



Tunisia's media barons wage war on independent media regulation

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Following the Arab Spring, the collapse of the Ben Ali regime in 2011 seemed to usher in a new era of press freedom in Tunisia. Under pressure from rights activists, the democratically elected An Nahd-led government adopted legislation protecting media independence and set up regulatory bodies for the sector. But since those early victories, media owners associated with political parties have hindered effective implementation of the new rules. Some of these powerful figures are associated with the Ben Ali regime, while others are business leaders who are close to the new government. Tunisia thus presents a cautionary tale. A victory to liberate the press from government control may be meaningless if the sector is not also protected from potential capture by self-serving business leaders.

At first, a dramatic transformation of Tunisia's government following the "Arab Spring" of 2011 looked like it could transform the closed media system into a more pluralistic and democratic sphere by bringing in new regulation and licensing rules. But even though newspapers and websites, enjoying greater freedom of expression, have indeed multiplied since 2011, the growth in news offerings masks a deeper problem in Tunisia's media system. In the latter years of the Ben Ali dictatorship, a handful of relatives and supporters had been granted rights to own television and radio stations, and they have since fought back against media reforms. Furthermore, since taking power in 2011, the Islamist-led government has delayed the implementation of crucial reforms and has allowed its friends to launch radio and television stations.

This chapter describes the attempt to change the Tunisian media system made by the National Authority for Information and Communication Reform (INRIC). It is a tale of media capture, which shows that when backed by the government the private sector can undermine reforms and resist change.

INRIC, a consultative and independent commission, was launched in March 2011, just after the Arab Spring, when democracy advocates lobbied the first interim government for the abolition of the Ministry of Communication and the Tunisian Agency for External Communication. INRIC, which I chaired, raised awareness about the need to learn from countries that had adopted media legislation and regulation to support their transitions to democracy.

These encouraging developments were taking place between 2011 and 2014, but the authorities, meanwhile, showed no willingness to improve the media sector and ensure its independence. The government dragged its feet and hindered media reform, particularly in broadcast media, thus allowing business groups, often close to the deposed president, to take control of or tighten their grip on mainstream media.

Lessons on media reform from new democracies

INRIC was established in a climate of freedom of expression unseen since the launch of the first Tunisian newspaper, *Arra'id Attunisi*, in 1860.¹ The decision to form this media commission was a result of the pressure exerted on the interim government by democracy advocates.

INRIC's main mandate was to recommend ways to "reform the media and communications sector" and to "protect the Tunisian people's right to a free, diverse and fair media," while taking into consideration "international standards for freedom of expression."² This commission was also formed to advise on applications

for new radio and television stations and to provide guidelines for the establishment of regulatory bodies for print, broadcast and online media.

Journalists, academics, and human rights lawyers were invited to discuss ways to dismantle the mechanisms used to muzzle the media since Tunisia's 1956 independence from France. By consulting with international experts, journalists, and academics from formerly undemocratic countries, INRIC helped raise awareness of the major hurdles on the path to media reform and the steps needed to protect independent journalism.

One of INRIC's top priorities was to broaden broadcast media, which until January 2011 had been the preserve of the state and of Zine El Abidine Ben Ali's family and supporters.

Radio broadcasting launched in Tunisia in 1938 under the French Protectorate. It was not open to private investors. Paradoxically, print media enjoyed great freedom. Following independence, the government on April 25, 1957, issued a decree to reinforce its monopoly on broadcasting (Chouikha 2015).

Belhassen Trabelsi, Ben Ali's brother-in-law, launched the first privately owned radio station, Mosaïque FM, in 2003. A year later, Hannibal TV launched under the direction of Larbi Nasra, a businessman related by marriage to Ben Ali's wife, Leila Trabelsi. These exceptions to the state monopoly on broadcast media were part of a strategy to keep the media under tight control while giving the impression that the government was liberalizing the sector. At the same time, government officials were lobbying the United Nations to hold the second phase of the World Summit on Information Society in Tunis in November 2005.

The government continued its politically motivated liberalization of the media landscape, authorizing Ben Ali's relatives and supporters to establish four radio stations and another TV channel.³

Under an internal government agreement, the owners of these radio stations and TV channels were barred from producing or contributing to the production of news programs. They also were barred from broadcasting news shows (INRIC General Report 2012).

After Ben Ali fled to Saudi Arabia in January 2011, the broadcast media outlets he had licensed violated the terms of their agreements, especially the prohibition on the production and broadcast of political programs.

Regulated attempts to transform the broadcast media landscape

Following the fall of the Ben Ali regime, positive steps were taken toward creating a more diverse and regulated media landscape.

Given the importance of broadcast media in Tunisia and elsewhere in the Arab world, the mandate given to INRIC clearly stipulated that one of its main tasks was to “give its opinion concerning applications to establish radio and television stations...” (INRIC General Report 2012). INRIC received applications for 74 radio stations and 33 TV channels.

Without a legal framework to regulate broadcast media, but determined to end favoritism in the granting of licenses, INRIC set up working groups to establish standards for the transparent evaluation of radio and TV license applications.

In June 2011, INRIC recommended granting licenses to 12 radio stations. These included underserved areas like Sidi Bouzid, where the uprising against Ben Ali erupted in December 2010 (INRIC General Report 2012).

On September 7, 2011, INRIC publicly announced that it granted licenses for five of the 33 applications for TV channels. The announcement was in defiance of the office of interim Prime Minister Beji Caid Essebsi, which did not want the group to make the decisions public prior to the elections. The government was subjected to intense lobbying by media broadcasters licensed under Ben Ali (INRIC General Report 2012), which did not want to share revenues from radio and TV commercials and did not want broader coverage of the first elections since the fall of their benefactor.

Due to the legal void created by the delay in the implementation of Decree-Law 116 on broadcasting, some TV stations—Al Janoubia TV, Al Ikhbarya TV, Tunis Carthage TV, Al Tounisia TV⁴—started airing their programs illegally. They faced no adverse reaction from the authorities.

Vested interests, old and new, resist change

The new legislation paved the way for a positive transformation of the media landscape, but vested interests fought hard to undermine the new rules.

The introduction of Decree-Laws 115 on print media and 116 on audiovisual media, drafted by legal experts from the High Authority for the Achievement of the Revolution Objectives in cooperation with INRIC and media groups, and the establishment of a Supreme Independent Authority for Broadcasting Communication (HAICA), helped pave the way for media reform.⁵ The two decree-laws, which replaced restrictive legislation and filled a legal vacuum of several decades, were published in the official Gazette on November 4, 2011.

Decree-Law 115 affirms the right to freedom of expression and its exercise in accordance with Article 19 of the International Covenant on Civil and Political Rights. It bans interference by the Ministry of the Interior in matters related to the press, printing and publishing, allowing only the judiciary to examine these matters. But, surprisingly, it also imposes strict criteria to become a journalist, a result of lobbying by the National Union of Tunisian Journalists (SNJT). It also

stipulates prison sentences for “praising war crimes... and crimes against humanity” and calling for “national, ethnic or religious hatred.” Most countries address these issues in the penal code.

Local media proprietors, led by the owners of Hannibal TV and Nessma TV, fought against Decree-Law 116 on broadcast media, which would have opened the field to greater competition as well as more ethical and professional journalism. They launched smear campaigns against INRIC and HAICA, the regulator established in May 2013, and succeeded in delaying the implementation of the decree-laws.

Local and international rights groups welcomed the new legislation and urged the government to speedily implement the two decree-laws. So did Margaret Sekaggya, the United Nations Special Rapporteur on the Situation of Human Rights Defenders, and Reine Alapini-Gansou, the Special Rapporteur on Human Rights Defenders of the African Commission on Human and Peoples' Rights.

For nearly 18 months, these calls were ignored by the Islamist-led government, which used the opposition of some business groups as an excuse to delay the implementation of the new legislation and the formation of HAICA. The Syndicate of Media Outlet Owners, a group formed in 2011 by media owners loyal to the ousted autocrat, was the voice of opposition of media reform.

The main reason for the postponement, however, was lack of political will on the part of the government. The victorious An Nahda was determined to launch its own broadcast media outlets, and it encouraged Islamist activists to do the same before Decree-Law 116 came into force.

The cooperation that developed between the An Nahda-led government and print and broadcast media owners, including the Tunisian Federation of Newspaper Directors (FTDJ), which had replaced the defunct Tunisian Association of Newspaper Directors (ATDJ) in 2011,⁶ led to their backing a conference in April 2012. The conference focused on replacing Decree-Laws 115 and 116 with a legal framework more accommodating to private media owners and the Islamist party. INRIC and SNJT boycotted the event.

Islamist radio and TV stations launched in greater numbers after the An Nahda-led government proved unable to influence the editorial line of public media, particularly Tunisian national television. Frustrated that public media outlets gave voice to critics of the Islamist-led government, An Nahda president Rached Ghannouchi threatened to privatize them.

Many radio and TV stations launched by An Nahda members or by businessmen—Zeitouna TV; Al Hedeya TV; Al Mutawaasset TV, which later changed its name to “M Tunisia TV”; Tunisia News Network (TNN); Al Insen TV; Radio Addiwan; and others—started broadcasting illegally while the An Nahda-led government blocked the implementation of Decree-Law 116.⁷

Backed by An Nahda, Zeitouna TV has been operating illegally since its launch in 2012 and refuses to abide by HAICA's decisions. During a 2015 broadcast, one of its presenters shredded a letter from HAICA.

Like other broadcast outlets owned by businessmen or political parties, such as Nessma TV and Al Janoubia TV, most of the pro-Islamist radio and TV stations obtained their broadcasting licenses during a time when HAICA experienced a frequent number of attacks.

As of January 2017, HAICA had licensed 23 private radio stations and 10 associative radio stations, as well as 11 private television channels. However 3 of them (Hannibal TV, Nessma TV and El Hiwar Ettounsi TV) have yet to abide by the "broadcasting regulator's specifications," according to HAICA Board members.

Tunisian media owners, shades of Italy's Berlusconi

Currently, the biggest threat to independent journalism and broadcast media regulation stems from media owners seeking to follow the example of Italian media tycoon and former Prime Minister Silvio Berlusconi.

The media proprietor who has most visibly used his media outlet to gain influence in politics is Nabil Karoui, former CEO of Nessma Broadcast. His media group registered in Luxembourg in 2008 and launched Nessma TV a year later. This second private television channel, authorized to broadcast under Ben Ali, is owned by Karoui in partnership with other businessmen and groups, Tunisian and foreign, including Berlusconi's Prima TV and Mediaset Investment.

Although Karoui resigned as CEO of this media group in January 2016, many believe he is still influencing Nessma TV's editorial line. Karoui played a leading role in weakening HAICA, as well as in thwarting media reform and delaying implementation of the new media legislation. While launching smear campaigns against HAICA, he gained the support of Islamist, liberal and leftist leaders, such as Rached Ghannouchi, Beji Caid Essebsi, and Hamma Hammami, to whom Nessma TV paid special attention prior to the 2014 elections. In April 2017, Transparency International, the global anti-corruption movement, condemned a smear campaign against its Tunisian partner, IWatch, allegedly orchestrated by Karoui (Transparency International 2017). This ironically coincided with a controversial government "national consultation" promoting a draft law that would establish a new and toothless broadcasting regulator to replace HAICA (Belhassine 2017).

Nessma TV garnered exclusive coverage of a reception held at the Presidential Palace in Carthage in November 2015 to honor four Tunisian labor, professional and rights organizations that won the 2015 Nobel Peace Prize. The chief executive officer of the public Tunisian Television, Mustapha Ben Letaief, condemned the obvious favoritism.⁸ His protest, coupled with his determination to protect the editorial independence of public television, led to his ousting as CEO.

Larbi Nasra, the founder of the first private television station, Hannibal TV, is also enmeshed in politics. He used his television channel to promote himself and influential politicians, and to denigrate media reform.

In November 2013, Nasra sold more than 80 percent of his shares in Hannibal TV to Saudi and Tunisian businessmen, with flagrant disregard for Tunisian law, which requires transfers to be approved by HAICA. In 2014, Nasra founded a political party and ran for president, obtaining less than 1 percent of the vote.

Nasra and Karoui were not the only media owners to evade laws or defiantly ignore the broadcasting regulator's decisions. Political activists opposed to Ben Ali, such as Taher Belhassine, founder of El Hiwar Ettounsi TV, and Omar Mestiri, co-founder of Radio Kalima, also sold their media shares, amid a climate of rising media corruption, opacity and marginalization of HAICA. Licensed by HAICA in 2014, these outlets were sold respectively to the wife of Sami Fehri, a former television owner and producer close to Ben Ali, and to businessmen close to Slim Riahi, the leader of the Free Patriotic Union party.⁹

A study conducted in July 2016 by Reporters Without Borders and Al Khatt, a Tunisian non-governmental organization linked to the Tunisian investigative online magazine *Inkyfada*, quoted Al Khatt President Malek Khadhraoui, who said: "The majority of television channels analyzed for this study (6 out of 10) have a direct or indirect link with a political party or a politician" (Al Khatt-Reporters Without Borders 2016).

The study was a reminder that when it comes to abiding by the law or journalism ethics, print media do not enjoy a better reputation than broadcast media. Legal provisions introduced to promote transparency about ownership and circulation are routinely ignored. "Newspapers are legally obliged to publish the number of issues printed. No newspaper does so, fearing that this would affect advertisers and therefore their financial situation," according to Khadhraoui.

Newspapers and news websites have multiplied since 2011, and have enjoyed a wide margin of freedom of expression. But due to the lack of revenues few manage to survive, since advertising mainly supports government-backed private and public newspapers, as was the case under Ben Ali.

The 2014 report on *Journalism Ethics in the Print Media* issued by SNJT quotes a businessman involved in negatively influencing newspapers as saying that he came to the conclusion that "it would be better and less costly for me to distribute a handful of money here and there to newspapers, than to cope with the cost of publishing a weekly newspaper."¹⁰

Under the decree-law regulating print media, no person or group can own or publish more than two periodicals. To prevent any group from wielding excessive influence, the number of copies printed cannot exceed 30 percent of the total printed in a specific type of periodical in Tunisia.

The establishment on April 20, 2017, of a self-regulating press council did not spur much enthusiasm among independent journalists, despite support from the international freedom of expression group Article19. “Protecting and abiding by media ethics has not become yet part of the culture embraced by the media,” said Nejiba Hamrouni, former chair of SNJT and co-founder of the now-defunct Civil Coalition to Defend Freedom of Expression.¹¹

Many media outlets have been turned into tools of disinformation in the hands of business people hungry for power and in collusion with political parties and figures.

On July 18, 2016, the National Commission to Fight Corruption (INLC), the Tunisian League for Human Rights (LTDH), SNJT and FTDJ denounced “mafia-like” media outlets that had turned into “criminal gangs,” warning against their dangerous impact on Tunisia’s transition to democracy.

Why promote media regulation?

Thanks to thriving civil society groups, awareness of the need for independent media reform and regulation has risen since Tunisia’s revolution, despite the capture of most of the country’s media outlets by businessmen who promote their own interests and political agendas through their newspaper or television channel. This is occurring at a time when freedom of the press is backsliding in neighboring countries. Media outlets, particularly radio and television, are increasingly used as tools of propaganda by governments and political or religious groups, including radical Islamist movements.

The establishment of media regulators in neighboring Algeria and Morocco is widely seen as government window-dressing, rather than as a genuine move to protect independent broadcasting media and regulation. The imprisonment, in June 2016, of two senior staff members of a private Algerian television channel is a reminder of Arab governments’ lack of tolerance for independent media and regulation (International Media Support 2016).

Many Arab academics and journalists are advocating for media reform and regulation, and warning that the increasing influence exerted over the media by politicians, businessmen, and religious groups eager to further their interests poses a serious threat to independent journalism as well as to citizens’ rights to information and well-being.

“An unregulated market and the absence of laws governing media ownership, especially regarding the identity of owners, has led to a chaotic situation and has allowed powerful media owners to advance individual and self-serving agendas, all of which erode freedom of expression and the expression of alternative points

of view,” said an Egyptian democracy advocate in 2012 during a conference in Cairo (Allam 2012).

Undeterred by many challenges at home, Tunisian rights groups took the initiative in April 2016 to warn against the threat posed by a project sponsored by the International Federation of Journalists and the Federation of Arab Journalists, which aimed to establish a special mechanism to protect media freedom under the umbrella of the government-controlled Arab League. (Nawaat.org 2016). Ironically, the same Arab League had notoriously adopted in 2008 a charter to regulate satellite Radio and TV Broadcasting. The charter required Arab broadcasters to exercise freedom of expression without defaming Arab “leaders or national and religious symbols.”

Despite the collusion between government officials and businessmen eager to use the media solely to promote their interests and political ambitions, the Tunisian experience demonstrates that well-informed civil society groups can play a significant role in promoting independent media regulation.

Tunisia's first, timid steps toward democracy and independent media regulation would have slid off course without the vigilance of its civil society groups and the backing of the international community.

In a statement issued in July 2016, hundreds of Tunisian democracy advocates acknowledged, however, that press freedom remains “threatened by cronyism, mediocrity, lack of professionalism, interaction between media and dirty money, and between media and political-financial pressure groups.”¹² Media takeovers by businessmen have intensified, especially since the two main political parties, An Nahda and Nidaa Tounes, formed a coalition in early 2015.

Fragile reforms face new threats

The collapse of Tunisia's dictatorship in 2011 allowed unprecedented freedom of expression and paved the way for a public debate on the role of the media after the foundation of INRIC. This media commission played a key role in raising awareness of international standards of freedom of expression and the need for legislation and regulation that would enable media outlets to protect the transition to democracy.

Local and international rights groups welcomed the new legislation and regulation. But political parties such as An Nahda opposed, as did private media owners. They established or bought scores of radio and TV stations to serve their political ambitions, ignoring legal and ethical rules. Their sustained attacks have weakened the Arab world's newest and most independent broadcasting regulator.

The steps taken by Tunisia on the difficult road to genuine media reform, including the adoption of constitutional protections for the rights to press freedom, free access to information, and fair media regulation, could not have been achieved

without the vigilance of civil society groups, which monitored media outlets and television attention-hungry government officials inclined to favor influential media proprietors. These positive developments still need to be defended.

Tunisia's emerging democracy is no longer threatened by a despotic ruler, his family or his ruling party. These days, self-serving businessmen and politicians, tragically unaware of the benefits of a free, fair and regulated media, pose the main threat.

ENDNOTES

- ¹ Arra'id Attunisi was published first in July 1860. It became the official gazette of the Republic of Tunisia on July 26, 1957.
- ² According to Decree No. 10/2011 dated March 2, 2011.
- ³ Radio Jawhara FM, established by businessmen supportive of Ben Ali's regime, in July 2005; Radio Zitouna FM, established by Ben Ali's son-in-law Sakhr El Materi in December 2007; Radio Shems FM, established by Ben Ali's daughter Cyrine in August 2010; Radio Express FM, co-founded by Mourad Gueddiche, son of Ben Ali's personal medical doctor, in October 2010; and Nessma TV, to supporter Nabil Karoui, in June 2009. El Materi also bought Dar Assabah print media group. Since 2011 his media outlets and Shems FM have been run by the government.
- ⁴ Research based on news reports.
- ⁵ More information at <http://haica.tn/>.
- ⁶ The Tunisian Association of Newspaper Directors (ATDJ) was expelled from the World Association of Newspapers for its inaction on June 4, 1997, amid rising attacks on the media in Tunisia.
- ⁷ Personal research based on news reports and interviews with media researchers.
- ⁸ Interview with Mustapha Ben Letaief, law professor and former CEO of the public Tunisian Television.
- ⁹ Research based on news reports and interviews with media researchers.
- ¹⁰ From the 2014 Journalism Ethics in the Print Media report by the National Union of Tunisian Journalists, 12.
- ¹¹ Hamrouni's quote is from the introduction to the 2014 Journalism Ethics in the Print Media report by the National Union of Tunisian Journalists.
- ¹² Posted on Petitions24.net in July 2016: "On the Eve of 59th Anniversary of Tunisia's Republic Day, Journalists Demand Truth about Dangerous Excesses of Media under Ben Ali." See http://www.petitions24.net/pour_la_verite_sur_le_systeme_abdelwahab_abdallah#form.

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