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Tunisia

Country:

Tunisia

Year:

2016

Freedom Status:

Free

Political Rights:

1

Civil Liberties:

3

Aggregate Score:

79

Freedom Rating:

2.0

Overview:

Following a year in which the country adopted a historic and progressive constitution and successfully held free and fair elections at the parliamentary and presidential levels, Tunisia experienced a number of challenges in 2015 that threatened to undermine its democratic progress. Three high-profile terrorist attacks in Tunis and Sousse killed dozens of people, leading to the imposition of states of emergency for much of 2015 that included curfews and prohibition on public demonstrations. The attacks also spurred passage of a new antiterrorism law that was criticized by rights advocates for granting broad new powers to the security services.

After winning a significant victory in last year's elections, there were concerns that Nidaa Tounes, the country's main secularist party, would attempt to govern without input from Ennahda, the moderate Islamist party that led the previous government. However, in February parliament approved a coalition government that included Ennahda in some minor capacities. A significant bloc within Nidaa Tounes protested the inclusion of Ennahda in government, touching off a crisis that threatened the former's survival.

Political Rights and Civil Liberties:

Political Rights: 37 / 40 (+1) [Key]

A. Electoral Process: 12 / 12

Tunisia's 2014 constitution established a unicameral legislative body, the Assembly of the Representatives of the People (ARP), and a semipresidential system in which the majority party in parliament selects a head of government, while a popularly elected president serves as head of state and exercises restricted powers. The ARP consists of 217 representatives serving five-year terms, with members elected on party lists in 33 multimember constituencies.

Parliamentary elections were held in October 2014 with a high turnout of 67 percent of registered voters. Nidaa Tounes won a plurality of the vote and 86 seats. Ennahda placed second with 69 seats, 20 fewer than in 2011. Three other parties won enough seats to play significant roles in government formation: the populist-centrist Free Patriotic Union won 16 seats, the leftist Popular Front won 15, and the center-right Afek Tounes won 8. Eleven other parties won between one and four seats each, and two seats went to independents.

Presidential elections were held the following month, with about 64 percent of registered voters casting a ballot in the first round. Beji Caid Essebsi of Nidaa Tounes won 40 percent of the vote, followed by Mohamed Moncef Marzouki of Congress for the Republic at 33 percent. Some 20 additional candidates ran; Ennahda did not put forward a candidate. Because no candidate won a majority, a runoff was held in December, in which Essebsi won with 55 percent of the vote against 44 percent for Marzouki. Despite some complaints regarding campaign finance violations and allegations of vote buying, no evidence surfaced to indicate systematic violations or a significant impact on electoral results. International and local observers concluded that the 2014 elections were free and fair.

Following the elections, Nidaa Tounes initially attempted to form a coalition government excluding Ennahda and relying on smaller secularist parties to secure a parliamentary majority. However, following pushback from the ARP, Nidaa Tounes reached an agreement with Ennahda to form a coalition government, which was approved by parliament in February 2015. The decision by the party's leadership to include Ennahda in the coalition sparked a crisis within Nidaa Tounes, which had already been suffering from factional divisions and internal governance problems. In November, 32 Nidaa Tounes ARP members announced their resignation from the party as a result of these issues, though they were persuaded to tentatively suspend that decision days later. In December, another 22 Nidaa Tounes representatives announced their intention to resign from the party.

The Independent High Authority for Elections (ISIE), a neutral nine-member commission, supervises the electoral process. Tunisia's new electoral law, adopted in 2014 in advance of election season, garnered praise from observers as a credible framework for reflecting the will of the voters. However, the law's gender parity provisions—in which males and females alternate within each list, rather than requiring males and females to alternate at the head of lists across regions—attracted criticism.

B. Political Pluralism and Participation: 16 / 16

In the 2014 elections, 70 parties participated. The two dominant parties are Nidaa Tounes, a secular coalition of leftists, trade unionists, businesspeople, and members of the former government of Zine el-Abidine Ben Ali (who was ousted after a popular revolution in 2011), and Ennahda, a moderate Islamist party. Nidaa Tounes experienced a series of crises in 2015 that threatened its survival as a cohesive entity. The party's leftist wing has long been subordinated to more powerful business and elite political interests and is underrepresented at the executive level in the current government. Throughout 2015, a power struggle played out between the leftist faction led by Mohsen Marzouk, elected secretary-general of the party in May, and *ancien régime* elements led by Hamed Essebsi, son of President Caid Essebsi. Delays in holding the party's congress to elect a new leadership led to street clashes between the competing groups in November and Marzouk's resignation from his post in December, casting doubt on the party's ability to continue to function in its current form.

The Tunisian military, historically marginalized by the political leadership, remained politically neutral in 2015. However, its budget has significantly expanded in the past several years and it has established its own intelligence and security services. While generally viewed as positive developments correcting longstanding internal dysfunction, these changes have led some experts to caution against an unwarranted increase in the military's powers and its potential politicization.

The government and both domestic and international nongovernmental organizations (NGOs) have worked to increase the political participation of marginalized groups, including disabled Tunisians, and ensure their inclusion in elections. Low youth voter turnout continued to concern nearly all observers in 2014, although tens of thousands of young people made up the majority of election monitors, polling station workers, campaign staff, and election volunteers.

C. Functioning of Government: 9 / 12 (+1)

In January 2014, Ennahda, then the largest party in the now-defunct interim legislature and leader of a coalition government, handed over power to a caretaker government in advance of elections. Although the move was a positive step in quelling a bitter political dispute with the opposition, it did install an unelected technocratic administration for most of the year. In December 2014, the newly elected ARP was formally seated, and Caid Essebsi was sworn in as the country's president later that month. With the ARP's approval of a cabinet in February 2015, the transition to a fully democratic administration at the both the legislative and executive levels was completed.

The removal of Ben Ali and his close relatives and associates, who had used their positions to create private monopolies in several sectors, represented an important step in combating corruption and eliminating conflicts of interest. A provisional anticorruption authority is to be replaced by a Good Governance and Anti-Corruption Commission, established by the 2014 constitution. However, few prosecutions have occurred to date, with the exception of in absentia trials for members of the Ben Ali and Trabelsi clans—the two former ruling families.

Moreover, petty corruption continues to plague the country, with tax evasion, falsification of documents, and bribery rampant in the civil service. Tunisia was ranked 76 out of 168 countries and territories assessed in Transparency International's 2015 Corruption Perceptions Index.

In July 2015, the cabinet approved a so-called reconciliation law that would suspend all legal proceedings and investigations into public corruption committed under the Ben Ali regime and ease the process for obtaining amnesty for such crimes. The law had not yet been passed by year's end.

Since the revolution, Tunisia has improved its record on government transparency. A 2011 decree requires internal documents of public institutions to be made available to the public. The 2014 constitution enshrined the right of access to information, along with an independent commission to monitor compliance. However, a draft law that would help bring Tunisia up to international standards and improve implementation was unexpectedly withdrawn from consideration in July 2015.

Civil Liberties: 42 / 60 (-1)

D. Freedom of Expression and Belief: 13 / 16

Freedom of expression improved dramatically following the revolution, and the 2014 constitution guarantees freedoms of opinion, thought, expression, information, and publication, subject to some restrictions. However, the media continued to face obstacles in 2015, including prosecutions under Ben Ali-era criminal laws. Blogger Yassine Ayari was sentenced by a military court to a year in prison in January for violating the military code by "defaming the army" on Facebook; Ayari was released from prison in April. Also in March, three journalists were arrested for allegedly defaming the president and other offenses. They were sentenced to six-month suspended prison sentences before being released.

The High Independent Authority of Audiovisual Communication (HAICA) continued to be the subject of debate due to concerns about its politicization and its aggressive policy of fining television and radio stations, especially during the elections. In November, the prime minister dismissed the head of the national public broadcaster and installed an interim chief without consulting HAICA. The body brought a legal challenge against the government's actions in December, but no resolution was achieved by year's end.

The 2014 constitution introduced freedom of religion to an extent largely unprecedented in the Arab world. It guarantees freedom of belief and of conscience for all religions, as well as for the nonreligious, and bans campaigns against apostasy and incitement to hatred and violence on religious grounds. While the constitution identifies Islam as the state religion and requires the president to be a Muslim, no constitutional provision identifies Sharia (Islamic law) as a source of legislation.

Despite these provisions, the state retains significant influence over the internal affairs of religious institutions, particularly mosques. A Ben Ali-era law authorizing the government to appoint local imams and banning any unauthorized activity at mosques remains in

place. Following the revolution, a monitoring commission within the religious affairs ministry undertook a campaign to root out allegedly extremist imams from mosques across the country and replace them with state appointees. In 2015, the minister of religious affairs gave the police primary responsibility for the surveillance of mosques. Following the mass shooting in Sousse in June, the state shut down 80 mosques accused of promoting extremist positions.

Article 33 of the 2014 constitution explicitly protects academic freedom, and it continues to improve in practice.

E. Associational and Organizational Rights: 9 / 12 (-1)

The 2014 constitution guarantees the rights to assembly and peaceful demonstration. Public demonstrations on political, social, and economic issues regularly take place. However, when police responded to a protest against economic conditions in February, they shot and killed a demonstrator. Rights groups have criticized a counterterrorism law adopted in July for its vague language, creating concern that the law could be used to stifle demonstrations and curtail protest activity. In September, the government began enforcing a ban on all public demonstrations under the state of emergency imposed in response to the shooting in Sousse. On at least three occasions that month, police used excessive force to disperse protests against the proposed reconciliation law.

The constitution guarantees the freedom to establish political parties, unions, and associations. Tens of thousands of new civil society organizations began operating after the revolution, and NGO conferences were held throughout the country during 2015. Antiterrorism and security justifications are sometimes used to circumvent legal procedures for closing civil society organizations.

The constitution guarantees the right to form labor unions and to strike. The Tunisian economy has been rocked by continuous strikes across all sectors since the revolution demanding labor reform, better wages, and improved workplace conditions. Although strikes are almost never suppressed by force, in May 2015 the cabinet announced a decision to not pay public sector employees on days they participated in a strike. However, agreement was reached between labor unions and the government to raise public sector salaries for at least the next three years.

F. Rule of Law: 9 / 16

The constitution guarantees a robust and independent judiciary. However, little reform has taken place since the revolution, numerous Ben Ali-era judges remain on the bench, and successive administrations have regularly attempted to manipulate the judiciary. In May 2015, the ARP passed a law establishing a Supreme Judicial Council (CSM), which will monitor the judicial system. Critics noted a variety of serious deficiencies in the law, including outsize executive influence on the CSM's composition and functions. The Constitutional Council, Tunisia's interim constitutional review body, ruled in June that the

new law was unconstitutional on numerous grounds related to its manner of passage and content; no law to replace it was passed by year's end.

In June 2014, Tunisia established a Truth and Dignity Commission (TDC) to examine political, economic, and social crimes committed since 1956. By May 2015, the commission had received nearly 12,000 complaints of rights violations under Ben Ali. However, observers have noted that the selection process for the body's 15 commissioners lacked transparency and engagement with civil society, its organizational structure is suboptimal, and it is plagued by slow decision-making processes. Moreover, specialized courts to adjudicate cases of violations are still nonoperational.

Security issues, particularly threats from radical Salafi Muslim groups, are a major concern for the government. In March, two gunmen attacked the Bardo Museum in Tunis, killing 20 and wounding dozens more. Another mass shooting at a popular tourist resort in Sousse killed 38 people in June. The Islamic State claimed responsibility for both attacks, but the government asserted that local Islamist groups based in Tunisia were behind them. In November, a bomb exploded in Tunis near a bus carrying members of the elite presidential guard, killing 12 people. President Essebsi declared a state of emergency in early July that lapsed in October but was reinstated in late November and was then extended through the end of the year. Continuous terrorist threats also led to near-unanimous passage of a sweeping new antiterrorism bill, signed into law by Essebsi in August. The bill gives police expanded surveillance and detention powers, allows terror suspects to be tried in closed-door hearings, and permits witnesses in such trials to remain anonymous.

The constitution refers to state protections for persons with special needs, prohibiting all forms of discrimination and providing aid to integrate them into society. It also calls for the state to create a culture of diversity. However, LGBT (lesbian, gay, bisexual, and transgender) people continue to face discrimination in law and society. In September, a man was sentenced to one year in prison for allegedly engaging in same-sex sexual acts, and six other men were sentenced to three years in prison in December. An appeals court reduced the September sentence to two months in December, and the defendant was released with time served.

Tunisia has no asylum law, leaving the United Nations as the sole entity processing asylum claims. Migrants are often housed in informal detention centers, where they suffer from substandard living conditions. Delays in the issuance of residency permits make it impossible for many to work legally, forcing them to take odd jobs with no labor protections. A draft asylum law that would normalize the status of migrants and increase their rights and protections was circulating in parliament in late 2015.

G. Personal Autonomy and Individual Rights: 11 / 16

Freedom of movement has improved substantially since 2011. The 2014 constitution guarantees freedom of movement within the country, as well as freedom to leave. Unlike in some other Arab countries, women do not require the permission of a male relative to travel. The southern border was closed several times in 2015 in response to the various

terrorist attacks, and Tunis was placed under curfew following the November bus bombing.

The protection of property rights continued to be an area of concern, closely linked to high levels of corruption as well as a large backlog of property cases. The 2014 constitution introduced new protections for property, including intellectual property, but their implementation has yet to be seen.

Tunisia has long been praised for relatively progressive social policies, especially in the areas of family law and women's rights. The 2014 constitution guarantees equality before the law for men and women, and the 1956 personal status code giving women equality with men has remained in force. The code grants women equal rights in divorce, and children born to Tunisian mothers and foreign fathers are automatically granted citizenship. Medical abortion is legal. Currently, 68 women serve in the parliament. Areas of ongoing concern for women's rights include social discrimination and unequal inheritance laws, as well as domestic abuse.

Tunisian women and children are subject to sex trafficking and forced domestic work in both Tunisia and internationally.

Scoring Key: X / Y (Z)

X = Score Received

Y = Best Possible Score

Z = Change from Previous Year

Full Methodology

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