

LONDA

DIGITAL RIGHTS AND INCLUSION IN AFRICA REPORT

TUNISIA



2022

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Digital Rights and Inclusion in Africa Report 2022

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Tunisia



▶ Executive Summary

In 2022, the Tunisian government undertook several projects to advance the telecommunication infrastructure and improve the ecosystem for the digital economy. However, as the country faces a critical moment marked by political change and socio-economic pressure, human rights have continuously been undermined with prosecutions and arrests of critics, and measures undermining freedom of information and press freedom.

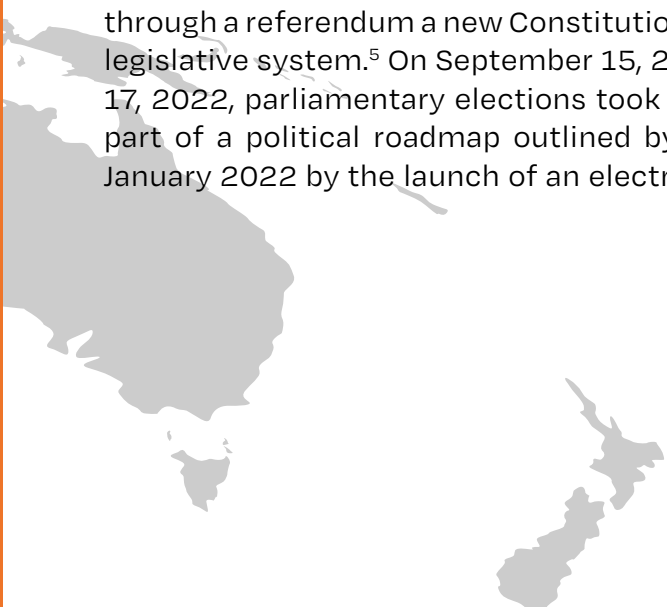
In addition to old repressive laws from the Ben Ali era that are still in force and threaten internet freedom, newly adopted legislation imposes strict criminal sanctions which can have a chilling effect on freedom of expression. This country report seeks to provide an overview of the Tunisian digital rights landscape. It analyses relevant public policies, multi-sectorial collaborations, and programs enhancing the implementation of emerging technologies, including the 5G network, and discusses obstacles hindering further progress.



Introduction

Tunisia is part of the Maghreb region of North Africa and home to over 11.8 million citizens.¹ In 2022, the number of internet subscriptions reached 95.3 per 100 inhabitants.² Mobile connectivity continues to be widespread. In September 2022, mobile internet penetration reached 93.8 per cent.³

For Tunisians, 2022 was marked by political and constitutional changes along with a slow economic recovery after the dramatic recession of 2020 (9.2 per cent drop in GDP).⁴ On July 25, 2022, exactly one year after the suspension of Tunisia's Parliament, the president's assumption of wide-ranging powers and a partial suspension of the 2014 Constitution, Tunisia adopted through a referendum a new Constitution introducing a more presidential regime and a bicameral legislative system.⁵ On September 15, 2022, a new electoral law was adopted, and on December 17, 2022, parliamentary elections took place.⁶ The constitutional referendum and elections are part of a political roadmap outlined by the president on December 13, 2021 and initiated in January 2022 by the launch of an electronic platform for a nationwide consultation.⁷



1 Instance national des statistiques 'Estimation de la population' (2022) <http://www.ins.tn/statistiques/111> (accessed on January 25, 2023).

2 Ministère des technologies de la communication 'Nombre d'abonnements au réseau Internet /100 habitants' <https://www.mtc.gov.tn/index.php?id=334&L=298> (accessed on January 25, 2023).

3 Instance Nationale des Télécommunications 'Tableau de Bord Mensuel Data Mobile' Septembre 2022 http://www.intt.tn/upload/files/TB4_Data-Mobile%20-09_2022.pdf (accessed on January 25, 2023).

4 World Bank 'Tunisie Bulletin de conjoncture Réformes économiques pour sortir de la crise' (2021) <https://documents1.worldbank.org/curated/en/909301642180849531/pdf/Tunisia-Economic-Monitor-Economic-Reforms-to-Navigate-Out-of-the-Crisis-Winter-2021.pdf> (accessed on January 25, 2023)

5 The Guardian 'Tunisia referendum approves expansion of president's powers – officials' July 2022 <https://www.theguardian.com/world/2022/jul/26/tunisia-president-referendum-result-new-phase-kais-saied> (accessed on January 25, 2023)

6 Carter Center 'Historically Low Turnout in Tunisia's Parliamentary Election Confirms Need for Renewed Dialogue' (2022) <https://www.cartercenter.org/news/pr/2022/tunisia-121922.html> (accessed on January 25, 2023)

7 Tunisie Numerique 'Plateforme de la consultation nationale : Des opérations d'essais sont en cours' (2022) <https://www.tunisienumerique.com/plateforme-de-la-consultation-nationale-des-operations-dessais-sont-en-cours/> (accessed on January 25, 2023)

Country Analysis

INTERNET FREEDOM

INTERNET ACCESS AND DISRUPTIONS

The Tunisian government has undertaken several regulatory measures and infrastructure projects over the years to extend broadband framework to remote areas and develop the digital economy. In 2022, the number of internet subscriptions reached 95.3 per 100 inhabitants.⁸ Mobile connectivity continues to be widespread. In September 2022, mobile internet penetration reached 93.8 per cent.⁹ According to the National Telecommunications Authority, 4G network alone covers 91.3 per cent of the population.¹⁰

In March 2022, the two online communications platforms, Zoom and Microsoft Teams, were blocked for a short period while Members of Parliament that had been suspended by the President in July 2021 attempted to hold an online plenary session.¹¹ Testing data from OONI showed that Zoom.us presented signs of TCP/IP (transmission control protocol/internet protocol) blocking.¹² Authorities did not take responsibility for the disruptions.

FREE SPEECH AND MEDIA FREEDOMS

Extending freedom of expression is one of the biggest gains of the 2011 Tunisian revolution. However, the Tunisian government has tightened its noose around activists, bloggers, journalists, and anyone who is critical of the government and its policies. In 2022, several



bloggers and journalists in Tunisia were prosecuted for their online content that is critical of the president, security forces, or the government. The prosecutions were initiated on the basis of the penal code, the code of military justice or the telecommunications code. In May 2022, blogger Amina Mansour was sentenced to six months in prison for satirical comments on Facebook in which she criticised President Saïed and his close associates. Mansour was charged under Article 67 of the penal code, which stipulates that anyone who insults the president of the republic can be imprisoned for a period of up to three years.¹³

8 Ministère des technologies de la communication 'Nombre d'abonnements au réseau Internet /100 habitants' <https://www.mtc.gov.tn/index.php?id=334&L=298> (accessed on January 25, 2023)

9 Instance Nationale des Télécommunications 'Tableau de Bord Mensuel Data Mobile' Septembre 2022 http://www.intt.tn/upload/files/TB4_Data-Mobile%20-09_2022.pdf (accessed on January 25, 2023)

10 Instance nationale de telecommunication 'Revue Internationale des Télécommunications Positionnement international de la Tunisie en 2019' <http://www.intt.tn/upload/files/Positionnement%20international%20de%20la%20Tunisie%20en%202019.pdf> (accessed on January 25, 2023)

11 Reuters 'Online communications platforms down in Tunisia as parliament tries to meet,' March 30, 2022, <https://www.reuters.com/article/tunisia-politics-zoom-idAFL5N2VX4QA> (accessed on January 25, 2023)

12 OONI 'OONI Measurement Aggregation Toolkit (MAT)' https://explorer.ooni.org/chart/mat?probe_cc=TN&test_name=web_connectivity&domain=zoom.us&since=2022-03-08&until=2022-06-08&axis_x=measurement_start_day (accessed on January 25, 2023)

13 Article 19 'Tunisia: Activist Amina Mansour faces jail term for Facebook posts,' Article 19, May 26, 2022" <https://www.article19.org/resources/tunisian-activist-jailed-facebook-posts/> (accessed on 25 January 2023)

Additional repressive laws on false news and cybercrime were adopted presenting additional obstacles to free speech and media freedoms. In March 2022, President Saïd issued Decree Law 2022-14 on combating illegal speculation. The law criminalises the deliberate spreading of "false or incorrect news or information" that could cause consumers to refrain from buying products or could disrupt the supply of goods to markets and thereby cause prices to rise.¹⁴ In a statement, Amnesty International expressed its concerns over the decree's "vaguely worded provisions that could lead to prison terms of between ten years and life including for public debate of the economy."¹⁵

On September 13, 2022, Decree Law 2022-54 relating to the fight against crimes related to information and communication systems was adopted. Under article 24 of the decree, the creation, promotion, publication, transmission or preparation of false news, hate speech, data containing personally identifiable information, or forged documents is sanctioned with ten years in prison and a one hundred thousand dinar fine if the victim is a public official.¹⁶ Human rights organisations largely criticised the new decree for the vague and broad nature of the terminologies used, lack of precise definitions, and excessively harsh and disproportionate criminal sanctions.

Tunisian journalists usually face legal intimidation and physical harassment by security forces for their work. Online media journalists Tarek Laabidi and Seif Koussani

appeared before the Ben Arous courthouse after being arrested and their equipment confiscated on March 23, 2022 when trying to cover a campaign against police impunity.¹⁷

In March 2022, online journalist Khalifa Guesmi was detained for a week after he refused to reveal sources for his recent report on the arrest of a group of terrorism suspects.¹⁸ Tunisian public media workers went on strike on April 2, 2022 in protest against shrinking press freedoms and attempts by President Kaï's Saied and his government to control public media's editorial.¹⁹

PRIVACY AND SURVEILLANCE

The right to privacy and personal data protection are protected under Article 30 of the new Constitution and the Organic Law 2004-63 on the Protection of Personal Data. Despite these safeguards, Tunisians' right to privacy remains vulnerable.

The newly adopted Decree-law 2022-54 contains several provisions that threaten the right to privacy. For instance, Article 9 allows law enforcement agencies to access an infinite range of personal data across all electronic devices without a judicial warrant. Additionally, Article 6 of the same decree requires telecommunications providers to store for a minimum period of two years data identifying the users of their services, data related to the traffic analysis, data related to the communication devices, the geolocation data of the user, and data related to the access and exploitation of value-added protected

¹⁴ Décret-loi n°2022-14 du 20 mars 2022, relatif à la lutte contre la spéculation illégale <https://legislation-securite.tn/law/105237> (accessed on January 25, 2023)

¹⁵ Amnesty international "Tunisia: New anti-speculation law threatens freedom of expression" <https://www.amnesty.org/en/latest/news/2022/03/tunisia-new-anti-speculation-law-threatens-freedom-of-expression/> (accessed on January 25, 2023)

¹⁶ Decree n° 2022-54 relating to the fight against crimes related to information and communication systems http://www.iort.gov.tn/WD120AWP/WD120Awp.exe/CTX_4796-78-XXhckAKDSH/PageDernierParu/SYNC_1934787844 (accessed on January 25, 2023)

¹⁷ Nawaat statement <https://www.facebook.com/nawaat/photos/a.423635536213/10160090573916214/> (accessed on January 25, 2023)

¹⁸ Reuters "Tunisia releases a journalist detained a week ago for refusing to reveal his sources" <https://www.reuters.com/world/africa/tunisia-releases-journalist-detained-week-ago-refusing-reveal-his-sources-2022-03-25/?fbclid=IwAR1cFHOLEonnChzIQCX7Onqe0XWGaV040MZa8Ugwhq7jU4Ji3fYja4g15MM> (accessed on January 25, 2023)

¹⁹ IFJ "Tunisia: Public media workers announce one-day strike over risk to media freedom and editorial independence" https://www.ifj.org/media-centre/news/detail/category/press-releases/article/tunisia-public-media-workers-announce-one-day-strike-over-risk-to-media-freedom-and-editorial-indep.html?fbclid=IwAR0e_v8MGpVYKECP6y1Y-4qOIBG_vfzc9qCXzcd2FdRGEIckKdd5Bt8854 (accessed on January 25, 2023)

content.²⁰

Two women judges were victims of doxing campaigns on Facebook as part of a defamation campaign meant to shame them into silence following a strike against the president's dismissal of over 50 judges. Civil society organisations urged authorities to conduct a transparent and independent investigation to identify the perpetrators, hold them accountable for their actions, and strengthen Tunisia's data protection laws.²¹

DATA GOVERNANCE

The first adoption of data protection law in the Tunisian legal framework dates back to 2004, and was followed by the creation of the national authority for data protection. The national authority was tasked with overseeing the enforcement of the legal framework on data protection.²² However, in many occasions, the president of the instance highlighted the insufficiency of both human and financial resources deployed in favour of the instance. Public institutions processing personal data carried out on the occasion of public security or national defence or criminal prosecutions or when the processing is necessary to execute their missions, are not subject to prior authorisation from the national authority and are not required to obtain verbal and written consent from data subjects when collecting and processing data.

The 2004 data protection law places restrictions on the cross-border transfer of personal data, with the data transfer permitted where certain conditions are met, and where authorisation is granted by the national instance for data protection.²³ The transfer of personal data to a foreign State may not take place if this State does not provide an adequate level of protection, in reference to the kind

and the purpose of the data, the period of its processing, the foreign State where the data shall be transferred, and the precautions which have been taken for data safety. In 2018, the INPDP issued a list of 49 countries estimated by the instance to provide an adequate level of data protection.

DIGITAL IDS

The National Strategic Digital Tunisia Plan 2020 calls for the development of a unique identifier for citizens (IUC) together with the development of e-services and a national interoperability framework.



In June 2022, the Minister of Communication Technologies issued a circular introducing the mobile ID project, the first digital national identity project planned for citizens via mobile phone.²⁴ The project concerned will transform SIM cards into identity tools by linking users'

20 Decree n° 2022-54 relating to the fight against crimes related to information and communication systems <https://legislation-securite.tn/law/105348> (accessed on January 25, 2023)

21 Access Now 'How online doxing is endangering women judges in Tunisia' <https://www.accessnow.org/how-online-doxing-is-endangering-women-judges-in-tunisia/> (accessed on January 25, 2023)

22 INPDP 'Les normes de protection des données dans le corpus juridique national' <https://www.inpdp.tn/Presentation.html> (accessed on January 25, 2023)

23 Loi organique numéro 63 en date du 27 juillet 2004 portant sur la protection des données à caractère personnel https://www.inpdp.tn/ressources/loi_2004.pdf (accessed on January 25, 2023)

24 Ministry of telecommunication technologies 'Circulaire 20 Juin 2022' https://www.mtc.gov.tn/fileadmin/user_upload/

national identity card numbers to their phone numbers.²⁵ Under a partnership agreement, telecom operators are tasked to verify users' identities and link their phone numbers with their ID card numbers.²⁶ The National Agency for Electronic Certification then issues personal identification numbers for every identified citizen and generates personal QR Codes, which citizens can use to sign administrative documents online. Additionally, users may access and review their data through a special portal.²⁷

In addition to the individual oversight guarantee, the Tunisian IUC model was intentionally meant to protect data privacy by reducing the proliferation of a unique identifier across multiple systems. The IUC will be a back-end-only number that cannot be stored in other databases or made public. Alternatively, a mapping of the IUC to other sectoral identifiers will be stored in the central system only to facilitate identity verification and interoperability.²⁸ For this model to achieve its data protection promises, other privacy- and security-enhancing measures and guarantees are needed, including the adoption of a new data protection law that provides adequate safeguards or effective guarantees for personal data protection.

BIOMETRIC IDS

The biometric passports and identification cards project was first proposed in 2016 but was put on hold after pushback from civil

society due to concerns over the absence of efficient safeguards for Tunisians' digital rights. In January 2022, the Interior Ministry announced plans to continue the development of this project.²⁹ But the new statement did not specify the necessary amendments to Law 1993-27 on national identity cards, a timeline for next steps, the stakeholders who would be involved, or the budget allocated to the project. Past discussions had focused on two different versions of the same draft Bill — one from 2016 and the second from 2020. In a statement responding to the announcement, several civil society groups criticised the ministry for disregarding the principle of transparency and the participatory approach that should be applied to legislation affecting the privacy rights of Tunisian citizens.³⁰

REVIEW OF THE UNIVERSAL SERVICE FUND

Telecommunications Law 2001-01 established the need for basic services to be provided to all the people of Tunisia. The law amendment in 2008 came to introduce the notion of universal service. In 2013, a ministerial order further extended the list of universal services to include access to telephone telecommunications services, provision of public telecommunications centres, provision of the service to persons with specific needs, provision of internet access with a minimum speed of 128 kbps, social offers, and routing free emergency calls.

[circulaire_mobile_id.pdf](#) (accessed on January 25, 2023)

25 Mobile ID portal <https://www.mobile-id.tn/faq> (accessed on January 25, 2023)

26 We Are Tech 'Tunisia kicks off mobile identity project' <https://www.wearetech.africa/en/fils-uk/news/public-management/tunisia-kicks-off-mobile-identity-project> (accessed on January 25, 2023)

27 Tunisie numerique 'Tunisia-Launch of digital identity project for citizens' <https://news-tunisia.tunisienumerique.com/tunisia-launch-of-digital-identity-project-for-citizens/> (accessed on January 25, 2023)

28 World Bank. 2020. Identification for Development (ID4D): Diagnostic of ID Systems in Tunisia, <https://openknowledge.worldbank.org/bitstream/handle/10986/34364/Diagnostic-of-ID-Systems-in-Tunisia.pdf?sequence=1> (accessed on January 25, 2023)

29 Ministry of Interior "Resume sending the project to complete the biometric passport and biometric identification card and expedite its implementation," <https://www.interieur.gov.tn/actualite/27229/%D8%A7%D8%B3%D8%AA%D8%A6%D9%86%D8%A7%D9%81-%D8%A8%D8%B9%D8%AB-%D9%85%D8%B4%D8%B1%D9%88%D8%B9-%D8%A5%D9%86%D8%AC%D8%A7%D8%B2-%D8%AC%D9%88%D8%A7%D8%B2-%D8%A7%D9%84%D8%B3%D9%81%D8%B1-%D8%A7%D9%84%D8%A8%D9%8A%D9%88%D9%85%D8%AA%D8%B1%D9%8A-%D9%88%D8%A8%D8%B7%D8%A7%D9%82%D8%A9-%D8%A7%D9%84%D8%AA%D8%B9%D8%B1%D9%8A%D9%81-%D8%A7%D9%84%D8%A8%D9%8A%D9%88%D9%85%D8%AA%D8%B1%D9%8A%D8%A9-%D9%88%D8%AA%D8%B9%D8%AC%D9%8A%D9%84-%D8%AA%D9%86%D9%81%D9%8A%D8%B0%D9%87> (accessed on January 25, 2023)

30 SNJT <http://snjt.org/2022/01/24/%d9%85%d9%86%d8%b8%d9%85%d8%a7%d8%aa-%d9%88%d8%ac%d9%85%d8%b9%d9%8a%d8%a7%d8%aa-%d8%ad%d9%82%d9%88%d9%82%d9%8a%d8%a9-%d8%aa%d8%af%d8%b9%d9%88-%d8%a5%d9%84%d9%89-%d8%b9%d8%af%d9%85-%d8%a7%d8%b9%d8%aa/> (accessed on January 25, 2023)

Decree 2013-5199 listed universal service development programs among the beneficiaries of the fund for the development of communications, information technology and telecommunications.³¹



Instance Nationale des Télécommunications created by Telecommunication Law No. 2001-01, is the regulatory authority in charge of the administration, regulation and management of the telecommunication sector, including the USF. All telecom service providers are required to comply with the universal service requirements. The rates applied for the provision of services are to be approved by the Ministry in charge of telecommunications.

The State may grant compensation for the expenses incurred. As part of the regional coverage obligation of telecom operators, the INT imposed on the three operators when granting 4G licenses in March 2016, regional coverage commitments (two lots comprising more of 100 sectors per operator belonging to governorates with development priorities).³² In 2015, the INT organised a multistakeholder workshop on the development of a Universal Service Policy in telecommunications.³³ While the policy is yet to be published, funds are not separately raised for the universal service fund. Developments in ICT and Emerging Technologies

In addition to the "Digital Tunisia 2020" national strategic plan, the Ministry of Communication Technologies adopted the national strategic plan "Digital Tunisia 2021-2025".³⁴ This plan focuses on six strategic orientations including digital and financial inclusion, which provides for facilitating access to connection, the fight against digital illiteracy and the development of online services. Another axis of the strategy is generalisation of the use of emerging technologies and disruptive technologies such as IoT, Artificial Intelligence, Cloud, and blockchain.³⁵

In April 2022, the Ministry of Communication Technologies announced completion of the "white zones" coverage project.³⁶ The five-year plan increased internet access and mobile coverage in 94 underserved areas which have a low population density across 15 governorates and provided improved access to around 180,000 inhabitants, 164

31 Décret n° 2013-5199 du 12 décembre 2013, fixant les interventions et les activités concernées par les participations du fonds de développement des communications, des technologies de l'information et de la télécommunication ainsi que les modalités de leur financement. https://www.mtc.gov.tn/fileadmin/Investisseurs/Decret2013_5199_-FODEVTIC_-_Francais.pdf (accessed on January 25, 2023)

32 MTCEN et Banque mondiale. 2020. Diagnostic de l'économie numérique de la Tunisie <https://documents1.worldbank.org/curated/en/822451592422759317/pdf/Diagnostic-de-lEconomie-Numerique-de-la-Tunisie.pdf> (accessed on January 25, 2023)

33 INT 'WORKSHOP «POUR L'ÉLABORATION D'UNE POLITIQUE DE SERVICE UNIVERSEL DES TÉLÉCOMMUNICATIONS EN TUNISIE»' <http://www.intt.tn/fr/index.php?typeactu=89&actu=538> (accessed on January 25, 2023)

34 ANET 'Le plan national stratégique "Tunisie Digitale 2021-2025"' <https://www.emploi.nat.tn/fo/Fr/global.php?page=2&id=3889> (accessed on January 25, 2023)

35 Francophonie Djerba 'La stratégie numérique en Tunisie 2025' <https://www.francophoniedjerba2022.tn/fr/la-tunisie-numerique#:~:text=Cette%20strat%C3%A9gie%20qui%20s'articule,%2C%20banque%20postale%2C%E2%80%A6> (accessed on January 25, 2023)

36 MCT Facebook page <https://www.facebook.com/MinistereTCTD/posts/pfbid02qptjLyUWvQUTY2Duo14cJ4S5Bc14j5kkrA2CtDLZ3vs3x14pLwrLfr5SMVTPgAqSI> (accessed on 25 January 2023)

educational establishments, and 59 health centres. The “white zones” coverage project is part of the implementation of the national strategy “Digital Tunisia 2020” Initiated by the Ministry of Communication Technologies and implemented by the majority State-owned mobile operator Tunisie Telecom.³⁷

Supported by national digital strategies, mobile network operators have built extensive LTE infrastructure, and have been undertaking testing and trials of 5G services. Commercial services are expected to be launched by 2023. The regulator, the national frequency agency, has already identified low, mid and high bands for 5G, namely 700 MHz, 3400 – 3600 MHz and the 26 GHz band respectively, and their current availability.³⁸

37 Turess' November 18, 2019, <https://www.turess.com/hakaek/183724>. (accessed on 25 January 2023)

38 GSMA 'MENA 5G Spectrum – Setting Out the Roadmap' <https://www.gsma.com/spectrum/resources/mena-5g-spectrum-roadmaps/> (accessed on January 25, 2023)

Conclusion and Recommendations

The findings presented in this report point to the progress in regard to digital inclusion in Tunisia. However, increased restrictions on Tunisians' digital rights continue to rise compared to the previous years as authorities adopt restrictive legal texts and uses existing legal loopholes.

GOVERNMENT	PRIVATE SECTOR	CIVIL SOCIETY
<p>The following recommendations are made to the government:</p> <ul style="list-style-type: none"> • Authorities must adopt a participatory approach when drafting and implementing rights-related legislation, thus avoiding the multiplication of contradictory legal texts and procedures that undermine online freedoms. • Authorities are called to enact a new data protection law that respects individuals' rights, ensures the protection of Tunisian citizens' personal data, and is in compliance with Tunisia's international commitments. • The government must end all legal and policy measures used to silence and censor critical voices. • The presidency must repeal articles 24 and 9 of Decree-Law 2022-54 on the Crimes Related to Information and Communication Systems as they contain unprecedented restrictions on the freedom of expression and press. • Authorities must not pressure the private sector to take steps that unnecessarily or disproportionately interfere with freedom of expression online. 	<p>The following recommendations are made for the private sector.</p> <ul style="list-style-type: none"> • Comply with the principles of data protection, and human rights at all times. 	<p>The following recommendations are made to civil society organisations:</p> <ul style="list-style-type: none"> • Consolidate joint efforts to oppose the adoption of laws and decrees threatening digital rights in the country. • Document information related to censorship and intimidation of activists and provide assistance for maliciously prosecuted bloggers.



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