

THE NATIONAL LEGAL AND REGULATORY SYSTEM AND TUNISIAN WOMEN ENTREPRENEURSHIP



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Abstract. Investing in women is one of the most effective ways to increase equality and promote inclusive and sustainable economic growth. The development of female entrepreneurship should be given special attention and it should constantly be developed. Based on a documentary study of available national and international information, reports, studies and statistics, this paper makes it possible to carry out a description of the Tunisian business environment in relation to the entrepreneurial activity of women and thus define the shortcomings to be improved which are mainly linked to national and local policies aimed at promoting female entrepreneurship and improvement of the business environment in favor of women.

Keywords: *female entrepreneurs, tunisia, policies, entrepreneurship, business environment*

Introduction

Many governments have now adopted policy goals to increase the number of female entrepreneurs, due to the economic growth potential that a higher level of entrepreneurial activity can bring. This is seen as a means of creating jobs, promoting growth, integrating women into the formal labor market, achieving greater social integration, and reducing poverty. For developing countries and especially in Tunisia, although entrepreneurship is not well developed, for several decades we have seen the proliferation of women entrepreneurs hoping to see their enterprises realized (Touzani, Jlassi, Maalaoui, & Bel Haj Hassine, 2015). In Tunisia, several studies have shown that a set of dysfunctions affect the place and role of women as an economically active actor. The difficulties linked to its economic development are certainly not recent, but they have acquired considerable importance, particularly following the political and socio-economic context (Touzani et al., 2015). The entrepreneurial ecosystem in Tunisia is rich, with many major players participating. But the complexity and fragmentation company incorporation procedures, bureaucracy, corruption, lack of transparency at the policies and practice level, lack of a strategic approach and a forward-looking vision for the future were the reasons for the slowdown. Creation of entrepreneurial economic activities with high added value, which led to a significant rise of 15.4% in the unemployment rate in 2020 (CEIC, 2020). Tunisia has a legal context that provides an empowering environment for women to participate in the economy, With necessities for equality of opportunity and non-discrimination between men and women in the Constitution and Labor Code, in actual fact, Tunisia experienced a significant rise in the female participation rate until 2000, it has since then stagnated at a relatively minimal level and was 24% in 2018 (ILO, 2019) The position of the Tunisian woman is paradoxical. On the one hand, women represent more than two-thirds of higher education graduates. On the other hand, women's participation in the labor force is only 26%, compared to 70% for men (Hussami, Ehlermann, & Koeppinghoff, 2016). Additionally, over the past six years, only 17 percent of the jobs created went to 561,000 jobs for women. Consequently, this does not make it possible to reduce female unemployment, which in 2016 reached about 22 percent (13 percent for men), and about 42 percent for higher education graduates (22 percent for men) (ILO, 2016). Women entrepreneurs face barriers and experience specific constraints when starting a business, such as low use of financial and business development services or bank credit products. Policies that are realistic and meet the specific needs of women entrepreneurs can effectively

contribute to equal opportunities when starting a business and maintaining a profitable activity (Slađana, Goran, & Ivković Dragan, 2012).

Research methodology. This article is based on a study and a review of the narrative literature, for a better understanding of the national legal and regulatory system and its impact on the entrepreneurship of Tunisian women, reviewed several studies and made a complete interpretation of the study based on researcher surveys, or in some references, there is another definition of the study of narrative literature; it helps to define and determine the profile of the Tunisian business environment in relation to the entrepreneurial activity of women, it is also useful to develop a theoretical or conceptual framework on the subject.

The national legal and regulatory system.

The gender sensitive legal and regulatory environment helps women obtain the same economic rights as men while allowing them to claim these rights. This work provides an assessment of the development of the legal and regulatory system that revolves around an evaluation based on business registration, regulations and licensing procedures; Property and inheritance rights; Equal access to the labor market for women and labor laws and regulations and their impact on women entrepreneurs. This environment also ensures that specific laws and regulations are in place in this regard and that women are not subjected to habitual practices that ignore their rights (Kuriyan, Ray, & Toyama, 2008).

1- Business registration: regulations and procedures for obtaining licenses

For obtaining the various operating licenses and authorizations required to start activities is a necessary aspect to be able to access credit institutions and foreign markets. Although, many studies indicate that complex administrative procedures and high registration costs are disincentives to formalizing the business (Klapper, Lewin, & Delgado, 2011). For Tunisia, it is revealed that women can register a business without being legally obliged to obtain permission from their husbands (APII, 2016). Due to the costs of taxes women entrepreneurs in the informal economy do not choose to register their structures. Indeed, being able to register a company without a husband's consent does not necessarily encourage women in this sector to register their activities (ILO, 2016).

Many stages are prearranged to acquire the company's legal identity, including registration in the commercial registry and publication in the Official Journal of the Republic of Tunisia (JORT). Women don't always know these several steps of the project idea when it is launched. They should go to the APII office to collect information about the mandatory administrative procedures and documents for registration, although some of this information is available online (ILO, 2016). Usually there is no specific treatment for women. The procedure depends only on the file prepared for the project as well as the completion of the administrative and legal procedures. Lack of knowledge of these procedures is an obstacle, in fact, the government does not make special efforts to advise women about registration procedures. Additionally, the different forms of business and the benefits of legal liability are not well understood. Also, there is a problem of corruption which hinders the proper conduct of these proceedings.

In fact, Tunisian law defines six hundred and sixty activities, three hundred and sixty of which are free and three hundred subjects to either licensing or specification. There is no discrimination between men and women in performing these activities. Women can obtain operating licenses for all types of businesses, including industries where men have traditionally been dominating (Tunisian Ministry of Development, 2020).

Given the importance of the rate of approval of credit applications as a curial indicator to evaluate the Entrepreneurship The report of the National Institute of Statistics illustrate shows that 17% are projects initiated by female promoters and 83% are initiated by male promoters. Besides, taking into account the cost of the investment, projects initiated by a woman cost on average 41% less than projects initiated by men as shown in the figure 1.

2- Property rights and Inheritance rights

Family, inheritance, divorce and other basic laws that reinforce social institutions will have an impact on women's property rights. Property rights are generally granted to individuals. But marriage systems, as the case in some countries, marriage systems allow husbands to virtually manage their wives' property in addition to the complementary system of marital society in place. Consequently, women do not have control over their property rights (World Bank, 2010). Therefore,

inheritance laws as well as customs and social norms define property rights between spouse (Diana Deere & Doss, 2008; ILO,2016).

In the past and in terms of inheritance, the Tunisian law does not assure women the same rights as men, and the fact that women are deprived of these rights was possible and acceptable until 1956. Indeed, the Personal Status Law article 3 mentions three cases of property inheritance to girls in Tunisia: "1) Half is allocated to the girl when she is Lonely; 2) Two thirds are allocated to girls when there are many (i.e. two or more); 3) When they are heirs to their brothers, the distribution is based on the principle that the male heir has a double share of what is attributed to the female (ILO,2016)." However, only a request entered in the will allows parents to grant an equal share to their daughters and sons. This Personal Status Code which after independence in 1956, prohibited forced marriage and polygamy and facilitated divorce. And it allows Tunisian women to work and open a bank account without the spouse's permission.

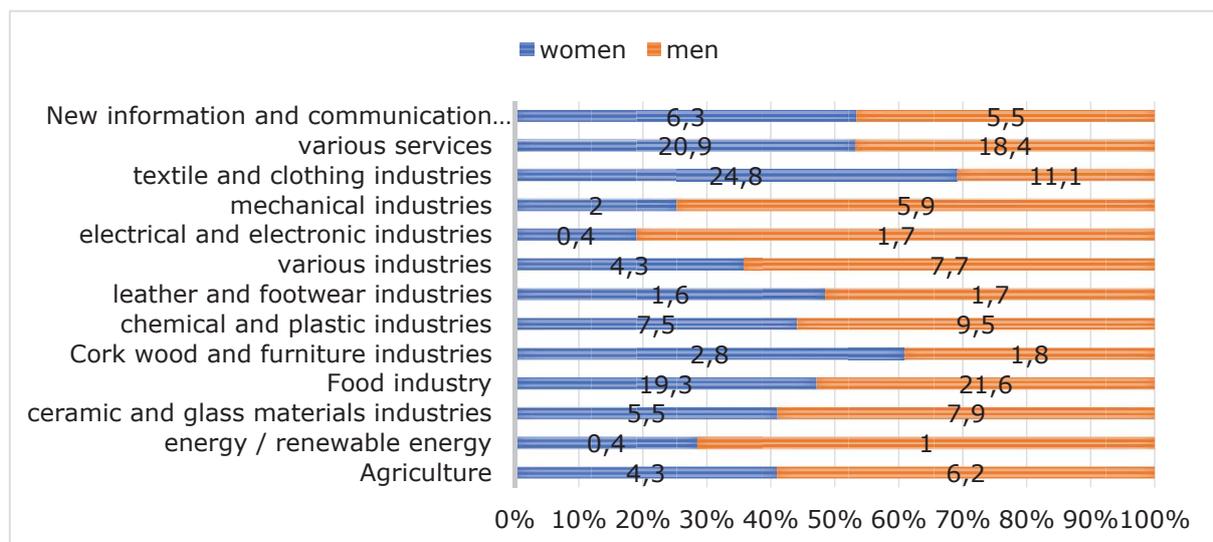


Figure 1. Approved project structures for women and men according to the sector of activity, Source: INS,2015.

The rule of inheritance has not changed, rather it was still considered based on the Qur'an. Until the past two years, there was a law project that was supposed to reform the distribution of inheritance between the sexes and was approved by the Council of Ministers (Gouëset, 2019). The current rule should be changed according to which men inherit twice as much as women. Equality is not complete: "The text states that a specific text of a will can makes it possible to return to the previous situation" (Gouëset, 2019). If this text is properly adopted, it will strengthen Tunisia's leadership position in terms of the status of women in the Arab world.

Tunisia has always positioned itself as a leading Arab country in protecting women's rights. However, some disparities still exist, particularly in terms of inheritance. The discrimination also limits women's participation in the economy.

Concerning the right of property, according to Tunisian Law number 98-94 of 9 November 1998, relating to the regime of the community of property between spouses, men and women have the same property rights (ownership right, mortgage, and sale). The legislation in force is applied in the same way, regardless of gender. In this context, the joint property system between spouses is a good example of the attention paid by the Tunisian legislation in achieving the equality between men and women (ONU Women, 2014).

3- Equal access to the labor market for Tunisian women

Under international conventions signed by Tunisia and the Labor Code, discrimination linked to different aspects of employment is banned. In fact, Labor laws and regulations Equal access to the labor market and the right to paid employment are essential for the economic empowerment of women.

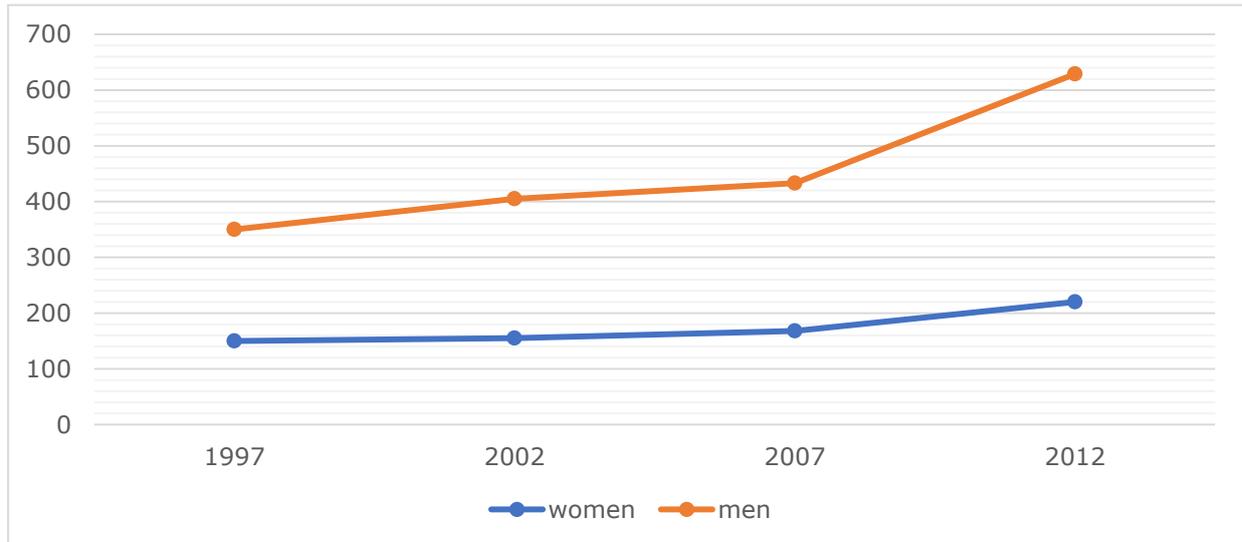


Figure 2. Change in average monthly salary by gender, Source: INS,2015.

They generally face many obstacles that prevent their access to the labor market and undermine their possibility to obtain paid employment and their mobility to access the best jobs, in areas with higher added value such as entrepreneurship (Kabeer, 2012; ILO,2016). Indeed, "laws require that women and men receive equal income for similar work": this equality is stipulated by the Tunisian Labor Code. Likewise, equality for both men and women in terms of recruitment and promotion in the public sector is guaranteed. Although the laws are generally equal, their application is not always guaranteed.

The following graph shows the evolution of the average monthly wage gap by gender (INS,2015), as reported in the 2015 Tunisian Statistical Institute National Report.

The average monthly salary gap between women and men is estimated at -35.5% in 2012 compared to -24.5% in 1997. - In April 2011, the total monthly salary in the private sector was estimated at 458.5 dinars for women and 614.8 dinars for men. Hence, the average wage gap between women and men is estimated at -25.4%. And if we take into account the average salary, the gap between women and men drops to -17%. Statistics Tunisia (ONU women; INS,2015).

Conclusions

This paper provides an overview of the entrepreneurial legislation implemented in the Tunisian economic atmosphere to support female entrepreneurship and reviews evidence on what serve the most in the promotion of women's entrepreneurship in the country. Tunisian policies continue to consider that women enjoy the same rights as men. As a result, national policies and strategies are gender neutral. In particular, there is no policy or institutions aimed at developing female entrepreneurship.

It is therefore necessary to define a national action plan to promote female entrepreneurship. Such an action plan will make it possible mainly to contribute in reducing regional disparities, through the development of projects owned by women in the regions, reduce the weight of the informal economy by training and raising the awareness of women newly launched into entrepreneurship and to contribute to reduce poverty and exclusion, through the promotion of income-generating activities and the inclusion of women from poor backgrounds in the economy.

To release the entrepreneurial potential of women in Tunisia, we must pay attention that after going through the evaluation of various features of literature have abstracted the entrepreneurial decision by labeling some determinants having a vital impact on the decision to create new business. These determinants are notably connected to the external and institutional environment in terms of policies, reforms, or geographical localization (rural or urban area.), we need to emphasis on the determining factors that might limit entrepreneurs in making their own choice.

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