

# Drug Policy in Tunisia: Towards an Evidence- based Human Rights and Public Health Approach

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# Drug Policy in Tunisia: Towards an Evidence-based Human Rights and Public Health Approach

*Dr. Najd Badri*

## SUMMARY

The drug control approach adopted in Tunisia was deployed in the context of punitive criminal justice claims at the expense of human rights and public health. Today however, drugs are even more accessible than in the past, and more people than ever are imprisoned for the production, trafficking, sale or use of drugs. In addition, a missing base of solid data, and a heterogeneous institutional policy design hinders the development of a coherent approach. As problems remain unresolved, there is a need to change the current domestic drug policy from the punitive criminal approach to the human rights and health approach. This shift in policy may offer a reasonable solution to win the „war against drugs“.

## DRUG ADDICTION IN TUNISIA: RESEARCH ON AN UNSOLID DATA BASE

Addiction and drugs are no longer a taboo in the Tunisian society and politics. This controversial subject is widely discussed in the media and in public. As such, the political scene had understood that the fight against drug addiction and drug trafficking require the intervention of a multitude of actors. Most prominently, President Beji Caid Essebsi some years ago spoke out in favor, for example, of revising the drug law which he considered „too repressive“ and responsible for „sacrificing the future of many young Tunisians“. However, the heterogeneous institutional design in this field of policy, in which the Ministries of Health, Justice and Interior play the major role, yet in an incoherent and uncoordinated manner, result, beyond others, in a missing base of solid data.

As a matter of fact, credible data on the issue can so far only be provided by a patchwork of official sources as well as unofficial ones, such as academic thesis or publications by the media, civil

society and international NGOs.<sup>1</sup> But in any case, a holistic view on the issue of drug addiction in Tunisia and the authority's counter-measures so far shows, as will be seen in the following, that an analysis of the available data proves the failure of the current policy.

Therefore, the following dimensions of the problem will be analyzed and discussed:

- The legal framework
- Prisoners / detentions
- Narcotic crimes
- Narcotics consumption
- Addiction, imprisonment and human rights

## Legal Framework

In Tunisia's recent past, the most intensely debated legal regulation on the issue of drug trafficking and abuse has been Law No. 92-52 on narcotics, simply called Law 52. This law has been considered by the different political parties and civil society organizations as a repressive law. Despite the different views regarding the potential solutions for this problem, different stakeholders agreed that there is a crucial need for legal and political change, as both the present policy and legal frame have made the situation worse. As will be seen further below, the number of drug crime's detainees is constantly increasing and the situation remains unresolved.

Facing this urgent need for change, the government approved a draft revision of the Law 52 and sent it to the Assembly of the Representatives of the People on 30 December 2015. This revision aimed to change the drug policy in Tunisia significantly. But only more than two years later, the parliamentary commission on general legislation began discussing the draft in January 2017.<sup>2</sup> The parliament consulted with experts, civil society and various ministries to formulate this bill.

During this process, however, this draft was reduced to the amendment of a single article which was finally adopted by the Assembly on 25 April 2017, with 133 of the 140 parliamentarians present voting in favor of its implementation.<sup>3</sup>

<sup>1</sup> This paper does not include all published scientific data. However, these data can give a clearer picture of the problem of addiction and the nature of this disease.

<sup>2</sup> Albawsala: Projet de loi organique N°79/2015 relatif aux stupéfiants.

<sup>3</sup> Albawsala: Séance plénière, 25 avril 2017. The Ministry of Jus-

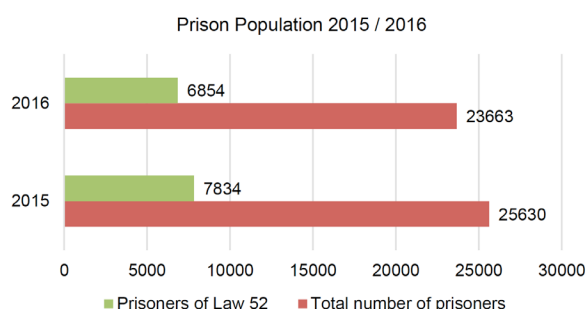
This amendment concerned article 12 of the law according to which judges now will be provided with a discretionary power to assess on a case-by-case basis the extenuating circumstances for each person accused of drugs production, trafficking or abuse, which was not the case before. In other words, a prisoner for the first consumption will no longer have a prison sentence. This is only valid for the first consumption.

The revision of Law 52 aimed to humanize the drug policy in Tunisia. It introduces a new chapter about prevention and treatment of addiction. Also, it provides a comprehensive solution after consulting different expert. However, the amendment of one article of the law 52 is nothing but a patchwork solution. It may provide a temporary solution but it cannot change the current policy and its negative consequences at the long run.

### Data on Prisoners / Detentions and on Narcotic Crimes

Recent statistics show the inefficiency of the reform of Law 52, and of the punitive criminal justice approach in Tunisia's drug policy adopted so far. To put it in provocative terms: As neither Law 52 nor its amendment has been able to reduce the number of drug prisoners or to prevent them from returning to their addiction of dealing or consumption, prison was never the solution.

According to official data provided by the Ministry of Justice in February 2017, the number of prisoners by Law 52 is 6854, a significant reduction in absolute terms compared to 2015. Yet, despite the fact that the total number of prisoners has decreased slightly, the percentage of prisoners of Law 52 remains unchanged (about 30% of the prison population). (Graph 1)



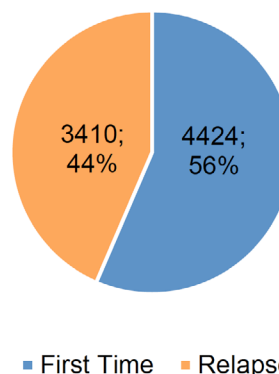
Source: Nawaat <sup>4</sup>

tice indicated that reducing the reform on a single article was a transitional measure pending a comprehensive review of the law. However, according to a deputy, the bill will not be discussed at parliament in the foreseeable future again.

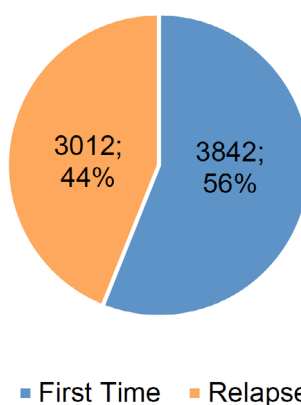
<sup>4</sup> Chennaoui, Prisonniers de la loi 52 : à qui profite le flou statistique?, Nawaat.org, 16 février 2017.

In addition to that, the number of prisoners accused for the first time remains relatively constant and the number of recidivists remains high (Graph 2a and 2b).

Prisoners of Law 52 (2015)



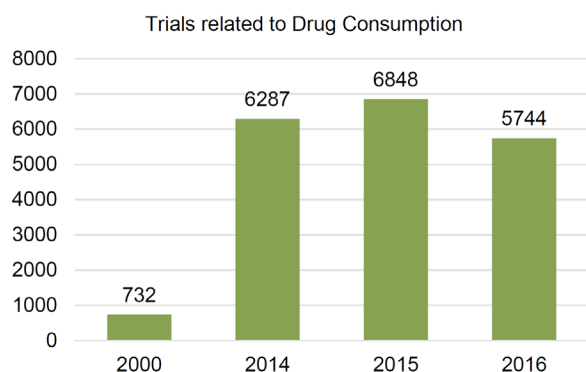
Prisoners of Law 52 (2016)



Source: Nawaat <sup>5</sup>

Moreover, according to the official statistics of the Ministry of the Interior, the number of narcotic crimes in terms of drug consumption, which means consumers standing trial, has been increasing continuously at least until 2015 (Graph 3).

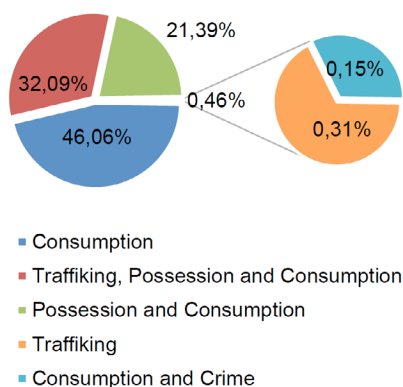
<sup>5</sup> Albawsala: Commission de la législation générale, 03 janvier 2017 ; Albawsala : Commission de la sécurité et de la défense, 02 janvier 2017.



Source: Albawsala <sup>6</sup>

Finally, statistics show that drug consumption remains the main reason for arrest, whereas it is associated with possession and trafficking in a third of cases or possession in approximately one in five cases. There is also an association of consumption with a crime (violence, attempted murder, rape ...), but this percentage remains very low (0.15%). (Graph 4)

Reasons behind Arrests for Drug Law Violations 2014 / 2015



Source : Najjar <sup>7</sup>

## Narcotics Consumption

According to the official data published in of the National Strategy for the Promotion of Mental Health of the Ministry of Health, the number of drug users in Tunisia is estimated at 350,000.<sup>8</sup> However, this estimation is based on unofficial statistics and underestimates the actual number of consumers and possibly addicts.

In contrast to that, another source of data on the consumption of drugs may be the Mediterranean

School Survey Project on Alcohol and Other Drugs (MEDSPAD) with a particular focus on the Tunisian youth.<sup>9</sup> According to this survey, one quarter of high school students aged 15-17 (24.6%) are reported consuming one or more psychoactive substances, other than tobacco and alcohol, during their lifetime. The survey also highlights the ease with which drugs are distributed among young Tunisians. Almost one-third of the boys and girls interviewed felt that access to drugs was easy (20.2%) or very easy (10.5%).<sup>10</sup>

Despite all statistics, it is again emphasized that the base of official data is relatively unsolid, and sometimes even contradicting. References to academic and research literature is necessary to gain a holistic view on the issue. In addition, an analysis of the drugs market and of the typical consumer is indispensable for a change of policy.

## Cannabis - the Most Consumed Drug

According to a study from Northern Tunisia and Greater Tunis, cannabis is by far the most widely used illicit substance, followed by the use of psychotropic drugs, including benzodiazepines and trihexyphenidyl. Of all drugs being consumed, cannabis has risen to a dominant share of 96.89% in 2014-2015 (compared to 84% in 2010-2011).

In addition, there are a large number of illicit psychoactive products, such as Subutex® and Ecsstasy, in the post-revolutionary period. However, the percentages of their consumption appear to be very low and do not reflect reality since the search and the dosage of these drugs are carried out at the request of the authorities.

<sup>6</sup> Albawsala: Commission de la législation générale, 11 janvier 2017.

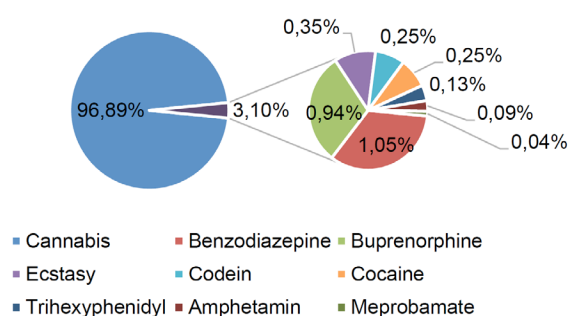
<sup>7</sup> Najjar, Etude de la toxicomanie au Nord et au Grand Tunis « Pré et Post révolution ».

<sup>8</sup> Ministère de la Santé. La Stratégie Nationale de Promotion de la Santé Mentale (SNAPSAM), 2013.

<sup>9</sup> The purposes of the survey were to determine the prevalence of substance use among students, especially 15- to 17-year-old youth; to seek the age of onset of drug use; to learn about teenagers' knowledge, point of view, and behaviors regarding drugs; and to establish factors that could be predictive of drug use and also used to implement strong policies for developing mental health and drug prevention in schools. This survey was conducted in Lebanon, Morocco and Tunisia. See El Omari, Fatima. Drug Use Among Moroccan Youth Students: MedSPAD National Survey, 2011.

<sup>10</sup> Conseil de L'Europe. Enquête MedSPAD en Tunisie. Résultats de l'Enquête Nationale, 2014.

Consumed Drugs in 2014 / 2015



Source: Najjar <sup>11</sup>

### The Typical Consumer

According to the study from Northern Tunisia and Greater Tunis as well as other studies, the typical consumer of narcotics in general, cannabis in particular, is a 20-30 year-old male, single, with a low level of education, and without a regular source of income.<sup>12</sup>

As a result, it seems obvious that unfavorable social conditions and insecurity favor cannabis usage. This can be seen as a way of escaping a disappointing reality. The absence of a stable job and therefore social insecurity are factors inducing the use of cannabis. On the other hand, it is plausible to assume that the more engaged young people, who are drugs consumers, are in serious relationships leading to marriage, the greater the likelihood of cessation. Increasing the sense of responsibility can thus be a protective factor against drugs abuse.

### Addiction, Imprisonment and Human Rights

The United Nations Office on Drugs and Crime has clearly identified a number of „unintended negative consequences“ of the so-called „war on drugs“, including serious human rights violations

directly related to the criminalization and stigmatization of the use of the drugs and of vulnerable people involved in the production of illicit drugs and trafficking.<sup>13</sup>

For the case of Tunisia, Human Rights Watch (HRW) has documented how the implementation of the drug law has led to serious human rights violations in unfounded trials and detentions, as well as while being in prison. Interviewed prisoners mention mistreatment and abuse, as well as insulting police behavior during arrest and interrogation, ill-treatment during urine testing and house searches in the absence of a warrant.<sup>14</sup> Other studies on the use of drugs suggest that arbitrary arrests on the constructed ground of drugs abuse are not uncommon.<sup>15</sup>

### CONCLUSION

Tunisia's drug policy must be shifted to be based on concerns for health and human rights. Moreover, the new approach has to be based on valid governmental and scientific data. The academic data and findings, presented in this policy paper, highlight parts of the addiction problem, but the actual epidemiological situation remains unclear.

In spite of this, addicts and addiction carry a stigma. Many consider drug use a moral failing. But research in addiction over the last decades has shown that addiction is a brain-based disorder due to biological and environmental factors. From this perspective, drug abuse is similar to other diseases, such as cardiovascular disease.<sup>16</sup>

An efficient drug policy must take into consideration the social and cultural context of the country. The perfect policy must not only prevent addiction and treat drug addicts. It must remove the barriers between addicts and the access to their treatment by providing the needed legal frame and medical facilities. It must also help in fighting the stigma around the addiction disease.

<sup>11</sup> Najjar, Etude de la toxicomanie au Nord et au Grand Tunis « Pré et Post révolution ».

<sup>12</sup> Najjar, Etude de la toxicomanie au Nord et au Grand Tunis « Pré et Post révolution » This corresponds partly with results of another study conducted in the center of Tunisia and in the University Hospital of Monastir, see Mabrouk, La consommation du cannabis avant et après la révolution du 14 janvier. After the revolution, there was a remarkable increase in the number consumers among teenagers and students, and prisoners, which testify the increase of drug trafficking inside prisons. Moreover, no statistically significant increase was detected in the comparative study of the characteristics of the consumer's profile between the pre- and post-revolutionary period, with the exception of the appearance of female consumers. See Mabrouk, La consommation du cannabis avant et après la révolution du 14 janvier. Although substance abuse behavior is more typically masculine, the upsurge of women's appearance in the drug world is alarming. See Saidi, Étude analytique des saisies du cannabis avant et après la révolution dans le centre et sud tunisien.

<sup>13</sup> Rolles et al. The Alternative World Drug Report. Counting the Costs of the War on Drugs, 2012.

<sup>14</sup> HRW conducted interviews with 47 people who had prison sentences under the drug law, including young people from disadvantaged neighborhoods in various cities, students, artists and bloggers. HRW had also interviewed state officials and lawyers who have defended people under Law 52 and reviewed 20 cases of drug cases and police reports and court decisions. HRW: "All this for a Joint." Tunisia's Repressive Drug Law and a Roadmap for Its Reform, 2016.

<sup>15</sup> Najjar, Etude de la toxicomanie au Nord et au Grand Tunis « Pré et Post révolution ».

<sup>16</sup> Kuhar, The Addicted Brain: Why We Abuse Drugs, Alcohol, and Nicotine, 2011.

## RECOMMENDATIONS

*to the Ministry of Higher Education and Scientific Research*

### Strengthening the scientific cooperation

Link academia and civil society by organizing national events bringing together research teams and civil society actors concerned with drugs and addictions issues in order to promote the sharing of knowledge, perspectives and skills within and between research communities from different disciplines and the civil society, in particular on the concepts and tools for early prevention of addiction.

### Academic training in addictology

The large number of drug addicts requires a larger number of qualified health professionals to manage this disease.<sup>17</sup>

### Introducing a mandatory training in family medicine specialty.

This training can provide a large number of specialists in addiction, and it should also include disciplines other than medicine.

*to the Ministry of Public Health*

### Providing on-line help services

Accessible online tools for information, prevention and support for addicts, their friends and families can aim at the at-risk population of the 20-30-years-old. These offers would take the form of a website and a mobile application, rely on validated protocols, and must respect private data and individual dignity from misuse.

### Updating the addiction knowledge of the medical staff (doctors, nurses, psychologist)

By training the staff of the school and university medicine a better knowledge of the addictions can be achieved in order to propose relevant prevention actions and better accompany the students or pupils in need of care. The typical consumer profile described in scientific research should be taken into account for more appropriate interventions.

### Taking into account the most exposed population

Young people should be prevented from the abuse of drugs, or its consumption must be delayed and restricted to reduce health and social risks and harm.

### Investing more resources in prevention interventions

In the absence of treatment structures, resources in prevention interventions that have proven to be effective, particularly among young people must be invested.

*to the Ministry of Interior*

### Fighting drug trafficking in prisons

In parallel with fighting drug trafficking in prisons, the training of prison staff must be improved and detainees must be informed in order to prevent further risks of drug misuse. In order to remove addiction and drug trafficking in prisons, addicts must be treated. Since most of the convicted under Law 52 are relapsing consumers, they must be considered patients, rather than recidivist, who need treatment and medical support.

### Fighting against impunity

To confront ill-treatment during arrest and detention of persons in drug related offences, engagement in prompt and impartial investigation must be conducted, wherever there are reasonable grounds to believe that an act of ill-treatment has been committed in connection with drug related arrests, prosecuting those responsible and, if found guilty, imposing adequate punishment. (The abuses may include arbitrary arrests, ill-treatment or punishment, and constrain suspects to take urine tests.)

### Providing treatment and rehabilitation to victims

Victims must be healed rather than punished from the psychological and physical trauma caused by ill-treatment.

<sup>17</sup> A university certificate in addiction is delivered by the Faculty of Medicine of Tunis, in partnership with the Pominou Group. This training started in 2013. In total, 49 candidates have enrolled. See Faculté de Médecine de Tunis. Certificat d'Etudes complémentaires en Addictologie.



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