

Tunisia

	2016	2017		
Internet Freedom Status	Partly Free	Partly Free	Population:	11.4 million
Obstacles to Access (0-25)	10	10	Internet Penetration 2016 (ITU):	50.9 percent
Limits on Content (0-35)	8	8	Social Media/ICT Apps Blocked:	No
Violations of User Rights (0-40)	20	20	Political/Social Content Blocked:	No
TOTAL* (0-100)	38	38	Bloggers/ICT Users Arrested:	Yes
			Press Freedom 2017 Status:	Partly Free

* 0=most free, 100=least free

Key Developments: June 2016 – May 2017

- Anticorruption activists and protesters campaigned online against a controversial bill to provide officials and businesspeople with amnesty for abuses committed during the Ben Ali era (see **Digital Activism**).
- Police union activist Walid Zarrouk was sentenced to one year in prison for criticizing members of a counterterrorism unit on Facebook (see **Prosecutions and Detentions for Online Activities**).
- Privacy advocates expressed concern after a government proposal to introduce biometric identification cards (see **Surveillance, Privacy, and Anonymity**).

Introduction

Internet freedom stagnated in Tunisia over the past year given the continued use of criminal defamation provisions in the penal code to prosecute citizens for criticizing the government online.

In February 2017, Tunisia’s parliament passed a whistleblower protection law granting legal protections to those who reveal evidence of corruption. The law was seen as a win for digital media and internet freedom, since investigative reporters and anticorruption activists have continually faced harassment for their work. However, progress is hampered by ongoing charges against users for criticizing government officials or policies online. Defamation of state leaders and public institutions remains a criminal offense in the country, a provision often used by powerful figures to punish critics. Despite protections for freedom of expression in the post-revolutionary constitution, as of mid-2017 there were no proposals to amend or abolish this and other problematic legislation.

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 benefited Tunisians through lower prices and improved internet penetration. As the government continues to grapple with terrorist attacks, authorities have resisted some calls to reinstitute blocking and filtering as well as largescale surveillance. Until authorities complete legal reforms to abolish criminal defamation and pass privacy protections, local digital rights activists will continue to fear the reactivation of Ben Ali’s repressive internet controls and, with it, disproportionate violations of internet freedom.

Obstacles to Access

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

Availability and Ease of Access

Key Access Indicators		
Internet penetration (ITU) ^a	2016	50.9%
	2015	48.5%
	2011	39.1%
Mobile penetration (ITU) ^b	2016	126%
	2015	130%
	2011	115%
Average connection speeds (Akamai) ^c	2017(Q1)	4.4 Mbps
	2016(Q1)	3.8 Mbps

^a International Telecommunication Union, “Percentage of Individuals Using the Internet, 2000-2016,” <http://bit.ly/1cblxxY>.

^b International Telecommunication Union, “Mobile-Cellular Telephone Subscriptions, 2000-2016,” <http://bit.ly/1cblxxY>.

^c Akamai, “State of the Internet - Connectivity Report, Q1 2017,” <https://goo.gl/TQH7L7>.

According to the International Telecommunication Union (ITU), internet penetration stood at 50.88 percent at the end of 2016, up from 39.10 percent five years earlier.¹ There were more than 7 million mobile data subscriptions in the country as of March 2017,² consisting of 700,000 subscriptions to 3G and 4G USB keys, with the remaining representing phone plans.³ By comparison, there are 705,744 fixed broadband subscriptions in the country.⁴ 4G was launched in the summer of 2016, and the three main operators are required to cover at least 20 percent of the territory in one year,⁵ including two marginalized interior regions.⁶

The price of a data-enabled USB key was around TND 40 (approximately US\$16.2, while a postpaid monthly 4G subscription plan was around TND 25 (US\$10) for a 25GB data allowance.⁷ Fixed-line internet subscribers must first buy a landline package from Tunisie Télécom (TT), which manages the country's 225 Gbps bandwidth capacity, before choosing one of 11 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) a month for a connection speed of 4 Mbps⁸ to approximately TND 30 (US\$12) for a connection speed of 20 Mbps⁹. 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.

The number of computers per 100 inhabitants rose from approximately 12 in 2009 to 22 as of 2016.¹⁰ The use of mobile phones is also popular, with over 14.1 million mobile phone subscriptions and a penetration rate of 124.3 percent as of March 2017.¹¹

A number of Tunisians access the internet at privately owned cybercafés known as “publinets,” where one hour of connection costs at least 1 TND (US\$0.40). Before 2011, wireless access in cafes and restaurants was not permitted by law, which allowed only licensed ISPs to offer access. Nonetheless, since the 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

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

2 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], March 2017, accessed on May 5, 2017, http://www.intt.tn/upload/files/TB4_Data-Mobile%20-%20Mars%202017.pdf.

3 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], March 2017, accessed on May 5, 2017, http://www.intt.tn/upload/files/TB4_Data-Mobile%20-%20Mars%202017.pdf.

4 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], March 2017, accessed on May 5, 2017, http://www.intt.tn/upload/files/TB3_Data-Fixe%20-%20Mars%202017.pdf.

5 “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.htm.

6 “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.htm.

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

8 “Adsl força,” GlobalNet, accessed on October 13, 2017, <http://www.gnet.tn/offres-familiales/forca/id-menu-949.htm>.

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

10 Ministère des Technologies de la Communication, “و تارشؤم: يمقرلا داصتقإلا و لاصتإلا ايجولونكت ةرازو,” [Ministry of Communication Technologies and Digital Economy: statistical indicators and data: access and infrastructure], March 2015, accessed on June 24, 2015: <http://www.mincom.tn/index.php?id=315&L=1>.

11 Instance Nationale 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], March 2017, accessed May 5, 2017, http://www.intt.tn/upload/files/TB2_el-Mobile%20-%20Mars%202017.pdf.

users. The ICT ministry issued new regulations on the provision of internet access by cybercafés on July 29, 2013.¹² 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 cybercafés across the country, due mainly to a growth in the number of users accessing the internet through mobile data plans.¹³

Restrictions on Connectivity

The Tunisian government does not impose any restrictions on ICT connectivity. However, Tunisie Télécom remains the sole manager of the country's 10,000KM fiber-optic internet backbone. Tunisie Télécom 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 of late. In September 2014, private operators Ooredoo Tunisie and Orange Tunisie inaugurated their own international submarine cable, thus easing the monopoly of Tunisie Télécom on Tunisia's international submarine communications cables.¹⁴ The 175km long cable which links Tunisia to Italy is the first privately owned cable to enter into service in Tunisia.

ICT Market

The main mobile operators are Tunisie Télécom, Ooredoo Tunisie, and Orange Tunisie. The state controls a 65 percent stake in Tunisie Télécom, while the remainder is owned by Emirates International Telecommunications (EIT). Citing employee strikes over higher salaries, EIT announced a plan to sell its shares in Tunisie Télécom in 2013,¹⁵ however the sale of its 35 percent has not yet materialized.¹⁶ Ooredoo Tunisie is a subsidiary of the multinational company Ooredoo, which is partially owned by the state of Qatar. Finally, Orange Tunisie has been controlled by the state since 2011, when a 51 percent stake was seized from Marwan Ben Mabrouk, son-in-law of fallen dictator 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 (MVNO) which provides low cost rates for domestic and international calls and data services.¹⁷ The operator was allocated a five-year renewable license and will be exploiting the infrastructure of Tunisie Télécom. Lycamobile only accounted for 1.7 percent of subscriptions and 0.1 percent of national voice traffic by March 2017.¹⁸ The market shares of Ooredoo, Tunisie Telecom, and Orange Tunisie are 40.3 percent, 31.9 percent, and 26.1 percent, respectively.

12 Decision of July 29, 2013 on the conditions for the exploitation of public internet centers: <http://bit.ly/1PkBfqg>.

13 Instance Nationale 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], March 2017, accessed May 5, 2017, http://www.intt.tn/upload/files/TB3_Data-Fixe%20-%20Mars%202017.pdf.

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

15 Roger Field, "Emirates International Telecommunications Sells Its 35% Stake in Tunisie Telecom," *Arabian Industry*, June 23, 2013, <http://bit.ly/1I0KHgk>.

16 "EIT to offload 35% Tunisie Telecom stake," *Telegeography*, 2016, <https://www.telegeography.com/products/commsupdate/articles/2016/12/02/eit-to-offload-35-tunisie-telecom-stake>.

17 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>.

18 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], March 2017. http://www.intt.tn/upload/files/TB2_Tel-Mobile%20-%20Mars%202017.pdf.

Tunisie Telecom, 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 Tunisie Télécom, dominates the DSL broadband market with a share of 53.2 percent, followed by GlobalNet (17.3 percent), Orange (15.1 percent), Hexabyte (7.5 percent), and Ooredoo (4 percent) also as of March 2017.¹⁹

Regulatory Bodies

The Ministry of Communication Technologies and Digital Economy (ICT ministry) is the main government body responsible for the ICT sector. The National Instance of Telecommunication (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 from the court of Cassation (the highest court in Tunisia), and a permanent member appointed from the Court of Accounts, which oversees the management of public funds in the country. 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 Magistrature, an independent body tasked with overseeing the functioning of the judicial system, before appointment by government decree.²⁰ 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 Tunisian Internet Agency (ATI), a state body governed by a board of trustees comprised of representatives from the main shareholder, Tunisie Télécom. 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 Tunisie Télécom, 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.²¹ 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 wishing to apply for a license need to have a standing

19 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], March 2017, http://www.intt.tn/upload/files_TB3_Data-Fixe%20-%20Mars%202017.pdf.

20 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/epport%20on%20Independence%20of%20the%20INT.pdf>.

21 Presidency of the Government, "دعوى رقم 4773 لسنة 2014 في شأن شروط منح تراخيص تشغيل خدمات الإنترنت." [Decree n°4773 of 26 December 2014 fixing the conditions and procedures for allocating authorizations for ISP activities], December 26, 2014, <http://bit.ly/1UrOYIW>.

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. As the authorities continue to grapple with mounting terrorist attacks, more attention has turned to the fight against online extremism.

Blocking and Filtering

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

Despite calls by several politicians and media commentators to censor web pages affiliated with terrorism, as of mid-2017, there was no evidence that authorities filtered terrorist content. Authorities do punish users for posting such content (see “Prosecutions and Detentions for Online Activities”).

Content Removal

While authorities are currently not filtering extremist content, the telecommunications ministry has previously revealed it is coordinating with social media companies to suspend pages that incite violence or extremism.²² It seems, however, that this coordination may be limited to requesting user data rather than content removals. In their transparency reports, Google, Facebook, and Twitter have not noted any takedown requests from the Tunisian government over the coverage period.

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.” There is no evidence that laws such as these have been used to request that intermediaries 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 sources of information 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, Tunisia’s post-revolutionary vibrancy has not eliminated all self-censorship. Some users might still avoid crossing certain red lines on topics such as religion, the military, and security institutions over fears of legal prosecution. Still, users are more open to discussing these sensitive issues on the web compared to traditional media.

²² “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.

Digital Activism

Tunisian youth and civil society organizations have continued to use digital media for initiatives relating to political and social issues. Throughout 2016 and the first half of 2017, anti-corruption activists and protesters continued to campaign against the controversial economic “reconciliation” bill using digital tools²³. Due to public pressure, the bill was later renamed to the “administration reconciliation” law to exclude businesspeople and to include only Ben Ali era state officials who did not gain personal benefit from their implication in corruption²⁴. The law was adopted by the parliament in September, further drawing criticism and igniting street protests.

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 users over online expression. Several users have been charged with criminal defamation. Civil society has expressed worries about a draft biometric identification law, given the absence of strong privacy protections and the failure to consult the data protection authority.

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.²⁵ 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, where religious issues are currently debated more openly than in the mainstream media or on the streets.

Despite improvements to the constitution, the repressive laws of 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’ imprisonment. Article 121(3) calls for a maximum punishment of five years in jail 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.²⁶

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

23 Manich Msameh [“I Will Not Forgive”] Campaign Facebook Page, accessed on October 17, 2017, <https://www.facebook.com/manichmsameh/>.

24 “Amnesty for Ben Ali-era corruption in Tunisia condemned,” *The Financial Times*, 2017, <https://www.ft.com/content/b90f3226-995c-11e7-a652-cde3f882dd7b?mhq5j=e5>.

25 Constitution of The Tunisian Republic, trans. Jasmine Foundation, January 26, 2014, <http://bit.ly/LERYbu>.

26 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>.

the same protections afforded to traditional journalists. Article 7 defines a “professional journalist” as a person holding a BA 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.²⁷

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.²⁸ The law outlines a maximum of five years in prison for those found to have “publicly and clearly praised” a terrorist crime, its perpetrator, and groups connected with terrorism.²⁹ Chapter five 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 by a year in jail and TND 1,000 (US\$ 450). Under the new law, the authorities cannot prosecute journalists for not revealing terror-related information they obtain during the course of their professional work.

Plans to introduce a cybercrime law have not materialized as of May 2017, but a commission comprised of members of the ICT and justice ministries have been working on a draft to be submitted to the cabinet for approval before its adoption by the parliament.³⁰ A previous draft law, leaked in 2014, included problematic provisions extending criminal defamation to digital media.³¹

Prosecutions and Detentions for Online Activities

Several users were arrested, prosecuted or investigated against international norms of free speech over the past year:

- Police union activist Walid Zarrouk continued to face legal trouble for criticizing Tunisian authorities. On February 7, 2017, Zarrouk was sentenced to one year in jail for criticizing a judge, prosecutor, and head of the National Guard counterterrorism unit on Facebook.³² He had originally been tried under the counterterrorism law, which carries much stronger penalties, but was ultimately sentenced under article 128 of the penal code for “accusing, without proof, a public agent of violating the law[.]” Zarrouk has faced numerous charges of defamation over the years unrelated to his online activities, including an incident in No-

27 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>.

28 Counter-terrorism law of 7 August 2015: <http://www.legislation.tn/sites/default/files/news/ta2015261.pdf>

29 “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>.

30 “La Cybercriminalité en Tunisie : lecture sur un projet de loi qui pénalise les crimes cybernétiques,” *Tekiano*, April 3, 2017, <http://www.tekiano.com/2017/04/03/la-cybercriminalite-en-tunisie-lecture-sur-un-projet-de-loi-qui-penalise-les-crimes-cybernetiques/>.

31 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>.

32 “Tunisia: Jailed for ‘Defamation,’” Human Rights Watch, March 21, 2017, <https://www.hrw.org/news/2017/03/21/tunisia-jailed-defamation>.

vember 2016, when he was sentenced to one year in prison for calling judicial authorities “stupid” while on a television show. In April 2017, his sentence was reduced to 14 months.³³

- In September 2016, Jamel Arfaoui from the news site *Tunisie Telegraph* appeared before a military court for insulting the military institution. He had written an article in which he blamed the defense ministry for poor maintenance decisions related to the crash of a military helicopter.³⁴
- On May 3, 2017, Sami Ben Gharbia, co-founder and editorial director of the independent media platform *Nawaat*, was questioned for six hours by the central investigation unit of the National Guard. *Nawaat* had earlier published a document leaked from the president’s office related to lobbying effort for the controversial economic reconciliation bill.³⁵ Ben Gharbia was also called to court on May 9 in order to serve as a witness in the case, in which the government sought to prosecute the source of the leak.³⁶

Authorities have also arrested several individuals for advocating extremism.³⁷ There were no reports that these arrests contravened international norms on free speech.

Surveillance, Privacy, and Anonymity

Surveillance remains a strong concern in Tunisia due to the country’s history of abuse under the Ben Ali regime. While there have not been any reports of extralegal government surveillance in the post-Ben Ali period, the deep-packet inspection (DPI) technology once employed to monitor the internet and intercept communications is still in place, sparking worries that the technology can be reactivated if desired.

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 n°2013-4506 under the former administration of Ali Laarayedh. The decree tasks the ATT with “providing technical support to judicial investigations into information and communication crimes,” but neither define nor specify these crimes.³⁸ 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.³⁹ According to Article 5 of the decree, the ATT’s activities are not open to public scrutiny.

33 “Walid Zarrouk condamné en appel à 14 mois de prison,” *Kapitalis*, April 13, 2017, <http://kapitalis.com/tunisie/2017/04/13/walid-zarrouk-condamne-en-appel-a-14-mois-de-prison/>.

34 “Military Trials of Journalists Cast Light on the Taboo of Criticizing the Army in Tunisia,” *Global Voices Advox*, December 12, 2016, <https://advox.globalvoices.org/2016/12/12/military-trial-of-journalists-cast-light-on-the-taboo-of-criticizing-the-army-in-tunisia/>.

35 “Nawaat, target of harassment by the Presidency of the Republic,” *Nawaat*, May 4, 2017, <http://nawaat.org/portail/2017/05/04/nawaat-target-of-harassment-by-the-presidency-of-the-republic/>.

36 Reporters Without Borders North Africa on Twitter, May 9, 2017, https://twitter.com/RSF_NordAfrique/status/861962594348920837.

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

38 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>.

39 Afef Abrougui, “Will Tunisia’s ATT Ring in a New Era of Mass Surveillance,” *Global Voices Advocacy*, November 26, 2013, <http://bit.ly/1JXPpw>.

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 in "full capacity" in the summer of 2014⁴⁰ after the appointment of Jamel Zenkri, who previously served at the ATI and the INT, as general-director.⁴¹ 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 cyber-crime cases despite the absence of a law requiring it to do so.

Fears over the ATT have been boosted by the fact that Tunisia's legislators have been slow to initiate any legal reforms that would protect citizens from mass surveillance.⁴² Draft amendments by Tunisia's Data Protection Authority (INPDP) to amend the country's 2004 privacy law have not been discussed by the constituent assembly or by the new parliament elected in October 2014.

In late 2016, plans to introduce biometric identification cards have also sparked criticism, particularly in the absence of strong data and privacy protections.⁴³ The 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 slammed 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.⁴⁴ The Data Protection Authority 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.

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 continuing existence underscores the precarious nature of Tunisia's newfound and relatively open internet environment.

Intimidation and Violence

In addition to legal prosecution, users and digital activists must also be wary of extralegal attempts to silence them. On April 17, 2017, a recording leaked on social media in which Nabil Karaoui, a

40 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>.

41 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/1EFND3>.

42 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>.

43 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-tunisia-biometric-identification-bill>.

44 "Tunisia: Statement on Proposed National ID Card," *Access Now*, November 18, 2016, <https://www.accessnow.org/tunisia-statement-proposed-national-id-card/>.

member of the ruling Nidaa Tounes party, and the head of the private television station Nessma TV ordered journalists to smear the anti-corruption NGO "I Watch." Karaoui is heard urging Nessma TV journalists to describe the activists as "thieves" and "traitors" who "are receiving money to sell their own country".⁴⁵ Like other civil society groups in the country, I Watch maintains a strong online presence and has been very critical of the economic reconciliation bill.

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, other groups and individuals 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. As of May 2017, there have been no reports of cyberattacks targeting activists or media organizations. However, during a parliamentary hearing session explaining the reasons behind his resignation, the president of the independent electoral commission Chafi Sarsar denounced what he described as "police practices" targeting members and employees of the commission, including the hacking of emails.⁴⁶

45 "In Tunisia, activists finally catch a break against a powerful tycoon," *Washington Post*, April 20, 2017, https://www.washingtonpost.com/news/democracy-post/wp/2017/04/20/in-tunisia-activists-finally-catch-a-break-against-a-powerful-tycoon/?utm_term=.aed3c3facf09.

46 "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.