

# WOMEN'S PROFESSIONAL PARTICIPATION IN TUNISIA'S JUSTICE SECTOR: PATHWAYS AND OPPORTUNITIES



Creating a Culture of Justice  
International Development Law Organization

The International Development Law Organization (IDLO) is an intergovernmental organization devoted to empowering people and enabling governments to reform laws and strengthen institutions to promote peace, justice, sustainable development and economic opportunity.

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## Acronyms

CAWTAR	Centre of Arab Women for Training and Research
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
MENA	Middle East and North Africa
IDLO	International Development Law Organization

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# IDLO GENDER PLEDGE SERIES



## IDLO GENDER PLEDGE SERIES

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At the High-Level Meeting of the 67th Session of the United Nations General Assembly on the Rule of Law at the National and International Levels in September 2012, IDLO made the following pledge:

**“ We pledge to undertake a global survey of the role of women in justice sector institutions and to analyze the legal barriers to women’s access to justice... We will work to ensure that women’s increased participation in the justice system and legal reforms to enhance women’s rights are accorded due priority...”**

By drawing attention to the number of women legal professionals in the justice sector, as well as the barriers that women legal professionals face in entering and participating in the sector, IDLO hopes to encourage national governments and the international community to direct more resources and energy towards addressing the unique needs and challenges faced by current and prospective women legal professionals.

IDLO believes that improving women’s ability to work in justice institutions is essential – not only to ensure that women enjoy democratic freedoms and equality of opportunity in the workplace, but also to ensure that the specific interests of women are represented and advanced in justice institutions.

IDLO’s pledge is all the more important as Agenda 2030 advances. The international community has the opportunity to demonstrate its commitment to gender equality, by amplifying women’s voices, leadership and participation in justice institutions.

# EXECUTIVE SUMMARY





# EXECUTIVE SUMMARY

*Women's Professional Participation in Tunisia's Justice Sector*<sup>1</sup> focuses on Tunisia's progress and remaining challenges towards equal professional participation within justice institutions and the barriers to equality and access to justice. Importantly, professional barriers can also inhibit the ability of women to attain substantive justice, particularly in cases of gender-based violence and crime.

Based on a unique participatory methodology and featuring a Tunisian-led data collection process, mixed methods were utilized to consider an array of factors influencing participation, including gender, rank, geography, education and profession. This report is the most thorough investigation of women's professional participation in Tunisia's justice sector to date, shedding light on both the progress that has been made and the obstacles that persist.

*Women's Professional Participation* shows that Tunisia has made impressive strides in its rate of participation in recent years, building upon a strong constitutional framework and concerted political effort to attain formal gender equality. Women have increasingly gained access to judicial positions and legal training; 43% of lawyers and 41% of magistrates in the country are women, as well as 75% of law students. These figures are relatively high when compared both to other countries in the region and Tunisia's low labor force participation rate among women. Nonetheless, the justice sector is not exempt from the disparities in substantive equality that pervade Tunisia's labor market. Barriers that persist prevent women from reaching certain positions, particularly in the field of law. Geographical distribution continues to disadvantage women, with potential negative consequences for the country's most marginalized women.

*Women's Professional Participation* also finds that there is disparity between the experiences of female magistrates and lawyers. The competitive market of law practice provides many opportunities for subjective prejudices and stereotypes to constrain women's legal careers, including networking and recruitment. Conversely, the reform of the judiciary to emphasize neutrality and objectivity in hiring has led to a marked increase in women at higher levels. The contrast between these two positions exposes the challenging socio-political context within Tunisia regarding the role of women. Institutions whose hiring practices are by necessity responsive to formal law and governed by objective practice, like magistracies, have more successfully integrated women into higher ranks, while those where subjective decisions are still consequential have not. Women thrive in law schools, where they outnumber their male colleagues and conduct a great amount of academic research, yet struggle to advance in private firms.

Women magistrates experience many barriers in common with their lawyer counterparts, including stereotyping and underrepresentation in rural areas. They also face disproportionate scrutiny from their male colleagues for perceived biases, particularly towards litigants complaining of gender-based crime. Accordingly, women are often relegated to certain specializations, despite making efforts to minimize their gender identity and feminist beliefs, to avoid accusations of partiality. Male colleagues, lawyers and litigants often disrespect women magistrates in and out of the courtroom, and threats to women's security are not uncommon.

The legal profession as a whole in Tunisia is also disproportionately inaccessible to women due to their traditional social obligations. A lack of childcare options and challenges of transportation and security constrain the geographical reach of women in the justice sector, a dynamic reflected by the data on geographical trends of

gender imbalance. Women are forced to exclude themselves from leadership positions, jobs with irregular hours and careers where travel is necessary, in order to fulfill these responsibilities.

By uncovering how Tunisia has made progress towards the ultimate goal of gender parity, *Women's Professional Participation* reveals lessons for achieving similar results elsewhere. Importantly, the many obstacles that still remain present opportunities for substantive change regarding representation and equality of women in the justice sector.

## Policy recommendations

Women have made significant strides in Tunisia's legal profession, particularly in public sector roles like the magistracy. However, the research findings indicate that there are still barriers that maintain gender imbalances and subjective prejudices limit the extent to which women can participate in prominent roles. These are not unique to Tunisia and mirror the findings in IDLO's previous research in this area. The policy recommendations that arise from this review include:

1. Develop a system for effectively collecting and tracking relevant data on women's professional participation, including judicial registries with sex-disaggregated information on the number of justice professionals, their roles, rank, positions, specialties, appointments and geographical distribution, and publicly accessible judicial information and decisions.
2. Create gender-sensitive policies – including childcare facilities and safety and security protocols – when engaging in capacity-building programs.

3. Deliver training programs on international human rights, gender issues and gender-based violence laws to male and female judges and lawyers, specifically through inclusion in compulsory curricula for law and justice professionals as well as within the framework of continuous professional development.
4. Strengthen mentorship programs, networking and continuous training for women justice professionals and law students so they can share experiences and knowledge, including on addressing gender imbalances in hiring and networking.
5. Develop and support family-tailored programs for lawyers and magistrates such as day care or early education centers.
6. Create or strengthen legal aid programs on gender-based violence and, in particular, targeted toward connecting clients with women lawyers and legal aid providers, especially in rural areas.

### A targeted methodology

*Women's Professional Participation* employs data-driven quantitative and qualitative research to provide a measure of justice sector participation in Tunisia. This research focused on two representative roles in the legal system: magistrates (judges) and lawyers. Both of these positions have seen an increase in the presence of women in recent decades, but distinct obstacles to equality still persist. The experiences of women magistrates and lawyers indicate useful and actionable areas of progress that can be expanded upon and barriers that can be reduced through targeted engagement.

This report utilizes a diverse set of data collected by the Centre of Arab Women for Training and Research (CAWTAR) in collaboration with IDLO.<sup>2</sup> A survey was issued to Tunisian magistrates and lawyers from seven regions, totaling 316 respondents. This new data, combined

with information obtained from ministries, statistical agencies, legal authorities and national legal organizations, was used both to verify and supplement existing information.

Additionally, focus groups were conducted with 51 individuals, including both male and female lawyers, magistrates, law students, bailiffs and litigants, allowing broad insight into the experiences of professionals, the perceptions of aspiring participants and the perspectives of those who have interacted with the justice system. While participants were selected on the basis of their profession, the study also took into account location, gender, age and status in order to ensure diverse views. These semi-directed focus group interviews and discussions were supplemented by 18 in-depth interviews with women judges and lawyers. Overall, these combined methods present temporal, geographical and hierarchical trends that indicate opportunities for further engagement.

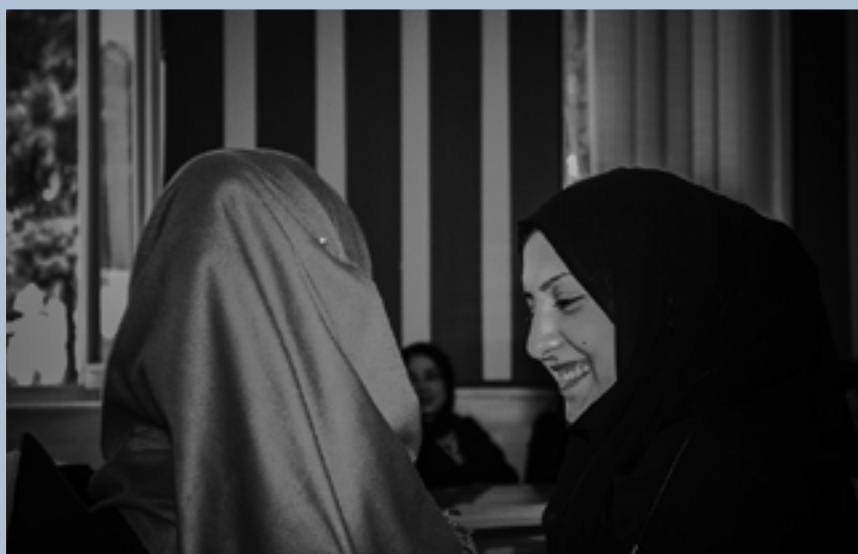


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### IDLO's Gender Pledge Series

This report adds diversity and important<sup>3</sup> insights to IDLO's Gender Pledge Series. The first national study, focused on Afghanistan, describes a country confronting a continuous violent insurgency and a history of opposition to gender equality.<sup>4</sup> Only 4.7% of judges and 6.1% of lawyers were women in 2008.<sup>5</sup> Afghan women noted limited access to legal training, and often at a lower standard than that of their male peers. The few women able to locate work in the justice sector found their security threatened on a regular basis.

In comparison, Tunisia is a more favorable setting, where 41% of magistrates and 43% of lawyers are women. But it is not sufficient to see progress in numbers alone. The means by which Tunisia's legal sector has become more equal may provide lessons for how reforms can be implemented elsewhere, but persistent barriers serve as a necessary reminder that equal overall numbers do not amount to substantive equality.

Additionally, IDLO's study, *Women Delivering Justice*, focused on the global state of knowledge around women's professional participation in the justice sector, highlighting the importance of a diversified justice sector for progress on gender equality and the legitimacy of justice systems in support of Sustainable Development Goals 5 (Gender Equality and Women's Empowerment) and 16 (Peace, Justice and Strong Institutions) of the 2030 Agenda for Sustainable Development.<sup>6</sup> Signaling the importance attached by the global community to representative judiciaries, indicator 16.7.1 of the 2030 Agenda specifically tracks the proportion of positions (by sex, age, persons with disabilities and population groups) in public institutions, including the judiciary, compared to national distributions.

IDLO remains committed to gaining insights and knowledge from a diverse range of countries around the world so that challenges related to supporting the full participation of women legal professionals in the justice sector can be addressed and equality advanced. Increased understanding of broad issues, while sharpening awareness of local contexts and nuances, will be instrumental to realizing this goal in line with the 2030 Agenda and IDLO's Gender Pledge.



PART 1  
THE TUNISIAN EXPERIENCE  
AND WHY IT MATTERS



# THE TUNISIAN EXPERIENCE AND WHY IT MATTERS

**I**n recent years, Tunisia has earned a positive reputation in terms of formal gender equality. The Constitution, adopted in 2014, enshrined secularization, democracy and the rule of law as key principles in Tunisian government and was the first in the Arab world to directly establish gender parity as an objective.<sup>7</sup> Both men and women are confirmed not only as members of the same family, but as “autonomous individuals” in their own right. This has had significant effects on women’s legal freedoms – to vote, divorce, relocate, control reproductive health and access all leadership positions in the country – but the private and professional lives of Tunisian women remain unequal in many ways. Consistent with this, legal professions are increasingly feminized, but the findings of this research suggest that women judges and lawyers do not experience *de facto* (substantive) equality.

The Tunisian justice sector is of particular interest considering recent developments, as politicization and factionalism have increased in the past few years.<sup>8</sup> Major reforms and in some cases wholesale reorganization has resulted in a structural shift in the legal profession, casting doubt upon the objectivity of appointments, promotions and transfers of judges. The sector as a whole is now under more scrutiny than ever, and instability has become even more characteristic. As this research finds, subjectivity and insecurity have disproportionately negative effects on women, who are more vulnerable to gender-based prejudice and familial obligations respectively.

## 1.1 Why does it matter?

Prioritizing the effective participation of women in justice systems around the world is crucial for a number of reasons: women have the right to equality in the workplace and to be in positions of authority and leadership; diversity and inclusiveness improves the legitimacy and credibility of legal institutions; and gender-specific interests can only be fully advanced when women are themselves empowered.<sup>9</sup> General Recommendation No. 23 on Article 7 of the UN Committee on the Convention on the Elimination of Discrimination Against Women (CEDAW) continues to guide its State Parties and the international community as a whole in pursuing substantive equality:

*Policies developed and decisions made by men alone reflect only part of human experience and potential. The just and effective organization of society demands the inclusion and participation of all its members.*

*Societies in which women are excluded from public life and decision-making cannot be described as democratic. The concept of democracy will have real and dynamic meaning only when political decision-making is shared by women and men and takes equal account of the interests of both.<sup>10</sup>*

As such, the reduction and removal of gender-based barriers in legal professions is both a worthy goal in and of itself and a pathway to greater substantive justice overall. However, the impact of increased women’s participation in legal professions is complex and remains understudied.

A previous study conducted by IDLO in Afghanistan reaffirmed the well-supported belief that women do not inherently possess stereotypical intrinsic qualities of “care” or “humanity,” and so far, there is no study that shows a strong empirical relationship between the presence of women (or men) professionals and improved justice outcomes.<sup>11</sup> To suggest so would risk affirming traditional gender roles, in addition to disregarding the effects of class, ethnicity and other factors. Most Tunisian magistrates (92.4% of respondents) categorically denied that they interpret the law or specific cases differently due to their gender – even if some personally believe that women possess more humanistic qualities. One magistrate responded:

“I do not like this way of seeing things... I do not adhere to this reading of justice... It is only the character of the judge, his/her personality and his/her convictions – whether it’s a man or a woman.”

In contrast however, IDLO's research did uncover a number of personal accounts that suggest that male magistrates in many instances demonstrate a lack of empathy or consideration in cases of gender-based crime such as sexual harassment or abuse. One female magistrate described the permissive attitude of a male colleague during a trial:

“*In one case of a father sexually abusing his daughter... I cannot describe how well the accused was treated by the judge... He blamed the mother for leaving her daughter with him... I was completely shocked by [my colleague's] behavior; I had to elbow him to remind him that the accused was the father, not the mother.*

Women magistrates also reported that they are often accused by colleagues or other legal practitioners of giving preferential treatment to other women:

“*One is sometimes accused of favoritism towards mothers or abused women as a sort of "feminine solidarity..." but these are perceptions without foundation.*

These accounts are reflective of the literature as a whole – evidence to this effect remains mostly anecdotal, and future research must explore the extent to which these dynamics pervade gender-imbalanced justice systems at a macro level.

Similar dynamics emerge in focus group responses regarding women lawyers. Mirroring the findings of the IDLO Afghanistan report, researchers in Tunisia found that litigants were more confident and comfortable when dealing with women lawyers regarding gender-based crimes like sexual assault or domestic abuse. This is especially striking considering that a significant challenge in Tunisia's justice sector as a whole is access to representation; many vulnerable populations in the country, including poor and particularly rural women, either deliberately or inadvertently forfeit their right to representation due to issues of cost, suspicion, or lack of understanding of court procedure.<sup>12</sup> This suggests that an increase in legal aid targeted towards connecting women clients and lawyers could have a positive impact on justice outcomes. Previous empirical research,

including IDLO's study in Afghanistan, has indicated that women feel more empowered to report gender-based crimes when a higher proportion of police officers are women;<sup>13</sup> and that, if programs are put in place to publicize the availability of legal aid and in particular representation by a woman, tangible progress in delivering justice for women could be achieved.

While empirical evidence does not exist that directly connects the presence of women in the courtroom with improved justice outcomes for women, these accounts indicate that changing both the proportion of women in influential legal positions and the extent to which women lawyers are available to litigants affected by these issues are plainly worthy objectives.



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# PART 2

## THE CURRENT SITUATION – FINDINGS AND ANALYSIS





# THE CURRENT SITUATION – FINDINGS AND ANALYSIS

## 2.1

### Women's overall participation in the labor market and legal sector

Despite the aforementioned gains in legal status and enshrinement of formal equality, the status of women in Tunisia remains connected to traditional social roles. Even as women outnumber men at all levels of education by 10%,

the unemployment rate for women is nearly twice as high.<sup>14</sup> Room for progress is even clearer when looking outside of the labor market: only 23% of Tunisian women sought or held employment in 2018 – high relative to many of the country's Middle East and North Africa (MENA) neighbours, but nonetheless disappointing considering the strides made regarding Tunisian women's legal status.<sup>15</sup>

Observers and those surveyed agree that these dynamics have a dual cause: persistent socio-cultural prejudices

and familial roles that limit the capacity of women to enter professional life. Expanding the role of women in the Tunisian economy has long been cited as a way to strengthen the country's growth potential, particularly considering their increased educational attainment.<sup>16</sup> While this will necessitate the overturning of deeply entrenched gender norms and attitudes, investment in programs empowering women to enter the workforce and attain positions proportionate with their skills is crucial.<sup>11</sup>



Image: ©Time

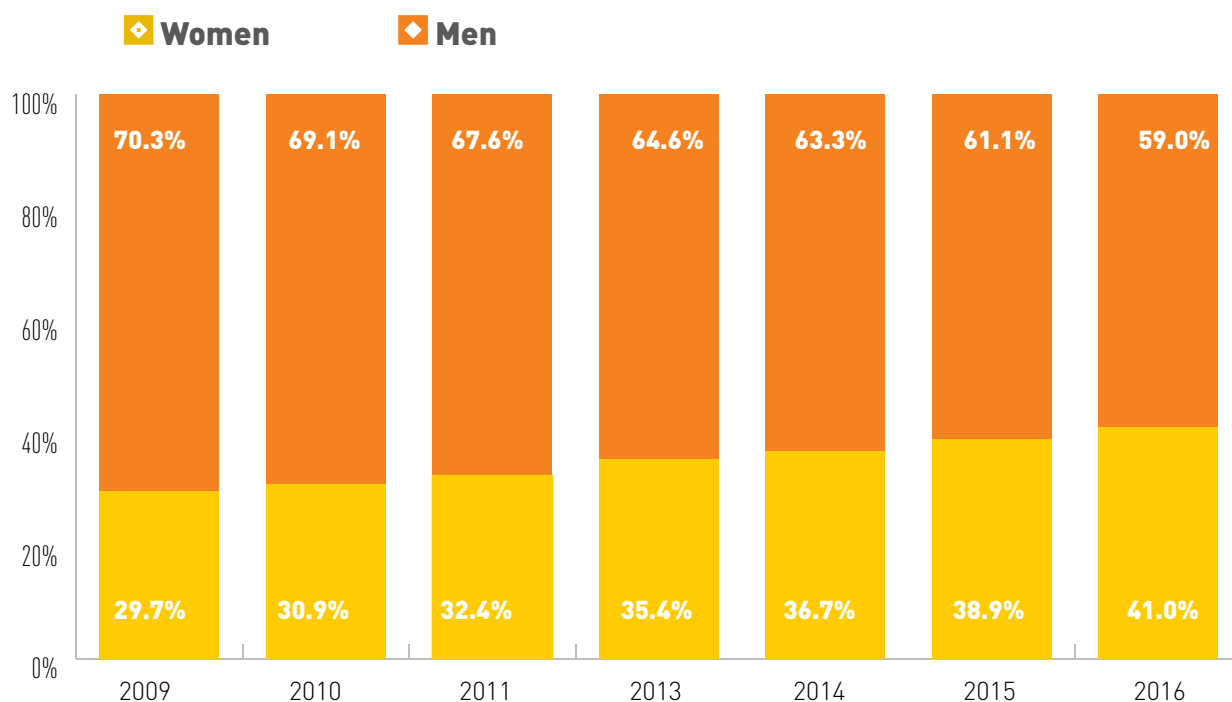
Considering these figures, the country's legal sector seems at first glance like an overwhelming success. Tunisian women have experienced significant gains in terms of access to legal professions in recent years: the total figures for both magistrates (41%) and lawyers (43%) are now approaching parity for the first time in the country's history. That being said, focusing on only these figures conceals the persistent imbalances in rank and geographical distribution that still have significant effects on substantive equality in Tunisia's justice system. Even if these professions are increasingly becoming feminized, their internal structures reproduce the types of gender imbalances pervasive in Tunisia's broader labor market. Furthermore, less prominent positions in the justice sector continue to be dominated by men.

## 2.2

### Magistrates: progress but still imbalance

As stated above, women magistrates make up 41% of the total in Tunisia, a number gradually approaching parity. Since 2009, that percentage has been steadily increasing at an average rate of just over 1.6% per year.<sup>17</sup> That this trend has continued and even accelerated through political upheaval is a strong signifier that this growth is durable. If the current rate is sustained it is possible that Tunisia could achieve nominal parity by 2022.

This rate of participation trend is encouraging and solidifies the notion that Tunisia's justice system is indeed beginning to become feminized. Between 2009 and 2016, women's presence in all magistracy branches has grown by a significant margin, including growth in almost all regions as well. In First Instance, Appeal and District Courts, the percentage of women magistrates has grown by 11%, 6% and 30% respectively during that time period. A strong sign that such growth will persist in the future stems from reforms to the judicial training process to allow entry at a younger age; women between ages 25 and 39 comprise 21.8% of magistrates compared to only 13.5% of men of the same age group, suggesting that these trends will accelerate in the near future.



**Figure 1: Gender statistics in the magistracy from 2009 to 2016 (Ministry of Justice)**

## Women in high-level magistracies

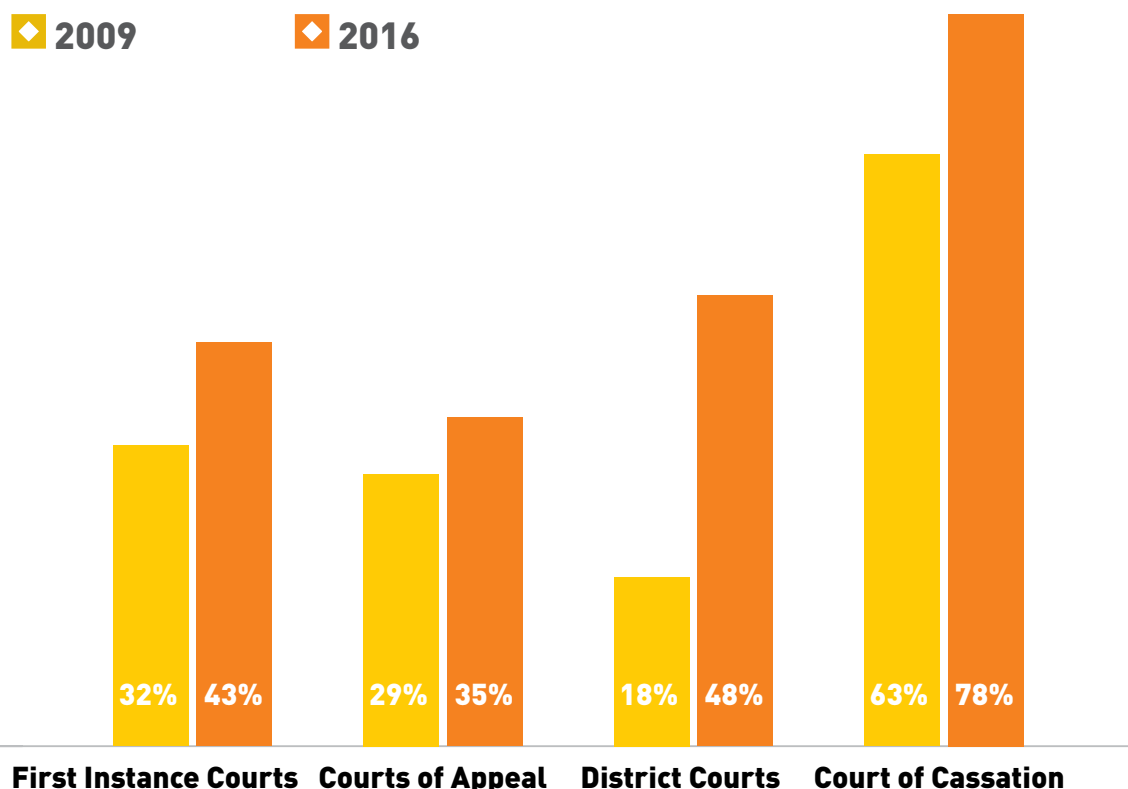
However, this broad overview is not sufficient to grasp the dynamics that continue to pose barriers to women magistrates in the country. Interestingly, whereas women magistrates have been extremely successful at attaining positions at the highest level of Tunisia's courts, they are still underrepresented (in some cases significantly so) in the medium-tier branches such as the Courts of Appeal and First Instance. There are a number of possible explanations for this phenomenon. First, the politicization of the judiciary and the accelerated focus on gender equality by public figures might have played a role in increasing the representation of women in the Court of Cassation. Second, this court is located solely within the central region of Greater Tunis, where women are much more

well represented relative to other regions across all branches. Third, appointments in high-level courts are often based on objective measures and testing, meaning they are insulated to a certain extent from potential prejudice.<sup>18</sup>

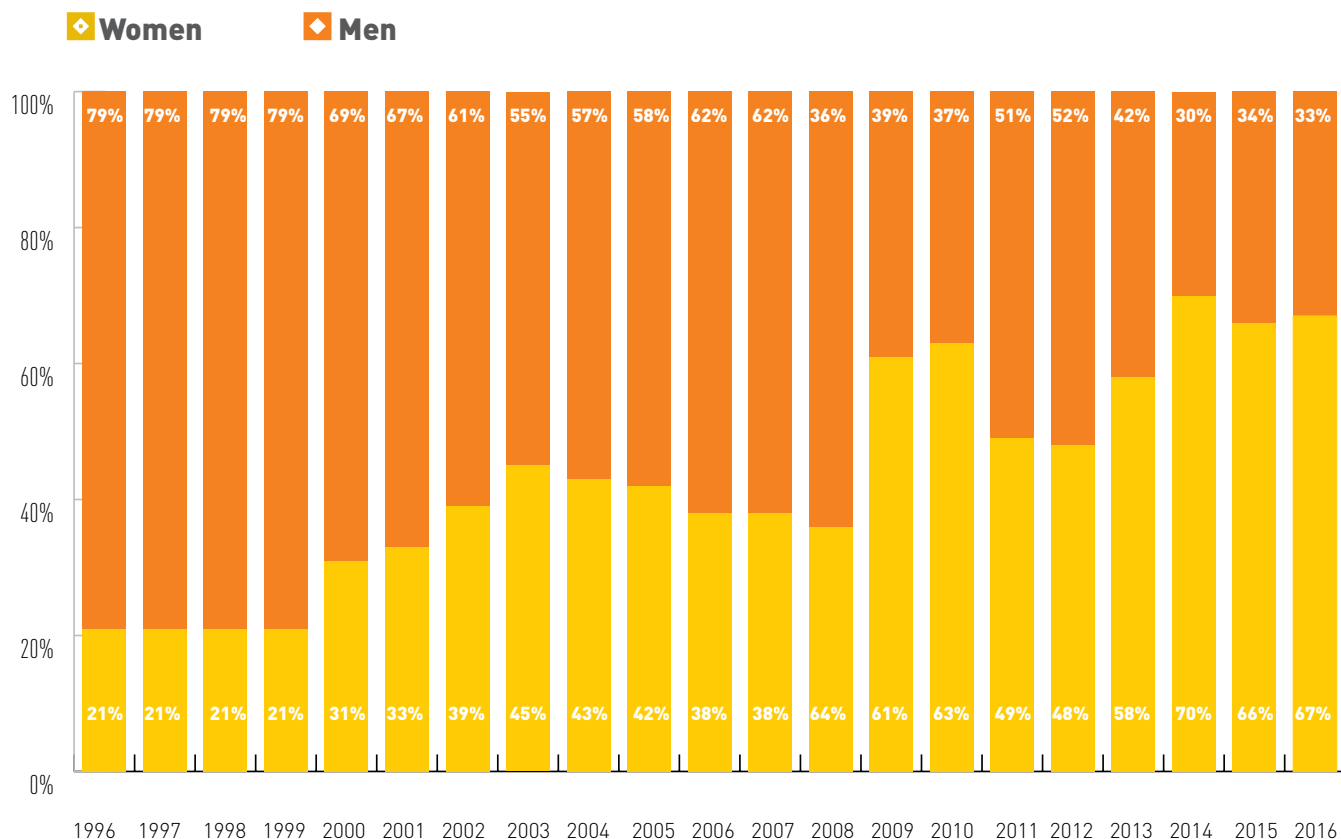
Even factoring in these qualifications, the increase in prominence of women in judicial leadership roles is reflected in the gender balance at the Higher Institute of Magistracy, the specialized judicial training center whose students are objectively evaluated for positions in high-level Tunisian magistracy branches. While female enrollment (and enrollment in general) dipped between 2011 and 2012, both figures have rebounded dramatically, resulting in both a higher proportion and number of women in the Institute. When asked, 88.8% of women magistrates replied that they did not encounter any obstacles when applying to the Higher Institute of

Magistracy, suggesting that the school could represent a potential model for increasing the role of objectivity in recruitment in the justice sector.

This increase is also reflected by the accession of certain women magistrates to prominent decision-making positions, including Deputy Attorney General, Director of Human Services, President of the Court of Appeal, President of the Court of Cassation and President of the Higher Authority for the Fight Against Human Trafficking. Both the Tunisian Association of Magistrates and the Tunisian Union of Magistrates are chaired by women, and every Vice President of the Court of Cassation is female. Women have also increased their presence as presidents of the Courts of Appeal (46%), Real Estate Appeal Chamber (33%), First Instance Courts (32%) and District Courts (25%).



**Figure 2:** Changes in gender statistics in magistracy branches from 2009 to 2016 (Ministry of Justice)



**Figure 3: Gender statistics at the Higher Institute of Magistracy from 1996 to 2016 (Ministry of Justice)**

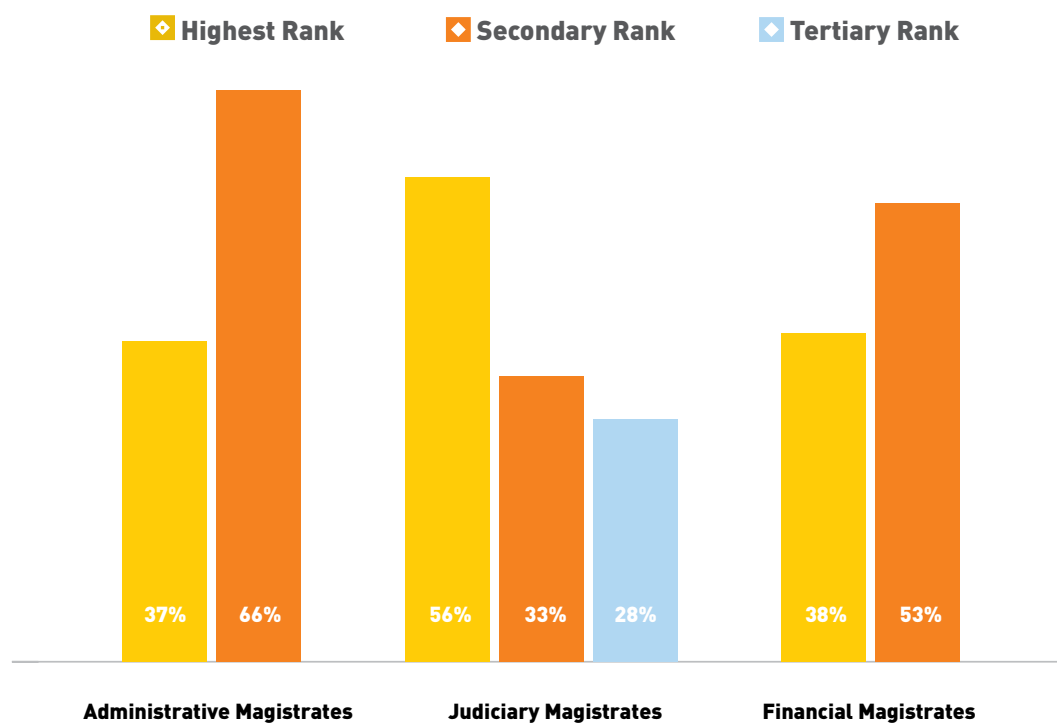
### Women within the three major magistracy bodies

Tunisia's magistracy has three main branches, each with differing functions and jurisdictions. These are the judiciary, administrative and financial bodies. Women do not yet experience full equality in any of these branches, and their rate of participation is varied. Only 40% of judiciary magistrates are women, compared to 47% of administrative magistrates and 48% of

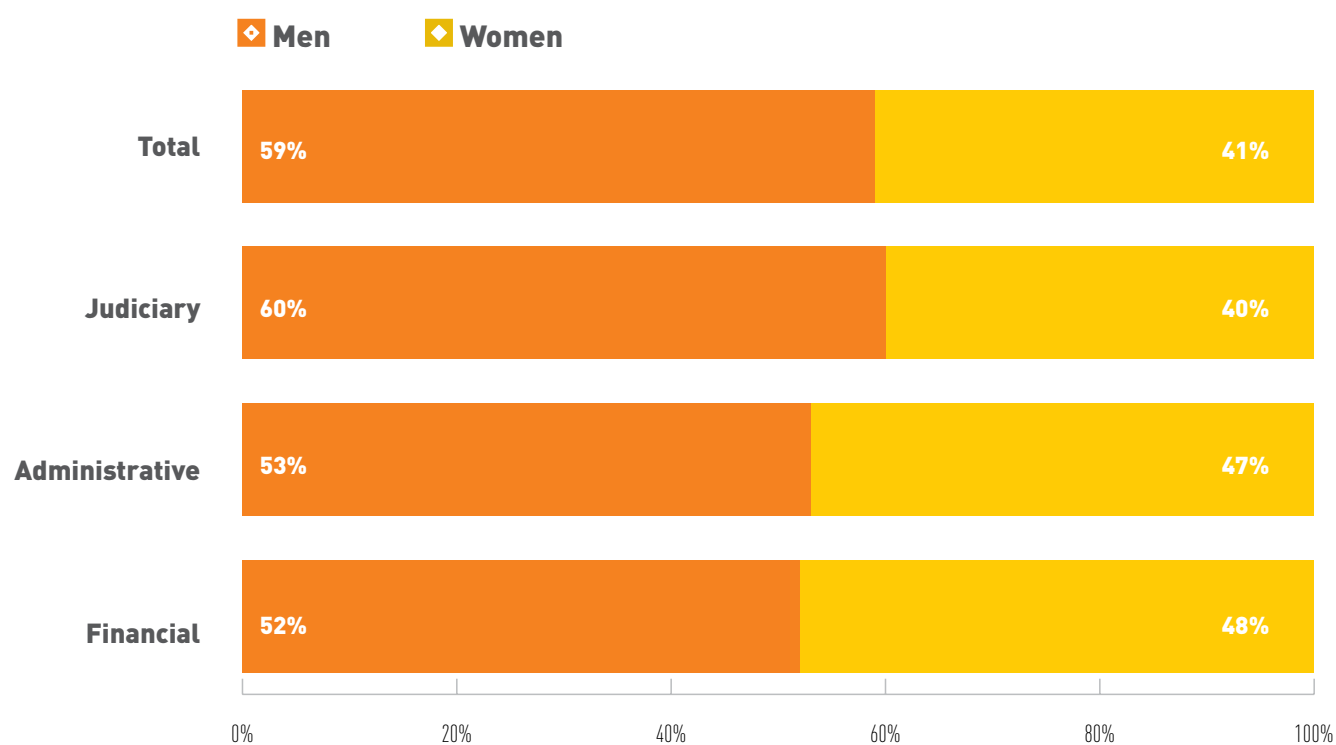
financial magistrates, suggesting that women most often take/are appointed to positions with regular office hours compared to more unpredictable court obligations. This is further supported by focus group responses, which specifically cite the desire for stability as a reason for such self-exclusion.

Just as the total participation figures are made more revealing by considering the internal structure of the Tunisian justice system, the rank of

women magistrates within these three magistracy bodies is telling. Whereas the relatively fewer women with judiciary positions are disproportionately in the highest-ranking positions – outnumbering their male counterparts by 12% – in both the administrative (66%) and financial (53%) magistracy bodies, most women find themselves in advisory or deputy roles. In most cases, these women magistrates report to male superiors.



**Figure 4:** Gender distribution of women magistrates based on rank from 2016 (Ministry of Justice)

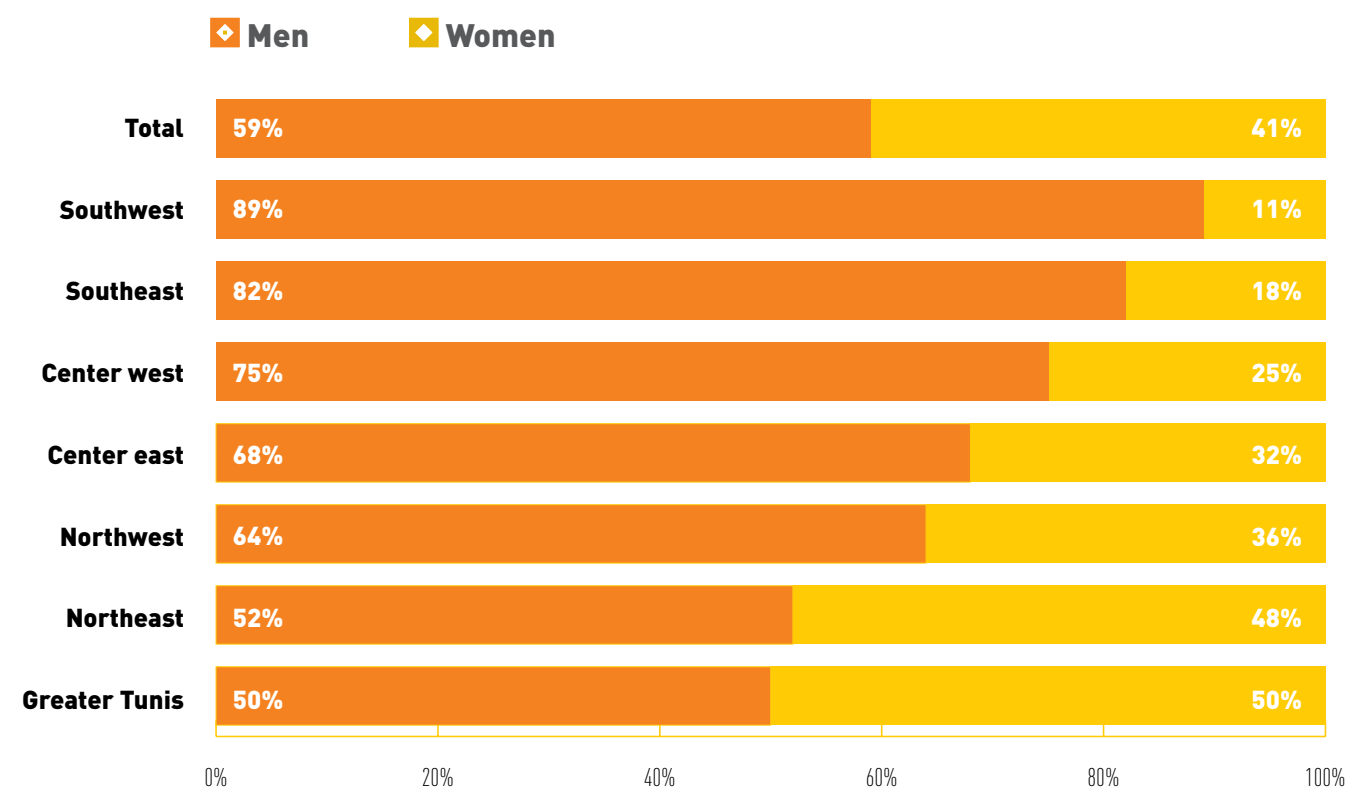


**Figure 5:** Gender statistics of magistracy branches in Tunisia from 2016 (Ministry of Justice)

## Geography

The most consequential factor affecting the gender parity of Tunisia's magistracy is geography. There are especially marked disparities between the northern and southern regions of the country. Greater Tunis, the metropolitan capital region, is the only area with gender parity. The Northeast (48%) and to a lesser extent Northwest (36%) have made clear progress and are themselves

approaching the 50% mark. However, there remains significant work to be done in the desert regions of the south, as the Center east (32%), Center west (25%), Southeast (18%) and Southwest (11%) are nowhere near gender equality in magistrate positions. The linear decrease in women's participation as one moves south suggests possible explanations for these dynamics: access, the persistence of traditional gender roles in rural communities and poverty.



**Figure 6:** Gender statistics of magistrates in Tunisian regions from 2016 (Ministry of Justice)

## 2.3

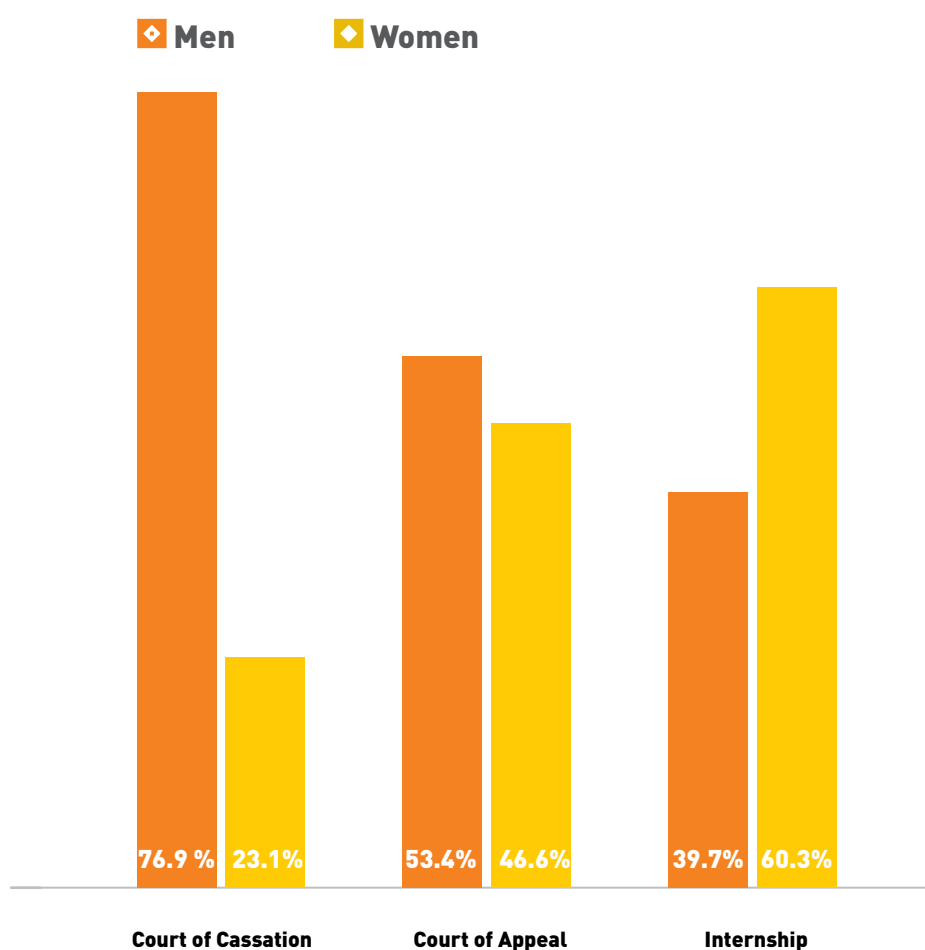
### Lawyers: stagnation and underrepresentation

Women comprise 43% of lawyers in Tunisia, a higher rate than of magistrates in the country; however, in most ways they face more inequality and imbalance. The findings of this research suggest that this figure has risen by only 3% in the past 13 years, indicating a stagnation that is not proportionate to the increasing number of women studying law. Women lawyers face discrimination in rank, appointments and hiring, finding themselves underrepresented in major courts and private firms. At the same time, the dynamics that constrain equality in the judicial sector such as geography, instability and inaccessibility are also in place for lawyers.

#### Rank

While women lawyers have nominally better participation rates in total than magistrates, inequality of opportunity and status are much more pervasive. At the highest-ranking courts, women are poorly represented, with only 23.1% of lawyers working at the Court of Cassation being women and 46.6% at the Courts of Appeal. The only area where women exceed gender parity is in low-level internship positions, making up 60.3% of the population of legal trainees – although considering the

disproportionate presence of women in law schools, this is not indicative of a conscious gender balance. This suggests that professional hierarchies remain imbalanced in favor of men, with women often being relegated to lower-level work. However, the disproportionate number of women in trainee positions could also be a positive indicator of the profession's increased feminization and could lead to an increase in the number of women in higher-level positions in the future. Ensuring that this transition does indeed take place should thus be a priority.

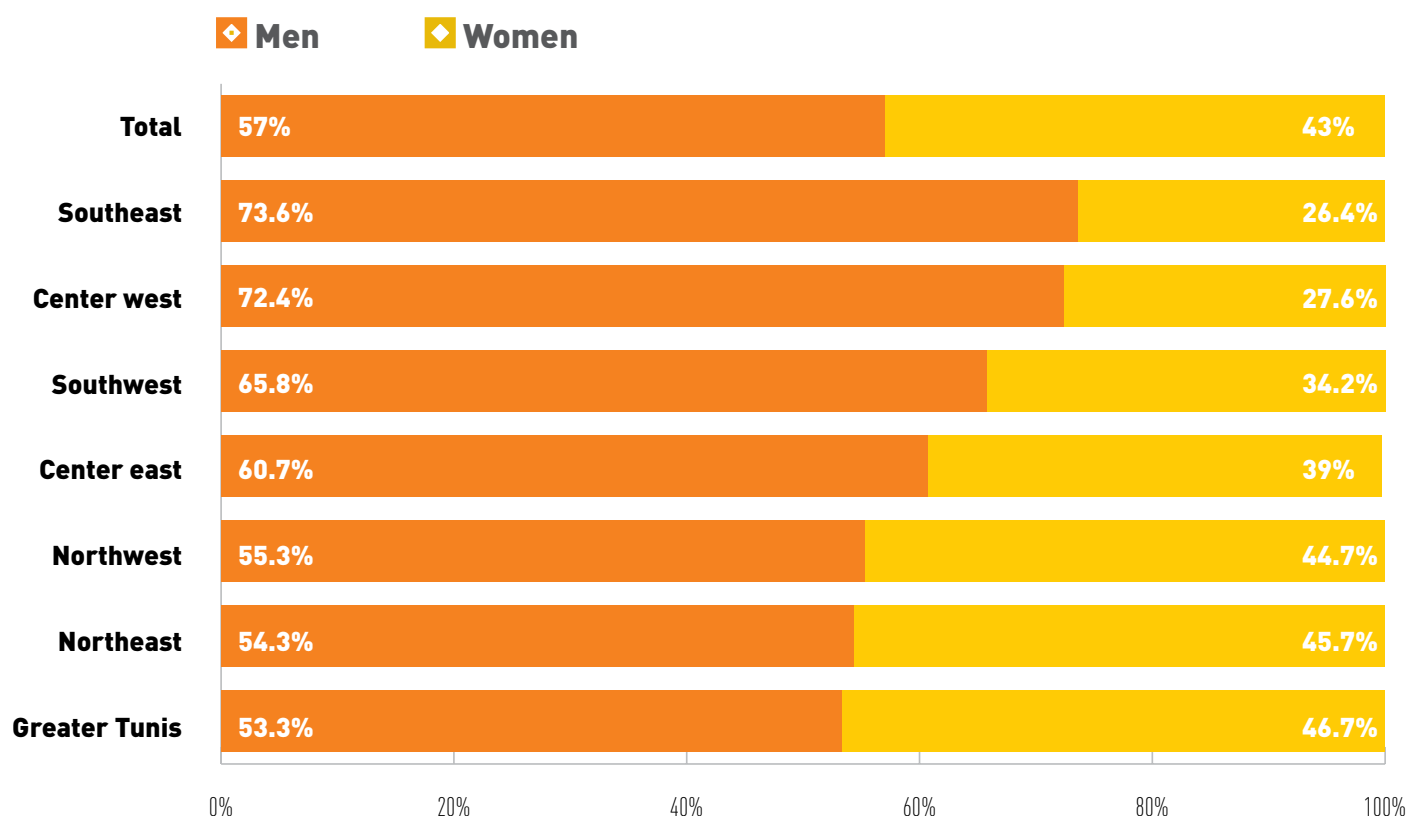


**Figure 7:** Gender statistics of lawyers in Tunisian courts from 2016 (Ministry of Justice)

## Geography

It is well established that access to legal procedures is significantly limited in rural areas where both mechanisms of justice and awareness that they exist are relatively low.<sup>19</sup> This is particularly the case in Tunisia, where vulnerable populations are often unable to take advantage of their constitutionally protected right to representation.<sup>20</sup> These areas are also the ones with the most gender imbalance in the courtroom. In the Southeast, women only account for 26.4% of practicing

lawyers, the lowest rate in the country. Center west, Southwest and Center east also fall below 40%, at 27.6%, 34.2% and 39% respectively. It is the northern areas of the country that approach gender balance: the Northwest (44.7%), Northeast (45.7%) and Greater Tunis (46.7%) rank the highest. This indicates that efforts to expand the presence of women lawyers relative to their male counterparts will have to address rural discrepancies. These findings – though not as extreme – are consistent with those on magistrates, suggesting a common causal mechanism.



**Figure 8:** Gender statistics of lawyers in Tunisian regions from 2016 (Ministry of Justice)



# 2.4

## Women in legal education

One of the most encouraging trendlines for the future is of gender representation in law schools. While women have had a disproportionately high presence in terms of the percentage of regular students since at least 2008, that figure had increased from 69.3% to 75% by 2015. However, this could be slightly misleading as total enrollment (as well as the number of students of each gender) has decreased markedly since 2011. In that sense, it may be more

accurate to suggest that men are leaving the field at a faster rate than women. This qualification is important because it highlights both the perceived challenges of operating within Tunisia's legal system as a whole, as well as the potential effects of feminization on male enrollment. Ensuring that enrollment does not continue to decline – both overall and for women – by improving Tunisia's legal system overall will thus have gendered benefits.

Also of interest is the disparity in the type of law that women students and teachers/researchers choose to focus on. Women researchers also significantly outnumber their male counterparts overall by a large margin. They tend to favor specializing in

private rather than public law, accounting for 70.6% and 53.8% of these disciplines respectively. Conversely, female students are more interested in public law (74.6%) than private law (53.4%) relative to their male colleagues. Qualitative research findings suggest that this could be because the barriers faced by women practicing law in the private sector are more difficult to overcome than those in the public sector. This would result in women in the private field opting for teaching and research rather than practice, and in women students choosing a path with more reliable career opportunities. As such, finding ways to make private law practice more accessible to women might help reduce this gender imbalance.

Law school enrollment	2008	2009	2010	2011	2012	2013	2014	2015
Total number of students	18,528	18,366	18,852	19,319	18,793	17,688	16,889	15,615
Number of regular male law students	5,691	5,426	5,532	5,450	4,994	4,530	4,378	3,904
Number of regular female law students	12,837	12,940	13,320	13,869	13,799	13,158	12,511	11,711
<b>% of women</b>	<b>69.3%</b>	<b>70.5%</b>	<b>70.7%</b>	<b>71.8%</b>	<b>73.4%</b>	<b>74.4%</b>	<b>74.1%</b>	<b>75.0%</b>

Table 1: Representation of women in law schools from 2008 to 2015 (National Institute of Statistics)

# 2.5

## Other legal professions

To supplement the core findings regarding magistrates and lawyers, additional data was collected and analyzed regarding the change in gender balance between 2002 and 2016 of other legal professions in Tunisia. Almost all of these positions experienced some growth in female participation during that time, although these rates of change vary from 0.5% to 20.5%. Overall, the number of non-magistrate or lawyer practitioners in the six positions analyzed (bailiffs, notary bailiffs, legal experts, sworn translators, legal trustees and bankruptcy trustees) increased from 449 to 947 in total in the country between 2002 and 2016, or by 111%. On aggregate this entailed a growth in women's participation from 12% to 21% – a significant improvement, but nonetheless small compared to more prominent legal sector professions.

Women have increased their concentration in some positions at a rate similar to or higher than the growth of women magistrates. While the number of sworn translators in the legal system has more than doubled, the number of women in the field has almost quintupled in the same timeframe; in 2002 only 28% were women, whereas that figure is now 48.5%, the closest to parity of any legal profession in Tunisia. Women now make up 39.5% of notary bailiffs, compared to only 26% in 2002, suggesting that the profession is close to achieving parity. However, consistent with other positions in the legal sector, these numbers are concentrated in the northern areas of the country.

More common, however, are positions with persistent imbalance, weaker rates of participation growth, stagnation, or even decline. As of 2016, women represented 27% of bailiffs, a much lower figure than for other positions. However, this figure has increased by 13% since 2002, suggesting a gradual change over time. Interviewees involved in the profession reported that bailiff roles are

particularly subject to obstacles that tend to inhibit women's participation, including geographical mobility and lack of a regular schedule. There was a 4.5% growth in women representation as legal trustees, but this figure is still only 13.5%. Despite the preponderance of women in both law schools and teaching/research positions in the field, the legal expert role is the most gender-imbalanced in the entire sector. Out of 1,761 professionals holding this title, only 63 (3.5%) were women by 2016, a 0.5% increase since 2002. There is a similar lack of balance in the specialized role of bankruptcy trustee, which has seen a large increase in the number of practitioners, from 69 to 114 since 2002, and yet a decrease of 1% in women's participation during that time.

These findings indicate that downstream of more prominent positions such as magistrates and lawyers, there remains deep gender inequality in Tunisia's justice sector. Even as these professions become increasingly feminized, as the trends suggest they will, women undoubtedly face obstacles when entering the field as a whole.

Specialties	2002				2016			
	Total	Women	Men	% Women	Total	Women	Men	% Women
Bailiffs	764	109	655	14%	1,087	291	796	27%
Notary bailiffs	946	248	698	26%	1,118	452	666	39.5%
Legal experts	1,879	55	1,824	3%	1,761	63	1,698	3.5%
Sworn translators	89	25	64	28%	240	116	124	48.5%
Legal trustees	79	7	72	9%	136	18	118	13.5%
Bankruptcy trustees and judicial managers	69	5	64	7%	114	7	107	6%
<b>Total</b>	<b>3,826</b>	<b>449</b>	<b>3,377</b>	<b>12%</b>	<b>4,456</b>	<b>947</b>	<b>3,509</b>	<b>21%</b>

Table 2: Representation of women in other legal professions in 2002 and 2016 (Ministry of Justice)



Image: ©llac

# PART 3

## AVENUES AND OBSTACLES FOR WOMEN IN THE JUSTICE SECTOR



# AVENUES AND OBSTACLES FOR WOMEN IN THE JUSTICE SECTOR

**T**he findings of this study suggest that Tunisia's experience with women's participation in the justice sector can have dual lessons for practitioners. The success of feminization presents the opportunity to enhance these processes in Tunisia and apply lessons to other contexts where equal representation in the justice system is even further behind. The limitations and persistent issues, on the other hand, indicate clear pathways for improvement and highlight challenges that must be confronted in Tunisia and other countries.

Quantitative data showed that despite similar overall participation figures and geographical distribution, the experiences of women lawyers and magistrates differ markedly regarding rank and appointment. Furthermore, statistics regarding law schools and areas of specialization suggest that women are increasingly drawn to public law and are avoiding the private sector. Surveys and interviews conducted in the framework of this research provide clear insights into the dynamics and causal mechanisms embedded within the Tunisian legal sector that are responsible for these phenomena.

## 3.1

### Avenues to participation

#### Legal rights, political will and social norms

Tunisian women's access to the justice sector was in many ways contingent on political factors and an active feminist movement that made gender equality a priority. In addition to the constitutional changes described earlier, investments in education in particular have created a favorable environment; while several

respondents pointed directly to the legal foundation of equality as the distinguishing factor accommodating participation in Tunisia relative to other Arab countries. This indicates that building the political will to create both a formal framework for equality and investments in women's education are worthwhile endeavors.

Women magistrates interviewed also highlighted the social progress made by the generations that preceded them, particularly in embedding the principle of professional gender equality in Tunisian society. They emphasized that they and their colleagues have internalized their right of access to professions that were previously prohibited. This has been accompanied by a declining birth rate, women marrying at a later age and access to traditionally male-dominated sectors.

The perception that the legal sector as a whole is accessible to women has evidently become socially normative as the main professions within it have been increasingly feminized; some women respondents describe both their mothers and fathers encouraging them during their baccalaureate degree to enter the field. Conversely, respondents also said that they do not encourage their children to pursue judiciary positions in favor of jobs in science or technology, suggesting both that heredity will fade further as a factor in the sector and that women magistrates have reservations regarding the future of the profession.

#### The appeal of the legal sector

For a country with such a low labor force participation rate among women, it is worth interrogating why the justice sector is such an outlier. For most of the women magistrates surveyed, the compatibility of their work with familial responsibilities was a key reason that they chose the position. Magistrates are

often able to work from home and arrange their working hours to fit their family calendars, making the position appealing to those who are unable to commit to a consistent schedule due to other obligations. This suggests that when seeking to increase the concentration of women in the justice sector in other countries, ensuring that they are able to do a certain amount of work from home should be a priority – this would include the ability to bring files home physically or through digitalization. A young woman magistrate summarized this dynamic:

“It is a great advantage for a woman to be able to organize her time, to accompany her children to school, to follow them in their school activities, their sports activities... the possibility of working while staying with one's family is priceless.”

Women magistrates also cited the stability of income as a key reason that they chose to enter the judiciary; unlike lawyers, whose pay is heavily influenced by the outcomes of cases or assignments, magistrates are paid a fixed salary.

Many respondents also pointed to the opportunity for social mobility as a key motivation for choosing to enter the field. For them, the increasing accessibility of the judiciary to those who work hard and excel academically – rather than simply those born into status and wealth – has provided many of these women with lower- or middle-class backgrounds a unique opportunity to succeed and gain recognition and respect. A young law student who was pursuing a career in the magistracy mirrored these sentiments:

“The magistracy is no longer a bourgeois profession, it has become democratized... it is one of the professions that offers modest people relatively easy social ascension and recognition, given the responsibility and prestige that the job confers.”

## Meritocracy

As Tunisian women have improved their education and concentration in universities and institutes, the values of meritocratic selection have become more noticeable. The magistracy, while undoubtedly politicized in some areas, has been reformed in recent years to be more objective in terms of admissions. This has reduced the power of traditional familial networks in a sector where heredity served young men well for generations. Access examinations have benefited women in both the Higher Institute of Magistracy and the bar for lawyers, although the pathway from these examinations to a career is more challenging for lawyers than magistrates.

## Associations

In recent years, associations of women professionals have been created to offer opportunities to women lawyers and clients in particular. Some of these include groups that offer legal aid to women who cannot afford a lawyer or handle the paperwork required to file lawsuits. In some cases, these associations are oriented towards gender-based causes including increasing women's awareness of rights. Certain women lawyers have even sought and found public visibility for their work on feminist causes, and some women lawyer respondents highlighted them as a source of inspiration to join the profession.

# 3.2

## Obstacles to participation

The barriers that women professionals face in the justice sector are often intersectional and mutually reinforcing; they are also shared by both magistrates and lawyers. The key difference is the institutional qualities of the two positions that make certain factors more impactful. Mirroring the quantitative data, respondents reported that the factors constraining women the most are more powerful for lawyers, particularly in the private sector, due to the inherent degree of subjectivity in networking, hiring and workflow delegation. However, women magistrates are also influenced by these factors, and while their entry to the profession might be more objective and subject to public equality policies, the areas in which they are able to specialize and their ability to pursue leadership positions are similarly constrained.

## Structural inequalities and discrimination

Political, legal and constitutional efforts have made formal discrimination illegal in Tunisia. Women magistrates and lawyers cannot officially be barred from positions just because of their gender. However, discrimination still takes place in both of these professions, manifesting in a number of ways.

As was evident in the quantitative findings, women lawyers are disproportionately likely to be working in contingency or trainee positions which provide little stability or economic security. Many of them reported being stuck in these roles for longer than their male colleagues, constantly awaiting promotion. As a result, in some cases, they witnessed qualified female colleagues leaving the field for administrative careers. This dynamic has been magnified given the tenfold increase in lawyers in Tunisia since 1986, which has made the job market extremely competitive. Very few women have prominent positions within large firms, and thus are not afforded the opportunity to pursue and retain premier clients.

Young lawyers of both genders emphasized the importance of finding a good internship – particularly in a big city – to building a successful career. Due to the intense competition in these cities, social capital and networking are perceived to be incredibly important, and women respondents noted that those responsible for recruitment and hiring were almost always men. The subjectivity present in these decisions allows prejudices and stereotypes to influence young women's careers early on. Even the women surveyed who had successfully navigated these processes and secured prestigious internships found that assignments were not equally distributed between genders, and that male lawyers always seemed to get the "big files". Whereas male interns' competency was presumed, women reported constantly having to prove themselves in the face of doubt or in some cases, outright sexism:

“My internship supervisor once told me “Drop this file, you will put the client in jail! This case is delicate and must be treated by a man.”

Politicization also presents greater opportunities for discrimination in both sectors. As the independence of the judiciary is cast into greater doubt, and political parties favor certain magistrates over others, subjectivity and discrimination are more prominent. While women magistrates were not willing to speak candidly about the role of politics in the country's legal system, lawyers had no such qualms and described a process by which their profession had become publicized and sensationalized by the media in recent years. Furthermore, many politicians come from legal backgrounds and favor certain lawyers over others, entrenching networks that are inaccessible to women. One woman lawyer described her frustration:

“Lawyers are well suited for politics, and the machine gets going for a few... After the revolution, the political machine and the media have favored some lawyers, especially men.”

In an increasingly crowded market where lawyers are competing for clients, women perceived endemic political patronage as a major obstacle for young professionals. Because the distribution of young lawyers is heavily skewed towards women, structural issues in the system affect them the most. Unethical practices including corruption within the justice system and illegal brokerage services were also reported. In the words of one respondent:

“Today our profession requires deep sanitation... the problem is not cyclical, it is structural.”

## Gender roles and stereotypes

Women in both professions cited disrespect based on stereotypes and perceived gender roles by male colleagues and litigants as present in their careers. Many women respondents reported that the judiciary was socially considered a more appropriate career path than other legal or law enforcement positions, and that they perceived that they would experience greater obstacles should they pursue these other professions. A female law student who had chosen to pursue a career in the magistracy explained:

“The dominant idea in society is that a woman has to work in an office, close up, and go home at the end of the day... It's hard to see a woman working in the field as a lawyer with male clients or as a policewoman.”

These assumptions were reflected by the responses of some male respondents, including one who believed that the courtroom was an inappropriate and unsafe working environment for a woman. He argued that:

“Interrogations can take a long time and end at late hours... contacts can be difficult or even violent... which is not suitable for a woman.”

Another admitted that in his experience, women do not successfully maintain order in their courtrooms compared to their male colleagues, and that he does not believe that litigants and lawyers respect women magistrates, leading to reassignments in some cases:

“Most often male magistrates have better control of the courtroom... Litigants have more respect for a court presided over by a man.”

These statements provide insights into the preponderance of women in office-based magistracy positions and the deficit of representation in the judiciary relative to administrative and financial bodies. By reproducing and echoing these stereotypes and allowing the disrespect of litigants to influence appointments, male authority figures directly and indirectly constrain the participation of women magistrates in courtroom settings. In response to these attitudes, women magistrates reported feeling the need to downplay their gender identity by avoiding acting in a feminine way. Women magistrates even reported hiding pregnancies in order to minimize the gender difference in front of their colleagues and litigants. One young magistrate explained:

“Luckily, we wear robes that hide our gender and femininity... I try not to wear makeup and I try to seem neutral when it comes to physical appearance... It's easier and it does not cost anything.”

Women lawyers face these stereotypes as well, and due to the intrinsic qualities of the profession, it often constrains their careers even more than magistrates. Lawyers must attract and maintain a client base, and the prestige of these clients and role in a major firm are often instrumental to a successful practice. However, the best clients tend to overwhelmingly favor men. According to one young lawyer:

“Good clients most often consult and prefer men... It is a mentality we have to deal with every day: women are fragile and won't defend them like a man.”

When women are brought onto large criminal cases as lawyers, they still must constantly prove to their clients that they should be kept on in a way that their male colleagues do not have to. When such cases advance to higher levels such as the Courts of Appeal or Cassation, clients often elect to replace their representation with a male lawyer – even if the woman lawyer has been successful so far. A particularly notable instance was described by one respondent:

“I offered [one client] advantageous fees, and we won the case. I called to inform her that her husband had filed an appeal. She came to my office and said ‘Thank you, you did well. I apologize, but I want to recover my file. Now that there is an appeal, it is no longer a game... It takes a man.’”

### Familial responsibilities

Even though Tunisia's Constitution and legal framework establishes formal equality, social norms have not shifted as dramatically regarding the role of women in the family. Most women magistrates directly cited the duality of familial and professional obligations as key factors constraining their professional aspirations. While jobs in the judiciary do allow for more flexibility than many other positions, married respondents told interviewers that family commitments and childcare in particular were significant obstacles that limited the number of hours they are able to work per week. Even male respondents noticed this: 55% of male magistrates surveyed pointed to social obligations as the main constraining factor facing their female colleagues. Policies that could mitigate the effects of women's disproportionate social responsibilities, such as childcare facilities and programs for professionals in the sector, are not in place. Women lawyers struggled even more with balancing their professional and family responsibilities, and in some cases considered leaving or had actually left the profession entirely for administrative positions that did not demand irregular working hours.

### Geography, mobility and security

Present in the quantitative data was the deep disparity between women's representation in central and southern regions of Tunisia compared to the urban northern areas. The women surveyed offered a number of reasons for why this might be the case. Attitudes towards gender roles were perceived to be more traditional in southern rural areas, leading both men and women to believe that women magistrates and lawyers would not command respect or order in a courtroom setting. Women magistrates and lawyers often have familial obligations that preclude them from either relocating or spending a great deal of time away from home. Furthermore, many respondents cited security concerns arising from the necessity of long drives and being on the road late at night. One women magistrate explained:

“Taking the road at 5 a.m. in the middle of the winter, with bad weather and poor roads to get to work on time, is dangerous for a woman.”



These factors not only affect women's decisions to take positions in rural regions, but to compete for roles in governing bodies that would require relocation. Some men interviewed or surveyed also mentioned that they do not receive enough candidacies from women for certain positions. This suggests that issues of mobility are not just issues of regional distribution, but also the presence of women in positions of authority – a major issue specifically in the lawyer profession.

Discrimination and disrespect were also cited as more common in rural regions, where women magistrates reported feeling the most disrespected and self-conscious. A young woman magistrate explained:

“People don't forgive a woman [magistrate] for anything... My youth and feminine appearance sometimes embarrassed me in my work and relationship with litigants... It's not like in Tunis. In the country, people still find it difficult to accept a woman judge – especially if she is young.

Issues of personal security also arise in rural areas, particularly in cases involving property. Both male and female magistrates described these cases as high-risk and often violent, with several examples in which women magistrates were replaced by male colleagues due to threats. One male magistrate described such an instance:

“Given the emotional burden in this type of lawsuit, and the administrative slowness and lack of knowledge of judicial procedures by litigants, the settlement of disputes is not always easy in rural areas... Situations are often tense and even violent... It is sometimes dangerous for a woman, which is why they are often replaced in these types of cases.

# PART 4

## SUPPORT FOR WOMEN IN THE JUSTICE SECTOR



# SUPPORT FOR WOMEN IN THE JUSTICE SECTOR

**T**unisia stands out in the MENA region for its commitment to gender equality, with a strong constitution enshrining women's right to autonomously pursue fulfilling careers. Relatively high rates of gender balance in the justice sector reflect this progress – it is conceivable and even probable that the overall percentages of women magistrates and lawyers will reach 50% in the next 15 years. The feminization of law schools and judicial institutes will create a strong foundation of women professionals for decades to come. This is especially impressive in a country where fewer than a quarter of women participate in the labor market. In some ways, Tunisia can serve as a model for other countries, showing how empowerment and political will can transform deeply unequal institutions.

However, based on this research, deeper inequalities continue to pervade the country's justice system, and practitioners must not be satisfied with overall participation rates. While laws might prohibit official discrimination, the persistence of gender expectations and stereotypes have disproportionately relegated women to secondary roles, constrained their advancement opportunities through subjective and network-based hiring practices, and provoked disrespect from colleagues, clients and litigants. Familial obligations have pushed women away from leadership roles requiring mobility or irregular hours and made private practice almost impossible for women lawyers. Security concerns have limited the number of women magistrates and lawyers who are willing to work in rural and remote areas, creating geographical imbalances in representation. Marginalized women in these areas rarely have access to or awareness of legal representation, and their complaints of gender-based violence are in many cases heard by unsympathetic male magistrates.

Tunisian women in the justice sector have a tendency to thrive where their skills and performance are evaluated objectively, and have often faced obstacles where decision makers, who are more likely to be male, are given the subjective power to influence their careers. They have successfully challenged the overrepresentation of males in the field of legal study to such an extent that legal education is now considered feminized, and yet women find themselves underrepresented in courtrooms and major law firms. They hold 78% of magistrate positions at the Court of Cassation and yet are relegated to trainee, entry-level, advisory, assistant and administrative work in disproportionately large numbers in most other bodies. The lesson of Tunisia is not simply one of success, but also of the limits of a numerical focus on equality, in particular on the participation of women in the justice sector.

With these obstacles and successes in mind and based on both data analysis and direct testimonials from affected women, the following areas of policy and programming focus are proposed to ensure that women in Tunisia's justice sector experience equality in line with their guaranteed human rights.

## **Change gender-discriminatory norms and attitudes in the justice sector**

The core discrepancy between the formal legal equality of Tunisia's Constitution and lack of substantive equality for women justice professionals derives from pervasive traditional attitudes regarding the competency, resilience and capability of women. These stereotypes are by no means limited to rural areas, even if they are more consequential there; even elite legal professionals in metropolitan areas make decisions both explicitly and implicitly guided by sexism. This research shows that women justice professionals continually find themselves disrespected in offices and

courtrooms by male colleagues and litigants, and are denied opportunities, assignments and casework on account of their gender. Changing gender-related attitudes and perceptions is crucial for changing discriminatory attitudes towards women. There are target areas for engagement, including awareness campaigns, gender awareness and justice training for professionals in the sector, and compulsory courses in law schools.

## **Establish or strengthen women's professional associations**

The research finds that one of the largest barriers facing young women lawyers and law students is the obligation to participate in networking in order to facilitate career advancement. When those in high positions in firms are men – as they usually are – these efforts can often be governed by subjective prejudice. Furthermore, research findings suggest that in many instances, men working in prestigious firms maintained stereotypes regarding the competence of women in the field that inhibited their willingness to properly train or mentor women interns. This will require normative shifts, changes in attitudes and an increase in the number of women in positions of authority. Nonetheless, there are ways to mitigate the impacts of gendered exclusion. Women professionals in Tunisia's legal sector have formed associations to counter their exclusion from male-dominated networks. These have allowed young women to find mentors who understand the challenges they face and build professional connections to advance their careers. Mentorship programs should be encouraged and strengthened, and networking events, conferences and discussion panels should be organized to allow women to connect. Similar efforts should target women in private law practice in particular, as women are increasingly avoiding the field.

In order to ensure that these efforts do not further alienate professionals outside of major urban centers, outreach programs should also be set up, potentially including publications and workshop or communication programs using the internet. Tunisia has a strong telecommunications network relative to other North African countries which would make such a project feasible. Creating specialized organizations for providers of pro bono services to rural women could also be successful.

### **Accommodate and alleviate family and care obligations**

This research found that professional women's dual responsibilities to their careers and families had a significant impact on their capacity to pursue certain positions. Both magistrates and lawyers overwhelmingly cited the difficulties of balancing their obligations to their children and the demanding hours of higher-level positions as an obstacle that they face on a regular basis. In many cases, women who would otherwise be qualified for leadership roles, judiciary positions, or independent practice, reported taking less ambitious administrative positions to ensure that they were not neglecting their familial duties. This concern can be targeted directly by investing in childcare programs. The provision of childcare facilities, the expansion of maternity leave policies and support for flexible working hours could alleviate these factors. These could either be aimed specifically at women legal professionals or geared to expand labor participation as a whole among Tunisian women.

### **Increase access to employment in other justice sector roles**

The research focused most heavily on the two most prominent positions in the field: magistrates and lawyers. The result of this research design was detailed data that presents clear pathways to improve representation and substantive equality in the sector. However, the study also found that inequality is even more prevalent in other justice sector roles, including legal experts, bailiffs and trustees. Some of these areas have seen increases at or above the same rate as magistrates and lawyers; nonetheless, conducting gender audits would help identify specific barriers to these roles and implement evidence-based policies. Offering specific training programs to women to prepare them for roles should be considered to ensure that these areas are not neglected.

### **Address security issues**

Women magistrates and lawyers reported concerns regarding personal safety both inside and outside the courtroom. These issues led in many cases to them being reassigned and removed from these settings. In rural communities, disputes over property were seen as too risky for women to preside over. Security concerns may also increase as a result of external developments. Observers have expressed concern that the civil war in neighbouring Libya could result in an increased number of violent extremists entering the country in the coming years.<sup>21</sup> The potential return to the

country of Tunisians who left to join ISIS has also been pointed to as a possible risk – the Tunisian Government itself claims that over 1,000 former members have re-entered the country.<sup>22</sup> If these concerns materialize, women in positions of authority could be threatened and ways of protecting women professionals must be considered.<sup>23</sup>

### **Collect, publish and analyze relevant data on women justice professionals**

Awareness of deeper gender issues within Tunisia's legal sector is relatively low; professions are assumed to be feminized because of overall participation rates, but discrimination within is often neglected. By keeping track of the number of women in certain roles in public and private institutions and firms, these issues can be brought to the foreground. Conducting regular gender audits in both sectors would possibly place pressure on relevant bodies to accommodate women and ensure that discrimination is not taking place. These should also include anonymous surveys in both magistracies and law firms that will empower women to express their concerns freely.

### **Target legal aid programs**

The preponderance of poverty among Tunisia's rural populations has inhibited the access of marginalized women to their legal rights of representation. While lawyers are made available to these prospective litigants, they are often either

unaware or mistrustful of these opportunities. To make sure that marginalized women are able and willing to exert their legal rights, legal aid programs targeted towards women should be extended. These could specifically involve connecting women lawyers with clients, making it financially feasible for lawyers to provide such assistance and increasing awareness among vulnerable populations about its availability. Bar associations and women's legal associations can also increase awareness in rural areas by establishing legal clinics.

### **Train legal professionals on sexual and gender-based violence issues**

One important element of expanding the participation of women in Tunisia's justice sector is to facilitate justice for victims of gender-based violence and

to give fair consideration to feminist issues in the courtroom. Women focus group members expressed the opinion that while they were as objective as their male colleagues, they did perceive that gender-based violence crimes were not taken seriously or prosecuted fairly by many men. This poses a serious issue for substantive justice and the ability of the rule of law to reach the most marginalized groups in the country – particularly in rural areas. The research also shows that women judges and lawyers often feel the need to minimize their gender identity and feminist beliefs in the courtroom to maintain the respect of their peers and the appearance of impartiality. While certain professional associations have increased the extent to which women feel comfortable taking more gender-sensitive stances on these issues, more work in this area must be done.<sup>24</sup>

### **Support the independence of Tunisia's judiciary**

The research finds that women lawyers are concerned about the increased politicization of Tunisia's justice sector in recent years, as politicians are often men and offer patronage that is not available to women. This has led, in their view, to corruption and unfairness that disproportionately harms women in the field. Women magistrates were less willing to criticize the structure of the system in a public setting, but based on other testimonials, there is reason to believe that this development could harm them as well. As such, ensuring that such subjectivity does not impact appointments will have gendered benefits in the future.



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# CONCLUSION AND POLICY RECOMMENDATIONS



# POLICY RECOMMENDATIONS

**W***omen's Professional Participation* examines the pathways that have facilitated women's significant progress in the Tunisian justice sector, while observing ingrained challenges and discrimination. As a thorough investigation of gender equality in Tunisia's justice sector, the successes are notable, but persistent barriers remind of the need to respond to context, remain attentive in the path to equality and focus on retaining progress while addressing remaining barriers.

The policy recommendations that arise from this review respond to the context in Tunisia, yet have applicability for other countries striving to advance gender equality in the justice sector. Recommendations include:

1. Develop a system for effectively collecting and tracking relevant data on women's professional participation, including judicial registries with sex-disaggregated information on the number of justice professionals, their roles, rank, positions, specialties, appointments and geographical distribution, and publicly accessible judicial information and decisions.
2. Create gender-sensitive policies – including childcare facilities and safety and security protocols – when engaging in capacity-building programs.
3. Deliver training programs on international human rights, gender issues and gender-based violence laws to male and female judges and lawyers, specifically through inclusion in compulsory curricula for law and justice professionals as well as within the framework of continuous professional development.
4. Strengthen mentorship programs, networking and continuous training for women justice professionals and law students so they can share experiences and knowledge, including on addressing gender imbalances in hiring and networking.
5. Develop and support family-tailored programs for lawyers and magistrates such as day care or early education centers.
6. Create or strengthen legal aid programs on gender-based violence, and, in particular, targeted toward connecting clients with women lawyers and legal aid providers, especially in rural areas.



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# APPENDIX: STUDY METHODOLOGY





# STUDY METHODOLOGY

**W**omen's Professional Participation was undertaken because, despite encouraging statistical data, there was little information regarding how women had been able to become so prominent in Tunisia's justice system and even less about what barriers they continued to face.

CAWTAR and IDLO designed a context-specific methodology to ensure responsiveness to constraints in the operating environment in Tunisia and account for geographical diversity. Building on similar IDLO research in Afghanistan, modalities and modifications were made to account for variances and produce a representative survey questionnaire sample. CAWTAR conducted an analysis of the Tunisian context through a desk review of more than 80 reference materials to ensure that the research design would effectively collect relevant information.

The methodology entailed collecting nationwide statistics, undertaking survey questionnaires and conducting focus group discussions and in-depth individual interviews. CAWTAR and IDLO determined that this range of data collection would provide researchers

with the breadth of aggregate and individual-level information necessary to accurately assess the situation and provide actionable recommendations. National statistics were collected from numerous bodies and cross-referenced, including the ministries of Justice and Higher Education, the National Institute for Statistics, the Independent High Authority for Elections, the National Order of Lawyers and the National Order of Notaries. Respondents to the questionnaire (made available in Arabic and French) included 252 judges (104 women and 148 men) and 64 women lawyers. Selection was made using a proportional stratified sampling method that considered gender, rank, function and location.

The focus group discussions and interviews were designed to test the preliminary findings of the statistical analysis and focus on career motivations, professional backgrounds, barriers, impacts on litigants, difference in careers between genders and recommendations for greater equity. Seven focus groups included 51 individuals (46 women and five men). While six of the seven focus groups took place in Tunis, judges from different regions were included. In-depth

individual interviews were conducted with 12 magistrates and four lawyers, which were supplemented with two life stories from women judges.

## Challenges and limitations

CAWTAR cited a number of challenges which delayed or constrained the implementation of the project. Tunisia's justice system as a whole is increasingly politicized, with opposing factions comprising both the judiciary and the bar associations. A culture of fear, suspicion and silence prevented magistrates and in some cases lawyers from freely discussing the issues they face. Some respondents needed to request authorization from supervisors before answering the survey questionnaire. In this sense, qualitative data collected through focus groups, where concerns were voiced in a group setting and in some cases with colleagues, may have been negatively affected. Furthermore, collecting quantitative statistics from existing information management systems was difficult. The judiciary and bar associations had rudimentary and incomplete record-keeping systems, requiring a great deal of aggregation from disparate sources and at times, incomplete data.



Image: © [Rui Vale de Sousa] / Adobe Stock

Judges	Greater Tunis	North east	North west	Center east	Center west	South east	South west	Total
<b>Total</b>	<b>127</b>	<b>27</b>	<b>12</b>	<b>50</b>	<b>13</b>	<b>16</b>	<b>7</b>	<b>252</b>
Administrative judges	16	0	0	0	0	0	0	16
Court judges	98	27	12	47	13	16	7	220
Financial judges	13	0	0	3	0	0	0	16
<b>Men</b>	<b>63</b>	<b>14</b>	<b>8</b>	<b>34</b>	<b>10</b>	<b>14</b>	<b>5</b>	<b>148</b>
Administrative judges	9	0	0	0	0	0	0	9
Court judges	48	14	8	32	10	14	5	131
Financial judges	6	0	0	2	0	0	0	8
<b>Women</b>	<b>64</b>	<b>13</b>	<b>4</b>	<b>16</b>	<b>3</b>	<b>2</b>	<b>2</b>	<b>104</b>
Administrative judges	7	0	0	0	0	0	0	7
Court judges	50	13	4	15	3	2	2	89
Financial judges	7	0	0	1	0	0	0	8

Table 3: Sampling of magistrates for survey questionnaires

Lawyers in courts	Greater Tunis	North east	North west	Center east	Center west	South east	South west	Total
Court of Cassation	7	2	1	2	1	1	1	15
Courts of Appeal	27	4	2	10	2	2	2	49
<b>Total</b>	<b>34</b>	<b>6</b>	<b>3</b>	<b>12</b>	<b>3</b>	<b>3</b>	<b>3</b>	<b>64</b>

Table 4: Sampling of women lawyers for survey questionnaires



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# NOTES

## EXECUTIVE SUMMARY

- <sup>1</sup> Hereinafter referred to as: *Women's Professional Participation*.
- <sup>2</sup> See the Appendix for a more detailed research methodology.
- <sup>3</sup> At the High-Level Meeting of the 67th Session of the United Nations General Assembly on the Rule of Law at the National and International Levels in 2012, IDLO made a pledge "to undertake a global survey of the role of women in justice sector institutions and to analyze the legal barriers to women's access to justice...". This study in Tunisia follows a similar national research investigation in Afghanistan and a global study on contributions, barriers and pathways to women's professional participation in the justice sector. See IDLO, *Women's Professional Participation in Afghanistan's Justice Sector: Challenges and Opportunities* (2014), available at: [https://www.idlo.int/sites/default/files/IDLO\\_Afghan%20Legal%20Professionals%20full%20report.pdf](https://www.idlo.int/sites/default/files/IDLO_Afghan%20Legal%20Professionals%20full%20report.pdf); and see also IDLO, *Women Delivering Justice: Contributions, Barriers, Pathways* (2018), available at: <https://www.idlo.int/sites/default/files/pdfs/publications/IDLO%20-%20Women%20Delivering%20Justice%20-%202018.pdf>.
- <sup>4</sup> IDLO, *Women's Professional Participation in Afghanistan's Justice Sector: Challenges and Opportunities* (2014).
- <sup>5</sup> Ibid 19.
- <sup>6</sup> IDLO, *Women Delivering Justice: Contributions, Barriers, Pathways* (2018), 9–10.

## PART 1 THE TUNISIAN EXPERIENCE AND WHY IT MATTERS

- <sup>7</sup> Government of Tunisia, *Tunisia's Constitution of 2014*.
- <sup>8</sup> Freedom House, "Freedom in the World 2018: Tunisia".
- <sup>9</sup> IDLO, *Women Delivering Justice: Contributions, Barriers, Pathways* (2018), 5.
- <sup>10</sup> CEDAW Committee, General Recommendation No. 23 (16th Session, 1997).
- <sup>11</sup> See also Dermot Feenan, "Women Judges: Gendering Judging, Justifying Diversity", *Journal of Law and Society* (December 2008).
- <sup>12</sup> International Commission of Jurists, "Obstacles to Access for Justice for Women in Tunisia" (2016), 2.
- <sup>13</sup> See also Andrea Miller and Carmit Segal, "Do Female Officers Improve Law Enforcement Quality?" UBS International Center of Economics in Society Working Paper No. 9 (2014).

## PART 2 THE CURRENT SITUATION – FINDINGS AND ANALYSIS

- <sup>14</sup> OECD, "Tunisia 2018 Economic Survey" (2018), 49.
- <sup>15</sup> Ibid.
- <sup>16</sup> European Bank for Reconstruction and Development, "Enhancing Women's Voice, Agency, and Participation in the Economy" (2015), 12.
- <sup>17</sup> Data from 2012 was not available due to political upheaval that year.
- <sup>18</sup> National Institute of Statistics.
- <sup>19</sup> IDLO, *Empowering Rural Women and Local Communities* (2017).
- <sup>20</sup> HiiL, *Justice Needs in Tunisia – 2017* (2017), 52.

## PART 4 SUPPORT FOR WOMEN IN THE JUSTICE SECTOR

- <sup>21</sup> MENARA, "The Libyan Security Continuum: The Impact of the Libyan Crisis on the North African Regional System", MENARA Working Paper No. 15 (2018), 11–13.
- <sup>22</sup> Terrance Mintner, "Tunisia Claims 1,000 ISIS Recruits Have Returned Home", *Jerusalem Times*, 24 February 2019.
- <sup>23</sup> Many women professional respondents in Afghanistan reported insecurity as a major concern, particularly regarding their ability to travel to rural and remote locations or work without facing threats from "militants/insurgents". See IDLO, *Women's Professional Participation in Afghanistan's Justice Sector: Challenges and Opportunities* (2014), 43–44.
- <sup>24</sup> IDLO has taken steps in partnership with the Office of the High Commissioner for Human Rights to develop and implement training programs for judges to ensure that gender-based violence laws are prosecuted properly, and more such efforts – particularly for male justices in rural areas – will be critical to ensuring that women have access to justice.





# ACKNOWLEDGEMENTS

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This report is the work of a team of IDLO staff and consultants led by IDLO's Department of Research and Learning in collaboration with CAWTAR.

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**Published by:** International Development Law Organization (IDLO)

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Publication date: October 2019. Copyright © 2019, International Development Law Organization (IDLO).

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ISBN 9788896155325