

TUNISIA

1. PRESENTATION¹

Basic Facts ²	
Name of Country	Tunisia
Capital	Tunis
Population	10,175,014
Area	163,610 sq km
Average Life Expectancy	75.12 years
Ethnic Groups	Arab 98%, European 1%, Jewish and other 1%
GDP per capita, PPP	\$8,300

Community of Democracies	
Previous Participation	Warsaw: Participant Seoul: Observer Santiago: Observer

Timeline of Recent Major Events in Tunisia³

1981 - First multi-party parliamentary elections since independence. President Bourguiba's party wins by a landslide.

1987 - Bloodless palace coup. Prime Minister Zine El Abidine Ben Ali has President Bourguiba declared mentally unfit to rule and takes power himself.

1989 - Ben Ali wins presidential elections, and is re-elected in 1994. He is uncontested in both polls.

1999 - First multi-party presidential elections; Ben Ali wins a third term.

2002 May - President Ben Ali wins a referendum on constitutional changes, paving the way for his fourth term.

2002 September - Jailed leader of Communist Workers' Party, Hamma Hammami, accused of belonging to an illegal organization and inciting rebellion, is freed on health grounds.

2004 October - President Ben Ali wins a fourth term with 94% of the vote.

2005 July - Parliament introduces an upper house - the Chamber of Councilors - which is dominated by the ruling party.

2. BACKGROUND

Tunisia had been a protectorate of France for more than seven decades by the time it gained full independence in 1956. For the next 30 years, the country was ruled by Habib Bourguiba, a secular nationalist who had been imprisoned several times by the French government for opposing France's rule over Tunisia. During his reign, Bourguiba worked

¹ Principal author: Freedom House

² Source: CIA World Factbook at <https://www.cia.gov/cia/publications/factbook/geos/ts.html>, accessed August 16, 2006.

³ Tunisia: Country Profile, *BBC News* at http://news.bbc.co.uk/2/hi/south_asia/country_profiles/2506465.stm, Accessed August 16, 2006.

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toward modernizing Tunisia, both socially and economically, and this era was marked by development in the area of women's rights. However, Bourguiba's rule was autocratic, and political and civil rights took a back seat to economic development. Diplomatically, Bourguiba was able to maintain positive relations with the West without alienating his Arab counterparts.⁴

Bourguiba was deposed in a bloodless coup led by Zine el-Abidine Ben Ali in 1987, in what became known as "the change." The leadership of Ben Ali has earned praise over the years for its sensible economic policies and the advancement of women's rights. However, while Ben Ali initially pledged more openness in the political arena, his promises soon proved to be futile, as his rule (to a large degree) came to mirror that of his predecessor. Opposition movements suffered from periodic crackdowns, and the space for political dissent narrowed. Ben Ali's main initial foes were Islamists, who were summarily detained or imprisoned after sham trials in the early 1990s. Opposition dissidents in Tunisia continued to face detention and harassment in 2005 and 2006.⁵

International human rights organizations, as well as a small group of local activists, have relentlessly criticized Tunisia's human rights record. Because of Tunisia's position as an economic trading partner and its strategic importance as a pro-Western ally in the fight against Islamic extremism, criticism from some of Tunisia's most important diplomatic and trade partners has been embarrassingly muted. However, recently the United States has taken a more public line in criticizing Tunisia's record, specifically referring to press freedoms and civil liberties as areas that the government needs to develop. The European Union (EU) has also been quietly lobbying Tunisia to reform its human rights record. There have been some positive developments since the Santiago conference, notably in the government's policies towards prisoner treatment. In 2005 Tunisian authorities allowed the International Committee of the Red Cross to inspect prisons, and ended the policy of prolonged periods of solitary confinement for political figures. Nevertheless, victories for human rights and civil liberties in Tunisia have been few and far between.

Considering Ben Ali's ties to the West and his victory in the October 2004 election with 95.42 percent of the vote, it is unlikely that the situation will change dramatically in Tunisia in the coming years. The election itself was marred by allegations of manipulation and several opposition groups staged boycotts. To local observers, it was basically rigged to provide Ben Ali with the veneer of a democratic win. Ben Ali enjoyed the unqualified support of the local media, as well as that of business interests. The two candidates who opposed him garnered a miniscule number of votes. Ben Ali's political party, the Constitutional Democratic Rally party (RCD), currently controls more than 80 percent of the seats in the parliament.⁶

⁴ Freedom House, *Freedom in the World 2006* (New York: Rowman and Littlefield 2006).

⁵ Ibid.

⁶ *Freedom in the World 2006*.

3. ANALYSIS

Elections and Democratic Participation

Citizens of Tunisia cannot change their government democratically. Zine el-Abidine Ben Ali, who has ruled the country unopposed for 18 years, has the right to appoint the prime minister, the cabinet, and governors of the provinces, and he can rule by decree when the parliament—which is a rubber-stamp institution—is not in session.

In 2002, in anticipation of the 2004 presidential elections, the Tunisian government held a referendum in which the public voted on whether or not to remove the three-term limit on presidential terms. The referendum passed with 99.52 percent of voters in support of the change. The referendum also granted immunity to the head of state for any acts connected with official duties. Ben Ali won the 2004 election easily, with his Democratic Constitutional Rally (RCD) party taking 94.5 percent of the votes in an election that was neither free nor fair. Authorities prevented the only genuine opposition candidate, Mohamed Halouani, from printing and distributing his election platform. Halouani received less than one percent of the vote, and several other parties boycotted the elections as unfair. There were reports that media coverage in the run up to the elections was biased and favored the government.⁷ The ruling party gained 152 district seats in parliament, with the only gains for opposition parties made through the reservation by law of 20% of seats for opposition candidates. The government approves the opposition parties that are permitted to field candidates in parliamentary elections, but Ben Ali's party dominates the legislature, which is a bicameral system comprised of a 189 member Chamber of Deputies, or *Majlis al-Nuwaab*, and a Chamber of Advisors.⁸

Majoritarian electoral rules designed to over-represent large parties help the RCD monopolize the legislature. The seven legal opposition parties are token and weak, while truly popular opposition bodies (most notably the Islamist *en-Nahda* party) remain illegal. The legal opposition parties have scant financial resources, a significant portion of which comes from government subsidies. During campaign periods the opposition is allotted tiny amounts of radio and television airtime relative to the media attention the ruling party commands. A 2003 law put opposition parties at a further disadvantage by prohibiting privately-owned domestic or foreign broadcast media from taking a position on electoral candidates. Government repression and intimidation also dissuade citizens from supporting even the legal opposition organizations.⁹

In the latest municipal elections, which took place on May 8, 2005, the government continued to dominate at the polls. The ruling party received 93.9% of total votes and its candidates captured 4,098 municipal seats. Four opposition political parties received only

⁷ "Tunisia: Election Coverage Biased", IFEX November 3, 2004, <http://www.ifex.org/fr/content/view/full/62308/> Accessed August 15, 2006.

⁸ *Freedom in the World 2006*.

⁹ Freedom House, *Countries at the Crossroads 2005* (New York: Rowman and Littlefield, 2006) .

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6% of total votes and captured 268 municipal seats.¹⁰ Opposition leaders accused authorities of resorting to bribes and threats to prevent some 200 opposition candidates from standing.¹¹

On July 3rd, 2005, the government elected the Chamber of Advisors, a second parliamentary chamber created by a 2002 constitutional amendment. Eligible voters were limited to counselors, deputies and mayors. The governing RCD dominated the elections.

Rule of Law

While the Constitution holds that the judiciary is independent and subject only to the law of the land, in practice there is little independence or impartiality in the administration of justice – and seemingly none where sensitive political and human rights cases are concerned. Executive pressures on judges are manifold. Amnesty International (AI) notes “a pattern of executive interference with the administration of justice”¹² and there seem to be minimal adequate protections against the practice. The executive branch exercises an indirect authority over the judiciary through the appointment, assignment, tenure and transfer of judges, rendering the system susceptible to pressure. Further, President Ben Ali is head of the Supreme Council of Judges, a group primarily composed of presidential appointees.

Since the Santiago ministerial there have been several events in which the lack of judicial independence has been exposed. In September 2005, a lawsuit was filed by pro-government members of the Tunisian Human Rights League (LTDH), accusing the league’s director of violating internal rules. The government used the lawsuit to block LTDH conference schedules for that month. In May 2006 the group again tried to hold a conference but was denied by the government, who insisted that it had to await the court’s verdict. Many LTDH members have alleged that the government is intentionally delaying court proceedings in order to disrupt the LTDH.¹³ As of yet no decision has been reported in the case.

In August 2005, LTDH members were barred from the office of the Association of Tunisian Judges (AMT), under orders from the Ministry of Justice and Human Rights.¹⁴ Human rights groups condemned the move as an effort to intimidate judges and restrict the judiciary’s right to free speech. After calls for more independence for the judiciary, the AMT’s telephone, fax and Internet access were increasingly disrupted, and effectively

¹⁰ The Movement of Socialist Democrats won 107 seats; the Popular Unity Party won 88 seats; the Unionist Democratic Union won 51 seats; and the Social-Liberal Party won 16 seats. United Nations Program on Governance in the Arab Region, <http://www.pogar.org/countries/elections.asp?cid=20>, accessed August 16, 2006.

¹¹ “BBC Monitoring News Diary for Sunday 8 May 2005” *BBC Monitoring International Reports*, May 8, 2005. Accessed through Nexis on August 16, 2006.

¹² “Tunisia: The Cycle of Injustice.” Amnesty International, June 10, 2003, <http://web.amnesty.org/library/index/engMDE300012003>, Accessed August 14, 2006.

¹³ “Tunisia: Country Report July 2006” The Economist Intelligence Unit.

¹⁴ “Tunisia: NGOs Protest Deterioration of Rights” *Africa News* Accessed through Nexis August 16, 2006.

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shut down later on. According to reports, judges were arbitrarily transferred to isolated areas, far from their families, in an attempt to intimidate and silence them.

According to the Constitution, Tunisians charged with a criminal offence are presumed innocent until proven guilty. However, this provision is not upheld.¹⁵ Citizens as a rule do not enjoy fair trials. Detainees do not have a right to legal counsel prior to arraignment. For the post-arraignment phases of judicial proceedings, although the state provides free legal assistance to poor defendants, in sensitive political cases defendants often are not notified of their right to legal representation. The court process is usually slow. Prosecutors tend to prevail in verdicts despite having produced insufficient evidence for conviction, while the rights of defense lawyers and their clients are severely curtailed: confessions extracted under torture are admitted into evidence without investigation; defendants have been tried more than once for the same crime; the defense (particularly in political trials) may not even be able to address the court; and, often in “terrorism” cases, civilians are tried before military courts.¹⁶

Currently, civilian authorities are in firm control of the Tunisian police, military, and internal security services, which are fully free from the influence and direction of nonstate actors. Under Ben Ali, whose career was launched in the military and security forces, the security forces quadrupled in size and became increasingly operationally capable. This apparatus is more pivotal to Ben Ali’s rule than it was to his predecessor, and it enjoys substantial prestige and privileges as a result. Some are concerned that the military or security forces could move against Tunisia’s civilian leadership if they felt that their position was becoming undermined.¹⁷

Civilian direction of the security apparatus is far from democratic. Here again the executive branch dominates. Plainclothes security agents play an intimidating role in courtrooms, and the security services are intimately involved in a regime-directed process of repressing political dissidents through the practices of surveillance, harassment, and torture. Save for the most courageous of individuals, Tunisians as a whole have been forced into complete silence in the public sphere by the actions and ubiquitous presence of the security forces.

Civil Liberties

Civil liberties remain highly restricted in Tunisia, despite some small improvements since the Santiago Ministerial. Although women’s rights are stronger than in most Middle East and North African countries, torture, arbitrary arrest, and police impunity remain problems, and restrictions on freedom of speech, assembly, and the press are still prevalent.

¹⁵ “Tunisia: The Cycle of Injustice.”

¹⁶ *Ibid.*

¹⁷ Christopher Alexander, “Back from the Democratic Brink: Authoritarianism and Civil Society in Tunisia” *Middle East Report* No. 205 (October-December 1997), p. 38.

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Although laws protecting against the practice of torture have improved in recent years, state agents routinely torture political prisoners. Prison conditions are inhumane in other respects as well, including inability to communicate with others and pray freely, insufficient medical care, denial of the right to work and study, poor hygiene, and overcrowding. Political prisoners receive harsher treatment than ordinary criminals, but a majority of both endure poor prison conditions that fail to meet standards established in Tunisian law. New laws have increased prisoners' rights and provided for judicial inspection of prisons; however, the former are not always implemented and the latter does not include a requirement that prisons implement judicial recommendations. In May 2005, the International Committee of the Red Cross was granted access to Tunisian prisons, becoming the first NGO granted such permission. In an encouraging step, the Tunisian government promised in April 2005 that it would no longer detain prisoners in solitary confinement for more than ten days.

Despite these improvements, reports of torture and police impunity have been common since the Santiago Ministerial. On June 17th, 2005, Moncef Ben Ahmed Ouahichi, a Jendouba resident, died of a cerebral hemorrhage at La Rabta Hospital in Tunis. He had been arrested on June 10th and released the next day, at which time he was unconscious and bearing bruises, according to the LTDH. Although Ouahichi's defense lawyer filed a case before the public prosecutor calling for an investigation into his death, no arrests or further action has been reported.¹⁸ Later that month, 25-year-old-Zied Ghodhbane appeared in court in a state of physical and psychological distress, bearing marks of abuse on his body. He reportedly testified that officials at the Ministry of the Interior tortured him through beatings, electrocution, and holding his head under water. While his defense team asked that he be medically examined, the request was reportedly dismissed by the judge.

Freedom of assembly is severely restricted, particularly for human rights groups and opposition parties. In early 2005, Tunisian authorities banned numerous demonstrations by student groups, opposition parties, and human rights organizations who were protesting the invitation of Ariel Sharon to the country.¹⁹ The police forcibly dispersed protesters and injured a number of men and women. Radhia Nasraoui, a human rights lawyer, was beaten up in the street by police officers, sustaining a broken nose, cuts and bruising.²⁰ No action was reported to have been taken against her attackers. In November 2005, authorities forbade Tunisian and foreign associations from holding a meeting in order to prepare for an event within the World Summit on the Information Society. About ten civil policeman prevented access to the Goethe Institute, the German cultural center where the meeting was to take place.

¹⁸ State Department (2006), at <http://www.state.gov/g/drl/rls/hrrpt/2005/61700.htm>, accessed on August 18, 2006.

¹⁹ "Tunisian police bans a demonstration against Sharon's visit" *Arabicnews.com*, <http://www.arabicnews.com/ansub/Daily/Day/050409/2005040907.html> Accessed August 22, 2006.

²⁰ "Ferment in Tunisia Continues over Lawyers Arrest" *Financial Times*, Accessed through Nexis, August 24, 2006.

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Tunisia's civil rights record continues to be overshadowed by myriad abuses. To date, the government has not shown any inclination towards significant reform; the little progress that has been made has come fitfully, and is generally only in response to outside complaints. President Ben Ali has given observers little reason to expect that Tunisia's repressive approach to civil liberties will change at any point in the near future.

Media Freedom

Tunisia's constitutional guarantees and public pronouncements of freedom of the press are not upheld in practice, as the state tightly controls all forms of public expression and severely punishes those who do not toe the government line. The constitution guarantees freedom of the press except under "conditions laid down by the law." The Press Law criminalizes defamation, and those who violate it can be imprisoned and fined. Local and foreign publications must be vetted by authorities before distribution, and publications carrying material critical of the authorities can be summarily barred. The lack of independence in the Tunisian judiciary often leads to biased outcomes in legal proceedings against journalists.

Ever since President Ben Ali took power in 1987, the few journalists and dissidents who have crossed his government have been imprisoned, beaten, harassed, threatened, or removed from their jobs. Considering this, it is ironic that in November 2005 Tunisia played host to the UN-sponsored World Summit on the Information Society, a gathering aimed at establishing international regulations for the internet. Even though world attention was on Tunisia, authorities did not change their modus operandi. A French journalist working for the daily *Liberation*, Christophe Boltanski, was beaten, stabbed, and robbed near his Tunis hotel. The reporter had written an article about the situation in Tunisia leading up to the summit, focusing in particular on abuses against human rights activists by government agents. Other journalists and press freedom advocates faced harassment and restrictions on their activities during the summit. When Ambeyi Ligabo, Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression for the UN Commission on Human Rights, criticized Tunisia's record with regard to press freedom in October, his findings were dismissed by Tunisian authorities, who claimed that Tunisians are not imprisoned for expressing their opinions.²¹

Repression of the media has continued in 2006. On June 3, a large group of plainclothes policemen forced Lotfi Hajji, who is a correspondent for the Al-Jazeera satellite television channel, into a police car at Barcelona Square in Tunis. They drove him to a police station in Bizerte, 37 miles (60 kilometers) northeast of Tunis, and held him there for nearly four hours. In July 2006, Naziha Regiba, a reporter who concentrated on human rights issues was assaulted as she traveled to the National Council for Liberties headquarters to attend a meeting. As she approached the office, she was physically and verbally assaulted by Tunisian security forces.

²¹ "Four Representatives in Tunis Present the Arabic edition of the TMG'S Recent report on Freedom of Expression in Tunisia" *IFEX*, 10 May 2005, <http://www.ifex.org/en/content/view/full/66531> Accessed August 14, 2006.

4. SUGGESTIONS FOR IMPROVEMENT

A great deal of work needs to be done to improve the status of democracy and civil liberties in Tunisia. The first steps towards progress must come from the government of President Ben Ali, who has not yet shown a willingness to discuss or tackle the clear violations of citizens' political and civil rights in Tunisia.

In order to ensure free and fair elections, the principle of the secret ballot should be adhered to during elections, and independent international election monitors should be invited to oversee the balloting process. Further, all non-violent political parties that seek to operate in the political arena should be legalized. In particular, the banned *En-Nahda* party should be allowed to play a part in the political process. Opposition parties should also be given a fair proportion of press coverage during campaigns, and their platforms should not be censored.

The government should act on its publicly-stated commitment to a free press by rewriting the Press Code so that it cannot be used to prosecute journalists, and by dispensing with licensing processes for printed materials. Allegations of violence towards journalists should be immediately investigated, and security forces found guilty of violence should be swiftly prosecuted. In addition, the government should stop blocking "sensitive" internet sites.

Separation of powers should be augmented by removing the executive branch from the processes that govern the appointment, promotion, and dismissal of judges, and judges should thereafter be unconstrained in their ability to render verdicts consistent with the law. The government should not attempt in any way to intimidate or influence judges through harassment or threats of violence.

Several improvements are needed in order to ensure citizen's rights while in detention. Detainees should be allowed regular contact with their families, and should be informed of their right to counsel promptly upon being detained. Laws outlawing torture should be fully enforced, with those responsible publicly tried and convicted.

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5. STATISTICS AND INDICATORS

World Bank Institute Governance Indicators 2005	Tunisia Score	Key
Voice and Accountability	18.8	Range 0-100 (Lower value indicates weak voice and accountability; higher value indicates strong voice and account)
Political Stability and Absence of Violence	49.5	Range 0-100 (Lower value indicates weak political stability and high violence; higher value indicates opposite)
Government Effectiveness	67.0	Range 0-100 (Lower value indicates weak govt. effectiveness; higher value indicates strong govt. effectiveness)
Regulatory Quality	51.5	Range 0-100 (Lower value indicates weak regulatory quality; higher value indicates strong regulatory quality)
Rule of Law	58.5	Range 0-100 (Lower value indicates weak rule of law; higher value indicates strong rule of law)
Control of Corruption	60.1	Range 0-100 (Lower value indicates weak control of corruption; higher value indicates strong control of corruption)

Freedom House: Freedom in the World 2007	Tunisia Score	Key
Political Rights	6	Range 1-7 (Lower value indicates good system of political rights; higher value indicates bad system political rights)
Civil Liberties	5	Range 1-7 (Lower value indicates good system of political rights; higher value indicates bad system political rights)
Status	NF	3 Categories: F (Free); PF (Partly Free); NF (Not Free) / (*) Indicates electoral system

Freedom House: Freedom of the Press 2006	Tunisia Score	Key
Total Score	83	Range 0-100 (Lower value indicates total free press; higher value indicates less freedom) / 3 Categories: F (Free); PF (Partly Free); NF (Not Free)

Freedom House: Countries at the Crossroads 2005	Tunisia Score	Key
Accountability and Public Voice	1.65	Range 0-7 (Lower Score representing weakest and 7 representing strongest performance)
Civil Liberties	3.08	Range 0-7 (Lower Score representing weakest and 7 representing strongest performance)
Rule of Law	2.79	Range 0-7 (Lower Score representing weakest and 7 representing strongest performance)

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Anticorruption and Transparency	3.53	Range 0-7 (Lower Score representing weakest and 7 representing strongest performance)
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Bertelsmann Transformation Index 2006	Tunisia Score	Key
Stateness	9.0	Range 0-10 (Lower value indicates negative democratic development; higher value indicates positive democratic development)
Political Participation	2.0	
Rule of Law	3.5	
Stability of democratic Institutions	1.0	
Political and Social Integration	3.7	
Total Score Political Transformation	3.38	Range 0-10 (Lower value indicates negative democratic development; higher value indicates positive democratic development) / Arrow shows trend in democratic development (↑Improved; ↓Worsened)
Total Score Political Management	4.42	Range 0-10 (Lower value indicates lower quality of political management; higher value indicates higher quality of political management)

Corruption Perceptions Index 2006	Tunisia Score	Key
Total Score	4.6	Range 0-10 (lower value indicates high corruption; higher value indicates lower values of corruption)

6. SOURCES

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