

Freedom on the Net 2018 - Tunisia

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Status:	Partly Free
Total Score:	38/100 (0 = Best, 100 = Worst)
Population:	11.5 million
Internet Penetration:	56%
Bloggers/ICT Users	Yes
Arrested:	
Freedom in the World Status:	Free

Key Developments, June 1, 2017 – May 31, 2018

- In January 2018, Interior Minister Lotfi Brahmi admitted during a parliamentary hearing that he had wiretapped a French journalist's phone (see Surveillance, Privacy, and Anonymity).
- Parliament reintroduced a bill in July 2017 that would increase criminal penalties for "denigrating" the police and armed forces (see Legal Environment).
- In March 2018, members of parliament from the Nidaa Tounes party proposed two new articles to the penal code that would criminalize online defamation (see Legal Environment).

Introduction:

Internet freedom remained "partly free" in 2018 although legislative proposals threatened free expression and the interior minister revealed that he wiretapped a journalist's phone.

Nationwide protests erupted in January 2018 against the passage of the government's austerity budget.^[1] The activist group "Fech Nestanneu" (What are we waiting for?) organized demonstrations and documented the disproportionate police response on its Facebook page.^[2] Some journalists reporting on the protests were harassed, intimidated, and even summoned for interrogation. In the aftermath, the interior minister admitted to monitoring journalists and wiretapping a French journalist's phone who had been in contact with a protester.^[3] In February, the National Syndicate of Tunisian Journalists organized a "day of anger" to protest government pressure against journalists covering security operations, among other things.

The online landscape changed dramatically with the ouster of autocratic president Zine El Abidine Ben Ali on January 14, 2011, when a vast censorship apparatus largely dissipated. Since then, internet users have enjoyed an unprecedented level of access to uncensored content online. Reforms to ICT regulation have benefitted Tunisians through lower prices and improved internet penetration. However, Tunisia's legal environment remains a significant impediment to internet freedom. Several problematic laws from the Ben Ali era remain on the books, while this reporting period saw further legislative proposals that would threaten free expression online. One such draft law would criminalize criticism of the security forces, including for human rights abuses. Another proposal would amend the penal code and criminalize publishing content that could harm "public order," "good morals," "sanctity of the private life," and "the honor" of individuals and "official institutions." Meanwhile, Tunisia was invited to accede to the Budapest Convention on Cybercrime.

Obstacles to Access:

Growth in mobile internet subscriptions has underpinned an increase in internet penetration in Tunisia. However, the telecommunications market remains dominated by three major players, with state-controlled Tunisie Telecom (TT) continuing its monopolistic control over the internet backbone.

Availability and Ease of Access

According to the International Telecommunication Union (ITU), internet penetration stood at 51 percent at the end of 2016, up from 39 percent five years earlier.^[4] There were more than 7.6 million mobile data subscriptions in the country as of May 2018,^[5] consisting of almost 674,000 subscriptions to 3G and 4G USB keys, with the remaining representing phone plans.^[6] There were 920,319 fixed broadband subscriptions as of May 2018.^[7] In the summer of 2016, 4G was launched, and the three main operators were required to cover at least 20 percent of the territory in one year,^[8] including two marginalized interior regions.^[9]

The price of a data-enabled USB key was around TND 40 (US\$16.70), while a postpaid monthly 4G subscription plan was around TND 25 (US\$10.45) for a 25 GB data allowance.^[10] Traditional fixed-line internet subscribers must first buy a landline package from TT, which manages the country's 225 Gbps bandwidth capacity, before choosing one of 11 internet service providers (ISPs). The TT landline package costs 45 TND (US\$18) for a three-month subscription period. ISP prices range from approximately TND 10 (US\$4) per month for a connection speed of 4 Mbps^[11] to approximately TND 30 (US\$12.50) per month for a connection speed of 20 Mbps.^[12] Starting in January 2018, the sales tax on prepaid telecom plans was increased.^[13]

In 2016, Ooredoo Tunisia launched a fixed internet service using fixed wireless broadband access technology in partnership with Huawei, making it possible to get a fixed internet box without a TT subscription.^[14]

Although there are no legal limits on the data capacity that ISPs can supply, the bandwidth remains very low and connectivity is highly dependent on physical proximity to the existing infrastructure.

According to the Ministry of Communication Technologies and Digital Economy, the number of households with a computer increased from 39 percent to 47 percent between 2016 and 2017.^[15]

Mobile phone use is also widespread, with 14,613,075 mobile phone subscriptions and a penetration rate of 126 percent as of May 2018.^[16]

Some Tunisians access the internet at privately-owned cybercafés known as "publinets," where one hour of connection costs at least 1 TND (US\$0.41). Before 2011, wireless access in cafes and restaurants was not permitted by law, which allowed only licensed ISPs to offer access. Nonetheless, since the 2011 revolution it has become common for cafes and restaurants in major cities to offer free internet access without any registration requirements, attracting mainly young social network users. The ICT Ministry issued new regulations on the provision of internet access by cybercafés on July 29, 2013.^[17] These regulations do not require users to register or to hand over identification documents, nor do they require owners to monitor their customers' activities. The ICT ministry has continued to register a decrease in the number of cybercafes across the country, due mainly to the growing number of users accessing the internet through mobile data plans.^[18]

Restrictions on Connectivity

The Tunisian government does not impose any restrictions on ICT connectivity. However, TT remains the sole manager of the country's 10,000 kilometer fiber-optic internet backbone. TT also acts as a reseller to domestic ISPs, granting it an oversized role in the country's internet governance. However, some positive signs have emerged in recent years. In September 2014, private operators Ooredoo Tunisie and Orange Tunisie inaugurated their own international submarine cable, breaking TT's monopoly over Tunisia's international submarine communications cables.^[19] The 175-kilometer-long cable, which links Tunisia to Italy, is the first privately-owned cable to enter into service in Tunisia.

In July 2017, the Ministry of Telecommunications and Digital Economy 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 underserved areas. The ministry identified 94 areas.^[20]

In December 2017, the ministry signed an agreement with a new company, Level 4, to provide a high-speed broadband infrastructure that would be available to telecom operators and ISPs.^[21] Level 4 is owned by the state-run Tunisian Internet Agency (ATI), EO Datacenter, and IŞKAYA.^[22] In August 2018, following the coverage period, the cabinet approved Decree 912/2017, which specifies the general conditions for using public telecommunications networks and access networks.^[23]

ICT Market

The main mobile operators are TT, Ooredoo Tunisie, and Orange Tunisie. The state controls a 65 percent stake in TT, while the private equity firm Abraaj Group purchased the remaining shares of TT in November 2017 from Dubai Holding.^[24] Ooredoo Tunisie is a subsidiary of the multinational company and Qatar-based Ooredoo. AfOrange Tunisie has been controlled by the state since 2011, when a 51 percent stake was seized from Marwan Ben Mabrouk, son-in-law of former president Ben Ali. The remaining 49 percent stake is owned by the multinational group Orange.

A smaller operator, Lycamobile Tunisia, entered the ICT market in late 2015. Lycamobile is an international mobile virtual network operator, which provides low cost rates for domestic and international calls and data services.^[25] The operator was allocated a five-year renewable license

and uses the infrastructure of TT. Lycamobile accounted for less than 4 percent of subscriptions by May 2018.^[26] The market shares of Ooredoo, TT, and Orange Tunisie are 40 percent, 30 percent, and 26 percent, respectively.

TT, Ooredoo Tunisie, and Orange Tunisie also provide fixed-line subscriptions, in addition to GlobalNet, Hexpayte, and public providers that connect public institutions to the internet. Topnet, owned by TT, dominates the DSL broadband market with a share of 58 percent, followed by GlobalNet (16 percent), Orange (13 percent), Hexabyte (8 percent), and Ooredoo (3 percent) as of May 2018.^[27]

Regulatory Bodies

The Ministry of Communication Technologies and Digital Economy is the main government body responsible for regulating the ICT sector. The National Instance of Telecommunications (INT) is the regulator for all telecom and internet-related activities, and has the responsibility of resolving technical issues and disputes between actors.

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 is directly selected by the Council of the Judiciary an independent body tasked with overseeing the functioning of the judicial system, before appointment by government decree.^[28] 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.

Internet policy is decided by the INT and executed by the ATI, a state body governed by a board of trustees comprised of representatives from the main shareholder, TT. The company controls 37 percent of ATI shares and the state owns a further 18 percent, while the remaining 45 percent is divided among private banks. The head of the ATI is appointed by the ICT Ministry. The INT and ATI manage the ".tn" country domain. Under Ben Ali, the ATI was a government organ for surveillance and censorship. The ATI now manages the internet exchange point (IXP) between national ISPs that buy connectivity from TT, as well as the allocation of internet protocol (IP) addresses.

Passed in December 2014, Government Decree n°2014-4773 regulates the granting of business licenses to ISPs.^[29] Under the decree, ISPs are subject to prior authorization from the ICT Ministry, after consulting with the Ministry of Interior 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 ICT minister or his representative and is composed of representatives from the Ministries of Defense, Interior, ICT, and Commerce; the INT; and the Union for Industry and Commerce (UTICA). Businesses seeking to apply for a license need to have a standing capital of at least TND 1 million (approximately US\$405,000). Licensing applications must be answered by the ministry within one month.

Limits on Content:

Tunisian users continue to enjoy an open internet. However, in the absence of legal reforms, laws regarding censorship and intermediary liability from the Ben Ali era continue to pose a threat to free expression online.

Blocking and Filtering

Censorship remains relatively 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.

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 LGBTI (lesbian, gay, bisexual, transgender, and intersex) 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.^[30] The station launched in December 2017 and received more than 4,000 hate messages in its first two weeks.^[31]

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 claims, encourage teenagers to commit suicide. The ATI has appealed the court's decision and called for a national dialogue on protecting children in cyberspace without impeding internet access.^[32] In March, the ATI announced that it will soon offer a new parental control service called Ammar Kids, which will provide an "at source" filtered internet connection.^[33]

Content Removal

While authorities did not filter extremist content during the reporting period, the ICT Ministry has admitted to coordinating with social media companies to suspend pages that it believes incite violence or extremism.^[34] In the Facebook transparency report covering the period from July to December 2017, Facebook stated that it restricted access to one post in Tunisia in response to a private report related to defamation.^[35]

Under laws inherited from the dictatorship era, ISPs are liable for third-party content. According to Article 9 of the 1997 Internet Regulations, ISPs are required to continuously monitor content to prevent the dissemination of information "contrary to public order and good morals."^[36] There is no evidence that these laws were used to request intermediaries to remove political or social content during the coverage period.

Media, Diversity, and Content Manipulation

Tunisia's online media landscape is 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. Nonetheless, self-censorship still occurs. Some users may avoid crossing certain red lines on topics such as religion, the military, and security institutions over fears of potential arrest and prosecution. Still, users are more open to discussing these sensitive issues on the web compared to traditional media. For example, religious issues are debated more openly online than in the mainstream media or on the streets.

The National Syndicate of Tunisian Journalists, a nongovernmental organization (NGO), organized a "day of anger" demonstration in February 2018 to protest the pressure authorities place on journalists covering security operations or expressing critical viewpoints. The demonstration came in response to Minister of Interior Lotfi Brahemi admitting that journalists were being monitored (see Surveillance, Privacy, and Anonymity).

Digital Activism

Tunisian youth and civil society organizations have continued to use digital media for initiatives relating to political and social issues. A youth movement called Fech Nestannek (What are we waiting for?) was founded in January 2018 and used social media to rally opposition to the price increases for food, gas, and other essential products included in the 2018 Budget Law passed by parliament. The group used an alarm clock as its logo to symbolize the need for population to wake up and act. The group's Facebook page has around 32,000 followers.^[37]

Civil society activists have utilized data collected through the Right to Information Law, which went into force in March 2017, to launch online platforms designed to inform the public and hold public officials accountable. For example, Cabrane.com monitors the costs and on-time performance of public projects, and resources.tn makes legal, administrative, and media information related to natural resource management and the energy sector available to public.

Violations of User Rights:

While Tunisia has taken significant steps to promote internet access and reverse online censorship, the country's legal framework remains a significant threat to internet freedom. Most problematically, the judiciary continues to employ laws from the Ben Ali era to prosecute online expression, and several users were charged with criminal defamation during the reporting period.

Legal Environment

The 2014 constitution, the first to be passed since 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.^[38] 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.

Despite improvements to the constitution, repressive laws still in force from the Ben Ali regime remain the greatest threat to 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 liable to pay a fine. Articles 128 and 245 of the penal code also punish slander with two to five years of 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, Tunisia's code of military justice criminalizes any criticism of the military institution and its commanders.^[39]

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 and transmits them to the public on a primary and regular basis," and "works in an institution or institutions of daily or periodical news agencies, or audiovisual media and electronic media under the condition that it is the main source of income." In addition, authorities continue to use the penal code to prosecute journalists.^[40]

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.^[41] 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.^[42] Article 5 outlines surveillance and communication interception practices in terrorism-related cases. To monitor and intercept suspected terrorists' communications, security and intelligence services need to obtain judicial approval in advance for a period of four months, renewable only once (also for four months). Article 64 punishes unauthorized surveillance with up to a year in jail and a fine of TND 1,000 (US\$418). Under the new law, the authorities cannot prosecute journalists for not revealing terror-related information they obtain during the course of their work.^[43]

In July 2017, parliament debated a proposed law with vague provisions that could criminalize legitimate criticism of the security forces, including for human rights abuses. The draft law was originally presented to parliament in April 2015 by the former government of Habib Essid. Article 12 of the bill criminalizes the "denigration" of police and other security forces with the aim of "harming public order;" those convicted would receive a sentence of up to two years in prison and a maximum fine of TND 10,000 (US\$4,180). Articles 5 and 6 of the bill provide for up to 10 years in prison and a TND 50,000 (US\$ 20900) fine for those who disclose or publish "national security secrets," defined as "any information, data, and documents related to national security." This broad definition could be used to imprison those revealing information about human rights violations. No protection from prosecution is provided for whistleblowers or journalists.^[44] Article 7 criminalizes unauthorized filming or recording inside security and military headquarters and at sites of military and security operations, with a maximum punishment of two years in prison.^[45]

In November 2017, in an attempt to appease both security unions backing the measure and civil society groups opposing it, Interior Minister Brahém insisted before parliament's General Legislation Commission that his ministry was taking the concerns of all sides into consideration. Brahém proposed the creation of a joint committee to draft a new law that will protect security agents and their families, while also considering human rights principles and respecting constitutional provisions guaranteeing individual rights, including a free press. At the end of the reporting period, the controversial bill was still being considered by parliament.^[46]

In March 2018, 17 members of parliament from Nidaa Tounes, a party in the ruling coalition, submitted a proposal to amend the penal code by adding two articles that would criminalize online defamation. The proposed amendments prescribe a two year jail sentence and a fine of TND 3,000 (US\$1,252) for those convicted of publishing content that could harm "public order," "good morals," "sanctity of the private life," and "the honor" of individuals and "official institutions."^[47] The National Syndicate of Tunisian Journalists condemned the bill as an attack on freedom of expression.^[48]

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, plans 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 of the country becoming party to the convention.^[49] Chawki Gaddes, the president of the National Authority for the Protection of Personal Data, said during the CyberSouth project launch that a draft law on preventing cybercrime will soon be submitted to parliament.^[50]

In March 2018, the government extended the state of emergency for seven months.^[51] In 2015 and 2016, in response to a series of armed attacks, the government implemented new security measures and imposed a state of emergency. A previous state of emergency was implemented in 2011 during the revolution.

Prosecutions and Detentions for Online Activities

Several users were arrested, prosecuted, or investigated for their online activities during the reporting period:

- In August 2017, blogger Nabil Rabhi was sentenced to six months in prison and fined TND 1,200 (US\$500) for publishing what local authorities deemed "defamatory statements" about Tunisia's president and his family on his Facebook page.^[52] On Facebook, Rabhi had criticized President Beji Caid Essebsi; his son Hamed Caid Essebsi, the executive director of Nidaa Tounes; Sofien Toubel, the head of the Nidaa Tounes parliamentary bloc; and Borhene Bsaies, the communications director of Nidaa Tounes.^[53] Rabhi later appealed the decision to the Court of Appeal in Sousse, which affirmed the sentence in October 2017.^[54]
- In November 2017, the Court of First Instance in Bizerte sentenced blogger Mohamed Hammami, in his absence, to one year in prison for online defamation against Minister for Relations with the Constitutional Bodies, Civil Society, and Human Rights Mehdi Ben Gharbia.^[55] The sentence was later reduced to eight months in prison and a fine of TND 120 (US\$40).^[56] Hammami has appealed the decision.
- In January 2018, the Court of First Instance in Jendouba sentenced both Abdel Aziz Al Jordi and Abdul Razzaq Al Kharzi to six months in prison and TND 5,000 (US\$2,093) for publishing false news that would disturb public order, committing "a brutal act" against the president, and violating copyright laws by imitating a registered trademark without permission.
- In January 2018, police arrested blogger and activist Kais Bouazizi in Sidi Bouzid for a Facebook post that called for protests against the government's economic and financial austerity measures. A prosecutor charged Bouazizi under article 121 of the penal code, which penalizes disseminating news that could cause "harm to the public order or public morals." On January 23, Bouazizi was acquitted and released after a week in pretrial detention.^[57]
- In April 2018, Thameur Mekki, editor in chief of the independent media platform *Nawaat*, was questioned by the subunit of criminal cases in El Khadra following a defamation complaint filed against him by Nabil Karaoui, the head of the private television station Nessma TV, for an article published by *Nawaat* in April 2017.^[58]
- Parliamentarian and blogger Yassine Ayari was sentenced twice in 2018 for online activity. In June 2018, the criminal court of the military sentenced him to three months of imprisonment for treason and conspiring against state security^[59] for a Facebook post

mocking the appointment of a military commander. However, Ayari held that he did not author the post. According to Ayari, the military prosecutor later appealed the decision. In March 2018, Ayari was sentenced in his absence by military court to 16 days imprisonment for a 2017 Facebook post. The post again mocked the appointment of a senior military commander for being "overly sensitive" for allegedly saying in a 2014 trial that Ayari's "Facebook post had ruined his morale."

- In June 2018, a 27 year-old-man was sentenced to four months in prison for homosexuality, based on a Facebook chat with his boyfriend.^[60]

Authorities have also arrested several individuals for advocating extremism in recent years.^[61] Under the state of emergency, Amnesty International has documented cases of arbitrary arrests, often without a warrant. Some detainees have been subjected to torture and other ill-treatment in custody. The authorities have also applied arbitrary restrictions on individuals' movement inside the country. Security forces have often used excessive force when searching homes and have harassed the families of some suspects to coerce them into providing information.^[62]

Surveillance, Privacy, and Anonymity

Surveillance remains a concern in Tunisia, particularly in light of the country's history of abuse under the Ben Ali regime. New revelations during the reporting period have raised concerns regarding the government's wiretapping ability.

In January 2018, Interior Minister Brahem admitted during a parliamentary hearing that he had wiretapped a French journalist Mathieu Galtier's phone for allegedly being in contact with "vandals."^[63] Police also summoned the journalist for interrogation. On Twitter, Galtier denied Brahem's accusation, saying that he had only talked to demonstrators on the ground in Tebourba protesting against austerity and the 2018 budget.^[64] During the same parliamentary hearing, Brahem also declared that his ministry would prosecute bloggers who "doubt the integrity of security institutions and undermine the morale of security forces."^[65]

The creation of a new government surveillance agency in November 2013 raised concerns among human rights and privacy groups, particularly given the lack of transparency surrounding its duties. The Technical Telecommunications Agency (ATT) was established by decree under the government of former prime minister Ali Laarayedh. The decree tasks the ATT with "providing technical support to judicial investigations into information and communication crimes," but neither defines nor specifies these crimes.^[66] Netizens immediately criticized the decision for its lack of parliamentary scrutiny, as well as a failure to provide the body with a clear and limited mandate, with independence from government interference, and with mechanisms to guarantee user rights.^[67] According to article 5 of the decree, the ATT's activities are not open to public scrutiny.

The ICT minister is charged with appointing the ATT's general director and department directors. An oversight committee was established "to ensure the proper functioning of the national systems for controlling telecommunications traffic in the framework of the protection of personal data and civil liberties." The committee mainly consists of government representatives appointed from the ministries of ICT, human rights and transitional justice, interior, national defense, and justice.

Despite this early criticism, the ATT started operating at "full capacity" in the summer of 2014^[68] after the appointment of Jamel Zenkri, who previously served at the ATI and the INT as general

director.^[69] Responsibilities for conducting internet surveillance for the purposes of law enforcement have thus been transferred to the ATT from the ATI, which often assisted the judiciary in investigating cybercrime cases, despite the absence of a law requiring it to do so.^[70]

Following the Tunisian Parliament's unanimous ratification of the Council of Europe's Convention 108, which addresses the protection of personal data online, in May 2017,^[71] the INPDP launched a consultation process^[72] that led to Draft Law 25/2018 on protecting personal information. The bill was presented to parliament for debate in March 2018.^[73] Civil society groups have criticized the draft law for not defining the difference between personal data that should be protected and public information that should be available in accordance with the access to information law. Therefore, many NGO leaders are concerned that the draft law threatens freedom of information and transparency.^[74]

In late 2016, plans to introduce biometric identification cards sparked criticism, particularly in the absence of strong data and privacy protections.^[75] A bill, proposed by the government and submitted to the parliament, would amend a 1993 law on national identification cards by requiring citizens to carry biometric identification cards encoded with a combination of personal data, including one's photograph, digitized fingerprint, social security number, and home address. A number of civil society groups criticized the bill for its lack of safeguards and lack of details about the measures authorities would take to ensure protection of citizens' biometric data. It was also unclear which government authorities and institutions would have access to the data, as well as where and for how long such data would be stored.^[76] The Data Protection Authority (INPDP) denounced the government for failing to consult with it prior to releasing the bill; under article 76 of the data protection law, the authority is entitled to give its opinion on matters related to privacy and personal data protection.

In January 2018, the proposed bill for biometric identification cards was officially withdrawn from consideration in parliament.^[77] However, in June 2017, during the debate on the law, the former minister of interior said that the biometric project was very important for his ministry and was linked to other government projects, including setting up surveillance cameras in cities^[78] that, according to the head of personal data protection, would have facial recognition abilities.^[79]

In 2018, leaked documents showed that Circinus, a Virginia-based defense contracting company, proposed to build an open-source intelligence center for the Tunisian government for US\$80 million over five years. The pitch claimed that Circinus could help the government's "targeting" abilities, while a social media geolocation feature could help at a "tactical level" by letting "agents in the field [identify] social media traffic in real time." An official said that the government ultimately declined the proposal by Circinus.^[80]

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

Whilst Decree No. 2014-477326, adopted in December 2014 to govern the liability of internet service providers (ISPs), is an improvement to Decree No. 97-401 of 1997, it still imposes a duty on ISPs under article 11 (3-4) to "to meet the requirements of the national defense, security, and public

safety in accordance with the legislation and regulation in force" and to "provide to the relevant authorities all the means necessary for the performance of his duties, in that context, the provider of internet services shall respect the instructions of the legal, military and national security authorities."^[81]

Intimidation and Violence

In addition to arrest and prosecution, internet users and digital activists must also be wary of extralegal attempts to silence them, including death threats in some cases. In January 2018 during the wave of anti-austerity protests, police and other security apparatus were criticized for harassing and intimidating journalists reporting on the demonstrations, including interrogating two French journalists, Mathieu Galtier and Michel Picard.^[82]

- In June 2018, a recording leaked on social media in which Nabil Karaoui, the head of Nessma TV, described how he would use his TV station to harass the former executive director of the anticorruption NGO I Watch, as well as his family, by accusing him of being a "traitor" who received money to study abroad.^[83] I Watch maintains a strong online presence in Tunisia.
- In April 2018, activist Yamen Yakoubi was interrogated by the police in Kef following a complaint by the head of national security, for posts he wrote on Facebook that were critical of the national security apparatus.^[84]
- In May 2018, a basketball fan designed a t-shirt criticizing the police for beating one of their fellow fans after a game. The t-shirt design included a photo of the fan after the abuse, with the hashtag #Learnhowtobeahuman. One of the fans said in a Facebook post that after she shared the t-shirt design and contact information for the printing house, the police arrested the printing house owner until the t-shirts that had been distributed were returned.^[85]
- In 2017, the protection unit at the National Syndicate of Tunisian Journalists reported that the Facebook pages for news outlets *Kapitalis* and *Akher Khabar* were both suspended from publishing for one week after posting news items criticizing the Ennahda Movement, a major political party.^[86]
- In April 2018, Houssein Triki shared a picture of a police car that had been involved in an accident on Facebook with the tagline "learn how to drive." Triki was subsequently interrogated and put on trial.^[87] The "learn how to drive" tag was inspired by a well-known "learn how to swim" campaign slogan. The campaign accused the police of killing 19-year-old football fan Omar Abidi, who was unable to swim and was found drowned in a canal shortly after a match at the Rades Olympic Stadium. Friends of Abidi claimed the police chased him into the canal.^[88]

Technical Attacks

Since Ben Ali's fall, there have been no reported incidents of cyberattacks perpetrated by the government to silence ICT users. However, since 2011, some nonstate actors have employed these methods to intimidate activists and organizations with whom they disagree, particularly during major political events such as the 2014 parliamentary and presidential elections. After it published reports on the Panama Papers, which mentioned politician Mohsen Marzouk, the web magazine *Inkyfada* endured a cyberattack that forced the site to go offline for a few days. Hackers sought to manipulate the site's content and managed to publish an article falsely alleging that Marzouk received US\$36 million from a Qatari foundation through an offshore company based in Panama.^[89]

During a parliamentary hearing session explaining the reasons behind his resignation, former president of the independent electoral commission Chafik Sarsar denounced what he described as "police practices" targeting members and employees of the commission, including the hacking of emails.^[90]

Notes:

1 <https://www.bbc.com/news/world-africa-42644326>

2 <https://www.aljazeera.com/news/2018/01/tunisia-austerity-protests-wave-arrests-180126140735239.html>

3 <https://www.amnesty.org/en/latest/news/2018/02/tunisia-attack-on-freedom-of-expression-must-end/>

4 "Percentage of individuals using the Internet, fixed (wired) Internet subscriptions, fixed (wired)-broadband subscriptions," International Telecommunication Union (ITU), 2011-2016, <https://www.itu.int/en/ITU-D/Statistics/Pages/stat/default.aspx>

5 Instance Nationale des Télécommunications. "Suivis des principaux indicateurs du marché de la data mobile en Tunisie" [Monitoring of main indicators regarding the mobile data market], May 2018 http://www.intt.tn/upload/files/TB4_Data-Mobile%20-%20Mai%202018.pdf,

6 Instance Nationale des Télécommunications. "Suivis des principaux indicateurs du marché de la data mobile en Tunisie" [Monitoring of main indicators regarding the mobile data market], May 2018 http://www.intt.tn/upload/files/TB4_Data-Mobile%20-%20Mai%202018.pdf.

7 Instance Nationale des Télécommunications. "Suivis des principaux indicateurs du marché de la data fixe en Tunisie" [Monitoring of main indicators regarding the fixed data market], May 2018, http://www.intt.tn/upload/files/TB3_Data-Fixe%20-%20Mai%202018-01.pdf.

8 "Tunisie: Le gouvernement tunisien espère le lancement de la 4G cet été," *Huffpost Tunisie*, March 1, 2016, http://www.huffpostmaghreb.com/2016/03/02/tunisie-4g_n_9367760.html.

9 "Antony Drugeon, "La 4G arrive en Tunisie: à quels changements s'attendre?" *Huffpost Tunisie*, March 10, 2016, http://www.huffpostmaghreb.com/2016/03/10/4g-tunisie-changements_n_9425008.html.

10 "Packs clés post-payés 4G," Ooredoo Tunisia, accessed on October 13, 2017, <http://ooredoo.tn/particuliers/Packs-cles-post-payes-4G>.

11 "Adsl força," GlobalNet, accessed on October 13, 2017, <http://www.gnet.tn/offres-familiales/forca/id-menu-949.html>.

12 "ADSL Home," Orange Tunisia, accessed on October 13, 2017, <http://orange.tn/adsl-home>.

13 Increase of sales taxes on prepaid top-up cards. <https://bit.ly/2v3Ngkz>

14 Ooredoo Tunisie launching fixe jdid service
<http://www.ooredoo.tn/institutionnel/presse/communication-presse/fixe-jdid>

15 "INS : L'accès des ménages aux TICs a augmenté de 20% entre 2016 et 2017" April 17, 2018.
<https://thd.tn/ins-laccs-des-menages-aux-tics-a-augmente-de-20-entre-2016-et-2017/>

16 Instance National des Télécommunications (INT), "Suivi des principaux indicateurs du marché de la téléphonie mobile en Tunisie" [Monitoring of main indicators regarding the mobile phone market in Tunisia], May 2018, http://www.intt.tn/upload/files/TB2_Tel-Mobile%20-%20Mai%202018.pdf.

17 Decision of July 29, 2013 on the conditions for the exploitation of public internet centers, JORT page 38 <http://www.cnudst.nrnt.tn/jortsrc/2013/2013a/ja0732013.pdf>.

18 Instance National des Télécommunications, "Suivi des principaux indicateurs du marché de l'Internet fixe en Tunisie" [Monitoring of main indicators regarding the fixed Internet market in Tunisia], January 2018 http://www.intt.tn/upload/files/TB3_Data-Fixe%20-%20Janvier%202018.pdf.

19 "Didon cable linking Italy and Tunisia enters service," *Telecom Paper*, September 22, 2014, <http://bit.ly/1L9DFV2>.

20 Teners for coverage of white areas for high-capacity communications. <https://bit.ly/2v6e9oc>

21 Signature of a Convention between the MTCEN and Level4 Company in the field of installation and operation of a public telecommunications network in Tunisia. December 2017, <http://www.ati.tn/?p=2127&lang=fr>.

22 Level4, the new infrastructure operator, officially operational. December 2017, <https://lemanager.tn/level4-le-nouvel-op%C3%A9rateur-d'infrastructure-officiellement-op%C3%A9rationnel-1b5aadb6db7>

23 Decree 912/2017 that specifies the general conditions for using public telecommunication networks and access networks, accessed August 24, 2018, https://www.mtcen.gov.tn/fileadmin//textes_juridiques_arabe/Decret2017_912Arabe_2_.pdf

24 Reuters: Abraaj buys Tunisie Telecom from Dubai Holding-Tunisian minister;
<https://www.reuters.com/article/tunisia-telecoms/abraaj-buys-tunisie-telecom-from-dubai-holding-tunisian-minister-idUSL8N1NX5H8>

25 Lycamobile to Launch in Tunisia as its Global Network Reaches 20 Countries. *PR Newswire*, October 1, 2015, <http://www.prnewswire.com/news-releases/lycamobile-to-launch-in-tunisia-as-its-global-network-reaches-20-countries-530220811.html>.

26 Instance Nationale de Télécommunication. "Suivi des principaux indicateurs du marché de la téléphonie mobile en Tunisie" [Monitoring of main indicators regarding the mobile telephony

market in Tunisia], May 2018 http://www.intt.tn/upload/files/TB2_Tel-Mobile%20-%20Mai%202018.pdf

[27](#) Instance Nationale de Télécommunication. "Suivi des principaux indicateurs du marché de la data fixe en Tunisie" [Monitoring of main indicators regarding the fixed internet market in Tunisia], May 2018 http://www.intt.tn/upload/files/TB3_Data-Fixe%20-%20Mai%202018-01.pdf.

[28](#) Twinning Project TN/13/ENP/TE/27b Support for the Instance National of Telecommunications (INT), "Report on the independence of the Instance National of Telecommunications," January 2016, accessed on 8 May 2017, <http://www.intt.tn/upload/files/Report%20on%20Independence%20of%20the%20INT.pdf>.

[29](#) Presidency of the Government, قرار 4773 دد-ع رمأ 26 ي ف خرؤم 2014 قنسل 62 fo 3774°n eerced rebmeceD ب ض بط شروط وإجراءات إسناد ت ر خ يص ذ شاط مزود خدمات الأذ ترذات. [2014 fixing the conditions and procedures for allocating authorizations for ISP activities], December 26, 2014, <http://bit.ly/1UrOYIW>.

[30](#) A Tunisian court turned down a court case requesting it to block LGBT Radio Shams. February 2018, <http://legal-agenda.com/article.php?id=4240>

[31](#) Tunisia's first LGBTQ radio station keeps playing despite threats. December 2017, <https://www.reuters.com/article/tunisia-gay-radio/tunisia-first-lgbtq-radio-station-keeps-playing-despite-threats-idUSL1N1OR0YR>

[32](#) Tunisian Internet Agency calls for a national dialogue. March 2018 <http://acharaa.com/ar/307665>

[33](#) Tunisian Internet Agency Press Statement in response to the decision by Court of First Instance in Sousse to block "Blue Whale" and "Meriam" games. March 2018. <http://www.ati.tn/wp-content/uploads/2018/03/communiqu2presseBlueWhale.pdf>

[34](#) "Tunis 24/7 Mokhtar Khalfaoui/ Noomane El Fehri," YouTube video, 1:31:35, published by Elhiwar Ettounsi, March 26, 2015, https://youtu.be/8iVo_m-wULE.

[35](#) Facebook transparency report covering July – December 2017. <https://transparency.facebook.com/content-restrictions/country/TN>

[36](#) "a decree regulating providing on top service for telecommunications type internet 1997", https://www.mincom.tn/fileadmin//textes_juridiques_arabe/A22-03-1997-1_ar.pdf

[37](#) Fesh Nestannew ["what are we waiting for?"] Campaign Facebook Page, accessed on April 17, 2018, <https://www.facebook.com/Fech.Nestannew/>

[38](#) Constitution of The Tunisian Republic, Translated by UNDP and reviewed by International IDEA https://www.constituteproject.org/constitution/Tunisia_2014.pdf

[39](#) Maher Chaabane and Lilia Weslaty, "Tunisie : Yassine Ayari ne doit pas être jugé par le tribunal militaire selon Rahmouni," [According to Rahmouni, Yassine Ayari should not be prosecuted by the military court] *Webdo*, December 25, 2014, <http://bit.ly/1JTUtTC>.

[40](#) Safa Ben Said, "In Tunisia, press freedom erodes amid security fears," Committee to Protect Journalists, October 27, 2015, <https://www.cpj.org/reports/2015/10/in-tunisia-press-freedom-erodes-amid-security-fear.php>.

[41](#) Counter-terrorism law of 7 August 2015:
<http://www.legislation.tn/sites/default/files/news/ta2015261.pdf>

[42](#) "Tunisia: Counter-terror law endangers rights," Human Rights Watch, July 31, 2015.
<https://www.hrw.org/news/2015/07/31/tunisia-counterterror-law-endangers-rights>.

[43](#) Safa Ben Said, "In Tunisia, press freedom erodes amid security fears," Committee to Protect Journalists, October 27, 2015, <https://www.cpj.org/reports/2015/10/in-tunisia-press-freedom-erodes-amid-security-fear.php>.

[44](#) Amnesty International: Tunisia: Proposed bill could give security forces carte blanche to use unnecessary lethal force. July 2017; <https://www.amnesty.org/en/latest/news/2017/07/tunisia-proposed-bill-could-give-security-forces-carte-blanche-to-use-unnecessary-lethal-force/>

[45](#) Global Voices: In Tunisia's 'State of Emergency', a New Police Protection Law Could Allow More Abuse – With Impunity. August 2017, <https://advox.globalvoices.org/2017/08/17/in-tunisias-state-of-emergency-a-new-police-protection-law-could-allow-more-abuse-with-impunity/>

[46](#) Nawaat: New security draft law portends return of police state in Tunisia. November 2017, <https://nawaat.org/portail/2017/11/17/new-security-draft-law-portends-return-of-police-state-in-tunisia/>

[47](#) Bill to limit online publishing in Tunisia, March 2018, <https://bit.ly/2Ob4TDk>

[48](#) National Syndicate of Tunisian Journalists: A restrictive bill for freedom of opinion and expression reflects nostalgia for tyranny. March 2018, <https://bit.ly/2Plj79F>

[49](#) Tunisia invited to join the Budapest Convention on Cybercrime. February 2018, <https://bit.ly/2D8iKto>

[50](#) Tunisia: Cybersouth officially launches. March 2018, https://africanmanager.com/site_eng/tunisia-cybersouth-officially-launches/?v=947d7d61cd9a

[51](#) During the coverage period Emergency status was in place and was last extended in March 2018 for seven months. March 2018, <https://www.middleeastmonitor.com/20180307-tunisia-extends-state-of-emergency-for-additional-7-months/>

[52](#) 6 mois de prison contre Nabil Rabhi pour diffamation "6 months prison sentence for Nabil Riahi" August 2017, <https://www.mosaiquefm.net/fr/actualite-faits-divers/183133/6-mois-de-prison-contre-nabil-rabhi-pour-diffamation>

53 Nabil Rabhi arrêté suite à des publications insultant plusieurs personnalités publiques "Nabil Rabhi arrested following publications insulting several public figures" July 2017, <https://bit.ly/2OU4Tgf>

54 The court of Appeal in Sousse issued its decision for Nabil Rabhi case. October 2017, <https://bit.ly/2Jkun0d>

55 "One year in prison sentence for blogger Mohamed Hammai for defamation of Mehdi Ben Gharbia" November 2017, <https://bit.ly/2D7RICm>

56 "8 months in prison sentence for blogger Mohamed Hammami for defamation of Mehdi Ben Gharbia" April 2018, <https://bit.ly/2AxkY2V>

57 Human Rights Watch: Tunisia: Abusive Treatment During Protests. January 2018, <https://www.hrw.org/news/2018/01/31/tunisia-abusive-treatment-during-protests>

58 "Thamuer Mekki questioned by the subunit of criminal cases," April 2018, <http://protection.snjt.org/464-2/>

59 Yassine Ayari Facebook page, accessed in August 2018, <https://www.facebook.com/aya.yass/posts/10214630888778884>

60 Shams association facebook page accessed on August 6th, 2018 <https://web.facebook.com/lgbtrightstunisia/posts/867519126765068>

61 "Tunisian Interior Ministry: Dismantling Female Terrorist Cell," (Arabic) Deutsche Welle, March 15, 2017, <http://bit.ly/2yrwgoT>.

62 Tunisia: 'We want an end to the fear': Abuses under Tunisia's state of emergency, <https://www.amnesty.org/en/documents/mde30/4911/2017/en/>

63 Amnesty International, Tunisia: Attack on freedom of expression must end, February 2018 <https://www.amnesty.org/en/latest/news/2018/02/tunisia-attack-on-freedom-of-expression-must-end/>

64 "Tunisian Security Forces Target Journalists Covering Anti-Austerity Protests" Advox, Global Voices February 2018 <https://advox.globalvoices.org/2018/02/22/tunisian-security-forces-target-journalists-covering-anti-austerity-protests/>

65 Amnesty International: Tunisia: Attack on freedom of expression must end. February 2018 <https://www.amnesty.org/en/latest/news/2018/02/tunisia-attack-on-freedom-of-expression-must-end/>

66 Reporters Without Borders, "Authorities urged to rescind decree creating communications surveillance agency," December 3, 2013, http://en.rsf.org/tunisia-authorities-urged-to-rescind-02-12-2013_45531.html.

[67](#) Afef Abrougui, "Will Tunisia's ATT Ring in a New Era of Mass Surveillance," *Global Voices Advocacy*, November 26, 2013, <http://bit.ly/1JTXPpw>.

[68](#) Khalil Abdelmoumen, "Jamel Zenkri, DG de l'AT des Télécommunications : « Nos agents sont, dès le départ, soupçonnés d'être malhonnêtes »,» [Jamel Zenkri director general of ATT: "Our agents are from the start suspected of dishonesty"] *Webdo*, June 4, 2014, <http://bit.ly/1PkCENF>.

[69](#) Sarah Ben Hamadi, "Tunisie: Jamel Zenkri à la tête de l'Agence Technique des Télécommunications," [Tunisia: Jamel Zenkri to head the Technical Agency of Telecommunications] *Al Huffington Post*, March 3, 2014, <http://huff.to/1EFND3Y>.

[70](#) Afef Abrougui, "Tunisia: New Big Brother, non-existent reforms," *Global Information Society Watch 2014: Communications surveillance in the digital age*, 248, <http://bit.ly/1fZu4rn>.

[71](#) "Tunisia ratifies Convention 108 and affirms commitment to the protection of personal data" Access Now May 2017, <https://www.accessnow.org/tunisia-ratifies-convention-108-affirms-commitment-protection-personal-data/>

[72](#) The website of the Tunisia's Data Protection Authority (INPDP), accessed on April 16, 2018, <http://www.inpdp.nat.tn/>

[73](#) Draft law 25/2018 on personal data protection on the website of Tunisian Parliament, http://www.arp.tn/site/servlet/Fichier?code_obj=101988&code_exp=1&langue=1

[74](#) A statement on the draft law for personal data protection, May 2018, <https://www.albawsala.com/en/pub/5aeb079b4f24d00741be460f>

[75](#) Ahmed Medien, "Experts Cast Doubt on Tunisia's Biometric Identification Bill," *Global Voices*, November 30, 2016, <https://globalvoices.org/2016/11/30/experts-cast-doubt-on-tunisias-biometric-identification-bill/>.

[76](#) "Tunisia: Statement on Proposed National ID Card," Access Now, November 18, 2016, <https://www.accessnow.org/tunisia-statement-proposed-national-id-card/>.

[77](#) The Ministry of the Interior withdraws the bill of national identification card, January 2018, <http://acharaa.com/ar/289337>

[78](#) Report of the rights and freedom committee on the biometric identification cards draft law, July 2017. http://www.arp.tn/site/servlet/Fichier?code_obj=99034&code_exp=1&langue=1

[79](#) Sur les pas de "Big Brother": La reconnaissance faciale risque d'incarcération pour les innocents? July 2017. <https://www.accessnow.org/sur-les-pas-de-big-brother-la-reconnaissance-faciale-risque-dincarceration-pour-les-innocents/>

[80](#) "Fund-Raiser Held Out Access to Trump as a Prize for Prospective Clients," *New York Times*, March 2018, <https://www.nytimes.com/2018/03/25/us/politics/elliott-broidy-trump-access-circinus-lobbying.html>

[81](http://bit.ly/2EJaCMV) Decree No. 2014-477326 governing the liability of internet service providers
<http://bit.ly/2EJaCMV>

[82](https://rsf.org/en/news/police-harass-journalists-covering-tunisia-protests) Reporters without Borders: Police harass journalists covering Tunisia protests. January 2018
<https://rsf.org/en/news/police-harass-journalists-covering-tunisia-protests>

[83](https://www.iwatch.tn/ar/article/509) "I watch" statement on the leak, June 9th, 2018. <https://www.iwatch.tn/ar/article/509>

[84](https://www.facebook.com/yemen.yakoubi/posts/10210822924240482) Yamen Yakoubi facebook page, accessed on August 5, 2018,
<https://www.facebook.com/yemen.yakoubi/posts/10210822924240482>

[85](https://bit.ly/2qetP3B) The fan facebook page accessed on August 6th, 2018, <https://bit.ly/2qetP3B>

[86](http://bit.ly/2HCbvbU) Le Syndicat National des Journalistes Tunisiens (SNJT) protection unit report (June 2017),
<http://bit.ly/2HCbvbU>

[87](https://www.facebook.com/azyoz/posts/10214521555765488?_rdc=1&_rdr) Facebook page of activist Azyz Amami, accessed on August 6, 2018,
https://www.facebook.com/azyoz/posts/10214521555765488?_rdc=1&_rdr

[88](https://www.bbc.com/sport/football/43795136) "Tunisia: A season marred by violence" April 2018,
<https://www.bbc.com/sport/football/43795136>

[89](http://www.courrierinternational.com/article/tunisie-le-site-inkyfada-pirate-apres-des-revelations-sur-les-panama-papers) "Tunisie. Le site Inkyfada piraté après des révélations sur les Panama Papers," *Courrier International*, April 6, 2016, <http://www.courrierinternational.com/article/tunisie-le-site-inkyfada-pirate-apres-des-revelations-sur-les-panama-papers>.

[90](http://afrique.lepoint.fr/actualites/tunisie-commission-electorale-les-enjeux-d-une-demission-11-05-2017-2126533_2365.php) "Tunisie : la commission électorale sans tête," *Le Point*, May 11, 2017,
http://afrique.lepoint.fr/actualites/tunisie-commission-electorale-les-enjeux-d-une-demission-11-05-2017-2126533_2365.php.