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In Tunisia, press freedom erodes amid security fears

Hard-earned press freedom in Tunisia is under threat as journalists are squeezed between violent extremists and security services sensitive to criticism in the wake of deadly terror attacks. While Islamist militants threaten the media, the government introduces restrictive legislation and security forces legally harass and even assault journalists. In this climate, which is further restricted by regulatory disputes, some news outlets resort to self-censorship. A CPJ special report by Safa Ben Said





- A journalist holds up a television frame during a protest in 2012. Tunisian news outlets have come under pressure in 2015. (Reuters/Anis Mili)

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TUNIS

Tunisia inspired the uprisings that swept across the Arab world in 2011. Today, it holds promise for achieving a stable democracy, while several of its neighbors have backtracked to brutal repression or become mired in armed conflict. The country overcame serious challenges through political compromise between secular and religious parties, facilitating the adoption of a progressive constitution in 2014 and the organization of free and fair elections. Tunisia's civil society has fought vigilantly to preserve the gains of the uprising in areas of civil, political, and human rights, including freedom of the press.

But hard-won advances in press freedom have been eroded and are under further threat since two major terrorist attacks this year killed more than 60 people and increased fears over security. Since the attacks, the government—led by the secular Nidaa Tounes party, which triumphed over the religious Ennahda party in 2014 presidential and parliamentary polls—has introduced new legislation that could be abused to silence the media. Security services are sensitive to criticism, leading to legal harassment of critical journalists and even physical assaults and threats on those carrying out their reporting. Journalists are also subject to threats by Islamist extremists, leaving the press squeezed between terrorists and those

who purport to fight terrorism—a common predicament for journalists globally, CPJ has found.

Regulatory disputes in a fraught political environment and unwillingness by some media owners and editors to publish investigations or harsh commentary have further restricted the ability of Tunisian journalists to carry out their work.

“Before January 2011, the first enemy of media was tyranny. Today, the media is threatened by all kinds of powers: political, social, financial, cultural, and judicial,” said Zied El-Heni, journalist and president of the independent Tunisian Organization to Protect Journalists.

In 2011, after the collapse of the 24-year dictatorship of Zine El Abidine Ben Ali, Tunisia’s transitional government adopted Decree 115, which contained 80 articles regulating freedom of information and of expression. While the idea of a law to regulate the press was not universally welcomed by international media freedom groups—most democracies do not have a press code—the decree was largely seen by Tunisian journalists and press freedom advocates as an improvement to the country’s legal system.





- A hotel window shattered by gunfire. Since the terror attack in Sousse in June, the Tunisian government has introduced legislation that could be abused to restrict the press. (AFP/Kenzo Tribouillard)

But today, journalists say that instead of implementing the law, the government resorts to the harsher penal code, which allows for imprisonment for crimes related to publishing, including defamation, slander, or libel. Decree 115 does not allow for imprisonment for these crimes, but instead imposes fines as the penalty.

“One of the main sources of concern among Tunisian journalists and freedom of expression advocates stems from the continuous trend to use the very restrictive penal code to drag reporters to courts for doing their job, instead of the rather protective Decree 115/2011 on the Press, Printing and Publishing,” Kamel Labidi, an independent journalist and press freedom advocate and CPJ’s former representative in Middle East and North Africa, told CPJ.

In one example, blogger Yassine Ayari was arrested in December 2014 in relation to several Facebook posts in which he criticized the country’s former defense minister for weakening military institutions and allegedly failing to act on intelligence information about militant attacks. Under the Code of Military Justice, he was charged and convicted of “defaming the army” and sentenced in January to one year in prison, a penalty that was reduced to six months on appeal. He was released after serving half of his reduced sentence, following an international campaign on his behalf.





- Tunisian blogger Yassine Ayari, pictured at his home in Tunis in April, was jailed for criticizing the defense minister. (AFP/Fethi Belaid)

In an example that dates to before the current government, Mourad Meherzi, a photographer for the online television channel Astrolabe, was arrested in 2013 for videotaping a film director, Nasreddine Shili, throwing eggs at Mehdi Mabrouk, the Tunisian minister of culture. He was charged with “conspiring to commit violence against a government official” under the penal code, which calls for up to five years’ imprisonment. He was released and charges were dropped a few weeks later.

Authorities have also used terrorism-related charges to punish journalists for their reporting and pressure them to reveal their sources, according to CPJ research. Nouredine Mbarki, editor of the digital newspaper *Akher Khabar Online*, was charged under the 2003 anti-terrorism law with complicity in the attack on Sousse beach in June that killed 39 tourists, marking the first time a Tunisian journalist faced terrorism charges since the 2011 revolution. Mbarki had published a photo showing the car that purportedly transported the gunman. Mbarki told CPJ that he deleted the photograph on the request of the Interior Ministry, only to be summoned to Laouina

Military Barracks, where he was lined up with terrorist suspects and threatened with arrest. Mbarki was released the same day. He still faces charges, although no date has been set for a hearing.

Concerns over abuse of laws were exacerbated by parliament's approval in late July of sweeping anti-terror legislation that provides a broad definition for terrorist crimes and allows the death penalty for those convicted. The death penalty is constitutionally permissible in Tunisia, but no one has been hanged in the country since 1991. The anti-terrorism law also allows for prison sentences of up to five years for a person found to have praised a terrorist act or a person connected to it. Press freedom advocates fear the law will be used to silence all critics of the government.

"Press freedom today is constantly threatened by new legislation that the government introduces in the name of protecting of national security," Mahmoud Dhaouadi, the president of the independent Tunis Center for Press Freedom, told CPJ. The center was founded shortly after the 2011 revolution to defend press freedom and journalists' rights.





- Protesters outside a military court in Tunis call for the release of Yassine Ayari. The blogger was released early after international calls for authorities to free him. (AFP/Fethi Belaid)

Two other legislative moves by the government have raised concern. The first is its withdrawal on July 3 of the draft Fundamental Law on the Right of Access to Information, which had been crafted and lobbied for by civil society groups and was awaiting final approval by parliament. The act was meant to facilitate constitutional guarantees of “the right to information and the right of access to information and communication networks.” The government did not provide a reason for its abrupt withdrawal.

The second is the government’s introduction on April 10 of a draft bill, named “Repression of Offences against Armed Forces,” which criminalizes “denigration” of police or other security forces. The law carries a sentence of 10-year imprisonment and a fine of about US\$25,000 for people found guilty of exposing “national security secrets.”

“Investigative journalists [will be] the first victims of this law,” said journalist Zied El-Heni.

Neji Bghouri, the head of the Tunisian journalists’ union, told CPJ he had received messages from the government assuring him that the Armed Forces bill would be dropped. The prime minister’s office told CPJ in July that withdrawal of the bill was “under discussion” and declined to comment further. The spokesman did not respond to CPJ’s more recent inquiries.

“We have sufficient legal texts to confront terrorist threats. The real protection [from terrorism] is in providing legal texts that guarantee

freedom and in having an independent judiciary distant from political consideration,” said Kais Saied, assistant professor of public law and political science at the University of Carthage in Tunis.

Another legislative measure that could spell trouble for journalists is the draft cybercrime law, which was announced in 2014. In August, Minister of Communication and Digital Technologies Noomane Fehri said the bill would be ready for parliament at the end of 2015. In early May, the National Union of Tunisian Journalists warned against the lack of protection for privacy and the expanded executive powers that the bill provides. Criminal penalties for defamation already exist in the penal code, but CPJ research shows that the cybercrime bill would specifically extend those provisions to the Internet.

In fact, the anti-terrorism legislation already contains provisions related to information and communication technologies that threaten rights to privacy and access to information through expanded grounds for surveillance, vaguely defined crimes, and immunity for investigators, according to communication technology experts.

Bechir Ouarda, media expert and former coordinator of the Civil Coalition for the Defense of Freedom of Expression, told CPJ, “The greatest challenge for media today is the existence of a conservative parliament with a weak presence of opposition and human rights advocates.”

Meanwhile, in some cases, Tunisian security forces have resorted to physical violence or threats of violence in order to obstruct or try to

intimidate journalists. Most cases of assault take place while the media are covering anti-government protests or terrorist attacks, Dhaouadi told CPJ.

“Amid growing security threats, journalists were treated as part of the problem,” Dhaouadi said. “Security forces do not understand that journalists’ job is to report what is happening.”



- A police officer guards the Tunisian beach where a gunman opened fire on tourists in June. The media has come under pressure from authorities and extremists since the terror attack. (AP/Abdeljalil Bounhar)

Six reporters working for the Al-Wataniya and Al-Mutawasit television channels and the Shems FM radio station were physically assaulted, including one punched in the face, and threatened with weapons by security forces on February 18, according to the Tunis Center for Press Freedom. The assaults took place while the journalists were reporting on an attack by militants on a checkpoint in the central region of Kasserine, which left four policemen dead.

A number of journalists were also assaulted by police while covering the “Where is our oil” demonstration demanding government transparency concerning natural resources on June 6. The national journalists’ union posted a statement on Facebook naming six journalists who had been assaulted by security forces and announcing that the union had contacted the Ministry of the Interior to request that they open an investigation. In response, Ministry Spokesman Mohammed Ali Aroui said an investigation had been opened and noted that “certain journalists were in the midst of protesters, which is against instructions for media coverage in such circumstances,” according to local news reports.

Local news reports detailed the assaults, reporting that police hit Anadolu agency photojournalist Yassine Gaidi with batons, while cameras were confiscated from five others: Al Moutawasett correspondent Khalil Klai; Radio 6 correspondent Latifa Anouer; government-owned Tunisian Broadcast services correspondent Soumaya Ouled Gharbia; cameraman for private radio station Shems FM Seiffeddine Trabelsi; and privately owned radio Mosaique FM cameraman Housseem Bouhelli.





- A protester yells during a rally calling for greater transparency over Tunisia's oil. Several journalists say they were assaulted by police during the protests. (Reuters/Zoubeir Souissi)

Local journalists say law enforcement has failed to investigate or hold members of security forces publicly accountable for such attacks. The Tunis Center for Press Freedom documented 277 cases of assault against journalists in 2014, none of which have been prosecuted, despite many of them having witness testimony and medical reports.

Another spokesman for the Ministry of Interior, Walid Loukani, told CPJ that the ministry has investigated reports of assaults against journalists by security forces and that “punitive measures” have been taken. He declined to comment further. However, Bghouri, the head of the journalists’ union, told CPJ that punishments of those guilty of such offenses are not made public for fear of problems with unions of security forces employees.

Loukani told CPJ that the Interior Ministry has begun a safety training project for journalists and security forces in cooperation with the National Union of Tunisian Journalists. The project is aimed at training journalists in safety measures to be taken during protests, and for teaching police how to deal with protesters and journalists in a nonviolent way. The first joint training session between journalists and security forces took place on June 5.

However, threats to journalists’ safety come not just from security

forces but also from extremists. Journalist Soufiane Ben Farhat, who writes about politics for the daily newspaper *La Presse*, has been threatened with death by individuals he believes to be affiliated with radical Islamist groups, who came to his house, called his phone, and sent threatening messages online. He says the attitudes of security forces and the judiciary to these threats have been lenient, and he has never been informed of the result of any investigation or prosecution following his report of the threats to the police.

The Interior Ministry spokesman Loukani told CPJ that all journalists under threat are provided protection, including Ben Farhat, and declined to comment on any allegation questioning the commitment of authorities to protect of journalists.



- Copies of pro-government daily Essahafa, showing the faces of suspected Tunisian jihadists killed fighting for extremist groups in Syria, are sold at a kiosk in Tunis. (AFP/Fethu Belaid)

On August 30, Ifriqiya lel Illem, a media group associated with the militant group Islamic State, through its Twitter account said three

Tunisian news outlets were publishing lies and rumors about jihadists and threatened to take action. The targets were privately owned newspaper *Akher Khabar*, news website *Hakaekonline*, and the electronic journal *Business News*. The Tunisian Federation of Newspaper Directors and the National Union of Tunisian Journalists expressed support for the outlets and called on the Ministry of Interior to provide protection from possible attacks.

And after the *Charlie Hebdo* massacre in Paris, according to news reports, a man named Kamel Zarrouk who is associated with banned extremist group Ansar Al-Sharia threatened TV presenters Naoufel Ouertani and Moez ben Gharbia for expressing their support for the staff of the satirical newspaper. An audio file of the threats was published online.

Moez Soumrani, a journalist and cameraman who formerly worked for privately owned channel Ettounsiya, found death threats written on the wall of his house in Bou Salem, Jendouba, in northwest Tunisia on July 16. Soumrani's neighbors told him that a group of men with blades and swords were behind the graffiti. He told CPJ that in his hometown he is constantly threatened and labeled an atheist for working in media. "I have received another death threat through email on July 28. The email said your head needs to be cut off," Soumrani told CPJ. He said four of seven suspects behind the death threats have been arrested and are awaiting trial.

In cases where the violence has been carried out on foreign soil, government support appears to be insufficient. One example is the fate of Tunisian television journalists Sofiene Chourabi and Nadhir Guetari, who went missing in eastern Libya in September 2014. Libyan officials announced on April 29 that the journalists had been killed after Islamic State claimed it had executed them, but the Tunisian government has not confirmed their deaths. Tunis has been

criticized by press freedom groups and the journalists' families for being opaque and slow in responding to the case.

"We have dealt with two governments and both have the same attitude: indifference," Sami Guetari, the father of Nadhir Guetari, told CPJ. "We did not receive any psychological or social support from the government."

Several Tunisian and international press freedom groups have called on the government to create a crisis unit of representatives from government and civil society. The unit would bring coordination and transparency to the process of locating the journalists and informing family and colleagues on their whereabouts. Formation of the unit is still under discussion, according to a statement by the journalists' union. In August, Tunisian Minister of Foreign Affairs Tayeb Baccouche told state news agency TAP that there is new information in the case and that both journalists may be alive, but did not elaborate.

The trap in which journalists find themselves, between government forces and the extremist groups it is vowing to fight, can only have a negative effect on press freedom, pressuring outlets to demonstrate their alliance with the government and discouraging journalists from pursuing certain stories, though they might be of public interest. The atmosphere of legislative threat and impunity in attacks on journalists by security forces and other actors appears to already be having a chilling effect at some news outlets, with editors or media owners reluctant to publish or broadcast critical coverage.

Jihene Laghmari, Imen Hamdi, and Basma El Waer, three journalists who work for the privately owned daily *Attounissia*, staged a sit-in beginning May 4 to protest what they said was extreme censorship and pressure by their editors. (After three days, negotiations were held between representatives of the journalists' union and the newspaper owner, resulting in an agreement to improve the professional status and working conditions of the organization's employees.)



- Neji Bhouri, president of the Tunisian Union of Journalists, speaks to members in January after the Islamic State claimed to have murdered two Tunisian journalists missing in Libya. (AFP/Fethi Belaid)

Laghmari told CPJ that journalists had been prevented by editors from working on certain stories, such as those addressing corruption or the failure of security forces. In other cases, she said, the content of stories was changed without the journalists' knowledge or permission prior to publication.

"I am prevented from writing analyses, and I am constantly

interrogated (by editors) about the content I produce,” Laghmari said. *Attounissia* management declined to comment.

Soumrani, the investigative journalist who formerly worked for Ettounsiya, told CPJ that he had a hard time getting his investigations on corruption in the judiciary and security forces broadcast. “I was told to keep quiet multiple times,” said Soumrani. The channel declined to comment.

Meanwhile, Tunisia’s broadcast regulator is at the center of a storm that has divided much of the journalistic community. The Independent High Authority of Audiovisual Communication (HAICA), which is supposed to regulate Tunisian television and radio channels, has been controversial since its creation in May 2013.

HAICA, which is meant to enforce a separation between political parties and ownership of media outlets, consists of nine board members appointed by six bodies: the legislature, the executive branch, magistrates, journalists’ organizations, organizations representing non-journalist professionals in the media sector, and an organization of media and communication owners. HAICA’s rules prohibit license holders and the management of licensed outlets from also being members of political parties.





- An image of Sofiene Chourabi and Nadhir Guetari hangs from a camera in May. The Tunisian government is accused of being opaque about the case of the journalists, who Islamic State claims to have killed in Libya. (AFP/Fethi Belaid)

Some media entrepreneurs who are also political party members have criticized the rules as limiting their freedom of expression, and HAICA's impartiality has been questioned by several local media outlets and political parties.

Others support the rules. HAICA member Hichem Snoussi said the regulator has come under pressure from influential businessmen and politicians who are seeking "to own the media and direct public opinion."

One news outlet, the privately owned Islamist channel Zitouna TV, has been particularly in the crossfire. It was denied a license on the grounds that its director was also a member of the leadership council of the Islamist political party Ennahda, formerly in power. After his resignation from the channel, Zitouna TV reapplied for a license, but was told that it had to shut down before HAICA would consider its re-application. The channel continued to operate and, in July, HAICA attempted to seize its equipment, but the material had been relocated. Zitouna TV's managing editor, Lotfi Touati, says the channel is being denied a license because of its Islamist leanings.

In response, Snoussi told CPJ that Zitouna is “a façade for partisan work with unknown financial resources” behind it.

HAICA has been further weakened by resignations this year and last of four members, on the grounds that the organization was not respecting pluralism and diversity and was making decisions that threatened the independence of media outlets. The latest resignations in April brought HAICA’s membership under the quota it required to operate, and the government stepped in with a decree appointing three new members.

Parliament is expected to amend the law that regulates HAICA and its membership, and replace the organization with a new body whose members would be elected by parliament, but at time of writing, it was not clear when this would take place.

As it confronts real and growing security challenges, the Tunisian government must find a way to balance the protection of citizens with preserving the gains of its revolution. The government should work with the opposition and civil society to ensure that new laws live up to the progressive constitution and international standards. The tendency of governments to react to terrorist threats with measures that undermine freedom of the press, among other rights, is only putting journalists at risk and potentially depriving the public of vital information. By addressing legislative threats, combating impunity in attacks against journalists, and engaging with its committed civil society, the Tunisian government can go a long way toward sustaining a climate for media freedom and a healthy society.

Safa Ben Said is an independent journalist based in Tunis and focused on transitional justice and freedom of speech. She previously worked as newsroom manager at Tunisia Live.

CPJ Middle East and North Africa Research Associate Yasmin el-Rifae contributed to this report.

CPJ's recommendations to the Tunisian government:

1. Reverse the trend of legislative threats to the press by immediately halting plans to introduce or pass legislation that could threaten journalists, including the cybercrime bill and the Repression of Offences against Armed Forces bill.
2. Publicly commit to implement existing press protections, including Decree 115, which prohibits the imprisonment of journalists in relation to their work, and re-introduce the draft Fundamental Law on the Right of Access to Information to parliament.
3. Amend anti-terrorism legislation to narrow its definition for "terrorist crimes" and "national security secrets," and to ensure it cannot be used against critical journalists.
4. Provide journalists who are threatened by militant extremist groups with adequate protection and thoroughly investigate such threats.
5. Ensure that security forces are held accountable for assaults on journalists and make public the investigations into such assaults by police forces. Expand efforts to train police how to work with journalists at demonstrations and in other sensitive situations.

6. In consultation with Tunisian civil society, form a crisis unit of representatives from government and civil society to respond to the case of Sofiene Chourabi and Nadhir Guetari, who are missing in Libya.
 7. Drop remaining charges against Nouredine Mbarki and any other journalists facing criminal charges for their reporting.
 8. Ensure that the composition of the new agency tasked with organizing the press in succession to HAICA is diverse and independent of political or partisan influence.
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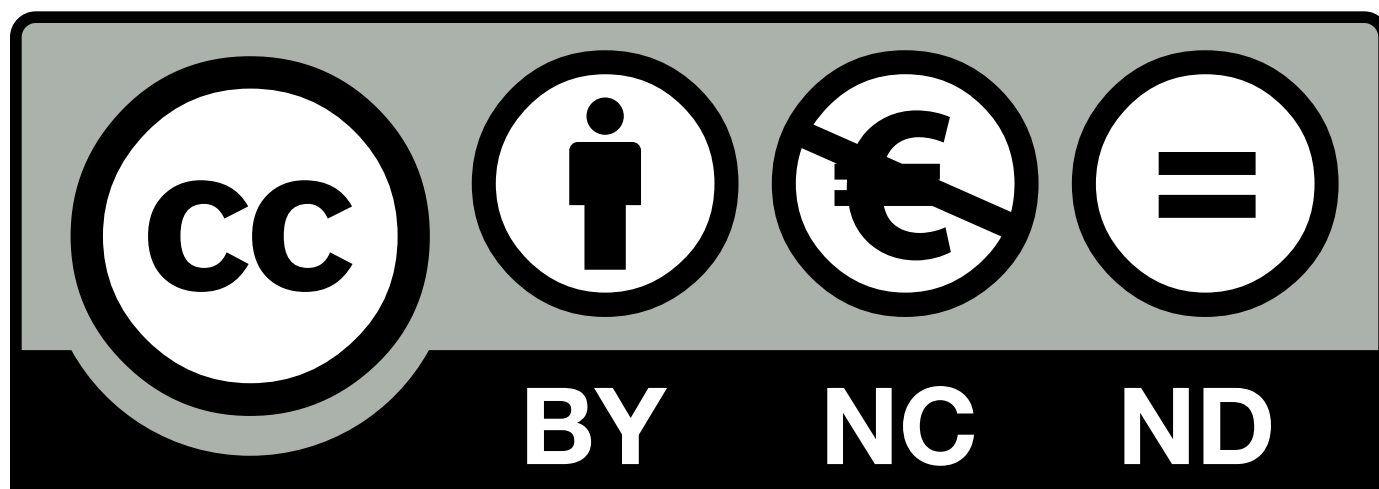
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Committee to Protect Journalists
The John S. and James L. Knight Foundation Press Freedom Center
P.O. Box 2675
New York, NY 10108

Tel 212-465-1004
Fax 212-214-0640

info@cpj.org (<mailto:info@cpj.org>)



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