



TUNISIA

	2012	2013
INTERNET FREEDOM STATUS	PARTLY FREE	PARTLY FREE
Obstacles to Access (0-25)	14	12
Limits on Content (0-35)	12	8
Violations of User Rights (0-40)	20	21
Total (0-100)	46	41

POPULATION: 10.8 million
INTERNET PENETRATION 2012: 42 percent
SOCIAL MEDIA/ICT APPS BLOCKED: No
POLITICAL/SOCIAL CONTENT BLOCKED: No
BLOGGERS/ICT USERS ARRESTED: Yes
PRESS FREEDOM 2013 STATUS: Partly Free

* 0=most free, 100=least free

KEY DEVELOPMENTS: MAY 2012 – APRIL 2013

- State control over the internet backbone has weakened as ISPs may now bypass the Tunisian Internet Agency to access international networks directly (see **OBSTACLES TO ACCESS**).
- Online journalists received new protections through the implementation of Decree-law 115 that provides them with many of the same rights afforded to traditional journalists, although the remaining presence of laws from the Ben Ali era and delays over a new constitution continued to threaten freedom of expression online (see **VIOLATIONS OF USER RIGHTS**).
- One user had his 7.5 year prison sentence confirmed for online posts deemed offensive to Islam, while an online investigative journalist faced harsh criminal defamation charges related to a story in which she exposed government corruption (see **VIOLATIONS OF USER RIGHTS**).

INTRODUCTION

The internet was first launched for public use in Tunisia in 1996, and the first broadband connections were made available by the end of 2003. Despite a relatively advanced internet infrastructure and a developed telecommunications market, extensive internet filtering had hindered free web access. Former autocratic President Zine El Abidine Ben Ali's internet censorship and surveillance systems had earned Tunisia the title of "internet enemy" in 2009¹ and 2010² alongside Burma, China, Saudi Arabia, and Iran. Numerous websites and Web 2.0 tools such as the photo-sharing site Flickr and video-sharing site YouTube were blocked in order to deny citizens access to content critical of the ruling region. Nonetheless, internet usage continued to grow and an increasing number of netizens started employing encryption techniques and proxy servers to circumvent government censorship and surveillance.

The Tunisian internet landscape changed dramatically with the ouster of Ben Ali on January 14, 2011. His repressive censorship apparatus largely dissipated and internet users have started to enjoy an unprecedented level of web access. However, old habits die hard; fears of the comeback of Ammar404 (the nickname Tunisian netizens gave to internet censorship during the Ben Ali era, based on the 404 "file not found" message) reemerged in May 2011 with attempts to filter adult content and the blocking of five Facebook pages critical of the military institution. From May 2012 to April 2013, authorities took significant steps to open up the country's control over internet and communication technologies (ICTs). Speaking at a press conference held on September 6, 2012, ICT Minister Mongi Marzoug officially announced the "death of Ammar404."³ That same month, Tunisia joined the Freedom Online Coalition, a group of governments "committed to collaborating to advance internet freedom."⁴ In another positive development, internet service providers (ISPs) can now directly access international data traffic lines, thereby decentralizing the ICT infrastructure out of the hands of a powerful few.

Despite of these commendable steps, Tunisia's fragile internet freedom is still threatened by a number of laws dating from the Ben Ali era, including the Telecommunications Decree and the Internet Regulations. The judiciary continues to restrict free speech through the prosecution of users over content posted online, mainly regarding defamation, religion, or insults to state bodies. Finally, over the past year, bloggers, activists, and civil society groups who criticize the country's political figures or offend cultural sensitivities faced cyberattacks and personal threats from a diverse range of nonstate actors.

¹ Reporters Without Borders, "Internet Enemies, 2009," March 12, 2009, http://www.rsf.org/IMG/pdf/Internet_enemies_2009_2_-3.pdf.

² Reporters Without Borders, "Internet Enemies, 2010," March 12, 2010, http://en.rsf.org/IMG/pdf/Internet_enemies.pdf.

³ All Africa, "Tunisia: Information and Communication Minister - 'Internet Censorship No Longer Implemented in Tunisia'," [allafrica.com](http://allafrica.com/stories/201209070049.html), September 6, 2012, <http://allafrica.com/stories/201209070049.html>.

⁴ "Tunisia joins the Coalition Freedom Online & hosts the third edition of the Conference," ATI, September 2012, http://www.ati.tn/en/actus_details.php?id=291.

OBSTACLES TO ACCESS

Internet usage in Tunisia has grown rapidly in recent years, even as access remained restrictive under the Ben Ali regime. According to the International Telecommunication Union (ITU), internet penetration in the country stood at 42 percent in 2012, up from 17 percent in 2007.⁵ Although the government has actively sought to improve the country's ICT sector, access is still hindered by high prices and underdeveloped infrastructure.

The Ben Ali regime attempted to increase access to ICTs through investments in infrastructure and greater competition among ISPs. In 2004, the government set up a "Family PC" initiative to encourage widespread computer use by removing customs fees, setting a price ceiling for computer hardware, arranging low interest rate loans for families to purchase ICT tools, and including an internet subscription with every computer sold. As a result, the number of computers per 100 inhabitants rose from approximately 12 in 2009 to 16 as of November 2012,⁶ while the number of total internet subscriptions is estimated to have exceeded 1 million in 2012.⁷

The popularity of mobile phones is also on the rise, with over 12.8 million mobile phone subscriptions and a penetration rate of 118.6 percent as of December 2012.⁸ Less common, however, is the use of mobile internet connections due to costs which remain beyond the reach of many Tunisians.

State-controlled Tunisie Télécom and mobile phone company Orange Tunisie provide 3G internet services through a plug-in USB key that enables laptops to connect to the mobile network. The device costs at least TND 59 (approximately \$38), while the service costs TND 30 (\$18.50) per month. Tunicell and Tunisiana also launched 3G mobile service in August 2011⁹ and 2012, respectively, with the latter covering an estimated 87 percent of the population as of early 2013.¹⁰ In early 2013, Tunisie Télécom announced plans to set up 18 new mobile 3G base stations in several regions of the country, including rural areas, and to install 500 kilometers of fiber optic

⁵ "Percentage of individuals using the Internet, fixed (wired) Internet subscriptions, fixed (wired)-broadband subscriptions," International Telecommunication Union (ITU), 2007 & 2012, accessed July 2, 2013, <http://www.itu.int/en/ITU-D/Statistics/Pages/stat/default.aspx>.

⁶ ICT ministry, "Indicateurs et données statistiques TIC—Accès et infrastructure TIC: Le nombre d'ordinateurs pour 100 habitants" [ICT Indicators and Statistical Data—ICT Access and Infrastructure: Number of Computers per 100 Inhabitants], accessed January 21, 2013, <http://www.mincom.tn/index.php?id=315&L=0>.

⁷ ICT ministry, "Indicateurs et données statistiques TIC : Nombre d'abonnements au réseau Internet" [ICT indicators and Statistical Data : number of internet subscriptions], <http://www.mincom.tn/index.php?id=305&L=3>, accessed February 4, 2013

⁸ Instance National des Télécommunications (INT), "Suivi des principaux indicateurs du marché de la téléphonie mobile en Tunisie" [Monitoring of main indicators regarding the mobile market in Tunisia], December 2012, <http://www.intt.tn/upload/files/Tableau%20de%20Bord%20Mobile%20-%20D%C3%A9cembre%202012.pdf>.

⁹ International Telecommunication Union (ITU), "Mobile-cellular telephone subscriptions," 2011, accessed July 13, 2012, <http://www.itu.int/ITU-D/ICTEYE/Indicators/Indicators.aspx#>.

¹⁰ International Telecommunication Union (ITU), "Qtel Group celebrates launch of 3G services in Tunisia," 2012, published August 14, 2012, <http://www.itu.int/ITU-D/ict/newslog/Qtel+Group+Celebrates+Launch+Of+3G+Services+In+Tunisia+Tunisia.aspx>

cables in the governorate of Béja in northwestern Tunisia.¹¹ Orange Tunisie also expanded 2G and 3G services in three rural towns.¹² These developments signal greater competition in the broadband market, extended coverage of the 3G network to rural regions of the country, and a more open internet ecosystem. The number of 3G internet subscriptions continued to increase, reaching more than 557,000 subscriptions in December 2012 compared to 254,000 subscriptions in December 2011.¹³

Most Tunisians access the internet at their workplace or at privately-owned cybercafés known as “publinets,” where one hour of connection costs up to TND 1 (\$0.62). Before 2011, wireless access in cafes and restaurants was not permitted by law, which allowed only licensed ISPs to offer access to the network. Nonetheless, after 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 users. At the same time, the law restricting the provision of wireless internet remains on the books as of mid-2013, putting those businesses that provide wireless access at risk of violating the law if the law is later enforced by regulators.

Fixed-line internet subscribers must first buy a landline package from Tunisie Télécom, which manages the country’s 82.5 Gbps bandwidth capacity, before choosing an ISP. Prices range from TND 10 (approximately \$6) a month for a connection speed of 1 Mbps to TND 50 (\$31) for a connection speed of 20 Mbps. On top of this cost, subscribers must also pay for a separate ISP package, ranging from 10 to 25 dinars (\$6-\$15). 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. Tunisian internet users often complain of slow internet speeds hindering their ability to upload or download certain types of content, particularly videos. In September 2012, Ookla, a broadband testing company,¹⁴ ranked Tunisia 142nd in download speeds and 151st in upload speeds.¹⁵ Despite these slow speeds, today Tunisian users enjoy access to various internet services and applications.

Tunisia has one of the more developed telecommunications markets in the region, with 11 ISPs supported by a nationwide fiber-optic backbone network operated by the state-controlled Tunisie Télécom.¹⁶ There are no laws that prevent ISPs from installing their own infrastructure, but huge

¹¹ Tunisie Tribune, “Tunisie Télécom : de nouvelles stations pour une meilleure connexion Internet,” [tunisie-tribune.com](http://www.tunisie-tribune.com), January 15, 2013, <http://www.tunisie-tribune.com/2013/01/tunisie-telecom-de-nouvelles-stations-pour-une-meilleure-connexion-internet>

¹² Tunisie Numérique, “Orange ouvre les services 2G/3G à Makther, Jbel El Ouset et Bir Mcherga” [Orange launches 2G/3G services in Makther, Jbel El Ouset and Bir Mcherga], [tunisienumerique.com](http://www.tunisienumerique.com), January 28, 2013, <http://www.tunisienumerique.com/orange-ouvre-les-services-2g3g-a-makther-jbel-el-ouset-et-bir-mcherga/162605> [in French]

¹³ Instance National des Télécommunications (INT), “Suivi des principaux indicateurs du marché de la téléphonie mobile en Tunisie” [Monitoring of main indicators regarding the mobile market in Tunisia], December 2012, <http://www.intt.tn/upload/files/Tableau%20de%20Bord%20Mobile%20-%20D%C3%A9cembre%202012.pdf>.

¹⁴ Ookla, “About page,” [ookla.com](http://www.ookla.com), <http://www.ookla.com/about>

¹⁵ Tunisie Haut Débit (thd), “6ème pays arabe à avoir le pire débit de téléchargement” [Tunisia has the 6th worst internet download speed in the Arab region], [thd.tn](http://www.thd.tn), September 12, 2012, http://www.thd.tn/index.php?option=com_content&view=article&id=2055 [in French]

¹⁶ Mohamed Guesmi, “Tunisie Telecom’s Monopoly Over Internet Infrastructure Blamed for High Bandwidth Costs,” [Tunisia-live.net](http://www.tunisia-live.net), June 19, 2012, <http://www.tunisia-live.net/2012/06/19/tunisie-telecoms-monopoly-over-internet-infrastructure-blamed-for-high-bandwidth-costs/>.

costs have prevented this so far. Nevertheless, Orange Tunisie and Tunisiana are scheduled to deploy the country's first private undersea cable in 2014.¹⁷

In the past, the ICT market consisted of five privately-owned ISPs: Planet Tunisie, 3S Globalnet, Hexabyte, Topnet, and Tunet. However, in recent years Topnet, Tunet, and Planet Tunisie were acquired by Tunisie Télécom,¹⁸ Tunisiana,¹⁹ and Orange Tunisie Internet (OTI), respectively.²⁰ In addition, after the fall of Ben Ali, the new government confiscated 25 percent of Tunisiana shares previously owned by Ben Ali's son-in-law, Sakher El Materi. In early January 2013, 15 percent of this stake was sold to Qtel,²¹ raising the Qatari group's shares in Tunisiana to 90 percent. Tunisia's interim authorities also seized a 51 percent share of Orange Tunisie that was formerly held by another son-in-law of Ben Ali, Marwan Ben Mabrouk.²²

The Ministry of Communication Technologies is the main government body responsible for the ICT sector. Under Article 7 of the Telecommunications Decree and Article 5 of the Telecommunication Code, ISPs must obtain a license from the Ministry of Communication Technologies in order to deliver internet services.²³ 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 governance body and its president are made up of mainly government officials nominated by the ICT Minister, which activists argue leads to a lack of regulatory independence. Nevertheless, the INT has initiated some positive changes in internet policy, namely through the introduction of a more liberal domain name chart and the invitation, sent to independent arbitrators from civil society, to develop a new Alternative Domain Name Dispute Resolution Process.²⁴

Internet policy is decided by the INT and executed by the Tunisian Internet Agency (ATI), a state agency governed by a board of trustees comprised of representatives from the main shareholder, Tunisie Télécom. The latter controls 37 percent of ATI shares and the state owns a further 18 percent, while the remaining 45 percent is divided among private banks.²⁵ Under the agency's new

¹⁷ ITU, "Orange, Tunisiana, Interoute plan new undersea cable (Tunisia)," itu.int, May 23, 2013, <http://www.itu.int/ITU-D/ict/newslog/Orange+Tunisiana+Interoute+Plan+New+Undersea+Cable+Tunisia.aspx>

¹⁸ Imen, "Tunisia: 'Tunisia Telecom' Acquires 'Topnet'," AllAfrica.com, June 15, 2010, <http://allafrica.com/stories/201006170303.html>.

¹⁹ "Tunisiana takes over Tunet," TMTFinance, September 15, 2011, <http://tmtfinance.com/news/tunisiana-takes-over-tunet>.

²⁰ Web Manager Center, "Planet laisse la place à OTI (Orange Tunisie Internet)" [Planet gives way to OTI (Orange Tunisie Internet)]; webmanagercenter.com, May 17, 2011, <http://www.webmanagercenter.com/actualite/technologie/2011/05/17/105968/planet-laisse-la-place-a-oti-orange-tunisie-internet>

²¹ "Tunisia: Qtel pockets 15% stake in capital of Tunisiana," Africanmanager.com January, 2012 http://www.africanmanager.com/site_eng/detail_article.php?art_id=19474

²² "Tunisia seized Ben Ali family Orange Tunisie stake," Reuters, March 31, 2011, <http://in.reuters.com/article/2011/03/31/idINIndia-56028120110331?feedType=RSS&feedName=technologyNews>

²³ "Tunisia: Background paper on Internet regulation," Article 19, legal analysis, March 2011, <http://www.article19.org/data/files/medialibrary/3014/12-04-03-ANAL-ICT-tunisia.pdf>.

²⁴ "Appel a manifestation d'intérêt pour la sélection d'arbitres pour la résolution des litiges relatifs aux noms de domaines," Instance Nationale des Télécommunications, République Tunisienne, May 24, 2012, <http://www.intt.tn/fr/index.php?actu=392&typeactu=89> [in French].

²⁵ Kapitalis: "Tunisie : L'Etat met fin au monopole de l'ATI" [Tunisia : the State puts an end to ATI's monopoly over the internet], kapitalis.com, January 10, 2013 <http://www.kapitalis.com/economie/13829-tunisie-l-etat-met-fin-au-monopole-de-l-ati.html>

chairman and CEO, Moez Chakcouk, the ATI has taken steps to become a more transparent and accountable body and, most significantly, no longer practices filtering. Indeed, the ATI won an award for “best public institution in Tunisia” as presented by OpenGovTN, a civil society group seeking to promote transparency and open government in the country.²⁶

Among its responsibilities, the ATI now manages the internet exchange point (IXP) between national ISPs that buy connectivity from Tunisie Télécom, the allocation of internet protocol (IP) addresses, and together with the INT, the “.tn” country domain.²⁷ The agency provides direct internet access to public institutions. Under the former regime, all ISPs were obliged to route their traffic via the ATI to facilitate internet filtering and surveillance. As of early 2013, however, a decision by the ICT Ministry to amend regulatory provisions resulted in Tunisiana and Orange Tunisie now being able to bypass the ATI for incoming and outgoing international internet traffic.²⁸

Amendments to the 2011 Telecommunication Code, passed in early April 2013,²⁹ improved the legal and regulatory environment for ICTs.³⁰ The amended law has, for instance, put an end to the legal vacuum under which virtual mobile networks and ISPs had to operate. The text further defines an IXP as “an exchange point of national internet traffic, which also manages international traffic.” The definition of an IXP did not exist in the law before. However, no amendments were proposed to Articles 14 and 30, which oblige telecom operators to make a list of their subscribers available to the public.

LIMITS ON CONTENT

Censorship has drastically reduced since the overthrow of the Ben Ali regime, which employed one of most repressive internet censorship apparatuses in the world. Over the past year, there was no evidence of politically-motivated filtering. Popular social media tools such as Facebook, YouTube, Twitter, and international blog-hosting services are freely available in the country. Crucially, the judiciary did not issued any further verdicts in favor of blocking, despite dozens of complaints lodged against the ATI to filter “defamatory” Facebook pages.³¹

Indeed, since the revolution, the judiciary has quickly found itself at the center of many censorship debates, in great deal due to its role of enforcing many of the country’s not-yet-reformed laws. For

²⁶ Maghreb Emergent, “Tunisie - Remise des trophées « OpenGovTn Awards 2012” [Tunisia : « OpenGovTN Awards 2012 » awards ceremony], maghrebemergent.info, January 27, 2013, <http://www.maghrebemergent.info/actualite/fil-maghreb/20508-tunisie-remise-des-trophees-l-opengovtn-awards-2012-r.html> [in French]

²⁷ Agence Tunisienne d’Internet, “TunIXP : the 1st Internet exchange in the Maghreb Arab Region,” ati.tn, accessed January 31, 2013, <http://www.ati.tn/TunIXP>

²⁸ Telecompaper, “Operators can bypass ATI for international internet traffic,” telecompaper.com, January 14, 2013, <http://www.telecompaper.com/news/operators-can-bypass-ati-for-international-internet-traffic--918597>

²⁹ Tunisie Haut Débit, “Après un débat houleux sur l’ATI, la Constituante adopte le nouveau code des telecoms” [The Constituent Assembly adopts the new telecommunications code, following a heated debated about the ATI], thd.tn, April 4, 2013, http://thd.tn/index.php?option=com_content&view=article&id=3263:apres-un-debat-houleux-sur-l-ati-la-constituante-adopte-le-nouveau-code-des-telecoms&catid=56&Itemid=50

³⁰ <http://www.intt.tn/upload/txts/ar/loi-01-2001-ar.pdf>

³¹ Index on Censorship, “The internet is freedom: Index speaks to Tunisian Internet Agency chief,” indexoncensorship.org, February 3, 2012, <http://www.indexoncensorship.org/2012/02/tunisia-internet-moez-chakchouk>

example, in May 2011, the Tunis Permanent Military Tribunal ordered the blocking of five Facebook pages on charges of defamation against the military and its leaders.³² The ATI could only implement the verdict for a short period of time, citing “technical issues” that occurred as a result of a 15 GB increase in internet traffic and a breakdown of filtering machinery.³³ That same month, a Tunis-based primary court ordered filtering of X-rated content based on a complaint lodged by three lawyers, who argued that the sites were a threat to minors and the country’s Muslim values.³⁴ After the ATI lost an appeal, the verdict was eventually overturned by Tunisia’s highest appeal court, the Cassation Court, in February 2012 on the grounds that the ATI lacked the technical capacity to implement the mandated filtering.³⁵ Explaining the reasoning behind the ATI’s move to appeal the court verdicts, ATI president Moez Chakchouk stated, “This is not about pornography; it’s a matter of principle. In post-revolutionary Tunisia, we are determined to break with the former regime’s censorship practices.” Interestingly, although the ATI was obliged to practice filtering during the former regime, there is no law that formally requires this filtering.³⁶

Although the government no longer advocates censorship, several laws from the Ben Ali era continue to pose a significant threat to internet freedom, even if they are sporadically enforced. Under Article 1 of the 1997 Telecommunications Decree,³⁷ ISPs remain legally liable for third-party content. Furthermore, Article 9 of the 1997 Internet Regulations³⁸ requires ISPs to actively monitor and take down objectionable online content.³⁹ Laws continue to allow the government to censor internet content that is deemed obscene or threatening to public order, or is defined as “incitement to hate, violence, terrorism, and all forms of discrimination and bigoted behavior that violate the integrity and dignity of the human person, or are prejudicial to children and adolescents.”⁴⁰ In the absence of any judiciary action, these provisions have not led to any major issues over the coverage period.

Although the pervasive environment of self-censorship dissipated rapidly with the fall of Ben Ali, some online activists avoid crossing “red lines” over fears that Ammar404 could be reinstated.⁴¹ For instance, political cartoonist “_Z_” still prefers to stay anonymous because he fears that the

32 “Tunisie – Le tribunal militaire ordonne la censure de quatre pages sur Facebook” [Tunisia – The military court ordered the censorship of four pages on Facebook], Business News, May 11, 2011, <http://www.businessnews.com.tn/Tunisie---Le-tribunal-militaire-ordonne-la-censure-de-quatre-pages-surFacebook,520,24752,1>.

33 Index on Censorship, “The internet is freedom: Index speaks to Tunisian Internet Agency chief,” [indexoncensorship.org](http://www.indexoncensorship.org), February 3, 2012, <http://www.indexoncensorship.org/2012/02/tunisia-internet-moez-chakchouk>

34 “Tunis court upholds order requiring filtering of porn sites,” Reporters without Borders, August 16, 2011, <http://en.rsf.org/tunisia-court-to-take-crucial-decision-for-01-07-2011,40566.html>.

35 Global Voices Online, “Tunisia: Court Quashes Verdict Ordering the Filtering of Pornography,” globalvoicesonline.org, February 22, 2012, <http://globalvoicesonline.org/2012/02/22/tunisia-court-quashes-verdict-ordering-the-filtering-of-pornography>

36 Index on Censorship Magazine, “On the Ground : Moez Chakchouk on Tunisia,” [Volume 41 Number 4 2012], December 2012, <http://ioc.sagepub.com/content/41/4/60.extract>

37 Available in Arabic at: http://www.mincom.tn/fileadmin/templates/PDF/juridiques/D1997-0501_ar.pdf

38 Available in Arabic at: http://www.mincom.tn/fileadmin/templates/PDF/juridiques/A22-03-1997_ar.pdf

39 “Tunisia: Background paper on Internet regulation,” Article 19, legal analysis, March 2011.

40 Letter from Chargé d’Affaires Dridi to Human Rights Watch, as cited in “False Freedom: Online Censorship in the Middle East and North Africa,” Human Rights Watch, 2005, available at <http://bit.ly/12lmFoc>.

41 IT News Africa, “Tunisia Deletes Internet Censorship Policies,” [itnewsafrika.com](http://www.itnewsafrika.com), accessed January 30, 2013, <http://www.itnewsafrika.com/2012/09/tunisia-deletes-internet-censorship-policies>

surveillance equipment “could still be in place today, waiting for a reactivation signal.”⁴² Similarly, on June 10, 2012, the organizers of the contemporary art fair “Printemps des Arts” temporarily shut down the exposition’s website after ultra-conservative protesters attacked the fair’s closing ceremony for exhibiting “blasphemous” artwork.⁴³ Still, users are more open to discussing religion, the army, and other sensitive issues on the web compared to traditional media platforms. For instance, while traditional media remained silent regarding the case of Jabeur Mejri, who received a seven-and-half year prison sentence for publishing cartoons of the prophet Muhammad on Facebook, it was covered extensively by online media outlets (for more on Mejri’s case, please see “Violations of User Rights”).

Since the revolution, numerous online sources of information have been launched alongside new newspapers, radio stations, and television channels, enriching the information landscape through the addition of viewpoints from a diverse range of social actors. This has been helped by the fact that there are few restrictions when it comes to online advertising or foreign investment. The abundance of online news sources has led to some cases in which partisan interests have manipulated information. There is strong suspicion that Ennahda, the ruling Islamist party, maintains a digital army of young activists and bloggers tasked with managing Facebook communities and disseminating partisan content as part of an “info war.” The Ennahda apparatus was particularly active during the party’s ninth congress, which took place in July 2012.⁴⁴ Nevertheless, the unprecedented openness of the Tunisian internet sphere in the post-Ben Ali era has greatly diluted the influence of such content, and there have been positive online initiatives to counter rumors that have the potential to spark riots. For instance, the Tunisian Association for Digital Liberties (ATLN) created ch9alek.org, a crowd-sourcing platform to combat rumors spread online.⁴⁵

Tunisian youth and civil society organizations have continued to use digital media for initiatives relating to political and social issues. In April 2013, the anti-corruption organization I Watch launched Billkamcha.com, a crowd-sourced map that permits netizens to report on corruption cases.⁴⁶ In another case, the civil society organization al-Bawsala continues to track the National Constituent Assembly’s progress in drafting the constitution for the second consecutive year. The group live-tweets the assembly’s sessions and publishes law projects and voting records on the platform Marsad.tn.⁴⁷

⁴² Global Voices Online, “Tunisian Political Cartoonist _Z_: ‘Nothing Has Really Changed,’” globalvoicesonline.org, August 26, 2012, <http://globalvoicesonline.org/2012/08/26/tunisia-nothing-has-really-changed-says-anonymous-political-cartoonist-z>

⁴³ Le Journal des Arts, “Emeutes en Tunisie : les artistes dénoncent une « vaste manipulation »” [riots in Tunisia : artists condemn « an extensive manipulation campaign »], http://www.lejournaldesarts.fr/site/archives/docs_article/101360/emeutes-en-tunisie--les-artistes-denoncent-une---vaste-manipulation--.php [in French]. The exhibition’s website is <http://www.marsa-arts.com>.

⁴⁴ Nawaat, “9ème congrès d’Ennahdha : Quand le show prend le dessus sur le fond,” nawaat.org, July 20, 2012, <http://nawaat.org/portail/2012/07/20/9eme-congres-dennahdha-quand-le-show-prend-le-dessus-sur-le-fond>

⁴⁵ <http://www.ch9alek.org/>

⁴⁶ Nuqudy, “Anti-Corruption Website Launched in Tunisia”, english.nuqudy.com, April 25, 2013, http://english.nuqudy.com/North_Africa/Anti-Corruption_Web-5356

⁴⁷ <http://www.marsad.tn/>

In May 2012, the collective blog Nawaat launched a campaign to criticize the military after an army general confiscated two cameras belonging to Ramzi Bettibi, an investigative journalist working for the blog. Bettibi was covering a military court hearing regarding protesters killed during the revolution. Nawaat criticized the military's lack of transparency and the slow pace of the investigation. The blog also reported that some army units might have been involved in the repression of protesters during the uprising, signaling a strong willingness to take on this powerful institution in Tunisian society.⁴⁸

VIOLATIONS OF USER RIGHTS

While Tunisia has taken significant steps to promote internet access and halt online censorship, the country's legal framework remains a significant threat to internet freedom. Delays in drafting a new constitution and establishing a new legal framework based on international norms continue to hold Tunisia back. Under laws from the Ben Ali era, the judiciary has continued to prosecute users over online expression.

The National Constituent Assembly (NCA), elected in October 2011, is scheduled to adopt a new constitution over the summer of 2013. According to a draft released in April 2013, free speech is protected and "prior censorship" is prohibited. However, there is no explicit mention of the right to access the internet, despite numerous calls from activists and organizations.⁴⁹ Following negotiations with its coalition partners, Ennahda agreed to drop a clause criminalizing blasphemy in the constitution.⁵⁰ Concerns remain, however, over the possible insertion of clauses relating to the protection of religion or "the sacred." If adopted, such a clause could act as a constitutional restriction to freedom on the internet, where religious issues are currently debated more openly than in the mainstream media or on the streets.

In a move that consolidated freedom of expression online, the Tunisian government finally moved to implement Decree-law 115 on Press, Printing and Publishing of 2011,⁵¹ following a nationwide strike by journalists in October 2012.⁵² The law recognizes web journalists as "professional journalists" and entitles them to the same rights and legal protections granted to print and broadcast journalists.⁵³ When it comes to libel, the law abolished prison sentences for criminal defamation,

⁴⁸ Global Voices Online, "Tunisia: Protesting the Military's Lack of Transparency and Censorship," [globalvoicesonline.org](http://globalvoicesonline.org/2012/06/02/tunisia-protesting-the-militarys-lack-of-transparency-and-censorship/), June 2, 2012

⁴⁹ Article 19, "Tunisia: Let's work together to formulate the Constitution," [article19.org](http://www.article19.org/resources.php/resource/3017/en/tunisia-let-s-work-together-to-formulate-the-constitution), April 4, 2012,

⁵⁰ The Telegraph, "Tunisia plans to outlaw blasphemy dropped," [telegraph.co.uk](http://www.telegraph.co.uk/news/worldnews/africaandindianocean/tunisia/9605965/Tunisia-plans-to-outlaw-blasphemy-dropped.html), October 12, 2012,

⁵¹ http://www.inric.tn/D%C3%A9cret-loi2011_115Arabe.pdf

⁵² France 24, "Tunisian journalists strike over press freedom", [france24.com](http://www.france24.com/en/20121017-tunisian-journalists-strike-over-threats-press-freedom-islamist-led-government), October 17, 2012,

⁵³ Reporters Without Borders, "Analysis of Law No. 2011-115 dated 2 November 2011, relating to freedom of the press, printing and publication," [en.rsf.org](http://en.rsf.org/IMG/pdf/120214_observations_rsf_code_de_la_presse_gb_-_neoffice_writer.pdf), February 14, 2012,

places the burden of proof on the plaintiff, and excludes “statements of public interest.”⁵⁴ However, journalists and free speech advocates have criticized the implementation of the decree as incomplete. In some cases, such as that of Olfa Riahi discussed below, judges and prosecutors have ignored decree 115 and instead used the 1975 press law and provisions of the penal code to prosecute bloggers and online journalists lacking formal press qualifications.

The repressive laws of the Ben Ali regime still remain the greatest threat to internet freedom. For example, 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.⁵⁵ In addition, there has been no push on the part of the authorities to hold former regime members accountable for widespread offenses committed during the Ben Ali era.⁵⁶ While censorship is no longer a significant issue, these laws continued to be employed to prosecute internet users throughout late 2012 and early 2013.

In the gravest violation of user rights over the past year, on April 25, 2013, the Court of Cassation upheld Jabeur Mejri’s seven and half year prison sentence for publishing cartoons depicting the prophet Mohammad on his Facebook page. He was convicted of “insulting others through public communication networks” under Article 86 of the Telecommunications Code through a post deemed as offensive to Islam and “liable to cause harm to public order or public morals” under Article 121 (3) of the Tunisian Penal Code.⁵⁷ Having previously lost another appeal in June 2012,⁵⁸ Mejri’s defense team will now seek a presidential pardon for their client. Ghazi Beji, a friend of Mejri, was also sentenced after publishing an essay that satirized the Prophet Muhammad’s biography on Scribd.com, a free social publishing website, in July 2011. Beji, however, was convicted in absentia since he has since fled the country.⁵⁹

In another disturbing case, in early January 2013, an investigative judge imposed a travel ban on blogger Olfa Riahi over a blog post she published in December 2012. In the post, Riahi claimed that then-foreign minister Rafik Abdessalam misused public money by spending several nights at the luxurious Sheraton hotel in downtown Tunis and implied that he might have been involved in an extra-marital affair. On March 9, 2013, a judge lifted the travel ban. Since Riahi has not benefitted from traditional protections allotted to journalists, the blogger still faces fines and up to five years

⁵⁴ “Tunisia: Press, Printing, and Publication Code – Legal Analysis,” Article 19, November 2011, available at <http://bit.ly/13Eova5>.

⁵⁵ “Code Penal,” Juriste Tunisie, 2009, <http://www.juristetunisie.com/tunisie/codes/cp/cp1225.htm>.

⁵⁶ Nawaat, “Tunisia: Cyber-Activists to Sue Interior Ministry over Web Censorship,” nawaat.org, August 21, 2012, <http://nawaat.org/portail/2012/08/21/cyber-activists-to-sue-interior-ministry-over-web-censorship>

⁵⁷ Amnesty International, “Tunisia: upholding of blogger's seven-year jail sentence for 'insulting Islam' condemned,” amnesty.org.uk, April 26, 2013, http://www.amnesty.org.uk/news_details.asp?NewsID=20753

⁵⁸ Index on Censorship, “Verdict in Muhammad cartoon conviction upheld,” uncut.indexoncensorship.org, June 25, 2012, <http://uncut.indexoncensorship.org/2012/06/verdict-in-muhammad-cartoon-conviction-upheld>

⁵⁹ Nawaat, “Interview avec Ghazi Béji, un antithéiste en fuite de la Tunisie” [Interview with Ghazi Beji, an antitheist who fled Tunisia], Nawaat.org, June 29, 2012, <http://nawaat.org/portail/2012/06/29/interview-avec-ghazi-beji-un-antitheiste-en-fuite-de-la-tunisie>

imprisonment⁶⁰ for criminal defamation,⁶¹ offending others through public communication networks,⁶² publishing false news that could disturb public order,⁶³ and violating privacy.⁶⁴

On March 21, 2013, a Tunisian court sentenced rapper Ala Yacoubi (also known as “Weld El 15”) to two years in prison in absentia over an anti-police video clip he published on YouTube.⁶⁵ In the song, Yacoubi describes police officers as “dogs” and says “he would like to slaughter a police officer instead of sheep at Eid al-Adha.” Actress Sabrine Klibi, who appears in the video, and cameraman Mohamed Hedi Belgueyed both received six-month suspended jail sentences.⁶⁶ In a bid to reduce his sentence, Yacoubi turned himself in on June 13. Although the original verdict was initially confirmed, he was subsequently freed on July 4 and given a reduced six-month suspended sentence.⁶⁷

In addition to government action, users must also be weary of extralegal attempts to silence online activists. Two days before the assassination of leftist opposition leader, Chokri Belaid, on February 6, 2013, a list of activists and politicians to be “slaughtered” was published on an extremist Facebook page. The list included names of opposition politicians, activists, and journalists, including blogger Olfa Riahi.⁶⁸ In March 2013, FEMEN activist Amina Tyler was threatened for posting topless pictures of herself on Facebook. Adel Almi, founder of Tunisia’s Commission for the Promotion of Virtue and Prevention of Vice, said the young woman “deserves to be stoned to death.”⁶⁹

Laws that limit online anonymity also remain a concern in the post-Ben Ali era. In particular, Article 11 of the Telecommunications Decree prohibits ISPs from transmitting encrypted information without prior approval from the Minister of Communications. Furthermore, under Articles 8 and 9 of the Internet Regulations, ISPs are required to submit lists of their subscribers to the ATI and to retain archives of content for up to one year.⁷⁰ 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.

There were no reports of extralegal government surveillance of online activity in the post-Ben Ali period. However, the deep-packet inspection (DPI) technology once employed to monitor the

⁶⁰ Reporters Without Borders, “Sheratongate: Bloggers allegations against foreign minister land her in court,” en.rsrf.org, January 17, 2013, <http://en.rsrf.org/tunisia-sheratongate-blogger-s-allegations-17-01-2013,43926.html>

⁶¹ Under Articles 128 and 245 of the Tunisian Penal Code, this charge carries two years imprisonment.

⁶² Article 86 of the Telecommunications code, up to two years imprisonment.

⁶³ Article 121 (3) of the penal code, up to five years imprisonment and, under the new press law, a fine of up to 5000 dinars.

⁶⁴ Law 63-2004 on the Protection of Personal Data, up to two years imprisonment.

⁶⁵ See https://www.youtube.com/watch?v=6owW_Jv5ng4

⁶⁶ Index on Censorship, “Free speech on hold in Tunisia as rapper faces jail,” uncut.indexoncensorship.org, March 28, 2013, <http://uncut.indexoncensorship.org/2013/03/free-speech-on-hold-in-tunisia-as-rapper-faces-jail/>

⁶⁷ Bill Chappell, “Jailed Tunisian Rapper is Freed; Song Called Police ‘Dogs,’” NPR, July 2, 2013, <http://www.npr.org/blogs/thetwo-way/2013/07/02/197997952/jailed-tunisian-rapper-is-freed-song-called-police-dogs>.

⁶⁸ ARTE, “Tunisie: la liste noire des salafistes” [Tunisia: Salafists’ black list], videos.arte.tv, March 17, 2013, <http://videos.arte.tv/fr/videos/tunisie-la-liste-noire-des-salafistes--7395644.html>

⁶⁹ The New Yorker, “How to Provoke National Unrest with a Facebook Photo,” [newyorker.com](http://www.newyorker.com), April 8, 2013, <http://www.newyorker.com/online/blogs/elements/2013/04/amina-tyler-topless-photos-tunisia-activism.html>

⁷⁰ “Tunisia: Background paper on Internet regulation,” Article 19, legal analysis, March 2011.

internet and intercept communications is still in place, sparking worries that the technology can be reinstated if desired. Confusion reigns over how surveillance is conducted in contemporary Tunisia, particularly in the absence of a new constitution and legal reforms that would protect citizens from mass surveillance. ICT minister Mongi Marzoug has, on several occasions, tried to reassure netizens that surveillance is being implemented “legally” and with court orders.⁷¹ Tunisia’s Data Protection Authority (known by its French acronym INPDP) is set to amend the country’s 2004 privacy law in order to ensure the body’s independence from any government interference.⁷² As it stands, the law exempts public authorities from obtaining the consent of the INPDP to access and process personal data.

Since Ben Ali’s fall, there have been no reported incidents of cyberattacks perpetrated by the government to silence ICT users. However, other groups have been employing these methods to intimidate activists and organizations with whom they do not agree. In October 2012, the award-winning collective blog Nawaat.org suffered distributed denial-of-service (DDoS) attacks after it leaked a private conversation between then-Prime Minister Hamadi Jebali and his predecessor, Beji Caid Sebti.⁷³ On December 11, 2012, the website of Tunisia’s largest labor union, the UGTT, suffered a DDoS attack. The attacks were allegedly perpetrated by a Tunisian hacking group called Fallega, believed to be a supporter of the Islamist party Ennahda, in protest of the union’s vow to stage a nationwide strike.⁷⁴

⁷¹ African Manager, “Tunisie : L’Internet contrôlé ou censuré ?” [Tunisia : Is the internet monitored or censored ?], africanmanager.com, September 5, 2012, <http://www.africanmanager.com/143050.html>.

⁷² Index on Censorship, “New-era privacy law drafted to protect Tunisians from the surveillance state”, uncut.indexoncensorship.org, August 15, 2012, <http://uncut.indexoncensorship.org/2012/08/tunisia-drafts-new-era-privacy-law>.

⁷³ Global Voices Advocacy, “MENA Netizen Report: Porn Edition,” advocacy.globalvoicesonline.org, November 14, 2012, <http://advocacy.globalvoicesonline.org/2012/11/14/mena-netizen-report-porn-edition>.

⁷⁴ Tunisie Haut Débit, “Tunisie : Le site de l’UGTT piraté, mot de passe admin divulgué” [Tunisia : UGTT website hacked, admin password disclosed], thd.tn, December 11, 2012, <http://www.thd.tn/websphere/news/websphere/tunisie-le-site-de-lugtt-pirate-mot-de-passe-admin-divulgue>.