

Tunisia

National Child Protection Legislation

National Legislation

- Age of Child – **Under 18 years old**
[Code for the Protection of Children](#)
Art. 3
A child, for the purposes of this Code, is any human person under the age of eighteen and who has not yet reached the age of majority by special provisions.

[Code of Personal Status](#)
Art. 153
Is considered prohibited for a minority, one who did not reach the majority of twenty years old.
- Age of Consent – **13 years old**
Art. 227
[Penal Code](#)
Is punishable by death:
 1. The crime of rape committed with violence, use or threat of the use of a weapon.
 2. The crime of rape committed even without the use of the aforementioned means on a person less than 10 years of age.Is punished with life imprisonment, the crime of rape committed outside of previous cases. The consent is considered as non-existent when the age of the victim is below thirteen years.
- Age of Marriage – **18 years old**
[Code of Personal Status](#)
Art. 5
The two future spouses must not be in one of the cases of impediments by the law. Moreover, each of the two future spouses who have not reached the age of eighteen cannot contract marriage. Below this age, marriage can only be contracted by virtue of a special authorization of the judge who will only grant it for serious reasons and when the two future spouses agree.
- Age of Criminal Responsibility – **13 years old**
[Penal Code](#)
Art. 43
The criminal law is applicable to older offenders of more than thirteen years of age and less than eighteen years of age. However, when the penalty is the death penalty or life imprisonment, it is replaced by a term of imprisonment of ten years.

[Code of Personal Status](#)
Art. 156
A child who has not reached the age of thirteen is considered to be deprived of discernment and all his acts are void. A child who has passed the age of thirteen is considered to be discerning. His acts will be valid, if they give him only advantages, and null if they carry him only prejudices. Their validity will be, outside these two cases, subject to the agreement of the guardian.

- **Extraterritoriality**

[Code of Criminal Procedure](#)

Art. 307

Any foreigner who, outside the territory of the Republic, is guilty as author, or as an accomplice, of a crime or offense punishable by the security of the State or of forgery of the seal of the State or of national currencies, may be pursued and tried according to the provisions of Tunisian laws if he is arrested in Tunisia or if the government gets his extradition.

Art. 307 bis

Anyone who is outside Tunisian territory, is guilty as principal author, or as an accomplice of a crime can be prosecuted and tried when the victim is of Tunisian nationality. Prosecution can only be initiated at the request of the public prosecutor, on complaint by the injured party or his heirs. No prosecution may be brought if the accused reports the evidence that he was finally tried abroad, and in the case of a sentence, that the sentence has been performed, that it is affected by the extinctive prescription, or that it has benefited from a measure of thanks or amnesty.

Art. 308

Unless otherwise provided in the Treaties, the conditions, the procedure and the effects of extradition are governed by this chapter.

Art. 309

No one may be delivered to a foreign state, nor prosecuted or convicted for an offense under this chapter.

Art. 310

The government can deliver, at their request, to the governments of foreign countries, any non-Tunisian person who, pursuing intentional prosecution on behalf of the State, a sentence imposed by the courts of that State, is found on the territory of the Republic of Tunisia. However, extradition shall only be granted if the offense for which the request was made has been committed:

- either in the territory of the requesting State by a subject of that State or by a foreigner,
- outside its territory by a subject of that State,
- outside his territory by a foreigner to that State, where the offense is any of those of which Tunisian law allows the prosecution in Tunisia, even though they were committed by a stranger abroad.

Art. 311

Extradition is granted:

1. When the offense motivating the request is punishable by Tunisian law with a criminal or correctional penalty.
2. Where the punishment under the law of the requesting State is a penalty of deprivation of liberty for six months or more for all offenses under the subject of the application.

-In the event of conviction, the sentence pronounced by the court of the requesting State must be a custodial sentence of two months or more.

-The acts constituting an attempt or complicity are subject to the preceding rules, provided that they are punishable under the law of the requesting State and according to Tunisian law.

Art. 314

If for a single offense extradition is requested concurrently by several States, it is preferably granted to the State against whose interests the offense was directed, or on whose territory it was committed. If the competing claims are caused by different offenses, it is taken into account, to decide on the priority of all circumstances of fact, and in particular, the gravity, the location of the infringements and the respective date of the requests.

Art. 315

In the case of a foreigner being prosecuted or sentenced in Tunisia, and where his extradition is requested from the Tunisian Government on the basis of a different offense, the surrender is carried out only after the prosecution is over, and in case of conviction, after the sentence has been executed. However, this provision does not prevent the foreigner from being sent temporarily to appear before the courts of the requesting State, subject to the express condition that he will be dismissed as soon as the foreign justice has ruled.

- **Dual Criminality**

[Code of Criminal Procedure](#)

Art. 305

Any Tunisian citizen who, outside the territory of the Republic, is guilty of crime or an offense punishable by Tunisian law, may be prosecuted and tried by the courts unless it is recognized that the foreign law does not punish the said offense or that the defendant justifies that he has been definitely tried abroad and, in the event of conviction, that he has suffered or prescribed his punishment or obtained his pardon.

Art. 306

No lawsuit may be brought against a foreigner for a crime or misdemeanor committed in territory of the Republic if the defendant justifies that he has been finally tried abroad and, in conviction, that he has suffered or prescribed his sentence or obtained his pardon.

- **Mandatory reporting requirements**

[Code for the Protection of Children](#)

Art. 31

Everyone, including the person who is bound by professional secrecy, is subject to the duty to report to the child protection officer everything that is of a nature to constitute a threat to the health of the child, or to his physical or moral integrity within the meaning of paragraphs (d) and (e) of Article 20 of this Code. Anyone can report to the Child Protection Commissioner anything that appears to threaten the health of the child or his physical or mental integrity within the meaning of the other paragraphs of Article 20 of this Code. The child protection officer is obliged to be notified of all difficult situations provided for in Article 20 of this Code if the person who knows of the existence of this situation is one of the persons in charge of their functions, the protection and assistance of children, such as educators, doctors, social workers and any other persons charged with particularly, the prevention and protection of the child against all acts that threaten his health and his physical and moral integrity.

Art. 31

Every person of full age is obliged to help every child who comes forth to inform the child protection delegate of the existence a difficult situation that threatens the child, or one of his brothers, or any other child within the meaning of Article 20 of this Code.

Art. 33

No one can be sued in court for having performed in good faith the reporting obligation provided for in the preceding provisions.

Art. 34

It is forbidden for any person to divulge the identity of the person who has performed the reporting duty, except with his consent or in the cases provided for by law.

Art. 36

The child protection officer has the status of police officer within the framework of the application of the provisions of this Code.

Art. 37

Agents from different administrations and public and private institutions and all caregivers are not bound by secrecy with regard to the child protection delegate in helping to achieve fulfillment of his mission and the need for information that is required.

▪ **Obligations of Educational Institutions**

[Code for the Protection of Children](#)

Art. 22

Is considered to be a situation requiring intervention, the vagrancy of the child who remains without follow-up or training, due to the refusal of the one who is in charge of his education, or of his custody, entrusting him to a school, in implementation of the provisions of the Education System Act.

Art. 23

Is considered to be a known breach of education and protection, the habit of leaving the child without control or follow-up and the waiver of the counselor to guide him, or to watch over his situation.

▪ **Prohibition to hold certain positions**

No information found.

▪ **Employment Law**

No information found.

▪ **Criminal Law - Defamation**

[Penal Code](#)

Art. 226 quater

If an order of non-suit or judgment of acquittal is rendered, the person against whom the complaint has been lodged may claim, if necessary, the compensation for the damage suffered without prejudice to the criminal prosecution of the false accusation.

Art. 245

There is defamation in any allegation or public imputation of a fact which affects the honor or the consideration of any person or constituted body. Proof of the defamatory fact may be established in the cases provided for in article 57 of the press code.

Art. 246

There is slander:

1. When the defamatory fact has been judicially declared non-established
2. When the accused cannot provide proof of the said fact in the case where the law so authorizes.

The slander is punishable even if the postings have been made in writing, not made public, but addressed or communicated to two or more persons.

Art. 247

Is punished by six months of imprisonment and two hundred forty dinars of fine, anyone, who is guilty of defamation.

Is punishable by one year of imprisonment and two hundred forty dinars of fine, anyone, who is guilty of slander.

Art. 248

Is punishable by two to five years of imprisonment and seven hundred and twenty dinars of fine, anyone whoever shall by any means make a slanderous denunciation against one or more persons to an authority, administrative or judicial, having the power to act upon it or to seize the competent authority, or to the hierarchical superiors or to the employers of the person denounced.

The court may, in addition, order the full insertion or extracts of the judgment in one or more newspapers at the expense of the convict.

If the act complained of is liable to a penal or disciplinary penalty, the proceedings may be instituted under the present article, or after classification of the denunciation by the magistrate, civil servant, authority concerned, or employer authorized to assess the further action to be taken against the denunciation.

The court seised under this article is obliged to stay the proceedings if proceedings against the facts are pending

Sexual Offenses Against Children

[Code for the Protection of Children](#)

Art. 2

this code guarantees the child the right to benefit from various preventive measures social, educational, health and other provisions and procedures to protect it from any form of violence or injury, or physical or mental impairment, or sexual or abandonment, or neglect that generate maltreatment or exploitation

Art. 20

Are considered, in particular, as difficult situations threatening health of the infant or his physical or moral integrity:

- a. The loss of the parents of the child who remains without family support.
- b. The child's expression of neglect and vagrancy.
- c. The known and continuing failure to provide education and protection.
- d. The habitual ill-treatment of the child.
- e. Sexual exploitation of the child, boy or girl.
- f. Exploitation of the child in organized crime within the meaning of article 19 of present code.

- g. The exposure of the child to begging and its economic exploitation.
- h. The inability of parents or carers to ensure protection and education.

Art. 24

The usual abuse means the child's submission to torture, repeated violations of his physical integrity, or his detention, or the habit of depriving of food, or committing any act of brutality that is likely to affect the emotional or psychological balance of the child.

Art. 25

It is sexual exploitation of the child whether boy or girl, his submission to acts of prostitution either for valuable consideration or free of charge, directly or indirectly.

[Penal Code](#)

Art. 224

Is punishable by five years and one hundred and twenty dinars fine, whoever habitually abuses a child or any other person of either sex, placed under his authority or supervision, without prejudice, where appropriate, more severe penalties provided for violence and assault.

Art. 226

Is punished by six months of imprisonment and forty-eight dinars fine, anyone who knowingly has been guilty of public indecency

Art. 226 bis

Is punished by six months of imprisonment and a fine of one thousand dinars whoever publicly commits an offense against morality or public morality by gesture or speech or intentionally embarrasses others in a manner that is offensive to modesty. Is liable to the same penalties provided for in the preceding paragraph, whoever publicly draws attention to an opportunity to commit debauchery by means of writings, recordings, audio or visual, electronic or optical messages

Art. 226 ter

Is punished by one year of imprisonment and a fine of three thousand dinars, one who commits sexual harassment. It is considered sexual harassment any persistence in the annoyance of others by the repetition of acts or words or gestures likely to undermine his or her modesty, and this, in order to bring to submit oneself to one's own sexual desires or to the sexual desires of others, or by exerting on him pressures of a nature to weaken his will to resist his desires. The penalty is doubled when the offense is committed against a child or other persons particularly exposed because of a mental or physical deficiency that prevents them from resisting the author of the harassment.

Art. 227

Is punishable by death:

1. The crime of rape committed with violence, use or threats of the use of a weapon,
2. the crime of rape committed even without the use of the aforementioned means on a person aged less than 10 years of age.

Is punished with life imprisonment, the crime of rape committed outside of previous cases. The consent is considered as non-existent when the age of the victim is below 13 years of age.

Art. 227 bis

Is punished by imprisonment for 6 years, which makes someone suffer without violence, the sexual act to a female child under the age of fifteen years of age. The punishment is five years of imprisonment if the age of the victim is greater than 15 and less than 20.

Attempt is punishable.

The marriage of the culprit with the victim in both cases provided for in this article shall stop the prosecution or the effects of the conviction

The proceedings or the effects of the sentence shall be resumed if, before the expiry of two years from the date of the consummation of the marriage, the marriage terminates by the divorce pronounced at the request of the husband, in accordance with article 31 of the Code of Personal Status.

Art. 228

Indecent assault committed on a person of one sex or the other without his consent is punished by imprisonment for six years. The penalty is increased to twelve years of imprisonment if the victim is under the age of 18 years.

The imprisonment will be for life if the indecent assault of supra has been committed by the use of a weapon, threat, sequestration or followed injury or mutilation or disfigurement or any other act of nature to put the life of the victim in danger.

Art. 228 bis

The indecent assault committed without violence on a child under the age of 18 years, is punished by up to 5 years of imprisonment.

Attempt is punishable.

Art. 229

The penalty doubles, if the people guilty of the offenses referred to in articles 227 bis, 228, 228 bis are of the ascendants of the victim, if they have in any way authority over the victim, if they are the victim's primary school teachers, and his servants, and his doctors, surgeons, dentists, or if the attack was committed with the assistance of several persons.

Art. 230

Sodomy, if it does not fit into any of the cases provided for in the preceding articles, is punished by imprisonment for three years.

Art. 232

Will be considered a pimp and punished by a term of imprisonment of one to three years and a fine of one hundred to five hundred dinars, whoever:

1. In any way, helps, protects or knowingly assists the prostitution of others or soliciting for prostitution;
2. In any form, shares the products of the prostitution of others or receives subsidies of a person engaged in prostitution;
3. Knowingly is living with a person who habitually engages in prostitution, and cannot justify sufficient resources to enable him to provide for his own existence alone;
4. Hires, trains or maintains, even with his consent, a person who is of legal age for the purpose of prostitution, or who delivers them to prostitution or to debauchery;
5. Serves as an intermediary, in any title, between persons engaged in prostitution or debauchery and the individuals who operate or pay for the prostitution or debauchery of others.

The attempt is punishable