



Tunisia's Code of Criminal Procedure: Perceptions and Barriers to Implementation

Focus Group Discussions
April-June 2018

Tunisia's Code of Criminal Procedure: Perceptions and Barriers to Implementation
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A nonprofit, nonpartisan organization founded in 1983, the International Republican Institute (IRI) advances freedom and democracy worldwide by developing political parties, civic institutions, open elections, democratic governance and the rule of law. Since 2011, IRI has enhanced citizen participation in the political and electoral processes in Tunisia, especially among traditionally marginalized populations including women, youth, persons with disabilities and interior communities. Through its programming, IRI educates Tunisians on their rights and responsibilities as citizens and voters and empowers stakeholders to engage in civic advocacy. IRI has prepared political parties from across the spectrum to transition from campaigning to governing, identified and addressed localized drivers of violent extremism, developed the technical and institutional capacity of civil society organizations to advocate on citizens' behalf, and equipped local and national government officials with the tools to govern effectively.



Executive Summary

Approach

- From April-June, 2018, the International Republican Institute (IRI) conducted a series of focus group discussions (FGDs) to identify gaps in the understanding and implementation of the Code of Criminal Procedure. This exercise was designed to strengthen the Tunisian justice system and educate the public about the rights of those in police custody.

- This report is based on FGDs conducted with Tunisian citizens, including youth, women, members of the lesbian, gay, bisexual, transgender, and intersex (LGBTI) community, persons with disabilities (PWDs), lawyers and civil society activists. The findings of these FGDs are intended to inform awareness and accountability campaigns among IRI's local civil society partners, as well as improve their outreach to groups most at risk of arrest and mistreatment by security forces.

Findings

Knowledge of the Code of Criminal Procedure

1. **Finding #1:** The majority of discussants across all targeted groups are unfamiliar with the CCP. Members of the LGBTI community and civil society are most familiar with the CCP.
2. **Finding #2:** Among the minority of participants who have heard of the CCP, the better-known provision was the right to access a lawyer from the beginning of the detention period. However, a majority of discussants do not believe that this right is respected.

Perceptions of the Code of Criminal Procedure

- **Finding #3:** Discussants lack confidence in the police. Most discussants believe the CCP can be useful but are skeptical that knowing its provisions will safeguard them against the violation of their rights.
- **Finding #4:** Discussants recognize the importance of the CCP but find that inconsistencies between the legal text and the prevailing practice contribute to poor implementation of the law.
- **Finding #5:** Discussants from all groups believe that informing a family member of an arrest is the most respected procedure by the police. Most believe that the right of detainees to a medical examination is the least respected.

Implementation of the Code of Criminal Procedure

- **Finding #6:** Participants believe that the CCP is unequally applied and that wealthy and well-connected individuals receive privileged treatment from the police.
- **Finding #7:** Discussants consider the police to be primarily responsible for violations of the CCP, in part due to a lack of proper training. They also blame judges and the attorney general for the failure to ensure compliance and proper application of the law.

Recommendations

Recommendation 1: Develop national and local public information campaigns involving government ministries, the judiciary, the Tunisian Bar Association, media, police and local authorities.

Recommendation 2: Support civil society-led education initiatives that bring together trained lawyers and law enforcement to improve public understanding and awareness of the revised criminal code, including information about the rights of individuals held in police custody.

Recommendation 3: Develop and disseminate national public service announcements on television, radio and social media platforms to educate citizens about their rights under the CCP.

Recommendation 4: Provide criminal justice officials – including police, lawyers, prosecutors, and judges – with training on the provisions of the CCP and citizens’ rights therein.

Recommendation 5: Provide police stations with material that outlines the law in Arabic, providing graphics for illiterate citizens and braille for blind citizens, as well as the contact information for the Tunisian Bar Association, which is required to provide detainees with free legal counsel if they do not have a lawyer.

Recommendation 6: Coordinate education outreach in high schools and collaborate on a legal awareness curriculum to ensure that youth are aware of their rights through partnerships between the Ministry of Education, legal professionals, law enforcement and schools.

Recommendation 7: Create opportunities for public trust-building among citizens, security forces and criminal justice officials by holding town halls, providing information booths at public markets and fairs and having municipal and regional authorities collaborate with local police.

Recommendation 8: Establish a community liaison office within police stations to promote positive engagement between the public and law enforcement officials.

Recommendation 9: Support ongoing criminal reform initiatives, including the Criminal Law Working Group,¹ to enable justice sector stakeholders to identify and address weaknesses in the CCP.

¹ The Criminal Law Working Group was established in 2014 to assess the entire CCP and identify gaps and weaknesses in the law. It is composed of lawyers, judges, prosecutors and civil society organizations, and on October 10, 2018, presented recommendations for reform to the Ministry of Justice.



Introduction

Tunisia's 2014 constitution and 2016 revised Code of Criminal Procedure (CCP) guarantees broad due process and fair treatment rights for detainees and prisoners. Securing these rights depends on the active, informed engagement of professionals within Tunisia's justice sector, including the police,² lawyers and judges, as well as civil society, the media, and stakeholders within the Ministries of Justice and Interior.

With funding from the U.S. Department of State's Bureau of Democracy, Human Rights and Labor, IRI supports Tunisian civil society and government actors to promote greater understanding of the substance of the CCP through public information and accountability campaigns. As part of the Supporting Tunisia's Access to Justice Sector Reform program, IRI contracted local public opinion research firm ELKA Consulting (ELKA) to conduct fieldwork for a qualitative study by holding focus groups in Tunisia among citizens, including youth, women, members of the lesbian, gay, bisexual, transgender, and intersex (LGBTI) community, persons with disabilities (PWDs), lawyers and civil society activists.

The objectives were as follows:

- Assess the degree of knowledge of the CCP among Tunisian citizens;
- Identify the populations most vulnerable to violations of rights protected by the CCP; and
- Investigate challenges to implementation of the CCP.

Through this research, IRI sought to identify gaps in the understanding and implementation of the CCP to strengthen the Tunisian justice system and educate the public about the rights of those in police custody. Specifically, the findings of these focus group discussions (FGDs) aim to inform awareness and accountability campaigns among IRI's local civil society partners, as well as improve their outreach to groups most at risk of arrest and mistreatment by security forces.

Law No. 5 revising the CCP was adopted by Tunisia's parliament on February 2, 2016, and went into force on June 1, 2016. Human rights and legal experts pointed out flaws in the revised CCP,³ including the lack of mandate of a specific threshold of suspicion of a crime to proceed with a search and arrest and no specification of a

² For the purposes of this report, the term "police" refers to all law enforcement authorities responsible for providing law and order and gathering and presenting evidence of crime, including the National Guard and judicial police.

³ "You Say You Want a Lawyer? Tunisia's New Law on Detention, on Paper and in Practice." Human Rights Watch, 1 June, 2018, <https://www.hrw.org/report/2018/06/01/you-say-you-want-lawyer/tunisias-new-law-detention-paper-and-practice>.

minimum amount of time that the police must wait between notifying the suspect's lawyer and beginning interrogation.

Despite these shortcomings, the CCP is a milestone in protecting Tunisians against police abuse and unfair treatment. The CCP grants anyone in police custody the right to counsel while detained, reduces the maximum period of pre-charge detention from 72 to 48 hours, requires the police to obtain an "authorization of arrest" from a public prosecutor before taking suspects into custody and obliges authorities to inform suspects of their right to request a medical examination while in detention.⁴

Before the implementation of Law No. 5, suspects were more vulnerable to coerced confessions while in police custody, not having the right to counsel until being brought before a judge. The CCP now requires police to document information about individuals in custody and to make these materials available to the detainee's family. It also allows for the court to nullify proceedings if the police cannot prove that procedural requirements were followed.

ELKA conducted eight in-depth FGDs with 86 individuals—61 men and 25 women. The initial three FGDs comprised male populations from at-risk for violence and crime neighborhoods in Siliana, Sousse and Tunis. The remaining five targeted PWDs; LGBTI persons; women; civil society members; and lawyers from the governorates of Bizerte, Gafsa, Kasserine, Le Kram, Medenine, Sfax, Siliana, Sousse and Tunis. Participant selection was based on IRI's initial research⁵ and in-depth discussions with on-the-ground experts on groups most susceptible to violations of rights protected by the CCP as well as groups promoting justice reform.⁶ IRI developed a recruitment screener and a focus group discussion guide based on these initial expert discussions.

Methodology

IRI contracted Tunisian public opinion research firm ELKA to conduct fieldwork for a qualitative focus group study to assess the degree of knowledge of the CCP, identify which population groups are most vulnerable to violations of rights protected under the CCP and investigate the challenges to proper implementation of the CCP.

⁴ Republic of Tunisia. Code of Criminal Procedure, 2018, http://www.legislation.tn/en/affich-code/Code-de-proc%C3%A9dure-p%C3%A9nale_91.

⁵ "Amnesty International Report 2017/18: The State of the World's Human Rights." Amnesty International, 2018, <https://www.amnesty.org/download/Documents/POL1067002018ENGLISH.PDF>.

⁶ Koné, Aminata and Lindsay Korzekwa. "Persons with Disabilities in Tunisia: Legal Standing and Public Perception." Campus de Sciences Po Paris à Menton and Association étudiante Babel Initiative, 2014, <https://babelinitiative.files.wordpress.com/2014/04/viii-persons-with-disabilities.pdf>.

Additionally, this research sought to identify recommendations to increase the public's awareness of their rights and encourage proper implementation of the CCP. IRI intends to use the results of this study to inform the awareness and accountability campaigns of its Tunisian civil society partners.

The selection of discussants was made with special attention to those most at-risk of detention and abuse while in custody. To supplement the insights gleaned directly from at-risk populations, IRI included civil society and justice sector partners among focus group discussants, as they work with marginalized groups in the justice reform area and help individuals seek legal assistance.

Secondary research indicates that LGBTI persons,⁷ youth and PWDs,⁸ especially in rural areas, are most vulnerable to violations of their rights. IRI also took a special interest in populations living in at-risk neighborhoods, which this report defined based on the Tunisian Ministry of Interior (MOI)'s three-tier classification system, with A classified as a low-risk zone for violence and crime and C classified as a high-risk zone. For the purpose of this research, IRI assumed that individuals from high-risk zones would have most likely come in contact with law enforcement.

ELKA administered an IRI-designed pre-screening questionnaire to identify participants for eight FGDs, recruiting a total of 86 individuals (61 men, 25 women), ages 18-24 (14 individuals), 25-34 (27 individuals), and 35+ (45 individuals). Demographics included male populations from at-risk neighborhoods of Siliana, Sousse, and Tunis, youth, women, members of the LGBTI community, PWDs, lawyers and civil society activists. Participants reflected a cross-selection of Tunisian citizenry, including those who are unemployed, employed, single, married, and with and without children.

FGDs took place in the governorates of Tunis, Siliana and Sousse, as these were convenient locations to gather respondents. Discussants were drawn from Bizerte, Gafsa, Kasserine, Le Kram, Medenine, Sfax, Siliana, Sousse and Tunis. Participant selection was based on IRI's initial research and in-depth discussions with on-the-ground experts of groups most susceptible to violations of the CCP as well as groups directly promoting or encountering justice reform. Individual group discussions were designed to ensure maximum comfort for participants to candidly discuss sensitive issues.

Sessions were conducted by ELKA between April 2 and June 6, 2018, and the duration of each was approximately 100 minutes. This report presents the results of

⁷ Amnesty International Report 2017/18: *The State of the World's Human Rights*."

⁸ "Persons with Disabilities in Tunisia: Legal Standing and Public Perception."

FGDs conducted from April 2 to June 6, 2018.⁹ Consistent with the nature of qualitative research, the findings from each participant group are not necessarily representative of the community at large.

Focus Group Discussion Number	Governorate ¹⁰	Date	Target Group	Number of Participants
1	Sousse	April 2	Men from at-risk neighborhoods (Group A)	12 men 0 women
2	Tunis	April 16	Men from at-risk neighborhoods (Group B)	12 men 0 women
3	Siliana	April 18	Men from at-risk neighborhoods (Group C)	12 men 0 women
4	Sousse	April 21	Persons with disabilities (PWDs)	8 men 4 women
5	Sousse	April 21	Civil society members	5 men 5 women
6	Sousse	April 28	Lesbian, gay, bisexual, transgender and intersex (LGBTI) individuals	10 men 2 women
7	Sousse	April 29	Lawyers	2 men 3 women
8	Tunis	June 6	Women ¹¹	0 men 11 women

⁹ An initial FGD for women discussants was held on May 31, 2018. However, due to a low turnout (only five attended), IRI and ELKA Consulting found it best to hold another FGD. The official women's FGD, with 11 discussants, was held on June 6, 2018.

¹⁰ This signifies in which governorate the focus group was held. Group 1 hosted participants from the Kalaa Kobra neighborhood of Sousse; Group 2 from the El Khadra neighborhood of Sousse; Group 3 from the city of Siliana; Group 4 from the governorates of Kairouan, Medenine, Sidi Bouzid, Sousse, and Tunis; Group 5 from the governorates of Kef, Medenine, Sidi Bouzid, Siliana, and Tunis; Group 6 from the governorates of Kairouan, Kasserine, Kef, Sidi Bouzid, Sousse, and Tunis; Group 7 from the governorates of Kairouan, Kasserine, Medenine, Sidi Bouzid, Sousse and Tunis; and Group 8 from the Greater Tunis area including the neighborhoods of Boussalsla, El Khadra, Hay Tadamon, Kram and Manouba.

¹¹ This group included women who were directly or indirectly (through family members) impacted by arrests and crime.

I. Knowledge of the Code of Criminal Procedure

Finding 1: The majority of discussants across all targeted groups are unfamiliar with the CCP. Members of the LGBTI community and civil society are most familiar with the CCP.

Most discussants are not familiar with the CCP. Some have heard of the law, but only in name. Once the moderator explained its provisions, a large number of discussants expressed more awareness of the CCP. Most respondents attribute this lack of knowledge to an absence of public information by the media and the government. The overarching perception is that the Tunisian government is not promoting awareness about reforms that are meant to protect citizens from government infractions. The only group of participants in which all discussants expressed knowledge of the CCP was the civil society organizations (CSOs) group.¹²



"There is not much advertisement [about the CCP]. How can we know about it? The problem is when a law is touching the government, they do not advertise it. Since it is going to affect the higher powers, [they] do not want people to know about it." – Male, Group C, Siliana

"I think that any law that [benefits] the citizen [is] hidden. Authorities do not want people to know about these laws and rights because they want everything [to benefit] them and the system protects them." – Male, Group C, Siliana

When asked why Tunisians do not seek information about the law, participants explained that pressing issues, such as finding employment, took priority.



"Young people care about getting jobs and it is not a necessity for them to know about this law. It is only when they become involved in a problem [that] they become obliged to do their research and seek information." – Male, Group A, Sousse

"People don't think about their rights and getting informed about new laws anymore, they'd rather use their time in figuring out how to feed themselves." – Male, Group B, Tunis

¹² The quotes below and all subsequent quotes have been minimally treated to improve clarity. The speakers' original expressions have been preserved to the maximum extent possible, including potential errors in grammar, syntax and word choice.

Discussants from the LGBTI focus group had more in-depth knowledge of the CCP compared to participants from other groups. When the moderator noted their knowledge of the CCP, discussants attributed this to being part of an at-risk community whose members needed to be aware of their rights and active within civil society in advocating for those of rights.

One participant shared an experience where the police disrupted an awareness-raising campaign by telling passersby that the participant and fellow campaigners were ruining the country.



"I've heard about [the CCP] because I had a project on this as part of [my civil society organization], and we have an awareness campaign. It was about people in detention and their rights." – Male, LGBTI Individual, Sousse

"I think because it is in our interest as LGBTs we have to be aware of all the details of the procedures and the laws. These are very important for us. Because we all feel at risk of arrest as an LGBT community." – Male, LGBTI individual, Sousse

"When you are an active person in civil society, the information will come to you automatically. When I was in a training back in 2016 there was a lawyer with us and she mentioned this law and that's how I knew about it." – Male, LGBTI individual, Sousse

Finding 2: Among the minority of participants who have heard of the CCP, the better-known provision was the right to access a lawyer from the beginning of the detention period. However, a majority of discussants do not believe that this right is respected.

Respondents most familiar with the CCP mainly mentioned the right to counsel when asked about the law's provisions. However, participants also shared examples of violations of the right to counsel.



"Theoretically [the law] exists, but practically nothing is being applied. My brother has been arrested and the report that has been written has nothing to do with the real facts. He asked for a lawyer, but they didn't want to provide him with one. They only informed us that he is arrested and when we tried to get him a lawyer they wouldn't accept it. They just sent a secret report to court and we had no idea what was written in it, and it was all lies." – Female, Women's Group, Tunis

"They usually put in the interrogation report that the detainee refused to have access to a lawyer." – Female, Women's Group, Tunis

None of the discussants were surprised to hear about these violations. When one male discussant from Group A mentioned being arrested by the police in his neighborhood, the moderator asked why he did not request a lawyer. Respondents simultaneously replied that they would not have the right to ask for a lawyer. In contrast to respondents from other focus groups, lawyers were the only group of respondents in which a majority believe that the right to counsel was respected by the police.

Another male participant from Group A said that he learned about the right to counsel through a television advertisement. However, a third of the discussants believe these advertisements to be insufficient. As one discussant put it, "It's not a real explanation of the law and the rights, just [a] glimpse of it. Also, it is not being applied. They are not transparent about the procedures." Multiple discussants across focus groups also mentioned that police will often write false reports stating that detainees did not request a lawyer.

Discussants belonging to the Lawyers' focus group disagreed about authorities' adherence to procedures to assign detainees lawyers. The police must inform the Tunisian Bar Association if a detainee lacks representation, and the association must provide the detainee with free legal counsel if this is the case from a roster of lawyers registered with the Bar. Two lawyers said that they had never been asked by the police to represent a detainee as a new client. Another lawyer explained that she was, on the contrary, asked to represent a detainee. Discussants attributed this to regional differences between police departments in properly following procedure. In fact, there is no clear criteria to assign lawyers to a pro bono case other than that the lawyer must be registered in the regional branch in which the arrest took place.



"We have a colleague whose client was detained, and he went to be present. They told him it's not going to take long you don't really need to be in there. He said the investigation lasted from 2 p.m. [to] 10 p.m. When he insisted to go inside they wouldn't let him in. It turns out that the case was already in court, and the investigator is interviewing the detainee for no reason. If we are talking about laws and they are applied in this manner, how can we work like this?" – Male, Lawyer, Sousse

II. Perceptions of the Code of Criminal Procedure

Finding 3: Discussants lack confidence in the police. Most discussants believe the CCP can be useful but are skeptical that knowing its provisions will safeguard them against violations of their rights.

The lack of public trust in the judicial system and in law enforcement bodies was mentioned several times across all groups. One respondent from Group B stated,

after being asked if he thought people knew their rights, “Not all of them; and they cannot report to anyone! They know they won’t get their rights back. Tunisians lost faith in the system, they became desperate.” Another respondent from the same group shared, “I don’t think that the judicial system is independent. Judges are still fighting among themselves about the higher commission of judges. Also, until now, we don’t have a constitutional court! So, of course I don’t trust the judges.” A third participant from the CSOs group echoed these sentiments: “The relationship between security and citizens became a taboo! There is no trust!”



“[There] is no trust between law enforcement and people. If you know someone in the police station, you will get a lawyer. It’s about who you know.” – Male, Group B, Tunis

“All police departments have cameras. But who is supervising them? No one.” – Male, Group B, Tunis

“There is no rule of law in this country. The dignity of people is violated in the name of law. This is a state of injustice.” – Male, Group B, Tunis

Several discussants shared experiences of what they perceived as unjust arrests or unlawful treatment of detainees. When the moderator asked why they did not report these incidents or press charges, the unanimous response was that to do so would be pointless.



“When I was in jail for 12 days, someone asked for the doctor [for another detainee who] was really in bad shape. He had a broken bone and people were stepping on him. They refused to get him a doctor.” – Male, Group A, Sousse

“We were a group of students sitting at the coffee shop and there was a female friend with us. A car passed by and a guy there called her inappropriately. One of our friends stood up and told him to respect her. He left and a police car came and arrested our friend and they charged him with hampering the work of a police officer while he is on duty. But we all know that police officer was not on duty and he was drunk.” – Male, Group C, Siliana

Finding 4: Discussants recognize the importance of the CCP but find that inconsistencies between the legal text and the prevailing practice contribute to poor implementation of the law.

All respondents acknowledged the importance of the CCP and the importance of familiarizing oneself with the provisions of the law. However, every group highlighted discrepancies between the letter of the CCP and its implementation by judges, prosecutors and police officers. One lawyer attributed this to internal

contradictions within the law. Groups agreed that the CCP is vastly different in spirit and practice. A participant from the Siliana FGD shared the following: "In my opinion these laws don't concern me because they are actually against us as regular people. In theory they are something and [in] practice they are completely something different. What I mean is that they're not being applied properly." Another discussant from the group of lawyers stated, "When you read something like [this law] you feel like everything is great, but [in] practice, it is completely opposite."

The CCP states that no detainee may be held for more than 24 or 48 hours without a formal charge, depending on the nature of the offense. This is the case regardless of the time of the week in which the detention takes place. However, many discussants were confused about whether time spent in custody during the weekend counts toward the maximum pre-charge detention period. Some pointed to cases in which individuals have been held for more than allowed 48 hours.



"When someone is being arrested, they spend more than five days in detention. Moreover, if they are arrested on a Thursday, they have to spend the entire weekend, then they will work on his case the next Monday or business day." – Female, Women's Group, Tunis

"Police officers are used to the old system which is to detain someone until they get the proof of the charges. In the past they used to get the order from the public prosecutor after two days or so because they didn't have access to emails, and that's why you spend more time in detention." – Male, LGBTI Individual, Sousse

Finding 5: Discussants from all groups believe that informing a family member of an arrest is the most respected procedure by the police. Most believe that the right of detainees to a medical examination is the least respected.

Participants from every focus group noted that the right to inform a family member of one's arrest was the CCP provision most respected by law enforcement. However, each group provided examples, sometimes personal, of violations of this right. In particular, participants from the El Khadra and CSOs focus groups said that in certain special instances, such as terrorism charges, the detainee is not permitted by law to contact his or her family. However, it is worth noting is that the legal provisions of the CCP do not allow detainees to contact their families in terrorism-related cases until the end of pre-trial detention, which lasts five days.

Discussants from Siliana and from the LGBTI focus groups believe that the right to inform one's family member of an arrest depends on the individual police officer.



"The law doesn't have any role, and it included contradictions. The text is (...) implying that the public prosecutor has to provide the order for keeping the person in detention for a certain amount of time. Then at the end (...), it says that there has to be some supervision by the public prosecutor or their assistants on-site, which cannot be done because they're not available 24/7. (...) The police officers are not getting the written order from the public prosecutor to keep the defendant. I believe that a police officer is an educated person and he knows how to read. It clearly states that the order has to be written. Unfortunately, policemen act as if the text doesn't exist and they just ask permission by phone! They're not following the law." – Male, Lawyer, Sousse

"It happened to me that they [the police] wrote down something that has not been said by my client right in front of me. (...) It was a fatal car accident case, and my client said that he didn't drive to the right side of the road, but [that] the road [got] tighter and tighter until he found himself pushed [to] the right side! The police officer wrote down that he suddenly shifted and drove on the right side of the road. I told the officer that he didn't say that (...). He [the officer] told me: 'No, yesterday when you were not here he said that he drove to the right side of the road.' I told him to write down what he has heard in my presence and then the court will decide. He just refused." – Female, Lawyer, Sousse

"(...) Of course, they [the police] deny that they hit the prisoner or the detainee. After all, you're [the lawyer] going to stay there for a little while and then you are leaving. You are going home, and they are not. As soon as you leave they'll beat them up. When you ask about that they tell you, 'No, as soon as you left they started being agitated and they hit their head on the wall.' The problem is that we have [many] police officers [who] have zero training on the law. Zero. And the young people who join the police department they are not well educated but they are practicing by observation." – Male, Lawyer, Sousse

The group of lawyers said that sometimes this notification takes place after the investigation concludes and that officers will write in the police report that the detainee declined to inform family members sooner.

Participants across all focus groups stated that the right to a medical examination while in custody is often violated. When asked which right is the most difficult to obtain – the medical exam, the lawyer or a 24-hour detention period – all discussants from the PWDs focus group responded, "The medical exam!"

III. Implementation of the Code of Criminal Procedure

Finding 6: Participants believe that the CCP is unequally applied and that wealthy and well-connected individuals receive privileged treatment from the police.

Focus group discussants reported that the CCP is applied unequally. Generally, participants believe that wealthy and well-connected individuals receive privileged treatment in situations involving the police. This privileged treatment fed into discussants' perceptions of corruption within the police force, which contribute to public mistrust of the police.



"The laws are not being applied the same way on someone who has money, and on someone who is poor. When poor people are victims of injustice, they don't have the means to get a lawyer. The government won't help them. But rich people with power always get away with things." – Male, Group A, Sousse

"The law is being applied depending on the social status of the person being arrested. I have never been in a similar situation, but my good friend was arrested with 10 grams of cocaine. He is from a very wealthy family. They just arrested him for three days and let him go." – Male, Group A, Sousse

"This is the mentality. It [is] everywhere, hospitals, municipalities, prisons. It's all about who you are and who you know." – Female, Women's Group, Tunis

Focus group discussants also feel that the law is applied unevenly across regions due to a combination of lack of security, including police, oversight or accountability of police officers, and the availability of lawyers. Participants outside of Tunis cited examples of policemen lacking basic supplies, including having to borrow pens from lawyers to write detention reports, and of police departments needing to borrow patrol cars from other municipalities because of shortages. One discussant in the Women's group, however, argued that implementation of the CCP was worse in the capital.

Participants, however, disagreed about which groups are most at risk of having the rights violated by the police. For example, the Lawyers' focus group argued that the rights of the LGBTI community are respected due to international support. According to some lawyers, "the [LGBTI] community [is] well protected and have people backing them up" and "are fine" when asked if they are more at risk of CCP violations. By contrast, discussants in the LGBTI focus group insisted that this is not the case and that they are specifically targeted by the police.



"The LGBT community is excessively targeted. When police officers see a group of people, they don't really focus on them. But if it's an LGBT group, there is a lot of focus on them." – Female, LGBTI Individual, Sousse

One male discussant from Group B shared his belief that women receive more favorable treatment in detention compared to men. In contrast, female participants offered various examples of violations by the police and lamented that "there is no [respect] for women in police stations."

Although often considered to be a group most vulnerable to violations of their rights, PWDs respondents disagreed with this assumption because, in their view, so few in their community have contact with the police.



"In Tunisia, individuals with disability don't have much contact with the judicial system. In general, the social perception is that people feel bad or sorry for them, so that's why they don't get to deal with a lot of things. For example, if someone with disabilities makes a mistake, they [the police] will just say, 'That's fine, that's okay, just let them go.'" – Female, Person with Disabilities, Sousse

Finding 7: Discussants consider the police to be primarily responsible for violations of the CCP, in part due to a lack of proper training. They also blame judges and the attorney general for the failure to ensure compliance and proper application of the law.

When asked to identify reasons for CCP violations, some focus group discussants said that police officers, as primary implementers of the CCP, were unfamiliar with its provisions. This sentiment was more prevalent in the Lawyers' group, whose discussants shared several examples of police officers blatantly violating the law due to their lack of knowledge.

One participant from the LGBTI group said that police officers are not always familiar with the law and sometimes do not know the reason for arresting someone, while another argued that police officers are well-trained but do not follow their training once they start their jobs.

Echoing this sentiment, some participants also suggested a level of corruption within the police adding to mistrust of the police. This was echoed within all groups with several examples given of policemen abusing detainees when lawyers were

not present. Other groups expressed mistrust of judicial procedures and implementers, such as judges.



"I think we gave the police officers the power and the means to misuse the law. There is a common unhealthy relationship between citizen[s] and police officers because they consider each other to be enemies. Police officers are always humiliating people. They need to understand that as a citizen I am paying my taxes and I need to be respected the same way I am respecting the officer." – Female, LGBTI Individual, Sousse

"The major problem in my view is mistrust in the procedures. We don't really trust those who apply the law, because they are misusing it." – Male, Group A, Sousse

"The judiciary is an accomplice with the abuses." – Male, Lawyer, Sousse

Recommendations

The following recommendations aim to raise public awareness of the CCP and Law No. 5, improve the application of the law by addressing identified gaps in implementation, and build trust between citizens and different justice sector stakeholders. The authors encourage lawmakers and judicial authorities in Tunisia to consider taking these steps:

Recommendation 1: Develop national and local public information campaigns involving government ministries, the judiciary, the Tunisian Bar Association, media, police and local authorities.

Recommendation 2: Support civil society-led education initiatives that bring together trained lawyers and law enforcement to improve public understanding and awareness of the revised criminal code, including information about the rights of individuals held in police custody.

Recommendation 3: Develop and disseminate national public service announcements on television, radio and social media platforms to educate citizens about their rights under the CCP.

Recommendation 4: Provide criminal justice officials – including police, lawyers, prosecutors, and judges – with training on the provisions of the CCP and citizens' rights therein.

Recommendation 5: Provide police stations with material that outlines the law in Arabic, graphics for illiterate citizens and braille for blind citizens, as well as the contact information for the Tunisian Bar Association, which is required to provide detainees with free legal counsel if they do not have a lawyer.

Recommendation 6: Coordinate education outreach in high schools and collaborate on a legal awareness curriculum to ensure that youth are aware of their rights through partnerships between the Ministry of Education, legal professionals, law enforcement and schools.

Recommendation 7: Create opportunities for public trust-building among citizens, security forces and criminal justice officials by holding town halls, providing information booths at public markets and fairs and having municipal and regional authorities collaborate with local police.

Recommendation 8: Establish a community liaison office within police stations to promote positive engagement between the public and law enforcement officials.

Recommendation 9: Support ongoing criminal reform initiatives, including the Criminal Law Working Group,¹³ to enable justice sector stakeholders to identify and address weaknesses in the CCP.

¹³ The Criminal Law Working Group was established in 2014 to assess the entire CCP and identify gaps and weaknesses in the law. It is composed of lawyers, judges, prosecutors and civil society organizations, and on October 10, 2018, presented recommendations for reform to the Ministry of Justice.

Appendix

Focus Group Discussion Guide

I. Introduction

II. Warm-up and Awareness/Understanding of CCP

1. What is the most important issue facing the country these days?
2. Have you heard about the CCP prior to this discussion?
3. As a member of [group], what does the CCP mean for you? Has it already impacted your life/profession? If so, how? Do you think it will have an impact on your life/profession in the future? If so, how?
4. For the purpose of today's discussion, it would be helpful if we all had the same understanding of the CCP, which shall be ...

III. CCP Violations

1. Have you observed — either directly or heard about — any changes in the treatment of detainees and prisoners since the revised CCP passed in 2016? Please give me examples.
2. Have you observed — either directly or heard about — any violations of the revised CCP? Please give me some examples.
3. Let's look specifically at the right to get a lawyer from the onset of detention. Have you observed — either directly or heard about — any violations of this provision?
4. Let's look specifically at the *reduced pre-charge detention period to 24 or 48 hours*, depending on the nature of the offense. Have you observed — either directly or heard about — any violations of this provision?
5. Let's look specifically at the right to a *medical examination if requested*. Have you observed — either directly or heard about — any violations of this provision?
6. Let's look specifically at the right to *inform a family member about their arrest*. Have you observed — either directly or heard about — any violations of this provision?
7. Let's look specifically at the provision that the *police inform the National Bar Association if a detainee does not have a lawyer*, so that the National Bar Association can assign a lawyer from a pro bono list. Have you observed — either directly or heard about — any violations of this provision?
8. Of all the provisions we have just discussed, which ones are the most commonly violated?
 - a. Why do you think they are violated? Because of a lack of awareness of the police, or because the police do not agree with them, or because they are difficult to actually implement logistically, or for another reason?

IV. CCP Implementation

1. Is the CCP being implemented the same way across Tunisia?

2. **Ask only of CSOs:** From your perspective as a member of a CSO whose work is affected by the CCP, what do you perceive as the biggest challenges to the CCP implementation? And how would you recommend overcoming them?
 3. **Ask only of lawyers:** From your perspective as a lawyer, what do you perceive as the biggest challenges to the CCP implementation? And how would you recommend overcoming them?
 4. **Ask only of judiciary police:** From your perspective as a member of the judiciary police, what do you perceive as the biggest challenges to the CCP implementation? And how would you recommend overcoming them?
 5. Have you come across any groups or individuals who champion the implementation of the CCP? Who are they?
 6. Have you come across any groups or individuals who obstruct the implementation of the CCP? Who are they? Why do you think they obstruct the CCP implementation?
 7. I am interested in hearing your ideas about what could be done to implement the CCP more consistently. [**MODERATOR:** allow for open discussion first, then probe for]
 8. If someone tried to reach out specifically to ... [**MODERATOR:** use name of the group, e.g. youth, PWDs] about more consistent implementation of the CCP, what should they say?
 9. We have just discussed multiple possible ideas on what could be done to implement the CCP more consistently. If you had to pick just one idea among them, which one do you think would have the biggest impact? Why?
- V. Wrap-Up.

