

# Women in Prison: Tunisia

Analysis from the National Preventive  
Mechanism

| September 2024



# Tunisia



UNCAT ratification  
23 September 1988

OPCAT ratification  
29 June 2011

National Preventive Mechanism (NPM)

## National Authority for the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (INPT)

NPM legal framework  
Organic law no. 2013-43 on the National Authority for the Prevention of Torture (21 October 2013)

NPM operationalisation  
As of May 2016

NPM structure  
Independent specialised body

NPM composition  
32 people:  
-Members: 16 (8 women)  
-Staff: 20 (11 women)

## I. Facts and Figures

Prison population	Women in prison: Characteristics	Prisons for women
Total prison population <b>32,000</b>	Foreign women <b>56</b>	Number of facilities for women <b>8</b>
Women in prison <b>998 (3.2%)</b>	Pregnant women <b>6</b>	Number of facilities exclusively for women <sup>1</sup> <b>1</b>
Women sentenced <b>33.19%</b>	Women with children in prison <b>16</b>	Number of mixed facilities with special units for women <b>7</b>
Women in pre-trial detention <b>66.81%</b>	Women with HIV <b>6</b>	
	Women with hepatitis C <b>13</b>	
Source: INPT, January 2024	Source: INPT, October 2023 <sup>2</sup>	Source: INPT, January 2024

<sup>1</sup> Mannouba Prison. The maximum theoretical capacity of the women's facility alone is 460 detainees. However, during its visit on 24 October 2023, the INPT found that it was holding 571 people at the time of the visit, i.e. 24% more detainees than its maximum capacity.

<sup>2</sup> Information relating solely to Mannouba prison, collected by the INPT during its visit on 24 October 2023.

## II. Recommendations

### Access to healthcare

- + Increase the number of medical and paramedical staff that treat women detainees.

### Mental health

- + Implement a strategy to protect the mental health of women in detention.

### Sanitary facilities and personal hygiene

- + Consider the specific needs of women in detention, especially with regard to the supply of personal hygiene products and clothing, as well as medical products.

### Alternatives to detention

- + Encourage the use of non-custodial sentences.

## III. Detention Issues

### Body searches

#### a. Legal and regulatory framework

Article 16 of law no. 2001-52 of 14 May 2001, relating to the organisation of prisons in Tunisia, stipulates the principle that "detainees shall be subjected to strip searches periodically and whenever deemed necessary, both at night and during the day." As a result, the legislator has given the prison administration complete latitude in the use it can make of this control measure, with no framework of any kind intended to limit the circumstances as much as possible in which a personal search can be ordered or to determine the procedures for its implementation, in particular its nature and frequency.

In this context, note no. 58 issued by the DGPR (the Tunisian prison administration) on 23 August 2019 provides all the useful and necessary clarifications. However, this is not the case with regard to the identified need to determine the nature of the searches that are authorised depending on the circumstances. In fact, by using the generic expression "search" without any other distinguishing details, the note has the same shortcomings as Law no. 2001-52 of 14 May 2001. However, in the principles set out in the preamble to the memorandum it should be noted, namely that any search of a detainee must be conducted "in conditions that preserve human dignity and physical integrity"; that it can only be conducted by staff who have received specific training and are of the same sex as the person concerned; and that it is implicitly forbidden to involve fellow detainees in this procedure in any way.

In addition, it is important to emphasise that note no. 58 of 23 August 2019 usefully determines, read in a limiting way, the situations in which a search should systematically be conducted. Therefore, all detainees are required to undergo a personal strip search when they are incarcerated. The same applies afterwards, when leaving the prison temporarily (for court hearings, appointments with the criminal records department or investigative services, hospital treatment, authorised visits to seriously ill relatives, authorised attendance at funerals and, more generally, during any activity outside the prison), or during any transfer from one prison to another.

In concrete terms, the search must take place before leaving the facility and must be repeated,



depending on the case, either upon return to the facilities or upon arrival at the new facilities. Personal searches should also be conducted systematically within the facilities itself, both when a detainee moves around the premises (particularly for those assigned to a job) and when a detainee changes rooms.

#### b. In practice

While this set of regulations has the major advantage of precisely determining the situations in which a personal search should be systematically conducted by prison staff, it has to be said that, on the one hand, the situations provided for are very numerous and, on the other, that recourse to this measure is neither individualised nor detailed, contrary to the requirements set out in the international standards.

In this regard, memorandum no. 58 of 23 August 2019 affirms the obligation for all detainees to undergo a strip search before and after each visit. Having determined the situations in which a personal search should be conducted systematically, the aforementioned memorandum does not exclude the possibility that some searches, without being systematic, may be decided on an exceptional or more regular basis with regard to a detainee or a group of detainees, in situations other than those covered by the note.

The detention authorities keep records of the detainees' possessions that are seized upon their entry to prison. They report difficulties in managing the detainees' possessions that are seized upon entry due to a lack of storage space.

The frisk search is the most common type of search in Tunisian prisons. It is used extremely frequently. It should be noted that Note No. 58 of 23 August 2019 authorises the use of strip searches only in cases of extreme necessity. During a strip search, the person concerned is required to undress completely while keeping their underwear on to cover their private parts. The strip search must take place in a dedicated area, so that the person being strip-searched is shielded from the view of other detainees and the staff. The memorandum also specifies that all strip searches have to be conducted under the supervision of a prison security officer. Note no. 58 of 23 August 2019 explicitly prohibits naked strip-searches in Tunisian prisons.

#### c. Intimate searches

An intimate search or "cavity search" is a completely different kind of search from any of the others mentioned above, since it involves an internal bodily investigation that is inherently intrusive. Note no. 58 of 23 August 2019 explicitly prohibits such searches. On the other hand, it establishes that, in the event that there is "evidence" to suggest that the detainee is attempting to conceal prohibited objects or substances in their intimate organs, the person concerned must undergo an X-ray examination (or be examined using other similar equipment available to the administration) within the prison or, failing that, be transferred immediately to the hospital (after taking all the necessary safety precautions).

#### d. Searches on women visiting family members in prison

When visiting a detainee, all persons - family members, the detainee's lawyer, etc. - must undergo a series of security checks. Article 33 of Law no. 2001-52 of 14 May 2001 stipulates that family members who are allowed to visit their incarcerated relative must be searched. Since family visits take place in a visiting room with a separation system, members of a detainee's family are not required to undergo a personal search in Tunisian prisons. However, they are required to pass through a security portal and/or submit to a metal detector. In addition to this security measure, a number of control measures are in place.

### Solitary confinement, isolation

In the only prison dedicated exclusively to women in Tunisia, the rooms designated for solitary confinement are not used for this purpose, but rather to store their possessions. The prison

management feels that the specific characteristics of women do not justify the use of solitary confinement as a means of punishment. Instead, it uses a progressive approach to punishing women in detention. It should also be noted that there are only two disciplinary isolation cells in Mannouba prison.

Solitary confinement is not used in practice for girls, pregnant women, breastfeeding women, women detained with young children and women with psychosocial disabilities.<sup>3</sup>

The only situations in which solitary confinement is used in Tunisia's women-only prison are for health reasons. For example, when a woman is suffering from a contagious disease that poses a risk to others, she is placed in solitary confinement for a period of time determined by the attending physician. During its visit to Mannouba prison on 23 October 2023, the INPT was able to observe three women placed in sanitary isolation on doctor's orders due to a transmissible skin disease.

There is also an area for detainees classified as "dangerous" or in "security isolation". At the time of the INPT's visit, this area consisted of four cells that housed 29 detainees.

### Use of means of restraint

Means of physical restraint are used when detainees are moving around outside the prison. The INPT did not observe any restraint beds during its visit to the facility. Nor did the INPT find any evidence of the use of medical sedation in prison.

### Access to mental health care

The initial medical examination when a woman is first admitted to prison does not include the identification of mental health needs, including post-traumatic stress disorder and the risk of suicide and self-harm, despite the fact that the psychologist from the centre specialising in women detainees in Tunisia attends the entry visit with the doctor. However, opening a file and psychological monitoring are reserved for women detainees involved in cases that the psychologist at the prison considers to be serious.

There is no system for regular assessment of women's mental health care needs. In addition, women detainees do not receive mental health support and treatment.

Some prison staff were able to take a training course in cognitive and behavioural therapies. It should be noted that the INPT does not have a detailed inventory of all the training provided to staff. However, the information gathered during interviews with staff working at the prison led to the conclusion that the training provided to staff working in the women-only prison and the women's units does not include a gender perspective in order to be able to identify cases where women may be experiencing particular distress, to respond to women's needs and to refer them to specialist support.

### Access to healthcare

The list of medicines available in the prison nomenclature does not include certain necessary medicines, particularly those prescribed for women, such as vaginal ovules prescribed for genital infections for women in detention, which means that the administration has to purchase these products from the budget allocated to the social security fund.

### Contact with the outside world

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<sup>3</sup> The Tunisian prison administration's desire to draw inspiration from international standards in this respect is reflected in administrative note no. 61 of 26 August 2019. Pregnant or breastfeeding detainees are no longer subject to the punishment of being placed in a confinement cell. Any disciplinary committee is therefore prohibited from imposing such a sanction on a woman detainee in one of the two specific situations referred to. It should nevertheless be emphasised that full compliance with international standards requires the CGPR to take the same initiative with regard to incarcerated women who are keeping a young child with them.

The Law of 14 May 2001 says nothing about the possibility of a detainee and their spouse having a visit that allows them to meet in private, whether these visits take the form of "conjugal visits" (in the terminology of the Nelson Mandela Rules) or "long-term visits" (in the terminology of the European Prison Rules). According to international standards, not only should such visits not be excluded, but should be allowed in order to allow the persons concerned to have an intimate relationship.

Clearly, it cannot be deduced from the absence of any mention of it in the national law that intimate relations between spouses are not allowed. However, it has to be said that it is not explicitly authorised under prison law. This means that those concerned must either run the risk of being caught in the act and punished accordingly, or abstain from all sexual activity during the entire period of detention. It is important to remember that no legislative text states that the prison sentence or placement in pre-trial detention should have the effect of depriving the incarcerated person, let alone their spouse, of a normal sex life.

#### The possibility of getting married in prison

Apart from the fact that Law no. 2001-52 of 14 May 2001 does not say anything about it, there is no procedure for getting married in prison. However, in practice, a detainee has the right to marry, but without the possibility of "consummating" the marriage in prison. The request must be made to the prison administration or the Public Prosecutor (depending on the status of the person concerned, whether the detainee is convicted or in pre-trial detention), who may authorise the celebration of the marriage in the prison to which the civil registrar will have to travel. The detainee's spouse and witnesses must be granted permission to visit the prison.

#### Sanitary facilities and personal hygiene

Certain personal hygiene products are not issued systematically and require a doctor's prescription to justify the purchase. For example, a depilatory cream requires a medical prescription in accordance with prison regulations.

## IV. Women in Special Situations of Vulnerability

### Pregnant women, breastfeeding mothers and women with children in prison

Law no. 2001-52 of 14 May 2001 stipulates that "pregnant detainees shall benefit from prenatal and postnatal medical assistance", that "the necessary steps shall be taken to ensure that children are born in hospitals outside of the prisons" and that for children born in prison "it is strictly forbidden to mention their place of birth in civil status registers, extracts and copies thereof" (art. 8).

Law no. 2008-58 of 4 August 2008 inserted a useful article into the 2001 law stating that "pregnant or breast-feeding women detainees, during the period of pregnancy and breast-feeding, are incarcerated in an appropriate space built for this purpose, which offers medical, psychological and social assistance to the mother and child", adding that "the aforementioned space is guarded by female guards in civilian clothing" (art. 7 bis). This insertion was accompanied by an amendment to article 9 of the 2001 Law regarding the conditions of care for children born in prison, which now states that "children accompanying their mother, during their incarceration in the appropriate pavilion referred to in article 7 bis of this Law, are allowed to remain there until they are one year old, this period may be extended for a period of no more than one year, in which the best interests of the child are taken into

consideration." However, it should be specified, on the one hand, that "children born in prison" are "subject to the same regime" and, on the other hand, that "the local competent Family Court rules, at the mother's request, on cases of extension." In any event, "on expiry of the period of admission of the child with its detained mother, the child shall be entrusted to its father or to a person chosen by the mother, failing which the prison administration shall inform the judge responsible for the enforcement of sentences, who shall refer the matter to the Family Court with local jurisdiction so as to order the appropriate measures with regard to the child" (art. 9 new).

It is worth noting the change brought about by the 2008 law concerning the maximum age at which a child may remain with its incarcerated mother. By setting the maximum age at two years old, the legislator took a step back from the previous provisions set out in decree no. 88-1876 of 4 November 1988 on the special regulations for prisons. Article 9 of that decree provided that "children accompanying their mothers on admission to prison" could "be accepted and remain there until they reach the age of three." This was also the case "for pregnant detainees who give birth in prison." This period could "be extended at the request of the mother and with the agreement" of the prison administration.

The development of appropriate spaces in the Mannouba, Sousse-Mesaadine, Sfax and Harboub prisons reflects the implementation of these provisions.

## V. Alternatives to detention

Certain non-custodial sentences have been imposed on women, such as suspended or deferred sentences. However, community service and community treatment sentences are not applied to women in Tunisia on the pretext of gender specificities.

The Ministry of Justice has announced plans to use electronic bracelets for probation. However, this project has not yet been implemented.

This report is part of the NPM's global report on women in prison.

The full report is available here: [www.apr.ch/global-report/](http://www.apr.ch/global-report/)