as “among the most effective legal remedies available to complainants/survivors of violence against women.”¹⁶² Such orders provide women with a measure of protection “while allowing them time to determine how to stay safe over the long term without immediately having to file for divorce or seek criminal sanctions.”¹⁶³

Law-58 provides for protection measures which are a set of temporary measures that are issued by public prosecutors at the request of specialized units to provide immediate protection to women and children before family judges can decide on protection order requests and are effective until a protection order is issued. These are also known as “ex parte” or “emergency orders” in the United Nations Handbook for Legislation on Violence against Women. Under Article 26 of Law-58, these include: transferring survivors and their children to a safe space (i.e. shelter) or to receive first aid if needed; removing the suspect from the family home; and prohibiting the suspect from approaching the survivor at home or at her place of work.

Protection orders, under Article 33 of Law-58, can include any or all of the seven measures which family judges can issue at complainants’ request without requiring survivors to leave

¹⁶⁰ Human Rights Watch interview with “Alia,” Al Kef, Tunisia, November 10, 2021.

¹⁶¹ UN ESCWA, *Beyond Boundaries: Utilizing Protection Orders to Cultivate a Holistic Response to Domestic Violence in The Arab Region*, 2019, E/ESCWA/ECW/2019/1, <https://archive.unescwa.org/publications/utilizing-protection-orders-cultivate-holistic-response-domestic-violence> (accessed September 2, 2022)

¹⁶² The UN Handbook for Legislation on Violence against Women, section 3.10.1.

¹⁶³ Ibid.

the spousal domicile. They include prohibiting the defendant from contacting the victim or their children at any place where they may be, including the shared family home; prohibiting the defendant from damaging the victims' private property; compelling the defendant to pay a housing allowance or post-divorce financial support (alimony) for the survivor and her children, as applicable.

They are issued following a judicial process which involves a hearing before the formal judge of both parties and any other persons whose accounts are useful and can be subject to appeal. Such orders can last up to six months, with the possibility of a one-time renewal of up to another six months following the same judicial process.

Violating the protection measures or protection orders can be subject to one year's imprisonment and a fine of 5,000 dinars (\$1555).¹⁶⁴ The law also provides that anyone who resists or prevents the execution of protection orders can be punished by up to six months' imprisonment and/or a fine of 1,000 dinars (\$310).¹⁶⁵

In line with UN recommendations, women can apply for both the temporary protective measures and protection orders in Law-58 without being required to file a criminal complaint or start divorce proceedings.¹⁶⁶

There are no publicly available data on the number of protection measures issued at the request of specialized units.

However, the Ministry of Women and experts interviewed by Human Rights Watch insist protection orders and measures, are rarely issued by authorities.¹⁶⁷

In Sidi Bouzid, the head of the National Guard's specialized unit said, during a training on Law-58 conducted in November 2021 and attended by Human Rights Watch, that his team had never requested prosecutors to issue any protection measure for complainants.

¹⁶⁴ Law 58, art.38.

¹⁶⁵ Law 58, art.37.

¹⁶⁶ The UN Handbook for Legislation on Violence against Women, section 3.10.2.

¹⁶⁷ Tunisian Women Ministry, National Annual Report of the Ministry of Women on the Elimination of Violence Against Women (ARABIC), 2021, p.56; Human Rights Watch interview with Hela Ben Salem, lawyer and member of the Tunisian Association for Democratic Women, who conducted a research on protection orders' issuance in 2021, Tunis, Tunisia, November 2, 2021.

Donia Allani, a consultant to the United Nations Entity for Gender Equality and the Empowerment of Women Tunisia, explained that “specialized units usually justify limiting their use of protection measures by referring to the administrative burden of requesting the public prosecutor’s approval before taking them.”¹⁶⁸

According to former family judge Abdelhamid Naoui, Tunisian authorities are reluctant to remove alleged abusers from their homes, through requests for protection orders or measures, due to patriarchal norms that go against removing a man from a place that is perceived as his.¹⁶⁹

Most of the women who spoke to Human Rights Watch about their interactions with specialized units said the police had not explained to them their rights to request protection measures or orders as they are required to under Article 26 of Law-58, which allows for any victim of violence against women to be informed of her rights.

Out the 20 women who went to the policewomen and spoke to Human Rights Watch, most had not been clearly informed of their rights by the police. Only two were told of their right to request protection orders or legal aid, for example.

Among women who spoke to Human Rights Watch, the few who were familiar with protection orders were those who had gone through the process of requesting a protection order with assistance from counselors or lawyers affiliated with nongovernmental organizations.

Sana, 31, from Zarzis, who said her husband inflicted physical and economic violence on her, and who was supported by the Association pour le Développement Durable et la Coopération Internationale (Association for Sustainable Development and International Cooperation, ADDCI) recounted:

The day after the police arrested my husband, they referred me to ADDCI.
They [ADDCI] were empathetic. They explained to me what protection orders

¹⁶⁸ Human Rights Watch Interview via telephone with Donia Allani, September 28, 2021.

¹⁶⁹ Human Rights Watch Interview with Abdelhamid Naoui, former family judge and current president of the criminal court in Al Kef, Tunisia, November 11, 2021.

were and how to obtain one clearly. Their lawyer was particularly helpful. At the beginning, I didn't know anything about these processes, so I really needed this support. They even helped me obtain free legal aid and ADDCI helped me submit my protection order request to the prosecutor.¹⁷⁰

A judge issued Sana a protection order in November 2021.

Article 26 of Law-58 obliges specialized units' staff to inform survivors of all their rights and the legal remedies available to them. However, the article does not explicitly specify that police officers who are not part of specialized units are also obliged to inform survivors of their rights. This gap in the legislation, combined with the limited operating hours of the specialized units, jeopardizes survivors' ability to exercise their rights.

According to Najet Jaouadi, all specialized units are equipped with large banners detailing Law-58's key provisions in standard Arabic that a literate survivor can read or request to be read to her by an officer while waiting to be heard.¹⁷¹

Human Rights Watch did not verify Jaouadi's claim, Ramla Ayadi, head of the National Civil Coalition for the elimination of violence against women and girls (Coalition Nationale Civile pour l'élimination des violences à l'encontre des femmes et des filles, CNAV) told Human Rights Watch such banners were lacking.¹⁷²

While Zarzis' police specialized unit had such a banner, Gabes' police specialized unit did not when they were respectively visited by Human Rights Watch in December 2021.

Legislative gaps and operational constraints also hamper the effective implementation of protection measures.

According to Karima Brini from the Association Femme et Citoyenneté (Association Women and Citizenship, AFC) in Al Kef, specialized units lack the staff and resources to monitor those who have been placed under protection measures. "Usually, the issuance of

¹⁷⁰ Human Rights Watch Interview with "Sana," Zarzis, Tunisia, December 23, 2021.

¹⁷¹ Human Rights Watch with Najet Jaouadi, Tunis, Tunisia, April 9, 2022.

¹⁷² Human Rights Watch with Ramla Ayadi, online, August 8, 2022.

protection measures is dissuasive enough to deter abusers from approaching their victims, but that is never guaranteed,” she cautioned.¹⁷³

Resorting to Pledges

Pledges are an informal practice whereby the police or the judiciary can request alleged perpetrators to commit in writing, by signing a document that is not legally binding, in front of official witnesses not to perpetrate further violence against a survivor. Pledges are a common practice in several countries in the Maghreb and Mashreq, which the authorities use as a tool for conciliation between victims and their abusers and have been documented as contributing to further violence against women.¹⁷⁴

In theory, to the extent they are obeyed, pledges could allow a complainant to stay with her family or partner with the pledge deterring them from committing further harm against her. However, in practice such pledges are ineffective as there are no legal consequences for violating a pledge and it can leave women further exposed to violence. Protection measures on the other hand prioritize women’s safety over conciliation with legal consequences for those who breach it and allow women the space to decide on their next steps.

Jaouadi, said that pledges gave abusers “total impunity” and inevitably allowed them to beat their wives again.

Five women told Human Rights Watch that police agents had proposed pledges in response to their attempts to file a complaint instead of informing them of their rights to request a protection order.

Since Law-58 was implemented, Jaouadi told Human Rights Watch she organized monitoring visits to ensure specialized units stopped proposing or implementing pledges. Resorting to pledges exposes police officers to the risk of a six-month sentence under Article 25 of the law.

¹⁷³ Human Rights Watch with Karima Brini, Al Kef, Tunisia, November 8, 2021.

¹⁷⁴ Human Rights Watch, *Boxed In: Women and Saudi Arabia’s Male Guardianship System*, 2016, <https://www.hrw.org/report/2016/07/16/boxed/women-and-saudi-arabias-male-guardianship-system> (accessed May 17, 2022)

The Ministry of Interior did not respond to Human Rights Watch’s September 2022 letter requesting information on the number of cases of non-compliance with protection measures, or the sanctions imposed for violations.

Femicide Prevention

On May 7, 2021, “Monia,” a visibly injured 26-year-old woman, went to the police to report her husband’s assault on her. She had first gone to a specialized police unit but found it closed. Hours later she went to a regular police station, where officers registered her complaint and referred it to the First Instance Court. Authorities did not arrest the accused husband or confiscate his firearm. During the night of May 9-10, the victim’s husband allegedly shot her dead. He is currently in pre-trial detention.

“Everything that could have possibly gone wrong, went wrong. It was almost a caricature of the authorities’ negligence and the system’s failure to protect women,” Dr. Ahlem Belhaj, psychiatrist and women's rights advocate, told Human Rights Watch.¹⁷⁵

Case Study: A Collective Failure to Protect

The head of a nongovernmental organization, who spoke to the victim during the last 48 hours before her murder, told Human Rights Watch:

One night, during Ramadan, a friend told me about her neighbor who had been prescribed 20 days of rest by the hospital following her husbands’ assault on her. I was surprised her husband had not been arrested. I asked for her number and called her that same night. I needed to understand what had happened. We spent a lot of time on the phone that night.

“Monia” told me about her husband’s frequent abuse. “There is nothing you can do against me. Don’t forget I am a cop,” he told her often, she said. But that day her husband had tried to strangle her, which convinced her to file a complaint. She said she had gone to the regular police station and not a specialized unit because the latter was closed in the evening. She also

¹⁷⁵ Human Rights Watch telephone interview with Ahlem Belhaj, December 14, 2021.

told me my friend was wrong: she had not received her medical certificate yet, although her doctors had prescribed her, verbally, twenty days of rest. Monia said the police had been very empathetic toward her. They told her that her husband, an officer in the National Guard, should be arrested and that they would “teach him a lesson.” The police arrested her husband and told him: “The least you could do is apologize to her.” That was a huge mistake on their part – the police had not been sufficiently trained to deal with domestic violence cases. Instead of apologizing, her husband threatened Monia, telling her: “Drop your complaint or I’ll slaughter you!”

The police told Monia that they would transfer her file to the specialized units.

That night though, Monia didn’t sound scared by his threats. She told me she was staying with her parents and was more worried about her finances. She was wondering how she would manage because she didn’t have a job. She and her husband had some financial troubles so she was wondering how he would provide her with maintenance if he were detained.

We agreed that she would go to the hospital to obtain her medical certificate as soon as possible and that I would help her request a protection order. I asked her to call me back to update me.

The following day, May 8, I kept trying to call her but she did not pick up. Then I called the head of the police specialized unit and the officer who works with him in Al Kef. Neither of them picked up. Later, I called another police officer from the specialized unit. I asked him if the unit worked on Saturdays. He said they usually don’t but that today he would. The officer I spoke to said he hadn’t been able to reach Monia either and that he was heading to the police station. Once there, he got the confirmation that the case had been transferred to the specialized unit.

At that point, I felt relief. I knew that, prior to Monia’s case, the specialized unit had already taken the weapons away from two other security officers who’d been reported for domestic violence.

But later that afternoon, the police officer called to inform me that Monia had withdrawn her complaint and her husband was free. He said the investigation would still go on regardless of the withdrawal, as provided by the new law [Law-58].

I told him, “I hope she comes back to you on Monday.” In most cases of domestic violence, following a crisis, victims need some time before they can decide on the next steps. I found it odd that Monia had decided to withdraw her complaint so quickly. It usually takes at least a few days before women change their minds. Monia had told me she wanted to regain power over her husband, to prove to him that she was capable of filing a complaint against him. I knew she didn’t want to divorce him but I still couldn’t understand how she decided to forgive him so quickly.

That Saturday night, I heard gunshots in the neighborhood and called my friend right away. She confirmed Monia had been shot and taken to the hospital’s emergency room. Within a few hours, Monia was dead.¹⁷⁶

The Legacy of “Monia’s” Femicide

Monia’s femicide revealed the deadly consequences of gaps in the state’s response to domestic violence. Women who spoke to Human Rights Watch often recalled Monia’s case during interviews. They said it had scared them. Some said it had also resonated with their abusers. Nahla said her husband had threatened her by saying: “I will make sure you end up like Monia.”

Monia’s femicide has also changed perceptions among nongovernmental organizations, lawyers, and a judge interviewed by Human Rights Watch. They said it had made them realize the importance of every element in how the system responds to domestic violence:

¹⁷⁶ Interviewed by Human Rights Watch in Al Kef, Tunis, on November 8, 2021.

the timeframe within which initial medical certificates are issued; the risks of releasing an abuser quickly; and the failure to confiscate weapons from abusers.

In August 2021, specialized units and the judiciary agreed on measures to facilitate the issuance of protection measures. Brini explained efforts were also underway to develop a tool that will help specialized units assess risks of femicides and the need to take appropriate protection measures.¹⁷⁷

Negligent Medical Assistance

Law-58 provides for a comprehensive medical response to survivors of violence against women. Article 8 requires the Ministry of Health to take preparative measures to improve its response to survivors, including by establishing integrated programs in medical and paramedical education to combat violence against women, and training all health personnel to detect, assess, and prevent all forms of violence against women, and to examine, treat, and follow up with women victims of violence and the children residing with them. Article 13 affirms survivors and their children's right to health and psychological support services.

So far however, despite the Ministry of Health's efforts¹⁷⁸, the health sector's implementation of Law-58 is weakened by medical staff's lack of preparedness to assist survivors and refer them to appropriate support services, the unavailability in practice of comprehensive free physical and psychological care for survivors, limitations on accessing forensic examinations, a lack of data collection or sharing, and the health sector's lack of resources, further depleted by the Covid-19 pandemic response.

Insufficient Medical Staff Preparedness

Acting on Law-58's requirement that the Ministry of Health train all its medical personnel to prevent and respond to domestic violence (Articles 8 and 39), the ministry has partnered with the National Office of Family and Population (Office National de la Famille et de la Population, ONFP) to strengthen the capacity of health personnel, especially those working in emergency units, to detect and respond to domestic violence. From 2018 to

¹⁷⁷ Human Rights Watch with Karima Brini, Al Kef, Tunisia, November 8, 2021.

¹⁷⁸ See Appendix 6: Letter from the Ministry of Health, in response to Human Rights Watch's request for information (10 November 2022).

2020, authorities held 92 training sessions on gender-based violence in regional governorates targeting 2000 medical and paramedical staff gender-based violence, and six workshops on assisting women victims of violence were attended by 167 emergency medical officers and 34 doctors in all governorates.¹⁷⁹ In addition, Tunis' Faculty of Medicine has launched a post-graduate degree in sexual health care and reproductive life that covers violence against women.¹⁸⁰

However, numerous health professionals told Human Rights Watch that medical staff, including the ONFP's, are insufficiently familiar with Law-58's provisions due to a lack of training and poor internal enforcement of the health protocol on responding to violence against women.¹⁸¹

Doctor Ben Amar was unaware of the protocol's existence before she was interviewed by Human Rights Watch, suggesting that the poor dissemination of the protocol extends to the upper echelons of medical staff in urban settings.¹⁸²

According to Dr. Ahlem Belhaj, instability within the Ministry of Health has contributed to the poor internal dissemination of the protocol.¹⁸³

Inadequate Medical Reception & Referrals

Women who spoke to Human Rights Watch were generally neutral or positive about their interactions with medical staff and the waiting times in medical facilities. However, some of their statements revealed inadequate responses to domestic violence by medical staff.

¹⁷⁹ Tunisian, Ministry of Women, National Annual Report of the Ministry of Women on the Elimination of Violence Against Women (FRENCH), 2020, p.15.

¹⁸⁰ Ibid., pp.15-16.

¹⁸¹ Human Rights Watch interview with Dr. Saloua Amri, Sidi Bouzid's ONFP delegation, Sidi Bouzid, Tunisia, November 25, 2021, and Dr. Ahlem Bel Haj, remotely, December 14, 2021; Following adoption of Law-58, the Ministry of Health signed a protocol « Guide de prise en charge des Femmes victimes de violence: Secteur de la Santé » providing detailed guidance for all medical staff interacting with survivors, including emergency doctors, specialists, nurses, and psychologists to operationalize the law's provisions. The protocol was developed in line with international conventions and best practices.

¹⁸² Human Rights Watch interview with Dr. Ben Amar, remotely, May 4, 2022.

¹⁸³ Human Rights Watch telephone interview with Dr. Ahlem Bel Haj, December 14, 2021.

Sana, 31, from Zarzis, said the doctor she had consulted had criticized her for not leaving her abusive partner and returning to her parents' home when he first threatened to hit her.¹⁸⁴

Staff from nongovernmental organizations providing support to survivors in different regions of Tunisia said some doctors had blamed survivors for their abusers' violence or attempted to dissuade them from complaining against them.¹⁸⁵

Others highlighted the failure of medical staff to abide by the health protocol's guidance to minimize risks of re-traumatization of survivors, by requiring survivors to repeat their experiences numerous times to receptionists, nurses, and doctors while being examined.¹⁸⁶

Law-58 requires all frontline respondents to inform survivors of their rights. However, none of the women who spoke to Human Rights Watch said they received referrals to appropriate authorities or service providers, let alone information about their rights, from health professionals.

In a 2015 report, Amnesty International highlighted health professionals rarely referred survivors to mental health, social, or legal aid services.¹⁸⁷ In 2022, five years after Law-58's adoption, this holds true according to Human Rights Watch's research.

Mandatory Reporting

Article 14 of Law-58 obliges all individuals and professionals to report cases of domestic violence, that they become aware of, to competent authorities, such as police officers or public prosecutors, regardless of any professional obligations of confidentiality they may have. In practice, medical staff rarely report instances of violence against women to

¹⁸⁴ Human Rights Watch Interview with Sana, Zarzis, Tunisia, December 23, 2021.

¹⁸⁵ Human Rights Watch Interview with Naima Ghasrallah, from Voix d'Eve, remotely, November 25, 2021.

¹⁸⁶ Human Rights Watch Interview with Zeineb Beji, from Médecins du Monde, October 29, 2021, Tunisia, Tunisia; The protocol provides advice on medical staff's interactions with survivors. « Guide de prise en charge des Femmes victimes de violence : Secteur de la Santé » p.25.

¹⁸⁷ Amnesty International, Les victimes accusées, Novembre 2015, p.70.

authorities, Human Rights Watch has concluded based on interviews conducted with survivors, nongovernmental organizations, and medical staff.¹⁸⁸

The World Health Organization (WHO), however, cited evidence which “does not support mandatory reporting of intimate partner violence to police because it can impinge on women’s autonomy and decision-making.”¹⁸⁹ Abusers may actively prevent survivors from going to health facilities where they believe there is mandatory reporting.

“Nour,” 32 from Zarzis, who said her alcoholic husband abused her for eight years before she left him in 2021, said: “My husband didn’t allow me to go to the hospital, he was scared doctors would take him to jail if they saw the state I was in. Every time he’d beat me, he’d forbid me from leaving the house so that no one could see what he’d done to me.”¹⁹⁰

The WHO has recommended against mandatory reporting of intimate partner violence to the police by the health-care provider.¹⁹¹ Instead, they recommend that health-care providers should offer to report the incident to the appropriate authorities (including the police), if the woman wants this and is aware of her rights.¹⁹² They provide further guidance that healthcare providers will need to explain to women the limits of confidentiality if they wish to report it.

However, survivors’ statements suggest that even in grave cases, medical staff at public hospitals rarely refer them to provide further forms of assistance or guidance to survivors.

Fatma, 44, from Regueb, recounted:

I told the doctor my husband had done this [injuries from beating] to me
but I didn’t tell him I intended to complain, and he didn’t encourage me to

¹⁸⁸ While the law does not specify who competent authorities are, Saloua Amri from the ONFP affirms these may be any personnel of the ministries of Health, Women, Justice, Interior, or Social Affairs.

¹⁸⁹ WHO, *Responding to Intimate Partner Violence and Sexual Violence against Women WHO Clinical and Policy Guidelines*, p. 41., https://apps.who.int/iris/bitstream/handle/10665/85240/9789241548595_eng.pdf (accessed 10 August, 2022).

¹⁹⁰ Human Rights Watch interview with “Nour,” Zarzis, Tunisia, December 22, 2021.

¹⁹¹ World Health Organization 2013. *Responding to intimate partner violence and sexual violence against women WHO clinical and policy guidelines*.

¹⁹² Ibid.

do so. He didn't tell me anything at all, he just did his job. At the hospital, I also ran into the cousin of my husband who is a nurse there. She recognized me and had known for a while that he was violent with me. She said, "This is unacceptable," but then she just left.¹⁹³

Ahlem, 26, from Sidi Bouzid, was beaten, humiliated, expelled from her house, and exploited to work on olive tree fields without compensation over the course of eight years. She described how, while she was nine months pregnant, her husband physically assaulted her leading to her going into labor. She described how her husband's beating and rough ride to the hospital led to her losing her baby. Despite informing staff of the violence that led up to the baby dying, did not receive information about her rights, nor was she referred to other state or nongovernmental services to support her:

Right after my husband beat me in the olive tree field, I begged his nephew to take me to the hospital because I was feeling pain in my belly. I kissed his feet. Eventually, he accepted to take me to the hospital. My husband came too. He was driving very fast and driving over bumps on purpose to hurt me. It was a really painful ride. At one point my water broke, and the baby came out. I could hold its body with my hands at first but then it fell. The baby was dangling on the floor of the car. It was horrible. When we arrived at the emergency room in Sfax's hospital, I showed the medical staff the baby and they were horrified. They put the baby in a little box and said it had died. The nurse told my husband to go buy clothes for me from a nearby shop but all he brought were oversized, dirty second-hand pants. The nurse's eyes teared up when she saw this and she went to buy me some underwear and socks, but she didn't do anything else.

The following day, we went back to the tent on the olive trees field where we were working, and all my husband gave me was some bread, harissa, and lemon juice. No warm food, no kind word. Three days later he forced me to get back to work to help him.¹⁹⁴

¹⁹³ Human Rights Watch with Fatma, Regueb, Tunisia, November 23, 2021.

¹⁹⁴ Human Rights Watch with "Ahlem," Sidi Bouzid, Tunisia, November 24, 2021.

Ahlem stayed with her abuser for years until he asked to divorce her.

Restricted Access to Forensic Medicine

Forensic doctors, who help document medical issues in the investigation of crimes, operate in only about half of the country's 24 governorates, which makes survivors' access to forensic medicine contingent on their location.¹⁹⁵ Due to marked regional development disparities, the latter are concentrated in coastal cities. In poorer, inland cities where access to forensic doctors is scarce, such as Sidi Bouzid, the expertise of forensic doctors is solicited only for survivors of rape or other extreme cases of violence according to Dr. Saloua Amri.¹⁹⁶

Due to the lack of forensic doctors, the prevailing practice is for general physicians to examine complainants of domestic violence. In cases of rape or particularly complex examinations, general physicians may refer survivors to the nearest forensic doctor for an examination. Dr. Ben Amar explained, "In cases where women end up revealing instances of sexual violence during medical consultations, doctors are not allowed to investigate them during the consultation if the requisition they received did not ask them to do so. Women must return to the police station to ask for another requisition specifically to investigate traces of sexual violence." This poses another obstacle to the documentation of sexual violence.

In March 2016, Tunis' Charles Nicolle Hospital created a unique medico-judicial unit called "INJED," for the provision of forensic medical services for survivors of rape. Examinations at INJED involve a medical consultation by a forensic doctor, the issuance of a medical certificate, and the intervention of a psychologist to establish trust with survivors and support them. The unit is designed to receive women in isolated rooms and to minimize wait times. Outside of the capital, rape survivors do not have access to such specialized services.

¹⁹⁵ According to Doctor Wiem Ben Amar, this is due to wider decentralization challenges making certain governorates less appealing for medical professionals to live and work in. S Duma and GA Ogunbanjo, "Forensic documentation of Intimate Partner Violence in Primary Health Care," *South African Family Practice*, 46:4, 2004, 37-40, <https://doi.org/10.1080/20786204.2004.10873072> Forensic doctors are specially trained to detect complex traces of violence and establish theories of what caused them (accessed June 22, 2022),

¹⁹⁶ Human Rights Watch interview with Dr. Saloua Amri, Sidi Bouzid's ONFP delegation, Sidi Bouzid, Tunisia, November 25, 2021.

Initial Medical Certificates

Initial medical certificates are medico-legal records of injuries allegedly caused by traffic accidents, work incidents, or violent assaults, including physical and sexual domestic violence. They may be issued by different public health doctors and bear important forensic ramifications as they may be used in courts in criminal or civil cases, including cases of domestic violence.

Initial medical certificates gathered by survivors before they decide to file a complaint against their abuser can provide evidence of precedents to their abusers' violence when they are ready to file a complaint. However, in practice, initial medical certificates have far more weight and are fundamental documents for survivors as they are typically required by the police to launch investigations.

Survivors may request an initial medical certificate on their own or with the requisition of a competent authority detailing the instructions authorities give to the forensic doctor to check (i.e. the specific bruises, or possible cause, including the type of violent act, to be assessed).

The health protocol for responding to survivors of violence against women specifies initial medical certificates should start with survivors' statements before stating the doctor's description of the injuries, their speculations regarding the attributability of the damages to the assault described by the survivor, and the resulting total work incapacity period.¹⁹⁷

The protocol recommends that a second medical certificate can follow at a later point for a more complete examination. However, in practice, authorities do not help women secure secondary medical certificates, which could highlight deeper or longer-term injuries or illnesses caused by violence against them. With the exception of rape survivors for whom a psychological or psychiatric examination is required, health authorities generally do not orient survivors of domestic violence to psychologists to provide further evidence to complement their first initial medical certificates.¹⁹⁸ Survivors who spoke to Human Rights

¹⁹⁷ According to the 2016 health protocole « Guide de prise en charge des Femmes victimes de violence : Secteur de la Santé » p.38.

¹⁹⁸ Ibid., p.32

Watch often said they were disappointed that the initial medical certificates did not reflect the deeper physiological and psychological impacts of their abuse.

In the 2021 shadow report to CEDAW, a coalition of 22 nongovernmental organizations described survivors' medical examinations as "rapid and incomplete" due to the emergency services being over-stretched.¹⁹⁹

The quasi-exclusive focus on visible harm in doctor's written examination of survivors "ignores the reality that domestic violence often results in cumulative smaller physical injuries," or other "nonphysical or less-visible harm such as brain trauma."²⁰⁰ According to the WHO, domestic violence may also provoke "common ailments that often have no identifiable medical cause or are difficult to diagnose," including "functional disorders" or "stress-related conditions" such as gastrointestinal symptoms, various chronic pain syndromes, and exacerbation of asthma.²⁰¹

Members of the judiciary who spoke to Human Rights Watch were also critical of initial medical certificates' general omission of the psychological impacts of domestic abuse and noted that this could influence judges' rulings.

Initial medical certificates must be issued within 48 hours to allow for the rapid launch of investigations, to avoid the risk of evidence loss, and to facilitate the determination of the causal relationship between the incident as described by the woman and any observed injury.²⁰² However, some of the women who spoke to Human Rights Watch said they had to wait for up to a week or two to receive their initial medical certificate. The authorities' overreliance, in practice, on initial medical certificates to launch an investigation or provide temporary protection measures, means that the act of needing to obtain a medical certificate in itself, and further delays waiting for it to be issued, delays women's protection from violence and access to justice. Women who are waiting for such medical

¹⁹⁹ Shadow report on Tunisia's implementation of CEDAW, p.5.

²⁰⁰ Gainer, "Domestic Violence, Brain Injury and Psychological Trauma." It describes how brain injury is often "not understood as the outcome of repeated blows to the head or strangulation attempts depriving the victim of oxygen during a violent attack by a domestic partner. The person who is agitated, depressed, forgetful, confused, having slurred speech, experiencing headaches, pain, vertigo and other physical symptoms that we associate with brain injury may be not appropriately diagnosed and treated."

²⁰¹ World Health Organization, "Understanding and addressing violence against women: Intimate Partner Violence," 2012, pp.5-6, http://apps.who.int/iris/bitstream/10665/77432/1/WHO_RHR_12.36_eng.pdf (accessed August 29, 2022).

²⁰² Ministerial note (n° 5-2022), March 14, 2022, <https://legislation-securite.tn/law/105234>.

certificates on which investigations can only be launched in practice, also remain at greater risk of pressure from abusers, family, or other parties to withdraw their complaints.

Dr. Ben Amar explained:

While it is impractical to expect initial medical certificates to be issued within 48 hours and include a psychological assessment, doctors, authorities, or women themselves can ask for a second initial medical certificate to be issued by a psychologist where needed. This practice is increasingly common in Sfax, although this may not be the case in other towns that do not have the same medical facilities. This psychological medical certificate can then be appended to their medical file and potentially to their legal case as supporting evidence.²⁰³

The Ministry of Health's protocol recognizes it may be difficult to include a thorough psychological analysis in initial medical certificates, due to time constraints and the state that survivors may be in after having been assaulted or abused. The protocol recommends that survivors consult a psychologist at a later stage.²⁰⁴ However, the protocol also states doctors should nonetheless comment on the patient's psychological state when drafting initial medical certificates.²⁰⁵ Yet, this rarely happens, Human Rights Watch concluded based on interviews with survivors.

Inadequate Initial Medical Certificate Forms

Two forms exist for initial medical certificates: a generic one used for different kinds of injuries, including work or traffic accidents and assaults against women (Appendix 1) and a more specific form adapted to cases of spousal abuse (Appendix 2).

According to Dr. Ben Amar, forms were not available in all medical facilities throughout the country. They were, for instance, available in Kerkennah and Sidi Bouzid but not in Sfax due to an unharmonious distribution of forms by the Ministry of Health.²⁰⁶

²⁰³ Human Rights Watch interview with Dr. Ben Amar, remotely, May 4, 2022.

²⁰⁴ « Guide de prise en charge des Femmes victimes de violence : Secteur de la Santé » p.25.

²⁰⁵ Ibid.

²⁰⁶ Human Rights Watch with Dr. Ben Amar, remotely, May 4, 2022.

Dr. Ben Amar also noted neither form contains sufficient space to reflect all examination findings, which can lead to doctors neglecting the documentation of minor injuries, and ultimately erase evidence, and undermine survivors' cases in court.

Survivors who spoke to Human Rights Watch also complained of a mismatch between the gravity of their injuries and how the initial medical certificates described them. Human Rights Watch is not in a position to assess the validity of these complaints.

Nahla, 40, from Ben Arous, said, as she showed a picture of her bruised face following her husband's assault: "After he beat me, I went to the hospital where I was issued an initial medical certificate that prescribed seven days of rest. It should have been 20 days given the state I was in! He should have been taken to jail."²⁰⁷

Dr. Ben Amar said institutions fail to provide doctors' guidance in how to determine the length of the rest period to prescribe which creates variations in doctors' assessments.²⁰⁸

In a 2021 report, the ATFD said the subjective and inconsistent criteria applied by individual doctors in determining how long a period of rest to prescribe made them unreliable reflections of the harm inflicted by abusers. According to the report, the duration of the rest period prescribed by the doctor considerably influenced the judiciary's assessment of the gravity of attacks.²⁰⁹

Lack of Psychological Services for Survivors

Law-58 (Articles 8 and 13) and the health sector protocol on responding to violence against women affirm survivors' right to psychological support services.²¹⁰ However, the texts do

²⁰⁷ Human Rights Watch with Nahla, Tunis, Tunisia, December 8, 2021.

²⁰⁸ Human Rights Watch with Dr. Ben Amar, remotely, May 4, 2022.

²⁰⁹ Association Tunisienne des Femmes Démocrates, « L'accès à la Justice des Femmes Victimes de Violence: Entraves et Défis, » 2021, https://www.oxfam.de/system/files/documents/atfd-studie_franzoesisch.pdf (accessed November 1, 2022).

²¹⁰ 2016 Health Protocol, « Guide de prise en charge des Femmes victimes de violence : Secteur de la Santé, » p.37.

not specify whether the latter should be free, or on what criteria they should be provided freely. In practice, the access of survivors to such services is spotty.²¹¹

None of the survivors who spoke to Human Rights Watch received psychological support from public health institutions. Those who did receive psychological assistance got it from nongovernmental organizations' free counseling sessions.

In interviews with Human Rights Watch, staff members of several nongovernmental organizations that provide counseling services to survivors criticized the lack of public health psychologists trained to adequately address survivors' needs throughout the country. They particularly regretted the recent closure, in 2020, of a unique psychological assistance center (Centre d'Assistance Psychologique, CAP) in Ben Arous, which provided unparalleled mental health services to survivors. In 2019, the CAP provided assistance to 937 women.²¹² Dr. Hela Ouenniche, psychiatrist of the National Office for the Family and Population who set up the CAP, told Human Rights Watch:

The CAP was the only public space in Tunisia dedicated to providing comprehensive and psychological support adapted to the needs of victims of gender-based violence. I helped set it up with the support a Belgian foundation in 2012 and minimal state support. [...] Eventually, the center grew and started providing women social counseling and legal aid, to help them regain confidence and rebuild their lives. Women came from all over the country. Unfortunately, the center closed in 2020 when its building flooded, and we lacked the funding to make repairs.²¹³

Gratuity of Health Services

On May 30, 2014, prior to the adoption of Law-58, the government issued a ministerial note guaranteeing victims of spousal abuse the right to a free medical consultation and initial

²¹¹ Tunisia Ministry of Women, National Annual Report of the Ministry of Women on the Elimination of Violence Against Women (FRENCH), 2020, p.51. <http://www.gbo.tn/sites/default/files/2021-08/Rapport%20sur%20la%20lutte%20contre%20la%20%20violenace%20%C3%A0%20l%27encontre%20des%20femmes.pdf> (accessed December 12, 2021).

²¹² Ibid.

²¹³ Human Rights Watch interview with Dr. Hela Ouenniche, Human Rights Watch Office, Tunisia, January 10, 2022.

medical certificate, and to a flexible payment scheme to cover the costs of additional health services related to spousal abuse.²¹⁴

This policy did not extend to acts of violence inflicted by a family member who was not a spouse or a former partner, out-of-marriage partners. The cost of medical examinations can often dissuade women from pursuing their complaint processes according to Zeineb Beji, Gender Advisor at Médecins du Monde.²¹⁵

Law-58 states the Ministry of Health must examine, treat, and follow up on the cases of victims and their children, as well as provide victims with psycho-sanitary services (Article 8) but does not state explicitly whether or not such medical assistance is free. However, the Ministry of Women's 2020 national report on the implementation of Law-58 noted not all hospitals gave victims of domestic abuse free initial medical certificates.²¹⁶

When women are not granted free medical certificates or medical care, they can be forced to pay for it. As of 2022, initial medical certificates cost between 7 and 10 TD (approximately \$2.20-3.25), depending on location. Survivors' additional examinations or care needs can add up to 150-300 TD (\$50-100) or higher, according to initial medical certificates examined by Human Rights Watch and accounts of various staff of nongovernmental organizations.

The national social assistance program grants vulnerable households a healthcare card that reduces medical fees for them but women fleeing male violence often do not have it with them, either because they left without it or are denied it by their abusers, and cannot get another easily because such healthcare cards are issued in the name of male heads of households whom women are fleeing from.²¹⁷

²¹⁴ Ministerial note 2014-39.

²¹⁵ Human Rights Watch Interview with Zeineb Beji, from Médecins du Monde, October 29, 2021.

²¹⁶ Tunisian Ministry of Women, National Annual Report of the Ministry of Women on the Elimination of Violence Against Women (FRENCH), 2020, p.51.

²¹⁷ The "Programme d'accès aux soins à tarifs réduits" program initiated in the 1960s and managed by the Ministry of Social Affairs since 1988 grants beneficiaries medical services at a reduced cost in exchange of a 10dinar annual contribution. In 2016, approximately 620,000 households benefitted from this aid. CRES "Évaluation de la performance des programmes d'assistance sociale en Tunisie," p.16, www.cres.tn/uploads/tx_wdbiblio/Rapport_CRES_mai_2017.pdf (accessed September 11, 2022); See this report's section on discriminatory assignation of heads of households.

Fatma, 44, from Regueb, who said she was repeatedly beaten by her husband, said: “[In 2021], I had to pay for my initial medical certificate because I had not gone to the police to get a requisition yet. I only had to pay 2 dinars though because I had taken the social insurance card with me.”²¹⁸

Ahlem, 26, from Sidi Bouzid, said:

When I was six months pregnant [in 2020], I asked my husband to give me some *bsissa* [local sweet], but he refused. To get his attention, I told him, “Do you want me to go beg our neighbors for food?” He beat me with a stick right away and when he was done, he threw me out of the house. I went to get a medical certificate at the nearest hospital; I wanted proof of what he’d done to me, even if I wasn’t ready to file a complaint. I had to pay seven dinars because my husband refused to give me the health card when I asked him for it as he threw me out. I went to the Ministry of Social Affairs and to city hall but they didn’t help me get a duplicate, so I gave up. I had to ask my dad to help me pay my medical expenses, though he is also poor.²¹⁹

On March 14, 2022, the Ministry of Women and the Ministry of Health signed a joint ministerial note (n° 5-2022), affirming that initial medical certificates should be issued free of charge for all survivors of violence against women, even without the provision of a requisition from the police or prosecutor, and requiring initial medical certificates’ forms should mention that it is a free service.²²⁰ While survivors are still expected to pay for additional medical examinations and care, the note states that it suffices for a woman to state that she is the victim of violence to be exempt from paying an advance for hospital stays and to benefit from flexible payment schemes for further medical costs.

The practice of providing without charge initial medical certificates and services for survivors was established in 2020 in the region of Al Kef. Karima Brini, head of the AFC in Al Kef, said: “To convince [the authorities], we pointed them to the health protocol and the

²¹⁸ Human Rights Watch interview with Fatma, Regueb, Tunisia, November 23, 2021.

²¹⁹ Human Rights Watch interview with Ahlem, Sidi Bouzid, Tunisia, November 24, 2021.

²²⁰ Ministerial Note n° 5 of March 14, 2022, relating to free initial medical certificate granted to victims of violence against women and to the reimbursement of medical examinations and accommodation costs, <https://legislation-securite.tn/law/105234> (accessed September 6, 2022).

provisions of Law-58 regarding victims' right to health services because many of them did not now know them. Regions are disconnected from decisions made at a central level."

Free services are less available in some other regions. Beji, from Médecins du Monde, observed, "Most of these agreements are negotiated on an individual and inter-personal basis; they depend on relationships. Wins that are secured in one region or field are not extended to the rest of the country."

Hostile Judiciary

Law-58 is not merely about introducing new legal parameters; it is about changing mentalities. Judges have the responsibility to reconstruct society through their rulings, but many of them are not convinced by the law's principles.

— Faten Sebei, judge at the Court of Appeal in Tunis²²¹

Law-58's has significantly broadened and sharpened the scope of criminal law to address male violence against women in its physical, moral, sexual, economic, and political forms. The law has expanded and aggravated punishments for abusers, introduced unprecedented protection orders for survivors, and dedicated prosecutors and family judges to treat cases of violence against women.

Yet, only a small number of complaints of domestic violence seem to reach, and traverse, courts. According to information provided by the Ministry of Justice, in 2020, no more than 95 (pre-trial) arrests and 111 convictions were reported in relation to cases of violence against women.²²²

The Ministry of Women reported that for 2018-2019, courts had only registered 3,372 complaints for violence against women, 2,958 of which were for spousal violence.²²³ These included 48 cases of moral violence, 37 cases of sexual violence, and 17 cases of

²²¹ Human Rights Watch Interview with Judge Faten Sebei, Tunis, Tunisia, December 19, 2021.

²²² Tunisian Ministry of Women, National Annual Report of the Ministry of Women on the Elimination of Violence Against Women (ARABIC), 2021, p.50.

²²³ Tunisian Ministry of Women, National Annual Report of the Ministry of Women on the Elimination of Violence Against Women (ARABIC), 2020, p.50.

economic violence.²²⁴ The Ministry of Women’s annual report did not update these figures for 2020 in its 2021 annual report.²²⁵ At time of writing the 2022 annual report has not been published yet.

The judiciary’s prosecution of domestic abusers is strained by colossal bottlenecks in the processing of complaints owing to capacity limitations, patriarchal attitudes vis-à-vis domestic violence complainants, and failures in the delivery of unconditional legal aid to complainants.

Limited Capacities

Human Resources Constraints

While divorce and post-divorce financial support (alimony) requests are administered in cantonal courts (Tunisia’s lowest level of tribunals or courts of law), domestic violence cases under Law-58 are ruled on only by family judges based in 28 first instance courts.

The limited number of family judges (one in each of the country’s 28 tribunals of first instance) and their over-stretched capacities (annual loads of 3,000 cases per judge), impedes the judiciary’s timely processing of the domestic violence complaints according to judges who spoke with Human Rights Watch and the Ministry of Women’s assessment.²²⁶

Law-58 Article 22 guarantees the assignment of one or more assistant prosecutors to receiving and orienting survivors. However, these prosecutors have other responsibilities that affect the resources they can devote to survivors, according to Omar Hnain, an assistant prosecutor specialized in violence against women and children in the first

²²⁴ Ibid.

²²⁵ See Tunisian Ministry of Women, National Annual Report of the Ministry of Women on the Elimination of Violence Against Women (ARABIC), 2021.

²²⁶ Website of the Ministry of Justice, <https://www.justice.gov.tn/index.php?id=255&L=3> (accessed February 21, 2022); Magistrates’ average annual caseload is of 3,000 complaints - See Lawyers Without Borders’ 2014 report, *L’état de l’aide légale en Tunisie*, pp. 23-25; Human Rights Watch interview with Abdelhamid Naoui, Former Family Judge and current President of the Criminal Court of Al Kef, Tunisia, November, 11, 2021; Human Rights Watch Interview with Judge Faten Sebei, Tunis, Tunisia, December 19, 2021; Tunisian Ministry of Women, National Annual Report of the Ministry of Women on the Elimination of Violence Against Women (ARABIC), 2021, p. 56.

instance tribunal of Ben Arous. “Legislators did not consider resource constraints when they drafted this law”, he said.²²⁷

While family judges and some prosecutors (one out of five in every court is specialized in the elimination of violence against women) have been trained on Law-58, this does not apply to investigative judges, prosecutors, or duty judges, who may replace family judges or public prosecutors in their absence according to Judge Samia Doula, head of the committee in charge of Law-58’s implementation at the Ministry of Justice.²²⁸

Lack of Dedicated Rooms and Assured Privacy

Nour Jihène Becheikh, judge at the Tribunal of First Instance of Grombalia, said “Sometimes we will be as many as six judges sitting in the same office, and we don’t even have pens. I don’t see how we could dedicate a room to victims.”²²⁹

Article 23 of Law-58 guaranteed the assignment of dedicated, separate rooms for magistrates in charge of receiving complaints of violence against women in every court of first instance. Yet, court visits and interviews with various judges, lawyers, and women conducted by Human Rights Watch show that most Tunisian tribunals do not have dedicated rooms to receive complainants of violence against women.

Lagging Digitalization

Despite international partners’ numerous initiatives to support digitizing the judiciary in the past decade, the justice system remains paper-based, according to Hassen Haj Messaoud, project coordinator at Lawyers Without Borders.²³⁰ According to him, the fact that case-management remains handwritten slows down the judiciary’s processing of survivor complaints and pre-empts the use of text-notification systems which could save survivor numerous and costly back-and-forths to courts to check on the status of their cases.

²²⁷ Public intervention during the presentation of OHCHR’s, “Rapport d’analyse de l’application par le secteur de la Justice de la loi N 58-2017 du 11 aout 2017 relative à l’élimination de la violence à l’égard de la femme, » December 1, 2021.

²²⁸ Human Rights Watch interview with Samia Doula, Tuni, Tunisia, November 18, 2021.

²²⁹ Human Rights Watch with Nour Jihène Becheikh, judge at the Tribunal of First Instance of Grombalia, via telephone, December 12, 2021.

²³⁰ PAMSJ, PARJ I, PARJ II and PARJ III; Human Rights Watch with Hassen Haj Messaoud, Laywers without Borders, Tunis, Tunisia, December 3, 2021.

Protecting the Family over Women

The Ministry of Women's 2021 annual report on the elimination of violence against women noted the "refusal" of certain members of the judiciary to implement Law-58 under pretexts of protecting the "familial equilibrium" and "social stability."

Human Rights Watch did not observe trials but interviewed a variety of people with first-hand experience of these courts, including four judges and eight lawyers who affirmed that many judges harbor discriminatory attitudes toward women's rights that impede implementation of Law-58.

Abdelhamid Naoui, president of Al Kef's criminal court and a former family judge, dubbed "the feminist judge" by women's rights activists told Human Rights Watch, "Most people, including judges, see Law-58 as a way of elevating women's status above men's rather than a positive step toward equality. Male judges still discriminate against their female peers in some regional courts."

A female judge told Human Rights Watch: "Once, I discussed Law-58 with a fellow judge who told me: 'You don't seem to believe in our traditions! Let me tell you that if my wife ever came home after 11:00pm, I'd beat her myself. That's how it was in my family.' I was shocked."²³¹

The Impact on Survivors' Access to Justice

The sacralization of the family institution over women's rights constrains survivors' access to justice.

Service providers and government officials, including members of the Ministry of Women, have told Human Rights Watch they had to personally intervene to ensure prosecutors and family judges dealt with complaints appropriately and without delay.²³²

²³¹ Name withheld for the judge's security.

²³² Human Rights Watch interview with Hniya Nciri, head of the regional branch of the Ministry of Women in Sidi Bouzid, Tunisia, November 26, 2021.

Fatma, 44, from Regueb, said her husband beat her for years before she mustered the courage to go to court to apply for a protection order in 2021:

We [her and the staff of a nongovernmental organization] went to the Court of First Instance and looked for the family judge, but he wasn't there. We had no idea about the complaint process. The only open office we found was the prosecutor's so we stood in the corridor and waited for him to call us. When he finally noticed us, he got aggressive. "Who are you?" he asked. "Give me your IDs! Who told you to come up here?" It was 1:57pm, so he was about to go on his lunch break and he scolded us, "Why do you come outside of administrative hours?"

So I had come to complain about my husband's violence only to face more violence from the person I thought would help me. Then, we went together into his office and showed him the paper that the delegation of the Women's Ministry had given us to fill out. He said: "What is this?" He said we needed a proper file with a copy of my ID and medical certificate, but nobody had told us that! The secretary downstairs was on holiday, so he hadn't given us any guidance. He yelled: "Tunisia is a worldwide champion in divorce, we're ranked #1. Half of Tunisians are divorced!" I told him I didn't want to divorce, just a protection order but he didn't listen. He looked at my papers, saw I'd been married to my husband since I was 18 and said: "After all this time you want to divorce just because he hit you?! So what if he hit you?! And why did he hit you in the first place? You must have done something wrong or maybe your cooking is that bad." Then he asked: "[W]hat do you want? You want us to get him to go easy on you?" I said yes. Eventually, he said "[f]ine, we will take care of your file but it's missing information [...] I am doing you a favor because normally we wouldn't even look at a file like this."²³³

Yamouna T., 47, from Zarzis, who said her ex-husband beat her repeatedly and refused to provide her with financial maintenance, told Human Rights Watch about her first divorce hearing in the first instance court, on July 7, 2021:

²³³ Human Rights Watch interview with Fatma, Regueb, Tunisia, November 23, 2021.

I told the family judge everything about my husband's abuse. He told us we should try to stay together for our kids, to work on our relationship and come back for another hearing in a few weeks to see if we were able to get back together. There was also a woman, I think maybe his secretary, sitting below him. She looked me in the eye and said that if I ever wanted to complain against him, my husband would be taken to jail in a second.²³⁴

Former family judge and president of Al Kef's first instance tribunal, Abdlehamid Naoui, said family judges' concern to keep family structures intact makes them reluctant to refer abusive non-spousal family members to trial in cases of intra-familial domestic violence. He explained, "Family Judges are used to dealing with domestic violence between spouses; most wouldn't know what legal measures to take in situations where the abuser is a brother, father, or an in-law."²³⁵

Court Closures under Covid-19 Lockdowns

Iadh Amami, a lawyer from Sidi Bouzid, said "During the first lockdowns, there was no law for victims of violence, while in theory, Law-58 should be applicable even during armed conflict."²³⁶

During the first few weeks of Covid-19 lockdowns in March and April 2020, most of the country's courts did not address cases of domestic violence complaints. Judge Faten Sebei noted: "When lockdowns started, Courts were not entirely closed and Family judges could still work. A few even issued protection orders in Bizerte and Tunis. But for most, domestic violence was not a priority. We already knew victims of violence had a problem accessing justice, but the pandemic made it crystal clear."²³⁷

"Sameh," 40 from Al Kef, who said her ex-husband and mother-in-law beat her, felt despondent when in April 2020 she headed to Al Kef's court to complain that her ex-husband had kidnapped her children only to find it closed during the Covid-19 pandemic:

²³⁴ Human Rights Watch interview with Yamounta T., Zarzis, Tunisia, December 23, 2021.

²³⁵ Human Rights Watch interview with Abdlehamid Naoui, Former family judge and president of Al Kef's first instance tribunal, Tunia, November 11, 2021.

²³⁶ Human Rights Watch Interview, Iadh Amami, Sidi Bouzid, Tunisia, November 25, 2021.

²³⁷ Human Rights Watch Interview with Judge Faten Sebei, Tunis, Tunisia, December 19, 2021.

My ex-husband kidnapped my children over a weekend. He refused to give back the kids. I cried so much looking for them in vain in front of their school. I wanted to make a complaint but the court was closed because of Covid. I even staged a sit-in in front of the courthouse but nothing happened. Then I found out my daughter was at her uncle's while my son was working with him on the farm and in the markets selling vegetables! He was only 9 years old [...] So now I don't want to deal with public institutions. They don't stand for mothers' or children's best interests.²³⁸

Later in April 2020, the Ministries of Justice ordered courts to consider cases of violence against women as criminal cases that require priority treatment during the Covid-19-induced lockdowns.²³⁹

Lagging Issuance of Protection Orders

No statistics are available publicly in Tunisia on the number of protection orders that are requested and granted. In September 2022, Human Rights Watch sent a letter to the Tunisian government requesting this and other data but received no reply.

The special rapporteur on violence against women, its causes and consequences (SR-VAW) has recently argued that the availability of protection orders is required under international human rights law, based on the Committee on the Elimination of Violence against Women and the Declaration on the Elimination of Violence against Women.²⁴⁰

The Ministry of Women's 2021 annual report criticized the low number of protection orders issued to women, especially ones that require distancing the suspect from the household home.²⁴¹

Failure to Investigate Withdrawn Complaints

²³⁸ Human Rights Watch interview with "Sameh," Sidi Bouzid, Tunisia, November 9, 2021.

²³⁹ Human Rights Watch Interview with Judge Faten Sebei, Tunis, Tunisia, December 19, 2021.

²⁴⁰ Declaration on the Elimination of Violence against Women Proclaimed by General Assembly resolution 48/104 of 20 December 1993.

²⁴¹ See Tunisian Ministry of Women, National Annual Report of the Ministry of Women on the Elimination of Violence Against Women (ARABIC), 2021, p.56.

Law-58 repealed a provision of Article 218 of the Penal code which stopped the arrest, trial, prosecution, and sentencing of alleged abusers if plaintiffs withdrew their complaints. Under Article 15 of Law-58, a woman's withdrawal of her complaint should not bring an end to legal proceedings. However, interviews with survivors indicated that complaint-withdrawal seems to systematically end the judiciary's investigation into their cases, even after the conviction after trial of a perpetrator, and during their sentencing.

According to data from the Ministry of Justice reported by Amnesty International, from 2010 to 2013, about 69 percent of spousal abuse complaints – out of an annual average of 5,313 – that went to court were either withdrawn by survivors or dismissed by the courts.²⁴² While the Ministry of Interior did not provide recent data on the withdrawal of complaints since the adoption of Law-58, interviews with survivors, lawyers, judges, and police officers consistently suggested rates are high.

Lawyer Hanen Hnid in Zarzis, said:

Once, a woman came to my office for legal advice. Before she even closed the door behind her, she said: "I am going to drop my complaint." When you work on cases of domestic violence, you need to anticipate a woman may withdraw her complaint at any point. The psychological pressure on women undermines all of our efforts.²⁴³

Lenient Punishment for Moral Abuse

Law-58 provides for the punishment for physical, moral (psychological), sexual, and economic and political forms of violence.²⁴⁴ In defining psychological (which Tunisia's Law-58 refers to as moral violence) and economic violence, the UN recommends that laws focus

²⁴² Amnesty International. "Assaulted and Accused," p.21.

²⁴³ Human Rights Watch Interview with Hanin Hnid, Zarzis, Tunisia, December 23, 2021.

²⁴⁴ "Grave" forms of physical domestic violence are punished by a jail sentence of two years of imprisonment and a fine of 2000 TD (US\$660) by new Article 218 of the Penal Code. Lesser forms of violence are punished by a 15-day sentence and a 4,800 TD (US\$ 1,583) fine, pursuant to articles 315 and 319 of the Penal Code.; Sexual forms of violence (including sexual harassment, aggression and offensive speech with sexual connotations) are punished by a two-to-four year sentence and a fine of 5,000-10,000 TD (US\$ 1,650-3,300) under Article 226 of the Penal Code, newly introduced by Law-58. Rape, whose definition in Tunisian law is restricted to acts involving sexual penetration, is punishable by a 20-year to a life sentence as per the newly introduced Article 227 of Law-58. The law does not explicitly criminalize marital violence.

on “coercive control,” i.e., how such violence links to a pattern of domination through intimidation, isolation, degradation, and deprivation, as well as physical assault.²⁴⁵

The UN Office on Drugs and Crime (UNODC) recommends that laws define “psychological violence” as controlling, coercive or threatening behavior or intentional conduct seriously impairing a person’s psychological integrity through coercion or threats.²⁴⁶

Law-58 sets out new crimes relating to forms of moral and economic violence against women into the Penal Code. These include the punishment of the use of words, gestures or actions that undermine the integrity of women by a 500 to 1,000 TD (\$155-310) fine.²⁴⁷ These also include the punishment of the deprivation of women’s economic resources or confiscation of their economic revenue by a 2,000 TD (\$620) fine and the punishment of those who forbid a woman from carrying out her activities in a normal way.²⁴⁸

However, according to a study conducted by the ATFD of 23 court rulings based on provisions of Law-58 in Tunis’ governorate, judges tend not to be “be severe at all” when it comes to moral violence, relying on legal provisions outside of Law-58 (Articles 53, 224, 226 bis, or even Article 247 of the Penal Code), which allows judges the discretion to impose lesser sentences on abusers.²⁴⁹

Judges and lawyers who spoke to Human Rights Watch explained that the necessity to prove the repeated nature of crimes of moral violence made it almost impossible to demonstrate it for survivors.

Legal Aid Failing Survivors

²⁴⁵ UN Women, EndVAWN.org (virtual knowledge center), “Definition of Domestic Violence,” undated, <http://www.endvawnow.org/en/articles/398-definition-of-domestic-violence.html> (accessed November 1, 2022).

²⁴⁶ UN Office on Drugs and Crime (UNODC), “Strengthening Crime Prevention and Criminal Justice Responses to Violence against Women,” 2014, p. 39, https://www.unodc.org/documents/justice-and-prison-reform/Strengthening_Crime_Prevention_and_Criminal_Justice_Responses_to_Violence_against_Women.pdf, (accessed February 1, 2016).

²⁴⁷ Law-58, art. 17.

²⁴⁸ Law-58, art. 19; Law-58, art. 21.

²⁴⁹ Association Tunisienne des Femmes Démocrates, « Access to justice for women victim of violence » (FRENCH), 2021, https://www.oxfam.de/system/files/documents/atfd-studie_franzoesisch.pdf (accessed 2 September 2022).

The Ministry of Justice’s data on legal aid is not disaggregated by gender, so it is hard to tell how many survivors got it [legal aid]. I’d be surprised if more than 20 victims had benefited from it in the whole country since the law’s adoption.

— Monia Kari, Former Director of the National Observatory for the Elimination of Violence Against Women²⁵⁰

In line with best practices, Articles 4 and 13 of Law-58 guarantee survivors the right to unconditional, state-sponsored legal aid (hereinafter “legal aid”), whether they decide to pursue their abusers or to only ask for divorce. Survivors are entitled to legal aid unconditionally, without having to provide proof of financial need.²⁵¹

Law-58 does not explicitly define what legal aid for survivors encompasses. However, Law-52 of 2002 regulates the provision of legal aid.²⁵² Article 14 of Law-52 stipulates legal aid includes the costs of the appointed lawyer’s time, judges visits’ to the premises, and registration fees among other administrative costs and fees.²⁵³

The only requirement for survivors to access legal aid is to provide a proof of identity, a reference to their police complaint and/or a medical certificate documenting the violence suffered, according to Hassen Haj Messaoud, project coordinator at Lawyers Without Borders.²⁵⁴

Out of 15 survivors interviewed by Human Rights Watch who engaged in legal proceedings against their alleged abusers, only two benefitted from state-funded legal aid. Two survivors had to pay for a lawyer’s services, and the other 11 said that they did not benefit from a lawyer’s defense and received instead legal counsel via nongovernmental organizations.

²⁵⁰ Human Rights Watch Interview with Monia Kari, Tunis, Tunisia, December 7, 2021.

²⁵¹ CEDAW/C/GC/35 Paragraph 22; UNW_Legislation-Handbook pdf.pdf (unwomen.org) : “Free Legal Aid, Interpretation, and Court Support, Including Independent Legal Counsel and Intermediaries”; UNODC Article (h) recommends ensuring survivors have full access to the civil and criminal justice systems, including access to free legal aid, and where appropriate, to additional court support and interpretation services [QDS HOME PAGE \(un.org\)](#)

²⁵² Law 52-2002 relating to legal aid, <https://legislation-securite.tn/fr/law/44288> (accessed September 2, 2022).

²⁵³ Ibid., art. 14.

²⁵⁴ Interviewed by Human Rights Watch on December 3, 2021.

In September 2022, Human Rights Watch sent a letter to the Tunisian Ministry of Justice requesting data on domestic violence complaints and the provision of legal aid but received no reply.

Challenges to Accessing Legal Aid

Based on interviews with survivors, a main obstacle to getting legal aid is a sheer lack of information. According to a 2022 study by Lawyers Without Borders, of legal aid services in seven out of Tunisia's 28 first instance courts, many courts lack a staff member or signs that would orient survivors to the legal aid office.²⁵⁵ The judiciary's failure to inform survivors about their right to legal aid contravenes Article 39 of Law-58.

Staff from organizations supporting survivors told Human Rights Watch that when survivors sought free legal counsel from the court, they were often required to provide evidence of their financial status as per Law-52 of 2002, due to a lack of awareness of Law-58's provisions survivors' unconditional right to legal aid.²⁵⁶

This is problematic as documents that show proof of their financial needs such as social assistance cards can be with women's abusers who may refuse to give them their social assistance cards, according to Arbia Alahamar, social worker at the National Union for Tunisian Women.²⁵⁷

Ineffective Assistance

Nour Jihène Becheikh, a judge at the Tribunal of First Instance of Grombalia, said, "Even if a woman is granted legal aid, the lawyer she is assigned might not be trained on domestic violence or be sensitive to the issue at all. I have come across cases where legal aid lawyers engaged in victim-blaming in their own defense of women in courts."²⁵⁸

Human Rights Watch did not interview enough survivors who had used legal aid services to get a sense of their effectiveness. However, members of the judiciary and staff members of

²⁵⁵ 2022 Study on the work of legal aid offices in the light of the provisions of Law No. 52-2002 of June 3, 2002 (ARABIC), by Lawyers Without Borders, the UNODP and the OHCHR.

²⁵⁶ Human Rights Interview with with Kuds Elhlaiem, October 22, 2021, and Hassan Haj Messaoud, December 3, 2021.

²⁵⁷ Interviewed by Human Rights Watch on January 10, 2022.

²⁵⁸ Including Human Rights Watch with Nour Jihène Becheikh, judge at the Tribunal of First Instance of Grombalia, via telephone, December 12, 2021.

nongovernmental organizations providing legal counsel to survivors said the quality of state-funded legal aid services is weak.

According to lawyers, the poor defense provided by legal aid lawyers is linked to the meager compensation they receive for it.²⁵⁹

Lawyers affiliated with nongovernmental organizations attempt to make up for the deficiencies in the state's legal aid system by providing legal counsel to survivors. Yamounta T., 47, from Zarzis, said:

In 2020, the police referred me to ADDCI because I'd told them I didn't have money for a lawyer, no one had mentioned legal aid to me. ADDCI referred me to a lawyer who works with them. She advised me for free but does not represent me in court, and I am not getting any legal aid. I go to Court and speak to the prosecutors and judges on my own.²⁶⁰

In March 2021, the Ministry of Women and the Ministry of Justice issued ministerial note n° 183 to reaffirm survivors' right to receive legal aid without any need to demonstrate their economic status.²⁶¹ However, lawyers, judges and other judicial staff, and staff of nongovernmental organizations Human Rights Watch interviewed said that the ministerial order has not led to free legal aid becoming routine, by the time of writing.

²⁵⁹ Human Rights Watch interviews with lawyer Iadh Amami, Sidi Bouzid, Tunisia, November 25, 2021, and Hassan Haj Messaoud, Lawyers Without Borders, October 22, 2021.

²⁶⁰ Human Rights Watch interview with Yamounta T., Zarzis, Tunisia, December 23, 2021.

²⁶¹ Joint Ministerial Note between the acting Minister of Justice and the Minister for Women, the Family and the Elderly No. 183 of March 8, 2022, aimed at facilitating procedures for the obtention of legal aid and the right to legal counsel of victims of violence against women, <https://legislation-securite.tn/law/105048> (accessed 8 August 2022).

Lack of Shelter and Support Services for Survivors

Law-58 guarantees the provision of comprehensive social, sanitary, and psychological support services to survivors of violence against women. The law also guarantees longer-term re-integration and housing services to survivors of violence and their children (Articles 4, 13). Article 39 obliges relevant state officials to inform complainants of all their rights and entitlements. The Ministry of Women must ensure the coordination of institutional and nongovernmental bodies to provide services to the survivor (Article 12).²⁶²

In practice, women's access to support services is scarce throughout the country, especially outside of the capital and in the south and interior regions.

Lack of Information on Available Services

Women and frontline service providers who spoke to Human Rights Watch painted a consistent picture: women's access to information about their rights and the services available to them is contingent on word-of-mouth or the referral of a complainant to a specialized nongovernmental organization or the regional branch of the Ministry of Women. Signs or banners are rarely present in public spaces to raise awareness about what to do in cases of domestic violence or directing women to where they can get help.

Moreover, the survivors who spoke to Human Rights Watch, even those who had filed a complaint for domestic violence and received adequate support from a service-provider, had only minimal awareness of Law-58's provisions.

The Ministry of Women, including its regional branches, does not have the necessary resources to provide individual support and close follow-up on cases of domestic violence complainants.²⁶³

²⁶² Government Decree No. 2020-582 of August 14, 2020, relating to support centers for women and children victims of violence further regulates shelters' service provision to survivors. Available at: <https://legislation-securite.tn/fr/law/104875> (accessed 4 February 2022).

²⁶³ Tunisian Ministry of Women, National Annual Report of the Ministry of Women on the Elimination of Violence Against Women (ARABIC), 2021, p.45.

Inconsistent Access to Shelter

Ali Bousselmi, director of Mawjoudin, said, “It is very difficult to support vulnerable individuals when they don’t even have access to a safe place to live in and the means to eat or take any medicine they may need.”²⁶⁴

Shelters for survivors are essential to an effective response to domestic violence. They provide women with safe spaces, tailored support, and time to think free from their abusers’ violence and pressure.

Law-58 guaranteed survivors and their children’s right immediate accommodation in dedicated centers “within available means” (Article 13), without specifying the number of shelter spaces to be made available or their funding mechanism.

The United Nations Handbook for Legislation on Violence against Women recommends “the establishment of one shelter/refuge place for every 10,000 inhabitants, providing safe emergency accommodation, qualified counselling, and assistance in finding long-term accommodation.”²⁶⁵

Human Rights Watch has mapped out shelters in Tunisia and found that survivors have had an inconsistent access to safe shelters, especially outside of the capital.²⁶⁶

From the end of 2021 to the summer of 2022, survivors’ access to shelter was particularly scant. Only five shelters were operational across the country; four of which were concentrated in Tunis’ governorate, and one located in Mahdia’s governorate, South-West Coast.²⁶⁷ Their collective hosting capacity was of 107 women and children.

According to staff of nongovernmental organizations, shelters were so few due to the lack of state funding and the vagaries of international donors. Indeed, while more shelters had

²⁶⁴ Human Rights Watch interview with Ali Bousselmi, Tunis, Tunisia, December 9, 2021.

²⁶⁵ United Nations publication, Sales No. E.10.IV.2, p.31.

²⁶⁶ <https://www.hrw.org/video-photos/interactive/2022/11/29/map-tunisia-shelters>; <https://www.hrw.org/video-photos/interactive/2022/11/29/map-tunisia-shelter-beds>; In 2010, the CEDAW Committee expressed concern at the lack of sustained funding for shelters in Tunisia, their concentration in urban areas and the uneven quality of services provided, <https://www2.ohchr.org/english/bodies/cedaw/docs/co/CEDAW-C-TUN-CO-6.pdf> (accessed January 19, 2022)

²⁶⁷ First four are ran by Amal Center for Family and Children, 13 August Center, and Sidi Ali Ellouze; the fifth is ran by Voix de la Femme.

operated in rural areas in the country's interior following the adoption of Law-58, they have shut down due to lack of or inconsistency in national and international funding. For instance, shelters in Jendouba, Kairouan, and Gafsa closed between 2019 and 2021.

Staff from nongovernmental organizations that provide in-person and phone counseling to survivors interviewed by Human Rights Watch noted their frustration at being unable to help women with what they needed most which is emergency shelter and housing. Sara Medini, in charge of cases of victims of violence at Aswat Nissa, a nongovernmental organization, said: "In 2021, over 200 women came to our center or called us. Women usually feel relieved to tell their story. But the biggest issue for them is access to housing, which we cannot help them with beyond referring them to shelters. But the latter are often full."²⁶⁸

Under Covid-19 lockdowns, Tunisian authorities used accommodation reserved for isolation and quarantining to host survivors of domestic violence.²⁶⁹ The temporary center hosted 17 survivors, and 13 of their children, from April 6 to June 30 of 2020.²⁷⁰ However, these initiatives are isolated, and not specialized to address survivors' comprehensive needs.

In a positive move, five shelters in Gabes, Jendouba, Kairouan, Tataouine, and Tozeur have (re)opened their doors in the summer of 2022, owing to an increase in financial support from the Ministry of Women and its international partners.²⁷¹ At time of writing, the total hosting capacity of shelters across the country is of approximately 186 women and children.²⁷²

²⁶⁸ Human Rights Watch Interview with Sara Medini, Tunisia, December 16, 2021.

²⁶⁹ OECD (2020), OECD Survey on Mapping Good Practices and Challenges Faced by National Gender Equality Institutions in Tackling the Effects of Covid-19.

²⁷⁰ Tunisian Ministry of Women, National Annual Report of the Ministry of Women on the Elimination of Violence Against Women (ARABIC), 2021, p.56.

²⁷¹ Tunisia Ministry of Women, "La Ministre de la Famille et de la Femme lors de l'annonce des résultats du rapport national sur la lutte contre la violence faite aux femmes," August 9, 2022, <http://www.femmes.gov.tn/fr/2022/08/09/la-ministre-de-la-famille-et-de-la-femme-lors-de-lannonce-des-resultats-du-rapport-national-sur-la-lutte-contre-la-violence-faite-aux-femmes/> (Accessed October 12, 2022)

²⁷² <https://www.hrw.org/video-photos/interactive/2022/11/29/map-tunisia-shelters>; <https://www.hrw.org/video-photos/interactive/2022/11/29/map-tunisia-shelter-beds>.

The Ministry of Women plans to support the set-up of additional shelters to reach a total of 10 shelters by the end of 2022, 17 shelters by the end of 2023, and 24 shelters by the end of 2024, to ensure at least one shelter is operational in every governorate.²⁷³

In 2021, the Association Femme et Citoyenneté (Association Women and Citizenship, AFC) successfully lobbied to convert a state building into a shelter in Al Kef, which is expected to open in 2023 with a total hosting capacity of 36 women and 6 children.²⁷⁴ “There is a huge number of unused state buildings that belong to regional councils or ministries that could be turned into shelters or counseling centers,” insisted Brini.

In the meantime, due to a lack of shelter in the governorate, the AFC resorts to housing survivors in hotels for urgent, short-term accommodation of survivors. Karima Brini, head of the AFC, warned: “Hotels cannot guarantee the safety of survivors beyond having surveillance cameras in their corridors.”²⁷⁵

Interviews conducted by Human Rights Watch with women and staff of governmental and nongovernmental organizations suggested women are overall unaware of the existence of shelters in Tunisia. Moreover, the stigmatization of women living on their own can discourage survivors from seeking refuge in a shelter.²⁷⁶

Ahlem, 26, from Sidi Bouzid, said: “No man will ever want me again if I step into a shelter. I need to stay with my family if I want a chance for a second life. I’ll find my freedom by a man’s side, or not at all. That’s my only chance at freedom.”²⁷⁷

²⁷³ Tunisia Ministry of Women, « La Ministre de la Famille et de la Femme lors de l’annonce des résultats du rapport national sur la lutte contre la violence faite aux femmes », 8 novembre 2022, <http://www.femmes.gov.tn/fr/2022/11/08/au-cours-dun-point-de-presse-les-resultats-de-letude-sur-les-determinants-des-violences-conjugales-la-ministre-de-la-famille-annonce/> (Accessed 10 novembre 2022).

²⁷⁴ WhatsApp exchange with Karima Brini on June 20, 2022.

²⁷⁵ Human Rights Watch with Karima Brini, Al Kef, Tunisia, November 8, 2021.

²⁷⁶ UN ESCWA, 2015, “Shelters for Women Survivors of Violence: Availability and Accessibility in the Arab Region,” <https://archive.unescwa.org/sites/www.unescwa.org/files/publications/files/shelters-arab-region-availability-accessibility-english.pdf> (accessed August 18, 2022).

²⁷⁷ Human Rights Watch with “Ahlem,” Sidi Bouzid, Tunisia, November 24, 2021.

At time of writing, no campaign has been implemented to raise public awareness with regards to shelters' existence and to address the stigmatization of women who turn to shelters.²⁷⁸

While Law-58 guarantees survivors and their children under age 18 the right to access shelters (Article 13), male children aged over 13 years are rarely allowed in shelters due to their internal policies.²⁷⁹ The fear or reluctance to leave their children behind them, potentially at the hands of their abuser, can prevent mothers from seeking access to a shelter.

Despite being at high risk of family violence and expulsion of their homes, lesbian, bisexual, and transgender women's access to shelter is also restricted by the societal marginalization and criminalization of their gender identity and sexual orientation, according to DAMJ, a nongovernmental organization supporting Lesbian, Gay, Bisexual, Transgender (LGBT) people.²⁸⁰

"Rania," a 21-year-old trans woman from Al Kef, who was repeatedly beaten by her father and brother, and expelled from her family home, laid out the dangerous predicament:

If a transwoman is abused by her partner, she cannot turn to her family for support because that would require telling them she is trans and they might expel her for that. If she finds herself on the streets, she will be at risk of more violence because men perceive transwomen as weak and thus attack them even more. Transwomen cannot turn to the police either because they risk being abused or arrested by them. Trans women can only turn to nongovernmental organizations for help.²⁸¹

²⁷⁸ Human Rights Watch telephone interview with Meriem Bellamine, head of DANER a network of shelters, September 4, 2022.

²⁷⁹ Ibid.

²⁸⁰ Human Rights Watch interview with Khaled Ghariani, head of at the North-Western branch of DAMJ, November 15, 2021.

²⁸¹ Human Rights Watch Interview with "Rania," Al Kef, Tunisia, November 10, 2021.

Lack of Financial Assistance to Survivors

Survivors and service providers who spoke to Human Rights Watch pointed to money as the biggest impediment to and catalyst in breaking free from their abusers, especially for those who have children.²⁸² Yet, the state provides almost no financial remedy (post-trial) or support to survivors to help them envisage a transition out of domestic abuse.²⁸³

The Ministry of Social Affairs is considered one of the five key ministries for eliminating violence against women under Law-58 (Articles 9, 13, 26, 28, 39). The Ministry of Women reported that, in 2019, social workers had assisted 2,256 survivors of various forms of violence against women with psychological support, accommodation and counseling services throughout the country.²⁸⁴

Local Social Promotion Units are in charge of administering healthcare cards and financial assistance of 180 dinars monthly to vulnerable Tunisians.²⁸⁵ Although the latter are intended to benefit the entire family, healthcare cards and financial assistance are delivered automatically to husbands and are registered under their individual name, as the legally recognized heads of households. In practice, this can enable abusers to withhold these benefits from their accusers as a form of retaliation and pressure.

Abusers who are arrested may still prevent survivors from accessing social assistance by refusing to give them access to social assistance cards.²⁸⁶ This forces survivors to go through various administrative hurdles to try to obtain duplicates, often unsuccessfully, as Local Social Promotion units do not facilitate survivors' access to these, which can lead

²⁸² Including Ahlem Ben Messaoud, Director of Bahja, a Tunis-based social initiative that collaborates with Beity to help marginalized women, including survivors interviewed on May 5, 2022.

²⁸³ Arts. 31 and 34 of Law-58 refers to women's pre-existing right to post-divorce financial support (alimony) as well as under article 4 guarantees integration and housing services to survivors of violence and their children which should include addressing survivors' financial needs to rebuild their lives independently from their abusers.

²⁸⁴ Tunisian Ministry of Women, National Annual Report of the Ministry of Women on the Elimination of Violence Against Women 2020.

²⁸⁵ Declaration from the Tunisian Minister of Finance Sihem Boughdiri Nemsia during a press conference presenting budgetary modifications for 2022, held on Tuesday 28 December 2021. Available at: <https://www.webmanagercenter.com/2021/12/28/478256/loi-de-finances-2022-lallocation-aux-familles-necessiteuses-passe-a-200-dinars/> (accessed 29 November 2022); Tunisian Ministry of Finance. Budgetary Law 2022. Available at: www.finances.gov.tn/sites/default/files/2022-02/Loi_des_Finances%202022_o.pdf (accessed 29 November 2022).

²⁸⁶ Human Rights Watch interviews with Sami Wanassi, regional coordinator at the Regional branch of the Ministry of Women in Al Kef, November 9, 2021; Darine Elouaer, from TAMMS, December 16, 2021; and Hassan Haj Messaoud on 3 December, 2021.

them to withdraw their complaints and see abusers released because they depend on this assistance.²⁸⁷

In 2021, the Ben Arous regional branches of the Ministry of Women and Social Affairs, launched a pilot initiative to bolster social workers' assistance to survivors of domestic violence. Soukainah Salahi, from the regional branch of the Ministry of Women in Ben Arous, told Human Rights Watch this involved training 12 social workers of the Social Promotion Local Units in Ben Arous on Law-58 and violence against women to act as focal points for survivors; providing them with support in-complaint filing and following-up on their cases.²⁸⁸

Grappling with the deficiencies in the provision of state services, nongovernmental organizations supporting survivors must often step in to cover survivors' expenses and help them transition out of their economic dependence of their abuser.²⁸⁹

"Sonia," 29, and mother of three, who was hosted in Voix de la Femme's shelter in Mahdia in 2021, after her ex-husband beat her and threw her out of their house, recounted: "After I left the shelter, Voix de la Femme helped me to buy a small baking oven and some semolina, which allowed me to open my own business and make enough money to move forward with my new life."²⁹⁰

Most survivors, however, do not receive the support they need to escape abuse and to which they are entitled under Law-58.

²⁸⁷ Ibid.

²⁸⁸ Human Rights Watch interview with Soukainah Salahi, from the regional branch of the Ministry of Women in Ben Arous, Tunisia, November 30, 2021.

²⁸⁹ Human Rights Watch interview with Rim Nciri, head of Salima, a nongovernmental organization in Sidi Bouzid, Tunisia, November 24, 2021.

²⁹⁰ Human Rights Watch interview with "Sonia," Mahdia, Tunisia, February 2, 2021.

Recommendations

To Tunisian Authorities

- Amend the Personal Status Code to remove the obligation for spouses to act according to customs and traditions and equally recognize women as heads of households;
- Ensure women's equal right to inheritance and state benefits in law and practice;
- Amend the Penal Code to decriminalize homosexuality by repealing Article 230 and offenses against good morals, or public indecency;
- Issue guidance clarifying that reporting domestic violence cases to the police or prosecution should only be done with women's consent and should only be mandatory in cases of child abuse (Article 14 of Law-58);
- Ratify, without reservations, the Council of Europe's Istanbul Convention Action Against Violence Against Women and Domestic Violence;
- Train security forces in international human rights standards and nondiscrimination, particularly covering issues of gender and sexuality, with the aim of eliminating the stigma that contributes to abuse;
- Pass comprehensive anti-discrimination legislation that prohibits discrimination on the grounds of sex, gender, gender identity, and sexual orientation and includes effective measures to identify and address such discrimination.

To the Ministry of Interior

- Ensure capacity of specialized police units to be available at all hours, locations, along with transportation made available for survivors;
- Ensure regular police officers are also trained to file and investigate complaints on violence against women in their absence and refer survivors to shelters and medical assistance;
- Issue decision to make clear to all police officials and prosecuting authorities not to insist on medical certificates from survivors in order to file complaints, launch investigations or request protection measures and ensure evidence collection however should not be limited to medical reports;

- Ensure police officers explain the investigation process and advise women on how a forensic medical certificate may help support their case for prosecution;
- Develop and institutionalize the use of femicide risk assessments tools and standardize the issuance of protection measures where risks are elevated;
- Establish systems to monitor perpetrators' abidance by protection measures and orders;
- Establish complaint mechanisms and accountability systems for survivors to report inadequate responses (inaction, dissuasion attempts) by public servants and ensure the latter are assessed to prompt investigations and sanctions against police officers as needed;
- Collect and share information about the issuance of protection measures and orders and the provision of legal aid;
- Include more women in all levels of the security response to violence against women, especially within national guards;
- Safeguard the right of LBT women to report abuse and violence without facing the risk of arrest, and ensure no survivor is denied assistance, arrested, or harassed on the basis of their sexual orientation, gender identity or gender expression.

To the Ministry of Health

- Standardize reception practices when interviewing women on the causes of injuries to minimize re-traumatization risks;
- Train all medical staff to detect domestic violence and safely intervene (i.e. in the absence of the suspected abuser and without mandatory reporting) to inform women of their rights and refer them to relevant authorities and support services;
- Provide psychological support to survivors throughout the country;
- Ensure doctors include comprehensive observations on the harms inflicted on survivors in initial medical certificates and refer them to psychologists or forensic doctors as required;
- Develop and disseminate guidelines for medical forensic examinations and the allocation of temporary incapacity periods;
- Ensure initial medical certificates and additional examinations are provided free of charge to all complainants of domestic violence, including family violence;
- Include more women at all levels of the security apparatus;

- Ensure that LBT women survivors have access to the medical and psychological assistance and support they require without discrimination;
- In collaboration with community-based organizations, ensure that training is available to health service professionals, including psychologists, psychiatrists, and general practitioners, as well as social workers, regarding sexual orientation and gender identity and the specific needs and rights of LBT women;
- Develop a complaints mechanism through which women, including LBT women, can report cases of denial of service, stigma, or discrimination in the health sector.

To the Ministry of Justice

- Ensure courts treat domestic violence complaints expeditiously and prioritize them in emergency situations such as lockdowns;
- Provide trainings for law enforcement officials to refrain from engaging in family mediation (including in contexts of family violence) and to improve non-violent communication skills;
- Ensure survivors' effective access to legal aid as provided by Law-58;
- Provide redress via monetary compensation to survivors in proportion to the gravity of harm or loss suffered and ensure recuperation of reparation from abusers;
- Establish complaint mechanisms and accountability systems for survivors to report inadequate responses (inaction, dissuasion attempts) by public servants and ensure the latter are assessed to prompt investigations and sanctions against police officers as needed;
- Collect and share information on the number of complaints received, investigations undertaken, legal aid services requested and granted, prosecutions mounted, convictions obtained, as well as protection orders/measures and sentences imposed on perpetrators;
- Include more women at all levels of the justice system;
- Ensure that judiciary members apply the Law-58 to transgender women experiencing domestic violence, including through provision of protection orders.

To the Ministry of Family, Women, Children and Seniors

- Ensure sufficient shelter spaces are accessible to survivors and their children, throughout the territory's 24 governorates;

- Set up safe and reliable transportation systems to ensure survivors' timely access to shelters;
- Invest in awareness-raising campaigns addressing the shame and stigmatization of survivors for accessing shelters or leaving abusive relationships, including within the family;
- Ensure widely visible street signs and posters indicate the locations of survivor-centered services and survivors' key rights in Tunisian Arabic;
- Establish a government-sponsored compensation program for survivors to ensure they receive livelihood support and reintegration measures help to rebuild their lives including via cash transfers, housing allowances, or employment support;
- Coordinate with state administrations to identify state facilities that could be turned into shelters or counseling centers;
- Reinforce inter-sectoral coordination mechanisms and referral systems ensuring trainings of frontline supporters are interlinked;
- Expand the disaggregation of data on survivors of male violence against women (to help identify intersecting vulnerabilities) and collect data on femicides;
- Ensure that women can stay in shelters with their male children ages 13 and older.

To the Ministry of Social Affairs

- Ensure social workers are trained on Law-58's implementation;
- Train all social workers to detect and refer cases of domestic violence to competent authorities and support services without initiating family mediation;
- Develop and implement social assistance programs to support survivors in accessing employment, training opportunities, and long-term housing;
- Establish measures to facilitate survivors' access to social assistance benefits issued in the name of male heads of households;
- Provide case work support and individual follow-up services for complainants reporting violent incidents, even if they chose to withdraw their complaint;
- Provide financial support to survivors, based on the number of children they are caring for, to help them leave abusers.

To Tunisia's International Partners

- Ensure male violence against women and gender equality remain key areas of concern in dialogues with authorities;
- Support programs expanding survivors' access to legal aid, shelter, counseling services, income-generating activities, and other services.

Acknowledgements

This report was researched and written by Kenza Ben Azouz, 2021 Finberg Fellow at Human Rights Watch. Eric Goldstein, deputy director in the Middle East and North Africa division, and Rothna Begum, senior researcher in the Women Rights division, edited the report. Clive Baldwin, legal advisor, conducted legal review.

Tom Porteous, deputy Program director, conducted program review. Bill Van Esveld, associate director in the Middle East and North Africa and Children's Rights divisions, and Rasha Younes, LGBT Rights researcher provided specialist reviews. Salsabil Chellali, Tunisia Researcher also reviewed this report.

We wish to express our gratitude to all of those who spoke with us during this research, and most of all, to the survivors of male violence who shared their time, trauma, shame, anger, hopes, and insights with Human Rights Watch.

We are deeply indebted to the service providers and activists whose comprehensive analyses make up this report. We are especially grateful for the generous support of: Olfa Abadi and Zeineb Charek from ADDCI Zarzis; Naima Ghasrallah and her team from Voix d'Eve ; Karima Brini from the AFC in Al Kef; Henda Thlijene from Association Femme et Progres; Khaled Ghrairi from DAMJ; Zeineb Beji and her team from Médecins du Monde; Ramla Ayadi from Oxfam and the CNAV; Monia Kari former head of the National Observatory for the Elimination of Violence Against Women; Arbia Alahmar from the UNFT; Faten Sebei, Judge at the Court of Appeal of Tunis; lawyer Bochra Belhaj Hmida; Hassen Haj Messaoud from Lawyers Without Borders; Meriem Bellamine from Danner; Abdelhamid Naoui, President of the tribunal of first instance in Al Kef; Darine Elouaer from TAMMS; Ali Bousselmi from Mawjoudin; and Sara Medini from Aswat Nissa.

Appendix 1: Generic Initial Medical Certificate Form (Used in Cases of Violence Against Women)

[illegible]

English translation:

Tunisian Republic - Ministry of Health

Medical Body:

Initial Medical Certificate

Registration Number:

Number of the Medical Document or ...

Doctor Name:

Doctor room:

I testify that Mr/Ms _____, aged _____, whose ID number is _____ and whose ID issuance date is _____ has come to us alleging she had been exposed to:

☐ A traffic accident

☐ A violent assault

☐ Another incident (a work-induced incident or illness)- specify:

He/She has been exposed to on day : _____ At time: _____

The initial medical examination identifies the following harm:

Supposed cause: _____

As a result, the injured is recommended a resting period of _____ days, supposing he/she is exposed to no other incident during that period.

This certificate was prepared:

☐ ☐ At the request of the involved person

At the request of official authorities – specify: _____

Issued on _____ at _____.

Signature

Appendix 2: Initial Medical Certificate Form (Used in Cases of Spousal Violence)

الجمهورية التونسية
وزارة الصحة

شهادة طبية أولية (C.M.I)
لفائدة النساء ضحايا العنف الزوجي

عدد التسجيل عدد الملف الطبي تاريخ الفطقة الطبية
إلى المعنى أسقطه الدكتور مسجل بالعمدة تحت عدد
المباشر بقسم
بمستشفى
أشهد أن السيدة
العمر سنة
عدد بطاقة التعريف الوطنية تاريخ التسليم
حضرت لي وأنا وصحت أنها متهمة من جراء اعتداء بالعنف من قبل زوجها المدعى
تعرضت له يوم على الساعة
ولدت المعالجة يوم على الساعة
بين من القصاص الأولي أن المتهمة
A l'examen initial on note

السبب المقترض :
لذا تتطلب الحالة الصحية للمتهمة راحة لمدة يوماً ما عدا التعثرات الصحية جزئية واحدة استمر
وسلمت هذه الشهادة مجاناً بطلب من المعينة بالأمر للإدلاء بها عند الالتصاف ، الشهادة مجاناً بطلب من المعينة والأمر للإدلاء بها
أو سلمت هذه الشهادة بطلب من السلط الرسمية (الذكر السلط المعنية) بحيث هذه الشهادة يجب من السلط الرسمية (الذكر السلط المعنية) أن تكون في ثلاث نظائر وإلزام مكتوبة

الطبيب والإمضاء

English translation :

Tunisian Republic - Ministry of Health

Initial Medical Certificate (CMI)

For Women Victim of Domestic Violence

Registration Number..... Medical File Number.....

Appendix 3: Letter to the Ministry of Education

HUMAN RIGHTS WATCH

350 Fifth Avenue, 34th Floor
New York, NY 10118-3299
Tel: +1-212-290-4700
Fax: +1-212-736-1300; 917-591-3452

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James Ross, Legal and Policy Director
Bruno Stagno Ugarte, Chief Advocacy Officer

September 23, 2022

Fethi Sellaouti
Minister of Education
Ministry of Education
Tunis, Tunisia

Dear Minister Sellaouti,

Please accept my regards on behalf of Human Rights Watch, an independent nongovernmental organization that monitors and reports on human rights in more than 90 countries worldwide. We appreciate your government's engagement with our organization on human rights issues in the country.

We write with respect to a report we are preparing on domestic violence and the implementation of Law-58 on the Elimination of Violence Against Women in Tunisia (Law-58) and wish to clarify several aspects of this law's implementation in our reporting.

In particular, this letter includes a request for information about laws, policies, and practices related to the Ministry of Education's implementation of Law-58. We are also writing to other ministries with questions relevant to their domain.

We would be very grateful for a written response to our questions (annexed to this letter) in as complete a manner as possible by October 14, 2022. This will allow us to reflect your responses when launching our upcoming report set to be published in December 2022.

We would also appreciate a meeting to discuss these questions. Please reach out to my colleague Kenza Ben Azouz at [REDACTED] or by phone at [REDACTED] for further information or clarification, to respond directly to our questions, and to set up a meeting to discuss these issues at your convenience.

Thank you for your attention to this request and for your kind cooperation.

Yours sincerely,



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Balkees Jarrah
Acting Deputy Director
Middle East & North Africa Division

Request for Information by October 14, 2022

Law-58 obliges the state to undertake prevention measures to end violence against women including awareness-raising campaigns and reforms in educational curricula and trainings for state officials aimed at eliminating all forms of discrimination against women (Articles 6-12).

1. Kindly describe any initiative taken since the law came into force in 2018, or that is planned, on training education officials on Law-58, including in schools and universities, and/or on identifying and responding to children or students facing domestic violence.
2. Kindly describe any initiative taken since the law came into force in 2018, or that is planned, to mainstream gender equality or to sensitize children to violence against women through public school educational curricula.
3. Kindly describe any past (since 2018) or planned initiative to target boys and men in awareness-raising campaigns with regards to violence against women, including in rural areas.

Appendix 4: Letter to the Ministry of Family, Women, Children, and Seniors

HUMAN RIGHTS WATCH

350 Fifth Avenue, 34th Floor
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Salah Al-Hajjaj
Ghanim Al-Najjar
Lisa Anderson
David Bernstein
Bahey El Din Hassan
Hassan Elmasry
Mansour Farhang
Loubna Freh Georges
Amr Hamzawy
Shawan Jabarin
Marina Pinto Kaufman
Marc Lynch
Ahmed Mansoor
Abdelaziz Nouaydi
Kathleen Peratis
Nabeel Rajab
Vicki Riskin
Charles Shamas
Susan Tahmassebi
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Bruno Stagno Ugarte, Chief Advocacy Officer

September 23, 2022

Dr. Amel Belhaj Moussa

Minister of Family, Women, Children, and Seniors
Ministry of Family, Women, Children, and Seniors
Tunis, Tunisia

Dear Minister Belhaj Moussa,

Please accept my regards on behalf of Human Rights Watch, an independent nongovernmental organization that monitors and reports on human rights in more than 90 countries worldwide. We appreciate your government's engagement with our organization on human rights issues in the country.

We write with respect to a report we are preparing on domestic violence and the implementation of Law-58 on the Elimination of Violence Against Women in Tunisia (Law-58) and wish to clarify several aspects of this law's implementation in our reporting.

In particular, this letter includes a request for information about laws, policies, and practices related to the Ministry of Family, Women, Children, and Seniors' implementation of Law-58. We are also writing to other ministries with questions relevant to their domain.

We would be very grateful for a written response to our questions (annexed to this letter) in as complete a manner as possible by October 14, 2022. This will allow us to reflect your responses when launching our upcoming report set to be published in December 2022.

We would also appreciate a meeting to discuss these questions. Please reach out to my colleague Kenza Ben Azouz at [REDACTED] or by phone at [REDACTED] for further information or clarification, to respond directly to our questions, and to set up a meeting to discuss these issues at your convenience.

Thank you for your attention to this request and for your kind cooperation.

Yours sincerely,



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Balkees Jarrah
Acting Deputy Director
Middle East & North Africa Division

Request for Information by October 14, 2022

1. Please specify the number of shelters, and their respective hosting capacity, that are currently operational to host victims of violence against women, throughout the territory.
2. Please describe any plan by the Ministry of Family, Women, Children, and Seniors to expand the number of shelters and support services for victims of violence against women available in the country, especially in the south. Please indicate the number of planned spaces for each shelter as well as whether there will be availability for women with children.
3. Please describe any planned initiative to expand economic support to victims of violence against women.
4. Please describe any plan to expand the range of data disaggregation criteria utilized in the Ministry's reports on victims of violence against women.
5. Please describe any planned initiative to collect data on femicides (the intentional killing of women because they are women, as in the case of murders in domestic violence).
6. Please describe any plan by the government to increase funding toward the implementation of Law-58. For instance, will specific budget lines be allocated to the funding of the law's implementation, per ministry?

Appendix 5: Letter to the Ministry of Health

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James Ross, Legal and Policy Director
Bruno Stagno Ugarte, Chief Advocacy Officer

September 23, 2022

Dr. Ali Mrabet
Minister of Health
Ministry of Health
Tunis, Tunisia

Dear Minister Mrabet,

Please accept my regards on behalf of Human Rights Watch, an independent nongovernmental organization that monitors and reports on human rights in more than 90 countries worldwide. We appreciate your government's engagement with our organization on human rights issues in the country.

We write with respect to a report we are preparing on domestic violence and the implementation of Law-58 on the Elimination of Violence Against Women in Tunisia (Law-58) and wish to clarify several aspects of this law's implementation in our reporting.

In particular, this letter includes a request for information about laws, policies, and practices related to the Ministry of Health's implementation of Law-58. We are also writing to other ministries with questions relevant to their domain.

We would be very grateful for a written response to our questions (annexed to this letter) in as complete a manner as possible by October 14, 2022. This will allow us to reflect your responses when launching our upcoming report set to be published in December 2022.

We would also appreciate a meeting to discuss these questions. Please reach out to my colleague Kenza Ben Azouz at [REDACTED] or by phone at [REDACTED] for further information or clarification, to respond directly to our questions, and to set up a meeting to discuss these issues at your convenience.

Thank you for your attention to this request and for your kind cooperation.

Yours sincerely,



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Balkees Jarrah
Acting Deputy Director
Middle East & North Africa Division

Request for Information by October 14, 2022

Law-58 provides for a comprehensive medical response to survivors of violence against women. Article 8 requires the Ministry of Health to take preparative measures to improve its response to survivors, including by: establishing integrated programs in medical and paramedical education to combat violence against women; training all health personnel to detect, assess, and prevent all forms of violence against women, and to examine, treat, and follow up with women victims of violence and the children residing with them. Article 13 affirms survivors and their children's right to health and psychological support services.

1. Kindly describe any guidance provided to doctors and forensic doctors for the determination of total incapacity periods for victims of domestic violence.
2. Kindly describe any plans to check that medical personnel in all health institutions are abiding by joint ministerial note (n° 5-2022) to ensure women can get free initial medical certificates.
3. Kindly describe any measures that has been or will be undertaken to increase victims of domestic violence's access to forensic examination throughout the country.
4. Kindly describe what measures are in place, or are planned, to provide psychosocial or psychological assistance to victims of domestic violence.
5. Kindly describe what measures are in place to disseminate and enforce the 2016 health protocol on responding to violence against women.
6. Kindly describe what measures are in place to ensure the 2016 health protocol is part of mandatory trainings for all healthcare workers (both new and current staff).

7. Kindly describe any measure taken to ensure healthcare workers are trained to prevent risks of re-traumatization when examining and treating with victims of violence against women.
8. Kindly describe measures taken or planned to ensure that all health institutions have referral mechanisms to ensure that survivors have access to necessary support services. For instance, does the ministry help health institutions develop list of referrals for their areas as well as other support services (providing counseling, legal aid, and other services to survivors)? If so, at what frequency are they updated?

Appendix 6: Letter from the Ministry of Health, in response to Human Rights Watch's request for information



Réponses aux questions de Human Rights Watch

Q1: les médecins et les médecins légistes sont soumis au règlement du code de la déontologie médicale et à l'éthique de l'activité médicale et la législation en vigueur pour l'évaluation des séquelles de violences conjugales a savoir :

- Décret N°93-1155 du 17 Mai 1993 portant sur le code de déontologie médicale
- Circulaire N°24 du 24 Mars 1994 portant sur la délivrance de certificat médical descriptif à la suite d'accident
- Circulaire N°5 du 14 Mars 2022 portant sur la gratuité du certificat médical initiale pour les femmes victimes de violence et la facilitation des procédures des frais d'examens, traitement médical et hospitalisation.
- Le dommage et le préjudice est évalué par le médecin selon un barème
- Lorsque le certificat est demandé sur réquisition par une autorité judiciaire ou administrative, le médecin requis doit s'en tenir aux questions de la mission, informer la personne concernée de cette mission et obtenir son consentement.

Q2 : * Diffusion pour toutes les directions régionales, les hôpitaux et les services des urgences pour la circulaire N°5 du 14 Mars 2022 portant sur la gratuité du certificat médical initiale pour les femmes victimes de violence et la facilitation des procédures des frais d'examens, traitement médical et hospitalisation.

*I circulaire est appliqué

Q3 : Augmentation progressive du nombre des services de médecine médico-légales qui sont actuellement au nombre de 13 services.

Q4 : Pour l'amélioration de prise en charge des femmes victimes de violences et de violence conjugale en particulier :

- La mise en place d'un Plan national de formation des professionnels de la santé sur Les violences faites aux femmes
- Formation des formateurs sous le thème : **violence conjugale**
- La formation des médecins de l'ONFP, des directions régionales de la santé, les médecins des urgences et autres professionnels (sage femmes,

Psychologues), qui sont confrontés à des patientes victimes de violences conjugales

- Création d'une unité d'urgences de médecine légale au sein du service de médecine légale de l' Hôpital Charles Nicole pour recevoir les victimes d'agressions, notamment sexuelles, femmes et enfants, et fournir de soins médicaux, psychologiques et sociaux de qualité et immédiats, et permettre à la justice de faire son travail à partir du plus grand nombre possible d'indices et de preuves pour suivre les agresseurs.
- La Faculté de Médecine de Tunis, depuis l'année académique 2017-2018, a introduit :
 - *Un diplôme universitaire d'études supérieures spécialisé dans la période périnatale, la paternité, et l'un de ses programmes est la violence faite aux femmes lors des soins de santé sexuelle et reproductive,
 - *Un diplôme universitaire d'études supérieures spécialisé en Victimologie ; pour consolider :
 - les concepts sur la violence à l'égard des femmes, comment enquêter et prévenir
 - le système d'orientation des victimes.
- Désignation des points focaux aux urgences pour une meilleure orientation des femmes victimes de violence en cours
- Master classe à la faculté de Médecine de Tunis pour les professionnels de la santé sur la violence faite aux femmes (prise en charge, suivie, orientation, accompagnement)

Q5 : Pour les protocoles de prise en charge des femmes victimes de violences en milieu de la santé il y a eu :

- formation des professionnels de la santé sur les protocoles de la santé
- diffusion des protocoles auprès des professionnels de la santé

Q6 et Q7 : Plan de formation : Des formations professionnelles organisées en 3 modules Les objectifs des formations sont les suivants :

- Faire changer le regard des professionnel.le.s de santé sur les violences faites aux femmes
- Améliorer la prise en charge des femmes victimes de violences par les professionnel.le.s de santé.

La formation proposée aux professionnel-le-s de la santé se décline en trois modules qui sont complémentaires visant à répondre à tous les besoins identifiés :
Module 1 : Sensibilisation, a pour objectifs de sensibiliser les professionnel.le.s de santé sur les violences faites aux femmes et de les outiller en matière d'identification, de compréhension et d'orientation des femmes victimes de violences.

Module 2 : identification, écoute et prise en charge multisectorielle des femmes victimes de violences.il a pour objectifs de préparer les prestataires de soins à

dépister et à identifier les VFF, de les former aux techniques d'écoute et à les outiller pour la prise en charge multisectorielle des FVV.

Module 3 : Prise en charge spécifiques des FVV. Il est constitué par un ensemble de formations spécifiques en matière de prise en charge des femmes victimes de violences.

Ces formations englobent les domaines de la Rédaction du certificat médical initial (CMI) tenant compte des conséquences de la violence sur la santé physique et mentale sur les VFF.

Cette formation s'adresse aux Médecins travaillant dans les services des urgences et chargés de la rédaction des CMI.

Q8 : le protocole intersectoriel de prise en charge de femmes victimes de violence est bien fonctionnel dans certaines régions et pas dans d'autres.

Le ministère de la santé œuvre sur l'amélioration du travail multisectorielle et pour cela un point focale à l'urgence est en cours de nomination ayant l'objectif de :

- Améliorer l'accueil, la protection et la prise en charge des femmes victimes de violences dans les services des urgences.
- Renforcer la collaboration intersectorielle et intra-sectorielle pour une bonne orientation de la FVV.

Il est attendu que le point focal va faciliter les démarches administratives et accélérer leur mise en œuvre afin d'engager rapidement la prise en charge de la FVV

- faciliter la collaboration intersectorielle et intra-sectorielle pour une bonne orientation de la FVV vers les services appropriés.
- connaître les circuits de la convention intersectorielle et avoir les outils intersectoriels d'orientation (lettre de liaison, liste de contact utiles, adresse et contact des ONG qui s'occupe des FVV et des centres d'hébergements).

Dr Ouenniche Saïda
Point focal violence faites aux femmes
Direction Générale de la Santé

Dr. Ouenniche Saïda
Médecin Major de la Santé Publique
Sous Directeur de Qualité des Soins
Direction Générale de la Santé

Ministère de la Santé
Directeur Général de la Santé
Pr. Abderrazak Bouzouita

Appendix 7: Letter to the Ministry of Interior

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September 23, 2022

Taoufik Charfeddine
Minister of Interior
Ministry of Interior
Tunis, Tunisia

Dear Minister Bouzidi,

Please accept my regards on behalf of Human Rights Watch, an independent nongovernmental organization that monitors and reports on human rights in more than 90 countries worldwide. We appreciate your government's engagement with our organization on human rights issues in the country.

We write with respect to a report we are preparing on domestic violence and the implementation of Law-58 on the Elimination of Violence Against Women in Tunisia (Law-58) and wish to clarify several aspects of this law's implementation in our reporting.

In particular, this letter includes a request for information about laws, policies, and practices related to the Ministry of Interior's implementation of Law-58. We are also writing to other ministries with questions relevant to their domain.

We would be very grateful for a written response to our questions (annexed to this letter) in as complete a manner as possible by October 14, 2022. This will allow us to reflect your responses when launching our upcoming report set to be published in December 2022.

We would also appreciate a meeting to discuss these questions. Please reach out to my colleague KENZA BEN AZOUC at [REDACTED] or by phone at [REDACTED] for further information or clarification, to respond directly to our questions, and to set up a meeting to discuss these issues at your convenience.

Thank you for your attention to this request and for your kind cooperation.

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Yours sincerely,



Balkees Jarrah
Acting Deputy Director
Middle East & North Africa Division

Request for Information by October 14, 2022

Article 25 of Law-58 provides that specialized unit officers who are found to pressure survivors to forego exercising their rights under the law, modify their deposition, or withdraw their complaint, can be sanctioned with a prison sentence of up to six months.

1. Please kindly provide the following information since Law-58 came into force on February 1, 2018:
 - a) How many complaints against police officers have been issued under this article?
 - b) How many police officers have been investigated or convicted under this provision?
 - c) If any have been convicted, what did their sanctions entail?

Article 26 of Law-58 allows public prosecutors to issue temporary protection measures for survivors, at the request of specialized units.

2. Since Law-58 came into force on February 1, 2018:
 - a) How many protection measures have specialized units requested public prosecutors to issue in response to complainants of domestic violence? How many out of these requests were issued by public prosecutors?
 - b) Are there any mechanisms to monitor the implementation of protection measures and orders? Please describe what these are if so.
 - c) Have suspects against whom a protection measure has been issued been arrested or convicted for non-compliance? If so, how many such convictions have been issued and what sanctions did their convictions entail?

3. Kindly describe any plan to expand the capacities of specialized units including available vehicles, operating hours, and personnel?

4. Kindly describe any initiative or protocol in place to ensure specialized units' practices comply with the provisions of Law-58. What protocols or measures are in place or planned to ensure that police are launching investigations and issuing protection measures without arbitrary evidence requirements such as recent initial medical certificates?

5. Please describe any initiative to mainstream the use of femicide (the intentional killing of women because they are women, as in the case of murders in domestic violence) risk-assessment tools across police units.

Appendix 8: Letter to the Ministry of Justice

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September 23, 2022

Leïla Jaffel
Minister of Justice
Ministry of Justice
Tunis, Tunisia

Dear Minister Jaffel,

Please accept my regards on behalf of Human Rights Watch, an independent nongovernmental organization that monitors and reports on human rights in more than 90 countries worldwide. We appreciate your government's engagement with our organization on human rights issues in the country.

We write with respect to a report we are preparing on domestic violence and the implementation of Law-58 on the Elimination of Violence Against Women in Tunisia (Law-58) and wish to clarify several aspects of this law's implementation in our reporting.

In particular, this letter includes a request for information about laws, policies, and practices related to the Ministry of Justice's implementation of Law-58. We are also writing to other ministries with questions relevant to their domain.

We would be very grateful for a written response to our questions (annexed to this letter) in as complete a manner as possible by October 14, 2022. This will allow us to reflect your responses when launching our upcoming report set to be published in December 2022.

We would also appreciate a meeting to discuss these questions. Please reach out to my colleague Kenza Ben Azouz at [REDACTED] or by phone at [REDACTED] for further information or clarification, to respond directly to our questions, and to set up a meeting to discuss these issues at your convenience.

Thank you for your attention to this request and for your kind cooperation.

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Yours sincerely,



Balkees Jarrah
Acting Deputy Director
Middle East & North Africa Division

Request for Information by October 14, 2022

1. Under Article 26 of Law-58, prosecutors can approve the issuance of temporary protection measures requested by specialized police units. Under Article 33 of Law-58, family judges can issue longer-term protection orders at complainants' request.
 - a) Kindly indicate how many protection orders have been issued by courts to victims of domestic violence in 2018, 2019, 2020, and 2021?
 - b) Kindly confirm whether any sanction has been imposed on suspects of domestic violence for non-compliance with protection orders or measures since Law-58 came into force in February 1, 2018? Kindly provide data relating to the number of convictions and the range in their sentences.
2. In its 2020 annual report, the Ministry of Women reported that for 2018-2019, courts had registered 3,372 complaints for violence against women, 2,958 of which were for spousal violence – including 48 cases of moral violence, 37 cases of sexual violence, and 17 cases of economic violence.¹ The Ministry of Women's annual report did not update these figures for 2020 in its 2021 annual report.²

¹ 2020 National Annual Report of the Ministry of Women on the Elimination of Violence Against Women (FRENCH), p. 50. Available at: <http://www.gbo.tn/sites/default/files/2021-08/Rapport%20sur%20la%20lutte%20contre%20la%20%20violence%20%C3%A0%20l%27encontre%20des%20femmes.pdf>

² 2021 National Annual Report of the Ministry of Women on the Elimination of Violence Against Women (ARABIC). Available at: <http://www.femmes.gov.tn/wp-content/uploads/2021/08/%D8%A7%D9%84%D8%AA%D9%82%D8%B1%D9%8A%D8%B1-%D8%A7%D9%84%D8%B3%D9%86%D9%88%D9%8A-%D8%A7%D9%84%D8%AB%D8%A7%D9%84%D8%AB-%D8%AD%D9%88%D9%84-%D9%85%D9%86%D8%A7%D9%87%D8%B6%D8%A9-%D8%A7%D9%84%D8%B9%D9%86%D9%81-%D8%B6%D8%AF-%D8%A7%D9%84%D9%85%D8%B1%D8%A3%D8%A9.pdf>

a) Kindly provide figures on the number of domestic violence cases registered by courts and the number that have led to convictions in 2020, 2021, and 2022 (specifying the number of complaints for physical, moral, sexual and economic violence for each year).

3. Law-58 (Article 3) defines sexual violence regardless of the perpetrators' relationship to the victim, suggesting that crimes of sexual violence should apply even in cases of marriage.
 - a) Kindly indicate the number of prosecutions for sexual violence in marriage, specifically marital rape, issued since Law-58 came into force in February 1, 2018, and the number, if any, of convictions for them?
 - b) Please provide figures specifying the number of victims of violence against women with specific breakdown on those who are victims of domestic abuse having received state-sponsored legal aid since Law-58 came into force on February 1, 2018.³
4. Law-58 (Article 15) provides that a woman's withdrawal of her complaint should not bring an end to legal proceedings against the suspect of the abuse.
 - a) Kindly indicate the number of complaints for domestic violence that have been withdrawn by victims of domestic violence (annually, or cumulatively) since Law-58 came into force on February 1, 2018?
 - b) Out of withdrawn complaints, how many have the authorities continued to pursue, leading to prosecutions and convictions?
5. Kindly describe any planned initiative to collect data on feminicides (the intentional killing of women because they are women, as in the case of murders in domestic violence).
6. Are there any plans to increase capacity in courts to respond to violence against women cases including trainings for investigative judges, prosecutors, or duty judges, who may replace family judges or public prosecutors in their absence?

³ Law-58 on the Elimination of Violence Against Women in Tunisia, Articles 4 and 13 guarantee victims of violence against women the unconditional right to legal aid, regardless of their financial status.

7. What measures have been taken or are there any plans to ensure there are assigned dedicated, separate rooms for magistrates in charge of receiving complaints of violence against women in every court of first instance, as required under Article 23 of Law-58?
8. Kindly provide data on the number and proportion of female judges and prosecutors appointed to address cases on violence against women?

Appendix 9: Letter to the Ministry of Social Affairs

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HRW.org

September 23, 2022

Malek Zahi
Minister of Social Affairs
Ministry of Social Affairs
Tunis, Tunisia

Dear Minister Zahi,

Please accept my regards on behalf of Human Rights Watch, an independent nongovernmental organization that monitors and reports on human rights in more than 90 countries worldwide. We appreciate your government's engagement with our organization on human rights issues in the country.

We write with respect to a report we are preparing on domestic violence and the implementation of Law-58 on the Elimination of Violence Against Women in Tunisia (Law-58) and wish to clarify several aspects of this law's implementation in our reporting.

In particular, this letter includes a request for information about laws, policies, and practices related to the Ministry of Social Affairs' implementation of Law-58. We are also writing to other ministries with questions relevant to their domain.

We would be very grateful for a written response to our questions (annexed to this letter) in as complete a manner as possible by October 14, 2022. This will allow us to reflect your responses when launching our upcoming report set to be published in December 2022.

We would also appreciate a meeting to discuss these questions. Please reach out to my colleague KENZA BEN AZOUC at [REDACTED] or by phone at [REDACTED] for further information or clarification, to respond directly to our questions, and to set up a meeting to discuss these issues at your convenience.

Thank you for your attention to this request and for your kind cooperation.

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Yours sincerely,



Balkees Jarrah
Acting Deputy Director
Middle East & North Africa Division

Request for Information by October 14, 2022

1. Please describe any passed or planned initiative since Law-58 came into force on February 1, 2018, to provide individual case work support by social workers to victims of violence against women, including for those who choose to withdraw their complaint at the police.
 - a) For example, are there any plans to replicate the 2021 pilot initiative in Ben Arous to appoint social workers as focal points to support victims of violence against women in order to ensure that such support is available to all women throughout the country?
2. Please describe any planned initiative to facilitate victims of domestic violence's access to social assistance (health care cards or financial aid, for example) where the latter is withheld by an abusive head of household.
3. Please describe any planned initiative to implement social assistance programs to help victims of violence against women access financial support, long-term housing, training opportunities, and employment.

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“So What If He Hit You?”

Addressing Domestic Violence in Tunisia

In 2017, Tunisia adopted one of the most progressive laws in the Middle East and North Africa to combat various forms of violence against women. Law-58 on the Elimination of Violence Against Women provided comprehensive prevention, protection, and prosecution mechanisms and support services for survivors, including dedicated police units, new mechanisms to obtain protection orders against alleged abusers, and the right to free medical care, counseling, and shelter, among other support services.

However, in the report “*So What If He Hit You?: Addressing Domestic Violence in Tunisia*,” based on interviews with more than 100 people, including 30 survivors, Human Rights Watch found that the Tunisian authorities’ poor implementation of the law left women exposed to domestic violence, and denied protection and assistance when they needed it. This includes police officers who dissuade women from filing complaints, failing to investigate or refer women for assistance, poor access to free legal counsel, the lack of sufficient funding for assistance to survivors such as an adequate number of emergency shelters and follow-up medical care. Tunisia’s discriminatory laws and policies such as deeming men as heads of households and discriminatory inheritance provisions continue to reduce Tunisian women’s social and economic power in relation to men leaving them exposed to violence. Women also often have nowhere to turn as social and family pressures are placed on them to put up with or reconcile with abusers rather than report their crimes and leave them.

The report recommends measures for Tunisian authorities to take in order to fulfil Law-58’s promise to curb impunity for domestic abusers and empower women to make free choices when faced with an abusive man.



#EnaZeda (#MeToo) Street Mural by the feminist organization Aswat Nissa. Paris Avenue, Tunis, Tunisia on November 16, 2022.

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