

FREEDOM ON THE NET 2021

Tunisia

63 /100

PARTLY FREE

A. Obstacles to Access	16 /25
B. Limits on Content	28 / ₃₅
C. Violations of User Rights	19/40

LAST YEAR'S SCORE & STATUS

Partly Free 64/100

Scores are based on a scale of o (least free) to 100 (most free)



Overview

Tunisia's internet freedom score remained the highest in the Middle East and North Africa region. The country's information and communications technology (ICT) infrastructure is robust, internet access is relatively affordable, and authorities continued working to expand access outside of major cities. However, individuals risk prosecution in response to content published online that is critical of security forces or the government, and some users have experienced harassment in response to their online activity. Though content removal occurs occasionally, the process is largely transparent and there are avenues for appeal. Surveillance remains a concern, particularly in light of the country's history of abuse of privacy under the Ben Ali regime and the lack of a comprehensive legal framework that regulates the process of surveillance. During the coverage period, authorities targeted online activists in a heightened crackdown on social media mobilization and protests. Nevertheless, Tunisians continue to use online tools to organize social movements addressing a variety of topics.

After the ousting of a longtime autocrat from power in 2011, Tunisia began a democratic transition, and citizens now enjoy political rights and civil liberties unprecedented in the country's history. However, the influence of endemic corruption, economic challenges, security threats, and continued unresolved issues related to gender equality and transitional justice remain obstacles to full democratic consolidation.

Key Developments, June 1, 2020 -May 31, 2021

- In April 2021, the Minister of Health issued a ministerial order that threatened sanctions against doctors and health workers who make unauthorized statements about the COVID-19 pandemic to the media or online (see B5).
- Amid protests that broke out in January 2021 on the 10th anniversary of Tunisia's revolution, hundreds of protestors were arrested, some for their online activity, and several activists were subjected to online harassment and physical attacks for their social media posts about the protests. Protesters also used social media to document the disproportionate response by security forces (see B8, C3, and C7).

- In November 2020, Wajdi Mahouachi, a blogger, was sentenced to two years in prison for posting a video on Facebook; in the video, Mahouachi denounced a Tunis public prosecutor's failure to open an investigation against an imam reportedly sought to justify killing people who insult the prophet Mohammed (see C3).
- In December 2020, the Ministry of Communication Technologies (MCT) announced the signing of a controversial agreement for the development of a national identifier that would consolidate various other government-related forms of identification. Civil society organizations have raised concerns about the privacy implications of the project (see C5).
- Physical assaults against online journalists increased during the reporting period, including one case where a journalist was punched in the face due to his reporting on the COVID-19 pandemic (see C7).

A. Obstacles to Access

A1 0-6 pts

Do infrastructural limitations restrict access to the internet or the speed and quality of internet connections?

4/6

Tunisia's ICT infrastructure is relatively robust, and has continued to improve over recent years. 1

According to the most recent data from the International Telecommunication Union (ITU), internet penetration stood at 66.7 percent. ² As of January 2021, there were 7.92 million internet users in Tunisia, a 5 percent increase from the previous year. ³ The international bandwidth capacity increased from 190 gigabits per second (Gbps) in 2016 to 910 Gbps in September 2020. ⁴ The share of households with internet was 51.5 percent in 2019 compared to 46.1 percent in 2018. ⁵

In December 2020, there were almost 9 million mobile data subscriptions in the country, **6** consisting of phone plans, subscriptions to third-generation (3G) and fourth-generation (4G) USB keys, and machine-to-machine communication (M2M) subscriptions. There were roughly 1.3 million fixed-broadband subscriptions as of December 2020. **7**

According to the Instance Nationale des Télécommunication (INT), 98.9 percent of the Tunisian population is covered by either 4G, 3G, or 2G technology, and the 4G network alone covers 91.3 percent of the population.

8 The average annual growth rate of the 4G network coverage between 2016 and 2019 was 13 percent.

In December 2020, Tunisie Telecom 10 and Ooredoo Tunisia 11 each successfully realized the first 5G tests in Tunisia with a speed well above the 2.2 Gbps threshold. The Ministry of Communication Technologies (MCT) gave permission for three operators—Tunisie Telecom, Ooredoo Tunisia, and Orange Tunisie—to carry out tests over a period of six months, ahead of the official launch of this technology in 2022.

Internet speeds continue to be relatively slow. In December 2020, 29.6 percent of asymmetric digital subscriber line (ADSL) users had internet connections slower than 8 megabits per second (Mbps), and 70.4 percent had speeds between 8 and 16 Mbps.

12 According to Ookla's Speedtest Global Index, as of June 2021 the average mobile upload speed stood at 15.24 Mbps while the average broadband upload speed stood at 4.45 Mbps. The average mobile download speed was 34.22 Mbps and the average broadband download speed was 10.86 Mbps as of June 2021. 13

According to INT's report on quality of service in 2019, the annual throughput rates of all internet service providers combined, measured by average download and upload speeds, were 3.32 Mbps and 0.82 Mbps, respectively, which represents a slight improvement from 2018. **14** The average value of the annual latency, all reference sites included, was 40.88 milliseconds, which is in conformity with the threshold of 100 milliseconds set by the INT. The average annual availability rate of internet services was in line with the INT's 98 percent threshold.

Mobile phone use is widespread, with a 76.1 percent penetration rate of mobile phone subscriptions as of December 2020. **15** The average mobile data consumption increased from 86 megabytes (MB) per day at the end of 2018 to 158 MB per day at the end of 2020. **16**

In April 2019, the MCT initiated a process to provide 12 university campuses and 19 technology colleges with fiber-optic cables and outdoor Wi-Fi service. **17**

A2 0-3 pts

Internet access is affordable relative to many other states in the region, and companies offer a wide variety of packages and data capacities. ¹⁸ However, those living outside major cities have fewer options when it comes to operators and coverage. The Tunisian government is working to address this urban-rural digital divide through infrastructure and tax reduction programs.

In July 2017, the MCT announced that it would implement a five-year plan to increase internet access, mobile coverage, public internet centers, and access for people with disabilities in 94 underserved areas. 19 The project was assigned to Tunisie Telecom in November 2017 and was expected to benefit around 180,000 inhabitants. 20 In May 2020, Mohamed Fadhel Kraiem, the Minister of Communications Technologies and Digital Transformation, said that 90 percent of the white zones (places without mobile connection), representing 94 sectors spread over 47 delegations in 15 governorates, have been covered. Specifically, 180,000 inhabitants, 164 educational establishments, and 59 health centers were covered by broadband by May 2020. 21

According to the INT 2020 statistics, a subscriber spends an average of 8.90 Tunisian dinars (\$3.23) per month and 14.90 dinars (\$5.41) per month on 3G and 4G data packages for smartphones and key subscriptions, respectively. This is a significant price increase compared to the third quarter of the year 2019. ²²

In October 2020, Tunisia's three main telecommunications operators increased the prices of 25 gigabyte (GB) and 55 GB pre-paid packages by 5 dinars (\$1.82). **23** In 2021, prices ranged from 10.50 dinars (\$3.81) per month for 4 MB of data **24** to 41.90 dinars (\$15.21) per month for 20 MB of data. **25** According to an ITU report measuring pricing trends in 2020, the cost of a mobile-data package (1.5 GB per month over a 3G network) represents 1.28 percent of gross national income (GNI) per capita. **26**

According to a field survey conducted by the INT on the level of satisfaction and the use of telecommunications services in Tunisia in 2019, 63 percent of Tunisians are satisfied with the quality of service and 53 percent are unsatisfied with the pricing of mobile data. **27**

As part of the digitization project of Tunisian municipalities, the Tunisian Internet Agency (ATI), the state-run internet service provider, collaborated with municipal and city councils to offer outdoor Wi-Fi service for citizens to connect to free internet. The agency signed contracts with around 40 municipalities and aims to provide the service to 100 cities by the end of 2020. ²⁸ Free internet without registration is available in many cafés and restaurants in major cities.

In response to the growing connectivity needs and the additional traffic demand in densely populated areas during the quarantine period put in place to limit the spread of the COVID-19 pandemic, telecommunications operators and internet service providers have deployed new resources and offered special plans to increase their bandwidth capacity and avoid an internet blackout risk. **29** Students were granted free access to educational platforms through three communications networks: Tunisie Telecom, Ooredoo Tunisie, and Orange Tunisia. **30**

However, a survey conducted by the Ministry of Education revealed that 93 percent of primary school pupils cannot pursue an online education because of the lack of equipment, and 73 percent of them do not have access to an internet connection. **31**

On May 5, 2020, the parliament passed an agreement between the International Bank for Reconstruction and Development (IBRD) and the Tunisian government to allocate \$270 million to the Gov-Tech government program, which will provide internet connection for 2,250 schools, 250 social welfare offices, and 55 social service institutions. **32**

A3 o-6 pts

Does the government exercise technical or legal control over internet infrastructure for the purposes of restricting connectivity?

5/6

The Tunisian government does not impose any restrictions on ICT connectivity. However, the government has some control over the internet backbone through its ownership stakes in the country's major tech infrastructure.

As of February 2019, the government-controlled Tunisie Telecom manages over 30,000 kilometers of the country's fiber-optic network, **33** while Ooredoo Tunisie and

Orange Tunisie, both of which are partially owned by the government, control the remaining 5,000 kilometers.

In September 2014, Ooredoo Tunisie and Orange Tunisie inaugurated their own international submarine cable, breaking Tunisie Telecom's monopoly over Tunisia's international submarine communications cables. **34** The 175-kilometer-long cable, which links Tunisia to Italy, is the first privately owned cable to enter service in Tunisia.

In December 2017, the MCT signed an agreement with a new company, Level 4, to provide a high-speed broadband infrastructure that would be available to telecommunications operators and ISPs. **35** Level 4 is owned by ATI, the private Tunisian company EO Datacenter, and Turkish company İşkaya. **36** In August 2018, the cabinet approved Decree 912/2017, which specifies the general conditions for using public telecommunications networks and access networks that regulate the sharing of infrastructure between different companies. **37**

A4 0-6 pts

Are there legal, regulatory, or economic obstacles that restrict the diversity of service providers?

3/6

The Tunisian state retains ownership of several key service providers.

The main mobile operators are Tunisie Telecom, Ooredoo Tunisie, and Orange Tunisie. The state controls a 65 percent stake in Tunisie Telecom; the remaining shares are held by the private equity firm Abraaj Group. **38** The government has a small stake in Ooredoo Tunisie, a subsidiary of the Qatar-based Ooredoo. Orange Tunisie has been controlled by the state since 2011, when a 51 percent stake was seized from Marouane Mabrouk, son-in-law of former president Ben Ali. The remaining 49 percent stake is owned by the multinational group Orange. **39** In July 2020, Minister of State Properties and Land Affairs Ghazi Chaouachi announced that an agreement had been reached between the Tunisian State and Marouane Mabrouk on Orange Tunisie, valuing his shares, which the government had previously seized, at 170 million dinars (\$61.7 million). **40**

A smaller operator, Lycamobile Tunisia, entered the ICT market in late 2015, upon being allocated a five-year renewable license and use of Tunisie Telecom's

infrastructure. The market shares in December 2020 were distributed as follows:
Ooredoo Tunisia (50.4 percent), Telecom Tunisie (20 percent), and Orange Tunisie (29.6 percent). 41

Tunisie Telecom, Ooredoo Tunisie, and Orange Tunisie also provide fixed-line internet subscriptions. As of December 2020, Topnet, owned by Tunisie Telecom, dominated the ADSL broadband market with a share of 56.4 percent, followed by GlobalNet (14.1 percent), Orange (10 percent), Hexabyte (5.2 percent), Ooredoo (2 percent), Tunisie Telecom (8.5 percent), and Bee (2.5 percent), all of which depend on ATI for network management

In December 2020, the firm Standard Sharing Software (3S), owner of GlobalNet, acquired the majority percentage of shares of Hexabyte. This acquisition will allow the company to have a larger share of the market and offer competitive services. 42 Yassine Ayari, a member of parliament, accused the two companies of concentrating the market, acting against customer's interests, and failing to obtain the required authorizations. 43 After examination, the MCT and the Ministry of Commerce approved the acquisition. 44

Both individuals and legal entities may apply to become an ISP. Individuals must be Tunisian citizens and hold a graduate degree, an equivalent degree, or training certificate at an equivalent level in information technology, telecommunications, or multimedia. A legal entity needs to be constituted in accordance with Tunisian law and have a standing capital of at least 1 million dinars (\$363,000) with the majority of stakes being Tunisian. Licensing applications must be answered by the ministry within one month; a one-time license fee of 150,000 dinars (\$54,000) must be paid once a license is obtained. **45**

A5 0-4 pts

Do national regulatory bodies that oversee service providers and digital technology fail to operate in a free, fair, and independent manner?

2/₄

The Ministry of Communication Technologies is the main government body responsible for regulating the ICT sector. The INT is the regulator for all telecommunications and internet-related activities and has the responsibility of resolving technical issues and disputes between actors.

The INT seems to enjoy in practice a certain level of independence from the government, derived from an institutional layout that provides it with exclusive jurisdiction over the regulatory tasks assigned to it by the legal code. This jurisdiction ensures functional separation from other government bodies. However, the lack of a formal requirement of independence and weak institutional safeguards against politicization leaves it exposed to the risk of external intervention or political pressure.

46

The INT's governance body is made up of seven members, including a vice president who is appointed by the Court of Cassation (the highest court in Tunisia), and a permanent member appointed by the Court of Accounts, which oversees the management of public funds. The INT's board members are appointed by government decree in a process that lacks transparency. Since 2012, the vice president of the INT has been directly selected by the Council of the Judiciary, an independent body tasked with overseeing the functioning of the judicial system, before being appointed by government decree. **47** The INT has initiated some positive changes in internet policy, namely through the introduction of a more liberal domain name chart and an invitation to independent arbitrators from civil society to help develop a new alternative domain name dispute resolution process.

In April 2021, member of parliament Yassine Ayari accused the INT of changing the percentages of market shares in the 2019 annual report following the acquisition of Hexabyte by 3S (see A4). 48 In a press release, the INT rejected the allegations and confirmed that the numbers did change, but only due to a routine update of ISP data.

49

A December 2014 government decree regulates the granting of business licenses to ISPs. **5º** Under the decree, ISPs are subject to prior authorization from the MCT, after consulting with the Interior Ministry and the INT. Article 8 established a new advisory board tasked with examining licensing requests and advising on matters related to infractions and sanctions. The board is presided over by the Minister of Communication Technologies and Digital Transformation, or their representative, and is composed of representatives from the Ministries of Defense, Interior, Communication Technologies and Digital Economy, and Commerce; the INT; and the Union for Industry and Commerce (UTICA).

In an effort to encourage investment in the telecommunications sector, an ordinance was issued in October 2019 that simplifies the conditions and procedures related to the following activities: the installation and exploitation of a private independent telecommunications network, integration of telecommunications networks, providing internet traffic exchange points, and audits in the field of computer security. **51**

B. Limits on Content

B1 o-6 pts

Does the state block or filter, or compel service providers to block or filter, internet content, particularly material that is protected by international human rights standards?

6/6

Censorship remains uncommon in Tunisia, with no instances of politically motivated blocking during the reporting period. Popular social media tools such as Facebook, YouTube, Twitter, and international blog-hosting services are freely available.

B2 0-4 pts

Do state or nonstate actors employ legal, administrative, or other means to force publishers, content hosts, or digital platforms to delete content, particularly material that is protected by international human rights standards?

2/4

Government representatives and bodies and various other entities sometimes seek the removal of online content, and there has been some controversy and confusion in recent years among these various bodies over jurisdiction.

Between June 2020 and March 2021, the High Independent Authority of the Audiovisual Commission (HAICA) made seven requests to remove content from the websites and social media accounts of television and radio stations. HAICA justified these requests on the grounds of failing to respect the regulatory framework—including respecting the private life of individuals; incitement of violence; hate or discrimination based on race, physical appearance, religion, gender, region, or certain opinions; the rights of children; respecting human dignity; and the rights of women.

According to the annual report by the Monitoring and Documentation Unit at the National Union of Tunisian Journalists (SNJT), three cases of interference with media content were recorded between November 2019 and October 2020. Two of the cases were reported by individuals from within media outlets and one was recorded by judicial authorities. **53**

In September 2018, the Ministry of Communication Technologies (MCT) launched a third public consultation on the digital code, which would replace the current telecommunications code and its amendments. The draft code states that both internet service providers and content service providers are not liable for content they publish or send unless they edit or otherwise actively take ownership of the material. The draft further states that content hosting providers are not liable for content unless they have been informed by a judicial body that the content is illegal, and they fail to remove it. **54** The government indicated in April 2019 that the draft law was ready and it was approved by the cabinet in December 2019. **55** However, the new government requested to postpone consideration of the draft bill from the parliament in June 2020. **56**

According to Facebook's transparency report, Facebook has not removed any items in Tunisia since 2018. There were two items that were restricted between January and June 2018 "in response to private reports related to defamation." 57 However, many Facebook and Instagram users in Tunisia reported that they had content removed and their accounts suspended for at least 24 hours after they posted content in support of Palestinians amid forced evictions and ensuing protests in the Jerusalem neighborhood of Sheikh Jarrah. 58 Additionally, in May and June 2020, a number of Tunisian Facebook users reported that their accounts were disabled without warning or explanation. 59

B3 0-4 pts

Do restrictions on the internet and digital content lack transparency, proportionality to the stated aims, or an independent appeals process?

3/4

Formal content removal and blocking cases are mostly transparent and can be appealed through courts.

In March 2018, the Court of First Instance in Sousse ordered ATI to block online access to the Blue Whale and Meriam games, which, the court claimed, encourage teenagers to commit suicide. ATI has appealed the court's decision and called for a national dialogue on protecting children in cyberspace without impeding internet access. **60**

In February 2018, the Court of First Instance in Tunis rejected a request made by the National Syndicate of Imams and Mosque Workers to block the website of Shams Rad, Tunisia's first LGBT+ online radio station. The court stated that the syndicate lacked the status to be a plaintiff in the case, and that the content produced by Shams Rad did not undermine the rights of others. ⁶¹ The station launched in December 2017 and received more than 4,000 hate messages in its first two weeks. ⁶²

B4 0-4 pts

Do online journalists, commentators, and ordinary users practice selfcensorship?

3/4

While the 2011 revolution gave way to a proliferation of new online news sites, arrests and prosecutions of people who have spoken out online against government officials have prompted bloggers and online activists to practice self-censorship. 63 The Global Internet Sentiment Survey results that were published by the nongovernmental organization (NGO) Access Now and RIWI, a Canadian tech firm, in May 2018 revealed that around 50 percent of people surveyed in Tunisia did not feel safe sharing their views online; nearly 25 percent said they felt safe and the remainder felt somewhat safe. 64

Despite this, users in Tunisia still discuss political, religious, and controversial social issues online, where there is more space for such debates than in traditional media or even in private, in-person discussion. Religious issues are debated more openly online than in the mainstream media or on the streets, for example.

According to the Reporters Without Borders (RSF) North Africa office, the proliferation of online hate speech and the intimidation of journalists and independent authorities such as HAICA has resulted in an increase in self-censorship among journalists and online users. 65

Are online sources of information controlled or manipulated by the government or other powerful actors to advance a particular political interest?

3/4

The Tunisian government rarely issues official guidelines or directives on coverage to online media outlets. However, the authorities in practice have significant control over public media institutions, including multiple television channels and regional radio stations that have a strong online presence.

In April 2021, the Minister of Health issued a ministerial order that threatened sanctions against doctors and health workers who make unauthorized statements about the COVID-19 pandemic to the media or on social media and blogging platforms. The order faced backlash from civil society actors, who accused the government of censorship and of attempting to falsely portray the country's health situation. 66

During the reporting period, the SNJT criticized the absence of political will to improve the state of journalism in Tunisia and the parliament's failure to adopt a proposed draft law to regulate freedom of expression, press, printing, and publishing.

67

In March 2021, HAICA issued a public release accusing the government of hindering media reform and denounced the control and exploitation of audiovisual media to serve the interests of political parties. According to the SNJT Monitoring and Documentation Unit, 68 the frequent online harassment and attacks against journalists and online activists by parliament members, politicians, and political party supporters has manipulated the online space, seeking to rid it of criticism of the government.

Facebook has repeatedly removed accounts, groups, and pages on its platforms for a variety of reasons. In June 2020, Facebook announced it had taken down 182 user accounts, 446 pages, and 96 groups, as well as 209 Instagram accounts that were engaged in coordinated inauthentic behavior. **69** A further report by the Atlantic Council's Digital Forensic Research Lab explained that a Tunisian-based company had operated a network of inauthentic accounts in an attempt to influence Tunisia's 2019

presidential elections, as well as ten other African presidential campaigns. According to the report, "approximately 3.8 million Facebook accounts followed one or more of these pages, with nearly 132,000 accounts joining the operation-administered groups and over 171,000 following the Instagram accounts." **70**

In October 2020, Facebook announced the removal of 25 Pages and 2 Instagram accounts operated by individuals in Egypt, Turkey, and Morocco that used coordinated inauthentic behavior that targeted users in several countries including Egypt, Libya, Tunisia, Yemen, Somalia and Saudi Arabia. 71 These fake accounts commented on content, managed pages pretending to be locals in the targeted countries, and promoted news about local politics and Emirati actions in Tunisia.

The Facebook accounts of several well-known Tunisian bloggers, artists, and activists were deleted in May and June 2020. A number of accounts were reactivated after requests sent from NGOs, but no further explanations as to why their accounts were initially deleted were provided. **72**

In the months leading up to the September 2019 elections, a number of civil society organizations reported on widespread disinformation across social media platforms.

73 The Tunisian Association for the Integrity of Democratic Elections (ATIDE), which specializes in election monitoring, launched a project in August 2019 in collaboration with Democracy Reporting International to monitor social networks—especially Facebook—and provide the Independent High Authority for Elections (ISIE) with reports that would drive legal reforms. 74 The ATIDE report highlighted the use of networks of pages to publish the same content praising or criticizing certain candidates in a coordinated manner. 75

Further, the ISIE and civil society leaders have debated the use of political ads on social media, the regulation of political-advertising budgets, and the lack of respect for the electoral silence on social media. However, the lack of transparency on the part of tech platforms and the legal void surrounding the regulation of political ads on social media have rendered any existent legislation insufficient. **76**

Many organizations have on multiple occasions denounced Facebook's lack of transparency and accountability. **77**

Publishing content online on websites, blogs or social networks is not an activity that requires a license in Tunisia.

Both print and online outlets have been impacted by a declining economy, as companies have cut their advertising budgets. The Tunisian cabinet approved a draft law in September 2018 that would establish a national agency to manage public advertising and subscriptions; among its mandates is to set criteria and specify online media outlets that would be eligible for public advertising. It was sent to the parliament in January 2019, **78** and remained pending at the end of the coverage period. **79**

Many outlets also avoid critical coverage of big private advertisers, including banks and telecommunications companies, in order to avoid losing out on advertising contracts. The Tunisian watchdog association Iwatch published an investigation in August 2019 on violations committed by a local bank, but the study received very little attention online, perhaps reflecting this reluctance. **80**

Prime Minister Elyes Fakhfakh announced in May 2020 a series of exceptional measures in order to support the media sector during the COVID-19 crisis. These measures included the allocation of 1.2 million dinars (\$436,000) to be deducted from the budgeted allocations for newspaper subscriptions for the year 2020, and repurposed for the acquisition of subscriptions to electronic copies of newspapers by state and public organizations. The prime minister also announced the provision of 5 million dinars (\$1.8 million) in the state budget to finance the media sector rehabilitation program and support its digital transition. **81**

B7 0-4 pts

Does the online information landscape lack diversity and reliability?

3/4

Tunisia's online media landscape is generally vibrant and open. Since the revolution, numerous online news sites have been launched alongside newspapers, radio stations, and television channels, enriching the information landscape through the addition of

viewpoints from a diverse range of social actors. However, self-censorship and fear of judicial proceedings among users limits the availability of content addressing some sensitive topics, such as religion and LGBT+ issues. Digital evidence pulled from cell phones, laptops, or social media accounts has been used in many cases to suppress and condemn LGBT+ people under Article 230 of the penal code, which outlaws same-sex relations. 82

In March 2021, the SNJT announced the formation of a monitoring unit to track misinformation and false information online. **83** Similarly, several civil society initiatives provide trainings for journalists in fact checking and news verification. **84**

In September 2020, the first independent press council in Tunisia was officially established. **85** The press council aims to advocate for the adoption of good journalistic practices, strengthen journalistic ethics, monitor violations in the profession, and contribute to the improvement of laws governing the sector. **86**

B8 o-6 pts

Do conditions impede users' ability to mobilize, form communities, and campaign, particularly on political and social issues?

5/6

Tunisian youth and civil society organizations continue to use digital media for initiatives relating to political and social issues. During the coverage period, activists and journalists were prosecuted or intimidated due to their online mobilization efforts. 87

Protests broke out in January 2021 on the 10th anniversary of Tunisia's revolution. Authorities responded with violence. Hundreds of Tunisians were arrested for their participation in the protests, some in relation to their online activity (see C3), and several activists were subject to physical attacks and online harassment for their social media posts (see C7). Protesters used social media to document the excessive use of force by security forces, including the use of teargas and the violent repression of apparently peaceful protesters. Civil society groups and activists called for protests against the economic situation and ongoing corruption in the country on social media. 88

In October 2020, human rights groups and youth-led movements launched an online campaign under the name "Hasebhom" ("Hold them to account"). The campaign called for the withdrawal of a controversial draft law on protections for armed forces and sought to document police violations. 89 The campaign also mobilized protesters who took to the streets in October 2020. Asrar Ben Jouira, a Hasebhom campaign coordinator and member of the Tunisian Human Rights League, said she was verbally and physically assaulted and sexually harassed by security forces, both during the protests and while detained. 90 Several other activists were prosecuted and harassed for their online activities related to this campaign (see C3 and C7).

During the reporting period, internet users took to social media to raise awareness of domestic violence and gender-based violence in Tunisia. In May 2021, Tunisian artists and activists launched an online campaign using the hashtags #SayHerName and #HerNamelsRefka to denounced the murder of Refka Cherni by her husband, a National Guard agent, after she had made a domestic violence complaint. 91 Campaigners denounced the flaws in the 2017 violence against women law and criticized the misogynistic social culture in Tunisia. 92

In May 2020, the Facebook accounts of several prominent activists and bloggers were deleted. Facebook is one of the main social media platforms that activists use to mobilize and campaign on different issues. There has been no explanation for the deactivation of the accounts. The anticorruption watchdog agency Iwatch was able to appeal and restore 14 of the 60 accounts which were deleted (see B2). **93**

Activists and bloggers are not only subjected to account removals, but also face increased harassment online as authorities crack down on those critical of the government. The president of Iwatch reported that members of the organization, including himself, faced harassment and intimidation related to their activism and anticorruption campaigns (see C7). **94**

C. Violations of User Rights

C1 o-6 pts

Do the constitution or other laws fail to protect rights such as freedom of expression, access to information, and press freedom, including on the internet, and are they enforced by a judiciary that lacks independence?

The 2014 constitution that was approved in the wake of the 2011 revolution enshrines the right to free expression and freedom of the press, and bans "prior censorship." Specific articles guarantee the right to privacy and personal data protection, as well as the right to access information and communication networks. **95** However, the text contains vague language tasking the state with "protecting sanctities" and banning "takfir" (apostasy accusations). Such language could act as a constitutional restriction on internet freedom.

The constitution mandates the establishment of a constitutional court to which the defendants can appeal when they face prosecutions under unconstitutional laws violating the constitution. However, the parliament has so far failed to establish this court.

Decree 115/2011 on the Press, Printing, and Publishing provides protections to journalists against imprisonment. However, Tunisia's press code does not provide bloggers and citizen journalists with the same protections afforded to traditional journalists. Article 7 defines a "professional journalist" as a person holding a bachelor's degree who "seeks the collection and dissemination of news, views and ideas" to disseminate to the public on a regular basis. A journalist is also defined as a person whose employment "in an institution or institutions of daily or periodical news agencies, or audiovisual media and electronic media" is their main source of income.

96

In March 2016, Tunisia adopted a basic law on the right to access information. The law guarantees access to information held by government bodies including ministries, the presidency, publicly funded NGOs, the parliament, local municipalities, the central bank and constitutional bodies. The law prescribes fines against those who obstruct access to information, and establishes an access-to-information commission tasked with deciding on appeals for access to information requests. **97**

In September 2018, the Ministry of Communication Technologies (MCT) launched a third public consultation on the digital code that would replace the current telecommunications code and its amendments. The draft law ensures the right to access the internet and the right to freedom of opinion, thought, expression, information, publication, and communication on the internet. It states that these rights may only be limited in cases specified by the law and with legal guarantees. 98 The government indicated in April 2020 that the draft law was ready and was

approved by the cabinet in December 2019. However, the new government requested to postpone consideration of the draft bill until June 2020. **99**

The state of emergency in the country, which authorities initially imposed in response to a 2015 terrorist attack, has been extended several times. In December 2020, President Kais Saied announced a six-month extension to the state of emergency due to the coronavirus pandemic. **100** Among other provisions, the state of emergency allows authorities to access electronic devices without a court order (see C₅). **101**

C2 0-4 pts

Are there laws that assign criminal penalties or civil liability for online activities, particularly those that are protected under international human rights standards?

1/4

Despite improvements to the constitution, repressive laws still in force from the Ben Ali regime threaten internet freedom. Article 86 of the telecommunications code states that anyone found guilty of "using public communication networks to insult or disturb others" could spend up to two years in prison and may be fined. This provision was retained in the proposed digital code that would replace the telecommunications code and its amendments. 102

Articles 128 and 245 of the penal code punish slander with two to five years' imprisonment. Article 121(3) calls for a maximum punishment of five years in prison for those convicted of publishing content "liable to cause harm to public order or public morals." In addition, authorities continue to use the penal code to prosecute journalists (see C3). Tunisia's code of military justice criminalizes criticism of the military and its commanders. **103**

In December 2020, the Tunisian parliament officially withdrew the controversial draft law No. 25/2015, known as the "repression of attacks against armed forces" bill, which would have imposed criminal penalties on speech deemed "denigrating" to the police.

104 The draft bill was first introduced in 2015 following a number of terrorist attacks in Tunisia. An updated version was approved by the parliamentary commission on general legislation and was referred to the public session for review and approval; however, the parliament suspended deliberations on the law in December 2020. 105

The draft bill faced persistent opposition and civil society protested for its withdrawal

considering that it reinforces impunity for security forces and restricts freedom of expression. **106**

During the COVID-19 pandemic in the spring of 2020, a member of parliament proposed a draft law to combat disinformation. The proposal aimed to fight purportedly fake news and control the flow of information on social media that could impact "national security and order." This law's vague language was seen as a direct threat to freedom of expression by civil society activists, who argued that it would be used to silence critics, journalists, and online activists. The draft was withdrawn after pushback from civil society. **107**

In August 2015, the parliament adopted a new counterterrorism law to replace a 2003 law used by the Ben Ali regime to crack down on critics and opponents. ¹⁰⁸ Article 31 of the law mandates a maximum of five years in prison for those found to have "publicly and clearly praised" a terrorist crime, its perpetrators, and groups connected with terrorism. ¹⁰⁹ Under the 2015 law's Article 37, the authorities cannot prosecute journalists for not revealing terror-related information they obtain during the course of their work. ¹¹⁰ In January 2019, the Tunisian parliament approved amendments to the counterterrorism law, but without revisions to articles 31 and 37. ¹¹¹

C3 o-6 pts

Are individuals penalized for online activities, particularly those that are protected under international human rights standards?

3/6

Arrests of bloggers are frequent and continued during the coverage period. 112 Many prosecutions are prompted by online criticism of the security forces or of government officials, but users can also be charged under antiterrorism laws and laws that effectively criminalize relationships between LGBT+ people. Sometimes, charges are brought under both the penal code and the telecommunications code, each of which can carry their own separate penalties.

In November 2020, Amnesty International found that at least 40 bloggers, social media users, and activists in Tunisia have faced criminal prosecution between 2018 and 2020 for publishing online posts critical of local authorities, the police, or other state officials. 113

Internet users also faced defamation cases filed by government officials during the coverage period. In November 2020, Wajdi Mahouachi, a blogger, was sentenced to two years in prison by the Tunis First Instance Court for posting a video on Facebook. In the video, Mahouachi denounced a Tunis public prosecutor's failure to open an investigation against an imam who reportedly sought to justify killing people who insult the prophet Mohammed. 114

In February 2021, blogger and activist Maryam Bribri was charged with offending others on social media under the telecommunications code. Bribri had shared and commented on a video documenting the assault of a citizen in Nabeul Governorate by a security agent on her Facebook account. 115 Like many similar cases, Bribri was threatened by security forces and police union members. Her case has been postponed multiple times, and as of June 2021, she had not yet been tried.

Protests broke out on January 2021 on the 10th anniversary of Tunisia's revolution (see B8). According to the Tunisian League of Human Rights, around 1,500 protesters were arrested by security forces either for participating in the protests or for content they had posted on social media. ¹¹⁶ For instance, human rights defender Ahmed Ghram was arrested during a police raid at his house that month and faced charges of "inciting to civil disobedience" for his Facebook posts around the protests. He was held in prison for two weeks before being acquitted. ¹¹⁷

In May 2021, a military investigative judge of the Permanent Military Court of Tunis issued a detention order against Salim Jebali, a blogger and admin of a well-known political Facebook page. Following a complaint by officials, Jebali was interrogated for three Facebook posts dating back to February 2021. 118 Jebali remains in pre-trial detention as of June 2021, after the reporting period, when the Criminal Chamber of the Military Court of Tunis rejected a release request submitted by his lawyers. 119

In May 2021, Abdellatif Al-Seboui, a teacher and political activist, was arrested in front of his students and interrogated about a social media post in which he commented on a subpoena issued by the Military Court to member of parliament Rashid El-Khiari. Al-Seboui was released on the same day. 120

Tunisian authorities have also prosecuted other users for posting content perceived as offensive to Islam on Facebook. In November 2019, the counterterrorism prosecutor of the First Instance Court in Tunis opened an investigation into Mounir

Baatour, a lawyer and president of the LGBT+ advocacy association Shams, for reposting content accusing the Prophet Mohamed of rape and murder. Baatour was charged with "incitement to hatred and to animosity between races, doctrines, and religions," under Article 14 of the 2015 counterterrorism law; "incitement to hatred, violence, and segregation toward persons or groups of persons based on racial discrimination" under Article 9 of the law on "the elimination of all forms of racial discrimination"; and with "directly calling for hatred between races, religions, and populations," under Article 52 of the decree law of 2011 on freedom of the press. 121

In another case, the Court of First Instance in Tunis charged blogger Emna Chargui with inciting hatred between religions through hostile means or violence and "offending authorized religions" under Articles 52 and 53 of the Tunisian Press Code for sharing a Facebook post of a text that uses verses of the Quran to make fun of the COVID-19 situation. 122 In July 2020, Chargui was found guilty of "inciting hatred between religions," and sentenced to six months in jail and a \$700 fine for the post.

C4 0-4 pts

Does the government place restrictions on anonymous communication or encryption?

3/4

Laws that limit encryption remain a concern in the post-Ben Ali era. In particular, Articles 9 and 87 of the 2001 telecommunications code ban the use of encryption and provide a sanction of up to five years in prison for unauthorized use of encryption tools. While there have been no reports of these laws being enforced, their continued existence underscores the precarious nature of Tunisia's relatively open internet environment.

Under 2014 regulations issued by the ICT ministry, cybercafé internet users are not required to register or provide identification. 124

C5 o-6 pts

Does state surveillance of internet activities infringe on users' right to privacy?

2/6

Surveillance remains a concern in Tunisia, particularly in light of the country's history of abuse under the Ben Ali regime and the lack of a comprehensive legal framework that regulates the process of surveillance and the relationship between different surveillance actors. Revelations in recent years have raised concerns about the government's wiretapping ability.

A 2018 report by Citizen Lab, a University of Toronto research center, listed Tunisia as one of 45 countries in which devices were likely breached by Pegasus, a targeted spyware software developed by the NSO Group, an Israeli technology firm. Pegasus is known to be used by governments to spy on journalists, human rights defenders, and the opposition, though it remains unclear whether the Tunisian government is a Pegasus client. **125**

The creation in November 2013 of the Technical Telecommunications Agency (ATT) raised concerns among human rights and privacy groups, particularly given the lack of transparency surrounding its duties. The body is tasked with "providing technical support to judicial investigations into information and communication crimes," but fails to define these crimes. ¹²⁶ It quickly came under criticism from online activists because it was established by decree instead of by the parliament; and because it lacks a clear and limited mandate, mechanisms to ensure it remains free from government interference, and mechanisms to guarantee user rights. ¹²⁷ Later amendments outlined the ATT's leadership, ¹²⁸ which is appointed by the government, as well as an oversight board consisting mainly of representatives from various government ministries and headed by the ATT leadership. ¹²⁹ The ATT's mandate compels it to coordinate with telecommunications network operators and internet service providers in relation to its work so as to provide technical support for judicial investigations of cybercrimes. ¹³⁰

In June 2020, the Ministry of Interior presented two draft laws to the Assembly of the Representatives of the People (ARP). The laws, which regard the introduction of biometric identity cards and passports, 131 raised concerns about user privacy. 132 The Committee on Rights, Freedoms and Foreign Relations at the ARP consulted with the president of the National Authority for the Protection of Personal Data (INPDP) regarding the laws. 133 Over thirty non-governmental organizations urged members of parliament to reject the draft laws due to the lack of substantial safeguards and the potential for increased surveillance through a biometric database. 134 The introduction of biometric identification cards sparked criticism in 2016, when the

Ministry of Interior submitted Tunisia's first biometric identity card draft law. The first version of the draft was withdrawn due to civil society pushback in 2018. 135 As of the end of the reporting period, the Committee on Rights, Freedoms and Foreign Relations at the ARP were still considering the two draft bills.

In December 2020, the MCT announced the signing of an agreement for the development of the National Unique Identification System for the Citizen, a national identifier that would consolidate various other government-related forms of identification. 136 Previously, in May 2020, prime minister Elyes Fakhfakh issued two decrees to initiate and clarify the implementation of the system. 137 The unique identifier project is intended to allow multiple state entities to access consolidated information about a citizen through a new database, the Register of the Unique Citizen Identifier, which is maintained by the Ministry of Local Affairs. The INPDP has been part of the project since 2015 and will continue supervising it. 138 However, some civil society groups expressed concerns over the centralized aspect, the security of the collected data, and the lack of consultation with civil society. 139

A March 2018 draft law addresses the protection of personal information. **140** Civil society groups have criticized it for failing to define the difference between protected personal data and public information, thus potentially hampering freedom of information requests and facilitating government opacity. **141** The draft was still under consideration at the end of the reporting period. **142**

In January 2019, an amended version of the 2015 counterterrorism law was approved by the parliament. **143** Article 54 of the amended law only requires security and intelligence services seeking to intercept communication of suspected terrorists to obtain judicial approval. Previously, security and intelligence services were required to specify the type of communication being surveilled in addition to the specific period of the surveillance, which could be no greater than four months and could only be extended once, to obtain judicial approval. **144** Article 64 of the amended law changed the punishment for conducting unauthorized surveillance to between one and five years in prison and a fine ranging from 1,000 to 5,000 dinar (\$363 to \$1,815). **145**

In June 2020, Prime Minister Fakhfakh confirmed the government was tracking citizens' movements anonymously through their SIM cards in order to monitor how committed the public had been to the COVID-19 quarantine directive. **146** The MCT released a statement to clarify that the technical application relied on general data

from mobile phones between regions; that the tracking respected personal data protection law requirements; and that the Ministry was in consultation with the National Authority for the Protection of Personal Data to ensure citizens' privacy rights were upheld. **147**

The Ministry of Health also announced the adoption of e7mi, a contact-tracing mobile phone app that collects users' phone numbers and uses Bluetooth signals and global positioning system (GPS) location data to detect and alert users who may have had contact with others with the COVID-19 virus. 148 The application download is not compulsory for residents. However, people from abroad are required to download the application upon their arrival in Tunisia. 149

Access Now submitted a request to access information about the terms of agreement and the contract between the startup company, Wizzlabs, and the Ministry of Health concerning the terms and conditions for using the E7mi app. However, no response was given. Access Now stated that even though the INPDP confirmed that the application complies with Tunisia's data protection law of 2004, the law "is outdated and does not account for technologies developed since it was written." 150

Civil society organizations have expressed concerns regarding the data protection situation in Tunisia. In 2019, ahead of the election, a number of citizens declared that their names and other personal information appeared on the endorsement lists of certain candidates without having personally offered the endorsement. **151**

In January 2021, the Tunisian Association for the Prevention of Torture reported that authorities had violated people's personal data by confiscating activists' cell phones and computers upon their arrest and accessing their social media accounts without judiciary permission. 152

A September 2019 Privacy International report found that the European Union (EU) has been funding surveillance projects in a number of countries, including Tunisia. Specifically, the EU's Instrument contributing to Stability and Peace (IcSP) funds projects aimed at developing the capacity of Tunisian security agencies to counter terrorism by developing "intelligence processing and analysis," and training officials in digital intelligence gathering including through social media and digital mapping. The IcSP's goal is to establish a group of "cyber specialists, criminal analysts, and forensic specialists" capable of conducting online investigations and collecting evidence from

digital devices, with the proper "light equipment." The EU has designated €3.3 million (\$3.6 million) to fund the CyberSouth project for intelligence training to law enforcement agencies in countries on its southern border. 153

C6 o-6 pts

Does monitoring and collection of user data by service providers and other technology companies infringe on users' right to privacy?

3/6

The government has several tools it can invoke to compel companies and ISPs to help the government monitor internet users.

Decrees governing content liability impose a duty on ISPs "to meet the requirements of the national defense, security, and public safety and security in accordance with the legislation and regulation in force" and to aid legal, military, and national security authorities as necessary. **154**

A joint study by Access Now and ImpACT International for Human Rights Policies found that seven of Tunisia's main internet service providers have violated basic principles of customer data protection. **155** Only one company, Orange Tunisie, claims to comply with all requirements laid out in the Organic Law No. 2004-63. **156** However, in 2018 Orange Tunisie discarded approximately 1,500 copies of customer ID cards and passports onto the streets. **157**

According to Facebook's transparency report, the Tunisian government made four requests for user data between January and June 2020. Two of these requests were emergency disclosure requests and the other two were accompanied by a legal order. Facebook responded to one request. ¹⁵⁸ Between January and June 2020, Tunisian authorities made two information requests to Twitter. One was an emergency disclosure request and the other was a legal demand, according to Twitter's transparency report. ¹⁵⁹

Regulations issued by the MCT in 2013 do not require owners of cybercafés to monitor their customers' activities. **160**

C7 0-5 pts

Are individuals subject to extralegal intimidation or physical violence by

state authorities or any other actor in relation to their online activities?

Score Change: The score declined from 3 to 2 due to an increase in harassment and intimidation—including physical attacks—against online users during the reporting period.

In addition to arrest and prosecution, internet users and digital activists must also be wary of extralegal attempts to silence them.

The SNJT documented several incidents during the coverage period in which journalists were subjected to online intimidation and physical violence. In August 2020, Nadia Retibi, a journalist at El Wataniya was harassed on social media after broadcasting one of her reports, which escalated to a group of men gathering around her home and threatening her family. 161 In April 2021, during a police raid on the offices of the Tunis Africa Press (TAP), the country's national news agency, security forces verbally and physically harassed a number of journalists. 162 In June 2020, a citizen assaulted Muhammad al-Mahdawi, a correspondent for the "Eye on the South" news website. Al-Mahdawi was punched in the face, allegedly because of his reporting about cafe owners violating health and quarantine protocols. 163

Women journalists were also subject to gender-based violence and are frequently targeted by defamation and harassment online. The SNJT's annual report, covering the period between November 2019 and October 2020, cited 65 cases where women journalists were attacked in 66 incidents, 11 of which occurred online.

Journalists and bloggers are sometimes threatened by political authorities. According to SNJT's January 2021 report, Marwa Khemissi, a journalist at Tunisie Numérique website, was harassed by a member of parliament because of an article she published criticizing a post he wrote. **164** In July 2020, the Monitoring and Documentation Unit at the SNJT reported that MP Yousry al- Dali threatened to propose amending the rules that allow journalists access to parliament, citing "proven fabrication of rumors" by reporters. **165**

Human Rights Watch and Damj Association for Justice and Equality, a Tunis-based LGBT+ rights group, documented cases of online threats targeting LGBT+ activists. Online users intimidated the activists by publishing their private information, including home addresses and phone numbers, without their consent. These posts also

included messages inciting violence against activists. Rania Amdouni, a queer feminist activist, has been subjected to online harassment, bullying, and incitement to violence, including death and rape threats. She also faced physical violence and direct targeting in protests. She was sentenced to six months in prison over "insulting a public official" (see C3). Following her arrest, she went to the police office to submit a complaint against the moderators of Tunisian security forces union Facebook pages. ¹⁶⁶ Rania Amdouni was later released and fined 200 dinars (\$72.61) by an appeals court. ¹⁶⁷

Following protests in October 2020 and January 2021, journalist and columnist Haythem El Mekki reported that he received threats on Facebook messenger from police officers, who were using the account of activist Yasmine Sakher after she was arrested. 168 Yasmine Sakher also shared a Facebook status claiming that security forces were doxing he by sharing her telephone number, home address, and the location of her child's kindergarten school on Facebook, and subsequently smearing her. 169

Tunisian authorities have confiscated and searched the phones of men they suspect of being gay, and have pressured them to undergo invasive examinations and to confess to same-sex relations, according to a November 2018 report from Human Rights Watch. 170

C8 o-3 pts

Are websites, governmental and private entities, service providers, or individual users subject to widespread hacking and other forms of cyberattack?

2/₃

Since Ben Ali's fall, there have been no reported incidents of cyberattacks perpetrated by the government to silence individual ICT users. However, other cyberattacks targeting news websites and government bodies have been documented in recent years. According to the Global Cybersecurity Index, Tunisia ranked 76th globally and 9th regionally in 2018. 171

According to the Minister of Communication Technologies and Digital Transformation, Mohamed Fadhel Kraiem, the number of cyberattacks increased by 20 percent during the COVID-19 period. The attacks mainly targeted private companies and banking institutions. 172 In November 2020, former prime minister

Hichem Mechichi issued a statement urging ministers, state secretaries, governors, and other senior officials to make cyber security arrangements for public institutions.

173

In response to a question regarding the cybersecurity vulnerabilities of online government portals and the potential of exposing the personal information of citizens, Kraiem, said that the National Agency for Electronic Certification service will shut down once a vulnerability is detected. The minister stated that further resources were being deployed to ensure more robust and continuous security checks and to build competencies in the field. **174**

Following a cyberattack affecting a bank and originated from outside the country, 175 the Central Bank of Tunisia called on banks and credit institutions to raise the level of vigilance and take all necessary measures to strengthen cybersecurity mechanisms.

176 The National Computer Security Agency also called for an increase in the level of vigilance following an increase in attacks and attempted attacks detected in Tunisia in February 2021. 177 The Tunisian Electricity and Gas Company decided to suspend foreign access to its online portal as a preventive measure. 178

The website of the national television station, Al Watania, was hacked for a few hours in February 2021, allegedly by hackers based in Morocco. 179

In December 2019, the Minister of Communication Technologies presented the national cybersecurity strategy aimed at implementing sectoral cybersecurity strategies, improving the legal and regulatory framework, strengthening technical skills of officials, promoting a culture of cybersecurity, and controlling standards and technologies related to digital security 180

In June 2018, The Tunisian cabinet approved a draft law that aims to prevent and combat crimes of information and communication. ¹⁸¹ Access Now submitted two access to information requests to the Ministry of Justice and the MCT to get a copy of the draft law. The MCT response explained that the law was not in final draft form and they were working to address technical points that were raised in the cabinet meeting in June 2018. ¹⁸² A post about the June 2018 cabinet meeting on the Tunisian presidency's Facebook page seems to have been altered to exclude the approval of the draft law. ¹⁸³

In February 2018, Tunisia was invited to accede to the Budapest Convention on Cybercrime. The CyberSouth project, instituted jointly by the Council of Europe and the European Union, seeks to strengthen Tunisia's legal framework on cybersecurity in a way that also aligns with human rights obligations and the rule of law, in hopes that the country will become party to the convention. **184**

Footnotes

- 1 "Tunisia Telecommunications Equipment/Services," export.gov, Accessed September 2021, https://www.export.gov/apex/article2?id=Tunisia-Telecommunications-Equi....
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- **5** "Core list of ICT indicators Country: Tunisia core indicators on access to, and use of, ICT by households and individuals," MCT, 2019, https://www.mtcen.gov.tn/fileadmin/user_upload/Core_indicators_on_acces....

More footnotes





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Country Facts

Global Freedom Score

64/100 Partly Free
Internet Freedom Score
63/100 Partly Free
Freedom in the World Status Free
Networks Restricted No
Social Media Blocked No
Websites Blocked No
Pro-government Commentators No
Ves Yes
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