

GUIDANCE NOTE

**OPERATIONAL
MECHANISM
AND TOOL
FOR MONITORING,
DOCUMENTATION
AND REPORTING
SPECIFIC TO SEXUAL
AND REPRODUCTIVE RIGHTS
IN TUNISIA**



Association Membre de
IPPF International
Planned Parenthood
Federation
Région du Monde Arabe

Association Tunisienne de la Santé de la Reproduction



This tool was developed in consultation with key national bodies, institutions, governmental and non governmental organizations.
2017

Visit our website for the detailed tool: www.atsrtn.org

1. INTRODUCTION

ATSR and UNFPA, through their partnership, wish to contribute to the promotion of Sexual and Reproductive Rights (SRR) by proposing an operational mechanism and tool for monitoring, documentation and reporting specific to Sexual and Reproductive Rights in Tunisia. Despite the progress made in implementing the commitments of the Cairo International Conference on Population and Development (ICPD) in 1994 and the Sustainable Development Goals (SDGs), there are gaps that need to be considered. In fact, Sexual and reproductive rights are routinely questioned in Tunisia and much work remains to be done, especially in terms of monitoring the implementation of commitments related to SRR. This work has considered the following objectives of the SDGs:

objective 3.7 By 2030, ensure access for all to sexual and reproductive health care services, including family planning, information and education, and make sure reproductive health is considered in national strategies and programs.

objective 5.6 Ensure access for all to sexual and reproductive health care and make sure everyone can exercise their reproductive rights, as agreed in the Action Program of the International Conference on Population and Development and the Beijing Platform for Action and the final documents of the Review Conferences that followed.

This work has allowed to:

- a. Establish an inventory of international and national bodies monitoring mechanisms about SRRs.
- b. Develop, in consultation with the national actors involved, a set of indicators for monitoring SRRs in Tunisia.
- c. Suggest recommendations for the promotion of SRRs and for the monitoring and integration of SRRs in the national monitoring plans of the Universal Periodic Review (UPR), the ICPD and the SDGs.

2. METHODOLOGY

The methodology was based on a thorough review of the literature: the Tunisian constitution, legislation and policy including health programs in the area of SRHRs, international conventions and treaties on human rights, the monitoring and evaluation of SRRs etc.). The approach was participatory. It considered the concepts of sexual and reproductive rights as well as their 12 components suggested by the partners in Tunisia and the actions to be

undertaken. For each component, the suggested indicators were deducted. In addition, the context of the country was considered to have a practical and usable tool by the partners (feasibility of monitoring).

A selected set of indicators was validated by the partners (NGOs, Ministry of Development and International Cooperation, Ministry of Health, Ministry of Religious Affairs etc.) in September 2017.

3. RESULTS

• The main objective of the **monitoring and evaluation tool** for SRRs developed for Tunisia is to facilitate actions in favour of the monitoring and evaluation of sexual and reproductive rights and provide the necessary information for improving the quality of interventions and the general situation in this area.

The principles adopted are:

- Have a harmonized and integrated tool in existing information systems in the country in order to ease the reporting burden as much as possible,
- Adopt a participative approach during the tool development process and then for the collection, compilation and analysis of information and also to guide decision-making and intervention in order to improve sexual and reproductive rights in Tunisia,
- Ensure the quality of the tool; the aim is to have relevant, reliable information that tracks progress in implementation and accountability,
- Have disaggregated indicators to refine the data analysis and better target interventions,
- The whole data suggested by the international authorities and difficult to have in Tunisia are to be searched for progressively.

In total, 116 indicators were suggested. This number seems high; however, it includes indicators indirectly related to SRRs, such as training and information indicators (SRRs 2), health status in general (SRRs 8) and freedom of expression of thought, freedom of opinion and expression (SRRs 4).

SRR 1: Right to identity and civil status

SRR 1 Right to identity and civil status:

Everyone has the right to an identity, which the state must ensure and protect.

Everyone has the right to a civil status mentioning their sex, which could evolve.

Current Situation

- **A computerized birth registration system, implemented and functional.** Registration is carried out following the declaration by a family member and a health worker who attended the delivery (doctor, midwife or other); it specifies the child's name and those of his parents, the sex, the place and date of birth, with the name and signature of the registrar. Birth registration is almost exhaustive.
- In addition, a network of key informants is set up to counter the under-reporting of home births and newborn deaths in remote rural areas (in Tunisia, less than 10% of deliveries took place outside the assisted environments).
- A maternal mortality surveillance system is implemented but limited to second and third level maternity units in the public sector.
- **The Tunisian law** does not explicitly recognize the **change of civil status** in case of sex change for adults (with no regulation for the modification of civil status). In practice, civil status is fixed even in the case of a change of sex (jurisprudence).

Actions to program

- **Registration of civil status:**
 - verify the degree of reliability of the registration system: data cross-referencing from different sources: INS, civil status, surveillance by key informants,
 - strengthen the competences of the administrations in charge of the civil status management if necessary,
 - sensitize the population to the quick declaration of the various events.
- **Recognition of the change of civil identity in adulthood, in relation to sex (recognition of the new identity of transsexuals).**
 - Identify the constraints and opportunities for the recognition of the change of civil identity in adulthood, as far as sex is considered.
 - Estimate the need for change of the civil status as far as sex is considered and the consequences deriving of the absence of a change in civil status for people who have changed sex.
 - Advocate with officials, lawyers, elected representatives of the people and the population for the need and right of identity change, based on the right approach.
 - Mobilize organizations interested in sexual and reproductive rights.
 - Modify the law 57-3 of 1 August 1957 regulating the civil status to include the right to the sex change in adulthood.

Indicators

• Civil status Registration:

- SRR 1.1** A civil status registration system (births, deaths and causes of deaths) is established and functional
- SRR 1.2** Well-maintained civil identity registers with reliable data.
- SRR 1.3** Proportion or number of civil status actors, trained by type of training, by region, by sex (capacity of institutions strengthened)
- SRR 1.4** Proportion of civil status administrations (or services), well equipped and with a good connection to the computer network by region (capacities of the institutions strengthened)
- SRR 1.5** Timely production of reliable indicators on the different dimensions of the civil status
- SRR 1.6** Estimated proportion of non-registered newborns at birth

• Recognition of civil status change in adulthood in relationship to sex (recognition of the new identity of transsexuals):

- SRR 1.7** An inventory of the legal and social barriers related to sex change is set up.
- SRR 1.8** Transsexuals' life stories and the problems they face in the absence of identity change.
- SRR 1.9** Number and type of actions (interviews, demonstrations ...) to advocate with the leaders, the elected representatives of the people and the population for the need and the right of identity change.
- SRR 1.10** Number of organizations interested in sexual and reproductive rights mobilized in advocating for the right of civil status change.
- SRR 1.11** Law No. 57-3 of 1 August 1957 regulating civil status is revised to specify the possibility of the change of civil status in relationship to sex in adulthood

SRR 2: Right to information, training and education: including the right to sexual education

Everyone has the right to formal and alternative education. They are also entitled to complete sexual education (human rights standards). Everyone has the right of access to relevant and understandable information on sexuality and reproduction.

Current Situation

This right is guaranteed by:

• The constitution (articles 32 and 39):

- Article 32: The State guarantees the right to information and the right of access to information. The State works to guarantee the right of access to communication networks
- Article 39: Education is compulsory up to the age of

sixteen. The state guarantees the right to free public education at all stages. It ensures that the necessary resources are used to provide quality education, schooling and training. The State also ensures that the younger generations are rooted in their Arab and Islamic identity and their national belonging. It ensures the consolidation of the Arabic language, its promotion and its generalization and openness to foreign languages and civilizations. It ensures the dissemination of the culture of human rights.

- Orientation Law No. 2002-80 of 23rd July 2002, on education and schooling.
- Organic Law No. 2016-22 of 24th March 2016 on the right of access to information

However :

- these rights seem to be guaranteed only in a partial way and far from any human rights approach
- access to comprehensive sexual education in line with WHO standards is far from guaranteed with no sexual education classes according to recognized standards (limited to human biology classes).

Actions to program

• Literacy and Education: Apply Regulations

- Sexual education:** Set up mechanisms for the effective implementation of sexual education:
 - elaborate comprehensive sexual education courses that meet recognized standards regardless of the gender, orientation and gender identity of target audiences, in:
 - basic training institutions (lower secondary schools / secondary schools / university)
 - other institutions that provide sexual education, such as vocational training institutions, first-line health structures, etc.
 - Train trainers (primary school teachers and teachers of basic and secondary education, health staff of the first line of the 2 sectors, NGO members involved, young people (peer educators) ...)
 - Develop SRR campaigns: sensitizing the general public and especially young people (boys and girls) to get them to seek to be educated.
 - Develop sexual education guides and information needed to improve knowledge about sexuality and reproduction and access to counseling services, care etc. in Tunisia.
 - Review sexual education actions in basic health care, school health and other health programs that target women and adolescents, to be in accordance with internationally recognized standards.

Indicators

• Literacy and Education

- SRR 2.1** Literacy rate of young people (15-24 years old) and adults (15+, total and by sex) (HR, SDG) (that is to say: to know how to read, write and count, but also to have ability to solve problems and other essential skills)
- SRR 2.2** Proportion of school-aged children out of primary school (HR)
- SRR 2.3** Proportion of children and young people at the end of primary school (or else) primary school completion rate for girls and boys (SDGs 4.1.1 (b), HR & UN SDSN platform indic 33) (completion = reach the 6th basic year, according to HR indicators)
- SRR 2.4** Ratio of girls to boys in primary school (SDG, HR indicators), by class, within target groups (HR)
- SRR 2.5** Transition rate to secondary education (HR)
- SRR 2.6** secondary school completion rate for girls and boys (HR, Indic 35 of the UN SDSN Platform)
- SRR 2.7** Ratio of girls to boys in secondary and higher education (SDG), and by class (SDG, HR)
- SRR 2.8** Proportion of women with professional qualifications or university degrees (vocational training)
- SRR 2.9** Tertiary enrollment rate for women and men (indic 37 of the platform)
- SRR 2.10** Number of graduates (undergraduate degree) per 1,000 people (HR)
- SRR 2.11** Proportion of youth and adults with computer and communication skills, by skill type (SDG 4.4.1)

• Access to Information and Sexual Education

- SRR 2.12** a policy of integrating sexual education in training programs is adopted.
- SRR 2.13** Legislation on access to information is applied.
- SRR 2.14** Sexual education programs meet the standards:
 - (1) - Sexual education is based on everyday life skills and
 - (2) - include essential themes (essential themes: Decision-making / self-confidence, b) communication / negotiation / refusal, v. Empowerment through human rights) and consider sexual and reproductive health.
- SRR 2.15** Number of trainers trained by category, institution (teachers, peer educators, health staff ...)
- SRR 2.16** Number or percentage of institutions (by category: education, health and others) that have received support to integrate sexual education (staff training, receipt of guides or document ...)
- SRR 2.17** Basic health care and school and university medicine programs have integrated sexual education according to recognized norms.
- SRR 2.18** Proportion of young people with knowledge about risks (STIs, unwanted pregnancy), prevention means, places of access to prevention (collected by some programs and surveys such as the STI / HIV program)

SRR 3: Right to freedom of thought, freedom of opinion and expression

Everyone has the right to express their ideas freely; this right includes the right of everyone, including women and young people, to express their desires and explore their sexuality, while respecting the rights of others

Current Situation

This right is protected by:

- The constitution - Article 31: The freedoms of opinion, thought, expression, information and publication are guaranteed. No prior checking may be exercised on these freedoms.
- Decree-law n° 2011-115 of November 2nd, 2011, relating to the freedom of the press, printing and publishing.
- Organic Law n° 2015-37 of 22nd September 2015, relating to registration and legal deposit.
- Nevertheless, sexuality is still a taboo subject for a large segment of the population.

Actions to program

- Set up an effective application of the various texts guaranteeing this right.
- Advocate with decision-makers, journalists and bloggers to respect and promote freedom of information and expression about sexuality.
- Indictment for incitement to hatred, violence or discrimination against a person or group on the basis of their sexual orientation.
- Ensure the defense or protection of people expressing their opinions and thoughts about sexuality.

Indicators

SRR 3.1 International human rights treaties, relevant to the right to freedom of opinion and expression (freedom of expression), ratified by the State.

SRR 3.2 Effective date and scope of the right to freedom of expression written in the Constitution or other forms of higher law.

SRR 3.3 Effective date and scope of domestic legislation relating to the realization of the right to freedom of expression, including the possibility of seeking judicial review of any decision taken by the State to restrict this right.

SRR 3.4 Number of active NGOs involved in the promotion and protection of the right to freedom of expression in relationship to sexuality and reproduction.

SRR.3.5 Number of advocacy actions provided to decision makers, journalists, bloggers for the respect and promotion of freedom of thought and expression about sexuality.

SRR.3.6 Number of indictments for provoking hatred, violence or discrimination against a person or group on the basis of their sexual orientation.

SRR 3.7 Number of people assaulted for expressing their opinions and thoughts about sexuality whose defense or protection was not provided.

SRR.3.8 A data collecting system is established on violations of freedom of conscience and expression by the authorities (censorship, arrests, prosecutions, threats) and by the population (harassment, abuse, refusal of recruitment).

SRR 4: Right to private life, privacy and dignity

Everyone has the right not to be subjected to arbitrary interference in their private life.

Everyone has the right to the confidentiality of all data related to their private life, their sexuality and their sexual and reproductive health.

Everyone has the right to control the dissemination of information about their sexuality: orientation, choice, practices, sexual and reproductive health.

Current Situation

This right is confirmed in:

- **The constitution, art. 23 and 24:** Article 23: The State protects human dignity and physical integrity and prohibits moral or physical torture. Crimes of torture are not subject to any statute of limitations. Article 24: The State protects human dignity and physical integrity and prevents psychological and physical torture. Article 24: The State protects the right to a private life, sanctity of domiciles, confidentiality of correspondence and communications and personal information. Every citizen has the freedom to choose their place of residence and to move freely within the country, and the right to leave it.
- Law 63-2004 of 27 July 2004 on the protection of personal data,
- Act No. 91-22 of 25 March 1991 on organ harvesting and transplantation

Nevertheless, this right is not guaranteed in the framework of the penal laws and particularly in the Penal Code: the Tunisian law opens the way for violations of the intimacy and private life by incriminating sexual relationships outside marriage and those between consenting adults of the same sex (homosexuality).

Actions to program

- Ratify Convention 108 of the European Union for the protection of individuals with regard to automated

processing of personal data.

- Clearly mention the protection of sexual data in Article 1 of Law 2004-63 of 27th July 2004 on the protection of personal data
- Repeal Article 236 of the Penal Code relating to adultery.
- Repeal Article 230 of the Penal Code (penalization of sodomy).
- Amend the law on organ donation and make it clear that organ donation must be clearly expressed by the donor during their lifetime.
- Amend article 231 of the Penal Code (criminalization of sexual relationships between consenting adults on the pretext of insulting morality) (43 Ibid, Note 24).
- Advocacy and awareness-raising actions by the civil society and others for the change of texts.

Indicators

SRR 4.1 The EU Convention 108 for the protection of individuals with regards to automated processing of personal data is ratified by Tunisia.

SRR 4.2 The protection of sexually explicit data is clearly mentioned in Article 1 of Law 2004-63 of 27th July 2004 on the protection of personal data.

SRR 4.3 Article 236 of the Penal Code relating to adultery is repealed

SRR 4.4 Article 230 of the Criminal Code is repealed (penalization of sodomy)

SRR 4.5 Article 231 of the Penal Code is repealed (criminalization of sexual relationships between consenting adults on the pretext of insulting morality (43 Ibid, Note 24).

SRR 4.6 The law on organ donation is amended and clearly states that organ donation must be clearly expressed by the donor during their lifetime

SRR 4.7 Advocacy actions to change regulatory texts by the civil society and others are ensured.

SRR 5: Right to free choice, including the right to free sexual orientation without facing discrimination and gender-based violence

Everyone has the right to be protected against all forms of discrimination and violence based on sexuality, sexual orientation, sex or gender.

No one should be subjected to sexual violence, during or outside marriage.

No one should be subjected to customs, harmful traditional practices (tasfihi), including female genital mutilation and forced or early marriage.

Current Situation

- Constitution articles 21 and 46. Article 21: Citizens, male and female, are equal in rights and duties, and before the law without discrimination. The State guarantees to citizens, male and female, individual and collective rights and freedoms, and provides them with the conditions for a dignified life. Article 46: The State is committed to protecting women's achieved rights and works to promote and develop them. The State guarantees equal opportunities between men and women for access to various responsibilities and in all areas. The State works to achieve parity between women and men in elected assemblies. The state takes the necessary steps to eliminate violence against women.
- The Personal Status Code, promulgated on 13th August 1956, sought to achieve equality between men and women in a number of areas. It abolished polygamy, created a judicial procedure for divorce and demanded mutual consent of both spouses for the marriage.
- Law No. 2013-43 of 21st October 2013 on the National Mechanism to fight torture
- Law 2016-61 of 3rd August 2016 on preventing and fighting human trafficking, clearly prohibits forced marriage.
- In 2017, a new law was promulgated, Organic Law No. 2017-58 of 11th August 2017, on the elimination of violence against women.
- Article 227 bis of the Penal Code (allowed a rapist to avoid prosecution by marrying his young victim) amended by the new law against violence towards women (according to the new article 227 bis, is punished by 6 years of imprisonment anyone who has sexual relationships with a consenting minor under the age of 16. Is also punishable by 5 years of imprisonment anyone who has sexual relationships with a consenting girl between 16 and 18 years of age. The penalties are doubled if the person is close to or has an influence over her. However, if the «crime» is committed by a minor, article 59 of the law on child protection will be applied.
- The Penal Code prohibits all forms of violence, without consideration of gender-based violence.
- No mention of marital rape
- The free choice limited to marriage between Muslims (Minister of Justice 1973 circular) has just been repealed. Nevertheless, application is to be checked.
- The Tunisian context (regulation and society) does not recognize or accept other forms of sexual orientation other than heterosexuality. The Tunisian law does not contain a provision on sexual orientation. The Penal Code prohibits and punishes free sexual orientation (Article 230).

Actions to program

- Clearly mention incest and marital rape in regulatory texts
- Adopt a provision prohibiting degrading tests (anal test, virginity certificate), genital mutilation and harmful practices (eg tasfih)

Indicators

SRR 5.1 Presence of a legal framework to promote, enforce and monitor the application of the principles of gender equality and non-discrimination on the basis of sex (SDGs).

SRR 5.2 Proportion of public social spending on public awareness campaigns on violence against women (for example, violence by intimate partners, genital mutilation, rape) (HR indicator)

SRR 5.3 Proportion of community social service professionals trained (and health staff) to tackle domestic violence issues.

SRR 5.4 Proportion of recent hires in the police, social work, psychology, health (doctors, nurses and others), education (teachers) sectors who have completed a basic training program on all forms of violence against women.

SRR 5.5 Proportion of women and girls aged 15 and over who have experienced physical, sexual and psychological violence (rape or sexual aggression), during the last year (and during their whole life), by seriousness of aggression, relationship with the perpetrator (present or former partner, other than their intimate partner, people in charge of applying the law) and by age (HR, SDG indic, UN platform 38)

SRR 5.6 Number of male and female sex workers, victims of violence.

SRR 5.7 Proportion of young women and men aged 18 to 29 who have been victims of sexual violence before the age of 18 (SDG16.2.3)

SRR 5.8 Proportion of women aged 20 to 24 who were married or in a couple before the age of 15 or 18 (SDG, HR).

SRR 5.9 Proportion of the population who reported having personally experienced discrimination or harassment in the previous 12 months for reasons prohibited by international human rights law (SDG 16.b.1)

SRR 5.10 Proportion of victims of violence (physical, sexual or psychological) in the previous 12 months, by gender, having reported the facts to the relevant authorities or used other formally recognized dispute resolution mechanisms (SDG16.3.1) or [reported cases genital mutilation, rape and other forms of violence restricting women's sexual and reproductive freedom (HR)

SRR 5.11 Proportion of women having reported (or reported cases) forms of violence against them or their children (initiated legal action or sought help from police or counseling centers) (genital mutilation, rape and

other forms of violence restricting women's sexual and reproductive freedom), to which the Government has actually responded (HR, NU Platform Indic 39)

SRR 5.12 Proportion of rape survivors who had access to emergency contraception or safe abortion, prophylaxis against sexually transmitted infections or HIV (right indicator 6 as well)

SRR 5.13 Incidence and prevalence of deaths related to community and domestic violence based on gender (homicide, rape, honor killings, female infanticide ...) during the period considered (HR, NU platform indic 88)

SRR 5.14 Number of perpetrators (including law enforcement officials) of violence against women (including harmful traditional practices, domestic violence, trafficking, sexual exploitation and forced labor) arrested, tried, convicted and serving their sentences (by type of sentence) (HR)

SRR 5.15 The number of organizations and existence of networking between associations for the care of victims.

SRR 5.16 Attitudes of men and women regarding gender-based violence (particularly with regards to domestic violence, violence, harassment, early marriage, excision, etc.)

SRR 6: Right to dispose of one's body

Everyone has the right to make decisions about his or her sexual practices and conduct, without discrimination and in respect of the rights of others

No one can be the subject of laws criminalizing consented sexual practices or conduct;

No one may be, against their will, the object of a search or of a medical procedure on the grounds of their sexual expression, their actual or supposed sexual orientation (Eg: anal test, virginity test).

Current Situation

- The Tunisian law does not clearly recognize in an express provision the right to dispose of one's body. Article 230 of the Penal Code (penalizes same-sex sexual relationships).
- The Penal Code does not explicitly criminalize consensual sex between adults but a jurisdictional interpretation based on the combination of Article 226 bis and Article 231 and sometimes Article 18 of the Personal Status Code subjects unmarried adults who have had consented sex to criminal penalties:

- Article 226 bis: is punished by six months of imprisonment and a one thousand dinar fine who publicly commits an offense against morality or public morality by gestures or speech or deliberately causes others in a way that undermines modesty. The same penalties provided for in the preceding paragraph will be imposed on anyone who publicly draws attention to an opportunity to

commit debauchery by writing, recording, audio or visual, electronic or optical messages.)

- Article 231: Except in the cases provided for by the regulations in force, women who, by gestures or words, offer themselves to passers-by or engage in prostitution, even occasionally, are punishable by 6 months to 2 years of imprisonment. and from 20 to 200 dinar fine. A person who has had sex with one of these women is considered to be an accomplice and punished by the same penalty.)

- Art.18 -§2 penalizing marriage contracts outside the forms provided for by law. (this article is the cornerstone of the ban on polygamy in Tunisia.)

- The Penal Code regulates abortion, prohibits and punishes prostitution.
- Decree n ° 93-1155 of May 17th, 1993, bearing the code of medical ethics:

Chapter 1 of the therapeutic experiment, Article 103:

During the treatment, the doctor must be free to resort to a new therapeutic method if he considers it offers a serious hope to save the life, restore the health or relieve the sufferings of the patient. He must, as far as possible and taking into account the patient's psychology, obtain his free and informed consent, and in case of legal incapacity, the legal representative's consent replaces that of the patient.

Chapter 2 Non-therapeutic experimentation, Article 107:

Experimentation on a human being can only be undertaken with the free and informed consent of the subject.

- Order of the Minister of Health of 13th January 2015, on the creation of committees for the protection of people suitable for medical and scientific experimentation on medical products intended for human medicine and setting out their attributions, their compositions and their operating procedures.

Actions to program

- Remove abortion from the penal code, consider it as a human right and integrate it into the orientation law on health.
- Adapt the regulation of abortion so that it conforms to the progress of science.
- Abrogate articles 231 and the following (on prostitution)
- Increase access to contraception for young people.

Indicators

SRR 6.1 The regulation on abortion is reviewed to consider abortion as a human right: (integrate it into the orientation law and remove it from the penal code)

SRR 6.2 The regulation of abortion is in line with the progress of science.

SRR 6.3 Articles 231 and the following (on prostitution) are repealed

SRR 6.4 The circuit of medical, psychological, social and legal care is specified and standardized.

SRR 6.5 Proportion of girls and women aged 15 to 49 who have undergone a female genital mutilation or removal, by age

SRR 6.6 The regulation calls for the protection of persons suitable for the medical or scientific experimentation of drugs and requires the free consent

SRR 6.5 Proportion of girls and women aged 15 to 49 who have undergone a female genital mutilation or removal, by age.

SRR 6.6 The regulation calls for the protection of people suitable for medical or scientific experimentation of drugs and requires free consent.

PS. Other indicators in relationship with reproductive health (abortion, access to contraception) appear in SRRs 8,9 and 10)

SRR 7: Right to found a family or not

Everyone has the right to freely engage in marriage, open to all without discrimination.

Everyone has the right to choose whether or not to have children and when.

Legislation must take into account the diversity of family units (single-parent family)

Current Situation

The Personal Status Code recognizes this right as part of a traditional family conception, between Tunisian Muslims. Abolition of all circulars (including circular 216 of November 5th, 1973) to allow the marriage of a Tunisian with a non-Muslim (declared by the Minister of Justice on September 8th, 2017)

Actions to program

- Review the status and rights of the single mother
- Recognize all rights to a child born outside marriage

Indicators

SRR 7.1 Status and rights of the single mother are defined and consider the right to found a single-parent family.

SRR 7.2 All the rights of children born outside marriage are recognized

SRR 8: Right to enjoy the highest attainable standard of health in matters of sexuality and procreation

Everyone, including male adolescents and female adolescents, has the right to access the full range of sexual and reproductive health services, care and information. Sexual and reproductive health services and care must be available, effective, accessible, affordable and of good quality.

Current Situation

The constitution recognizes in article 38 the right to health for everyone.

However, this right depends on the resources of the health structures and the socio-economic conditions of the people involved.

The categories that suffer the most are rural women, young people in rural and peri-urban areas, people with disabilities and migrants.

Actions to program

- Implement the constitution by allowing the right of access to care equally to all, including people in rural and border areas.
- Reorganize maternal and child health services.

Indicators

SRR 8.1 International human rights treaties, relevant to the right to the highest attainable standard of physical and mental health (right to health) are ratified by the State (HR)

SRR 8.2 Date of entry into force and scope of the right to health written in the Constitution or other forms of higher law (HR)

SRR 8.3 Date of entry into force and scope of domestic legislation relating to the achievement of the right to health, (including the law prohibiting female genital mutilation) (HR)

SRR 8.4 Number of registered and / or active NGOs (per 100,000 people) involved in the promotion and protection of the right to health (HR)

SRR 8.5 Date of entry into force and scope of the rules on compulsory health insurance (HR)

SRR 8.6 Existence of a legal framework and national strategies for health and access to health care, including reproductive health and sexual health and the health of people with disabilities (HR)

SRR 8.7 Existence of a legal framework and program or guidelines for abortion and fetal sex determination (HR)

SRR 8.8 Net amount of official development assistance received or provided for the promotion of the health sector

as a percentage of public expenditure on health or gross national product (GNP) (SDG, HR)

SRR 8.9 Total net amount of official development assistance devoted to research and basic health care

SRR 8.10 Density and distribution of health personnel (SDGs) (ratio of midwives, gynecologists / obstetricians / population by region)

SRR 8.11 The coverage rate for essential health services (defined as the average coverage of essential services as measured by reference interventions such as reproductive, maternal, newborn and child health, infectious diseases, non communicable diseases, reception and accessibility of services for the population in general and the most disadvantaged in particular) (SDG)

SRR 8.12 Availability, accessibility, acceptability and quality (AAAQ) of reproductive health services by reference to the monitoring and evaluation indicators of national strategies for reproductive health and sex.

SRR 8.13 Accessibility of sex workers (SW) to the full range of sexual and reproductive health care according to SWs or by health staff (UPR recommendation 2016)

SRR 8.14 Proportion of population spending a large portion of their expenditures or household income on health care services (SDGs)

SRR 8.15 Estimation of the proportion of births, deaths and marriages recorded through the civil status system (HR)

SRR 8.16 Maternal mortality rate (SDG Ind 3.1.1) and proportion of deaths due to unsafe abortions by age (including <18 years) and gender.

SRR 8.17 Mortality rate of children under 5 years (SDG Ind 3.2.1)

SRR 8.18 Child mortality rate

SRR 8.19 Neonatal mortality rate (SDG Ind 3.2.2)

SRR 8.20 Perinatal mortality rate (HR)

SRR 8.21 Incidence of tuberculosis per 100,000 population, total and by sex (SDG)

SRR 8.22 Incidence of B hepatitis per 100,000 population (total and by sex) (SDG).

SRR 8.23 Mortality and morbidity of adolescents by age group (15-19 years old or <24 years old)

SRR 8.24 Mortality rate due to cardiovascular diseases, cancer, diabetes or chronic respiratory diseases by sex (to be developed: death rate for female cancers) (SDGs)

SRR 8.25 Death rate by suicide by sex (SDG)

SRR 8.26 Life expectancy at birth by sex.

SRR 8.27 Ratio of girls to boys at birth and between 5 and 9 years of age.

P.S. Other indicators relative to reproductive and sexual health are with indicators 9, 10 and 12)

SRR 9: Right to access contraception, abortion

Everyone has the right to access the contraceptive method that suits them.

Contraceptives must be available, effective, accessible, affordable and of good quality

Current Situation

These rights are guaranteed.

However:

- access to these services depends on the location of the beneficiaries and their socio-economic situation: urban, peri-urban, rural areas ... women, young people, disabled people, key populations.
- Adolescent needs for contraception, safe abortion and the right to family planning are not yet fully met (and will need to be tackled in the 2030 Agenda for Sustainable Development).
- Rising ideas and ideologies rejecting contraception.

Actions to program

- Reactivate mobile centers for community-based reproductive health services, especially for women and young people in non-urban areas;
- Organize awareness campaigns for the use of contraceptives, especially the condom, including the female condom and the morning after pill.
- Facilitate access to reproductive health care services including contraceptive methods (including condoms):
 - review the rhythm of midwives' consultation days in primary care centers according to the needs of the population served by considering the distance and access to other structures,
 - To further integrate perinatal and contraceptive activities in the activities of primary care physicians,
 - Other actions for accessibility and availability of contraceptives, especially for young people.

Indicators

SRR 9.1 Proportion of women in childbearing age (15-49 years) using modern family planning methods (SDGs)

SRR 9.2 Increase in the proportion of women in childbearing age who use or whose partner uses contraception (SDG and HR)

SRR 9.3 Accessibility of young people to contraceptive methods (male and female)

SRR 9.4 Unmet needs for family planning (SDGs and HRs)

SRR 9.5 Legal framework and health program concerning abortion

SRR 9.6 Accessibility to abortion services, quality in time according to the standards and procedures in force (UPR

recommendation 2016: safe medical abortion)

SRR 9.7 Pregnancy termination rate expressed as a percentage of live births.

SRR 9.8 Fertility rate for adolescent girls (10 to 14 years and 15 to 19 years) per 1,000 adolescent girls of the same age group (SDG)

SRR10: Right to maternal health care

Everyone, especially women, has the right:

- To information on safe reproductive health, safe motherhood and riskless abortion.
- To ensure that pregnancy and maternity care is available, accessible, affordable and of good quality.

Current Situation

These services are available but vary according to socio-economic conditions; moreover, if the consultation is free, all explorations of pregnancy and its complications are not.

Actions to program

- Improve access to the full range of pregnancy and maternity care.
- Generalize financial accessibility (free or otherwise) of all care related to pregnancy and maternity.
- Strengthen actions of maternal and child health programs.

Indicators

SRR 10.1 Have an SRR strategy with a clear budget

SRR 10.2 Proportion of women receiving prenatal and postnatal care (mother and newborn as recommended by national maternal and neonatal health programs (HR and SDGs)

SRR 10.3 Proportion of births attended by skilled health personnel (SDG Ind 3.1.2, and HR)

SRR 10.4 Caesarean delivery rate.

NB: Other maternal health indicators enrolled with entitlement indicators 8, 9, and 12.

SRR 11: Right to benefit from scientific progress

Everyone has the right to benefit from the progress of science in the field of health, and its impacts on sexual rights and health.

Everyone has the right to access reproductive health and other medical technologies or refuse them without discrimination.

Current Situation

New exploration and care techniques require resources from the Public Health and Private Services sector. Few people with financial means can access it (Example: the right of PLHIV / AIDS to start a family without risk of contamination using the new procedures).

Actions to program

The state must demonstrate its will to guarantee and allow access to its services, even within the limits of its means, by developing for example partnerships between the state structures and the most advanced private centers

Indicators

SRR 11.1 Measures taken by the state to facilitate access to new techniques

SRR 12: Right to benefit from HIV and STI care and treatment

Everyone has the right to comprehensive, relevant and accessible information on HIV and STIs.

Everyone has the right to access care and services related to HIV and STIs, these services and care must be available, free, accessible and of good quality.

No one should be discriminated against because of their state of health, including HIV and STIs

Current Situation

The Tunisian law, law n ° 92-71 relating to communicable diseases as modified by law n ° 2007-12 of February 12th, 2007, guarantees free treatment in the public health structures.

However,

- The law does not provide for prevention mechanisms;
- The law devotes a repressive and protective approach of the public order;
- Free service is not generalized (guaranteed only for Tunisian citizens);
- Medical care is not accompanied by adequate psychological and social care,
- Financing the sector is mainly international;
- Stigma hurts the people involved

Actions to program

- Access to health care is guaranteed, however, the State must fight all forms of discrimination against people living with HIV and those living with AIDS;
- Give more interest to STIs;
- Generate free care for people living with HIV in Tunisia
- Fight all forms of discrimination against people living with HIV and / or AIDS.

Indicators

SRR 12.1 Period and Scope of the National Sexual Health Policy

SRR 12.2 Discrimination linked to HIV infection (according to people living with HIV)

SRR 12.3 Proportion of youth reporting condom use at the first sex

SRR 12.4 Incidence rate (new cases) of HIV / AIDS infection per 1,000 HIV-negative people, by sex, age and at-risk population group (SDG)

SRR 12.5 HIV-related mortality rate

SRR 12.6 Access to anti-retroviral for refugees and emigrants

(NB: Indicators related to sexual education appear with SRR indicators 2)

The tool is an Excel file. The 12 rights and their Current Situation are described in an Excel sheet. Then, each right is included in a separate sheet with the list of indicators (one indicator per line).

In principle, the tool will be finalized to specify the modality and those in charge of information collection as well as the basic and expected values and will be put online by UNFPA and ATSR in 2018.

4. RECOMMENDATIONS FOR PROMOTING SEXUAL AND REPRODUCTIVE RIGHTS

The main recommendations to promote sexual and reproductive rights are:

- The priority of financing of the health sector and especially reproductive and sexual health programs,
- Have a specific legal framework for sexual and reproductive rights and health,
- Have a comprehensive strategy for the promotion of sexual and reproductive rights that considers the legislative and policy framework and that enhances accessibility, integration and quality of sexual and reproductive health services in the front line. This strategy should consider already existing programs (reproductive health and other programs); it is not a question of multiplying the roles or the missions but rather of coordinating the actions to reach, in an efficient and effective way, the objectives set. This program will include a monitoring and evaluation component to ensure the effectiveness of the measures applied and adherence to established timetables.
- Improve the coordination between the partners (GOs and NGOs), between the departments of the Ministry of Health and between the different service provision levels (central, regional, local) especially that the current

programs are vertical,

- Review legislation that prevents access to care and limits the freedom of vulnerable groups.

The recommendations for a better follow-up of the SRR in Tunisia are as follows:

- Develop a monitoring and evaluation system for SRR: SRRs are human rights. It is not a question of developing independent tools for the SRR but rather of ensuring that the indicators that measure the different facets of SRRs are considered in a global system integrating the follow-up of the ICPD plan of action, human rights and the SDGs. The tool proposed in this work incorporates the human rights indicators, SDGs and UPR national monitoring plans. Choosing a package of indicators and the tool is just one step in developing and implementing a monitoring and evaluation system for SRRs and having relevant and reliable data to guide decision making and strategic choices.

In fact, in addition to the indicator package, this system should specify for each indicator:

- The source (s) of information
- The methods and tools for data collection
- The modalities of the routing, the compilation, the analysis and dissemination of information
- Those responsible and referring individuals by sector and organization
- The basic or reference values and the target values (expected values of interventions)
- The methods of their calculation.

In addition, institutional capacities should be strengthened for monitoring and evaluation activities.

The involvement of all partners is essential:

Advocacy actions are very useful to make the SRR monitoring system functional and have indicators to monitor and evaluate the situation. The participative approach undertaken in this work with the full participation of civil society organizations, governmental organizations and in cooperation with the United Nations system must be maintained and even strengthened by effectively involving the different partners during implementation, data collection up to the dissemination of results.

- Data collection should be disaggregated by sex and other characteristics taking into account the needs of the different categories of the population (gender, age, socio-economic level, level of education, region etc.) to monitor and evaluate the results of health policies and programs and possibly suggest specific solutions for

some populations.

- A review with a periodic update of this package is essential to be consistent with the reality at the country level and with developments at the international level.

-Ethical considerations: Ethical and statistical considerations in relationship to human rights must be taken into account in order to avoid possible misuse of data or the obstruction of the right to information, etc.

Abbreviations :

ATSR	Tunisian Association for Reproductive Health
UNFPA	United Nations Population Fund
SRR	Sexual and Reproductive Rights
SDGs	Sustainable Development Goals
ICPD	International Conference on Population and Development
UN	United Nations
HR	Human Rights
NGO	Non-Governmental Organization
UPR	Universal Periodic Review

