

Tunisia Embraces Emerging Global Norm of Contract Disclosure

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Tunisia's Assembly of the Representatives of the People. Source: NRGi.

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Tunisia has taken an important step toward extractive sector transparency by [publishing over 50 of the country's oil contracts](#) on the government's [open data portal](#). Minister of Energy and Mines Mongi Marzouk highlighted the good governance gain at a 14 June [press conference](#).

The government has shown follow-through on pro-transparency pledges made by Marzouk in April (listen to the [interview](#) in Arabic at 16:35) and in its [Statement of Commitments](#) at the April Anti-Corruption Summit, which was attended by Minister of Governance Kamel Ayadi. This statement referenced being in final stages of compliance with open contracting principles.

Tunisia is embracing the [emerging global norm](#) of [contract transparency](#), joining a growing list of over 25 countries releasing all or some of their extractive sector contracts. This is important: access to contracts facilitates citizen analysis of rules that apply to the extraction of natural resources, which in countries like Tunisia are ultimately owned by citizens (as set out in Article 13 of the [constitution](#)).

In Tunisia, contract disclosure can help restore trust and avoid the kind of confrontation seen in the 2015 “[Winou el pétrole](#)” campaign. Disclosure of Tunisian oil contracts—like the *conventions particulières* the government has just published—can demonstrate that actual contracts comply with the [Hydrocarbons Code](#) and the [model contract](#) adopted by Tunisia. This dispels rumors regarding secret contracts and deviations from the law.

Government responds to civil society calls

The government's actions in support of contract transparency can be understood, at least in part, as responsiveness to a push from civil society organizations (CSOs). Tunisian CSO advocacy for contract disclosure began

Author
Wissem Heni, Amir Shafaie

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organizations (CSOs). Tunisian CSO advocacy for contract disclosure began with an ultimately unsuccessful attempt to incorporate a related clause in the 2014 constitution.

Tunisia's adherence to the [Open Government Partnership](#) (OGP) initiative was another opportunity—this time CSO efforts were more fruitful. [National Action Plan](#) (2014-2016) Commitment 18 referenced the disclosure of data on contracts within an open data portal. An initial version of the open data portal was launched last summer, but it did not contain contracts. This omission served as a motivating factor for CSOs to redouble efforts.

As part of capacity building work with Tunisian CSOs, NRGi conducted workshops with more than 16 organizations from different regions. Issues such as the different categories of Tunisian extractive contracts; potential benefits of and constraints on disclosure; the relevance of the access to information laws; and international experience with contract disclosure were explored.

The country's anticorruption authority joined the call for disclosure. At a 21 April conference, Chawki Tabib, the chair of the anticorruption authority, made statements that embodied the concerns of some attendees about scant government action to date on contract publication.

In parallel, the Tunisian government was looking to strengthen its own knowledge: international experience with contract disclosure, particularly with respect to issues such as confidentiality clauses and the disclosure of “sensitive information,” was of real interest. The Ministry of Energy and Mines and the legal department within the prime minister's office reached out to NRGi to convene a discussion around contract publication. In March, with NRGi's aid, representatives from relevant government ministries, the national oil company ETAP, parliamentarians, the anticorruption authority and CSOs participated in a roundtable discussion. In order to facilitate the exchange, [NRGi prepared a briefing](#) on the different steps and considerations that could be involved in moving forward with contract publication in light of both international experience and the specific Tunisian context.

Next steps: contract disclosure and beyond

The government should be applauded for publishing a first series of oil contracts. There are other reasons as well to be encouraged by its steps to improve natural resource governance. Foremost is the increasing commitment being shown towards Tunisia's potential adherence to the Extractives Industries Transparency Initiative. Senior parliamentarians and personnel from the Ministry of Industry participated in the [EITI](#) Global Conference in February 2016 and announced Tunisia's deep interest in EITI implementation. In April a reference to EITI compliance was included in Tunisia's [Anti-Corruption Summit statement](#). Further progress was indicated in the 14 June oil contracts publication announcement, with officials from the Ministry of Energy and Mines presenting EITI as part of the ministry's good governance strategy and stating that EITI will be explicitly referenced in the next OGP National Action Plan for 2016-2018.

There is a recognition, meanwhile, that much remains to be done, including on contract transparency. For example, as detailed in the NRGi briefing referenced above, under Tunisia's hydrocarbons code, there are two levels of contracts for each project: the convention particulière and a contract between the investing company and the national oil company ETAP which takes the form of a production sharing contract or a joint venture agreement. The contracts published so far are limited to the convention particulières and it will be important to also have transparency over the second level of contracts. We understand that the government plans to publish these second-level contracts in the near future.

Furthermore, for transparency to be effective in promoting improved governance, contract information will need to be understood and used by various stakeholders. This will require ensuring that oversight actors such as parliamentarians, civil society and media have sufficient capacity and tools to engage in responsible analysis and monitoring of contracts.

Finally, it is important to incorporate pro-transparency measures (such as

contract publication) into the legal framework of the extractive sector. Doing so will ensure these measures are not just an ad-hoc occurrence supported by a particular minister and are instead institutionalized in line with Tunisia’s constitutional commitment to transparency.

Wissem Heni is the Tunisia program officer at the Natural Resource Governance Institute and Amir Shafaie is a senior legal analyst at NRGi.

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