GOVERNING UNCERTAINTY: THE FIRST PROVISIONAL ADMINISTRATIONS IN TUNISIA AND LIBYA FOLLOWING THE UPRISINGS IN 2011-2012

By
Sabina Henneberg

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Abstract

This dissertation examines the actors, institutions and strategies that characterized the first provisional administrations (the governing structures in place from anti-authoritarian uprisings to first elections) in Tunisia and Libya in 2011-2012. It explores two central research questions. First, to what extent are first provisional administrations shaped by pre-existing structures, and to what extent are actors able to shape them? Second, to what extent do first provisional administrations impact the phases of political change that follow them? The results are based on interviews with Tunisians and Libyans and a wide array of secondary sources, including books, journal articles, and reports by international organizations.

The dissertation argues that the two first provisional administrations were largely shaped by pre-existing institutions. In addition, the distinct choices made by actors in both—while also constrained by pre-existing institutions—had important effects on later phases of post-authoritarian governance. A comparison of the actors, institutions and strategies of the first provisional administrations in Tunisia and Libya show that, in fact, Libya’s building of democratic institutions was more profoundly challenged than Tunisia’s even before the first transfer of power via the ballot box.

Committee members: Dr. Peter Lewis, Dr. William Zartman, Dr. Karim Mezran, Dr. Eva Bellin, and Dr. Jennifer Seely
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<th>Acronym</th>
<th>Full Form</th>
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<tbody>
<tr>
<td>AMT</td>
<td>Tunisian Magistrates’ Association</td>
</tr>
<tr>
<td>ANC</td>
<td>National Constituent Assembly</td>
</tr>
<tr>
<td>ATCE</td>
<td>Tunisian External Communications Agency</td>
</tr>
<tr>
<td>CNPR</td>
<td>National Council for the Protection of the Revolution</td>
</tr>
<tr>
<td>DL</td>
<td>Decree Law</td>
</tr>
<tr>
<td>EMB</td>
<td>Electoral Management Body</td>
</tr>
<tr>
<td>FIT</td>
<td>Tunisian Islamic Front</td>
</tr>
<tr>
<td>HAICA</td>
<td>High Independent Authority for Audio-Visual Communication</td>
</tr>
<tr>
<td>HNEC</td>
<td>High National Elections Committee</td>
</tr>
<tr>
<td>ILIE</td>
<td>Independent Local Electoral Authority</td>
</tr>
<tr>
<td>INRIC</td>
<td>National Commision for Information and Communication Reform</td>
</tr>
<tr>
<td>IRIE</td>
<td>Independent Regional Electoral Authority</td>
</tr>
<tr>
<td>ISIE</td>
<td>Independent High Electoral Authority</td>
</tr>
<tr>
<td>ISRT</td>
<td>International Stabilization Response Team</td>
</tr>
<tr>
<td>LCG</td>
<td>Libya Contact Group</td>
</tr>
<tr>
<td>LIFG</td>
<td>Libyan Islamic Fighting Group</td>
</tr>
<tr>
<td>LTDH</td>
<td>Tunisian Human Rights League</td>
</tr>
<tr>
<td>MMC</td>
<td>Misrata Military Council</td>
</tr>
<tr>
<td>NCLO</td>
<td>National Conference of Libyan Opposition</td>
</tr>
<tr>
<td>NTC</td>
<td>National Transition Council</td>
</tr>
<tr>
<td>RCD</td>
<td>Constitutional Democratic Rally</td>
</tr>
<tr>
<td>SMT</td>
<td>Tunisian Magistrates’ Syndicate</td>
</tr>
<tr>
<td>TPA</td>
<td>Tunisian Provisional Administration</td>
</tr>
<tr>
<td>TDC</td>
<td>Truth and Dignity Commission</td>
</tr>
<tr>
<td>UGTT</td>
<td>General Tunisian Workers’ Union</td>
</tr>
<tr>
<td>UNSC</td>
<td>United Nations Security Council</td>
</tr>
<tr>
<td>UNSMIL</td>
<td>United Nations Support Mission in Libya</td>
</tr>
<tr>
<td>WMC</td>
<td>Western Military Council</td>
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Chapter 1: Introduction

The Problem

Overview
In early 2011 both Tunisia and Libya faced the sudden collapse of a long-standing authoritarian regime as a result of popular uprisings. In each country, a provisional administration (or interim government)\(^1\) formed and governed until the first elections. These two provisional administrations took on a range of tasks and functions, including laying the groundwork for post-authoritarian elections, while also trying to cope with a number of challenges. What forces determined how these provisional administrations looked, their actions, and their consequences? Could differences between the two help explain some of the differences in later phases of post-authoritarian governance?

The Events
In Tunisia, where President Zine el Abiddine Ben Ali had fled to Saudi Arabia as a result of the protests, several rounds of negotiation between members of the old order and actors behind the uprising took place. These negotiations resulted in a succession of interim cabinets, with gradual elimination of the outgoing regime from government. The third cabinet comprised members across a range of political backgrounds and perspectives and included technocrats, former statesmen and members of the banned and legal opposition. Meanwhile, a wide group of political and civil society actors organized themselves into various interim committees and governing structures to help prepare for

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\(^1\) This dissertation uses the term “provisional administration” instead of “interim government”, for reasons explained below. However, this introduction sometimes still refers to interim governments, as that is the most common term in the literature.
elections for a National Constituent Assembly. This ensemble of structures is named here the Tunisian Provisional Administration (TPA).

Unlike Tunisia’s provisional administration, which did not form until President Ben Ali had fled, Libya’s provisional administration was led by an organization that formed before the Qadhafi regime fell. Known as the National Transitional Council (NTC), this organization was based in Benghazi and comprised primarily lawyers and former dissidents, many of whom had been living abroad. It operated through an executive branch, with individuals assigned to discrete portfolios (such as foreign affairs, interior affairs, and finance), a legislative branch comprised of representatives from around the country, and a military branch, which attempted to coordinate military operations in the fight against the former regime and control various local militias.

The roadmap the NTC set for itself followed a draft constitutional declaration set forth in five months after it formed. According to the roadmap, the NTC’s first major step in preparing the country for elections was naming a post-liberation interim cabinet after Qadhafi was killed and the country was liberated. This “official” interim government was tasked with adopting electoral legislation and overseeing the transition period. Elections were held on 7 July, 2012 (17 months after the NTC had formed) for a General National Council (GNC). The elected GNC was then meant to organize elections for a constitutional committee that would draft a new constitution.

The Goal of the dissertation
The events described above constitute an under-studied but critical part of attempted regime change – the period between the beginning of authoritarian collapse and the first post-authoritarian elections. This dissertation seeks to offer a guide for understanding
why these provisional governments in Tunisia and Libya looked the way they did, and 
how they impacted some of the events that followed. More broadly, it aims to contribute 
to knowledge about provisional administrations generally and as part of the wider 
scholarship on attempted transitions from authoritarian rule.

Understanding how provisional administrations work is important because of the unique 
responsibility they are given and challenges they face. McGuire (in Shain and Linz 1995, 
180) describes how interim governments are paradoxically in a position to be both 
extremely influential and work under conditions of limited capacity:

Because interim governments exercise formal political power during the last 
stage of this formative juncture, their composition and actions might well be 
expected to have powerful shaping and constraining effects on the subsequent 
regime. From another perspective, however, interim governments appear less 
potentially influential. An interim government comes into being precisely when 
it announces the certainty of its own demise. Why should anyone take seriously 
the preferences of political actors who are just marking time until more enduring 
rulers are chosen? Moreover, interim governments are not themselves elected, 
and usually come into being when the crisis that led to the authoritarian regime 
has long passed. Their decisions may therefore lack the weight of those made 
either by authoritarian incumbents at their height, or by elected officials with 
democratic legitimacy. More than anything else, it is the reservoir of legality 
that these interim governments usually enjoy, simply by virtue of their formal 
control over the state apparatus, that gives their decisions any weight at all.

In other words, interim governments face the challenge of establishing legitimacy in the 
eyes of those they represent without having been elected, and knowing that they must 
soon leave office. Thus, they must purport to following certain rules while also trying to 
set new rules of governance and convince people of their authority. The ways they 
achieve (or don’t achieve) this difficult task has important implications for understanding 
the larger processes of transitions.
Moreover, looking closely at the actors, institutions and strategies of the TPA and NTC show that, in fact, Libya’s building of democratic institutions was more profoundly challenged than Tunisia’s even before the first transfer of power via the ballot box. Comparing the experience of the TPA to that of the NTC reveals the ways in which differences in the two countries’ political and social experiences historically (that is, their existing structures) affected even the very first months of governance following authoritarian collapse. In hindsight, many experts are not surprised that Tunisia has had a relatively more stable experience governing after authoritarian collapse than Libya has: this dissertation helps show how and why that has played out.

Research design

Research questions
This dissertation explores two central research questions. First, to what extent are first provisional administrations shaped by pre-existing structures, and to what extent are actors able to shape them? Second, to what extent do first provisional administrations influence the phases of political change that follow them?

The Argument
This dissertation argues that institutions-- norms, structures and rules--matter as much if not more than actors’ choices in immediate post-authoritarian governance. While agency factors explain some of the differences between first provisional administrations that form in the wake of authoritarian collapse, pre-existing structures, whether formal governance institutions or the institutionalized expressions of established social interactions (such as tribal relations)

2 I credit Dr. Zartman with this formulation.
administrations can also carry over into later phases of the transition from authoritarian rule (although they may sometimes temporarily disappear). Studying first provisional administrations—what determines their shape and actions and the legacies they leave—shows both how existing institutions limit individuals’ ability to reshape the government and how individuals can sometimes work within these limits to affect longer-term reforms.

**Analytical framework**

The first research question in this dissertation is: to what extent are first provisional administrations shaped by pre-existing structures, and to what extent are actors able to shape them? In order to address this question, the dissertation seeks to show how each provisional administration, through its actors, institutions and strategies, reached a set of key decisions such as who should be in charge, how long should they govern, and how should they handle members of the former regime. An examination of these three aspects of provisional administrations should shed light on how much agency was involved in determining the course of immediate post-uprising events, and the extent to which actors, institutions and strategies were constrained by pre-existing structures.

The second research question is: to what extent do first provisional administrations influence the phases of political change that follow them? In order to address this question, I trace the direct effects of the key decisions taken during the initial transition phase onto the second two years of transition in each country and try to show how those outcomes can be traced back to the actors, institutions and strategies of the initial transition phase and first provisional administration. Again, an examination of the first provisional administrations’ direct impacts helps clarify the extent to which structures
channeled the actions of decision-makers, vs. their ability to “break free” of what came before.

*Factors for analyzing first provisional administrations*
This section explains the meaning of “actors”, “institutions” and “strategies”. It should be noted at the outset that the line between these three factors is often blurry, which attests to how the three worked together in these cases as explanatory variables of provisional administrations, and also how they worked together to create each provisional administration’s collective impact.³

**Actors**
My discussion of actors considers individuals’ interests, their reputation and credibility (how much people trust them), and their situation among other actors (e.g. their relationships). This study thus looks closely at the recruitment process for each provisional administration – it seeks to understand who was invited into, chosen for, or else self-appointed, and why.

**Interests**
As noted above, much of the existing scholarship on transitions cares about actors because it is concerned with strategic negotiations. Sometimes, elements of the outgoing regime may have an impetus to cooperate with the opposition, or vice-versa. Therefore, understanding actors is to consider their political position and interests - their motivations for joining a provisional administration, and the ways these enter into the decisions they (often in collaboration with others) make. Collaboration with people whose interests or mentalities differ from their own also gives actors experience with the processes of

³ As noted, this framing draws heavily on Seely (2009).
negotiation and compromise that democracy represents (see Anderson 1999, 162-181; Casper and Taylor 1996, 243). Sometimes it can also help lead to moderation (Anderson 1999, 121)—something that would be important for the Tunisian case.

As part of a provisional administration, actors’ interests may change. As Seely (2009) shows, this can have a great impact on events. In Benin, former dictator Mathieu Kérékou was a critical member of the transition government. Though he was the central figure representing the regime being challenged, his demonstration of his willingness to negotiate or compromise during Benin’s national conference gave people trust in the process (Seely 2009, 80). Another example of an actor whose role and interests in leadership gradually changed as part of a provisional administration was the Portuguese military (MFA) from 1974 to 1976 (see Shain and Linz 1995, 144-159). Looking closely at key individual actors operating during initial transition phases is thus central to understanding provisional administrations and their impact.

**Reputations**

However, I argue that actors are important to consider for reasons beyond their interests and strategic bargaining behavior during transitions. Actors may also draw on their own experiences, or even their reputations, to justify their behavior. For example, Yadh Ben Achour and Kamel Jandoubi, two key figures in the TPA, came into their positions because they were widely seen as individuals who could be trusted. They were considered competent, politically independent, and firmly opposed to the authoritarian
methods of the old regime. This allowed them to take on their duties (whether by appointment or through election\(^4\)) and carry them out effectively.

*Relationships*
Transition governments also offer a chance for new actors—civil society organizations, political parties, or sometimes militaries—to come on stage or old actors to leave it (Shain and Linz 1995, 179-181; Seely 2009, 17-19). This will lead to new roles and power relationships for various actors. And, as Fishman (1990, 427-429) in his discussion of the three Southern European cases shows, state institutions such as the military can play a more or less harmful role in democratization depending on how their relationships with the former and emerging regimes get worked out. In other words, during transition, provisional administrations work with a political system that is both new and evolving, and the constellation of actors before and during initial transition phases is important for understanding provisional governments themselves, as well as their impact.\(^5\)

*Institutions\(^6\)*

*Definition of institutions*
One of the most relevant scholars in the literature on institutions and governance is Francis Fukuyama. Fukuyama (2014, 5) conceives of institutions as the “persistent rules that shape, limit and channel human behavior” which are strongly influenced by societal values and norms. Ostrom and Crawford (1995, 582) offer a related definition of

\(^4\) As will be explained in subsequent chapters, the various leaders in Tunisia’s provisional administration took on their roles through different processes.

\(^5\) While I consider organizations as actors in some instances, I recognize that organizations are not always monolithic, and an organization can have competing interests within it.

\(^6\) While some scholars in comparative politics consider institutions as fixed constraints that shape actors’ decisions, others consider them constraints that actors shape (e.g. see Levi (2002, 34-38), who discusses this debate as it relates to the study of the state.) For purposes of this study, whether institutions should be placed at the center of our models or treated as exogenous is not as important as the ways institutions changed or didn’t change during the initial transition phase. Here, actors both make choices about constraints, and they make choices *within* constraints.
institutions: “enduring regularities of human action in situations structured by rules, norms and shared strategies as well as by the physical world.” In this dissertation, I similarly consider an institution to be a formalized, ingrained way of operating in a political (as well as social and economic) context. Examples of governance or state institutions are militaries, legislatures, political parties and party systems, judiciaries, civil society, and the media.\(^7\)

This definition captures the intersection between the three factors in my explanatory framework. It shows how institutions can overlap with actors by being driven by/related to values (see Hodgson 2006 and Fukuyama 2014) and to strategies by involving systems of rules and methods for accomplishing goals (as the Ostrom-Crawford definition suggests). Organizations can be actors within institutions (such as labor unions or other associations) or institutions themselves (such as a military)\(^8\).

**Role of institutions in understanding and evaluating provisional administrations**

Seely (2009, 19-22) explains how, during transitions, new and old rules and structures for governing are created and rejected or else old ones are modified. She cites examples such as the writing of pre-constitution rules about who may be restricted from running in elections or institutional arrangements during transition periods such as those that balance legislative and executive powers. In this study, I also look at how rules, patterns of behavior, and structures of governance that existed in pre-uprising Tunisia or Libya were

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\(^7\) This is from Lust’s (ed, 2014) discussion of institutions and governance in MENA, with exception of the military.

\(^8\) Another example is the role of international actors. Particularly in the case of Libya, such outside actors influenced both the formation and workings of the NTC and its effects in very important ways. Trying to manage them also fed into the NTC’s strategies, and it had an impact on its operational structures. The idea of international influence on first provisional administrations thus sometimes straddles all three aspects.
either used, modified or rejected as rules, patterns, structures for governing during the initial transition period were developed.

**Strategies**
In situations of transition, because old rules of governance have been abandoned, actors and institutions need justifications, bases, or guidance for their decisions. In other words, they need strategies (or methods) for carrying out their goals without being driven out by challengers (popular protestors, opposition parties, militaries, or some other such force). Furthermore, they need to find ways to overcome several constraints, many of which are particular to transitional circumstances.

Seely (2009, 24) focuses on the ways actors’ strategies change during transition, and the legacy this leaves on rulers’ strategies in each country after transition. Her examples include the new need for rulers to be concerned with their portrayal in and scrutiny by a free press, collecting opinions to validate what they were doing (Benin) or withdrawing from negotiations when not going in their favor (Togo) – both strategies that began during the transition period and were continued after. Other strategies common for provisional administrations include trying to abide by other democratic practices and principles such as purporting to respect human rights.

**Data collection**
I conducted interviews with over 50 actors in Tunisia involved with the first Tunisian Provisional Administration (the TPA). I asked them about what happened during the initial transition phase and why they think it happened that way. I also interviewed

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9 The main constraints on data collection generally speaking were funding and time. Several additional constraints also made data collection on the Libyan case more difficult: language, security, and lack of clear information. Luckily, between 2013 when I began data collection and early 2016 when I finalized
important Libyan actors involved with the NTC who were residing in Tunis in late 2014/early 2015, and other Libyans by phone. The research also drew upon primary sources such as interim laws from the period, reports from commissions, and articles covering events in daily newspapers and other periodicals to better understand what was taking place in each provisional administration. Secondary sources—journal articles, international reports, and books—further contributed to the understanding of each case. In terms of secondary data, I relied mostly on international donor reports (especially elections observer reports), international NGO reports such as those produced by the International Crisis Group and Congressional Research Services, and studies done by American and European researchers.

**Literature review**
This section reviews how political transitions have been studied and how these studies break down by region (since the focus on variables analyzing transitions has varied slightly by region, given each region’s different historical context). I will also review the debate between “structure” (or attributes) and “agency” (or process) variables as explanatory variables for transition. Then I will discuss how, within this body of literature on how and why transitions happen, relatively little attention has been given to transition governments or the importance of initial transition phases. Since the uprisings of 2011 in North Africa and the Middle East, a new literature has begun to emerge which attempts to explain those uprisings and the ways they unfolded differently in different countries. The section ends by briefly surveying this “Arab Spring” literature and showing how this study fits within that scholarship.

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analysis and writing, more research on the Libyan case was published (e.g. Pack 2013; Zartman 2015; Cole and McQuinn 2015).
Literature on political transitions generally

*What political transitions are/how they are defined*

In the 1960s, Samuel Huntington argued that in order to understand modernization or political development, political scientists needed to study how institutions and organizations “decay” (1965; 1968). In his 1968 book, he focused on structural forces behind collapse, arguing that when political institutions do not adapt at the same pace as other parts of society during the process of modernization, the ruling order is more likely to decay. Huntington’s and other studies (e.g. Linz 2000; Huntington and Moore 1970) were empirically driven by the non-democratic regimes being observed at the time.

Given this background, Dankwart Rustow’s 1970 article in *Comparative Politics* about transitions to democracy was influential for two reasons. Not only did it precede the series of authoritarian collapses in Southern Europe, Latin America, and then Eastern Europe and even sub-Saharan Africa (starting in the mid-1970s through the early 1990s), it also for the first time separated democracy from transition to democracy. Rustow argued for a distinction between “preconditions” (structural features such as level of economic development) and contingency factors (elements of process such as elite bargaining), and went on to develop a model of democratic transition that includes one structural precondition (national unity) and a series of phases that capture the process of democratization.

The so-called “transitology” literature began to emerge in the mid-1980s in response to the global events mentioned above (O’Donnell, Schmitter and Whitehead’s 1986 volume is generally considered the founding work in this sub-field). This literature was driven by

10 Based on an original study from 1975.
11 Anderson (1999) calls it “prescient”.
empirical puzzles about what caused certain countries in Southern Europe (Spain, Portugal and Greece), then Latin America and, soon after, Eastern Europe and sub-Saharan Africa to suddenly undergo or initiate dramatic regime shifts. The variation in outcomes provided further material for study, as not all cases of authoritarian collapse ended in a transition to democracy.\footnote{O’Donnell and Schmitter (1986, 6) explain: “What we refer to as the ‘transition’ is the interval between one political regime and another. While we and our collaborators have paid some attention to the aftermath (ie, to consolidation), our efforts generally stop at the moment that a new regime is installed, whatever its nature or type. Transitions are delimited, on the one side, by the launching of the process of dissolution of an authoritarian regime and, on the other, by the installation of some form of democracy, the return to some form of authoritarian rule, or the emergence of a revolutionary alternative.”}

This emerging body of literature followed in the same theoretical vein as Rustow in two ways. First, like Rustow, these authors shifted the focus from structural variables to the behavior of individual decision-makers (Bermeo 1990, 261; O’Donnell, Schmitter and Whitehead 1986, 19). This will be discussed more below. Second, those scholars considered transition to democracy a multi-stage process. In the first stage, sometimes called “liberalization” (e.g. Munck 2001\footnote{Munck, Gerardo L. 2001. “Democratic Transitions.” In International Encyclopedia of the Social & Behavioral Sciences, edited by Neil J. Smelser, Paul B. Baltes, 3425-3428. Oxford: Pergamon.} ; Bratton and Vandewalle 1997) or “democratization” (e.g. Casper and Taylor 1996), the authoritarian regime faces a destabilizing challenge from a contender\footnote{Casper and Taylor (1996, 4) describe the first phase this way: “the first stage of the democratization process is characterized by the erosion of the authoritarian regime’s control over the political arena and the emergence of the opposition as a serious contender. The regime, which initially was able to dominate the opposition, must now confront the possibility of being forced to negotiate with the opposition, or even being thrown out of power altogether.”}. Theories then diverge over the factors that lead different transitions to different outcomes. According to all these authors, the process of transition to democracy ends when old authoritarian rules are replaced by new democratic ones and “both politicians and electorate...[are]...habituated to these rules”
This last phase constitutes what is known as “democratic consolidation.”

This dissertation considers that the cases of Tunisia and Libya in 2011-2014 can be classified as cases of attempted transition, like the attempted transitions in Southern and Eastern Europe, Latin America and sub-Saharan Africa, because forces contended with the old ways of doing things, then contended with each other for the authority to set new rules. As such, they can be analyzed using the theories and methods of the literature described above. Like O’Donnell and Schmitter (1986, 6), whether and how democratic consolidation actually occurred is not the primary concern. Rather, in Libya and Tunisia—as elsewhere—as actors struggled to replace the old system with “something else” over a series of phases marked by electoral processes or other major events like armed overthrows of elected (interim) governments.

**Why we study transitions**

Like those scholars, I find transitions exciting and worthy of study because they represent a period or moment when old rules have been rejected, and new rules are being defined. As O’Donnell and Schmitter (1986) describe, and as this study will show, transitions are a complicated, messy process. Installing democracy is not necessarily the rational plan of the actors involved; rather, democratic rules often represent the most satisfactory compromise for all sides following a protracted negotiation process (O’Donnell and Schmitter 1986; Rustow 1970). These negotiations may be difficult or messy in themselves; moreover, they capture what is for some the first experience with such rules (having come from authoritarian regimes where principles of compromise and inclusion/participation were usually not applied). Thus, transitions, whether or not they
end in democratic consolidation, are characterized by a struggle between continuity and change. They combine a desire to reject the past with a fear of the unknown future.

Some scholars purport that democratic transition should be studied for normative reasons. That is, because “many believe that democratic systems of governance are best suited for recognizing and responding to citizens’ needs” (Lust 2014, 143), scholars have a responsibility to understand how democratic systems form or emerge. Brown (2011) notes that the key distinction between those who study democracy and those who study democratization is one of tone, as the former are more concerned with normative values. While it aims to provide some policy-relevant conclusions, this study is intended to be a scientific inquiry into the dynamics of uprising and response rather than driven by a normative agenda.

**Explanatory variables behind transitions**

**Agency vs. structure**

Thus transitions are studied in order to understand how new rules get made when the old rules have been overturned. Clearly, this involves the study of a negotiation process, which centers on contingency (choices) and strategic decisions/bargaining (making choices based on expectations of what an opponent will do - e.g. Casper and Taylor 1996). As noted above, this focus on agency was introduced with the seminal work by O’Donnell, Schmitter and Whitehead (1986), which placed decisions of key actors,

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15 This overlap between academic research and policy-making around democratic transitions was captured by Thomas Carothers (2002) in an influential article published in the *Journal of Democracy*. Carothers argued that the “transition paradigm” that had been established through the transitology literature influenced assumptions about democratization which were being applied by U.S. policy-makers and the U.S. democracy promotion community, but which were no longer suitable to the realities of the present. In a subsequent issue of the *Journal*, Guillermo O’Donnell (2002) responded to Carothers. He asserted that Carothers had overlooked many important parts of the relevant bodies of literature, but was correct in his concern about the direction democracy-promoters were taking.
particularly elites, at the center of regime change. In a 1991 article, for example, Karl and Schmitter (1991) considered the recent experiences of Eastern European countries, emphasizing the importance of individual actors’ decisions and strategies given certain historical contingencies, and explained that transitions occurring as a negotiated pact rather than determined through revolution are more likely to succeed. Dogan and Higley (1998) and Higley and Burton (2006) explored the importance and likelihood of elites and elite unity, and Munck and Leffe (1997) identified “modes” of transition, defined as the “identity of the actors who drive the transition process and the strategies they employ…[and which] shape the post-transitional regime and politics by affecting the pattern of elite competition, institutional rules crafted during the period of transition, and disposition of key actors to accept or reject the new rules of the game” as a key explanatory variable (also see Stepan in O’Donnell, Schmitter and Whitehead 1986). Finally, Huntington’s central work on the “Third Wave” of democracy (1991) explored factors such as the functional needs of the authoritarian regime, loss of legitimacy by the regime, conflicts within the ruling bloc, and foreign pressures for democratization.

For all these scholars, how transition paths unfolded related to who the influential actors were, what resources they had at their disposal, and the decisions they made. Yet the importance of structural variables in explaining both what causes authoritarian breakdown and what drives transition forward (and causes it to end in democratic consolidation) did not disappear. For example, in Bermeo’s (1987) comparison of the outcome of the first post-authoritarian elections in Spain and Portugal, she argued that class configuration in each country, in addition to the nature of regime transition and the “dialectical relations between the semi-opposition and class formations” explain the more
center-right government that was elected in Spain as compared to Portugal. Changing economic conditions and class structure thus entered into her analysis alongside decisions by regime members or revolutionaries. Other examples include Richard Joseph’s (2008) study of changes in the international economy. In a similar way, my dissertation focuses on the importance of societal and historical context, but also does not ignore “moving” parts.\textsuperscript{16}

\textbf{Regional variables}  
Although earlier scholars focused on the way democratization happened differently in the pre-industrial revolution vs. post-World War II eras (Huntington’s first and second waves), the more relevant transitology literature for this study is that which tries to understand the conditions under which usually mass- or elite-led movements in authoritarian countries in Southern and Eastern Europe, Latin America and sub-Saharan Africa brought about regime change (the “third wave”). This section will review the historical context of third wave transitions and subsequent scholarship that emerged in each region as a result.

\textit{Southern and Eastern Europe}  
For Huntington (1991), the third wave of transition from authoritarianism began with the overthrow of the Portuguese, Greek and Spanish regimes in the mid-1970s. Following the democratic reversals that ended the second wave, the sudden toppling of the military regime in Greece, and then soon after the toppling of the much older Spanish and Portuguese dictatorships (Bermeo 1990, 359) came as a surprise. They also demonstrated variation in the paths they took and outcomes they reached, with Portugal exhibiting a

\textsuperscript{16} This also follows Seely (2009, 11), whose explanation of the differences between Togo and Benin’s transition governments takes into account “the attributes of a country at the moment of transition, and also the transition process itself”.

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surprising consolidation of democracy. These were the first cases that helped form understanding of transition actors (such as militaries, elites, mass protest movements) and their decision-making contexts.

Meanwhile, Eastern European transitions of the early 1990s occurred in a very particular historical context—the end of the Cold War. Of course, that event didn’t take place overnight; the Soviet Union had been in the process of weakening for several years. Nonetheless, this context meant that the behavior of outside actors, namely the Soviet Union and the United States, heavily influenced the processes (Rose, Mishler and Haerpfer 1998, 57-63). These experiences also gave rise to studies of how the different communist parties either adapted or disappeared, and how they negotiated with the rising civil society movements that challenged them (e.g. Elster 1996; Rose, Mishler and Haerpfer 1998). This led to the beginning of a literature on constitutional design.

**Latin America**

The historical context of Latin American transitions from authoritarian rule (including Chile, Argentina, Brazil, Paraguay, Bolivia, and Venezuela, among others) is more contained. In an essay titled “Introduction to Latin America Cases” in the 1986 volume, Guillermo O’Donnell highlights a value shift away from authoritarianism and toward democracy (see Bermeo 1990). The importance of the legitimacy of democracy in belief systems has remained an important variable (see Fukuyama 2014, 34; Dahl 1971; Huntington 1991). Other useful studies of these transitions give more insight into the roles of certain actors like labor movements (e.g. Collier and Collier 1991) as well as the

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17 The broader literature on constitutional design generally includes works by Jon Elster (e.g. Elster, Offe and Preuss 1998) and the scholars associated with the Comparative Constitutions Project (such as Tom Ginsburg, Zachary Elkins, and James Melton).
role of political economy and its influence on bargaining elites (e.g. Haggard and Kaufman 1995, who also discuss several Asian cases).

**Sub-Saharan Africa**
In the early 1990s several sub-Saharan African countries experienced popular uprisings that destabilized the dictatorships that had been ruling since independence. As the roundtables had been in Eastern Europe, the National Conferences organized in several of these countries also provided important transition mechanisms for study (e.g. Heilbrunn 1993). The role of civil society organizations such as the church also began to come to the fore (e.g. Heilbrunn 1993; Decalo 1997; Widner 1997). Bratton and Vandewalle’s 1997 work brought together these and many other factors (including the pre-existence of democratic institutions) in a multivariate model that sought to explain variation in transition paths in the region using a “politico-institutional” approach. And Richard Joseph (2008; in Anderson 1999) discussed the importance of changes in the international economy on these events.

**Cross-regional**
Despite each region’s unique historical contexts, many variables and dynamics were shared across regions. For example, Munck and Leff (1997) argue that what happened in Bulgaria was in some ways more similar to Chile’s experience than those of other Eastern European cases. They show how in Bulgaria, the communist party ended up “democratizing” and returning to the political arena in a re-constituted form, but in a way that did not favor the opposition; meanwhile, in Chile, the authoritarian regime also managed to hang on to its basic structure even as the opposition movement gained strength. In sum, these processes both can be compared cross-regionally and exhibit some

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18 Cited in Seely (2009, 7-8). The church also played an important role in many Latin American cases.
unique and distinguishing regional features. We thus should expect this to be true when we get to the study of regime change in the Middle East and North Africa (MENA) too.

_Middle Eastern exceptionalism?_ Before the uprisings of 2011, the literature on political transitions in MENA had not succeeded in explaining why “waves” of democratic transition had passed over the region.¹⁹ During those earlier decades, studies in MENA countries were limited to exploring patterns of opposition and participation (e.g. Salamé 1994; Anderson 2001) and state structures and patterns of authoritarian rule (e.g. Dawisha and Zartman 1988; Bellin 2004; Schlumberger 2007). In a 2006 article, Lisa Anderson reviewed the various approaches American Political Science had been taking to explain the persistence of authoritarianism in the region. She concluded that study of the region required a broader application of concepts than conventional political science had to offer. Several studies, as Anderson noted, took on the question from an American national security interest (e.g. Brumberg 2004) or a broader policy-making perspective, often with a focus on Islamist movements (e.g. Wickham 2002).²⁰

Thus, even though there were no transitions from authoritarianism to study (although there were rounds of popular protest during these years in several MENA countries²¹), social scientists had much to explore in terms of what elements of governance permitted the “persistence of authoritarianism”, as well as variations on these themes within the region. Their works provide a rich collection of resources on specific political institutions

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¹⁹ Note that scholars had been to some extent studying transition in Turkey (see Chehabi and Stepan 1995 for example), which is often considered a MENA country. Also the case of Iran (transition from monarchy to Islamic Republic) is included in the Shain and Linz (1995) volume.

²⁰ It is important to note that in all this, there is an especial shortage of study of Libya (Reich 1998).

²¹ Some of the most widely cited protests and riots in North Africa are Algeria in 1988, Tunisia in 1977, 1983, and 2008; and the “bread riots” of Egypt in 1977 and 2007. Even Libya in 2006 experienced protests in Benghazi, which were actually more related to human rights than economic demands.
such as political parties (e.g. Lust-Okar and Zerhouni 2008), civil society (e.g. Norton 1995; Brumberg 2004; Cavatorta and Durac 2011), and elections and electoral processes (e.g. Blaydes 2011), as well as evaluations of state strength and governance (e.g. Ayubi 1995; Salamé 1987).

Since the uprisings of 2011, scholars have sought to identify causes of the regime downfalls in North Africa and, to some extent, Yemen and Syria, as well as the varying patterns of uprising and regime response across the region (e.g. Brynen 2012). Some identify themes such as the role of social media and the changing public (Lynch 2013); others have tried to tell the story by studying more closely the events themselves (e.g. Zartman 2015; Gana 2013). A common theme throughout all these studies is the role of the Islamist parties in the unfolding dynamics of regime destabilization, with studies such as Brown (2012) and Hamid (2014) also drawing on earlier studies of Islamist behavior under repression.

As the first country to experience its revolution\textsuperscript{22} and the only one so far to hold two successive rounds of peaceful and free and fair elections without violent interruptions or the interference of the military, Tunisia has received special attention. A major source of explanation is the moderate behavior of the major Islamist party, Nahda, particularly when compared to Egypt. Alfred Stepan’s (2012) theory of “twin tolerations”, for example, posits that a relationship between religion and politics in the country in which religious citizens permit elected leaders to govern without needing to base their authority

\textsuperscript{22} The term “revolution” can refer to much more than popular uprisings that destabilize dictatorial regimes, even for an extended period of time (see Stahler-Sholk, R. 2011. “Revolution.” In International Encyclopedia of the Social & Behavioral Sciences, eds. Editors-in-Chief: Neil J. Smelser, Paul B. Baltes, 13299-13302. Oxford: Pergamon.). However, Tunisians call the events of January 14\textsuperscript{th} a revolution, so I will call it that here too.
on religious claims while the state permits religious citizens to freely express their values within civil society, should aid it in democratic transition. Scholars such as Francesco Cavatora (2013) and Fabio Merone (2015) have described Nahda’s role in the institutionalization of democracy in Tunisia. Others have noted the relative strength of the Tunisian state and state administrative system (Zartman 2015), which had been undergoing a process of modernization since at least the mid-1800s and which, among other factors, explains the separation of the military from politics (also see Barany 2011; Bellin 2012).

These factors and more are incorporated in this dissertation’s discussion of the first Tunisian Provisional Administration. However, it is important to note that the reasons for Tunisia’s relative “success” are not the motivation behind this study. Rather, this study aims to understand the processes of change, irrespective of the final outcome (when and whatever that may be). As Seely (2009) contends, focusing on outcomes risks overlooking many important lessons from the processes of change themselves. Therefore, this dissertation studies differences among initial post-uprising phases, and how this might explain differences in the subsequent two years, in order to avoid drawing conclusions about outcomes that are not yet clear.

Table 1. Summary of the transitions literature
Literature on different types of provisional administrations and what they do

**Forms of provisional administrations**

Despite the attention given to processes of political transition, few scholars have focused on the provisional administrations that govern during them. The main exception is Shain and Linz’s 1995 study (based on the 1992 article) of the role of interim governments in a range of countries that experienced regime transition. The authors identified four types of interim governments: (1) revolutionary interim governments, when the old regime has been removed; (2) power-sharing interim governments, which are usually established during regime-initiated transitions when an authoritarian recognizes its authority weakening and offers to try to negotiate with the opposition; (3) Caretaker governments, or governments brought in by the authoritarian incumbent to run the country until it has completely let go of power; and (4) internationally-organized interim governments such as those administered by the United Nations. They discuss the advantages and disadvantages of each type and theorize about which types may be more likely to lead to democracy. The volume also includes six case studies on interim governments from different countries.23

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23 And one chapter on the difficulty for interim governments on formulating foreign policy.
While the authors’ typology is helpful, it does not discuss the forces that shape provisional administrations and drive them to particular decisions. While the provisional administrations during the initial transition phase in Tunisia and Libya best match the “revolutionary” type, Tunisia also exhibited some features of the power-sharing type. The fact that both cases fit most readily into the “revolutionary” type makes them, according to Shain and Linz’s theory, the least likely type of interim government to lead to democracy, because of revolutionaries’ need for eliminating old rivals, the difficulty of assembling consensus support for their reforms, and their need to fend off challenges from extremists (1992, 80). Yet, as this dissertation will show, Tunisia and Libya exhibited great differences in their early and later phases of attempted transition despite these structural similarities of their first provisional administrations\(^\text{24}\). In sum, much remains to be learned about the forces that shape and are shaped by first provisional administrations.

**Explaining the emergence and operation of provisional administrations**

One of the more relevant chapters in Shain and Linz’s (1995) book is James W. McGuire’s analysis of the interim administration that governed in Argentina in 1982 as the military government withdrew, because it offers explanations for why provisional governments of different types form under similar circumstances. McGuire compares the formation of the caretaker government in Argentina with the provisional administrations during the transitions in Greece, Spain, Portugal, Chile, Uruguay, and Brazil in order to demonstrate that the proximate cause of transition (such as external war) does not

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\(^{24}\) The case of Egypt further defied their theoretical expectations because, during the initial transition phase, the SCAF (its provisional administration which was an army council) should have kept things in control and created space for negotiations between the new and old regime, yet its later phases looked less “democratic” than elsewhere.
necessarily determine what type of interim government gets installed. Other factors, such as the availability of an opposition leader of suitable stature, are also important (1995, 195-6). This dissertation follows a similar line of questioning by looking at the presence and status of certain actors to explain why different forms of provisional administrations emerge under different conditions.

**Decisions by provisional administrations**
Another limited but relevant body of work includes studies of specific decisions made during political transitions. Provisional administrations in early moments must act swiftly to take what can be very critical decisions for the transition as whole. While the works mentioned above begin to explore how this happens and what the potential impact is, inquiry into the decisions taken by provisional administrations remains limited.

**Elections**
One of the key decisions provisional administrations must make is when and what kind of elections to call for. Shain and Linz (1995, 78-91) discuss the challenges of timing elections such that they are not done too hastily, before the relevant political actors (or the electoral infrastructure) are ready, but are also not prolonged to the point where the provisional administration becomes suspected of not wanting to give up power. The authors also discuss the dilemma for revolutionary governments of whether or not to hold elections for a constituent assembly (1995, 83-87). Though both cases of provisional

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25 Indeed, Shain and Linz, in their precursor article to *Between States* (1992, 87), acknowledge that: “Further inquiry is needed to clarify the profound impact that these decisions can have on the nature and prospects of the future democratic regime whose groundwork they are supposed to be laying. The most crucial choices are those regarding the timing and form of elections, as well as the type of constitutional structure that is chosen during the transitional period. Here, more than anywhere else, interim institutions and leaders can make or break democracy's chances.”
administrations studied here recognized the importance of not delaying first elections, Tunisia and Libya made somewhat different determinations regarding the latter point\textsuperscript{26}. Provisional administrations often set up electoral management bodies (EMBs), defined as “the institution that is in charge of administering all aspects of an election” (Hubler 2012, 21). These EMBs constitute an important part of provisional administrations, and one important work by Hubler (2012) compares the EMBs set up in Tunisia and Egypt in 2011 for their National Constituent Assembly/Parliamentary elections. She finds that the Tunisian EMB’s greater capacity to organize elections that were more widely accepted was related to its—and the entire provisional administration’s—efforts to be perceived as having made a “clean break” with the former regime (81-83). Tavana (2014) also studied the experience of the Tunisian EMB; Libya’s High National Election Commission (HNEC) has been less studied (with the partial exception of Cole and McQuinn 2015).

In addition to the actual administering of elections, however, provisional administrations must determine the \textit{rules} under which the elections should be conducted. The rules for the first elections especially – which first provisional administrations determine – require careful consideration. For example, Ellen Lust (2012) has argued that first elections in post-authoritarian periods should be considered differently from subsequent elections. She argues that revolutionary forces should be encouraged “to resist understandable, but counterproductive, urges to exclude allies of the former regime from new democratic

\textsuperscript{26} While the Tunisian and Libyan provisional administrations both decided to hold national elections for a constitution-writing body before electing a new permanent government, the Tunisian elections were intended to put in place a body which would simultaneously draft a new constitution and appoint a new transitional government. The Libyan NTC at first declared its intention to hold elections for a General National Council which was to appoint a similar constitution-writing body, but just before the elections changed its mind and mandated this new elected body to appoint an interim government and organize for general elections for a constitutional committee (see Mezran 2012a; also Boduszyński and Pickard 2013).
processes…..” (1), and recommends giving careful attention to district apportioning, candidate entry, and electoral management and monitoring.

John Carey and others have studied the rules set by the 2011 provisional administration in Tunisia. They find that the decision by Tunisia’s “electoral engineers” to set districts of moderate magnitude and then using a “hare quota with remainders” system benefited the country by ensuring that the most victorious party, Nahda, would need to work with other groups to write the new constitution (Carey 2013). In a co-authored piece with Andrew Reynolds (2011), Carey also compares the decisions of Tunisia and Egypt (as well as Yemen, Jordan and the Palestinian Authority) around reformed electoral systems on the dimensions of inclusivity, simplicity, minimal seat distortions, and encouragement of coalition-formation. Importantly, they argue that Tunisia is the only MENA country to have so far learned the lesson of South Africa, where elections for writing a new basic law such as in a constituent assembly or parliament mandated with the task “placed a premium on inclusivity” (47). However, they also warn that such an electoral system may not be the most appropriate for Tunisia in the future, when some of the smaller parties have consolidated (Carey 2013).

Similarly, Fish and Michel (2012) find that Tunisia’s reform efforts under its first provisional administrations demonstrate their genuine commitment to fixing the problems with the old system, namely an over-empowered Presidency. In sum, the calling for and administering of elections and the rules around electoral processes all constitute important activities that provisional administrations undertake. In this light, an explanation of how Tunisia, Libya and Egypt ended up with provisional administrations that chose to hold first elections in a different sequence, and under different rules,
becomes even more critical for understanding these countries’ immediate post-uprising experiences.

Constitutions
An established literature also exists on the importance of “constitutional engineering” or the “constitutional moments” in democratization. This includes debates over which electoral systems and their combination with Presidential or Parliamentary structures are best to adopt in emerging democracies (Cheibub 2007; Shugart and Carey 1992; Horowitz 1990; Lipjhart 1991), and especially countries emerging from violent conflict (see Sisk 1995). This literature also addresses issues of individual rights and the spatial separation of power (see Klug 2001).

Although the periods constituting the focus of this study did not include the actual writing of each country’s new constitution, they involved drafting of constitutions or constitutional declarations and organizing for new drafting bodies to be convened. Each also dealt with the question of how the role of Islam in government should be treated in their country’s constitution. The research presented in this dissertation contributes to the knowledge of who those drafters were, how they were selected, what kinds of debates they had and how those debates played out.

Evening the scores/Transitional justice
As the following chapters will show, first provisional administrations face many tough choices. One such issue common to all provisional administrations is the dilemma of how

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27 This term is applied by Carey (2013).
29 H.E. Chehabi’s contribution to the Linz and Shain volume (1995, 127-143) offers an interesting example of the Iranian provisional government’s struggle after the revolution of 1979 to determine who should draft the new constitution, which ended with a constitution “full of internal contradictions, the political consequences of which would become apparent as early as 1980” (140).
to handle former regime members. Bohrer (2009, 162) captures it nicely: “The dilemma for a transitional state is that to exclude an important group can undermine the legitimacy of the regime and risks a return to conflict, but inclusion of groups that have been engaged in conflict will make governance difficult” (also see Shain and Linz 1995, 94-97). As Ellen Lust’s (2012) work on first elections indicates, and as others (e.g. Collier 2009; Linz and Stepan 1996, 97-98) have pointed out, the temptation for revolutionaries to exclude opponents can be great, even if the two sides are opposed only in political, not violent, conflict. Shain and Linz (1995, 97) conclude that, with regards to “evening the score” (and many other decisions), interim governments can have a great impact. However, the importance of timing and early decisions around these issues has not been adequately addressed in the literature; this study aims to help fill that gap.

**Impacts of provisional administrations**

With the exception of studies from the past two decades on internationally administered provisional administrations organized in countries torn by civil war or intra-state conflict (e.g. Guttieri and Piombo 2007), few close studies of provisional administrations exist. Though my study of the provisional administrations in Tunisia and Libya draws heavily on Seely’s (2009) work on the transition governments in Togo and Benin, it places equal emphasis on explaining differences in provisional administrations across countries (in addition to the impacts that these provisional administrations leave). It thus also contributes to knowledge about the inner workings of provisional administrations as such.

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30 Examples of these conflict provisional government cases are are East Timor, Cambodia, Iraq, Guatemala, El Salvador, Democratic Republic of Congo, Liberia, and Burundi. There is also a literature on the role of the international community in helping organize first elections in post-war Yugoslavia (see Bohrer 2009). Other studies of such internationally-supported interim governments consider those administered by the allies in the axis countries following World War II (e.g. Wells 1948).
Other key concepts in comparative politics
Because the study aims firstly at understanding how first provisional administrations are formed and the ways in which they are shaped by pre-existing structures, it also builds on existing work regarding several key related concepts, including the state and civil society. In addition, the study requires an exploration of existing work on another key issue for provisional governments: legitimacy.

The State
While the concept of the state itself has occupied the attention of scholars for centuries, in this study the most important questions of the state regard the functioning of its institutions and bureaucracy. (A second issue is its relationship to society, namely civil society; this is discussed in the next section). How provisional administrations rely on existing state institutions for their operations and governing is the final, important subject that has been somewhat treated in the existing literature on transitions (see for example O’Donnell and Schmitter (1986), 20-21). Interim governments often have only partial legality to draw on while governing – the old laws, generally speaking, are heavily contested or no longer apply (Shain and Linz 1995, 6). Yet some minimum procedures and structures for governing are necessary, and, as Linz and Stepan (1996) have argued, the more functioning state structures are in place, the easier democratic consolidation will be.  

Several scholars have examined the role of “the state” in governing. Krasner (1984), Nettl (1968), Mitchell (1991), and of course Weber (1946) provided the foundations for conceptualizing the state, and Ayubi (1995) and Dawisha and Zartman (1988) helped

31 The authors argue is that a functioning state bureaucracy is one of the “five arenas of a consolidated democracy.”
apply the concept to Arab countries. Many of these authors argue that, despite their persistence (Dawisha and Zartman 1988), Arab states are weak due to factors such as their role in the economy (Ayubi 1995, 35; Anderson 1995) and their relationship to society (Ayubi 1995, 29-30). These studies of Arab states provide important foundations for understanding what happened when the Tunisian and Libyan authoritarian regimes broke in 2011.

During transitions, not only the strength of state structures matters, but also how they are deployed by provisional administrations. As Fishman (1990, 427-429) shows, state institutions such as the military can play a more or less harmful role in democratization depending on how their relationships with the former and emerging regimes get worked out. Provisional administrations may be caught between this state-regime distinction in so far as they need to source legitimacy from somewhere – for example, by being from the military—but may not be able to rely on state institutions the way the former regime used to. The question of legitimacy thus remains an important one for provisional administrations (discussed more below).

Civil society

Civil society—an important concept for the study of political systems and political transition—has been defined as: “a self-regulating, self-governing body outside and often in opposition to the state, represented both as the nexus of societal associations expected to generate civility, social cohesion and morality, and as the site of reciprocal economic

32 See also Liliani and Sluglett in Schlumberger (2007) for other relevant discussions, including the role of the middle class.
33 For more on this, see Shain and Linz (1995, 20-24 and 30-32).
relations among individuals engaged in market exchange activity” (Islamoglu 2001) and a “realm of organized social life...[that is] voluntary and bound by a legal order or set of shared rules” (Diamond 1994). Despite the clarity and comprehensiveness of these definitions, scholars (and practitioners in development) continue to struggle with concept. This is due to two crucial and inter-related aspects of civil society, also relevant to this study: its relationship to the state, and its role in fostering “civility” and democratic virtues.

In regards to the latter, this dissertation follows the argument made by Keane (1998) and others that the development of a realm or strata in a society that contributes to the fostering of certain shared values and norms is not a teleological process (nor is developing a whole system of governance based on democratic institutions and principles). This also complements Keane’s (1998, 101) description of the state and civil society as two sources of power within a democracy locked in an eternal search for equilibrium. Or, in the words of Norton (1995, 11): “it is meaningless to speak of civil society in the absence of the state”. MENA scholars generally agree that somewhat of an identifiable civil society (and state) existed in Tunisia prior to 2011 (Norton 1995; Hibou 2011) whereas in Libya, such a phenomenon was absent (Paoletti 2011). Keeping in mind these two fundamental aspects of civil society – its role in balancing the state, and its role in cultivating and capturing democratic norms and virtues—is important for comparing the two very different experiences of post-authoritarian governance in Tunisia and Libya in 2011-2012.

Legitimacy

Legitimacy and governance in MENA
Whether about regime, government, or state, a driving question in political science is: what are the exact mechanisms by which power-holders force people to obey them or accept them as their rulers? In other words, what gives them legitimacy? Max Weber’s (1969) classic theory of legitimacy described three main sources of legitimacy for the state: traditional, charismatic, and legal/rational/bureaucratic. Since then, scholars (e.g. Chehabi and Stepan 1995, 58-61) have tried to introduce nuance into this theory by asking whether mechanisms such as rule-of-law, electoral systems, and constitutions still make a state, regime or government legitimate. This is an especially important question both in the context of provisional administrations, and in the context of North Africa and the Middle East.

The issue of legitimacy for MENA states has been treated by scholars at length (e.g. Ayubi 1995; Anderson 2001, 229-30). Several pre-2011 scholars studied the ways in which MENA regimes managed to regularly hold obviously-flawed elections and still remain in power (e.g. Brown 2012). Lisa Anderson (1986a, 1987), for example, has explained how MENA states, owing to weak rational legitimacy, have trouble raising the necessary funds from their populations to carry out state functions. States in MENA must therefore find other means of sourcing legitimacy – paying off their populations using external funding often from oil or international aid or drawing on non-state ideologies such as Islam or local or pan-Arab nationalism.

One important feature of Arab regimes has been their use of the security apparatus, also a state structure (see Bellin 2004; Dawisha and Zartman 1988). Arab authoritarian regimes’
use of the military, police and intelligence services to repress political freedoms had different implications for their rulers during and following the 2011 uprisings (Bellin 2011; Bellin 2012; Barany 2011). In Libya and Tunisia, the first provisional administrations were left with the challenge of dealing with the security apparatuses for purposes of their own aims, including securing legitimacy.\(^\text{35}\)

Much of the literature on governance in Arab states also relates back to the importance of Islam. Anderson (1986a) has described how in Libya, rulers are more able to draw legitimacy through Islamism than the other sources competing for legitimacy among its Arab neighbors: nationalism and pan-Arabism (see also Ayubi 1995, 19-24). Her 1987 work on how sources of opposition in the Middle East are rooted in earlier societal structures also reveals the influence of Islam and Islamism as sources of legitimacy for Arab states (also see Salamé 1994, 4). Storm’s (2009) review of radical Islamist movements in North Africa highlights how, due to repression of opposition movements by Arab regimes (with certain Islamist political parties allowed to compete in elections only to give the impression of tolerance), Arab voters increasingly find “exit” through emigration or joining radical “anti-systemic” Islamist movements\(^\text{36}\) their only options. In contrast, Anwar Ibrahim (2006, 7-9) asserts that Indonesia and Turkey are good examples of Muslim democracies because they use it to promote the value of justice, which is like “freedom” to the West; Hamid (2014) also asserts that repression did not necessarily cause radicalism. What all these works suggest for the post-authoritarian periods in these

\(^\text{35}\) For example, as Schraeder and Redissi (2011) explain, the Tunisian provisional administration made the crucial decision of dismantling the state police, and also the more controversial decision of changing the Minister of Interior half way through its term.

\(^\text{36}\) Such as Nahda in Tunisia, the Muslim Brotherhood in Egypt, and the Libyan Islamic Fighting Group.
countries is that Islamism remains an important and divisive factor in the question of determining a government’s legitimacy.

**Legitimacy and provisional administrations**

Provisional administrations come into existence precisely because their predecessors have been in some form de-legitimized. In the onset of authoritarian collapse, then, no one has any more legitimacy than anyone else, and mechanisms for establishing (and maintaining) legitimacy are left to be invented. Especially in MENA, where such mechanisms are often fluid to begin with, provisional administrations may need to be especially creative about how they source their legitimacy. Moreover, because they are usually unelected and lack clear existing accepted traditions to draw on, establishing their legitimacy is all the more important.

In that sense, it is also important to distinguish legitimacy from legality: Although in early uses the term “legitimacy” had a similar meaning to that of “legality” – conformity or accordance with a law or principle (Oxford English Dictionary 2000)—in this dissertation I consider a government to be legal if it is based on a national constitution or other written law, and legitimate if it is respected by the polity or people it is supposed to govern. As is often the case, many decisions by Tunisian state actors and rulers before the uprising were legitimized by finding a “legal” way to carry them out – such as getting official constitutional amendments passed or by passing a law. Tunisia’s first provisional administration used adaptations of this strategy during the initial transition phase, even though the former regime had come under such severe challenge. This example shows that, while strategies for establishing legitimacy are left to be invented in order to make a

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37 Of course, first provisional administrations may be writing these texts themselves; this dilemma is discussed by Shain and Linz (1995) as well as Matthews (2012).
clean break with the past (and indeed, as we will see, often demonstrating such a break with the past was a way to establish legitimacy), an important tendency to look to the past often still exists.

Situations of regime change and transition also create space for what is often called “revolutionary legitimacy”, or the idea that those who have overthrown the old order are entitled to a certain decision-making power. This idea can come into conflict with what Shain and Linz (1995, 6-10) call the “legitimating myths” of provisional administrations: a “choice (or at least the appearance of a choice) not to translate…de facto control to a de jure power ‘because the legitimating myth it invokes in order to pretend to power involves the performance of certain principles and procedures which have not yet been completed” (8). The authors explain that these principles and procedures have varied historically according to the era; today, however, this “myth” almost always refers to a promise to hold democratic elections. Therein lies the contrast, and sometimes tension, with revolutionary legitimacy: the “legitimating myth” of being allowed to rule because of what you will do may not fit with the idea that you should have power because of what you did do. This becomes delicate in the absence of rules and governing procedures, as these cases (especially that of Libya) will show.

**Summary of the literature**
The above review of the literature showed how the study of transitions to democracy starting around 1970 gave precedence to agency rather than structural variables in understanding why authoritarian regimes collapse and (sometimes) transition to democracy (without ever fully dismissing structural variables). While an extensive literature exists on other regions that have undergone concentrated periods of regime
change, the literature on the absence of such regime changes in MENA during that time focused on elements of state and governance that allowed authoritarian regimes to survive. This scholarship has now begun to give way to new attempts at explaining why and how the region has recently begun to witness attempts at democratic transitions (and, with the exception of Tunisia, is increasingly asking why these attempts have largely “failed”.) The review further showed that, within all this, only a small amount of attention has been given to provisional administrations themselves, and within that, even less on explaining how provisional administrations get formed, why they take certain decisions, and what the impacts these decisions have are. Finally, an overview of how comparative politics has addressed the weighty concepts of civil society, the state, and legitimacy in governing was offered to frame the study.

Contributions made in this study
The dissertation makes two key contributions to the existing scholarship on transitions from authoritarian rule. First, it applies the theoretical puzzles and analytical tools developed in earlier studies of attempted transition from authoritarian rule in other regions to two North African cases. In so doing, it adds to the stock-taking of events surrounding the 2011 uprisings and helps shed light on whether there is anything “exceptional” about democratization and authoritarianism that separates North Africa and the larger Arab world from other regions.

Second, it shows how initial periods following authoritarian collapse fit into a larger understanding of the importance of structure vs. agency in determining outcomes. By “zooming in” on the ways the first provisional administrations formed and behaved in Tunisia and Libya in 2011-2012, the dissertation lays out the processes through which
actors’ choices were (or weren’t) constrained by pre-existing structures, and how these choices then impacted later phases of change. It ultimately shows that actors’ choices in such moments – even when “the rules are up for grabs”--are heavily constrained by pre-existing structures. These include institutionalized state structures such as a central state administrative bureaucracy, civil society actors, channels for negotiation and dialogue, a professional military, etc., as well as non-state institutions and social structures such as tribal and regional organizations. Such differences in first provisional administrations continue to influence later actors’ ability to overcome the destabilizing experience of authoritarian overthrow.

Notes and caveats

Limitations of the study
To repeat: this study does not aim to explain why Tunisia has moved further from an authoritarian system toward a democratic one. It merely aims to enhance understanding of interim governments, particularly unelected ones. It is limited to two cases; a fuller understanding could surely be achieved by broadening examinations of provisional administrations that form during authoritarian collapse to other countries and even other regions. The fact that direct consequences both of the uprisings that led to the Tunisian and Libyan provisional administrations, as well as the provisional administrations themselves, were continuing to unfold also constrained the research. Finally, time limitations did not permit sufficient exploration of several key issues; these will hopefully provide topics for future research.

38 While the research design has tried to address this by de-limiting to a two-year period the later phases in which impacts of first provisional administrations were meant to be studied, the idea was actually conceived of before that two-year period was complete. This may have introduced a certain bias. For example, I conducted interviews in Tunisia in 2013, during the height of the post-TPA tensions, which may have influenced responses.
Note on terminology

Though the terms “provisional administration,” “provisional government,” and “interim government” are used in the literature (and above) interchangeably, I have chosen to call the units under study “provisional administrations” for several reasons. First (and most importantly), the term “provisional” captures the makeshift or stand-in nature of the structures under study better than “interim”, which implies more of an in-between-ness (although they were characterized by that, too). The actions these administrations took, the structures they followed, and the impacts they had were driven by their temporariness and other limits they faced by virtue of being provisional. In that sense, both “provisional” and “interim” are preferable to “transitional” (although some did give themselves that name), because they formed with the primary purpose of managing daily affairs in the absence of a legitimate, permanent government more than to usher in a new regime of their own design (i.e. transition “to” something else). Moreover, the term “provisional” is more useful for working in Tunisia (my primary case study), because it translates more directly to the French (provisoire). Finally, “administration” more accurately reflects both the forms of the governing bodies under study – a wide variety of structures and sub-structures—and their activities, as they were all primarily in

39 In this dissertation the acronyms almost always follow the French rather than English (for Tunisia) because that is how they are in my notes.
41 One of the most important structures in the first Tunisian Provisional Administration, the Haute Instance pour la Réalisation des Objectives de la Révolution, la Réforme Politique, et la Transition Démocratique, included the term « democratic transition » in its official title, and the first provisional administration in Libya was called the National Transition Council.
42 Of the cases addressed here, the first provisional administration in Tunisia came the closest to both trying to transition to a new political regime and actually doing so.
place to maintain order and administer elections rather than give new direction or make new rules.\footnote{43}

The choice of the term “provisional administration” over “interim” or “transitional government” is not meant to deny that the structures and processes under study were about political change. On the contrary, they are worthy of study because they were the actors who most acutely felt the tension between continuity and change that regime overthrow introduces or that plays out following regime overthrow. The period during which they were the legitimate authority also laid the foundations for a longer process of change. The choice is mostly meant to help distinguish them from elected interim governments and to avoid suggesting that either country studied here has undergone a clear “transition.”

Finally, in the discussion of Libya leading up to and following the fall of Qadhafi, I avoid using the term “rebels” to refer to Libyans involved in the overthrow. Instead I call those working with the NTC the “opposition.” This is based on an understanding that the term “rebels” came mostly from international media sources. Many fighters involved at the time called themselves “\textit{thuwwar}” (“revolutionaries”), but because the concept of revolution, like transition, is a loaded one (and because sometimes the idea of being “revolutionary” contributed to conflict among anti-Qadhafi elements in Libya), I also avoid it\footnote{44}.

\footnote{43} Also, many Tunisians did not consider all the groups who ran their countries during the periods under study to be “governments” – they were not elected, and they did not task themselves with all the functions of a full government.

\footnote{44} Wehrey (in Cole and McQuinn 2015) also avoids these terms, referring instead to “anti-Qadhafi forces”.

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Structure of dissertation
The dissertation is organized as follows. Chapter 2 describes the chronology of events that occurred in Tunisia from late 2010 to October 2011, first covering the uprisings that led to the departure of Ben Ali and the formation and activities of the TPA. It then gives a less detailed overview of the events that occurred in the subsequent two-and-a-quarter years, dividing that period into two phases. Chapter 3 then analyzes the actors, institutions and strategies that defined the TPA. Chapter 4 covers the chronology of Libya, beginning with events surrounding the February 2011 uprisings, detailing the formation and activities of the NTC, and then briefly discussing the roughly two-year period that followed. Chapter 5 analyzes the actors, institutions and strategies of the NTC. Throughout these chapters, many events are mentioned without a discussion of their implication, because that discussion has been left for the last two chapters.

Chapter 6 combines the two cases. It first explores the major issues that the TPA handled and tries to capture the way its handling of these issues affected later events; then it does the same for Libya. Finally, chapter 7 highlights the key similarities and differences between the TPA and the NTC, then summarizes the major ways each impacted later events. It concludes with overall lessons about first provisional administrations.
Chapter 2: Chronological description of the Tunisian Provisional Administration

Introduction

This chapter describes the events that occurred during the period of the first Tunisian Provisional Administration (TPA). It begins with a brief overview of the country’s recent history, then tells the process by which the TPA formed, and the major activities it undertook. It ends with a brief description of the events between the elections organized by the TPA which marked the end of its existence (October 2011) and the passing of the new constitution (January 2014). Although the protest movement that culminated in the departure of President Zine el-Abиддин Ben Ali took place over the second half of December 2010 and the first half of January 2011, the work of the TPA did not fully begin until April 2011. The period between mid-January and early April 2011 were critical in determining the composition of the TPA and the political context in which it would do its work. The TPA that emerged consisted of a cabinet of interim ministers and a collection of working commissions, focused on organizing elections but trying in the meantime to deal with a host of other issues, including fending off security threats, maintaining economic stability, relating with foreign governments interested in providing support and investment, and trying to establish judicial independence.

Historical Overview

Tunisia’s history as a geographical entity is somewhat longer than its Maghreb neighbors, dating back to the fifteenth and sixteen centuries (Entelis 2010, 509; Willis 2012). It also distinguishes itself from them in the development of its national identity following independence, which emphasized unity, development, and modernity blended with its traditional roots. When Habib Bourguiba, the country’s first president following
independence from France, sought to foster this national identity, he emphasized the
country’s historical sense of state, the modern reforms undertaken by rulers, and episodes
of asserting its own strength and identity against outsiders (Phoenicians, Romans, Greeks,
various Arab dynasties, the Ottomans, and the French) more through negotiation than
war. This led to a culture with Arabo-Muslim roots, but situated on the Mediterranean at
a crossroads of Africa, Europe, and the Middle East, with desert, plains, mountains, and
ocean. 45

Although European influence had been encroaching on the region for centuries, the
French Protectorate in Tunisia was not established until the 1880s. The somewhat violent
nationalist movement that emerged in the 1930s and lasted until independence was
officially declared in 1956 was marked by (1) a split between those favoring Arab
nationalism and those favoring Tunisian nationalism (2) the demands for a constitution
and (3) the involvement of the labor union. With independence came the setting up of the
state under full Tunisian administration, which included a strong central administration,
an army clearly separated from politics; and a single-party system that would remain,
despite attempts to feign liberalization and political pluralism. Meanwhile, organizations
such as the national labor union (l’Union Générale des Travailleurs Tunisiens, or UGTT)
would remain closely aligned with political parties, while also working to preserve a
certain level of autonomy as part of a larger process of the development of a genuine civil
society.

45 This “historical sense of state” included elements such as provision of public goods and a fairly clear
geographic entity with an army to protect it. Modern reforms undertaken by past rulers included abolishing
slavery and enacting a Loi Fondamentale (1857) followed by the first constitution in Arab world (1861)
under Muhammad as-Sadiq Bey. This followed a host of other such reforms under Prime Minister/chief
minister Khair al Dine. Ziadeh (1962) also mentions a unity of people (Arabs and Muslims).
The other important developments over the 1960s, 1970s and into the 1980s were economic. Economic changes were the main driver behind the split between the labor union and the ruling party in 1978, and some of the beginnings of political opposition movements. In the meantime, another political opposition movement had formed in the late 1970s, this one based in Islam. The *Movement de la Tendance Islamique* (MTI, later renamed Nahda) threatened the regime because it drew so much support, and was soon banned. When Zine el Abiddine Ben Ali took over for Bourguiba in 1987 via a bloodless coup\(^46\), he re-introduced political pluralism and legalized all opposition parties using a rhetoric of “change”. Yet again, as the Islamists gained support, he found excuses to repress political freedom once again– most notably with the growing support of the West in clamping down on Islamist movements. Meanwhile, economic growth resulting from Ben Ali’s neoliberal reforms benefited the middle class, which were mostly located in the capital city of Tunis and the coastal cities of Sousse and Monastir, at the expense of a large portion of the population, mostly based in the interior and made up largely of youths. In this context, the Tunisian uprising of 2010-2011 which led to the TPA began.

**Formation and work of the TPA**

**Uprisings of December 17, 2010 - January 14, 2011**

**The protests**

The uprisings in Tunisia on December 17, 2010 and January 2011 that drove out President Ben Ali began after a young Sidi Bouzid resident, Mohammed Bouazizi,

\(^{46}\) This event is also sometimes referred to as a “constitutional coup”, because of Ben Ali’s success in persuading those involved that he should take over as President given Bourguiba’s weakening health, according to the constitution (e.g. Willis 2012).
burned himself to death in protest against the state. Initial protests in Sidi Bouzid were limited to demands for jobs, and they quickly spread to nearby areas such as Tala and Kasserine. A large number of youth mobilized, as well as local representatives of the lawyers/bar association and labor union (see below). Observers also note the high proportion of female protestors. News of the uprisings traveled through al Jazeera and social media networks, strengthening their momentum (International Crisis Group 2011; Brynen 2012; Russo and Santi 2011).

On 12 January, after nearly four weeks of violent protests, the national labor union, the UGTT, called for a general strike in Sfax. During previous weeks the UGTT had been split between its “left”, which sided with the unemployed protestors and against the regime, and the central leadership which tried to respond to its membership while also playing the role of mediator between the regime and protestors (Zartman (2015, 54-55); International Crisis Group 2011a). But its regional and local branches eventually put pressure on the central leadership, leading it to break with the regime and mobilize thousands of protestors (many Sfaxian businessmen were fed up with being marginalized at the expense of the other coastal cities). The local office of the former ruling party, the Constitutional Democratic Rally (RCD), was burned. With this, protestors’ slogans “became revolutionary…calling for the fall of the regime” (International Crisis Group 2011a, 6). The UGTT, despite its earlier internal turmoil and hesitation to support the

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47 A 26-year-old fruit vendor, Bouazizi became fed up when he was once again forced to bribe the police to allow him to sell, since they refused to give him a permit. The self-immolation allegedly happened after a humiliating encounter with a policewoman over this issue.

48 In her contribution to Gana’s (2013) volume on the post-2011 experience in Tunisia, Monica Marks does not specifically mention the presence of women; rather, she notes that Tunisians “of all ages, class backgrounds, and religious persuasions” joined together against Ben Ali but then became divided after he fled, and women’s rights was one of the major issues that divided them. Willis (2012, 5) notes the presence of women in the protest movements in both Tunisia and Morocco.
protests, would come to be known as the “host” of the revolution. The Tunisian Bar Association also mobilized protestors during this period; both these organizations would thus have a basis for claiming “revolutionary legitimacy” later (see Gobe 2013).

**Regime response**

This section describes how the regime responded to the protests, as popular unrest in the interior rapidly escalated. On December 23, Ben Ali’s Minister of development, Nouri Jouini, travelled to Sidi Bouzid and announced a 15 million Tunisian Dinar ($10.8m) investment in job-creation (Economist Intelligence Unit 2011l). Meanwhile, continuing protests in Menzel Bouzaïene (in the Sidi Bouzid governorate) left one dead and nine injured, and “on December 22 a young man electrocuted himself on an electricity pylon, saying he was tired of being unemployed” (ibid.).

On December 28, President Ben Ali gave the first of three speeches addressing the unrest. He denounced the protestors and promised to apply harsh punishments for their disruptive behavior, while also reassuring the continuation of development programs. Within a few days, he had dismissed his communications minister, Oussama Romdhani, and the governors of several provinces. International reports also included the “rounding up” of activists who were blogging, writing rap songs, or otherwise “spreading anti-government sentiments (Middle East Journal 2011b).”

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49 The January 14th protests that culminated in the flight of Ben Ali started in Mohammed Ali square, the location of UGTT headquarters in Tunis (interview with TPA member, July 3, 2013).

50 In an English translation of their manuscript, Russo and Santi (2011, 58-62) also described how students joined the protest movements in early January.

51 He dismissed governor of Sidi Bouzid province, Mourad Ben Jalloul (Economist Intelligence Unit, 2011l), as well as the governors of Jendouba and Zaghouan.
On January 10, 2011, Ben Ali gave a second speech promising the creation of 300,000 new jobs by the end of 2012 while also blaming the violence on “small hostile elements”. Two days later, protests reached Tunis, where riots erupted (largely thanks to the mobilization efforts of national associations, notably the UGTT and the Bar Association). The military deployed to the streets, a curfew was imposed, and school and university courses and exams were suspended. By this time, however, a growing awareness of the brutal state response to protestors had given more fuel to the protests.  

On January 11, Ben Ali fired Interior Minister Rafik Belhaj Kacem, blaming him for the police violence (Middle East Journal 2011b).

Ben Ali delivered his third and final speech on January 13. He declared that he would not seek reelection in 2014 – thus retracting his earlier declarations (Russo and Santi 2011, 130) – but rather end his current term “in the context of a national accord”. He called for the creation of an independent committee charged with revising certain legal texts, including the electoral law and the law governing the press.  

Finally, he condemned the violence, admitting to having made mistakes but blaming his advisors (Russo and Santi 2011), and promised to instruct the Minister of Interior to end all use of live ammunition against protestors ("tirer à balles réelles").

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52 According to MEJ, the regime violence had begun when police opened fire on protestors on December 24 and one civilian was killed. The Minister of Interior had also announced in early Jan (8-9) 5 deaths and 3 injuries at Thala, 3 deaths and six injuries in Kasserine, and four deaths and two injuries in Regueb, as well as injuries of security officers (Hedi). The growing anger and strengthening protest movements that resulted from the regime violence was described in interviews with TPA members (January 21, 2015; November 6, 2014) and in some detail in Russo and Santi (2011, 52). The most detailed documentation of these events is in the report of the Commission for Investigation of Violence and Abuse during the Revolution (later referred to as the “Bouderbala Commission”).

53 Either in this speech or a later one, he also called for the creation of two other commissions, for investigation of crimes/violence committed during the protests, and for investigation of public fraud/embezzlement.
The concessions he made in this speech and elsewhere suggested that the anti-government upsurge had climaxed. A lone pro-government rally was quickly absorbed by anti-government protestors (International Crisis Group 2011a, 9-10)54. Access to YouTube was permitted for the first time. At the end of his speech, delivered in the local dialect, Ben Ali alluded to Charles de Gaulle’s famous 1958 speech in Algiers in which he told the French settlers of the colony that was fighting bitterly for its independence “I have understood you” (“fahimtikum”) (Russo and Santi 2011, 129-130). In this dramatic moment, the Tunisian people’s response was “get out” (“dégage”)55.

On January 14, the government declared a state of emergency. Ben Ali fired nearly his entire cabinet and announced the holding of legislative elections within six months (Middle East Journal 2011b). Yet thousands of Tunisians were on the streets demanding Ben Ali’s resignation. They gathered first in front of the UGTT headquarters at Mohammed Ali square56, then moved to the front of the Ministry of Interior. Around 5pm that evening57, President Ben Ali and his wife, Leila Trabelsi, boarded a plane for Saudi Arabia.

**Some characteristics**

Several features of the December 2010 – January 2011 uprisings carried over into the first Tunisian Provisional Administration (TPA). First, no single leading organization led these protests (Zartman 2015; Haugbølle and Cavatorta 2011; Schraeder and Redissi 2011). Next, the internet and social media – Facebook, Twitter, Utube played an

54 The International Crisis Group report describes this incident in the larger context of the way the RCD struggled to mobilize at all in the face of the anti-regime protests.
55 Interview with Tunisian politician (January 29, 2015).
56 Interview with TPA member (July 3, 2013).
57 Pachon (2014, 520) says it took off at 5:50 pm.
important role (e.g. Schraeder and Redissi 2011; Russo and Santi 2011)—as did international television stations in spreading videos of Bouazizi’s self-immolation and the police attacks on protestors (International Crisis Group 2011a). Third, the army, under the command of General Rachid Ammar, refused to shoot at protestors. The collective nature of the uprisings, the importance of media and freedom of expression, and the emphasis on continuity of the state/preservation of modern state features (such as the separation of military and politics) would all be relevant for the work of the TPA.

Moreover, the army was not the only element to abandon Ben Ali in this moment. Nessma TV started hinting a favoring of protestors (see Russo and Santi 2011, 68-74), and attempts by the RCD to mobilize pro-government protests failed when local party members sided with the anti-government protestors (International Crisis Group 2011a). These facts perhaps reflect major weaknesses in the regime, including Ben Ali’s party the RCD. In short, the breakdown of the Ben Ali regime would create an exciting arena of actors, institutions and strategies into which the TPA would enter.

**TPA formation**

Events in January through March, leading up to that time, were critical in determining the composition of the TPA and the political context in which it had to do its work. This

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58 France 24 and Al Jazeera are often cited as the most important such channels. Under Ben Ali, freedom of media and expression were crucial as instruments of control, both for suppressing dissent and hiding the poverty of the interior from the elite/middle class residents of the capital and the international community. The way the TPA and its successor provisional administrations handled freedom of expression is discussed in a chapter 6.

59 Many observers (International Crisis Group 2011a; Murphy 2011; also see Bellin 2012) attribute this decision to the military’s marginalization from the state, especially compared to other parts of the security apparatus. Ultimately Ammar’s decision led Ben Ali to flee to Saudi Arabia on January 14. Another analysis of the role of the military/security apparatus in the departure of Ben Ali is Pachon (2014).

60 That is International Crisis Group (2011a)’s analysis.
section describes the events and dynamics that led to the final TPA composition, which was largely settled by April 2011.

**Initial response of elites, January 14-17, 2011**

Remaining members of the government responded to the crisis by referring to the 1959 constitution, which allowed them to retain their positions as decision-makers. The Prime Minister, Mohammed Ghannouchi, appeared on television around 8pm on the evening of January 14 alongside the presidents of the two chambers of Parliament, Fouad Mebazza of the Chamber of Deputies and Abdallah Kallel of the Chamber of Representatives, to announce the President’s departure. Ghannouchi called for the application of Article 56 of the Constitution, according to which the president, in case of temporary absence, delegates his responsibilities to the prime minister. Clearly, these actors were prioritizing an appearance of order and control and working within the legal framework.

Early in the morning of January 15, Ghannouchi and Mebazza called the Constitutional Council to advise on the appropriateness of the application of Article 56. These experts questioned the application of this article, which suggested that Ben Ali had only temporarily ceded his duties as President of the Republic and had delegated them himself to Ghannouchi. The experts agreed that Article 57, which stated that in the case of “death, resignation or permanent deterrence of the President,” the speaker of the house (i.e. President of Chamber of Deputies) would lead the government. His authority would last for 45 days and no more than 60 days (Elloumi 2011, 17). Thus, on January 15, Fouad

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61 Parliamentarians were elected, but the “winner takes all” electoral system allowed the RCD to dominate every election. The Parliament had been changed to a bicameral one in 2005 (following a 2002 constitutional amendment), part of Ben Ali’s efforts to feign inclusion/political pluralism (Erdle 2010, 164-165; Alexander 2010, 62-63).

62 According to this ex-Prime Minister himself, he was trying to ensure that no presidential void ensued.

63 Interview with TPA member (November 6, 2014).
Mebazza assumed the role of interim President. He chose to keep Ghannouchi in the position of Prime Minister.

On January 17, Mebazza, speaking from the Government Palace at the Kasbah, announced a national unity government—that is, an executive cabinet not dominated by any single ruling party (Middle East Journal 2011b). It was composed of 24 ministers and 15 minister-delegates (Elloumi 2011, 37-38). The Defense, Foreign, Interior and Finance Ministers—all RCD (former ruling party) members—retained their posts, along with 10 other RCD members. In addition, the cabinet included representatives of three opposition parties: Ahmed Najib Chebbi of the Democratic Parti Démocrate Progressiste (PDP), Ahmed Brahim of the Ettajdid (Renewal) Movement, and Mustafa Ben Jafar of the Forum Démocratique Pour le Travail et les Libertés (FDTL, whose Arabic name was Ettakatol). The others had either resigned from the RCD or were brought in as “national personalities”. This cabinet was tasked with organizing free and fair parliamentary and presidential elections within 60 days (Economist Intelligence Unit 2011).

Ghannouchi’s attempt at opening the government failed to satisfy the opposition. Three members of the UGTT also accepted posts, but then immediately resigned; this was followed by the resignation of Ben Jafar from Ettakatol (the two other opposition party members, Ahmed Najib Chebbi and Ahmed Brahim, remained). The union’s secretary

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64 Interview with TPA member (January 5, 2015). For more discussion of this (the legal reasons for the switch from article 56 to 57 and the background of Ben Ali coming to power through article 57) see Elloumi (2011, 17-25). Such sources suggest that these decisions of the first few days were not so much meant to keep the old regime in tact at any cost, but rather to maintain a semblance of order. The real debate would not be about who should take over for Ben Ali but whether the 1959 constitution needed to be abrogated (see Elloumi 2011, 23-24).

65 “Minister-delegate” is the translation of the French “secrétaire d’Etat”. This position existed for all major ministerial portfolios.

66 This is referring namely to a young dissident blogger named Slim Amamou, although he had also helped found a political party, the Parti Pirate Tunisien.

67 Those three ministers were Houssine Dmassi, Abdeljalil Bedoui, and Annouar Ben Gueddor.
general, Abdelsalam Jrad, called for all other political party representatives and “national personalities” to resign as well, claiming the government was not “representative of the people” (Christian Science Monitor 2011). Other key opposition figures were also excluded, most notably Moncef Marzouki from the Congrès Pour la République (CPR), who was en route back to Tunis from his self-exile in Paris, and Rachid Ghannouchi (no relation to the prime minister) from the moderate Islamist party Renaissance (Nahda).

Pledged reforms, Kasbah sit-ins and appointment of second cabinet (c. January 20-March 3)

On January 20 Ghannouchi’s cabinet held its first meeting, during which it decided to recognize all banned political parties, remove state assets from the control of the RCD and issue a general amnesty for political prisoners (through a bill approved by the Minister of Justice and ultimately passed by parliament). The government soon promised an even broader range of political reforms, including freedom of expression, internet access, and the lifting of restrictions on the long-controlled Tunisian Human Rights League (Ligue tunisien de droit de l’homme, LTDH). On February 9, the Ghannouchi cabinet and the Chamber of Deputies passed legislation allowing interim President Mebazza to rule by decree. This enabled Mebazza to by-pass parliament when issuing

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69 DL 2011-1 through DL 2011-5. According to Murphy (2011, 303) this was: “ultimately a precondition for getting a broad rainbow of opposition groups to join the national unity government.”
70 Following article 28 of the 1959 constitution.
decrees, effectively dissolving both houses (Middle East Journal 2011b; Economist Intelligence Unit 2011, 11)\(^7\).

Despite these announcements of reforms, protests continued over the heavy influence of the RCD in the new government: the large number of RCD members in the new cabinet and Ghannouchi’s position as Prime Minister. This round of protests, later named Kasbah 1, called for a new constitution and the complete dissolution of the RCD. Security forces tried to halt these protest gatherings while also combatting organized violence\(^7\). As a result of this large-scale unrest, on January 18, Ghannouchi and Mebazza, as well as the other RCD ministers remaining in the executive cabinet\(^3\), resigned from the RCD. These events led Prime Minister Ghannouchi to appoint a second provisional cabinet on January 27, replacing 12 cabinet members, including some in key posts.

These changes initially appeared to satisfy some of the protestors’ demands; for example, the UGTT, among others, endorsed the new makeup of the cabinet (Economist Intelligence Unit 2011, 10). Over the next several weeks the government took further steps towards dissolution of the RCD, ordering its buildings closed and replacing all 24 regional governments. Finally on February 6 the Interior Minister banned the party from meeting or publicly gathering; its official dissolution went to the courts in early March and was finally confirmed on April 22 (Economist Intelligence Unit 2011).

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\(^7\) Later, other state institutions “strongly influenced by the regime” (Schraeder and Redissi 2011) would be dissolved. These included the Constitutional Court, the Economic and Social Council, the secret police agency “and its umbrella state security department” (Middle East Journal 2011b).

\(^7\) Reports from the time suggest these organizations may have been linked to the former regime (Arieff 2011a).

\(^3\) Kamel Morjane, Ridha Grira, Ahmed Friaa, Moncer Rouissi, and Zouheir M’dhaffer.
Formation of the National Council for the Protection of the Revolution (February 2011)

Still, the unrest continued. Participants of the Kasbah sit-in continued to object to the presence of members of the former regime in the interim government and to demand the election of a parliament and constituent assembly, among other demands (Arieff 2011a). Clashes between protestors and police continued in other towns. Thus, although the Ghannouchi government had attempted to demonstrate its control over events in the country, the chaos continued. Some of those in the government blamed the violence on a “conspiracy” of RCD supporters trying to spread chaos and reclaim power (Economist Intelligence Unit 2011). Government institutions were not always seen as working in cooperation with the protestors. Kasbah protestors described themselves as bravely standing between the army (on the side of the people) and the police (on the side of the regime). On January 25 the army chief, General Rachid Ben Ammar, told demonstrators that the army was “the guarantor of the country, the people and the revolution” (ibid., 12). Clearly, the battle was not over; no consensus on a way forward had been reached.

Since the start of the uprisings, “local councils for the protection of the revolution” had begun emerging around the country. Having started as neighborhood vigilante groups during the chaos of December and January (Redissi, Nouira and Zghal 2012a; Belgith

74 Another demand was for the choice of a parliamentary regime, in a rejection of the powerful institution of the Presidency.
75 Descriptions such as the following give an indication of the continuous level of violence: “In Le Kef two people were killed and 14 injured in demonstrations calling for the chief of police to be removed. In Sidi Bouzid two prisoners were burned alive when the police station was set alight and four protesters were shot dead by police. Meanwhile, large youth gangs were reported in many towns looting shops and offices” (Economist Intelligence Unit 2011, 10-11).
76 Interview with Tunisian civil society activist (July 6, 2013).
and Patel 2013), these councils represented protestors’ first attempts to organize around a unified set of demands. Eventually these attempts reached the national level. Under the general leadership of the UGTT and the Tunisian Bar Association, 28 social and political organizations representing the protestors formed a National Council for the Protection of the Revolution (CNPR). The Council’s “principal objective was to control the public decrees issued by the government with the aim of protecting the revolution” (Elloumi 2011, 47). The CNPR included a wide spectrum of political parties and coalitions (including Nahha) along with the major civil society actors77. The CNPR organized “liberation caravans” that brought protestors to Tunis from rural areas such as Sidi Bouzid, Kairouan, and Gafsa (many of them representing families of people who had been killed during the protests) to take part in another sit-in, later called Kasbah 2.

On February 26, more than 100,000 protestors gathered at the Kasbah; clashes between security forces and protestors left five people dead (Middle East Journal 2011b, 495). Ghannouchi and Mebazza had entered into negotiations with the CNPR, which was demanding official recognition by decree law78 (and other competencies – Redissi, Nouira and Zghal 2012a). On February 27, Ghannouchi resigned as prime minister, and the decision was taken to fuse the CNPR with a newly-created Commission for Political Reform79.

77 Civil society organizations included the UGTT, LTDH, the Bar Association, the Tunisian Association for Democratic Women (ATFD). Political parties included CPR, PCOT, and Ettakatol.
79 The exact sequence of these negotiations is unclear, because Essebsi, who only became prime minister on February 27, seems to have been involved in the creation of this Haute Instance, but the decree law naming is dated February 18.
Appointment of Caïd Essebsi and third provisional cabinet and call for elections

(February 27-March 3, 2011)

When Prime Minister Ghannouchi and three other of Ben Ali’s ministers resigned on February 27, Mebazza asked Béji Caïd Essbesi, a former statesman from the Bourguiba era, to take over as Prime Minister\(^\text{80}\). On March 3, President Mebazza announced the scheduling of elections for a National Constituent Assembly (ANC)—thus finally ceding to the protestors’ remaining key demand and ending the protests—to be held on July 24 (also see Schraeder and Redissi 2011, 16; Murphy 2011)\(^\text{81}\). “[Mebazza] stated that an interim government would run the country until then and that he would remain in office even though the Tunisian constitution limits caretaker officeholders to a 60-day term” (Middle East Journal 2011b). The new interim Prime Minister also gave his first speech, in which he reassured Tunisians that security would be restored and democratic transitions were in store.

With that, in the span of approximately six weeks, Tunisia’s third interim cabinet was constituted. The majority of the ministers, mainly technically trained people, some with a history in state administration, or else “national personalities”, were the same as those who had been in the second (January 27) cabinet, except for a few resignations\(^\text{82}\). This cabinet immediately made several important moves. First, the new prime minister instructed the members of his cabinet to promise not to run in the ANC elections that had just been scheduled. This led to the resignation of two members, Ahmed Najib Chebbi of

\(^{80}\) The three ministers who had resigned were Chelbi, Jouini, and Elyes Jouni. Mebazza seems to have been the individual who actually requested to call in Essebsi, based on understanding from interviews with Tunisian academics and TPA members (December 22, 2014; January 21, 2015).

\(^{81}\) Some sources may have suggested July 26.

\(^{82}\) Another difference was that more women were added to the cabinet.
the PDP and Ahmed Brahmi of Ettajdid, who wanted to be eligible to run in the elections. The government also made further arrests of former RCD members, and the Supreme Court\(^3\) announced plans to liquidate the party's assets and funds. During a press conference held on March 7, Caïd Essebsi stressed that his government would prioritize, in addition to organizing the elections, restoration of stability and security. To that end, he announced the dismantling of the political police and its umbrella ministerial sub-unit. Finally, on March 23, the interim government signed into law Decree Law 2011-14 on the organization of public powers, which was to serve as a “mini-constitution” until a new one would be written\(^4\).

**Establishment of four commissions (January - March 2011)**

Immediately after Ben Ali’s resignation, the first Ghannouchi government had established via decree-law three interim working commissions\(^5\). These included a Political Reform Commission, tasked mainly with reforming the electoral code and a few other parts of the old constitution in time for the elections; a National Commission for Investigation of Corruption and Embezzlement; and a National Fact-Finding Commission on Abuse\(^6\). A fourth commission on information and communications reform was conceived of by Ghannouchi, who, in consultation with media experts, selected as its

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\(^3\) The arrests included former Interior Minister Rafik Belhaj Kacem, accused of being complicit in the killings of dozens of protestors (Middle East Journal 2011b, 495).

\(^4\) Lust (2014, 798) terms the second law on organization of public powers, from December 2011 a “transitional constitution”.


\(^6\) Ben Achour was appointed earlier than the other two. Tavana (2014) says Ghannouchi called Ben Achour “within hours of Ben Ali’s resignation”; Mrad and Moussa’s (2012) collection of papers prepared by actors from the period also suggests that he was already appointed when the others were named.
head Kamel Laabidi, a dissident journalist who had been living in exile in the United States\textsuperscript{87}.

Ben Achour’s political reform commission was officially merged with the CNPR on February 18 as a response to the Council’s demands. The commission’s name was then changed to the High Authority for the Realization of the Goals of the Revolution, Political Reform, and Democratic Transition (\textit{Haute Instance pour la Réalisation des Objectifs de la Révolution, la Réforme Politique, et la Transition Démocratique,} commonly known as the Ben Achour Commission). Thus, by April 2011 Tunisia’s first post-Ben Ali provisional government comprised a cabinet of ministers under the leadership of Essebsi and four parallel commissions, of which the largest, most important, and most high profile was the Ben Achour Commission. The Ben Achour Commission would establish an electoral management body with regional and local units. These bodies collectively formed what this dissertation calls the first Tunisian Provisional Administration, or TPA.

**TPA Activities**

The TPA thus consisted of the Essebsi government, which was a cabinet of ministers headed by Prime Minister Caïd Essebsi, and four commissions charged with discrete tasks\textsuperscript{88}. This section overviews the key events during the TPA’s tenure.

\textsuperscript{87} As mentioned above, the formation of at least one, if not all three, of these commissions had been called for by Ben Ali in his final speech. The Communications and Information Commission (INRIC) was definitely not suggested by Ben Ali (interviews with commissioner, November 6, 2014, and Tunisian academic, December 6, 2014) and was created later (in March, DL-2011 10).

\textsuperscript{88} The details of all these structures and how they related to one another are described in subsequent chapters.
Promulgation of the electoral law and establishment of an electoral management body

(April/May 2011)

In April, the Ben Achour commission drafted a new electoral law (DL 2011-35), which was formally enacted on May 10. The promulgation of a law to hold elections for a new government had been one of the main objectives of the Political Reform Commission, so this electoral law represented a major accomplishment. It was also an accomplishment given the continuing security and other incidents to which it tried to respond, such as the influx of refugees from the Libyan border, as well as several other unexpected challenges.

The Ben Achour Commission also set up an independent electoral management authority, the *Instance Supérieure Indépendante pour les Elections* (ISIE) to manage the elections, through a law passed within Ben Achour Commission, signed by Mebazza, and announced by Essebsi on April 26[^89]. With this law in place, the ISIE was under pressure to prepare the elections by the scheduled date of July 24, 2011. The ISIE established new Regional Independent Commissions for Elections (IRIEs) and Local Independent Commissions for Elections (ILEs) to administer the elections. Civil society organizations could apply with the ISIE for electoral observer status[^90], and the ISIE set up a central website and Facebook page to help reassure transparency of the electoral process and to communicate with the public. The ISIE was thus overwhelmed with work, and it ultimately became the leading force in the TPA’s decision to postpone the elections from July to October (the details of this decision and its repercussions are described elsewhere).

[^89]: The date of the decree law is April 18, so the announcement must have come several days later.
[^90]: Interviews with Tunisian civil society activists (July 6, 2013; July 8, 2013).
Promulgation of other laws (June – Sep/Oct 2011)

In addition to the electoral law and the law creating the ISIE (which had been deemed priority), the Ben Achour Commission passed four other decree laws covering political parties, associations, the print media, and audio-visual media\(^{91}\). However, several parties, notably Nahda and CPR (a small leftist party), quit the Ben Achour Commission at this time in protest. Although Nahda had withdrawn and then returned twice before—once when it did not get its representative elected to the Commission executive bureau and once when the date of elections was postponed (Economist Intelligence Unit 2011q)—this time the parties that quit did not return.

In addition to drafting these laws, the Ben Achour Commission took other important actions. In mid-August it passed a Republican Pact, meant to serve as a “broad outline” of the country’s identity. It also prepared a text on judicial reform, although this was not completed and did not become a law. With the completion of these laws, and the elections approaching, the Commission ended its work. It held its closing ceremony on October 13\(^{92}\).

Preparation of elections (June-October 2011)

A few days after its first meeting on May 18 the ISIE formally announced its intention to postpone the elections for three months. After negotiations between the ISIE, the Ben

\(^{91}\) This term may be better/also translated into English as radio-television media.

\(^{92}\) The groups who had quit the Ben Achour Commission were not in attendance (interview with commissioner, November 13, 2014).
Achour Commission, and members of the Essebsi cabinet, Essebsi set the new election date for October 23\textsuperscript{93}.

Eligible voters were slow to respond to the call to register. The first registration period opened on July 11, but by the end the initial three-week period, only 16.2\% of eligible voters had registered. The ISIE therefore extended the deadline for registering until mid-August (Tavana 2014, 8; Economist Intelligence Unit 2011q). Still, because the large number of unregistered potential voters remaining would create confusion on polling day, the ISIE announced in early September a second registration period, which was to last until September 20. Finally, it announced in early October a special registration period for “certain categories of eligible voters\textsuperscript{94} (Tavana 2014, 9).

The official campaign period opened on October 1, but candidates were slow to launch their campaigns, and there was frequent confusion about the campaigning rules. The campaign period ended one day before the elections (Middle East Journal 2012b).

\textit{Ongoing tasks/events: security, economic reform, foreign affairs, and judicial independence}

As the ISIE was preparing for elections, Essebsi and others in the TPA had to deal with events that interfered with their scheduled work, including security concerns, economic reforms, foreign affairs and judicial independence.

\textsuperscript{93} First the new date was set as October 16, then pushed back another week to the 23\textsuperscript{rd} (Economist Intelligence Unit 2011q).

\textsuperscript{94} Military and security officials who had left the service after 14 August, individuals who became 18 years old after 14 August, convicts whose criminal status had changed after 14 August, and Tunisians who lived abroad but preferred to vote in Tunisia” (Tavana 2014, 9).
Islamist extremist attacks

The rise in attacks by Islamist extremists were major cause for TPA concern. In mid-May there were reports of clashes between Tunisian soldiers and Al Qaeda in the Maghreb (AQIM) members near the Libyan border. There was also an attack at a Tunis cinema at the very end of June by *Hizb al Tahrir* in opposition to a film by a Tunisia-French film director “that defends secularism and women’s rights”. As a result, a new round of protests broke out on July 7 (Middle East Journal 2012d).

A similar cycle of violent attacks, tension and protests continued throughout July, both in Tunis and in the interior regions95. Essebsi blamed extremist groups for the violence and accused them of trying to destabilize the electoral process. Nahda issued public statements trying to distance itself from radical extremists, but secularist parties accused it of covering up its ties (Economist Intelligence Unit 2011r). On July 27 Mebazza extended the state of emergency indefinitely, while Essebsi called for further security measures to be taken on September 6 (Middle East Journal 2012d; Economist Intelligence Unit 2011r, 12).

The last of the major Islamist extremist incidents took place only a few weeks before the NCA elections, heightening concerns about peaceful elections and pressure for the TPA. On October 9, a private TV station called Nessma TV aired the French-Iranian film *Persepolis*, “which depicted God as a white-bearded man” (Middle East Journal 2011d). A group of about 300 Salafists attacked the TV station’s headquarters, attempting to set it on fire. A few days later, a mob of about 100 people attacked the station owner’s home, and as many as 10,000 Islamists were reported to have demonstrated outside Essebsi’s

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95 Gafsa, Menzel Bourguiba, Sidi Bouzid, Ben Guardane.
office and at other locations around Tunis, with police using teargas to disperse them. Finally, around this time there were protests and attacks at nearby police stations by Islamists outside a university campus for its refusal to admit women wearing the niqab (Middle East Journal 2012d).

Protests against the government and general security concerns

Essebsi replaced on March 28 the Interior Minister Farhat Rajhi with Habib Essid, allegedly to halt Rajhi’s purge of the Ministry of Interior and the security services (Economist Intelligence Unit 2011m). The move caused an uproar on several fronts. Because Essid was seen as being close to Ben Ali, a large number of protestors took to the streets again (naming their protest movement “Kasbah 3”)97. Essebsi declared anew an overnight curfew in Tunis when these protests turned violent98. Several members of the Ben Achour Commission also became angered over Essid’s appointment, leading to confrontations with Essebsi and other ministers. Rajhi then created a public scandal, further fueling public anxiety99. This incident illustrates—in a way that would continue throughout the summer—how the TPA struggled to maintain control.

As the summer went on, this struggle continued. Events both inside and outside Tunisia, such as the escape of prisoners, tribal conflicts in rural areas100, and refugees fleeing across the border from Libya due to the war there or a rising number of migrants trying to cross the Mediterranean to Europe continuously tested security forces.

96 The office of the prosecutor of the Court of the First Instance ultimately brought criminal charges against Nessma TV and its director “on grounds that it defamed Islam by depicting God.”
97 Interview with Tunisian civil society activist (July 6, 2013).
98 That curfew was lifted on May 18.
99 Middle East Journal (2011b) suggests that demonstration were sparked by Rajhi’s suggestion that “Ben Ali loyalists might stage a coup if Islamists won the [ANC] elections”.
100 E.g. Metlaoui (اللجنة الوطني لاستقصاء الحقائق في التجاوزات و الانتهاكات المسجية خلال الفترة الممتدة حين زوال موظها 2012; Middle East Journal 2011).
Foreign relations

In the run-up to Ben Ali’s departure, several French ministers had made disparaging statements about France’s support for the protestors. Foreign Minister Michele Aillot-Marie had said that France should train Tunisian police better so they would be more equipped to deal with such security concerns (International Herald Tribune 2011). Tunisia’s relationships with European partners also became more strained as Italy and France sought to pressure Tunisia to curb the flow of migrants across the Mediterranean, which had been rising since January (Economist Intelligence Unit 2011q).

Several overseas visits by Essebsi government officials took place during the period of the TPA, largely centered around economic assistance. In late May there was a meeting of G8 leaders in Deauville, France, where Prime Minister Essebsi and two minister-delegates, Rafa Ben Achour and Khemaïs Jhinaoui, were in attendance. The members pledged support in the form of external loans for Tunisia and the other MENA countries in transition and general support for “democratization and economic modernization” in the region. A Deauville partnership on Arab Countries was created which prioritized stabilization, job creation, integration, and participation and governance (White House Office of the Press Secretary 2011). This was part of what would be a growing trend (which would peak roughly in early 2014) of receiving foreign assistance from international organizations—national and regional—primarily in the areas of

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102 For example, Tunisian Central Bank governor Mustafa Nabli traveled to Washington to meet with the IMF and World Bank; French and American foreign ministers Alain Juppé and Hillary Clinton traveled to Tunis.
103 Jhinaoui’s presence has not been verified in any written documentation.
security sector reform, media reform, judicial reform, youth employment, and electoral assistance.\footnote{See Institute for Integrated Transitions (2013) for a discussion of foreign assistance in Tunisia during this period in all but the last of these sectors.}

**Economic reform**

The TPA in April and May took steps to respond to socioeconomic pressures (increasing public sector hiring, new infrastructure construction in the interior, expanding access to microcredit for poor families, encouraging of public-private partnerships, and launching social assistance programs for unemployed youth and others). It also appealed for foreign loans to fund some of these measures (Arieff 2011d, 16; Economist Intelligence Unit 2011p). In late September the interim Finance Minister, Jelloul Ayed, took the Essebsi cabinet’s “Jasmine Plan” (Plan Jasmin pour le développement économique et sociale) to the World Bank, the International Monetary Fund and senior U.S. government officials for their review.\footnote{Arieff (2011d, 16) states that: “The degree to which the Jasmine Plan will serve a blueprint for economic policy under the Constituent Assembly is unclear. Al Nahda leaders have stated their support for private sector and foreign investment while calling for more equal distribution of wealth.” This is noteworthy because of the critical role economic malaise played throughout the TPA and ANC periods, and for questions of connections between the two periods, which is discussed later. The Economist Intelligence Unit (2011t) also gives extensive detail on the plan.} At the end of September, the plan was presented at an investment conference in Tunis, attended by overseas portfolio investors and representatives of investment funds (Economist Intelligence Unit 2011t).

**Judicial reform**

Judicial reform was of supreme importance. Transitional justice mechanisms for dealing with past crimes committed by the state were in urgent need. Moreover, control of the judiciary had been a central tool used by the Ben Ali regime to silence criticism, control political activity, and embezzle funds. Thus, judicial reform was a key demand for which
protestors on the street were agitating. The TPA was trying to respond to immediate
demands while also considering longer-term reforms, and hold trials for Ben Ali cronies
who had already been arrested.

Roadmap for transition (August-September 2011)
The preparation for the elections continued on schedule until mid-August, at which point
several parties began calling for a referendum to clarify the electing of a National
Constituent Assembly (ANC\textsuperscript{106}). These parties demanded an agreement on the exact
mandate and competencies of the ANC. In response, the head of the Ben Achour
Commission organized for all the parties represented in his commission plus Nahda
(which had quit) to meet and agree on the terms of the ANC. Reaching full agreement
was difficult; the main point parties agreed upon was that the ANC should complete a
constitution and organize elections for a new legislative assembly within a year. This
document, referred to as the “September 15 agreement”\textsuperscript{107}, was intended to serve as sort
of roadmap for the phases that would follow the TPA.

Elections
On October 23, 2011 Tunisians voted for the 217 ANC delegates who would write the
country’s new constitution and appoint a provisional government to oversee daily affairs
until the constitution was adopted. The international community applauded the electoral
process as free, fair and largely peaceful. The new Assembly included representatives
from every voting district (including six seats for Tunisians abroad), including 59 women
and eight youths (Tavana 2014). The three parties with the largest representation in the

\textsuperscript{106} Assemblée Nationale Constituante.
\textsuperscript{107} Pickard (2011) refers to it as the September 18 agreement, for reasons that are unclear.
Assembly were the Islamist party Nahda\(^{108}\), the far left Congress for the Republic (\textit{Congrès Pour la République}, CPR), and social democratic Ettakatol. Other notable features of the elections were that youth turnout was relatively low\(^{109}\).

The elections were significant for two reasons. First, they represented a decisive step toward a new government (and possibly new political system). Second, they proved that the TPA had always intended to be provisional. Successful completion of the elections had been the TPA’s main overall purpose. The TPA gained credibility—even though, ironically, it was at the end of its “life”—by willingly handing over power to a democratically elected body. The elections also clearly marked the end of a phase – the institutions and procedures for a new constitution to be written were nearly in place.

**What happened after**


The TPA’s formation, structure and actions had many implications for the subsequent process of change. The TPA had organized elections for an ANC, written rules for those elections, set up and overseen the elections, and outlined a roadmap for steps to follow the elections. Yet the events of the subsequent months were far from what the TPA had anticipated: rather than swiftly drafting a new constitution and organizing elections for a permanent government, the elected assembly installed a government under which violence and political polarization mounted, and reforms stalled. The chaos became so threatening that civil society actors intervened in order to restore the process.

\(^{108}\) 89; 29 and 20 seats out of 217, respectively (Carter Center 2011).

\(^{109}\) 51.1\%, 29.1\% of voters abroad and 86.4\% of registered voters. Exact percentage of youth participation not available but sources claim youth were generally absent (Tavana 2014, 28).
A new government forms

ANC begins work

The ANC held its first meeting on November 22 (Proctor and Moussa 2012, 11). As specified in the September 15th agreement, its first task was to select an interim president for the period of constitution-drafting, and then to form a government. The Nahda party had won the most seats, and although some parties called for broad unity government\(^{110}\), Nahda instead formed a “Troika” coalition government with two secular parties who got second and third most seats (CPR and Ettakatol).

The ANC also had to draft its own by-laws (*règlements internes*). This process took nine weeks and involved high levels of internal tension, leading to accusations in the media of purposefully stalling or being highly inexperienced. In the by-laws, finally passed on January 20, 2012, the ANC gave itself power to legislate (Proctor and Moussa 2012, 15-16). This led the ANC to quickly surpass its one-year mandate, even though the parties represented within it, including Nahda, had signed that September 15\(^{th}\) agreement stating that the constitution was to be written within one year.

Adoption of new organization of Public Powers law

The Troika coalition\(^{111}\) took the positions of Prime Minister, President and Head of Assembly respectively. They then agreed upon a cabinet of ministers to replace that of

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\(^{110}\) Rather than forming a coalition among parties whose members would constitute a majority in Parliament, leaving those outside the coalition to form an opposition, a unity government would try to distribute ministerial portfolios across all the largest parties represented in the assembly.

\(^{111}\) Actually, el Aridha a-Shaabia, or The Popular Petition party, had won more seats than Ettakatol, but for reasons which will be discussed in chapter 6, some of these seats were contested.
Essebsi. This arrangement was formalized in an organic law\textsuperscript{112}, passed in December 2011, which replaced the organization of public powers law that had been issued in March of that year. Another major change to the competencies of government institutions specified in the law was the role of the judiciary – while the March law had stated that the judicial branch would continue to operate according to the provisions in place, the December law stated that an interim judicial reform commission would take charge of the sector. While these decisions did not contradict the process of change foreseen by the TPA, they would bring many unexpected consequences.

Completion of work of some TPA commissions

The Bouderbala Commission on Investigation of Abuses Committed by the State and the Amor Commission on Investigation of Corruption and Embezzlement submitted their reports to the new interim President in May 2012 and December 2012 respectively. The commission for information and communication reform, INRIC, also submitted its report and dissolved itself in July 2012.

_Tensions mount_

_Violent attacks increase_

Over the next year, increasingly regular violent attacks on security officials or other state figures or buildings occurred. One of the most high-profile incidents was in September

\textsuperscript{112} Oxford English Dictionary (Second Ed., 2000) defines “organic law” as “constitutive; that establishes or sets up; stating the formal constitution of a nation or other political entity.” This is thus different than a decree law in that it is not made as an order through the executive, and an ordinary law, which is not necessarily adopted in order to establish institutions or powers outlined in a constitution.
2012, when Salafists attacked the American embassy in Tunis and the adjacent American school. Major events like these would ultimately lead to calls for the renewal of a strong state security apparatus, which had been a feature of the Ben Ali regime and which the TPA had struggled to maintain. As a result of these increasing attacks, and the ruling party Nahda’s equivocal response, Béji Qaïd Essebsi formed a new political party, Nida Tounis (“Call for Tunisia”), under a slogan of restoring dialogue and consensus.

Growing disagreement about the constitution

On August 31, 2012, the first draft of new constitution was announced. Several of its articles were highly criticized and debated. Resolving the ANC’s internal disputes was made all the more difficult by the increasing political polarization plaguing the country. In October 2012, the UGTT stepped forward to attempt a National Dialogue meant to accelerate the constitution-writing process and restore stability.

First political “assassinations” and formation of new government

But the violence and the political polarization continued. On October 18, a high official from the newly-formed opposition party Nida Tunis, was killed during clashes between his party and activist organizations in Tatouine. Béji Qaïd Essebsi called the death an “assassination”, although Nahda official stated that he had died of a heart attack.

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113 As mentioned in later chapters, American Ambassador Christopher Stevens and three other American diplomats had been killed in an attack in Benghazi, Libya a few days earlier. Most attacks were claimed by a particular type of Islamist extremist group known as Salafists.

114 Rachid Ghannouchi, the party leader, made statements during this period suggesting that the Party was aligned with some of the groups accused of carrying out the attacks. For example, he said that Nida Tunis supporters were more dangerous than Salafists (Ghilès 2012). One of these groups, the Leagues for the Protection of the Revolution, which was sometimes accused of being Nahda’s militia (see Mrad 2014), is discussed more in chapter 6.

115 Two examples of such debates were over the mention of sharia (Islamic) law as a source of guidance for legislation, and wording over the protection of rights of women.

116 Lotfi Naguedh.
On February 6, 2013, an ANC delegate from the far-left Democratic Patriots Movement party\textsuperscript{117}, Chokri Belaïd (who had also been a member of the Ben Achour Commission) was assassinated outside his home.

In February, Nahda Prime Minister Hamadi Jebali appealed to his party to form a “technocratic” government: to re-assign ministerial portfolios to technically-trained individuals without political affiliations. Jebali argued that such a move would end partisan bickering and render the government more “neutral”, similar to a caretaker government only in charge of overseeing daily affairs. This would also help restore popular confidence in Nahda’s leadership. When the party rejected his proposal, Jebali resigned. Ali Laarayedh, another top Nahda official who had been serving as Interior Minister in the Troika government, replaced him, and formed a new cabinet on March 8. The composition of this new cabinet did attempt to calm the political crisis by ceding several key ministerial posts to independent figures. Yet the Troika government and the appointment of Laarayedh continued to face strong criticism from opponents.

**Build-up of tensions: security issues, constitutional debate, and political crisis**

On April 22, 2013 the ANC announced a third draft of constitution, but certain articles continued to cause controversy and public protests\textsuperscript{118}. Civil society organizations such as the UGTT continued to try and mediate talks between the competing political forces. Meanwhile, more high-profile incidents surrounding freedom of expression and the role

\textsuperscript{117} There was a lot of shifting and merging of parties during this period but that was its name at the time.

\textsuperscript{118} A second draft had been announced on December 14, 2012.
of Islam in society occurred. Such tensions, of which the country had already seen a
taste under the TPA, were now exploding out of control.

In June 2013 the Troika government announced a fourth draft of the constitution, but it
was so controversial that it prompted at least a dozen opposition members of the ANC to
quit. Meanwhile, unrest and discontent with the Islamist government in Egypt, which had
been elected within months after the ANC, was growing. A new major protest movement
(“tammarod”, or rebellion) began in Egypt at the end of June and, on July 3, the military,
whose Supreme Council of the Armed Forces (SCAF) had been Egypt’s counterpart to
the TPA, removed President Morsi from power. The next several weeks in Tunisia saw
heightened anticipation – would this be a lesson for Nahda? Would Tunisians, also
unsatisfied, stage a “tammarod” movement against their elected government? Then, on
July 25, a second left wing political leader, Mohammed Brahmi from the Front
Populaire (FP) party, was assassinated outside his home. This event represents the nadir
of the chaos and divergence from the TPA’s original roadmap during the subsequent
phase.

119 For example, on March 11, a feminist activist known as “Amina” posted a topless picture of herself on
Facebook in support of women’s rights, and sprayed “FEMEN” (the name of her international women’s
rights organization) on a cemetery in Tunis. Amina was arrested on May 19; on June 5 three other FEMEN
members marched topless in front of the Justice Ministry in protest of her arrest. These three members were
sentenced to four months in prison on charges of indecency. A second incident began in April 22, when the
arrest of a man who attacked a school principle who refused to admit students wearing the niqab (religious
female face covering) sparked attacks by Salafists on a police station in Hergla. Meanwhile, the dean of
Manouba University was acquitted after being accused of slapping a female student wearing the niqab who
had allegedly ransacked his office with an accomplice. These incidents reflect the larger debate about
whether and how freedom of speech should be limited, and tensions over the separation of church and state.
Their chaos and violence as well as the controversy that ensued because of them also demonstrate the near-
anarchical state of the country.

120 Which is Tunisian National Day and which was the day some people were calling for a Tunisian
rebellion (interview with Tunisian civil society activist, July 8, 2013.)

After Brahmi’s assassination, several ANC delegates angry about the ineffectiveness of the government and the Assembly staged a sit-in outside the Bardo Palace in Tunis, where the Assembly worked. They called for the dissolution of the ANC. On August 6 the ANC formally suspended its work, while a dialogue mediated by the UGTT between the political parties regarding the contentious articles in the draft constitution continued unsuccessfully. The deputies staging the sit-in resigned, and tens of thousands of citizens joined them in protest, which became known as the Bardo sit-in. Meanwhile, unsettling attacks by Islamist militants continued. These attacks as well as the coup in Egypt, a weakening economy, and other pressures gradually cornered Nahda into a choice between losing political credibility or distancing itself from its religious base by condemning groups claiming to act in the name of Islam\(^\text{121}\).

Immediately after the Brahmi assassination, two of the largest unions in the country, the business-owners’ union UTICA (Union Tunisienne de l’Industrie, du Commerce et de l’Artisanat) and the UGTT, issued a joint call for a new national dialogue. They were soon joined by the Tunisian Human Rights League (LTDH), and the bar association. Together, these four organizations, known as the “Quartet”, became the mediators of a National Dialogue. This process, which started in September 2013, guided the leaders of all involved political parties through the draft constitution, article by article, until they reached an agreement on the text.

\(^{121}\) See Merone (2015) and Cavatorta and Merone (2015) for further discussion of the evolution’s of Nahda’s principles toward those of liberal democracy.
At the end of September, Nahda agreed to step down as the leading party of the ruling government coalition. Ali Laareydh, the Nahda Prime Minister, resigned. In October 2013, cooperating parties agreed on a new roadmap, and the ANC deputies resumed work. Talks stalled again later in the fall because political parties could not agree on a figure to replace Laarayedh. Finally, in December 2013, they agreed on Mehdi Jomaa, a non-partisan engineer who had been serving as Minister of Industry. Jomaa appointed a technocratic government meant to rule only until completed new president and parliament were elected. Meanwhile the constitution-writing process resumed, with Nahda conceding one of its principle demands (to include a reference to Islamic Sharia law in the constitution). On January 26, 2014, the final draft of the constitution passed in a near-unanimous vote within the ANC. With that, the country was finally ready to hold elections for a new permanent parliament and president.

**Summary: Chronology of the TPA**

The demands of the Tunisian people expressed in the protests of late 2010 and early 2011 had finally been met, and the TPA had been the first interim government to oversee the process of realizing them. Yet much suggests that the TPA had been improvising, lacking a model to look to for guidance. The next chapter will discuss the interaction of actors in the TPA, each with their particular interests, the institutions that were called upon, formed, or activated, and the strategies it devised that launched the processes of political change in Tunisia.
Chapter 3: Actors, Institutions and Strategies of the Tunisian Provisional Administration

Introduction
This chapter presents the actors, institutions and strategies of the first Tunisian Provisional Administration (TPA). The description shows the overriding characteristics of the administration, for despite being provisional, its key members (whether individuals or organizations) brought certain qualities. While much of its institutional structure was based on/inherited from the state institutions that came before it, this institutional structure also reflected certain innovations or creations of the TPA. And finally, its strategies, while varied, were important for the TPA’s ability to get its work done, retain legitimacy, and influence the phases that followed.

Actors in the TPA

Introduction
The TPA recruited a wide variety of individuals to carry out its mandate to maintain stability and oversee first elections. The actors employed as interim ministers or minister-delegates as well as those serving as volunteers changed over the course of its existence. Some switched roles, some resigned, others left to campaign for the planned elections. However, the types of actors involved remained constant. In discussing the actors who served in the TPA, this section (1) shows the basic strategies of recruitment used by the TPA, (2) highlights the distinguishing features of the actors of the TPA and (3) sets up for later parts to demonstrate how this particular arrangement of people affected the TPA’s work.
The section highlights three distinguishing features of the TPA actors. First, all those who comprised the TPA were generally acceptable to Tunisians (especially the most active protestors or those engaged in the TPA formation) either because they had never been coopted by the former regimes, because they were seen as fair and independent, or because they represented a certain swath of Tunisian society. These sources of legitimacy also affected the TPA’s institutions and strategies. A second distinguishing feature of the TPA was the way it came from civil society. Finally, the many of actors of the TPA brought a shared mentality (not unrelated to having been part of an autonomous civil society, but also related to being “soft-liners”)—which shaped its institutions and strategies, and which also may have helped hold the TPA together despite internal conflicts.

The actors described here are divided into two general types: organizations and individuals. Within each type are actors who were more “political” and others who were more “independent”. For example, civil society organizations and political parties were both very active in the TPA; their different goals, however, led them to play somewhat different roles. Similarly, some individuals represented political interests because they came from government; of these, some had also been in the RCD while others had not. Other individuals played a more neutral or independent role.
Organizations

Independent associations

Overview
Tunisia has a rich history of associational life. This is partly due to the limitations on political pluralism and the range of acceptable views and the banning of most political parties under Bourguiba and Ben Ali (Willis 2012, 128-35). These limitations forced many individuals with political interests in opposition to those of the ruling party to find other ways to associate with each other. Between 1956 and 2011, young people wishing to become politically active joined student unions, labor unions, professional associations, and other such associations where they could advocate for political causes, even though the state found ways to limit associational activity without formally banning it. Thus, during the formation of the TPA, most people were organized in associations that were not political parties, and though the associations and political parties often attempted to collaborate, to varying degrees of success (Haugbølle and Cavatorta 2011).

In the development and decisions of the TPA, the interests of associations were different from those of the political parties in several ways. First, the associations, especially the Bar Association and the UGTT, had been instrumental in organizing the protests that ultimately brought down Ben Ali, while most political parties were less involved (Haugbølle and Cavatorta 2011, 324). Second, many representatives of the associations approached their duties in the TPA with a different mentality than their political party counterparts. For example, during the Ben Achour Commission’s debates over the

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122 An important feature of Tunisian associational life is that it expanded and altered dramatically after January 14, 2011. This section focuses only on organizations that existed before the revolution; organizations that emerged after will be discussed later.

123 For example, the regime would find ways to infiltrate organizations such as the bar association with PSD/RCD members, appoint its president, or legally restrict their capabilities in other ways (Gobe 2013; Gobe and Ayari 2007).
various decree laws, association representatives tended to favor laws they felt would protect the goals and interests of the associations—and by extension, the rights of the Tunisian people. Political parties, on the other hand, usually favored laws that would more directly further their own interests (that is, they were always making political calculations). Finally, because these organizations had been advocating for specific reforms since long before the revolution, their members were poised to play a variety of roles within the TPA. However, many independent associations underwent major internal divisions, reorganizations or schisms during the period of the TPA compared to the number of political parties that experienced them (the impacts of this will be discussed later).

Examples of independent associations
This section briefly profiles four organizations that played important roles before and during the time of the TPA.

*Tunisian General Workers’ Union (UGTT)*
The UGTT had played a critical role in the uprising. In the TPA, the UGTT was important because, like the LTDH, it reached broadly and deeply into Tunisian society to recruit representatives for the Ben Achour Commission and show the Tunisian public that the TPA was representative of the people, not only of elites from the capital or people tied to the former regime. Its long relationship with the ruling party, particularly under Bourguiba, also meant that it would be closely involved with all the negotiations that

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124 Interviews (January 21, 2015) and (January 14, 2015). Note that these two interviewees both identify strongly as civil society activists. An interviewee from a political party (January 29, 2015) claimed, on the other hand: “For the large majority of the members of the Haute Instance, we were building something together for a new Tunisia, and that even if its birth would require a certain pain, we needed to look out for its health…and for the health of the baby – the constitution and the foundations of a true democracy and modernity for a post-Revolutionary Tunisia…”

125 See Willis (2012); Lust (2014) for an overview.
occurred during the TPA—from the first Government of National Unity formed by Mohammed Ghannouchi on January 15 (Zartman and Hafaiedh 2015, 55) to the ANC elections. This relationship also meant, however, that the UGTT suffered its own internal turmoil during this period. Nonetheless, so solid and durable was this organization that it would reappear as a mediator during later phases.

**Tunisian Human Rights League (LTDH)**

Along with professional associations such as the Bar and Judges’ Association, the regime had permitted to a degree other associations that formed around common political interests. Like their professional counterparts, the Tunisian Human Rights League (LTDH) had a long history of struggle against the authoritarian regime. It had formed in the 1970s, partly through international influence, and fought continuously for the protection of political dissidents—including Islamists—against torture and repression. It had suffered from the use of similar tactics by the regime to coopt it, to the point where it was nearly shut down and forced to form a separate organization in exile. The LTDH had managed to remain more cohesive than the judges’ associations, and was thus one of the central organizations to join the CNPR and Ben Achour Commission.

One of the LTDH’s key contributions to the TPA was its deep ties to Tunisian society. Many of its members were also members of other associations or individual advocates for other reforms. When for example the Ben Achour Commission decided it early on to

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126 Dwyer (1991) tells, for example, human rights movements formed in Egypt, Tunisia and Morocco in the 1970s, drawing on the 1948 Universal Declaration of Human Rights as well as the work of the Arab Human Rights League. For a good general discussion of the history of the LTDH, also see Erdle (2010, 252-253).

127 This was the Committee for the Respect of Liberty and Human Rights in Tunisia (CRLDHT, also abbreviated as CNLT (Conseil National pour les Libertés en Tunisie), formed in 1998), originally led by Moncef Marzouki.
include more women, youth, and residents from the interior regions of the country, the LTDH was one of the organizations tasked with recruiting such individuals.

Additionally, the LTDH served as a “bridge” for other members of the TPA, as well as for society at large, who had no experience with Islamists. Many individuals with a more “secular” identity had long been leery of Islamist movements like Nahda, despite their shared opposition to the authoritarian regime\(^{128}\). Members of the LTDH helped reassure the secularists that they had no reason to fear an Islamist takeover in place of the old authoritarian regime, as they had been cooperating and building trust with them for years.

*The Tunisian Bar Association*

The Tunisian Bar Association historically had a tug-of-war relationship with the regime. The Association advocated for the interests of the legal profession, which the state, concerned about illegal acts of corruption or extra-constitutional repression being uncovered, saw as a threat (Gobe 2013, 48-49). Throughout the Bourguiba and Ben Ali regimes the state tried to co-opt the Association by infiltrating it with RCDists and using other methods to limit the influence of the legal profession (Erdle 2010, 255-256; Gobe 2013).

The Bar Association became a central member of the National Council for the Protection of the Revolution (CNPR), and later, the Ben Achour Commission (Gobe 2013, 59). Meanwhile it continued to push its demands to protect the interests of the profession

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128 In addition to lawyers, judges, human rights activists, and unionists, women’s organizations that had existed before the uprising would continue to play a role in the TPA. By 2011, women’s rights activists were mainly concentrated in the ATFD. Dwyer (1991, 143-165) gives a nice overview of the internal struggles both the LTDH and the ATFD suffered as a result of the challenges to traditional values their movements posed. Gana (2013, 242-243) shows how the Ben Ali regime was able to use this division to coopt to a degree the ATFD; meanwhile, the LTDH managed to fend off the regime’s attempts to use this tactic to weaken it.
(namely salaries and employment opportunities). The effects of this were twofold. On the one hand, it could use its position within the TPA to push through new decree laws; however, this sometimes brought it into conflict with competing professions (such as judges and notaries) when responsibilities overlapped (Gobe 2013, 56). As with other associations, this also caused tension among its members (to be discussed later). On the other hand, the Association forced the TPA to consider longer-term issues regarding judicial reform, including the creation of an advisory council to replace the High Court of Magistrates. The presence of an independent actor like the Bar Association thus both facilitated the work of the TPA (namely by playing an important, nonpolitical role within the Ben Achour Commission) and introduced demands for particular interests and reforms to which the TPA was not fully prepared to respond.

*Judges and the judges’ associations*

Judges’ associations in Tunisia brought to the TPA a history of fighting for democratic reform and judicial independence. Many members had stood up for reforms in the face of personal or professional risk. During the period of the TPA, however, judges’ ability to contribute was compromised by an internal dispute that was likely a consequence of decades of authoritarian repression and struggle: the judges became divided between those who cooperated with the former regime and those who continued to organize and refuse to be manipulated. The association(s) therefore played a less direct, but still influential, role in the TPA.

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129 Some judges, for example, suffered in their family relationships due to the time they dedicated to the association (interview with Tunisian judge, December 13, 2014). The most famous story of such personal sacrifice is that of Mokhtar Yahyaoui, a judge who, as a result of his public calls for an end to state interference in judicial procedures, was stripped of his judgeship (Lust 2014, 711).
The Association of Tunisian Judges (Association des Magistrats Tunisiens, AMT) was active in the 2000s. In 2005 the regime had severely tightened its efforts to coopt the association by transferring to remote posts a large number of judges unwilling to cooperate with state requests. In May 2011, a large group of members split off from the AMT to form their own union, called the Tunisian Judges’ Syndicate (SMT). Though the SMT claimed to represent the honest or independent judges (juges intègres), the AMT accused it of being just the opposite – “a bastion of judges and prosecutors linked to the Ben Ali regime” (Gobe 2013, 61). The two organizations also disagreed over the correct speed and process of judicial reform; this became another basis for accusation. This failure to present a united front hurt the process of judicial reform and prevented either organization from participating in the CNPR or the Ben Achour Commission.

Nonetheless, both judges’ associations continued to mobilize protestors around the prosecution of former corrupt regime officials. They also staged protests in demand of other institutional changes, thus playing something of an oversight role despite not being formally part of the TPA. Thus, in spite of internal rifts within the profession, Tunisian judges had enough organizational capacity to bring the TPA to at least acknowledge the issue of judicial reform.

130 This dispute extended into the ANC period. Roughly, the AMT was unhappy with the TPA’s delaying of judicial reform, claiming it had no authority as a provisional government. It called for the immediate establishment of an independent judicial authority to oversee the judicial reform process. The SMT advocated instead the production of new legal texts before the creation of such an authority, prompting the AMT to accuse it of being associated with the former regime or in bed with the Ministry of Justice (interviews, January 19, 2015 and January 20, 2015); Institute for Integrated Transitions (2012).

131 At least three members of the Ben Achour expert core worked throughout the tenure of the TPA to draft a law on judicial independence, although nothing was finalized before the ANC elections (interviews with Tunisian judges and legal experts, December 22, 2014; December 8, 2014).
Summary: independent organizations
In sum, the independent organizations of the TPA were reflective of Tunisia’s long history of rich associational life. The LTDH and UGTT were notable for their broad and deep ties in Tunisian society which helped strengthen the TPA and link it with ordinary Tunisians. The Tunisian Bar Association and the two associations of judges or magistrates also highlight the long history of a fierce struggle for political change that many such organizations brought to the TPA. Due to that history, an important network was in place when Ben Ali fled, which would help the TPA more rapidly form and carry out its work. Finally, this presentation of the independent organizations of the TPA shows how they were distinct from political parties, the subject of the next section.

Political Parties
Overview
Like the independent associations, political parties had suffered from decades of regime restriction and manipulation. Several parties formed in opposition to the PSD or RCD formed with secular agendas; others formed with the goal of fostering an Islamic society in Tunisia (Perkins 1989). The regime often used these ideological differences among opposition parties to “divide-and-conquer”, that is, to prevent a cohesive opposition movement from forming. Moreover, the regime granted licenses to parties selectively. This led some to try and gain influence through the electoral process, while others chose to operate underground or in exile rather than be “coopted” or play by regime rules (Haugbølle and Cavatorta 2011).
A cohesive opposition can aid in democratic transition by mobilizing protestors and presenting a unified block to negotiate with the former authoritarian regime. Haugbølle and Cavatorta (2011) argue that failure to form a unified front while a dictator is in power, due to ideological and tactical/strategic splits among opposition parties, explains political parties’ inability to respond to the downfall of the authoritarian regime. During the TPA in Tunisia, however, a close look at the range of behaviors and contributions of the various political parties, existing and new, reveals a more complicated dynamic. This section briefly surveys the opposition landscape at the time of the uprising and then presents the types of parties that had a role in or influenced the TPA.

Existing parties

Secular Parties
Under Ben Ali, Tunisia’s political landscape was dominated by a handful of main secular opposition parties. There was a group of socialist-leaning parties that were splinters from the PSD, the dominant party under Bourguiba. The first of these, the Movement for Popular Unity (MUP), had been formed in Algeria in 1973 by Ahmad Ben Salah, a one-time ally of Bourguiba who had been exiled for criticizing Bourguiba’s move away from socialist policies. The Popular Unity Party (PUP) was formed in 1979 as an offshoot of this. Around that same time, another Bourguiba ally-turned-critic, Ahmed Mstiri, was driven out of the PSD for criticizing the lack of plurality in the political system and formed the Social Democratic Movement (MDS) in 1978, which was legalized in 1981. In 1994 a faction of the MDS, the Democratic Forum for Work and Liberty (FTDL, or

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132 E.g. Bratton and Vandewalle (1997)’s empirical study of sub-Saharan African cases of attempted transition from the early 1990s.
*Ettakatol* in Arabic) formed and was legalized in 2007\(^\text{133}\). In the meantime, yet another socialist party had formed, the Progressive Democratic Party (PDP); it was legalized in 1988\(^\text{134}\).

In addition to these center-left or social democrat parties, several more radical or far-left parties emerged during the 1980s and 1990s. The Tunisian Communist Workers’ Party (PCOT) had formed in 1988, and the Tunisian Communist Party was founded and legalized in 1993 and later renamed Ettajdad (Renewal). The *Congrès Pour la République* (CPR) had been founded in 2001\(^\text{135}\) but never legalized by Ben Ali. Finally, an array of smaller parties like the Tunisian Green Party also fit into the landscape.

**Islamist Parties**

In 2011 the two main Tunisian Islamist parties were the Islamic Tendency Movement (MTI) and Hizb-al-Tahrir (or Tunisian Islamic Front, FIT). The MTI had formed in 1979 and by 1981 had become a full political party that could operate in the Tunisian political system when permitted. Although the party had changed its name to Nahda (“Renaissance”) in order to evade a ban on religious parties, the Bourguiba government refused to legalize it. Although Ben Ali initially promised inclusion\(^\text{136}\), Nahda’s success in mobilizing supporters combined with increased Western support to Tunisia for anti-terrorism activities led the regime to renew and intensify repression of Islamist parties,

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\(^{133}\) The FTDL formed under the leadership of Mustafa Ben Jafar, who would become interim Head of Parliament under the Troika government.

\(^{134}\) It was originally a far-left party called the *Rassemblement Socialiste Pour le Progrès* (RSP) and was under the leadership of Ahmed Nejib Chebbi, who had served in Ghannouchi’s first TPA cabinet.

\(^{135}\) By Moncef Marzouki, who would become interim President in the ANC/Troika (first constitution-writing) phase.

\(^{136}\) This was symbolized in the signing of a National Pact, in which all parties—a long with representatives from government—declared a commitment to greater political freedom and the holding of multiparty elections (see Anderson 1991; Willis 2012, 129).
and Nahda members in particular. The FIT was a smaller, more radical Islamist party that had staged periodic violent attacks against the government.

*Existing parties’ role in the TPA*

Attempts at cooperation and presenting a unified front against the authoritarian regime had continuously failed throughout the 2000s due to “ideological, strategic and personal divisions” (Haugbølle and Cavatorta 2011, 329-341). Secular opposition parties became divided over whether to play by the rules of the Tunisian political system (e.g. MDS) or protest it (e.g. CPR)\(^{137}\). In addition to this divide over strategy, secular opposition parties also disagreed on their attitude toward Islamist parties. While some secular parties (e.g. CPR, Ettakatol, PDP) felt that Islamist parties had a right to exist and compete, others (such as the communist parties) refused to recognize them.

Ben Ali’s departure in January 2011 did not cause these fractured opposition parties to reunite; nor did it shatter them further. Rather, throughout the period, various parties played varying roles according to their strategies, ideologies, and personalities. The first six weeks of the TPA period created a new strategical divide among opposition parties: whether to enter into the government that was still seen by many as a continuation of the old regime, or remain on the side of the “revolutionaries”. Three political parties--PDP, Ettajdid and Ettakatol--were invited into Mohammed Ghannouchi’s first national unity government (formed on January 15, 2011). With the exception of Ettakatol, which resigned immediately to re-join the protest movement, they remained in it only until the arrival of Caid Essebsi at the end of February, due to his requirement that anyone

\(^{137}\) Many parties ended up becoming, in some form, intertwined with the regime under Ben Ali (Erdle 2010, 244-247), preventing them from forming a united front.
planning to run in the ANC elections could not serve in his cabinet. Most of the other major opposition parties, including CPR, PCOT, and Nahda, became part of the National Council for Protection of the Revolution (CNPR) that had formed in the last days of January 2011 and which became part of the Ben Achour Commission.

Eventually, Ettakatol, Ettajdid and the PDP sent representatives to the Ben Achour Commission as well. The parties thus became reunited in their cooperative efforts to begin the process of democratic reform. However, they soon became divided again, this time over a different strategic issue: whether or not to participate in the drafting of the laws on associations, political parties and media. Nahda and the CPR abandoned the Commission at several points in protest over certain laws, most notably the political parties law, while others, such as PDP, argued that all parties had a responsibility to remain in the Commission and participate. In short, the presence of this array of existing political parties in the TPA influenced its activities and decisions, and, as later chapters will discuss, had both immediate and lasting effects.

**New Parties**

In addition to the older opposition parties, after January 14 Tunisia witnessed an explosion of new political parties. These new parties were not directly involved in the TPA. However, the Ministry of Interior (which still had the authority to grant such licenses according to the existing decree laws) still needed to review these new parties’ applications for recognition at the same time the Ben Achour Commission was drafting a new political party law. Those that were legalized (either under the old political parties

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138 As was written into DL 2011-14 about the organization of public powers (discussed more later).
law or the new one) then became part of the landscape as the country prepared for elections.

However, there were also parties that were not legalized by the TPA. One such party was the Tunisian Islamic Reform Front (Jabhat al-Islah). The TPA’s stated grounds for this denial were the involvement of several party members in past acts of violence. After being denied legal status, several of its members chose to run in the ANC elections as independents. Jabhat al-Islah, which has similar leadership roots to the FIT (Zellin 2012), claims that its experience of applying for and being denied legal status as a political party demonstrated that the TPA was nothing but a continuation of the old regime. However, the TPA did choose to legalize the FIT (as well as Nahda, which had always been less radical.) The story of the Islamic Reform Front illustrates how the TPA was struggling to absorb Tunisia’s rapidly-changing political landscape.

Summary: Political Parties
Like independent associations, political parties’ oppositionist history prior to the TPA, and the pre-existing relationships among them, would influence the formation and inner workings of the TPA. For political parties, this was also related to the historical divisions among them (thanks in part to the regime’s attempts to prevent them from forming a united front); the relationships and networks they had with the civil society/independent association actors helped them get recruited into the TPA. As for the new parties, they represented more of an emerging actor that the TPA would need to figure out how to deal with, but who would very quickly assert their influence on the political scene.
Individuals

Overview
The two sections below constitute something of a typology of TPA individuals: they profile two types of political individuals and three types of independents according to their background or their position in the TPA.

Former government members
Three individuals in Tunisia were “soft-liners” so important in the transition literature for the role they play in balancing between new and old systems—Mohammed Ghannouchi, Fouad Mebazza, and Béji Caid Essebsi. These three also brought into the TPA’s executive cabinet several individuals who had been in the former government but not in the RCD. These non-partisans were valued for their technical expertise as well as their distance from the former ruling party. These former government members, many of whom had actually not known each other previously, comprised the interim executive cabinet (the Essebsi cabinet) of the TPA.

RCD party members
Mohammed Ghannouchi
Although Mohammed Ghannouchi had been a close affiliate of the former ruling party, he came from a technocrat background. When Ben Ali became President in 1987, all cabinet posts were given to technically-trained professionals in an attempt to facilitate economic reforms and renew the regime’s “political and social legitimacy”. Of these, Ghannouchi was the “quintessential technocrat” (Erdle 2010, 154), and was continually rewarded for his cooperation with the regime. Having started his career in the Ministry of Planning, he became Minister of International Cooperation and Foreign Investment in 1992 and gradually moved up the ranks of the ruling party, the RCD, becoming vice-
President in 2007. He became Prime Minister in 1999, although Ben Ali had significantly downgraded this role to a “mere coordinator of government activities and executioner of presidential directives” (Erdle 2010, 151-4). Thus, by 2011, he was seen as a “tool” for Ben Ali (Arieff 2011b, 14).

Although Ghannouchi was ultimately forced out of his position by those who protested his close association with Ben Ali, his presence as interim prime minister for the first six weeks highlights two important features of the TPA. First, as will be discussed later, it reflects the TPA’s struggle to balance continuity and stability with revolution and change. Ghannouchi’s initial reluctance to suspend the 1959 constitution and organize elections for a National Constituent Assembly (ANC) may have appeared to many as motivated by an attempt to hold on to power. Yet he was not the only person who worried that such a drastic move might create too much instability. Thus, this rather reserved individual, although a close ally of the toppled dictator, seemed to be motivated by the need to maintain stability rather than preserving the old guard.

Even though his tenure was short-lived, Ghannouchi was present for many key decisions that shaped the TPA. For example, he was one of the main interlocutors with the CNPR during the negotiations of early February, and he initiated talks with opposition parties about forming a unity government in the days following Ben Ali’s departure (Arieff 2011b, 14). He was also involved in appointing the heads of the other TPA commissions, along with Mebazza. Therefore, during his short time in the TPA, Ghannouchi filled an

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139 He was also credited with many of the country’s economic reforms, including macroeconomic stability and attracting foreign investment (Arieff 2011b, 14).
140 Numerous interviewees made this point.
important political role, taking steps to ensure stability and demonstrate a response to the protests, while also negotiating with opposition figures.

_Fouad Mebazza_

Fouad Mebazza had a somewhat more political background than Mohammed Ghannouchi. Born in 1933, he had joined Bourguiba’s party, the Neo-Destour (which later became the _Parti Socialiste Démocratique_ –PSD-and then the RCD), in 1947, and served in the Chamber of Deputies (lower house of Parliament) and various ministerial and ambassadorial posts under Bourguiba. He became a member of the RCD Central Committee in 1988, and returned to the Chamber of Deputies, this time as its president, in 1997.

Mebazza’s presence in the TPA as interim president reflects the important role of old guard figures at the time. On the one hand, he, even more than Ghannouchi, was a key “soft-liner” whom the opposition and the protestors accepted as a decision-making partner. His background as a Neo-Destourian and minister from the post-independence era (considered more transparent and less corrupt than under Ben Ali), as well as his extensive experience in government, made him appear more palatable to revolutionaries than Ghannouchi\(^{141}\). However, he was also acceptable as a former regime member because he was effectively powerless within the TPA; his job was merely to sign the decree laws passed by the _Haute Instance_\(^{142}\). Thus, Mebazza represented the TPA’s ability to incorporate some elements of the former regime while still retaining most decision-making power in the hands of reformers, revolutionaries and radicals.

\(^{141}\) Note – this is conjecture; do not have verification of this.

\(^{142}\) Interview with Tunisian academic (December 6, 2014).
**Béji Qaïd Essebsi**

The name Béji Qaïd Essebsi is a familiar one to students of Tunisian political life in the first several decades of the first republic (c. 1956-1987). For people who came of age during the Ben Ali period, though, he was a new figure. Born in 1926, Essebsi had held several ministerial posts under Bourguiba and had been a key member of the PSD until joining a break-away movement led by Ahmed Mstiri in the late 1960s (which became the MDS, mentioned above). As a result of his criticism, Essebsi was forced out of government in the early 1970s. He rejoined in the 1980s at the invitation of Bourguiba, who had begun to feel renewed pressure to liberalize, partly in response to the “bread riots” of 1983\(^\text{143}\) (Ben Aicha 2013). Essebsi served in various positions (including foreign affairs minister from 1981-1986) and moved up the ranks of the RCD under Ben Ali. He was once again shut down and forced into less powerful roles when he became too critical or was seen as too much of a threat to the president.

Essebsi has been described as “charismatic” and “diplomatic” (Schraeder and Redissi 2011), and with more political savvy than his predecessor, Ghannouchi\(^\text{144}\). That he would be accepted by protestors as interim prime minister despite his past associations with the authoritarian presidents thus often appeared self-evident. For example, one young activist said that young protestors were at first suspicious of Essebsi, due to rumors circulating that he had helped falsify elections under Bourguiba. (They were also disappointed to see an octogenarian at the helm of government, despite the uprisings having been led by youth). However, there seemed to be little evidence of this, and he appeared experienced

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\(^{143}\) The 1983 riots were the second social flare-up due to the government’s economic reforms (and other factors affecting the economy); the first had been in 1978 when the UGTT staged its first general strike since Independence, sparking widespread civil unrest and a harsh response by the regime. This sequence is not totally clear because Essebsi rejoined government in 1981.

\(^{144}\) Interviewees mentioned how he spoke to the people and said what they needed to hear; how he even sat on the Kasbah with the young protestors, even at his advanced age.
and eloquent enough to give him a try. Like Mebazza, his association with the less corrupt and more revered of the two past presidents, about whom he had also recently written a book, and under whom he had worked with Mebazza, may also explain his suitability for the post.

Like Mebazza and Ghannouchi, Essebsi’s presence in the TPA suggested something of a compromise with the former regime, although Essebsi’s powers were also limited. Yet, Essebsi made several substantive contributions to the TPA. For one thing, he represented the administration’s provisional nature. He possessed a keen understanding of the importance of not being perceived as a dictator. This led him to emphasize publicly, as well as firmly within his own government, that all the ministers who had become part of Ghannouchi’s unity cabinet would promise not to run in the ANC elections. This gave him as an individual, as well as his government, credibility. In addition, Qaïd Essebsi demonstrated a commitment to moving away from authoritarian rule. This was reflected in his willingness to cooperate with the other institutions of the TPA and his efforts to manage the government with maximum effectiveness. In sum, Essebsi encapsulated the TPA’s ability to convince people of its legitimacy while also serving as an effective provisional administration.

Non-partisans from the former government
In addition to representatives of the opposition, several of the ministers who served in the interim cabinet of the TPA fit the category of “technocrats”. As noted above, Ben Ali had expressly tried to fill the executive cabinet with such types it was thus somewhat...
logical that, being non-partisan, they could transition into similar roles in the new interim cabinet of the TPA.\footnote{It is important to note that, during the first couple months after January 14, with the constant shifts in composition of the interim executive cabinet, there was another type of figure brought in: non-technically trained individuals who were also from outside the RCD. Mainly, this was one youth who had started his own opposition party (Slim Ammoumou, Parti Pirate).} The following two profiles are an attempt to illustrate this type of individual who filled the interim cabinet of the TPA. It is important to keep in mind that these two individuals were no more or less important than their other colleagues from the cabinet; rather, they are meant to be representative examples. It is also important to keep in mind that the cabinet as a whole, as well as the ministries working under it, should be credited for their role in overseeing daily affairs and helping organize the October 23 elections.

**Khemaïs Jhinaoui**
A career diplomat, Khemaïs Jhinaoui had served in numerous posts within the foreign affairs ministry and was preparing to retire by the time the uprisings began. He was in Moscow when Essebsi called him to serve in the role of minister-delegate to the Minister of Foreign Affairs in June 2011. Jhinaoui reflected the types of individuals from Ben Ali’s government of technocrats (Erdle 2010, 154-155) – well-trained and highly-qualified in state administrative functions and not a member of the RCD. Indeed, Jhinaoui accompanied Essebsi to Washington to meet President Obama, participated in the Deauville conference of the G8 in May 2011, and generally carried out his duties to the best of his ability.

**Slim Chaker**
Another technocrat from Essebsi’s 2011 cabinet was Slim Chaker, a trained statistical engineer with numerous graduate degrees in statistics and economics. Chaker came from
a well-known Sfaxian family, a city with a high proportion of businesspeople but that had been somewhat marginalized in favor of two other major coastal cities, Sousse and Monastir. His grandfather had fought for the nationalist movement with Bourguiba, and Chaker and his father had both worked for many years in state administration. However, because his father had also been a critic of Ben Ali, Chaker’s opportunities in government were limited. His career thus included several highly technical roles in the private sector—in banking and on foreign enterprise development projects.

Like Jhinaoui, Chaker brought an unaffiliated and technical profile to the TPA, along with a wealth of experience in state administration. In addition, in his positions first as interim Minister of Tourism and then interim Minister of Youth and Sports, Chaker employed several of the strategies recognized throughout the TPA as necessary for retaining legitimacy: trust, transparency, and communication (such strategies will be discussed more below). As both minister of youth and minister of tourism, Chaker spent significant amounts of time talking to young Tunisians, particularly in the interior regions, about their needs. He would then write reports and send a copy to the local offices of the concerned governorates, in order to reassure citizens that the government was listening to their concerns. Like the rest of the TPA, the amount of change Chaker, despite his competence, could actually effect was limited due to the short timeline. Yet, like Essebsi and many others, his committed efforts to carrying out his duties and reassuring Tunisians that their government was both provisional and maintaining stable order helped the TPA succeed.  

148 Chaker, Jhinaoui and others from the Essebsi cabinet of 2011 would join the new government in 2015 formed after Essebsi was elected the first new President of the second republic.
Summary: Former government members
What stands out about the individuals described in the above paragraphs are, first of all, their competence, and second of all, their positions and behaviors as “soft-liners”. This reflects the TPA’s overall strategies of recruitment and strategies for survival. The next section will describe other capable individuals who reflect aspects of the TPA that were equally critical, although in a different way.

Democrats and militant activists
The other structures of the TPA also included another type of individual: those not coming from government or associated with the RCD. Two common terms in the discourse of Tunisian opposition movements are “democrats” and “activists” (“militants”)

149 These terms are often used to describe both people from opposition political parties (usually from the left) as well as individuals advocating for particular reforms tied to liberal democratic values (such as individual liberties and separation of powers)

150 One of this political class’s key features was its independence: a commitment to certain causes rather than affiliation with a political party. But their dissidence was also invaluable: these were all people who had consistently refused to be “used” by the regime. A third important characteristic of these individuals was their relentless adherence to democratic principles, which often translated into a strong anti-Western

149 My translation. My dictionary translates “militant” as “militant”, but in English that means someone engaged in physical fighting, whereas most of these people were just fighting for beliefs/political and legal changes. “Dissident” is an additional term that often characterizes these people’s behavior; again, however, that term can be applied to people who took certain political positions and formed political parties.

150 In her introduction about the repression suffered by opposition figures under Ben Ali, Beatrice Hibou (2011, 9) offers other important details about this category of Tunisians: “In comparison with the Tunisian population, the number of Islamists who are victims of such breaches of human rights is really low. According to the organizations whose aim is to alert international public opinion to the issue, there seem to be a few thousand who are still trying to reintegrate themselves. Other political opponents, those generally known in Tunis as ‘democrats’ and the militants of the extreme left, have been confronted – and some of them still are—by the same techniques of repression, albeit frequently of a lesser intensity.”
sentiment and sometimes caused them to be leery of Islamists\textsuperscript{151}. This section focuses on such individuals, whom I have labeled “independents”, or figures playing a key role in the TPA but without any political affiliation. Their presence in the TPA reflects some of the very important features of its actors generally: their backgrounds in authoritarian resistance as well as the way they worked together.

TPA leaders
Three individuals with key positions in the TPA whose profiles fit the description of “independent” above were Yadh Ben Achour, Kamel Jandoubi, and Kamel Laabidi. Because these individuals (especially the first two) took on such high-profile and lead decision-making roles in the TPA – keeping in mind the revolutionary fervor that characterized the period, particularly early on—their reputations as independents was critical to allowing the TPA to succeed at its tasks.

\textit{Yadh Ben Achour}
Born in 1945 to a family from La Marsa, a relatively affluent suburb of Tunis, Yadh Ben Achour came from a well-known family; his father was a distinguished religious scholar. Ben Achour held several of his own credentials as a legal scholar, including advanced degrees in public law and prestigious academic appointments.\textsuperscript{152} He had a history of scholarship in Islamic Political Theory that “sought to find a synthesis between tradition and modernity”\textsuperscript{153}. This search for compromise and consensus was a defining

\begin{footnotesize}
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\item \textsuperscript{151} This was true even though, as mentioned above, they were in some ways natural allies, given that both suffered from repression by the former regime. Hibou (2011) makes clear that the extent of the repression against the secular dissidents might not have been as great, but both suffered.
\item \textsuperscript{152} See \textit{TunisiaLive} 2011. On his family, one interviewee (July 3, 2013) said: “his father was a mufti, his grandfather was a very well-known Muslim theologian …It was a well-cultivated, aristocratic family.”
\item \textsuperscript{153} Interview with Tunisian academic (December 22, 2014).
\end{itemize}
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characteristic of Ben Achour –some commissioners even described him “sometimes a bit naïve”\textsuperscript{154} in this regard—and it carried over into the work of the TPA as a whole.

In addition to his scholarly credentials, Ben Achour had a history of dissidence. Most famously, in 1991, as a member of Tunisia’s Constitutional Court, Ben Achour refused to support a proposed constitutional amendment which could effectively legally block the LTDH from operating.\textsuperscript{155} It was this type of courage and principled behavior that defined this type of independent actor.

Ben Achour was the president of the \textit{Haute Instance}. As described in chapter 2, he was originally named to head a small commission of experts assigned only to reform a few key legal texts. However, he soon became the head of something much bigger and more diverse; it was thus fortuitous that he was so well-suited for the job. In addition to being well-respected for his intelligence and his principled history, Ben Achour was calm, moderate, and fair. His expertise was of course critical, given his close work with the expert core working to draft new legal texts. And, as referenced above, Ben Achour had a mind for compromise, facilitating the strategy of consensus which would permeate throughout the work of the TPA.

\textit{Kamel Jandoubi}

Like Ben Achour, Kamel Jandoubi was a well-known figure in Tunisian political circles when he became part of the TPA. Born in 1952 in Tunis, Jandoubi became actively involved in Tunisian human rights causes as a young man, and left for France in 1971.

\textsuperscript{154} Interview with Ben Achour commission member, January 21, 2015.
\textsuperscript{155} The 1992 law set forth a classification of associations, including “general associations” such as the LTDH. By stating that an association “cannot not refuse membership to any person who is committed in his principles and his decisions”, and by forbidding political party leaders to hold positions of leadership on the boards of general associations, the law allowed RCD loyalists to infiltrate League membership in every section, flood votes, and thereby control its management (Norton 1995, 138; Hibou 2011, 98-101).
His relentless anti-government advocacy led him to be banned from Tunisia in 1994. He continued to organize activities from France, working with other Tunisians to protect immigrants’ rights as well as assisting with activist organizations, particularly human rights defenders, inside the country. When major uprisings by mining families erupted in Gafsa in 2008, Jandoubi worked hard, along with others, to get information and supplies to protestors who the regime was trying to isolate from the rest of the country. Jandoubi returned to Tunisia on January 16, 2011, despite warnings of the insecurity he received.

Owing to his history as a militant, Jandoubi became part of the CNPR and was later named to the Ben Achour Commission as a representative of Tunisians abroad. He then submitted his candidacy and was elected for the electoral commission, the ISIE, and finally was elected as president of the ISIE by his fellow members. Although Jandoubi faced some criticism during his tenure as president of the ISIE, he was even more challenged by the tremendous amount of work his commission had to accomplish in a tight timeframe. Jandoubi described the experience as follows:

…We had nothing and we had to do everything…being independent meant ‘figure it out’ (‘démerdez-vous’) …people were pulling at us from all directions…we were working in 17 different areas all at once…. \(^{156}\)

Like Ben Achour, Jandoubi’s personal experiences, his attitude and his personality, combined with his reputation, made him a suitable candidate for taking on these many and diverse tasks. His activist history had given him organizational management experience, and he was a fierce guardian of some of the principles that would help the TPA achieve its goals and fulfill its mandate, including trust, transparency, and compromise.

\(^{156}\) Interview with ISIE member (November 15, 2014).
Kamel Laabidi
A third important leader from the TPA was Kamel Laabidi, head of the commission for communications reform, INRIC\textsuperscript{157}. Laabidi had a somewhat similar background as a militant-in-exile to Jandoubi. He had been trained as a journalist and worked in Tunisian journalism for a decade, but became increasingly frustrated with the limits to independent journalism imposed by the regime.\textsuperscript{158} Laabidi finally went into self-exile and developed connections with international human rights organizations as well as other individual human rights defenders. Like Jandoubi, he used these connections to support and promote the causes of activists inside the country, especially those advocating for independent journalism\textsuperscript{159}.

Laabidi was living in Arlington, Virginia in February 2011 when he received a phone call from Mohammed Ghannouchi asking if he would lead a commission for reform of communication and media (INRIC). Perhaps because of the unbelievable circumstances, perhaps because of a lack of trust leftover from decades of authoritarianism, or perhaps because of his individual personality, Laabidi asked Ghannouchi to put his request in writing. When he decided to accept the offer and return to Tunisia, he found that he

\textsuperscript{157} For reasons that are unclear, INRIC is much less frequently mentioned in the literature on the TPA period, possibly because it wasn’t one of the three announced by Ben Ali before he left.

\textsuperscript{158} For instance, opposition newspapers like \textit{al-Mawqif} were closed and journalists for the official news agency, \textit{Tunis Afrique Presse}, were hired not for their credentials, but for their loyalty to the government.

\textsuperscript{159} Interview with ISIE member (December 12, 2015). It may be important to note that while Jandoubi, in nearby France, worked closely with Tunisians and Tunisian organizations themselves, Laabidi was more involved with the important cause of getting the international community to pressure the Ben Ali regime into respecting human rights. One longtime member of the New York-based organization Human Rights First who worked with many individual human rights advocates both inside and outside Tunisia prior to 2011 described the cooperation between these activists and the international human rights organizations and the way it evolved over time (particularly over the 1990s and 2000s). In a changing international human rights context, and as economic factors contributed to growing dissatisfaction with the government, relationships between Tunisian activists and international human rights organizations gradually permitted certain “victories” over the government. My interlocutor argued that neither the activists alone nor the international NGOs supporting them can take all the credit for what happened in 2011. Regardless, this history meant many of these Tunisian actors were poised to take up leadership roles when the regime fell. Hibou (2011, 101-105) also includes a discussion of European aid to independent associations during the same period, and how the Ben Ali government managed to restrict its influence.
would still need to negotiate with Ghannouchi and the members of the Ghannouchi cabinet over the actual formation and functions of INRIC. Laabidi then led the commission through a challenging and tumultuous one-and-a-half years. As with his colleagues, it was not Laabidi’s reputation alone, but also his personality traits and experiences that made him suitable for the job. These included, most notably, his understanding of international human rights norms and a deep commitment to independence and instilling liberal democratic values in Tunisian politics and society.

*Tawfik Bouderbala and Abdelfatah Amor*

The other two leaders of the period who fit the category of “independents”, Tawfik Bouderbala and Abdelfatah Amor, headed the National Commission for the Investigation of Abuse and the National Commission for Investigation on Corruption and Embezzlement, respectively. These two men both had a legal background as well as a background in dissident activism. Bouderbala, a kindly and hospitable individual, had defended Islamists against regime repression and was a former president of the LTDH. Amor had a reputation as a respected constitutional law expert—well-liked, balanced and fair.\(^{160}\) He had also been a founder of a civil society organization that would play an important role in the TPA: the Tunisian Association for Constitutional Law (ATDC)\(^{161}\).

In contrast to the Ben Achour Commission, which mostly had to deal with internal bickering and challenges, or the ISIE, which suffered from resource and time

\(^{160}\) Members of Mr. Bouderbala’s commission held him in high regard, although one said she wished had had more management experience. All members of Mr. Amor’s Commission spoke very highly of him. One remarked that he was exceptionally fair and balanced: with every decision he would listen to the views of each member, then put the issue to vote.

\(^{161}\) Several constitutional law experts with a role both in the TPA and in later phases (such as the National Dialogue) were members of this organization. The ATDC also issued a communiqué on January 17, 2011 stating its position in favor of abrogating the 1959 constitution.
constraints\textsuperscript{162}, the commissions of Mr. Amor and Mr. Boubeker spent much time and energy fending off external criticism. Both commissions had been created by Ben Ali during his speech on January 13; many therefore accused them of being aligned with the old regime. (Although the Amor Commission was briefly suspended, the TPA never considered closing the commissions, largely because by the time the final Essebsi cabinet was in place around April 1, their work was well underway). Boubeker’s personal security was often threatened when he tried to move around the country, and Amor came under so much stress that he died suddenly and tragically of a heart attack in early 2012\textsuperscript{163}. Thus, these two TPA leaders reflect some of the same traits as the other independents described above – balanced, fair, transparent, and willing to make personal sacrifice for the betterment of the country.

**Independent members of the Ben Achour Commission**

Working closely with these leaders were several individuals also with a history of anti-government activism and not affiliated with a particular party. Although this applies to the members of every commission, several individuals from the Ben Achour Commission such as the two profiled here reflect a wider group of such Tunisian activists. These activists had cooperated for decades in their struggle for more freedoms under Bourguiba and Ben Ali. Gradually they began to realize that their various causes were linked, and unionists, human rights defenders, lawyers, judges and women’s groups merged into a larger network\textsuperscript{164}. Because Islamists were being increasingly repressed, tortured and persecuted, many of these activists also began collaborating in different ways with them,

\textsuperscript{162} Although the Amor and Boubeker commissions would face these issues too.

\textsuperscript{163} At least, that is what some interviewees suggest. That his work as President of the commission actually caused the heart failure is not confirmed.

\textsuperscript{164} As mentioned, they also formed relationships with opposition political party members.
despite their more secularist inclinations. They were more represented in the Ben Achour Commission than the other commissions (even though the other commissions were also made up of independent, reform-minded individuals) largely due to the fact that the other commissions recruited people with technical specialties, such as psychologists, information technology experts, and journalists\(^{165}\). Nonetheless, it is important not to forget that all the individuals of the TPA contributed equally to its work.

*Hela Abdeljawab*

A fiery and outspoken woman of small physical stature, Hela Abdeljawab came to the Ben Achour Commission as a “national personality” (someone important in Tunisian society but not joining representing a particular political party or association). Her background in militancy was extensive. Trained as a doctor, she had been a member of student unions and doctors’ unions throughout her career. She had also served in the secretariat of the LTDH, the Arab Human Rights League, and as President of the Tunisian Association of Democratic Women (*Association Tunisienne des Femmes Democratics*, ATFD).

Abdeljawab’s brand of advocating for liberal democratic reform in Tunisia was marked by two distinct traits. First, although she had worked closely with them in her various capacities within Tunisian civil society, Abdeljawab held a deep, long-running suspicion of Islamists. Second, like many Tunisians, Abdeljawab was fiercely anti-Western. Her anger over the hypocrisy of Western, particularly American and French, democracies’ policies toward Tunisia ran so deep that she refused an invitation to visit the country

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\(^{165}\) See the next section, “institutions”, for more detail on why.
when she was serving as president of the ATFD. These two features are telling of the general characteristics of this type of independent actor—commitment to principles of human rights protection and democratic reform over all else—and how this influenced the structure and strategies of the TPA.

_Messaoud Romdhani_

Messaoud Romdhani was another activist representing the Tunisian “national elite” (that is, he was another activist named to the Ben Achour Commission as a “national personality”). His history and characteristics are both similar to and different from Abdeljawab’s. Romdhani too had a long history of union and civil society activism in Tunisia, and his experiences as a human rights defender in the LTDH had brought him into contact with the persecuted Islamists who would later become colleagues in the Ben Achour Commission and then government leaders during the first constitution-writing period (under the Troika/ANC government). Thus, like Abdeljawab, Romdhani felt that sometimes an Islamist goal to transform Tunisian society interfered with the democratic goals of his independent peers. However, Romdhani felt that many members of the Ben Achour Commission, given their experiences in civil society and authoritarian opposition, held an ability to tolerate different viewpoints which the broader Tunisian society (and, as later chapters will show, the elected ANC) lacked. Thus, Romdhani captures a final important character trait present among most—although not all—of the actors of the TPA: tolerance of diversity and a plurality of ideas.

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166 Abdeljawab cited as reasoning her disgust with a country that preached democracy and freedom, yet felt it had the right to invade Iraq and impose democracy from the outside. In her discussion with me, she also criticized America for later supporting Nahda after its victory in the ANC elections in order to enhance its own image, despite the many non-democratic actions it took.
Also, Romdhani, in collaboration with a few others, had helped change the structure of rights activism in Tunisia. Romdhani (along with Jandoubi and Laabidi) had been among the original activists who argued that the unionists’ cause in Tunisia was not separate from the human rights defenders’ cause. They believed that political justice and freedoms could not be won without economic justice and freedoms; moreover, democratic reforms being advocated by the human rights defenders included the establishment of a truly autonomous labor union and protection of rights to fair wages and conditions. Above all, these efforts helped connect the independent activists like Romdhani, who tended to be more elite and from the capital (although Romdhani himself was not), to the masses around the country, who were more represented in the labor unions. In that way, the development of a wider proportion of society prepared to assist in transition from authoritarian rule in 2011 was furthered.

Finally, Romdhani’s history and attitude captures another unique feature of the independent political class being described here: an idealistic, almost romantic vision of overcoming the omnipotent dictatorship that drove their work. Without this group of individuals who had spent decades fighting for this lofty goal—Romdhani described it as akin to “believing in a myth” – the TPA as such may never have come into being. It was this hope that drove those individuals, and when the terrain finally was ready for their licit and accepted participation, they were not only present, but were critical in continuing to present a vision of a new, different, and more democratic Tunisia.
Other independent individuals

_Naziha Rejiba_

While not actually part of the TPA, Naziha Rejiba was a well-known _militante_ on the ranks of Jandoubi and others. She was very close to the TPA and embodies many of the same, as well as additional, features that help characterize the independent class that helped drive it. Known as “Um Zia”, Rejiba was important in Tunisia’s opposition history because she was part of both the political society and civil society. She helped found the opposition party Congrès Pour la République (CPR) (though she later left it), all the while continuing her personal advocacy work. Like Abdeljawab, Rejiba was very outspoken against Western support for the Ben Ali regime, and, like Kamel Laabidi, had worked extensively with international human rights organizations to help fight for the Tunisian cause._

Um Zia, however, did not choose to become involved in the TPA, preferring to remain outside of politics and government. Furthermore, long before the revolution, she had recognized that a real change would require an uprising led by a new generation of activists, a generation with nothing to lose, rather than her generation which had built families and careers that would be at risk. In refusing to join the TPA, Um Zia was thus implicitly recognizing the need to leave space for the country’s youth—who had indeed been key in ousting the dictator. This decision would, as we will see, also have an impact on later phases of the TPA.

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167 Alexander (2010, 122-123) noted about this class: “Building the kind of opposition that could produce more substantive change will require time and some courageous risk-taking. It will require risk-taking not by desperate people who have nothing to lose, but by people who may, in fact, have a good deal to lose. [These]…‘agents of change’… have valuable experience building organizations, formulating a message, and navigating Tunisia’s authoritarian labyrinth.”

168 With Kamel Jandoubi (and Ben Jafaar from Ettakatol and Marzouki from CPR), she was a founder of the CRLDHT/CNLT. Rejiba was such a fierce critic of the Ben Ali government that its chief spokesperson admitted after the uprising that “out of all Ben Ali’s detractors the one he dreaded debating the most was Om Zied” (Gana 2013, 14).

169 However, her husband, Mokhtar Jallali, was a member of the Essebsi cabinet, serving in role of Minister of Agriculture.
Mohammed Salah Ben Aïssa
One individual who belongs to the political class of independents so key to the TPA but, like Ben Achour, whose role in the TPA was more of an expert than committed activist or democrat, was Mohammed Salah Ben Aïssa. Ben Aïssa, born in 1948, was another legal scholar and former dean from the faculty of law in Tunis specialized in public law. He was important within the TPA for two reasons. First, he held central positions in two of its institutions: from January to July 2011 he was a member of the expert core of the Ben Achour Commission; and from July to December 2011 he served as a minister-delegate in the government of interim Prime Minister Qaïd Essebsi. Thus, the characteristics he brought to the TPA – above all else, an independent-mindedness as a scholar rather than politician or someone with an agenda—he brought to two different “teams” within it. Second, Ben Aïssa served as a close advisor of Tunisian transitional justice activities in the phases following the TPA. Because this was an ongoing issue across the first three phases of Tunisia’s transition, the participation of an individual like Ben Aïssa – experienced, independent-minded, and well-respected—in the application of this difficult concept in the Tunisian context sheds light on its significance for first provisional administrations more generally.

Summary: Actors of the TPA
The actors who formed the TPA included former government members who had once been closely aligned with the ruling party as well as non-partisan technocrats who helped run the state administration. The TPA also included a wide array of independent activists and members of former opposition parties. The long history of interaction among individual activists, civil society associations and political parties under the authoritarian regimes both facilitated their relationships within the TPA and brought old conflicts into
a new context. Members of the TPA also developed new working relationships, such as that between the president of the electoral management body (the ISIE) and the former government representatives in the TPA cabinet (Tavana 2014, 10).

Three features distinguish this ensemble of actors. First, many individuals sourced their legitimacy by being perceived as fair, non-aligned, and with a history of resisting full cooptation by the regime. Secondly, and relatedly, all the opposition party activists and independent militants who would join the TPA brought decades of experience working together and were driven by a shared vision – they collectively “believed in a myth”. Perhaps these years of sharing this “mythical” goal helped bring and hold these actors together despite the divisions among them (most notably the suspicion of Islamists many independents harbored). Third, the presence of “soft-liners”, or people from the old regime who were willing to compromise with revolutionaries, alongside many long-time opposition figures contributed to the TPA’s ability to maintain stability and move the country forward.

Institutions of the TPA

Introduction
Throughout its life, and especially at the beginning, the TPA had to decide, in negotiation with protestors, how much to let go of the old rules of governance and how much to preserve. Despite being a provisional administration, the TPA established a set of relatively clear structural arrangements. It was decisive about the organization and rules needed to maintain stability and oversee National Constituent Assembly (ANC)
As Seely (2009, 11) notes: “Actors in transition institutions make some choices that represent a reaction against past practices (banning old ruling parties, for example, or replacing an unelected government with an elected one), some that, for the sake of expediency, are consistent with the past (maintaining the existing administrative divisions in a country, or leaving the bureaucracy untouched), and some that are entirely new.” The TPA had to make these kinds of choices about the institutions through which it worked; this section describes those decisions. Many critical aspects of state administration remained intact while the TPA worked to reform some institutions (e.g. media) but not all (e.g. security and justice). On the whole, while working in a fluid environment, the TPA was able to manage a relatively effective set of institutions during its tenure.

The section is divided into three parts. The first describes how the TPA generally treated existing state institutions, noting its important decision to preserve a constitutional order and the historical idea of the Tunisian state. The second part describes the new institutions that it erected – often somewhat hastily, how each was structured, what it was supposed to do, and what it was able to do. The third and final section describes the relationships among these institutions. These inter-institutional relations can be generally characterized as fluid, but overall strong.

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170 In order to understand what is meant by transition institutions, it may be helpful to quote Seely (2009, 11): “…a transition government is defined as a temporary leadership body that is appointed by an existing government or occupying authority (rather than popularly elected) to serve for a limited term with the intention of creating conditions for new leadership to be chosen. Other transition institutions that constitute transitional governmental institutions are constituent assemblies [like the National Conferences], constitutional conventions, as well as interim executive and legislative structures.”
The TPA and existing institutions

The TPA had to decide whether to preserve, revise, or dissolve the political institutions that were in place when it formed. Decisions about what to preserve were made over the course of the first and second Ghannouchi periods and the first several weeks of the Essebsi cabinet. Some institutions were dissolved at the start of the TPA and not replaced by the time it finished its work. Other institutions were revised, usually in close consultation with civil society.

Preservation of certain state institutions

Preservation of a constitutional order

Zartman and Hafaiedh (2015, 56), referring to Mebazza and Essebsi’s declarations of early March, discuss “continuity of the state” as a key principle upon which top decision-makers in the TPA insisted. This principle meant that a “New Order” (or new set of rules) that responded to the uprisings would not be rewritten in a total vacuum of institutions, which might easily lead to chaos. Instead, an overall frame codified in a legal and widely accepted text—a Constitutional Order—would be preserved as a structure or guide for governance. This order, then, would be the first main existing institution upon which the TPA would build.

This preservation of some form of the existing order reflected more than just an attempt to avoid total chaos. Constitutional experts argued that the old constitution in itself was not bad; the problem was that it had been abused and ill-applied\(^\text{171}\) (Lust 2014, 798). The TPA decided to allow for new rules to be written, while affirming that the government would remain a constitutional republic.

\(^\text{171}\) At least two interviewees, both legal experts, made this point (January 12, 2015; December 8, 2014).
The TPA used temporary mechanisms to execute this decision. On March 23, it passed a decree law on the organization of public powers (DL 2011-14), which described the new general powers of the executive, legislative and judicial branches of government. The decree law noted the dissolution of the two chambers of parliament, the constitutional court, and the economic and social council, and specified the duties of the interim prime minister and president, noting that they would hand over power to new interim figures after elections had been held (for more on the treatment of the judiciary in DL-11, see below). This document became known as the “Destour Sagheer”, or “little constitution”. It would be replaced with a second organization of public powers decree in December 2011.

With a law in place on the organization of public powers, the TPA began working on a “Republican Pact” (Ahd Joumhouri) to “determine the principles and roles of a democratic competition” (quoted in Zartman and Hafaiedh 2015, 56.) Others described the project as “…a common platform, a pact among the parties, civil society… to have everyone engage a common code of values, etc…” The Ben Achour commission—the institution within the TPA that was drafting the Republican Pact--worked on it for much longer than originally intended. This was due to both the interference of other pressing matters and the difficulty of reaching an agreement on the content. Although it was ultimately passed in a majority vote by its members, the ANC scarcely took it into consideration. Nonetheless, these quasi-institutional mechanisms that tried to build on the idea of a constitutional order were a key feature of the TPA.

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172 The law, DL 2011-14, specifies that it should be valid until an ANC is elected and a new public powers law is passed (see Article 18), and that the President should retain his functions until an ANC was in place (Article 8).

173 Interview with Ben Achour Commission member (January 14, 2015).
Preservation of other state institutions
While paying heed to the demands of the protestors, the TPA did not succumb to a takeover or dismantling of what it considered to be the key institutions of the Tunisian state.\(^{174}\)

State administrative system
Thanks to Bourguiba, the Tunisian state boasted a strong and well-functioning administrative apparatus, as well as a relatively strong education system (especially compared to other states in the region), a small professional army, and other such “modern” institutions (see Willis 2012; Pachon 2014, 524). The TPA built on all of these, most notably the state administrative apparatus.

Many marveled at how, even with a curfew in place and a deep sense of uncertainty and unrest throughout the country, public services such as electricity and transportation continued to function.\(^{175}\) Just as the TPA insisted on maintaining a constitutional order, it also insisted on making use of the well-trained functionaries in government. The organization of public powers decree (the destour sagheer) specified that:

The provisional government shall ensure the management of all state affairs and the functioning of public services...[M]inisters oversee the management of the central administration in their respective sectors and the supervision of public enterprises and establishments in accordance with the laws and regulations in place. The administration also oversees the functioning of regional and local services...whose organization, management and guardianship are governed in conformity with the laws and regulations in place.\(^{176}\)

One former official in one of the TPA’s ministries said:

\(^{174}\) However, according to Redissi, Nouira and Zghal (2012a, 201-202) the local councils for the protection of the revolution should get some credit for some of this (along with other things).
\(^{175}\) Interviews with TPA members (November 6, 2014; October 28, 2014).
\(^{176}\) DL 2011-14, Chapter 3, Section 2, articles 13 and 14.
… the administration was functioning at about 80% of normal…Everyone was a professional – that is what made it work so well. The reason for Tunisia’s success is its public administration. It’s full of people who are well-trained, who have a strong notion of the state…And the people who work in the administration are not political. In general it was…just people who did their jobs… ¹⁷⁷

Executive and judicial branches

The TPA kept more or less intact the executive branch. As described earlier, interim Prime Minister Béji Qaïd Essebsi became, on February 28, 2011, the head of a cabinet of ministers appointed in attempt to appease protestors. While these ministers had originally been named by Mohammed Ghannouchi on January 15 as part of a unity government—a sort of reshuffling in an attempt to appease protestors--, under Essebsi their main task was to organize ANC elections. Thus, the structure of the executive cabinet was maintained, but the scope of its authority had been reduced. Ghannouchi and then Essebsi also preserved the position of President of the Republic, although the president’s powers had, similarly, been significantly reduced. Although the presidency had been a frightening force under Ben Ali, the TPA retained the executive solely to ensure the running of the state administration, and to keep a sense of order. ¹⁷⁸ Overall, this organization of public powers (codified in a decree law) was meant to provide a provisional legal framework for governing (Elloumi 2011, 50-53).

In addition to being constrained by his provisional role and powers, interim President Mebazza was also limited by the Ben Achour Commission (the large commission on political reform and democratic transition) which took upon itself the responsibility to “control” the government. Its members demanded this power early on, and neither

¹⁷⁷ Interview with TPA member (paraphrased, October 28, 2014).
¹⁷⁸ One Tunisian academic (interview, December 6, 2014) explained that it was probably also acceptable to keep him because his powers were so limited.
Mebazza, Essebsi nor any of the ministers objected. The all-powerful president became nearly powerless to refuse to sign any laws, knowing that this would either bring electoral preparations to a halt or bring protestors to the streets again (or both). Thus, the executive kept the same shape more or less under the TPA as it had before, but its actual competencies were more limited.

The TPA dealt with the judicial branch of government similarly, but for different reasons. The judiciary under Ben Ali was dependent on the executive (Erdle 2010, 170-172; Lust 2014, 799). The president appointed all members of the constitutional court, for example, which “assess(ed) legislative constitutionality” (ibid, 800). Moreover, beginning in the mid-2000s, the Ben Ali regime consistently thwarted all organized attempts by justices to protect their independence. There was also a Supreme Magistrates Council, also headed by Ben Ali, to “watch over the appointment, assignment, promotion, and transfer of judges” (Erdle 2010, 171).

Thus, there was widespread recognition within the TPA that the entire judicial branch was in need of major reform. Yet the TPA’s organization of public powers law contained only one statement about the judiciary: “the judiciary would be organized, managed and would carry out its competencies according to the rules and laws in place.” A Ministry of Justice, with jurisdiction over the Tunisian court system, continued to function as part of the TPA, with its minister acting in a purely provisional manner and according to a purely provisional legal framework. Apart from this, the TPA took no other action toward

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179 Although sometimes they resisted the changes or actions the Ben Achour Commission was demanding and entered into vicious arguments, none of these individuals refused the HI’s ability to call them in for questioning, even though it was not written anywhere.
180 As explained in above (actors), the struggle between the regime and independent judges was often manifest in the activities of the AMT (The Tunisian Magistrats Association).
181 DL 2011-14, Chapter 3, section IV, article 17.
judicial reform, although a sub-committee within the expert core of the Ben Achour Commission was attempting to draft a text to that effect. As such, the institution of the judiciary was not revised—but neither was it really used—by the TPA\textsuperscript{182}.

**Dissolution of other institutions**

Because the TPA risked being rejected by those who opposed the old regime if it relied too much on existing institutions, one of the TPA’s first decisions was to effectively dissolve the two chambers of parliament, the Economic and Social Council, and the Constitutional Council\textsuperscript{183}. Two other major institutions related to media and freedom of expression, the Ministry of Information and the Tunisian External Communications Agency (*Agence Tunisienne des Communications Externale*, ATCE) were intended to be dissolved.\textsuperscript{184} When Essebsi took over for Ghannouchi in late February, he also announced the dissolution of the political police (which had been a key part of the internal security apparatus in charge of intelligence and the maintenance of order) and its umbrella ministerial sub-unit, the State Security Department.

The decision to dissolve these particular institutions was related to their importance under Ben Ali in propping up his regime. Protestors were demanding the dissolution of the supreme judicial council (one of the institutions in charge of administering the judicial system) and the parliament, as well as the organization of National Constituent Assembly (ANC) elections and decrees for freedom of speech and political amnesty because of the way those institutions represented repression of rights and freedoms by the Ben Ali regime (Redissi, Nouira and Zghal 2012a, 189). Dissolution of the political police was

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\textsuperscript{182} Coupe and Redissi (in Lust (ed) 2014) call it “barely functioning” during the period.

\textsuperscript{183} See chapter 2. When Mebazza was given powers to rule by decree on February 9, this effectively dissolved the Parliament (EIU Feb 2011; MEJ); it, along with those other institutions, were officially dissolved with the first decree law on organization of public powers of March 23, 2011 (DL #14-2011).

\textsuperscript{184} It is not clear that the ATCE was actually dissolved (see BBC 2011; INRIC 2012, 150).
also a demand of the organized protestors – after all, the political police had spied on citizens, monitoring dissent activities. In addition, the ending of the 1959 constitution meant the inability of any legislative body to pass laws. The two main institutions related to communications, the Information Ministry and the ATCE, had also served as instruments for media censorship and limiting freedom of expression as well as maintaining Ben Ali’s positive image abroad.

**Revision of existing institutions**

Finally, the TPA took a more direct approach to revising another set of existing political institutions, primarily those related to elections. This included the political party system, the electoral system, the media, and associational life. Some of the legal texts framing these institutions and activities were passed by the TPA before the elections of October 23; others were passed shortly after\(^\text{185}\). This process of revision of election-related texts (which also had application beyond the elections) constituted some of its most important reform measures, and reflected its limited mandate.

The TPA struggled with institutions related to the security sector. The army was left intact, because it had refused Ben Ali’s orders to fire on the protestors, arrested the head of the President’s National Guard, and secured the airport for Ben Ali’s safe passage out of the country (Schraeder and Redissi 2011, 13)\(^\text{186}\). Yet the directors of 11 security agencies were dismissed, causing confusion among the operational ranks of the security

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\(^\text{185}\) The elections law, the law about the ISIE, and the political parties law were all obviously passed before the elections. See chapter above (actors) for a description of the political party landscape during the TPA—there was a system of existing opposition parties in place, namely Islamist and leftist groups; hundreds of new ones were also being formed. The media and association laws were not passed until after (November 2011).

\(^\text{186}\) Several sources mention how under Ben Ali, the internal security forces such as the National Guard and the Presidential Guard received a large allocation of resources relative to the military (e.g. Willis 2012, 104; ICG 2011a, 11).
services and creating a vacuum that then fueled further resentment of security forces and in turn, a further reluctance on their part to work (Mahfoudh 2014, 3-4). Though initially welcomed, the dissolution of the political police and State Security Department had similar effects, particularly because they were not accompanied by the necessary restructuring within the Ministry of Interior. A final change to the security sector was the legalization of unions for security personnel, which had the effect of helping engage the public in the political debates over the reforms of the sector.187

**Construction of new institutions**
Thus, the TPA faced a hybrid state system as it began its work: many parts were functioning, but many, including the court system and the legislature, were not. It therefore had to create new institutional mechanisms in order to carry out several of its tasks while continuing to acknowledge “revolutionary” demands. These new, temporary institutions were different from the existing constitutional order, state administration, and legal texts because they represented an “institutionalization of the revolution”188. In so doing, they put a lot of power into the hands of citizens.189 The new institutions were: the National Council for the Protection of the Revolution (CNPR); the High Authority for the Realization of the Goals of the Revolution, for Political Reform, and for Democratic Transition (the Ben Achour Commission); the National Fact-finding Commission on Corruption and Embezzlement (the Amor Commission); the National Fact-finding Commission on Abuse (the Bouderbala Commission); the National Authority for Reform

187 Mahfoudh (2014, 6) lists the 11 agencies whose directors were dismissed and notes that these dismissals “took place in multiple stages across consecutive governments.” He also explains how the new unions of security sector personnel “became active players in political life and involved themselves in political choices, including who would be chosen as Minister of Interior…”.
188 I credit Dr. Zartman for describing the CNPR with this phrase.
189 Interview with Tunisian academic (July 10, 2013).
of Information and Communication (INRIC); and the Independent Elections Commission (ISIE).

One of the main features of these new institutions was their emphasis on inclusion of civil society, both in their composition and in the content of their work. Most of them were also tasked with preparing, in some form, a new or revised legal text. A third common feature was that they all received some form of foreign assistance\(^\text{190}\). Finally, given the unique circumstances in which they found themselves and the unusual duties with which they were charged, the commissions that created these institutions suffered from a lack of experience in this work\(^\text{191}\).

**National Council for the Protection of the Revolution (CNPR)**

The establishment of the National Council for the Protection of the Revolution (CNPR) represented the most crucial compromise between the remnants of the old regime and those who protested against it. Its formation allowed the protests of December 2010 and January 2011 and the instability and political conflict they represented to become a nonviolent process of change.

The first attempts to institutionalize the revolution--that is, to create a formal body to represent the protestors and their demands—occurred within days of Ben Ali’s fall. An organization of far-left parties formed the *Front du 14 Janvier*, which declared its goal to “organize a resistance to the transitional government in place… and to construct a popular alternative coming from the vigilante committees created in locales around

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\(^{190}\) This is with the possible exception of the Ben Achour Commission. My notes on its verbal proceedings (*Proceedings 2011*) don’t indicate any direct foreign support, either monetary or technical, but I haven’t verified that it did not receive any. Also, most of these statements don’t really apply to the CNPR, since it merged into the somewhat more formal Political Reform Commission headed by Ben Achour.

\(^{191}\) Although not lack of effort - members from all the commissions describe how hard they worked and how much time they dedicated, even without receiving any pay.
Tunis.” In a statement issued January 26, it also announced a set of 14 demands.\(^{192}\) This Front, during a meeting in Tunis organized by the Bar Association and the UGTT, called for the formation of a National Congress for the Defense of the Revolution (Redissi, Nouira and Zghal 2012a, 189).

Shortly after, a small number of well-known human rights defenders and opposition leaders\(^{193}\) established a “Wisepersons’ committee” (Comité des Sages) which proposed, along with other experts and members of civil society, to replace Ghannouchi’s government, draft a new electoral code and organize elections for a national constituent assembly. As still another initiative, Mustafa Ben Jafaar of the opposition party Ettakatol proposed to create a Council for the Defense of the Revolution, again composed of intellectuals and representatives of political and civil society, also with the aim of organizing elections for a new government that would “reflect the will of the people and edify liberty, dignity, democracy and glory in Tunisia.”\(^{194}\) Meanwhile, small vigilance committees had formed spontaneously in villages around the country in order to protect their towns from violence by the police. These would become important for helping bring representatives of the regions to the capital as part of the Kasbah protests—a move that would give it significant leverage in its negotiations with Ghannouchi and Mebazza. These local vigilance committees would become quite controversial during the period of the ANC/Troika, once the TPA was gone (discussed in chapter 6).

\(^{193}\) The type I call “independents”: Namely Ben Sedrine, Ahmed Mestiri, and Abderrazak Kilani (president of the bar association).
\(^{194}\) Redissi, Nouira and Zghal (2012a, 190) notes that there several other smaller initiatives to institutionalize the revolution, but by little-known figures in society, and that evidently did not get very far.
Merging all these various initiatives into a single organization was not easy and in fact would never quite occur. On February 11, the two most forceful of the initiatives, the National Congress for the Defense of the Revolution and the Wisepersons’ Committee, agreed on a “compromise solution”, a National Council for the Protection of the Revolution (CNPR), which comprised 28 different political parties and associations. This marked the first well-organized effort to oppose the Ghannouchi government. These same opposition actors had attempted to create a unified front in the name of democratic reform in the past, and the flight of Ben Ali gave them new strength.\textsuperscript{195} Not all “revolutionary” or opposition elements managed to stay unified, however; fringe groups, such as some of the original members of the 14 January Front, later split from the CNPR (Redissi, Nouira and Zghal 2012a, 207). More importantly, the opposition parties that had joined Ghannouchi’s government, Chebbi’s PDP and Brahim’s Ettajdid, as well as several major civil society groups, called the CNPR “illegitimate”\textsuperscript{196}.

Nonetheless, the CNPR was powerful enough to force Ghannouchi and Mebazza to respond. Its activities during the Kasbah 1 and Kasbah 2 protests, which were taking place over the course of late January and February, were also putting extreme pressure on the Ghannouchi government. One of the CNPR’s main tactics was to bus in protestors from the interior up to the capital, as a demonstration to the government of the population’s real grievances. The CNPR relied on the local vigilante councils to organize these “caravans.” Though these vigilante councils would remain, they were fraught with their own difficulties as the TPA period continued. Despite the importance of regional

\textsuperscript{195} This refers primarily to the 18 Octobre Collective in 2005, which took place around the World Information Summit. However there had been under Ben Ali many other attempts by the various opposition strands at joining forces - see Haugbølle and Cavatorta (2011).

\textsuperscript{196} The civil society organizations doing that included the Council for the Protection of Tunisian Rights and Liberties and the Tunisian Association of Democratic Women and the journalists’ union.
representation within the TPA, the national-local relationship among all these councils remained weak.

The CNPR had, in its declaration of the creation of the council of 11 February, laid out six key demands. These included acquiring decision-making power; overseeing legislation about the transition period; control the activities of the provisional government; overseeing nomination of top government figures; overseeing the composition and prerogatives of the three commissions on political reform, investigation on embezzlement, and investigation on abuse; and overseeing the other apparatuses related to the transition, especially judicial and information (e.g. media and communication) reform (ibid., 193). Mebazza initially refused to grant the CNPR these powers, also rejecting their demand to legally recognize them in a decree law. He proposed instead to let the CNPR act as a consultative body for his government. An idea then emerged, as a further compromise, to incorporate the CNPR as a consultative body into Ben Achour’s expert commission for political reform. This merging of the two institutions would become the Ben Achour Commission.¹⁹⁷

197 Two people involved with the discussions noted that the idea did not really come from any one person; rather it emerged somewhat collectively or perhaps was proposed by Mebazza because he was left with no other choice (interviews with TPA members, November 18, 2014 and December 23, 2014). Zartman and Hafaiedh (2015, 56) credit Essebsi with the proposal.

¹⁹⁸ Ben Achour was chosen over Sadok Belaid, for reasons that remain unverified. One interviewee suggested it was because Ben Achour was a cousin of Mebazza (Interview with Tunisian academic, July 10, 2013).
political parties and media reform in an effort to make them more democratic and in preparation for new parliamentary and presidential elections. On February 18, as a result of negotiations between protestors and the government, Ben Achour’s commission merged with the CNPR in an effort to incorporate a wide array of Tunisian voices into the process of political reform. The name for this new institution was the High Authority for the Realization of the Goals of the Revolution, for Political Reform, and for Democratic Transition (Haute Instance Pour la Réalisation des Objectifs de la Révolution, la Réforme Politique, et la Transition Démocratique), though it continued to be often referred to as the Ben Achour Commission. The Ben Achour Commission thus represented a compromise between revolutionary (e.g. the CNPR) and more “soft-liner” (essentially, old regime figures) forces. Although there was an institutionalization of the revolution, the CNPR did not try to replace the government. This would become important during the TPA’s work as it struggled to balance these various forces.

Between his appointment on January 15 and the CNPR’s assumption of responsibilities as part of his commission on February 18, Ben Achour had named 10 legal and constitutional experts to serve on the Political Reform Commission. With the transformation of the Commission into the Haute Instance, Ben Achour added another eight experts, partly in an attempt to reinforce the representation of law schools outside of Tunis. The expert core divided itself into five sub-committees, according to members’ backgrounds; each sub-committee was tasked with drafting a different legal text. The five committees were: one for the elections law, one for the law on freedom of association,

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199 Interview with Tunisian legal scholar and expert core member (December 24, 2014).
one for a draft constitutional text, one for a law on the media, and one for a text on judicial reform.

The activities of the Ben Achour Commission between the decree law that created it and its first meeting on March 17 (a period of about a month) are not well documented. Its structure and duties were still in flux, as protestors were still calling for the dissolution of the 1959 constitution and elections for an ANC. Moreover, with Essebsi’s announcement on March 4 of the abrogation of the constitution, the 60-day period permitted under the old constitution for new presidential elections to be organized was no longer applicable. Yet, March 15 would have been the 60th day of an interim presidency by Mebazza if the TPA had decided to follow the old constitution. Thus it makes sense that the body tasked with political reform—and now, democratic transition—would officially meet 60 days after the old president left. With this first meeting of the Ben Achour Commission, the task of the TPA to lay the groundwork for ANC elections and ultimately a new constitution formally began.

However, the representatives of the 28 organizations who had formed the CNPR and now merged with Ben Achour’s experts into the commission were immediately deemed insufficiently representative of Tunisian society. Several decried the absence of youth, women and people from the regions—the segments of society seen as the main drivers of the revolution—from among those represented. During its first few meetings the Ben Achour Commission debated ways to address this concern. Eventually, the members decided to require each organization or party represented to add one youth and one female representative to its team. It further decided to task the UGTT and LTDH with using their local chapters and branches to help identify individuals who could serve
(Proceedings 2011, 37-56). The commission soon expanded to include over 150 members, distancing it from its originally-intended form and making it harder to manage, but also giving it more “revolutionary legitimacy”.

Drafts produced by the “expert core” of the Ben Achour Commission (that is, Ben Achour’s original team of legal experts) were discussed in plenary sessions before going to vote in the advisory council (that is, the now widened group of representatives of organizations and political parties working outside or alongside the expert core). The council would then debate these drafts, suggest revisions, and ultimately ratify them with a vote. Responsibilities across these two “tiers” within the Commission often overlapped, as the experts sought input from civil society on their draft texts, including from civil society organizations not necessarily represented in the council.

A look at the actual activities of the Ben Achour Commission on a day-to-day basis reveals a very lively, busy, and somewhat chaotic commission. Besides Ben Achour’s initial requirement that commissioners first draft an electoral code and form an electoral management body before moving on to other texts, the commission did not follow a systematic process of drafting and reviewing laws. It soon found that before it could start any substantive work, it needed to decide how to structure itself. Given that it was responsible for democratic reform, the Ben Achour Commission used democratic

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200 I say “awkward” because, as documented in its verbal proceedings (or the compiled meeting minutes of the commission), bringing people from regions for regular meetings became difficult, especially with the limited funds available to the HI; it was also awkward because it was so large, with so many different kinds of groups represented, including many with little or no experience in politics. And perhaps it was awkward simply by virtue of being a totally new structure with no precedent. See الهيئة العليا لتحقيق أهداف الثورة 1 مداولات 2011. الإصلاح السياسي والانتقال الدراسي (Proceedings of the High Commission for the Realization of the goals of the Revolution, Political Reform, and Democratic Transition) (unpublished).

201 For example, the drafters consulted the Ligue des Electrices Tunisiennes (LET), a new CSO working to raise awareness and capacity around women’s participation in elections. (Interview with civil society member, July 8, 2013.)
processes—voting—to appoint an executive committee. The president had already been named, so the commission held elections for a vice-president and spokesperson. It then divided into sub-committees to focus on various tasks. Reviewing the laws drafted by the expert core would take place in plenary sessions.

At some points, following decisions by the Essebsi government, several Ben Achour Commission members insisted on calling the relevant cabinet ministers to review and approve its decisions. This, of course, interrupted its other activities (it was also an interruption for the Essebsi cabinet). The commission also interrupted its main responsibilities to draft statements for the public about the progress of its work and to condemn the violent attacks that were happening regularly around the country, and it worked to address other issues. For example, in late summer, the commission (specifically the wider council) formed a special committee to oversee the provision of refugee services at the Libyan border. Ultimately, it managed to draft all of the texts it set out to draft, with the exception of a text on judicial reform. The Ben Achour Commission held its closing ceremony on October 13, 10 days before the elections.

*National Fact-Finding Commission on Corruption and Embezzlement*

As with the original Political Reform Commission, Ghannouchi announced the formation of a National Fact-finding Commission on Corruption and Embezzlement (henceforth Amor Commission) on January 17 as an attempt to appease protestors (again, it had been called for by Ben Ali in his last speech). He appointed Abdelfatah Amor, a Constitutional Law expert, to be its head.

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202 Interview with Ben Achour commission member (July 11, 2011).
As per the decree law that created it, the Amor Commission comprised two parts: a technical committee and a general committee\(^{203}\). In this way its composition was similar to that of the Ben Achour Commission. The technical committee of the Amor commission included 12 people: accountants, auditors, finance experts, lawyers and judges of both genders recruited through recommendations from the various organs within the judiciary and the financial sector. According to several commission members, these experts felt they fit together and complemented each other well, albeit with a small amount of friction.\(^{204}\)

The general council was made up of representatives of civil society and academics. Members of the technical committee interviewed said the relationship between the two committees was not optimal. Members of the general committee/council complained about wanting to be more involved in the investigation process and sometimes accused the technical committee of hiding documents. Several quit.

The commission’s formal responsibility, according to the decree law, was to study general guidelines for a future anti-corruption strategy; to uncover cases of corruption and embezzlement committed between 1987 and 2011\(^{205}\); and to collect and verify information, documents and testimonies permitting the investigation of these claims and prepare their transmission to judicial authorities. In practice, the Amor Commission received complaints of corruption filed by citizens and investigated them using its technical expertise and the evidence it had collected from the state. Ultimately, the

\(^{203}\) DL 2011-08, Aslo noted in Redissi, Nouira and Zghal (2012b, 31-32).

\(^{204}\) Interviews with TPA members (December 12, 2014; December 11, 2014).

\(^{205}\) Paraphrasing DL 2011-08, article 2 and 3.
commission had to decide whether each complaint was sufficiently valid to be sent through the judicial system.

To carry this out, the Amor Commissioners twice visited the archives of the former president at his palace in Carthage, where it found many relevant files. One member of the Amor Commission described finding documents such as Ben Ali’s list of judges, known for their cooperation with the regime, who would be appointed to serve in particular posts, as well as evidence of his intervention in state enterprises and other business decisions. Once the bulk of this investigation had been completed, the commissioners began processing the complaints filed by dividing them up by category, according to their individual technical expertise.

The Amor Commission produced three main results. First, it processed between 4,000 and 5,000 of the approximately 11,000 complaints of corruption filed, which contributed to the return of some assets to state coffers. Second, it laid the groundwork for a more permanent anti-corruption commission by drafting Decree Law 2011-20, which was signed into law in November. One commissioner even said: “Decree law 120 was a source of inspiration for the constituent assembly [the ANC], because they took its

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206 However, some members explained that the palace security, under orders from the Ministry of Justice, sealed the palace when they heard the commissioners were coming to search it, even though the decree law that created the commission required the state to grant them access. Although security eventually permitted the commissioners to enter, this act suggested that some evidence had been removed (Interview, December 12, 2014). Similar stories of resistance and attempts by implicated authorities to thwart the work of the Amor commission abound – this will be discussed in chapter 6.

207 Interview with Amor Commissioner, December 12, 2014. E.g. land tenure complaints, enterprise interference complaints, etc.

208 One commissioner (interview, November 18, 2014) even said “about 28 billion TD was resuscitated from Leila Ben Ali (Trabelsi)’s bank account, which went back to national treasury…”
principles into the new constitution”\textsuperscript{209}. Finally, the Amor Commission published a report describing its activities and findings.

This commission was both advantaged and disadvantaged by its independent, non-juridical nature. Because Tunisians had never known such an apparatus, they weren’t sure whether to trust it. The commission thus suffered from accusations of being tied to the old regime, especially since Ben Ali had created it. As one political transitions expert noted, the creation of “investigation commissions” was a classic authoritarian trick meant to calm disquietudes\textsuperscript{210}. It was thus hard for people to accept that the TPA intended for these commissions to be genuine. In response, the Amor Commission launched a public campaign to raise awareness about the work it was doing. On the other hand, because it was not part of the actual judicial system, whose independence had been so compromised by the former regimes, Tunisians had some reason to trust the Amor Commission and to trust in the process it was trying to set up.

During its existence the commission also held several international conferences and workshops with UNDP and other international organizations, looking to examples from around the world to guide a process the country had never dealt with before\textsuperscript{211}. Thus, in addition to its concrete outcomes (the report, the decree law about a permanent anti-corruption mechanism, and the transfer of a portion of the received files), the Amor Commission accomplished more intangible results. These intangible results included know-how in freedom of expression and anti-corruption, relationships/networks with international partners, and the beginnings of working relationships with other parts of the

\textsuperscript{209} Interview with Amor commission member (December 16, 2014).
\textsuperscript{210} Interview with Tunisian academic (December 6, 2014).
\textsuperscript{211} Redissi, Nouira and Zghal (2012b, 47) note they then tried to make it suitable for the local/particular context.
judicial system. The latter aspect was particularly challenging, because some of these judicial institutions felt that the work of the Amor commission called their competencies into question.\(^{212}\)

Not everything was an accomplishment, though. The Amor Commission was challenged by the “explosion of information” about acts of corruption and embezzlement committed by the former regime. This meant that it could not deal with all the complaints that had been filed by time of the October 23 elections. It also worked to draft a text about indemnification and protection of victims and witnesses around corruption charges; however, this text was not approved by the Essebsi government.\(^{214}\)

**National Fact-Finding Commission on Abuses Committed during the period from December 17, 2010 until the Completion of its Objective**

The third of the three commissions announced by Ben Ali and put into place by Ghannouchi in January 2011 was a fact-finding commission on state abuse (henceforth the Bouderbala Commission). Ghannouchi invited Tawfik Bouderbala, a lawyer and former president of the Tunisian Human Rights League (LTDH) to serve as president.\(^{215}\)

According to the decree law that created it, the commission was meant to investigate complaints of abuse by the state during the revolutionary period and document those committed. However, the “Revolutionary Period” was defined only from December 17, 2010 (when the uprisings started) until “the completion of its objective”; it did not specify a concrete end date. Ultimately, the Bouderbala Commission decided to stop receiving dossiers (complaint files) submitted after the date of the next elections (October

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\(^{212}\) Interview with Amor commissioner (December 16, 2014).

\(^{213}\) Ibid.

\(^{214}\) Interview with Amor Commission member (December 11, 2014).

\(^{215}\) Originally Mr. Lazher Karoui Chebbi was appointed to head this commission, but he demurred and was instead nominated as interim Justice Minister (interview with commissioner, November 6, 2014; Mrad and Moussa (2011, 155)).
23, 2011), providing a definite end to its work. It only considered complaints about abuses committed during the period from December 17, 2010 to the end of February 2011\textsuperscript{216}. Like the other commission presidents, Bouderbala formed his committee in an “open” manner, consulting with major civil society organizations such as the ATFD and the LTDH (Redissi, Nouira and Zghal 2012b, 31-32). The final composition of the commission included psychologists, journalists, lawyers, academics, two doctors, and one judge\textsuperscript{217}. Several sources note the high proportion of women in the commission, especially in comparison to the other commissions (14 out of 19 members, although two women would quit\textsuperscript{218}). The commissioners were given offices on the third floor of an unused government building in the Montplaisir district of Tunis (the Amor Commission was on the fourth floor).

Once in place, the Bouderbala Commission launched a campaign to raise awareness of its existence among citizens and set up a hotline where citizens could call. It then divided into groups according to availability and experience to visit the families of those who had been killed or individuals who had been injured and hear and record their testimony. Each visit was documented and videotaped.

In addition to collecting these testimonies, the Bouderbala Commission investigated the individuals suspected of having issued the commands to commit the abuses. It thus visited and interviewed officials from the Ministries of Interior, Defense, and Health; and officials from the President’s Office and members of the Presidential Guard (UNDP

\textsuperscript{216} As far as I can surmise, this was selected as the end date because that’s when the Kasbah protests ended. Also the French version of the commission’s report says the period from March to October was relatively calm compared to what happened before, despite continued incidents of violence (UNDP 2013, 53).

\textsuperscript{217} It does not seem that the Bouderbala commission had a wider “advisory” council the way most of the other institutions did (the Amor Commission, the Ben Achour Commission and INRIC).

\textsuperscript{218} The two women who quit were Bochra Bel Haj Hmida and Slahdinne Jourchi. Three men quit as well.
2013, 58-63.) It also visited hospitals, prisons and courts to collect evidence and testimonies. Additionally, the commission investigated accusations against the state, most notably the use of snipers in carrying out some of the killings committed during the revolution\textsuperscript{219}. Finally, as with the Amor Commission, some commissioners received experts and officials from other countries to provide guidance and training on collecting, documenting, and reporting facts in transitional justice contexts\textsuperscript{220}. They even organized a trip to Morocco to learn from the Instance d’Equité et Reconciliation (Equity and Reconciliation Commission) there (UNDP 2013).

The culmination of the commission’s work was a long (c. 1,000 page) report, heavy on text about the types of abuses committed, details on the victims, and the people who should be held responsible for them, as well as tables and statistics. It breaks down the findings by time period as well as governorate and type of abuse, and notes that the largest proportion of victims were youths. The report also includes recommendations about compensation for victims and mechanisms for transitional justice. The Bouderbala Commission also organized all the information it had collected into a database that included victims’ personal and medical information (e.g. autopsy reports), photos and videos, and more. In 2014 the database was sent to the National Archives.

Several other points of note about the Bouderbala Commission remain. First, it benefitted from the influx of foreign assistance during the period of the TPA. For example, both the commission’s longer report in Arabic and a summary report in French were funded by

\textsuperscript{219} The Commission found that the government had not used snipers per se, but had ordered internal security forces to shoot specified targets from high-up building tops during peaceful protests (UNDP 2013).

\textsuperscript{220} The concept of transitional justice and its relevance to the TPA is discussed more in 6. Here, the term refers broadly to the process of dealing with injustices committed by the former regime.
international organizations. Second, the commission contributed to what is widely acknowledged in the transitional justice literature to be a crucial undertaking – the documentation of facts (Gray 2013). Finally, it carried out another important activity related to transitional justice—the act of *listening* to individuals who believed they had been victimized harmed (Redissi, Nouira and Zghal 2012b, 42). The commission thus contributed both to Tunisia’s political change process as well as to specific aspects of the transitional justice process.

Like the others, the Bouderbala commission was not without challenges. Members of all the commissions note the scarcity of resources provided. One interesting thing to note about the tone of the commissioners interviewed, though, is their commitment to their work and their pride in what they achieved. The report was hailed by all commission members as containing a high volume of facts that have never been contested – thus attesting to their veracity—and that will be able to inform history. However, they regret not having been able to do better due to time and resource constraints. One even stated that she joined the Truth and Dignity Commission created in 2014 (discussed later) in order to create continuity with the commission’s work during the period of the TPA, implying that she/they had left work unfinished.

*National Authority for the Reform of Information and Communications (INRIC)*

About a month after establishing the three commissions called for by Ben Ali (Political Reform, Corruption Investigation and Abuse Investigation), Ghannouchi began considering the need for reform in the media sector. In consultation with other journalism

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221 The French summary report was funded by UNDP and the UN High Commissioner for Human Rights; the longer one was printed with funds from a German donor, according to interview with Bouderbala commission member (November 6, 2014).

222 Interviews with Amor Commission members (December 11, 2014; November 18, 2014).

223 Interview with Bouderbala commission member (December 19, 2014).
experts and critics, Ghannouchi created a National Authority for the Reform of Information and Communications (INRIC), signed into law on March 2 (DL 2011-10). INRIC was intended to support transition in the media sector, as barriers to freedom of expression had suddenly been lifted but no central authority or set of accepted professional principles or ethics existed (Chouikha 2013, 2). Kamel Laabidi, a journalist living in exile “known for his defense of freedom of the press and the dignity of journalists” (ibid., 2), was chosen as its head.

After having returned to Tunisia and taken on the role of heading INRIC, Laabidi went about composing his team. He felt that holding elections for INRIC membership would be inappropriate, since several qualified independent journalists had left the country under the former Presidents and thus were not familiar names to the public. Nor did he feel the Ghannouchi government should appoint the members, given its ties to the old regime. He therefore consulted with the journalists’ union, the judges’ association, and other relevant civil society organizations known for their militancy against repression of free and independent speech, and asked them for nominations. Laabidi then selected from among those nominations. INRIC’s final composition included:

eight members, mostly independent journalists, plus one judge, one university professor and a blogger. The members were chosen for their competence and independence or their struggle for freedom of expression and opinion under the old regime. They were supported by a group of volunteers composed of academics and journalists in the fields of written and electronic press, or agency journalism and audiovisual communication, who acted as consultants upon request from the president or INRIC’s members (ibid., 2).

Chouikha was received by Ghannouchi about a month after the flight of Ben Ali to discuss the process of media reform, and their collaboration led to the creation of INRIC and the appointment of Labidi as its head (interview with INRIC member, November 6, 2014). Chouikha (2013, 2) says Laabidi was named “after much negotiation” (après moul tractations.)
Like the Amor Commission and the Ben Achour Commission, INRIC had a two-tier structure, with a relatively small expert core at the center and a wider advisory council around it (as opposed to the Bouderbala Commission, which had a single, slightly larger group.) Two members, one for personal and one for professional reasons, resigned before INRIC finished its work.225

The interim government of Ghannouchi had foreseen that INRIC would play an authoritative or executive role, with its main responsibility being control the media. Laabidi persuaded the relevant interim ministers that INRIC’s primary responsibility should be to understand and document the current state of the journalism sector in Tunisia and issue recommendations for media reform after studying how the equivalent process had been undergone in other countries that had successfully transitioned away from authoritarian rule.226 After starting its work, INRIC also decided that it would be in charge of developing a procedure for issuing licenses to new radio and television stations and helping permeate a culture of free media by transforming government media into public media (Chouikha 2013, 2-3).

Thus, INRIC played a more consultative role than the other commissions, which were tasked with concrete documentation or legislation-drafting duties.227 It also worked closely with the sub-commission of the expert core of the Ben Achour Commission which was drafting new media laws (the laws governing print media and those governing audiovisual media are separated in Tunisia). The two media reform bodies complemented each other, with the INRIC being made up mostly of journalists and civil society.Body

225 Interview with INRIC member (December 12, 2014).
226 Ibid.
227 Except ISIE which was tasked with operationalizing the elections.
representatives and the sub-committee of legal experts being comprised academics and legal experts. This was also helped by INRIC’s consultative role. INRIC, for example, gave the sub-committee of legal experts working on media reform extensive feedback on the legal texts it drafted, helping align them with international freedom of expression standards. Occasionally, the two bodies overlapped—one interviewee commented that the expert core members sometimes felt the INRIC was trying to take credit for the laws it drafted. However, this was mostly just a reflection of how closely the two bodies worked.

Along those lines, INRIC “participated actively” not only in the drafting of the new audiovisual and print media laws, but also DL #2011-41 from May 2011 about access to public documents. The print media law replaced the repressive Press Code of 1975, basically changing the legal basis for a publication from one in which the government gave permission (“régime d’autorisation”) to one in which any media outlet was recognized provided it did not violate certain standards (“régime de déclaration”). The new audiovisual law’s main innovation was the creation of an independent authority to monitor audiovisual media (la Haute Autorité Indépendente de la Communication Audiovisuelle, or HAICA). As later chapters will show, although this decree law foresaw a certain role for the HAICA in safeguarding media independence, things would play out differently.

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228 Interview with Tunisian legal expert (December 24, 2014).
229 Ibid. In other words, he was just suggesting there might have been overlap, not that the relationship was competitive or tense.
230 The print media law and audiovisual media laws drafted by INRIC are DL 2011-115 (2 Nov 2011) and DL 2011-116 (2 Nov 2011), respectively.
INRIC also took on two additional tasks. First, because a plethora of new media outlets were emerging with the flight of Ben Ali, INRIC decided to act as a body that would accept applications for new TV and radio stations and establish criteria for deciding whether or not these stations should be granted a license. It established these criteria partly by studying the experiences of other countries, mostly through meetings with official representatives and academics from them (INRIC 2012, 3-4). Second, INRIC took upon itself the job of helping separate government from public media, as public media had previously been dominated by the ruling party, the RCD. INRIC drew on the experiences of other countries to “gain a clearer picture of what a ‘public [media] institution’ is…[and] … sketch out the features of a public media institution that should be at the service of the Tunisian public and no one else, and to identify the mechanisms that guarantee the institution’s independence from those in power” (INRIC 2012, 5).

In its final report, INRIC evaluated the new media legislation drafted by the Ben Achour Commission against international standards for free media and expression. It also discussed the state of the media sector since independence, offered suggestions for overcoming the culture of self-censorship and other consequences of the decades of repression it had experienced, and made recommendations for enhancing the role of public bodies such as the Tunisian Agency for External Communication (ATCE), journalism training institutes, and the national broadcasting, internet, and radio frequency offices in supporting free media. Finally, the report described democratic countries’

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231 The nine criteria were: serving the public interest; upholding diversity of the broadcasting scene; independence from the legislative branch of government and from political and religious organizations; absence of foreign funding or foreign presence on board of directors; employment of a professional team of journalists; a clear and detailed financial and operations plan; support and preserve plurality and diversity in the public sphere and “participate in the cultural renaissance of Tunisia”; participate in protecting society from media monopolies; and not be combined with an advertising or communication institution (INRIC 2012, 119).
experiences with media monitoring and compared the Tunisian experience of media monitoring since the uprisings, and particularly during the October 2011 elections.

Although the Essebsi cabinet, the Ben Achour Commission and the ISIE were obliged by decree law to dissolve once the ANC elections had been completed, the other three commissions—the Amor Commission, the Bouderbala Commission, and INRIC—were allowed to continue until the completion of their work. The two investigation commissions defined this for themselves as the investigation of as many cases as possible submitted to them before October 23, then the production of a report on their findings. INRIC originally intended to complete its work and dissolve with the formal creation of the HAICA, but, as chapter 6 explains, it decided to end its work earlier out of frustration with the Troika government (the government appointed by the elected National Constituent Assembly in late 2011). In short, due to its role as a consultative and advisory body rather than an investigative commission or a commission in charge of specific elections-related tasks, the ending of INRIC’s work was somewhat different from the other commissions.

**Independent Elections Commission (ISIE)**
The decree law establishing the Ben Achour commission gave it responsibility for creating another new commission to act as independent electoral management body. Thus, once the Ben Achour Commission had completed an electoral law for the ANC elections, it set about drafting a law for the creation of the *Instance Supérieure Indépendante pour les Élections* (ISIE). This law, DL 2011-27, was signed by Mebazza on April 18 and announced by Essebsi on April 26. Over the next two weeks the Ben Achour Commission collected CVs submitted by civil society organizations and held
elections for its members. Candidates from the government, and individuals with ties to the former regime or from established political parties, were not allowed to serve\textsuperscript{232}.

Once the members of the committee had been named, they voted human rights activist Kamal Jandoubi to be the committee’s head. The newly-appointed members also elected a vice-president and a secretary-general, all of whom required $2/3$ majority\textsuperscript{233}. The final composition followed a breakdown of various professions as specified in DL 27: three judges, four lawyers; one notary; one accountant; one communications expert/journalist; one IT expert; one expat; two professors; and two representatives of NGOs specialized in human rights\textsuperscript{234}.

Other than specifying the responsibilities of the elected positions of president, vice-president, and secretary general, DL-27 gave little guidance as to how the ISIE was to structure its operations (Tavana 2014, 5-6). Under the guidance of an expert on media law, the ISIE formed seven committees, one for each of the following areas: administrative and financial affairs; legal affairs; training; voting for Tunisians abroad; public relations; information technology; and external relations. The ISIE recruited people from outside the commission to staff these committees. For example, the legal committee’s staff: “…consisted of two people seconded from parliament, a director recruited from the private sector, three judges, a translator, and two university professors” (ibid., 6). One to three commissioners was assigned to manage each committee.

\textsuperscript{232} DL 27, article 10.
\textsuperscript{233} Like the Ben Achour Commission, the ISIE had a vice-president and a third executive chief, a Secretary General. The VP was Ms. Souad Triki and the SG was Mr. Boubaker Bethabet (Carter Center 2011).
\textsuperscript{234} There is inconsistent documentation of the ISIE’s composition. If we take the website of ISIE 2 as the final authority, then the composition is as described here, which is a little different than what the DL specified.
DL 27 gave the ISIE “... responsibility to prepare, supervise, and control the constituent assembly elections while building trust and confidence in the electoral process among Tunisian voters” (*ibid.*, 3-4). To this end, it established 33 Independent Regional Authorities for Elections (*Instances Régionales Indépendentes pour les Elections*, IRIEs), one for each electoral district – 27 domestic and 6 abroad, as well as a number of local commissions (*Instances Locales pour les elections*, ILEs). The IRIEs for the domestic voting districts had fourteen members drawn from local civil society organizations and professional associations, as well as lawyers and judges (*ibid.*, 6). The IRIEs for districts abroad each had at least eight members. It took essentially the entire month of July for the ISIE to name all these regional and local commissioners (Carter Center 2011).

The IRIEs had a range of responsibilities: oversee the voter registration process and registration offices as well as the candidate nomination process and campaign activities; disseminate election-related news and material; receive electoral-related complaints; organize the tabulation of votes; supervise the ILEs, and various other tasks. The ILEs were not actually established until just before the campaign period started. Their main responsibility was to support operations of the IRIEs: for example by “helping to fill vacant posts at polling centers, collecting forms reporting on campaign violations at the local level (e.g., meetings held without a permit and the hanging of posters and banners in non-designated areas), and assisting in the setting up of the polling stations” (Carter Center 2011, 25).235

235 The Carter Center report also notes that Tatouine did not have an ILE, but observers didn’t find this to be a problem because the voting population was so small (Carter Center 2011, 25-26).
There was an important overlap between the work of the ISIE and anything that had to do with the media. Because there was no media law in place during the period of the TPA, the ISIE had to ensure a basic structure of rules around campaigning and voter education via the national media. ISIE’s solution to this dilemma was to create a “monitoring unit” and to issue a set of decisions on September 3 which were to govern the media during the campaigning period (Chouikha 2012, 173.) Such ad hoc legal acts were a product of the unprecedented, provisional context in which the TPA and its institutions operated.

Several other points of note about the ISIE remain. First, it faced many resource challenges, notably in regards to finding qualified staff (Tavana 2014, 5). Moreover, the ISIE went through great efforts to ensure and demonstrate its independence and impartiality (e.g. in its membership selection and the candidate nomination process); this also sometimes slowed down its work. The most notable example of this is ISIE’s decision to set up a new voter registration system and database, rather than use the existing database, since elections under Ben Ali had been managed by the RCD-dominated Ministry of Interior.

Finally, the ISIE maintained credibility in the eyes of the Tunisian public by promising to end its work with the completion of the elections (Hubler 2012, 64; Elloumi 2011, 92-94). Yet, the institution of the ISIE became would become permanent. This was yet another way the TPA helped institutionalize the demands of the revolution. It also allowed the ISIE 2—the electoral commission established by the ANC to manage elections for a new permanent government, which were ultimately held in fall 2014—to learn from the mistakes and experiences of the first ISIE, and make the next elections even more free, fair and transparent.
Inter-institutional relations
The initial set of decree laws issued in early 2011 represented the skeletons of an institutional structure to guide the interim period. As the TPA dealt with questions not addressed in those decree laws, and as its various institutions filled roles and made decisions for which there was no precedent, it often had to improvise. Although this sometimes led to conflict, the overall effect was cohesive.

Ad hoc relationships and decisions
The new and old institutions of the TPA related to each other in a somewhat “makeshift” fashion – a characteristic that defines much of the TPA. The most central of the institutions were the Essebsi cabinet, which oversaw all day-to-day government functions, and the Ben Achour Commission, which, given its large size, name, and list of duties, naturally interacted with all other parts of the TPA. The ISIE was arguably the next most central institution, working closely with the Essebsi government as well as INRIC and the Benn Achour Commission. Other TPA institutions such as the Amor Commission and the Bouderbala Commission had little contact with one another—a sign that those commissions were sufficiently equipped to operate relatively autonomously and independently.

Yet the structural arrangement of all these institutions was fluid. The fact, for example, that the Ben Achour Commission could monitor the decisions of the Essebsi cabinet by calling the members in for questioning—to which those members would always respond—was not specified in the decree law that created it. The creation of an independent commission to advise on media reform (INRIC), but not on the other legal texts the expert core of the Ben Achour Commission was drafting, also appeared to be a
somewhat ad hoc decision. Moreover, several individuals acted in either a full or consultative role, or else were invited to join or work with more than one commission.

Moreover, because the Ben Achour Commission was created and made official before Essebsi became interim Prime Minister, he was less able to control or dominate it—on the contrary, it tried to control him.\footnote{Interview with Tunisian academic (December 6, 2014).} For example, although Essebsi did little to suggest that he was trying to use his position as interim prime minister to hold on to power, he was reluctant to honor the ISIE’s request to postpone ANC elections from July to October. In the end, however, because he had no power over the institutions of the Ben Achour Commission and the ISIE (and perhaps because the others persuaded him of the value of postponing), he conceded. This flexibility of the TPA’s institutions would become important not only for the work of the TPA itself, but also during later phases.

\textit{Some conflict, but mostly cooperation}

The decree laws that created the independent commissions required the state to furnish the necessary means—including information—required for them to accomplish their tasks, while also deeming them not part of any hierarchy of authority\footnote{This is how Redissi, Nouira and Zghal (2012b, 30) summarizes it: “The government should avoid intervening too directly [in the commissions] or submitting [them] to a hierarchical authority under a minister…Moreover, [each commission] is independent from controlled administrative sectors and public authorities…”}. Essebsi by and large cooperated with this system and obliged the ministers of his cabinet to do the same. It provided each commission with office space as well as functionaries to perform administrative tasks such as note-taking\footnote{For example, the ISIE made budget requests that went through the Ministry of Finance (interview with TPA member, November 14, 2014).}. Nonetheless, each commission reported experiencing at least one incident of resistance by the Essebsi cabinet: members of the commission, for example, described “passionate” debates with interim ministers over
their actions or the laws being drafted. Others complained about the scarce resources provided to them, although this is likely a reflection of the limitations of the resources available to the Essebsi cabinet itself rather than resistance to commission activities per se.

In some cases, other parts of government staged more resistance to the new independent institutions. For example, many security agents from the Ministry of Interior clung to secrets, posing obstacles for the Bouderbala Commission (Redissi, Nouira and Zghal 2012b, 41). And various parts of the judicial system were hostile to the Amor Commission, accusing it of taking over its work or creating a parallel justice. In other instances, new and old institutions cooperated without difficulty: INRIC, for example, worked closely with the National Broadcasting Office, the National Internet Agency, and the National Frequency Center (INRIC 2012, 191-200; Chouikha 2013, 4). On the whole, members of the TPA and all its institutions note that the shared goal of moving the country forward and not returning to autocratic rule dominated over those individuals or groups of individuals who tried to stand in its way.

**Summary: Institutions of the TPA**
The TPA retained some institutions from the old government, destroyed others, and created new ones where necessary, all the while working in a rather ad hoc manner to accomplish its goals. Early decision-makers agreed on the importance of continuity of a constitutional order and of the state and used legal mechanisms to prevent a governance void. To this end, it kept an executive cabinet running as well as most key parts of the

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239 Interview with Ben Achour commission member (November 13, 2014). As later chapters discuss, the main example was the debate over article 15 of the elections law.

240 Interview with Ben Achour commission member (November 18, 2014).
state administration. Other existing institutions, such as most parts of the judiciary or security services, were neither fully dismantled nor operated with their previous level of authority. Finally, a host of new institutions, in the form of independent commissions, were created to deal with select issues. These new and old institutions sometimes crossed and sometimes conflicted, but by and large cooperated with and complemented each other.

Most institutions of the TPA provided the necessary structures, processes and rules to govern after the uprisings. The Ben Achour commission, for example, assumed as one of its major tasks the passing of an electoral law, and its ability to do this is testament to its adequacy as an interim institution. It debated and found compromise solutions rather than reaching an impasse over critical decisions such as the electoral law, thus preventing more political turmoil and instability. Citizens and politicians accepted the results of the electoral process it developed and managed, as well as (for example) the work of the Amor and Bouderbala commissions meant to lay the groundwork for more just and transparent institutions in the future.

This institutional order the TPA created served another role: like the actors, who were largely non-partisan politicians but included technocrats and some of the old guard, the institutions of the TPA combined old and new elements and thus helped mitigate the tension between continuity and change that marks any collapse of an authoritarian regime. In short, the amalgamation of TPA institutions provided a decision-making structure and sense of order, and they and they were able to balance between continuity and change.
Strategies of the TPA

Introduction
The TPA’s primary goal was to organize elections for a Constituent Assembly that would draft a new constitution. Because it faced time constraints and legitimacy challenges that a permanent government would not necessarily face, the TPA needed to justify and implement each of its decisions. It used several strategies – some more conscious than others—to do this. These included: (1) operating on the basis of consensus; (2) emphasizing inclusiveness; (3) drawing on tradition; (4) applying democratic principles; and (5) adapting as circumstances changed. While these strategies allowed the TPA to reach its goal without being brought down by protestors and or stymied by logistical or other obstacles, each also entailed tradeoffs.

This section begins by describing the constraints the TPA faced as a provisional administration and due to the particularities of the Tunisian situation in 2011, starting with the least limiting and concluding with most. It then discusses the five main strategies the TPA employed to work around these constraints.

Constraints the TPA faced
Although various decree laws gave the TPA legal cover, there was no guarantee the Tunisian people would respect its authority. The TPA was not elected, and it did not have control over the armed forces in the country. In other words, it had no traditional source of legitimacy\(^{241}\). The best way the TPA had to establish its authority was to promise to limit it, which naturally created constraints.

\(^{241}\) The most frequently-cited authority on legitimacy of the state is Weber (1969), who typologizes three sources of legitimacy: traditional, charismatic, and legal-rational. Scholars generally agree that as time goes on, permanent governments rely on a mix of strategies and sources of legitimacy to stay in power. The TPA didn’t have any such precedent, so how could it ensure it wouldn’t be brought down?
**Time pressure**
The first constraint the TPA faced was time. Two of the main TPA actors during the first weeks following January 14, Ghannouchi and Mebazza, at first declared that elections for a new president and parliament would be held within 60 days (by implication, stating that they would then resign). After Essebsi became interim prime minister in late February, he promised to hold free and fair elections for a national constituent assembly within less than six months, and to hand over power to an interim government, which the National Constituent Assembly would appoint. However, only a couple months later, the TPA announced again that elections would be postponed, this time from July to October. The TPA was trying to reassure Tunisians that this announcement did not reflect an intention to govern indefinitely, but rather to organize genuine elections as fast as possible. This placed it under great pressure.

**Limited mandate**
The TPA needed to be careful about defining its own mandate. Essebsi presented his government as one of technocrats with only one mission: get to ANC elections. Moreover, when he came into the role of interim prime minister, Essebsi promised not to run in these elections, and he obliged all his ministers to do the same (this was in an effort to ensure credibility). This exemplifies how members of the TPA were working under a strict set of provisions – that they would not try to reach beyond a certain mandate and implement their own agendas; rather, they would focus strictly on getting to elections as quickly and transparently as possible. Although the TPA knew it could not neglect the country’s dire security situation and its looming economic reforms, the actions it could take towards addressing these issues was limited.
“Revolutionary” conditions
The TPA was working under conditions that an established government would rarely face. Economic and security conditions across the country were in shambles. Carrying out the basic functions of a government (such as delivery of basic public services and general management of the economy), despite the strong administrative system that many praise as having kept Tunisia running during this time, was extremely challenging. Moreover, daily protests over the lack of jobs and various other grievances continued, often rendering operations of the TPA even more difficult.

In addition, the Tunisian media and Tunisian peoples’ right to express themselves freely had gone from one extreme (severely curtailed) to another (completely unregulated.) For those with public responsibilities, this sudden change created further challenges. Media scrutiny of the independent commissions was often done in an unprofessional way, putting pressure on TPA members and distracting them from their legislative, investigative or operational tasks. The commissions of Tawfik Bouderbala and Abdelfatah Amor, for example, which had been tasked with investigating wrong-doings of the state, faced such an outcry from certain implicated groups – namely the police or corrupt members of the former regime who were being brought to trial—that members sometimes even feared for their lives. And the Ben Achour Commission often struggled to reach final decisions and declarations before information was leaked to the press (Proceedings 2011). Thus, from beginning to the end, the TPA suffered

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242 Interviews with TPA members (October 28, 2014; November 6, 2014).
243 At least two interviewees who were members of the TPA (October 28, 2014; November 14, 2014), one as part of the ISIE and the other as part of the Essebsi cabinet, described regular protests outside their ministry or commission office.
244 At least one TPA member (interview, November 6, 2014) said he was personally threatened. In relation to media unprofessionalism, others (October 31, 2014) noted, for example, that certain commissioners were falsely accused by the press of being Islamists.
“revolutionary” pressure that challenged both its legitimacy and its logistical ability to carry out tasks.

**Lack of experience and resources**

The TPA was challenged by its provisional nature in another way – lack of preparation. Generally speaking, members of the TPA had not been trained to do the tasks they were suddenly being called upon to do\textsuperscript{245}. That is, despite their technical expertise, most individuals in the TPA had little experience in the particular roles in which they served. For example, the members of the Independent Commission for Investigation of Corruption (Amor Commission) had never had the opportunity to work genuinely—not just superficially—on anti-corruption measures, programs, or reforms. As one ISIE member said: “we were preparing and learning at the same time” (Tavana 2014, 12)\textsuperscript{246}.

Another challenge was that, although basically considered part of the state, the various independent commissions did not have specific state resources other than very small budgets devoted to them\textsuperscript{247}. Generally speaking, the Essebsi government (which prioritized getting to the ANC elections without delay) tried to furnish the various commissions with the resources they requested (ibid., 9-10). Yet what it could provide was limited. This included office space, a vehicle (one per commission), and perhaps one or two functionaries to help carry out administrative work. Several commissions had to rely on charity organizations (international NGOs) for certain supplies, including the printing of their reports. Occasionally, this lack of resources even compromised

\textsuperscript{245} Even the technocrats in the Essebsi cabinet had either never before had the chance to serve in government, because of their oppositionist histories, or they had served but, as the previous paragraph mentions, had no experience managing “revolutionary” situations.

\textsuperscript{246} One Amor Commission (interview, December 11, 2014) also said “it was research and practice at the same time.”

\textsuperscript{247} Decree laws # 6, 7 and 8; interviews with TPA members (e.g. November 6, 2014).
members’ privacy – one member of the Bouderbala commission described how she was obliged to use her own mobile phone to coordinate with the victims whose homes she was visiting, although this posed a risk that they would then try to contact her about follow-up. Thus, in the midst of all the scrutiny, threatening, and public criticism described above, the members of the TPA were forced to accomplish difficult tasks they had never done before, without remuneration, often alongside their regular jobs.248

*International context*

Actors of the TPA were very aware of the need for international support of their actions. One official in the Ministry of Foreign Affairs said the Ministry’s task was to persuade international partners that the Essebsi government was sincere about trying to implement democratic reforms and help the government become truly democratic.249 This was in the interest of forming strong relations with Western partners and also receiving economic assistance. Tunisian politics and economy have always been sensitive to the international context, because its territory and population is relatively small (Alexander 2010, 68). Historically, this has caused tension between “nationalists” and those with a more “Arabist” ideology, which came to a head with Bourguiba’s coming to power in 1956 and setting the country in a more Western-oriented direction (Willis 2012, 158). Under Ben Ali, Tunisians had grown increasingly suspicious of the West’s motives: thanks to Wikileaks and the internet, there was a growing awareness that the West (especially after September 11, 2001) was ignoring repression of individual liberties in exchange for Ben Ali’s cooperation in the war on terror and repression of Islamists (Russo and Santi 2011,

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248 Tavana (2014) documents similar stories about challenges faced by the ISIE – among others: lack of funds, lack of experience, a lack of time that created confusion and may have ended up duplicating efforts.
249 Interview with TPA member (October 28, 2014).
Part of that cooperation was, of course, restricting the practice of religion in public life (such as discouraging the wearing of the veil in public or even the practice of Ramadan, fasting during the Muslim holy month). Given these historical tensions as well as the newfound freedom to publicly express one’s faith without fear of repression, the actors of the TPA knew they needed to be wary of Western hypocrisy in this regard. They strove to achieve a delicate balance between acknowledging the tension and appealing to Western donors.

**Legacies of Authoritarianism**

Finally, the TPA faced the standard challenge faced in countries attempting to transition from authoritarian rule of trying to hold democratic elections in a country where few genuine democratic institutions existed (e.g. Shain and Linz 1995, 80; O’Donnell and Schmitter 1986, 57-64). Tunisia had held elections under both Ben Ali and Bourguiba; however, due to limitations on freedom of competition, association and media, a strong electoral infrastructure was absent. As described in above, this caused conflicts among individuals with different ideas about tolerance for diversity and pluralism. It also created challenges on a legal level: as one constitutional expert put it, due to the lack of reliable demographic data, historical voting patterns and other data on Tunisian society, it was difficult for the Ben Achour expert core to write an electoral law to guide that society. But the largest challenge the TPA had to overcome in terms of effects of authoritarianism was its history of excluding segments of the population from full participation in politics and the economy. Under Ben Ali and, especially in his later years, Bourguiba, two main forms of exclusion had been practiced: exclusion of certain socio-economic and regional

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250 Note – I consulted an English-language version of this manuscript.
251 Interview with Tunisian legal expert (January 12, 2015).
groups, and exclusion of opposition political movements. The former was the product of a decades-long process of nation-building that had begun with the independence struggle and developed into a distinct regional and socio-economic disparity. Thus, as Joel Beinin (2014) has noted, by the 2000s, two Tunisias existed – the Tunisia made of the more visible (especially for the international community) middle class, which had benefited from a set of neoliberal policies in the late ‘80s-‘90s, and the marginalized interior populations of largely unemployed, largely youth, or mining families whom those policies had made vulnerable (Zartman 1991, 101-108). The other form of exclusion was of political opposition groups that had emerged since the 1960s. At various points under Bourguiba and Ben Ali, some of these groups were permitted to exist but excluded from governing through electoral manipulation; others were banned altogether or so repressed that they went into exile.

Both forms of exclusion created a dilemma for the TPA. First, the historical insistence on a national identity helped foster a belief that Tunisia, with its relatively educated population and large middle class, was equipped to turn its revolution into a genuine transition toward democracy. Yet that same revolution had brought to the surface the clear class and economic disparities that authoritarian leaders had tried to hide. The “goals of the revolution” included returning dignity (access to economic opportunity, etc.) to those who had been excluded for so long, yet this was not something for which the TPA had an easy solution. The TPA was thus caught in a position of needing to build on its educated, reform-minded elites, not wanting to categorically reject all members of the former regime (discussed later), and also not wanting to exclude the marginalized
groups of the interior, especially because they were considered as having led the revolution.

The TPA was similarly challenged by the patterns of political exclusion that had been established under the previous regime. Although the various opposition movements that had emerged over the previous decades were unified in their anti-one party state stance, they had also experienced much tension among themselves, especially between those who identified as Islamists and those who identified as secularists (Haugbølle and Cavatorta 2011). Several examples of cooperation, such as the October 18 collective of 2005 or the defense of Islamists by the Tunisian Human Rights League (LTDH), had been historically paired with examples of competition\textsuperscript{252}. Some analysts even propose a tension between those dissidents who stayed inside Tunisia and those who went abroad\textsuperscript{253}. Ben Ali’s departure abruptly left political opposition movements and dissidents without a common enemy, and the TPA was tasked with getting them to work together (this is elaborated further in chapter 6). In short, the history of exclusion under authoritarianism defined in many ways the TPA’s decisions. The TPA needed to continuously demonstrate its intention to be inclusive while also trying to reconcile various competing and conflicting tendencies.

\textit{Summary of constraints}

The TPA thus faced an array of intertwined logistical and legitimacy challenges, including limited time, experience and resources as well as balancing the need for achieving quick results (via the more privileged segments of the population and

\textsuperscript{252} For example, long-time members of the LTDH reference how, while the LTDH worked with Islamists and even included them in their ranks, they never felt that Islamists were committed to human rights principles in the same way (interviews with Ben Achour commission members, January 21, 20 and January 29, 2015).

\textsuperscript{253} Interview with Tunisian activist (January 16, 2015).
international assistance) with the legacies of authoritarian rule. Strategies were necessary for overcoming both: if it became overwhelmed with logistical challenges, the people of Tunisia, in their post-revolutionary fervor, would not accept the TPA as a legitimate governing body. And without convincing people of their legitimacy, of course, TPA actors could not implement even the most logistically simple decisions.

**Strategies the TPA used**

The TPA used the following sets of strategies for securing legitimacy and achieving its goals: (1) operating on the basis of consensus; (2) emphasizing inclusiveness; (3) drawing on tradition; (4) applying democratic principles; and (5) adaptation.

**Operating on basis of consensus**

As individuals, the various members of the TPA drew legitimacy from different sources. Many had reputations as independent critics or dissidents against the authoritarian regime. Others had credentials as competent leaders (Essebsi in particular, who had a long history as a statesman under Bourguiba\textsuperscript{254} or technocrats, or were considered important representatives of Tunisian society (the “national personalities” who reflected its national character or identity or the representatives of youth and women who were considered the leaders of the revolution.)

Although each member brought his or her own qualities and assets to the TPA, their views and opinions were not uniform. This was especially true within the *Haute Instance* of Ben Achour, and even more so the expert core. The group of 18 instinctively realized that, because of these different ideologies and interests, if the TPA didn’t adopt some kind of spirit of consensus, they couldn’t move forward:

\textsuperscript{254} As mentioned in chapter 2, many consider that under Bourguiba especially up until 1975, the state brought many benefits to the country.
…it was the first time all the parties with all their differences (divergences) [came together]. There had been a despot who had disappeared and we knew we couldn’t just stay like that – even [though there were some] who thought we could just reform the old constitution – but that was not accepted by the majority – so we knew if we stayed like that … we wouldn’t move…

Thus emerged the principle of consensus.

Merriam-Webster’s (10th edition) defines consensus as: “general agreement:
UNANIMITY b: the judgement arrived at by most of those concerned 2: a group solidarity in sentiment and belief.” In other words, operating on the basis of consensus meant for the TPA achieving general agreement on each decision as well as trying to place collective or majority interests over individual ones. This principle of consensus that guided the work of the Ben Achour commission was sometimes described by observers as a “spirit” (“esprit de consensus”); others described it as a “decision-making tool”… necessary … “in a revolution like ours, without a leader…”

This strategy, then, was more than just one chosen from among a set of possible strategies by the group; it was the natural, and maybe only, method available. In short, the TPA recognized the need to move forward despite its internal differences in order to accomplish its tasks, and it used a strategy of general agreement and group solidarity—consensus—to do so.

A key example of the strategy of making decisions by consensus is the “Declaration of the Transition Process” (also called the September 15 document). In August 2011, as the country was approaching the first post-revolution elections, several political parties began to call for a referendum to define via popular vote the mandate of the ANC which was to be in charge. This call for a clear mandate in fact resonated with interim Prime Minister

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255 Interview with expert core member (December 8, 2014).
256 Interviews with Tunisian academic (October 24, 2014) and TPA member (November 14, 2014). On the leaderlessness of the uprisings, see Zartman and Hafaiedh 2015); International Crisis Group 2011a.
Essebsi, who expressed support for the idea. On the other hand, the Ben Achour Commission and the interim government had their goal – successful ANC elections—within sight, and leaders such as Ben Achour knew that a referendum would cause significant delay. They feared that if the ANC elections were delayed a second time—they had already been postponed once, back in May, from the originally-promised date of July to October—of the TPA would be accused of clinging to power, thus undermining its legitimacy.

Ben Achour proposed a compromise solution. In mid-August, he gathered the political parties represented in his commission, including those who were calling most forcefully for a referendum, together to draft a document specifying the mandate of the ANC. 12 parties (of which 11 would sign) worked together for a month and finally arrived at a statement declaring that they would abide by the electoral codes that had been passed in the previous months, laying out the process of handing over power to the ANC, and agreeing that the ANC’s mandate would not exceed one year. Finally, as explained by a member of the Ben Achour commission, the documented stated parties’ agreement to “continuing the search for consensus between political parties, in order to better run the transitional period after the elections for the ANC”. This process and agreement were satisfactory for political parties to go ahead with the ANC elections.

This experience represents the collective spirit of the TPA that was captured in the strategy of consensus. The strategy emphasized cooperation, negotiation and compromise.

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257 Interview with TPA member (November 18, 2014).
258 Although Nahda signed the document, the CPR refused. The party mentioned in the previous statement that had most loudly called for a referendum but ultimately signed on to the agreement was the PDP (Parti Democratie Progressist) (ibid).
259 Interview with TPA member (January 29, 2015).
over competition and reaching broad agreement on decisions before putting them to vote. It also involved trust in one’s opponents and thus a general acknowledgement of the common desire to contribute to a better Tunisia.

*Emphasizing inclusiveness*

The TPA recognized that the Ben Ali and Bourguiba regimes had sustained themselves by excluding certain political groups, most notably the Islamists. The TPA recognized the importance of demonstrating that it would not continue such practices. However, because it had not been democratically elected—each of its institutions had been created as interim bodies with clear, specific functions, with members being selected for their reputations as independents, their representativeness of Tunisian society, or their technical skills—it lacked explicit criteria for allowing people to become part of its decision-making structures. This opened it up to accusation of exclusion.

The TPA thus found various ways to show that it was being as inclusive as possible. It worked to involve a wide range of voices in the constitution-writing process and to represent specifically the segments of society that had been marginalized under Ben Ali or instrumental in bringing him down. It also used inclusiveness as a principle for making decisions that would affect the country’s future. Attempting to be broadly, but not unboundedly, inclusive worked as a strategy for being accepted, but also presented challenges. This section describes how the TPA tried to legitimize itself by being inclusive and the challenges and tensions this presented.

*Inclusive ANC elections*

One of the clear demands articulated in the Kasbah II protests was for national elections for a constituent assembly. Protestors felt that the appointment of a small committee of
constitutional experts revising the old constitution (or even writing a new one) would not adequately reflect the voices of Tunisian society as a whole. The decision to abrogate the 1959 constitution and organize elections for a constituent assembly therefore constitutes the first step in the TPA’s efforts to demonstrate inclusion. The constituent assembly would include more voices and thus avoid writing a constitution that reflected only certain dominant groups.

**Giving voice to youth**

Among Tunisians, the 2011 revolution is famous for having been driven by the country’s large disaffected youth population (Russo and Santi 2011, 49). For this reason, giving youth a voice was another sub-strategy the TPA deployed to secure its legitimacy. One of the steps it took to do this was to ensure adequate youth representation in the Ben Achour Commission (this will be discussed below). Another was inviting youth representatives into the interim Essebsi government.

The TPA’s motivations for including youth went beyond a need to show it was responding to demands of the protests. Various sub-bodies of the TPA took specific steps to attend to youth needs. For example, the interim Minister of Youth, Slim Chaker, held open meetings with youth associations of the interior and set up a website where he could have open interactive sessions with youth. And the ISIE, in an effort to be innovative, engaged unemployed graduates by hiring them to work on local coordinating committees.

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260 Interviews with Tunisian civil society members/academics, (Janaury 12, 2015; July 6, 2013).
261 Here I do not intend to ignore the recognized role of other groups, notably women and organizations such as the UGTT and the Bar Association. This is mentioned elsewhere.
thus simultaneously providing youth with an alternative to protests and a reason to believe in sincere, non-corrupt political processes while also meeting its staffing needs.\textsuperscript{262}

As suggested with the ISIE example above, the TPA also saw the need prepare a new generation for a future era of democratic politics. Thus, several political parties set up specific mechanisms and/or supported policies that would promote youth inclusion. For example, during the debate over the electoral code, some parties favored a law that would produce a high level of youth representation in the ANC. Many newly-created parties also found explicit ways to involve and empower youth.\textsuperscript{263}

Of course, this sub-strategy was not without its challenges. Some analysts noted that after the revolution, a fear arose among the older generation of opposition activists of being pushed aside by the rising youth.\textsuperscript{264} And despite the TPA’s efforts to reach out to youth, there was still a significant youth boycott of the 10/23 elections, widely thought to be due to a persistent distrust of politicians that had carried over from the Ben Ali era. The challenges of this strategy thus capture an inherent contradiction within the TPA. On the one hand, “transition to democracy”, which was one of its purported missions (such as in the name of the Ben Achour commission and the declarations of the September 15 document), is a gradual process, partly because it requires changing generations of

\textsuperscript{262} Interview with Ben Achour commission member (November 13, 2014).
\textsuperscript{263} A representative of Ettakatol, who mentioned the party’s support for an electoral law favoring high youth representation in the ANC, also emphasized during an interview the party’s historic emphasis on inclusion of and support for youth (interview, January 29, 2015). Newer parties, namely Jabhat al Aslah, also claimed to put youth in decision-making positions (meeting with members of Jabhat al Aslah, June 27, 2013).
\textsuperscript{264} Interviews and meetings with Tunisian activist and international democracy assistance worker (January 6, 2015; February 2, 2015).
mentalities\textsuperscript{265}. At the same time, laying the groundwork for a democratic transition would require the TPA to adhere to democratic constraints (such as limited mandate and time in power), thereby limiting its capacity for overseeing that long-term, gradual change. The TPA would face this type of challenge in many other places as well.

\textbf{Incorporation into the Ben Achour Commission}

The TPA’s strategy of inclusion, with all the challenges it posed, was most visible in the Ben Achour Commission. The Ben Achour Commission had begun as a small committee on political reform comprised of about 10 legal experts, but after it was combined with the National Council for the Protection of the Revolution (CNPR) in late February, it converted into an “expert core” responsible for drafting key legal texts surrounded by a wider representative council and expanded its membership to 18. Ben Achour’s method of selection for members of his expert team employed both an exclusionary and an inclusionary principle. The exclusionary principle (which would be dealt with again by the wider commission when it wrote the electoral law, in the story of Article 15 (see chapter 6)) was that he only wanted experts who had been dissidents or critics of Ben Ali. The inclusionary principle he employed was inviting experts from across the country, although he began by calling upon the team from the law school in Tunis with whom he had been working for decades\textsuperscript{266}. Thus, he ended up with a team more or less representing the entirety of the legal academy within the country, but still with a certain dissident reputation.

\textsuperscript{265} For example, one outside expert and long-time advisor on human rights advocacy in Tunisia noted that true judicial reform in Tunisia would involve training of whole new generation of judges (Author meeting, April 1, 2015).

\textsuperscript{266} Interview with Tunisian legal expert (December 23, 2014).
By the time that expert team had joined the CNPR to form the wider political reform commission, a strategy of inclusion had begun to be somewhat more explicitly adopted. As the Ben Achour Commission began to work, this principle continued to drive it, manifesting itself in two main ways. First, during its first meeting on March 17, the commission realized that it had been formed hastily and without a clear vision, leaving its composition unsatisfactorily representative of Tunisian society. There was general agreement that it should include more youth, women, and people from the regions, as these groups were considered the “leaders of the revolution” (as with the example about youth above). Thus, the original 60 or so members crafted a plan in which the two most representative organizations from among their ranks, the UGTT and the LTDH, would go to their local sections and recruit youth and female members to join. Although this idea often proved challenging in practice, the principle of inclusion was nonetheless at work.\textsuperscript{267}

At another level, the Ben Achour Commission adopted this same idea of bringing different forces together when it formed subcommittees. For example, the subcommittee assigned to draft the text of the Republican Pact was meant to compromise representatives of feminist movements, secular movements across the ideological spectrum (though they were most leftist, but still with diversity among them) and Islamist movements (Proceedings 2011, 404-405). This example shows how the TPA, and

\textsuperscript{267} This discussion went on over the course of several sessions of the commission, as members continued to invoke the importance of representativeness—of Tunisia’s regions, of its women, etc.—as a source of the commission’s legitimacy, even as membership expanded. The final composition, reached by the end of March, was not totally satisfactory to all (only 12 regional representatives were included, which some found insufficient (Proceedings 2011, 90), but the commission went on to discuss, draft and vote on the electoral law anyway.
especially the Ben Achour Commission, attempted to be inclusive and balanced down to its very lowest levels or sub-structures.

However, the Ben Achour Commission struggled throughout its existence to consistently incorporate such a broad range of voices. Though the Ben Achour Commission’s initial expansion was meant to make it more inclusive of “average Tunisians”, rather than only elites, some of those who been recruited had difficulty fulfilling their role. For one thing, they had no experience with politics or law. As one observer suggested, bringing them into the Ben Achour Commission “legitimized” the institution, but with their limited knowledge they remained vulnerable to manipulation by experts or political party representatives. For another, they, like all the members, were serving on the Commission as volunteers. Though there a small budget had been provided for bringing them from their homes to Tunis twice a week to meet with the committee and vote on the draft laws, the full cost as well as the difficulty of travel and imbalance of experience, meant that retired people residing in the capital who had a history of political activism became more active participants than youth from the regions.

A further challenge for the Ben Achour Commission was maintaining broad participation and a broad representative structure when political interests conflicted. This came out most clearly over the issue of political party financing, when several parties ended up walking out of the commission (discussed in chapter 6). Moreover, by the end of the period in which the commission worked, campaigning for the elections had begun, which meant that many political party representatives were absent too. Although justifications

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268 Interview with Tunisian academic (December 16, 2014).
269 Interviews with Ben Achour commission members (January 14, 2015; January 21, 2015.)
for these absences were presented, the TPA’s strategy of inclusion and getting all voices around the table on every decision was sometimes ineffectual. In short, the TPA’s strategy of inclusion was clearly reflected through the building of inclusive structures of the Ben Achour Commission, yet in practice working with these inclusive structures proved very difficult.

Inclusion as a principle of the constitution-preparation process
One of the first debates in the Ben Achour Commission was the type of electoral system that would be used for the ANC elections. The electoral system (mode de scrutin) that was ultimately adopted for the 10/23 elections (proportional representation with “plus forts restes”, or remainders) was chosen because it would allow for the largest number of different groups in the ANC271. By advantaging small parties, this system would lead to an ANC that included the largest possible number of voices and avoid domination by one party272. This system was adopted through a process in which the experts first presented all the various alternatives to the wider council in the Ben Achour Commission and then the wider council voted, after which the final text of the electoral code was drafted and passed. Whether the final decision was reached because the number of representatives of

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270 The most important party to quit the commission in advance of passing this law was Nahda, which claimed that the Ben Achour Commission had no authority to draft laws beyond the electoral law and the law that created the ISIE.
271 Four different experts from the Ben Achour Commission legal expert core made this point, in various ways, during interviews (December 23, 2014; November 12, 2014; January 6, 2015; July 3, 2013).
272 In contrast to majoritarian/FPTP systems, in which the candidate with the most votes receives the seat, proportional representation systems award seats in a district based on the proportion of votes parties receive. Up until 2011, Tunisia’s voting system had been majoritarian, a system which had allowed the RCD to dominate parliamentary representation in Tunisia. The new PR system encouraged a large number of new candidates to run in the elections, because the results were no longer based on a “winner take all” distribution (Reynolds and Carey 2011, 39-40). The authors also point out that under Ben Ali, 53 out of the 214 seats on the Chamber of Deputies were elected on a nation-wide, rather than voting district, basis, and distributed proportionally to “district-level losers”, but this “only slightly mitigated the huge winner’s bonus” the district-level voting delivered to the ruling party. They further discuss why the closed-list PR system specified in the April 2011 decree law was preferable for the election of a constituent assembly – namely because it favors inclusiveness—but that when elections shifted to a body for regular legislating, an open-list system where voters could hold representatives accountable was better (Ibid, 40-41).
small parties in the Ben Achour Commission outweighed the number of representatives of big parties or because the majority of the commission believed in an inclusive constitution-writing process is not clear. Regardless, this was another way the TPA’s strategy of inclusion played out.

The Ben Achour Commission also voted on another article of the electoral law that explicitly addressed balance and exclusion: Article 18, the “gender parity principle”. This article stated that parties were required to present candidate lists where every other candidate was a woman. Like with the general electoral system decision described above, this decision by the TPA reflected more than just a strategy of inclusion—it also reflected the values of the majority represented in the Ben Achour Commission. Nonetheless, these decisions all show how the principle of inclusion was at work within the Ben Achour Commission and how it ultimately helped the TPA achieve its goals and be accepted.

**Drawing on historical traditions**

Another strategy used by the TPA was to draw on historical traditions, both political and non, to legitimize its existence and its work. By drawing on historical traditions, I mean invoking various aspects of the country’s history that, particularly through post-independence nation-building, had come to be seen as defining the national identity. This section describes three such traditions.

**Constitutionality**

After the decision to abrogate the 1959 constitution in early March, the TPA issued a decree law meant to establish a legal framework for governance in the absence of an

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273 The women’s organizations represented, with the largest being the Association Tunisienne des Femmes Democrates (ATFD) and the Association de la Femme Tunisienne pour la Recherche et le Developpment (AFTURD), are the best examples. Several “national personalities” also identify this way.
accepted constitution. This “destour saghreer” (“little constitution”), or decree law on the organization of public powers, described the various authorities and institutions of governance which would oversee the first interim period. This first interim period was defined in this law as ending with elections for a constituent assembly.

The issuance of the “destour saghreer” reflected important segments of Tunisia’s state-building history. In the 1850s, under the leadership of Ottoman delegates Mohammed Bey and Mohammed el-Sadiq Bey, as well as due to pressure from Europeans (notably France and Italy, who were increasingly asserting their influence in the country), two written declarations were issued with the goal of protecting certain groups’ rights. The first was the 

\textit{Loi Fondamental/Ahd al aman} of 1857, which declared guaranteed security, equality and certain rights to all citizens regardless of religion and promised the building of new judicial institutions. The second was the Constitution of 1861, which was established mostly at the urging of the French in effort to institutionalize the guarantees of the 

\textit{Loi Fondamentale}. It was the first of its kind in the Muslim world, “where, traditionally, the Quran was considered as the only guide necessary for governing”, and it cause a divide between reform-minded leaders and citizens and those calling for more strict adherence to Islamic law (Perkins 1989, 39-40). Although the 1861 Constitution was later rescinded\textsuperscript{274}, the experience, which was part of the unfolding of a larger history of push-and-pull between tradition and reform, made its mark on Tunisian political culture. The importance of such a document therefore influenced the TPA’s decision to

\textsuperscript{274} The Tunisian population was divided over that first constitution, and eventually, fearing that this would ultimately lead to the reduction of French influence, France forced the Tunisian Bey (or Ottoman military officer in charge of the rural regions the Turks could not control) to rescind the same constitution it had strongly urged him to pass (Perkins 1989, 39-40).
issue a place-holder constitution (the *destour saghreer*), while it worked on establishing and then carrying out the steps for writing a new one.

**Modernity and reform**

The *Loi fondamentale* and the Constitution of 1861 in fact reflect a longer-term trend of pushing for reform and modernization in Tunisian state-building and nation-building.

There is no space to discuss this history in depth. Suffice it to say that this history was at the forefront of TPA leaders’ minds as they sought to determine the steps that would direct Tunisia’s future. These traditions thus helped justify many policies of the authoritarian era which continued into the period of the TPA.

One such example was the strict separation of the military from politics. President Bourguiba established this principle soon into his rule, in part as a way to protect his own power (Willis 2012, 86-88), and even Ben Ali, despite coming from the military, didn’t change it. Many have cited this as an important feature of the uprising itself (for example, one interviewee noted that in Egypt, unlike in Tunisia, the role of the military in governance meant that its syndical movement had not developed in the same way), and attribute the military’s refusal to shoot on protestors in 2011 as the deciding factor in Ben Ali’s departure (International Crisis Group 2011a, 9; Murphy 2011, 301-302; also see Bellin 2012). Several interviewees noted how this continued absence of the military during the period of the TPA helped keep things stable. Most importantly, interviewees

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275 Interview with Tunisian academic (October 24, 2014).
276 Interviews with TPA members (November 13, 2014; November 18, 2014). Pachon (2014) challenges the argument put forth by various scholars (e.g. Barany 2011; Schraeder and Redissi 2011) that defection by the armed forces, owing to its marginalized status compared to the internal security forces, was the last straw that broke the Ben Ali regime. He presents new evidence that the military remained loyal to the regime longer than the internal security apparatus in the wake of the 2011 protests. Pachon argues that, due to the “threat environment” created by Tunisia’s militarily powerful neighbors (Algeria and Libya), Bourguiba and Ben Ali had created an institutional infrastructure in which the military was subservient to
who were members of the TPA felt that this tradition of resolving political crises and conflicts through legal mechanisms, rather than by calling in the military, guided the decisions of the TPA. Thus, although it was not a tradition the TPA actively called upon, the separation of military from politics helped inform its decisions and work.

Part of modernity meant emphasizing Tunisia's “openness” as a Mediterranean country rather than an Arab country, which was traditionally based on an *ulama*, or community. One strategy for promoting “openness” was fostering good relations with both Maghrebian and European neighbors and emphasizing social and economic development through investment in education in order to avoid becoming externally dependent on any foreign power (Alexander 2010, 68-73). The TPA carried on this historical tradition. The Qāïd Essebsi cabinet in particular (with its prime minister a statesman who had come of age during the nation-building time) strove to form good relations with Western donors and generally avoided combative foreign policies. Even the other independent commissions – the two investigation commissions and the Commission for Media Reform (INRIC)—set aside time to receive trainings from international experts with experience in relevant issues and reforms. Some even traveled abroad.

Several other patterns from Tunisia’s social and political history, grounded in its tradition of pushing for modernity and reform, were also recalled during the period of the first provisional government. Its rich associational life and especially its historical syndical movement became important in several instances, including the formation of the CNPR and then the role of the UGTT and LTDH in helping expand the Ben Achour

civilian leadership; indeed, it had intervened in several prior cases of popular unrest (1978, 1983 and 2008) when internal security forces failed to contain the protests. This debate is mostly important here for purposes of understanding how and whether the military had developed historically in Tunisia as an institution trusted by the people and capable of preventing internal armed conflict.
Commission. And members of the TPA, in recalling the importance of civil society (including the syndicates) throughout Tunisia’s history and up through the first provisional government, noted how it helped lead opposing or polarized forces toward moderate solutions, because it had a history of dialogue and negotiations (discussed below)\textsuperscript{277}.

A final important part of this history of modernity and reform is the role of women in Tunisian society and economy. The Personal Status Code (PSC) that became an important aspect of the 1959 constitution, was an early piece of legislation under Bourguiba which empowered women vis-à-vis some of the customs relating to marriage and the family sanctioned by Islamic law (Perkins 1989)\textsuperscript{278}. Along with the strategy of inclusion, this recognition of the need for legal mechanisms to protect and encourage women’s participation in public life helped justify the Ben Achour Commission’s—and by extension, the whole TPA’s—adoption of Article 18 and the parity principle of the new electoral code mentioned above\textsuperscript{279}.

\textsuperscript{277} Interview with TPA member (November 14, 2014).

\textsuperscript{278} “The code outlawed polygyny, set minimum ages for marriage, required women to consent to marriages arranged by their families, allowed either spouse to initiate divorce proceedings in the secular courts, and legitimized marriages between individuals of different faiths. It also increased the proportion of the inheritance allotted to the wife on her husband’s death.” Similarly to the Loi Fondamentale and the constitution of 1861, it was the subject of much controversy between supporters of Bourguiba and Neo-Destour and more traditionally-minded people (including women) and religious authorities (Perkins 1989, 110-11).

\textsuperscript{279} Another historical event—the drafting of a constitution by an elected ANC, as had occurred in 1956—at first glance seems like a potential candidate for a historical precedent or tradition from which the TPA drew inspiration. However, this assembly—which appointed Bourguiba as President of the country, and not on an interim basis—was not very representative of the Tunisian population or its will, having been elected without universal suffrage after the Neo-Destour forced the Bey to decree it (Willis 2012, 40). Therefore, I have decided not to include it as an example of how the TPA used historical traditions as a strategy for legitimacy/survival.
Dialogue
Members of the TPA also drew on the use of dialogue, another acclaimed Tunisian tradition. Many TPA members, and especially the leaders of the various commissions, believed that in such a high-risk situation of uncertainty, negotiation and dialogue were not only the best method of operating, but also the historical Tunisian way. One commission leader noted: “in Tunisian political culture there are elements that allow for dialogue – in this small country … That’s part of the political culture, to resolve things other than through violence…” Others invoked the way listening became a key tactic within the TPA: Members of the Bouderbala Commission noted, for example, that their listening served as “the first comfort [the victims] had”, suggesting a first step toward dialogue and reconciliation to overcome the injustices of the past (also see Redissi, Nouira and Zghal 2012b, 42). The idea, then, of bringing all sides to the table, whether to jointly create the rules for the election of a national constituent assembly or simply to help launch a process of change, represented something “Tunisian”. This ultimately made it more acceptable as a TPA strategy to the population.

Applying democratic principles
A fourth strategy the TPA used for gaining legitimacy was abiding by democratic principles. Although no universal definition of “democracy” exists, the TPA realized that it had to demonstrate openness and fairness, two traits the authoritarian governments had lacked. It also called upon other specific (and agreed-upon) aspects of democracy: civil society, individual liberties and respect for human rights, and free and fair elections. The section below describes the ways the TPA did this.

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280 Interview with Ben Achour Commission member (November 14, 2014).
281 Others from the interim cabinet emphasized the importance of listening to certain groups’ grievances like youth (Interview with TPA member, January 26, 2015).
Accountability and trust
Various people who were part of or close to the TPA understood the need to gain Tunisians’ trust if they were going to effectively try and move toward democratic reform. Jandoubi, the head of the ISIE, for example, refused to let the government provide his office with security or police vehicles, aware that this would recall the omnipresence of police in the days of the Ben Ali. And Raoudha Laabidi, the president of the Judges’ Syndicate, insisted that her organization’s role during this period was to gain back the trust of the Tunisian people in the country’s judicial system, which had become increasingly under the control of the executive since 1956. This effort to gain people’s trust was a critical part of the TPA’s strategy of legitimizing its work by demonstrating accountability to the public. Some members of the TPA used techniques like sharing the reports they wrote following their visits with citizens with the citizens themselves. The TPA was criticized by some for not thinking enough about democratic ability—for example, some legal experts outside the Ben Achour Commission expert core argued that the electoral code drafted by the TPA should have emphasized more local governance and decentralization so that elected officials would be more accountable to the Tunisian people. However, on the whole these efforts helped it accomplish its goal and be accepted as a provisional government, because they represented a break with the more authoritarian past. The members of the Essebsi cabinet also sought the trust of the Tunisian people by promising not to run in the elections they were charged with overseeing.

282 Interview with SMT member (January 20, 2015).
283 Interview with TPA member (January 26, 2015).
284 Interview with Tunisian legal expert/academic (December 16, 2014).
Civil society
The TPA showed great awareness of the importance of civil society’s role in a democracy of balancing the powers of the state. One example of this was the way associational life was incorporated into the structure of the Ben Achour Commission and the other TPA commissions\textsuperscript{285}. Many of these organizations such as the UGTT which, as discussed elsewhere, had played instrumental roles during the revolution and then in forming the structures of the TPA continued to be active both in and outside the TPA and in later phases.

Individual liberties and respect for human rights
A third democratic principle to which the TPA adhered was the principle of individual rights and liberties. As stated in the preamble of the decree law that created it, respect for human rights was among the main principles of the Ben Achour Commission. The notion of freedom of consciousness was reflected in the very first decree law the TPA passed issuing a general amnesty for political prisoners. The TPA also recognized how dearly Tunisians clung to their new freedom of expression, given the decades-long experiences of state dominance over the media sector; hence the creation of INRIC, the commission on media reform. A final example of the centrality of incorporating an institutionalized respect for human rights in the work of the TPA was the way several of its commissions looked to international standards set through documents like the Universal Declaration of Human Rights (UDHR) to guide the reforms they were drafting.

\textsuperscript{285} As mentioned above (institutions), the expert core of the Ben Achour Commission also consulted civil society organizations not represented in the larger assembly, for example when drafting the electoral code (interview with Tunisian civil society member, July 8, 2013).
Elections
One of the TPA’s main weaknesses was that its members could not claim to have been elected by the Tunisian people (its lack of electoral legitimacy). The Ben Achour Commission and the other independent commissions were accused of being illegitimate for this reason. Interestingly, however, members of the TPA sometimes defended this absence of electoral legitimacy. The head of INRIC, Kamel Laabidi, argued that, in a society unaccustomed to free and fair elections, asking average citizens to vote for the TPA’s members would amount to nothing more than a popularity contest, and would not necessarily result in a qualified administration\(^\text{286}\). The Ben Achour Commission and the ISIE also did use democratic methods internally, such as holding elections for officers (vice-president, etc.)\(^\text{287}\). And in general, their commitment to organizing democratic elections was accepted as the only way forward, although people had to be reminded of this at times\(^\text{288}\).

Adaptation
Given that it had no precedent and no clear document defining its work (such as by-laws or standard operating procedures), the TPA had to constantly adjust its methods and approaches according to what worked. The following section describes how the TPA from the start tried to emphasize legality around its actions, but was continuously forced to adapt as the institutional and legal framework of the country changed. The section also highlights how the TPA took advantage of the impermanent nature of its own laws and decisions to advance the needs of the country.

\(^{286}\) Interview with TPA member (December 12, 20).
\(^{287}\) For example, the members of the Ben Achour Commission elected the members of the ISIE; both of those TPA institutions also elected their own leaders such as Presidents (ISIE only), vice-presidents and spokesperson (Ben Achour Commission only).
\(^{288}\) As described elsewhere, the institutions and individuals of the TPA were being constantly protested on a small scale.
Emphasizing (provisional) legality

The TPA followed a Tunisian governmental tradition of using legal mechanisms in order to legitimize its actions, but it did so in different ways according to the legal frameworks in place. For example, Ghannouchi and Mebazza, in consultation with the Constitutional Court, applied Article 56 and then 57 of the 1959 Constitution to retain their positions as decision-makers in the post-Ben Ali government. At that time, the parliament also issued a law on political amnesty and adherence to other international legal frameworks, as well as a law allowing Mebazza to rule by decree, demonstrating a commitment to legal processes even in these exceptional circumstances. These decrees, as well as the organization of public powers law mentioned above and the decree authorizing the Ben Achour Commission to draft legal texts, then effectively dissolved parliament. In short, the dissolution of the state institutions that had been so dominated by the ousted president was done through legal mechanisms in a clear effort to legitimize the TPA. Yet throughout the work of the TPA, these legal mechanisms themselves were changing.289

Continuing in this vein, when in late February the decisions were taken to create the Haute Instance rather than perform constitutional revisions via a committee of experts, its creation and responsibilities were also codified in a decree law. For some, the creation of the Haute Instance marked the beginning of what would become the “transition”, for up until that point attempts had only been made to respond to the uprisings using existing institutions and frameworks. The decree law that created the Ben Achour Commission also gave it a certain legitimacy by documenting its authorities and responsibilities before

289 Some interviewees used this to explain why Tunisia, unlike Libya for example, immediately took legal steps to fill the void created by Ben Ali’s departure, rather than taking up arms (Interview with TPA member, November 13, 2014).
the arrival of interim prime minister Essebsi, thus freeing it from his domination\textsuperscript{290}. And both the Prime Minister and the Ben Achour Commission, of course, were “legal” only until new elections were to be held. In these ways, the TPA gained legitimacy by adapting existing legal mechanisms to the extent possible and necessary.

Using flexibility

While the strategy of using \textit{legal} mechanisms to justify its actions was effective, the provisional nature of the TPA meant that the laws it decreed could also be changed. The TPA took advantage of this flexibility to adapt its own work as it moved forward.

The first example of this was the voter registration law. The initial regulations for the ANC elections, written over the course of late March, April, and May 2011, stated that anyone with a national ID card was a potential voter. A few weeks before the elections, however, the ISIE realized that this provision could jeopardize the transparency of the electoral process, due to the high number of ID cards in circulation that belonged to people who had died. This left open the risk that many would vote more than once, using the identity card of a dead person. Therefore, shortly before the elections, the ISIE created a new, separate mechanism to prevent this\textsuperscript{291}. This demonstrates an agility unique to provisional administrations.

The TPA also showed its flexibility during the early process of expanding the Ben Achour Commission. As noted above, the original 60 or so members in their first meeting decided that each organization represented, including political parties, needed to add one youth and one woman to its representative team. Eventually, however, it became clear

\textsuperscript{290} Interview with Tunisian academic (December 6, 2014).
\textsuperscript{291} Interview with TPA member (November 6, 2014).
that not all the organizations could meet these criteria, for various reasons\textsuperscript{292}. The Ben Achour Commission knew that it needed to nonetheless move forward with its work, and thus permitted exceptions to its own rules. In these ways, the TPA showed its adaptability to the fluid, unusual, and very difficult circumstances it was facing.

The TPA also occasionally showed its flexible side in less constructive ways. All six decree laws that the Ben Achour Commission worked hard to pass – the decree on the ISIE, an electoral code, a law on political parties, a law on associations, and decrees on audiovisual and print media—went through discussion within the Ben Achour Commission before going to vote, with the expectation that Qaïd Essebsi’s government would sign them into law without alteration. Yet one of these, the law on associations, when it appeared in the official journal after having been signed, had been altered. The drafters had intended for the law to include two sanctioning mechanisms for associations that violated the law, with one more strict than the other depending on the severity of the violations. The Ben Achour Commission as a whole had passed it as such. But when the law was issued, it included only the less strict mechanism, rendering it less harsh on violators (and more liberal or flexible in terms of what associations were permitted to do)\textsuperscript{293}. As will be discussed in chapter 6, this had repercussions in later phases. Although no members of the Ben Achour Commission raised significant protest, in hindsight, this seems to be a surprising deviation from the processes otherwise adopted and accepted for the period during which the TPA (to agree on texts within the Commission and give them

\textsuperscript{292} For example, in cases of very rural or under-resourced districts, it was impossible for many parties to find women willing and able to run.

\textsuperscript{293} Interview with Tunisian legal expert (December 23, 2014).
to the interim president for final signature). This example attests to the unprecedented, and therefore often fluid or unclear, processes used by the TPA.

**Summary: Strategies of the TPA**
The TPA faced several constraints by virtue of being a provisional; by its shortage of resources including time, funding, and experience; and by profound legacies left by decades of authoritarian rule. It employed five key strategies to overcome these challenges. The first was operating on a basis of consensus, which was primarily an effort to avoid appearing as a new dictatorship in disguise and to make its decisions more lasting and sustainable. The second was trying to include as many voices as possible in the various processes with which it dealt. Three other strategies for sourcing legitimacy to govern were looking to historical national traditions, applying democratic principles, and adapting its work as needed in order to reach its goals. Though the work of the TPA was far from perfect and was often messy, these five important strategies influenced the work of the TPA and its effects.

These five strategies had basically two common threads running through them: “democracy” and “provisional-ness”. That is, we see throughout a reliance on principles so familiar to democrats, such as equality, transparency, participation, and rule-of-law. Similarly, the TPA knew the only way to prevail was to demonstrate that it was not going to dictate any new rules. In order to do this, it had to constantly re-iterate or demonstrate its plans to hand over power. Thus, as much these five strategies were deployed in order to overcome the many constraints it faced, they were, in the end, strategies for securing legitimacy – reassuring those it was trying to govern that it was temporarily there to maintain order, but maintain order in a fair, non-dictatorial way.
Conclusion
This chapter has presented the actors, institutions and strategies that made up the TPA, in order to show the unique qualities that allowed it to maintain stability and oversee first elections. Its actors were characterized by their reputations as independents or moderates, the networks they brought, and the presence of “soft-liners” alongside “revolutionaries”. The institutions – whether old, new, or revised, were characterized by a certain (though not complete) continuity of the state and brought the necessary rules, structures and procedures for the TPA to be an effective provisional administration. And the TPA’s strategies, while many and varied, were largely based on “democratic-ness” and “provisionalness” and show the ways it balanced the strong tensions between continuity and change Tunisia was experiencing and the ways it managed to enact (some) critical decisions without overstepping its mandate as a provisional administration. These features of the TPA were a reflection of the way it operated within the constraints of existing Tunisian structures and would shape how it handled issues and impacted later phases of change.
Chapter 4: Chronological description of the National Transitional Council

Introduction

This section describes the events that led to the formation of the first provisional administration in Libya, the National Transition Council (NTC). It begins with a brief account of Libyan society and politics before February 2011, then describes the events between February 2011 and July 7, 2012, when the first post-Qadhafi elections were held. It ends with a brief description of the events in the two-year period that followed.

The narrative explains how the NTC rapidly emerged and crystalized within the first days of the February uprisings and led an armed revolt against the ousted regime while also trying to develop transition plans and secure international support. It also suffered from much internal turmoil. Following the defeat of the national army, the NTC turned more attention to disarming rebel fighters and preparing for elections for a new interim government. Yet up until the eve of elections, it remained burdened by major challenges, including rising insecurity, heated political disputes, and increasing challenges to its legitimacy, mostly in the form of public protests. The NTC’s work ended 17 months after it had formed.

Historical overview

Libya’s pre-2011 history has been characterized by scholars as “stateless” or lacking clear development of a modern centralized state bureaucracy (Vandewalle 2012; Anderson 1986b). Libya’s modern history is instead characterized by a disproportionately significant role of non-state institutions. Qadhafi’s Jamahouriya system was based largely on personal ties and tribal alliances; however, as Anderson (1986b) shows, this
was preceded by at least half a century of politics based on local kinship networks. Although their importance rose and fell across modern historical periods, and particularly under Qadhafi, other structures such as tribalism or religious-based organizations also predominated over state structures (Pack 2013, 36-41).

In 1517, when the Ottomans first occupied parts of what is today Libya, the territory lacked anything remotely resembling a centralized modern state. By the time the United Nations created the United Kingdom of Libya in 1951, it represented “little more than a geographical expression” (Vandewalle 2012, 4). And although in 2011 it was considered a nation-state with borders on the political map and a central government based in Tripoli, its leaders had continued to neglect state-building in many ways that would have repercussions in the NTC and post-NTC periods. The territory which would eventually become Libya comprises roughly three distinct provinces: Cyrenaica in the east, whose features and influences were more like its eastern neighbors such as Egypt; Tripolitana in the west, which had been part of and influenced by the Roman Empire; and Fazzan in the south, which was mainly desert inhabited by nomads. Ottoman occupation until the mid-nineteenth century was light, restricted to either a light presence of troops or at the most an annual tribute payment to the Sultan by the administrators (“small-time warlords” in Chorin’s (2012, 18) words) in the capitals of the Tripolitania and Cyrenaica territories. Starting in 1835, Ottoman attempts to penetrate the interior and set up a bureaucratic administration intensified, but were met with fierce resistance, particularly in Tripolitana and Fezzan294. In the meantime, a religious order called the Sanusyia movement had formed in Cyrenaica. The Sanusyia brought basic governance structures to and a sense of

294 Vandewalle (2012, 17) labels this moment the “second Ottoman occupation”.
identity among the tribes of the east; this establishment of order helped the development of trans-Saharan trade routes through Benghazi as well as Tripoli. These trade routes, in turn, helped make the territory more attractive to the Europeans as they vied for control over North African territories against the Ottomans and among themselves.

The resistance to outside occupation in Libya that had begun under the Ottomans continued with the Italian invasion of 1911. The most famous resistance movement originated in the east under the Sanusi order, which ultimately turned into a bloody campaign of subjugation by Italy. But with the end of World War II and Italy’s’ defeat, the British took control of Tripolitania and Cyrenaica, while the French took control of Fezzan, both under military administrations. In 1949 when the French, Italians and British collectively decided that the three provinces should be unified as an independent Libyan state.

A National Assembly was convened in 1949 by United Nations Commissioner Adrian Pelt, which ultimately drafted a constitution granting substantial powers to the provincial governments. The central leader was King Idris al-Sanusi, the heir to the Sanusi order, who ruled as a monarch. Although the discovery of oil in 1959 and subsequent rapid economic growth strengthened the central government vis-à-vis the provincial governments and re-introduced a role for certain political actors outside the King’s circles, the influx of funds nonetheless freed the palace (which already enjoyed

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295 Because this background to the narrative is meant to be very general, it does not mention many details, such as the brief period of administration by the British, the Legge Fondamentale, periodic alliances between Cyrenaica and Tripolitania, or the important resistance to Italian occupation led by Omar Mukhtar.  
296 One proposal wanted to place each province under a separate trusteeship, but granting them independence was more in line with French and British interests, as it would allow for air bases and potentially oil bases to be established there (ibid., 39-40).
substantial power) from the need to extract resources from the population and develop central state bureaucracy.

Because the country had been formed without any historical sense of a unifying national identity, and because its new king failed to promote one, the “most politicized and coherent group” in Libya became the military (ibid., 45). The King’s legitimacy declined as development suffered and clientalism spread. Meanwhile, Arab nationalist movements had swept the region, and in September 1969 several officers formed a Revolutionary Command Council and staged a coup that overthrew King Idris. The country’s new leader became 27-year-old Colonel Moammar al-Qadhafi.

Scholars often divide Qadhafi’s 42-year-reign into three periods. In the first, which lasted roughly from 1969-1975, he engaged in experimentation, including large amounts of state spending. Starting in 1973, however, he famously and systematically dismantled any modern state governance institutions that existed, attempting to rule under an ideology of “people’s rule” (Jamahouriya). This system soon turned into one of highly personalistic rule and ultimately, also due to his increasingly brutal repression of any form of dissent, created an environment of atomization and distrust. He took a hostile position towards the West, in an attempt to mobilize support for his revolution (after all, he had come to power under the banner of Arab Nationalism, modeled after the Egyptian

297 See for example, Martinez (2007) and Vandewalle (2012); however, analysts such as Mattes (2004) have organized the period somewhat differently, perhaps because they were writing at the start of Qadhafi’s “reform” period.

298 Qadhafi published his Green book in 1977 which outlined his vision for so-called “participatory government” based on Basic People’s Congresses. He also created special “Revolutionary” committees following a coup attempt in 1976 to monitor for anti-revolutionary behavior. Committee members essentially acted like informers As many scholars have noted, the result was a system completely controlled by the Qadhafi family or affiliated tribes and high levels of mistrust among the general population (in addition to contributing to other detrimental effects) (e.g. Vandewalle 2012).
revolution led by Gamal Nasser)\(^{299}\). His actions drove foreign powers to impose sanctions which badly damaged the economy, weakening his legitimacy. Moreover, his strategy of harboring terrorists as a way of defying the West became difficult once the global war on terror began\(^{300}\).

Qadhafi’s third period was his “reform” period of roughly 2000-2011, although some reform attempts had started as early as 1990 (Chorin 2012, 50). Internally, these efforts took the form of organization such as the al-Qadhafi Charitable Foundation, headed by Qadhafi’s son Saif al-Islam al Qadhafi (who had been educated in the West and came to be seen as the lead reformer in the family\(^{301}\)), and the National Economic Development Board (NEDB), headed by reformer Mahmoud Jibril (who was to become important for the first Libyan provisional administration following the 2011 uprisings). Externally, relations with the West warmed, with Qadhafi agreeing to dismantle nuclear programs and to no longer harbor terrorists (but giving him reason to crack down even more harshly on the Islamist groups that opposed him). It also led to his “Africa open-door policy”, which increased the number of immigrants from sub-Saharan Africa in the country, who came to be the target of local resentment for the country’s dire conditions.

Some scholars argue that this period highlights how susceptible Qadhafi had become to outside influences, for example by needing to secure foreign oil contracts (e.g. Martinez 2007). Moreover, the declining legitimacy of Qadhafi’s Jamahouriya ideology helped

\(^{299}\) Qadhafi and the Revolutionary Command Council (RCC) of junior army officers (“Free Officers”) that staged the coup were personally very inspired by Nasser (Vandewalle 2012, 78) and used a rhetoric of “freedom, socialism, and unity” to justify and propel their revolution (also see Wright 1982, 154-174).

\(^{300}\) As sources such as Martinez (2007) and Pargeter (2006) explain, Qadhafi’s opening and warming vis-à-vis the West was motivated by several factors, but chief among them was the threat of invasion a la the second Gulf War and the 2003 American-led invasion of Iraq.

\(^{301}\) Some of Saif’s reform initiatives allegedly even went so far as to provoke counter-initiatives by Qadhafi senior; for example, he established media outlets which were closed down on 2010 after an op-ed criticizing the government for incompetence and corruption (see Chorin 2012, 158).
increase the popularity of Western culture. This movement, however, made the Islamist opposition groups which had become active in the 1990s feel marginalized\textsuperscript{302}. Finally, internal opposition as a result of systematic bloody repression to opposition, such as the 1996 massacre of 1,200 prisoners in the Abu Salim prison in Tripoli, was pushing to the surface. On February 17, 2006, a major uprising was staged in Benghazi, in which the families of the Abu Salim victims demanded their remains\textsuperscript{303}. Although the Libyan government still managed to mobilize against protestors, the stage for events of 2011 was nearly set\textsuperscript{304}.

**Overview of events, February 2011 to July 2012**

**Demonstrations, first arrests, and reactions to Tunisia by the regime**

The Libyan people and their leader were well aware of events in Tunisia in January 2011, in which the people of that country’s dissatisfaction had led to Ben Ali’s sudden flight to Saudi Arabia. Thus encouraged, popular protests occurred in mid-January in the Libyan cities of Bani Walid and Benghazi over the government’s failure to provide adequate housing, and quickly spread to towns such as Baida, Dernah in the east and Sebha in the south. The government used several measures to respond to the protests, which clearly demonstrated an awareness of events in Tunisia. It ordered the police to avoid violent clashes and not to fire live ammunition. It also instructed clerics to call for calm during

\textsuperscript{302} As will be described in later chapters, the most well-known Islamist opposition group in Libya was the Libyan Islamic Fighting Group (LIFG), which had been leading a “low-level insurgency” against the government (the Muslim Brotherhood in Libya had been banned under Qadhafi but had been operating clandestinely since the mid-1970s). Observers have noted the lack of unity and coordination among Libyan opposition groups, such as Blanchard (2011h, 14) which says they were “largely limited by disorganization, rivalry and ideological differences.”

\textsuperscript{303} Another form of opposition to the Qadhafi government was in attempted coups, which some sources claim to have numbered at over 50 (Al Toraifi 2013).

\textsuperscript{304} For a detailed description of the attempted economic reforms undertaken by the regime beginning in 1999, and the obstacles they faced, see Pargeter (2006). Pargeter attributes the 2006 protests to the population’s frustrations with these undelivered promised reforms.
their sermons. The state-sponsored National Committee for Young Journalists launched a Facebook campaign condemning the protests. The government further announced a $24 billion investment fund for a new housing development, in addition to measures it had already announced in anticipation of people’s economic grievances: removal of taxes and customs duties on wheat, rice, vegetable oil, sugar, and milk products. In early January, Qadhafi called for the formation of a Crisis Management Committee “to monitor events in Tunisia and formulate a domestic strategy” (Economist Intelligence Unit 2011a, 11-12).

Libyans beyond these cities and towns had also been organizing other public movements against the government. An opposition group of exiled activists, the National Conference for Libyan Opposition (NCLO), reportedly issued a general call via the internet for Libyans to protest the dubious arrest of an online political activist, Jamal al-Hajji. Part of NCLO’s messages included a call for a Libyan “Day of Rage” on February 17 in all cities, intended as massive protests against the government. The government had started in early February to release some political prisoners; it also responded to the NCLO’s message by meeting or communicating with associated individuals, and sending Colonel Qadhafi’s son Saadi, a Special Forces commander, and Abdullah al-Senussi, head of internal security, to Benghazi. But these gestures did not stop the protests.

Bell and Witter (2011a, 38) explain how al-Haji was arrested for a hit-and-run accident, but was arrested by internal security agents rather than police and “the person he is alleged to have struck showed no sign of injury.”

It should be noted that this date was chosen purposefully, as significant anti-regime protests had occurred in Benghazi on February 17, 2006, led by families of the victims of the Abu Salim massacre. Middle East Journal (2011a) reported the release of 10 political prisoners on February 3, while Bell and Witter (2011a) document the release of 12 political prisoners on February 8. There was thus likely just one single such attempt by the regime to appease protestors by releasing prisoners. Bell and Witter (2011a) and Cole and McQuinn (2015, 182) discuss the communication with activists and local media. Some of these meetings and warnings involved regime figures like Saif giving warnings “not to further inflame the
Arrest of Fathi Terbil, protests and clashes begin

The security forces began arresting key political activists, most notably human rights lawyer Fathi Terbil, on February 15. Terbil was known for defending the families of victims of the 1996 Abu Slim prison massacre. This arrest sparked protests in Benghazi—thus ahead of the planned Day of Rage—which quickly became violent. Protests also broke out in al Baida and Tobruk. Qadhafi responded to these protests by reportedly sending text messages that live bullets would be fired if people joined the protests and by arresting activists and individuals associated with organizing demonstrations. The conflict between government forces and protestors continued over the next few days, and the violence escalated308.

Initial formation of NTC

Communities in eastern Libya whose uprisings appeared to be substantially threatening the regime debated how to organize. In Baida, the Minister of Justice, Mustafa Abdl-al Jalil, (or Secretary General of the General People’s Committee of Justice, in the nomenclature of the Jamahouriya system), resigned from the post he had held since 2007 and formed an organizing committee. Qadhafi’s Prime Minister, Umar al-Baghdadi al Mahmoudi, then called him by telephone; during that conversation, Jalil said that the protestors “sought ‘a ceasefire, removal of the mercenaries, and a space to express their aspirations’” (Cole and McQuinn 2015, 33-34).

situation” (Bell and Witter 2011a). However, in his interview with al Sharq al awsat Jalil stated that the only person who actually contacted him, mainly to get information, was the Prime Minister, Baghdadi Mahmoudi.

308 On Feb 18 and 19 it would get much worse, with regime forces firing on a funeral procession in Benghazi on the 18 and a retaliation by protestors in which they attack national army barracks—including that of the dreaded Khamis (32nd) Brigade in a siege which lasted three days (Chorin 2012, 195; Bell and Witter 2011a). As an indication of the level of violence at this point in time, Human Rights Watch counted 84 dead by February 19 (Middle East Journal 2011a).
In Benghazi, another committee formed, calling itself the February 17th Coalition. By February 22, this coalition had established a national council to act as an umbrella group for local councils. This became the National Transition Council (NTC). That day, those same actors also formed a Benghazi local council. These moves thus reflected an awareness of the need to, first, institutionalize the protests so their demands could be articulated, and second, ensure the provision of basic services in the face of a de-legitimized regime.

The NTC quickly issued a set of demands on behalf of the protest movement, including fulfilling Qadhafi’s son Saif’s promises since 2007 of a constitution and some limited reforms. The Council soon raised the protest movement’s demands to include Qadhafi’s removal from power and a full amnesty for revolutionaries. In late February, it published a formal statement, or bayan, on the goals of the revolution. More specifically, this statement demanded “a civil state with a constitution, an independent judiciary, and a peaceful transition of power….” It was announced on TV, radio, and sent to international media. Members of the NTC referred to this statement as a “victory statement for the revolution”, presumably because it declared their intention to triumph over the old regime.

The group invited representatives from the local councils that had formed in cities around the east (such as that formed by Abd-al Jalil in Baida) to come to Benghazi to participate in the forming of the NTC. Meanwhile, threats from the regime to use violence against protestors intensified, and the government cut the internet. But the NTC was rapidly

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309 Chapters 3 and 4 in Cole and McQuinn (2015) on the liberation of Tripoli make it seem that there was another group in Tripoli that was trying to represent the opposition movement that gave itself the same name.
gaining support from high-ranking representatives of the regime, as individuals such as Libya’s permanent representative to the United Nations, Abd-al Rahman Shalgham and his deputy, Ibrahim Dabbashi, defected to the Council. Several of these defections were motivated by a nationally-televised speech delivered by Saif al-Islam on February 20. Some NTC people like Abd-al Jalil had hoped that Saif al-Islam (Qadhafi’s “reformist” son) would support them and allow for the negotiation of a removal of Moammar al Qadhafi from power, but the February 20 speech put that hope to rest. Although Saif promised in his speech to start delivering on planned reforms, and although he criticized the security forces and admitted that the killing of protestors had been a mistake, he also made clear that the regime would not relent in its fight against the opposition. The standoff between the NTC (and the protest movement it claimed to represent) and the regime had fully begun.

Official formation

On February 24 the Benghazi local council publicly named its 15 members. This council chose a representative, Abdel Hafez Ghogha, to act as a delegate to the National Transition Council. Representatives from other regions began doing the same. The national council was announced on February 26, 2011. Mustafa Abdal-Jalil emerged as its chairman following a series of meetings between members of the 17th February coalition and representatives from local councils of the east.

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310 This criticism may have been meant as an attack on his brother Saadi, who was in charge of the security forces (Bell and Witter 2011a, 29). There were several signs like this in the speech of the Qadhafi family’s uncertainty about what to do. For example, Bell and Witter (2011a, 29) say he sometimes “ramble[d] and appeared desperate…” (although, they also concede, he was firm that the events were not about to topple the regime as had happened in Tunisia and Egypt).

311 Presumably these representatives were selected through some kind of consensual process, as holding elections for representatives was not possible due to time and security constraints.
Some confusion surrounded this announcement when Jalil also declared from Baida—and was picked up by international TV stations such as Al Jazeera—that the NTC would act as a transitional government for three months until elections for a new government could be held. The following day, Abdel Hafez Ghogha made an announcement from Benghazi, in which he insisted that the NTC was not an interim government and should not be considered a point of contact by foreign governments. Ghogha said instead that the NTC would administer liberated eastern cities until Colonel Qadhafi’s overthrow (Economist Intelligence Unit 2011b).

The contradiction between these two statements was representative of two features of the NTC that would last throughout its tenure. First, it revealed the difficulty of reaching collective decisions, given the physical separation among NTC members, the lack of any precedent for such a council, and the need for secrecy due to Qadhafi’s threats. Second, hesitation around calling itself a “government” likely stemmed from the NTC’s fear of being seen as a new dictatorship or continuation of the Qadhafi regime (Cole and McQuinn 2015, 38). This concern would continue to color and shape the NTC’s activities as time went on.

Despite these conflicting announcements, the members of the NTC had re-established unity by March 5, when they announced that it was the sole representative of Libya. It then began to set priorities and organize itself around them. A high priority was to gain international support in defeating regime forces. To this end, the NTC formed an

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312 The NTC website said Ghogha’s turned out to be just “personal views.” The fact that no interviewees mentioned it suggests that it may not be reflective of a significant rivalry; perhaps it was more about lack of communication.
“executive council”, while the legislative body, comprised of the representatives of the cities, would focus on internal affairs such as service delivery.

**Intervention by the international community**

The international community reacted immediately to the outbreak of violence in Libya. The United States, France and other members of the European Union responded in two ways, neither of which required— at that point—direct engagement with the NTC\(^{313}\). Immediately, the U.S. re-instated financial sanctions on Qadhafi and regime members and froze certain financial assets from Libya. The U.N. issued an arms embargo and travel ban for Libya and asset freeze on the Qahdafi family\(^{314}\). Second, these governments attempted to coordinate a reaction to the violence. U.S. Secretary-General Ban Ki Moon urged the United Nations Security Council (UNSC) to take “decisive action” in response to the crisis, and Obama, Cameron, Sarkozy, German Chancellor Angela Merkel, Italian Prime Minister Silvio Berlusconi, and Turkish Prime Minister Tayyip Erdogan began engaging in “frequent discussions” in an attempt to coordinate their policies towards Libya” (Bell and Witter 2011b, 15).

The international community’s more profound reaction was the beginning of what would become an international military intervention in Libya. U.S. President Barack Obama had already cancelled all military contacts with Libya and ordered the intelligence apparatus to begin monitoring the crisis (*ibid*, 15). By February 26, a UN Security Council Resolution (UNSCR 1970) had been adopted unanimously, which placed targeted

\(^{313}\) That is, diplomatically – in addition, of course, all these governments were trying to get their citizens safely out of the country.

\(^{314}\) The United Kingdom also intervened in attempted transfers by the Libyan regime from its sovereign wealth fund, held in London (at least some of it) (*Economist Intelligence Unit* 2011b).
financial and travel sanctions on Qadhafi and other individuals and imposed an arms embargo on Libya.

Other multilateral bodies, namely the Gulf Cooperation Council (GCC) and the Arab League, urged the imposition of a no-fly zone over Libya. Meanwhile, tentative steps toward recognizing the NTC were taken – the GCC on March 10 announced it favored recognizing the NTC, and French President Nicolas Sarkozy and U.S. Secretary of State Hillary Clinton both met with the NTC’s external representatives, Jibril and Issawi.

These discussions culminated on 17 March with the adoption of UNSCR 1973, which permitted members to impose a no-fly zone over Libya. The debates leading to this Resolution had two notable features. First, several permanent members of the UNSCR (including China, Russia, India, Brazil and Germany), as well as Brazil and India, abstained from the vote; this showed that even those countries whose diplomatic agendas might be threatened by supporting the resolution did not have any grounds for blocking (vetoing) it. Second, the resolution prohibited ground forces from occupying Libyan territory. In sum, the international community, including Arab partners, had relatively swiftly found common ground for limited action in regards to the Libyan crisis.

By that point, the Qadhafi regime was engaged in full-on warfare with the opposition movement on the ground, referred to broadly in the international media as the Libyan “rebels” and represented politically by the NTC. Fierce battles had led to the downfall of eastern cities like Brega, while other western cities like Misrata and Zawiya had seen

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315 A no-fly zone is the legal prohibition of air planes flying over a certain territory. Instating a no-fly zone via international law would allow international alliances such as NATO to monitor and shoot down any planes that violated it and take other actions to prevent attacks on civilian targets.

316 Notably, Russia had threatened to veto the resolution and criticized the military campaign after it had begun, but was persuaded by the United States to cooperate (Bell and Witter 2011c, 29-30).
major casualties as the opposition and regime engaged in an armed struggle for control. Although most eastern cities had fallen from government control quite quickly, by the time of UNSCR 1973 the regime had managed to hold opposition forces at Ajdabiya and was pushing toward Benghazi.

The international campaign to assist the opposition was called “Odyssey Dawn” and began on March 19 with the launching of missile strikes by French, British and American warplanes, just as Qadhafi forces were beginning their assault on Benghazi. By about March 27, opposition victories in Ajdabiya and some other eastern cities indicated that the intervention was helping tip the military balance in favor of the opposition. However, despite the widespread support for UNSCR, splits within the international community delayed the transfer of leadership of the campaign from the U.S. to NATO\(^\text{317}\). Even with the creation on March 29 of an “International Contact Group” designed to coordinate the coalition of international partners that had launched Odyssey Dawn, and even with those opposition victories, the war intensified. The stage was now set for a prolonged struggle between the Qadhafi regime and the Libyan opposition movement, represented by the NTC and supported by a not-always-fully-united international community.

**NTC efforts to strategize and garner further international support**

On 29 March, the NTC brought to an international summit in London a “Vision for a Democratic Libya,” in which it stated its intentions to transfer power via free and fair elections and prepare for the drafting of a new constitution which would be put to popular referendum. It also declared its support for principles such as peace, democracy and

\(^\text{317}\) Bell and Witter (2011b, 25-26) describe how NATO partners first were able to transfer the part of the Resolution authorizing an arms embargo to France and Britain (March 23) but it took another couple days (until March 31) to get the maintenance of the no-fly zone into NATO hands. The name of the mission then became “Operation Unified Protector.”
freedom (Economist Intelligence Unit 2011c; Cole and McQuinn 2015, 39. It further entered into negotiations with Qatar, one of the first countries to officially recognize the NTC along with France, over the brokering of a deal which would allow Qatar to buy oil from the NTC, giving it an inflow funds. Finally, the leader of the NTC military forces, Abdel Fatah Yunis, started requesting more weapons at the NATO headquarters in Brussels (Cole and McQuinn 2015, 64-65).

These were the start of several patterns in NTC activities over the next several months: (1) continuing cycles of requests for, negotiations over, and transferring of resources to the NTC from the international community; (2) debates over whether to negotiate a ceasefire and agreement with the Qadhafi regime; and (3) the development of a roadmap (or publicly-announced plan) for political change. Alongside these activities was the continuing expansion of the NTC’s membership, as Libyan cities and towns continued to send representatives.

**Seeking aid from international community**

Throughout the summer the NTC was continuously negotiating international support. Qatar, which had been the first country to officially recognize the NTC in early March (with France and a few other countries such as Gambia quickly following), was an eager supplier of weapons, but had to be careful about legal issues. (As described above, Qatar also worked also with the NTC to secure oil sales.) France was the second country

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318 Actually, Qatar’s support for the NTC via oil goes much deeper than this. As the Economist Intelligence Unit (2011c; 2011d) describes, Qatar not only established mechanisms to also provide the “rebels” with food, fuel and medical supplies in exchange for oil in at least one exchange, it also helped the NTC market oil, brokering deals with countries like China.

319 Interview with NTC member, November 8, 2014. Also see Cole and McQuinn (2015, 41-42).

320 Cole and McQuinn (2015, 24-65) explain that Qatar used French weapons suppliers, but French end-user certification on weapons sales forbade resupply to third parties, so it had to seek French permission before carrying out some of these deals.
most involved with weapons supply, and the NTC continued to address its requests to Paris throughout the summer.

The International Contact Group, made up of the United States and various European and Arab countries, pledged $1.3 billion in aid to the NTC in early June 2011 following a meeting in Abu Dhabi. Other countries, including Turkey, pledged bilateral assistance, although the U.S. resisted giving direct financial support for the fighting, leading the NTC to lobby it separately. However, the NTC faced a growing liquidity crisis, leading its finance and oil minister, Ali Tarhuni, to blame the West for not delivering on its promised aid. Finally, in July 2011 the Contact Group and the United States both gave official recognition to the NTC. Recognition by the U.S. allowed it to make available assets it had frozen, amounting to some $30 billion. Recognition by the International Contact Group at a meeting in Istanbul resulted in the dispatching of a U.N. envoy to try and broker a deal with Qadhafi.

**Trying to negotiate agreement and ceasefire**

The NTC needed a coherent strategy for ending the conflict, especially as a military stalemate persisted over the months of May and June. Since the beginning of the conflict, two foreign entities—the African Union and Russia—had been proposing to mediate a compromise. Also, in early April, international news sources reported that the regime had put forth two alternative proposals for ending the conflict. One, proposed in secret

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321 As will be discussed in further detail in later chapters, another way the international community was getting involved during this period was the International Criminal Court (ICC)’s preparation of arrest warrants for Colonel Qadhafi, his son Saif al-Islam, and his head of military intelligence Abdullah Senussi (Having been granted that jurisdiction by UNSCR 1970 (Middle East Journal 2011a).

322 Early on, al-Jazeera also reported an offer by Venezuelan president Hugo Chavez for mediation between the Qadhafi government and the NTC/opposition. Later, U.N. Secretary General Ban Ki Moon appointed the foreign minister of Jordan, Abdullah al-Khatib, as a special envoy to work on finding a negotiated solution. However, the NTC, the United States and France all continued calling for Qadhafi to step down (Mezran and Alunni 2015, 266; Pack 2013, 135).
talks in London between British officials and an aid to Saif al-Islam, in which Moammar Qadhafi would step down and Saif al-Islam would preside over a transitional government; a second, proposed by Qadhafi’s prime minister, Baghdadi Mahmoudi, in Athens, which would partition the country so that Qadhafi would rule over Tripolitana and Fezzan while the rebels ruled Cyrenaica. But the NTC rejected both these proposals as well, insisting that the whole Qadhafi family must go.

At one point in July, a strand within the NTC began planning for a negotiated solution with the Qadhafi regime, and it agreed to attend talks being organized by the AU High Level Committee on Libya planned for July 19 in Addis Ababa. At one point, a separate round of talks were begun in Tunisia between the U.S. and the Qadhafi regime, but the two sides offered differing statements on the results (Economist Intelligence Unit 2011f), and they did not continue. NTC chairman Jalil also reportedly stated on July 24 that the NTC would accept Qadhafi to stay in Libya, but only under certain conditions (Bell and Witter 2011c, 30). Yet before any negotiations could continue, opposition fighters had entered Tripoli.

Development of NTC Roadmap

On May 5, the NTC announced its latest “transitional vision”. A small portion of this document outlined the steps for a roadmap for political transition, to be completed within nine months. The roadmap envisioned appointing an “interim government”—recalling its earlier debates about whether or not the NTC itself constituted an interim

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323 The documentation on this period is a little confusing because Bell and Witter (2011c), citing a Wall Street Journal article, date Jalil’s statement from July 24, but Boguslavsky (2012) says they did not show up to the planned talks in Addis Ababa on July 19 because the US had recognized it on July 15.

324 The rest of the document included an elaboration of the roles of the NTC’s teams and bureaus (Blanchard 2011c) and “reaffirmed the project for a new Libya” (Mezran and Alluni 2015, 264-265).
government—following a ceasefire (with the Qadhafi family’s abdication as a precondition). This interim government was to be drawn from the NTC but would also include “three technocrats, plus two military officers and security officers from the old regime to ‘avoid chaos during the transition phase’” (Cole and McQuinn 2015, 40). The NTC would then hand over power to a General National Congress (GNC) comprised of representatives from each town to appoint a committee to draft a new constitution, which would go to the Congress for approval and then be put to a referendum. If approved, the country would hold elections for a new president and parliament. During subsequent months the NTC would be forced to adjust both its timetable as well as the details of its vision for handing over power.

**Assassination of General Yunis**

The NTC had, back in April, altered its organizational structure by expanding its executive office portfolios and its number of representatives from local councils, many of whom remained anonymous due to security concerns. At that time, it also announced the formation of the “Free Libya Armed Forces” under the control of General Abdel Fatah Yunis, who had formerly been a Special Forces commander in the Libyan army. Following reports that Yunis and/or his family members had conducted secret talks with the Qadhafi regime, on July 28 NTC Chairman Mustafa Abd Jalil summoned Yunis from the battlefield to Benghazi for questioning. Yunis, however, never made it to Benghazi – he was abducted en route by another group, suspected to be either from a rival tribe
and/or Islamist radicals and “summarily executed for treason” (Economist Intelligence Unit 2011g, 11)\(^{325}\).

This event led the international community to become concerned that the Libyan opposition (and by extension, the NTC) was not coherent enough to sustain a defeat of the Qadhafi regime and lead a transition to a new, presumably more democratic, political system. Some observers attributed the legacies of mistrust under Qadhafi—created by his “patronage- and fear-based rule” as well as the chronic economic and political challenges that plagued the country for decades—to the NTC’s inability to control its fighters. Such reports reveal international partners’ concern about competition among tribal, regional, or political groups, particularly over control of oil resources, the ascendance of Islamist forces, and the NTC’s general ability to thwart crisis and maintain control.

Beyond raising alarm within the international community, the Yunis assassination presented the NTC leadership with an unexpected management challenge. Jalil, the NTC chairman, fired the entire executive committee (also referred to as the “cabinet”) on August 8 in response to its internal bickering and accusations regarding the assassination. Rumors and suspicions continued to fly\(^{326}\). Jalil promised to name a new cabinet within a week, but his promise was not realized. Clearly, the NTC’s unity had been badly shaken.

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\(^{325}\) The implications of his death will be discussed more in later chapters.

\(^{326}\) Among the existing explanations for internal NTC disputes surrounding Yunis’s death, there was a jockeying for leadership among factions, with one faction pushing for Jibril, Yunis and the officers he commanded to take the lead, while another pushed for Isawi instead of Jibril (Cole and McQuinn 2015, 50). The Economist Intelligence Unit (2011g) states that Jalil blamed the executive cabinet for “procedural errors” following Yunis’s death.
Constitutional Declaration of August 3

Ever since the NTC’s initial roadmap of May 5, the details of the transition roadmap had been under debate (Cole and McQuinn 2015, 51). The most contentious article was Article 30, which concerned the legislative elections that would replace the NTC. With Yunis’s assassination, the NTC was pressured to reach an agreement on this article so it could issue the declaration and maintain legitimacy and control. Thus, on August 3, it officially announced a “Constitutional Declaration”. This document did indeed lay out a more detailed series of actions than the previous (May 5) document had, but it nonetheless continued to stoke concerns among divided members over the proper way forward rather than reassure the international community (discussed more in chapter 6). It also put the NTC more at risk of being accused of becoming a hegemonic power, since in this declaration it described itself as the “Supreme Authority” in Libya (Blanchard 2011c, 15).

Battle for Tripoli

In late July opposition forces began gradually breaking out of a stalemate in the Nafusa Mountains in the west. Over the month of August, as they advanced toward Tripoli, they captured Zawiya, a western town where the last regime-held oil refinery was, and then Sabratha, a cultural heritage site just 80 km west of Tripoli.

On August 19—just before NTC forces entered Tripoli—the Qadhafi regime made a final attempt to negotiate a solution, when Mahmoudi reportedly called for a ceasefire and peaceful end to the conflict. The NTC did not heed the call, and the fight continued. After

327 In terms of the military conflict, the NTC was also gaining ground in the Nafusa Mountains of the West, preparing it for the drive toward Tripoli (see Bell and Witter 2011d, 13-17).
328 The heart of this battle was in the port city of Misrata. Bell and Witter (2011c) and Cole and McQuinn (2015, 118-119) describe this battle—which lasted several months—in great detail.
an eight-day battle in which the opposition first captured eastern neighborhoods, then
overran Qadhafi’s central compound and captured the remaining neighborhoods, Tripoli
finally fell to the NTC’s forces.

Although Qadhafi and his family members had escaped, and his hometown of Sirte and
the loyalist town of Beni Walid remained in regime control, the fall of Tripoli represented
a much larger victory for the NTC. First of all, it prompted formal recognition of the
NTC by foreign countries, including Russia on September 1 and China on September 12,
as well as the Arab League. Several members of the Contact Group also pledged more
support to the Council in the form of releasing frozen assets and the removal of
sanctions. And the United Nations voted to transfer Libya’s seat to the NTC and sent a
special envoy to Libya. This envoy, Ian Martin, would eventually lead an entire support
mission tasked with aiding the NTC and generally guiding international efforts to
redevelop the country after the fall of Qadhafi.

Moreover, it was an occasion for the NTC to consolidate the disparate militia who had
been organizing themselves and fighting for control of the city since February. This took
the form of a “High Security Council”, intended to act as a coordinating mechanism for
those disparate forces. Among these fighting groups were individuals and units which
had emerged from Islamist organizations, most notably former Libyan Islamic Fighting
Group commander Abdelhakim Bilhaj.

329 By September, more than 45 countries had recognized the NTC as the legitimate representative of the
Libyan people (Middle East Journal 2011c).
330 These decisions were not unanimous, though: for example, South Africa opposed making unfrozen
funds directly available to the NTC because the African Union had not yet recognized it (Economist
Intelligence Unit 2011h).
Perhaps most importantly, the NTC announced on August 25—even before the last Tripoli neighborhoods had fallen—that it was moving its offices to the former capital. This move had been anticipated in the August 3 Constitutional declaration, and the NTC’s actions suggested that it was eager to live up to this commitment. However, the move would later be disputed.

Capture and kill of Qadhafi, announcement of liberation and formation of new cabinet

On October 3, Jalil finally announced the members of the new NTC cabinet or executive committee (the original cabinet had been dissolved following the assassination of Yunis in late July). His delay had raised considerable speculation about friction within the core of the NTC. Nonetheless, it was a sign of restoration of control by the NTC, and was accompanied by two other announcements: the appointment of a new cabinet within one month after the country was liberated, and the promise that members of this new NTC cabinet would not to run in the upcoming elections.

Qadhafi was killed on October 20 in his hometown of Sirte. This defeat marked the final triumph for the NTC and the opposition (although, as later chapters will show, it did not mark the end of challenges by any means). The fighting was particularly intense and bloody, and the killing of Qadhafi by some of the opposition fighters was gruesome and would also provoke criticism from human rights groups (Economist Intelligence Unit).

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331 For example, on August 24, about half the NTC members moved from Benghazi to Tripoli, and at a press conference on August 25, NTC oil and finance minister Ali Tarhouni announced that the executive committee had moved to Tripoli. Chairman Jalil then moved to Tripoli on September 10, at which point he asserted that the rest of the council would remain in Benghazi until the country had been entirely liberated (Economist Intelligence Unit 2011g).

332 As later chapters will make clear, this friction was already becoming evident, notably around Yunis’s assassination. Some thought Jibril was widely disliked within the Council (this was also suggested during at least one author interview with Libyan sources conducted in 2014). Perhaps relatedly, there were reported debates about which ministries should remain in Benghazi (Economist Intelligence Unit 2011i).
2011j, 10). However, it was the final step the NTC needed to declare the country liberated, which it did on October 23.

In Benghazi, Jalil’s liberation speech included surprising and seemingly unrelated content, including the recognition of polygamy. The announcement was quickly followed by a vote of the NTC for a new interim prime minister to replace Mahmoud Jibril, who had been serving since the beginning and had also assumed the Foreign Affairs portfolio, as part of its promise to form a new interim cabinet once the country had been liberated. The winner by a large margin (26 out of 51 votes) was Abdel Rahim al-Kib, an academic and businessman who has spent much of his life in exile and was relatively unknown inside the country (ibid., 11). Over the following month, al-Kib appointed a new executive cabinet, which was sworn in on November 24, replacing the one Jalil had announced on October 3. According to the NTC’s roadmap, this government was tasked with arranging elections for a new interim parliament, called the General National Congress, which was to appoint a committee to write a new constitution. NATO officially ended its mission at the end of October, despite a request by Jalil for it to extend.

**Continued clashes, debates over electoral law**

Although on its way to elections by now, the country was still in turmoil. Throughout the winter and spring 2012, the NTC wrestled with serious challenges: demobilizing and disarming the disparate armed groups who had helped in the fight against Qadhafi; controlling ongoing protests; and drafting laws related to the elections.
Challenges of disarmament

With media attention no longer directed at the military struggle between oppositionists and the former regime, other conflicts and grievances came to the fore. Various militant groups remained armed with weapons they had either looted from the former regime’s stockpiles or that the Qadhafi regime had distributed. Several arms depots remained unsecured, and the disarray of the state army and police left people feeling vulnerable, leading to regional hoarding of arms and ammunitions. Minefields laid by loyalist troops in different regions of the country also needed to be cleared (Bell and Witter 2011d, 25). Clashes between armed groups occurred frequently, often with groups accusing each other of being loyal to Qadhafi, sometimes overlapping with older tribal feuds or ethnic divisions.

One of the most urgent tasks for the NTC at this point was thus to create a central military authority to control the militia in order to restore a sense of order, which would in turn allow the NTC to address economic stability and questions of political transition. The NTC faced several difficulties in achieving this. These difficulties were largely due to the proliferating armed groups\(^\text{333}\) and individuals the NTC hoped to register in a short time period and the refusal by several groups to integrate until they were promised higher compensation.

Ongoing protests against the NTC

Resentment of the NTC’s move from Benghazi to Tripoli continued to foment, and in December and January protests erupted along these lines. The so-called 12/12 movement,

\(^{333}\) That number, although difficult to estimate, was expected to be hundreds, and over 125,000 Libyans were thought to be armed (International Crisis Group 2011b, i). Another useful reference is McQuinn (2012).
a large-scale\textsuperscript{334} protest movement that began on December 12 in Benghazi, criticized the NTC for considering a draft law which would pursue reconciliation with Qadhafi supporters. This came among other accusations of the NTC being a continuation of the old regime: discriminating against the east and allowing figures with ties to the old regime into its ranks. The NTC’s response was to release a statement promising that certain institutions would remain in Benghazi, but it did not subsequently act on these promises.

Protests against the NTC’s laws and members continued into January, with students and other protestors on one occasion even entering Jalil’s office and looting some computers and furniture and attacking Abdel Hafez Ghogha. Daily demonstrations in Benghazi “attracted up to 30,000 people…with protesters demanding that the administration be purged of collaborators with the old regime” (Economist Intelligence Unit 2012a, 12). Jalil then promised to replace some of the NTC representatives with fully elected officials; the Minister of Economy, Taher Sharkas, even resigned in response to the protests. Other interest groups demonstrated in front of or inside the new Prime Minister al-Kib’s office, demanding recognition for their grievances.

\textit{Drafting of electoral law}

Upon the advice of the UN mission for support in Libya, UNSMIL, which had been established in September 2011, the NTC created an Electoral Committee (EC) to prepare for the larger electoral process. This EC drafted the law establishing a High National Elections Committee (HNEC), passed in January and sworn in on 12 February, and the much more controversial elections law, which was adopted on 28 January. Alongside the\textsuperscript{334} Cole and McQuinn (2015, 214) assert that the protest included about 200 people.
preparations for national elections, two local elections took place, one for a municipal council in Benghazi and one for a municipal council in Misrata.

The first draft of the electoral law, released in early January, triggered large protests, particularly over the seat allocation for various constituencies, as well as other issues which will be discussed in subsequent chapters. Partly as a result of these protests, NTC Deputy Chairman Ghogha resigned, along with the Benghazi Mayor, Saleh Ghazal. The seat allocation designated in the NTC’s elections law caused another reaction: the establishment of a “Transitional Council of Barqa” (the Arabic name for Cyrenaica, or Libya’s eastern province), which declared the Cyrenaica region a federally autonomous unit. The declaration occurred at a conference held in Benghazi on March 6, where approximately 3,000 high-level tribal, military, and political figures gathered. The Council deemed the 1951 Constitution still effective, refusing to recognize either the amendments that had been made in 1963 or the August 3 constitutional declaration of the NTC. Conference participants tried to specify the exact powers the Barqa region would have, although the declaration itself did not (see chapter 5 and 6). Most importantly, Ahmad Zubair al-Sanusi, who was a descendant of the old Sanusi order that had ruled Libya from Benghazi and an NTC member, was named head of the Council. The Barqa Council constituted the most organized challenger to the NTC thus far. Thousands took to the streets in Benghazi and Tripoli in opposition to the Council.

335 Ghazal had tried to resign twice previously, but the NTC wouldn’t accept his resignation (interview with NTC member, November 13, 2014).
April-June 2012: Law 38 and further challenges

This would not be the last challenge the NTC would face before elections for a new interim government. In April, an important political party, the Justice and Construction Party, formed out of diverse Islamist groups, began suggesting a no-confidence vote against the al-Kib government, primarily due to its failure to bring armed militias under government control. Although some NTC members confirmed publicly that a no-confidence motion had been passed, with one even stating that the government would be dissolved\(^ {336} \), Jalil ultimately declared that the NTC cabinet would remain in place until the GNC had been elected.

Despite these challenges and the ongoing security concerns (aggravated by the widespread availability of weapons), preparations for GNC elections continued, with significant support from UNSMIL (see Cole and McQuinn 2015, 131-137; Blanchard 2012, 22). The date was originally set for June 19, and registration for voters and candidates opened on May 1. In late April and early May, the HNEC and NTC encountered several new obstacles. First, the HNEC chair was replaced by the commission’s spokesperson, along with four other senior board members, with no reasons given (ibid., 11). In addition, the NTC released a series of laws which proved to be extremely controversial, and some of which was later revoked.\(^ {337} \) Finally, in mid-June, the HNEC announced that the elections date would be pushed back to July 7, citing “technical and logistical reasons”. The delay did not unduly upset the process, and by

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\(^ {336} \) Fathi Baja and Musa al-Kuni respectively (Economist Intelligence Unit 2012b, 10.)

\(^ {337} \) This mainly refers to a controversial ban on political parties based on tribe, ethnicity or religion (which was lifted in May 2012) and Law 37, which banned glorification of the Qadhafi regime or any expression of opposition to the February 17 revolution. The latter was particularly highly criticized by human rights groups for unnecessarily restricting free speech.
early July approximately 2.7 million voters (out of a 3.4 million electorate), and 1,881 independent and 99 party candidates had registered (ibid., 10).

Among the new laws being passed by the NTC at this time was Law 38, regarding treatment of the fighters. Under this law, Libya’s thuwwar, or revolutionary fighters, were effectively granted amnesty and given immunity\textsuperscript{338}. Although it would later be overturned, the announcement of this law was important because it suggested a certain legitimacy of actions by one group within Libyan society at the expense of others.

**GNC elections**

The NTC and HNEC had been forced once to delay the date of elections, from June 2012 to July, mostly due to logistical constraints (Cole and McQuinn 2015, 134-135). Otherwise, however, preparations for the GNC elections were progressing, with a large number of voters registering. Yet, the weeks and days surrounding the elections were still eventful for the NTC.

**Rising insecurity**

The number of security incidents in the days before the GNC elections on July 7 was concerning. For example, there was an explosion outside the American embassy in Benghazi, the offices of the International Committee for the Red Cross in both Benghazi and Misrata were attacked, and there were ongoing tribal skirmishes. On July 6 reports suggested that the Ministry of Interior and the High Security Council had dispatched

\textsuperscript{338} A quote from Wierda (in Cole and McQuinn 2015, 169) highlights the ambiguity surrounding this: “Law 38, on ‘special measures for the transitional period’ passed in May 2012, stated in article 4 that that [SIC] ‘there shall be no penalty for military, security, or civil actions dictated by the February 17 Revolution performed by revolutionaries with the goal of promoting or protecting the revolution.’ This language seemingly granted a broad amnesty to thuwwar, but left open the question of whether offences such as torture could be said to ‘promote the revolution.’”
40,000 troops to polling stations and “that an extensive security operation” was in place (Economist Intelligence Unit 2012c, 23).

**11th-hour election change**

On the eve of the elections, Chairman Jalil announced a change to the electoral law. The GNC was now to elect a constitutional committee instead of appointing it as the August 3 constitutional declaration foresaw. The committee, furthermore, would allocate 20 seats to each of the three regions (west, east and south). The move was in response to demands from the Barqa council that the east needed to be given its due representation in drafting the new constitution. Once the GNC was in place, as the country’s new interim parliament it would be able to vote on whether to retain these provisions.

**Results of elections**

Turnout on election day, July 7, was high: international observer mission estimates put the figure at approximately 62% of registered voters (Carter Center 2012, 6). To the surprise of many, the strongest Islamist party to compete, the Justice and Construction Party, established by the Muslim Brotherhood movement, fared poorly, winning only 17 of the 80 seats reserved for political parties. A more “secular” coalition, the National Forces Alliance, led by Mahmoud Jibril (the NTC’s prime minister and foreign minister until November 2011), won 39 seats. The law had also left the other 120 seats to independent candidates. Apart from these results, the most important things about the elections were that they were largely peaceful, saw relatively high turnout, and resulted in a smooth handing over of power and the end of the NTC’s tenure.

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339 McQuinn (2013, 718) puts the total number of political parties listed on the ballot at 374.
What happened after: July 2012 – May/June 2014

The following section summarizes the events in Libya’s political changes after the NTC handed over power to the GNC. Although the NTC itself had struggled with many challenges, it was relatively more successful at maintaining unity and stability than its successors would be – between July 2012 and May 2014, both security conditions and political stability substantially deteriorated.

GNC tries to get to work

The GNC was sworn in on August 8, 2012, approximately one month after the conclusion of the elections. Its first task was to elect a prime minister who would then name a new interim cabinet. This was achieved on September 12, 2012, when Mustafa Abushagur—an independent who had been serving as deputy prime minister since the previous November—narrowly defeated Mahmoud Jibril for the position. However, one month later the GNC removed Abushagur in a vote of no-confidence after his proposed new cabinet drew heavy criticism from both inside and outside the GNC (supporters of the NFA, Jibril’s party, even stormed the Assembly in protest of the presence of Justice and Construction (an Islamist party) and the absence of the NFA among the nominees). On October 18 the GNC voted for Ali Zeidan, a former regime defector and critic and member of the National Alliance Front, to replace Abushagur as Prime Minister.

Insecurity mixed with political conflicts

This turmoil took place amidst a growing number of security incidents. The most high-profile of these was the assassination of U.S. Ambassador Christopher Stephens and three other American embassy officials outside the U.S. consulate in Benghazi on September

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340 Abushagur likely won due at least in part to his support from the Justice and Construction Party.
12. Other incidents included the assassination of defense minister, attacks on and release of prisoners, and a series of attacks on Suffi shrines around the country. These incidents reflected the glaring inability of Libyan authorities to control the armed groups around the country, which were becoming increasingly involved with local conflicts and tribal feuds. The NTC had taken some steps toward this end, and the GNC was trying to follow suit such as by passing a law criminalizing torture, kidnapping and illegal detention in April 2013. However the ineffectiveness of its attempts was clear. In late September, following the killing of U.S. Ambassador Stephens, more than 30,000 protesters demonstrated in front of the Ansar al-Sharia camp (the group which had claimed responsibility for the attack), coming into a head-on confrontation with 3,000 Ansar al-Sharia supporters.

Intertwined with these conflicts was the emergence of two distinct cleavages within the political and social spheres in Libya (both of which will be discussed in more detail in the following chapters). First, an Islamist-secularist divide was emerging: several of Libya’s longtime opposition activists were Islamists or belonged to Islamist organizations, and they were naturally trying to stake their space in the country’s future. The NTC’s “secular” profile – composed mostly of lawyers and academics—had worried some Islamists. This competition would become increasingly violent341.

Second, deep divisions were becoming apparent over how to deal with former regime members. In addition to ongoing disagreements with the ICC about the arrest and detention of Qadhafi and two top government officials, numerous attacks occurred

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341 It should be noted that the identity of all Libyans is still strongly Islamist, so this labeling “secular” is relative. See Anderson (1986a) and Mezran (2012a).
against figures accused of being connected with the former regime. For example, on March 5, 2013, GNC president Muhammed al–Maqariyaf was shot at during protests calling for the barring of Qadhafi associates from leadership positions.

**Political isolation law (May 2013) and Hiftar coup (May 2014)**

The issue of former regime connections climaxed with the Political Isolation Law of May 2013, which banned former Qadhafi officials from participating in politics. It was controversial for several reasons. In addition to reflecting the delicacy of transitional justice decisions (granting amnesty or immunity to figures tied to the former regime would have also been controversial), many former regime members already held at-least-somewhat influential positions within the Libyan government and armed forces. Thus the passing of the law would affect them and inevitably provoke their reaction. Meanwhile the GNC had been stalemated over this question as well as over other issues. Notably, several sources (e.g. Pack 2013, 8) state that these and other laws were adopted “at gunpoint”, suggesting that armed groups forced votes in favor of the law by certain GNC members.

The GNC did vote for the Congressional elections to go forward; these were planned for June 2014. However, in May General Khalifa Hiftar, who had been another top general in the NTC’s military wing, led a successful military campaign which suspended the GNC. During this multi-week campaign, Hiftar led an attack on the Parliament building in Benghazi which unraveled into prolonged fighting with militias identified as Islamist. In Tripoli and other cities, thousands demonstrated in support of Hiftar and in opposition to

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342 Pack (2013) is actually describing the influence of armed groups over the NTC; however, other interviewees (e.g. November 3, 2014) mentioned this issue and used this phrasing.
the parliament; meanwhile, a coalition of mostly western-based militia began to form in Tripoli in an effort to take control of the airport and other strategic resources\textsuperscript{343}.

According to some analyses, the ultimate goal of this campaign was to force negotiations for an amendment to the Political Isolation law (as Hiftar and most of his allies would be barred from politics according to the law), but this did not occur. Armed groups affiliated with the town of Zintan tried to block a Congressional vote to confirm a new government, but the vote went ahead. In short, rival factions from within and outside the GNC were increasingly using violence to challenge its legitimacy (Lacher 2014, 2).

In June, elections with very low turnout brought into the position of national congress a new House of Representatives (HOR). The HOR became increasingly challenged by armed groups, which continued to back the GNC based in Tripoli and to reportedly have ties to Islamist groups like Ansar al Sharia and the western town of Misrata. The struggle had begun between pro and anti-Islamist forces (Hiftar had partly rallied his supporters by blaming Islamist groups for a recent string of assassinations and killings in Benghazi\textsuperscript{344}), between former regime members and revolutionary fighters ("\textit{thuwwar"}), and between east and west, yet there were no clear lines among the fighting factions. Hiftar’s group was not comprised only of anti-Islamists or fighters from the west. Nor were his opponents all Islamists; they included representatives of “disparate forces” (Lacher 2014). Thus, by summer 2014, any semblance of national unity that had existed under the NTC was fully dissolved.

\textsuperscript{343} See Blanchard (2015, 5-6). This coalition called itself \textit{Fajr Libya} and was basically backing the GNC.

\textsuperscript{344} These killings were just part of a larger “unraveling” of Libya’s attempted transition: in addition, several security officers were killed in Benghazi, armed groups kidnapped Prime Minister Zeidan, and militias killed protesting civilians in Tripoli and Benghazi, etc. (Blanchard 2015, 4).
Lack of accomplishments by GNC

The GNC that had been elected to replace the NTC was thus barely able to function as an interim national congress throughout the two years following the 7/7 elections. Ali Zaidan, the first prime minister who had managed to appoint a cabinet, was eventually removed by a vote of no confidence after he was kidnapped by armed militia in October 2013. By then the GNC’s legitimacy was already in serious jeopardy. Zeidan was replaced by Abdullah al-Thinni, who was then removed in a vote of no-confidence and replaced by Ahmed Maiteg in the divisive vote of May 2014 following the Hiftar coup.345

Amidst all this, the GNC had managed to organize elections for a constituent assembly, thus following the procedures established in the last-minute change to the electoral law of July 2012. The constituent committee elections were originally to have been held within one year of the GNC elections, but were later postponed until February 2014. When they finally did take place, the elections were marred by relatively low turnout and violence. Moreover, the committee was stymied by lack of experience, continuing insecurity and political chaos.346

Summary: Chronology of the NTC

This section has described the events leading up to and during the life of the NTC. Some of the notable features of this time period are: the increasing use of violence to settle differences (especially among competing local interests), and the fact that elections for a new interim parliament were held despite many issues remaining largely unresolved. It

345 Soon after, the Supreme Court ruled his election invalid and unconstitutional, so he stepped down.
346 According to the Economist Intelligence Unit (2014, 4), 12 members were still not appointed by the time it held its first meeting, many lacked inexperience, and only 48 were present at the first meeting. As with the GNC, the committee suffered from regular armed attacks, including assaults on the committee itself, as well as deepening divisions over issues of Islam in politics, and, more importantly, proper treatment for former regime members.
has also described the downward spiral of divisions and violence that took place during the two years following the NTC’s tenure. The next two chapters will delve into the actors, institutions, and strategies that characterized the NTC, as well as the issues it faced and the impacts of its work.
Chapter 5: Actors, Institutions and Strategies of the National Transitional Council

Introduction
This chapter presents the actors, institutions and strategies of the NTC. The actors of the NTC, like those of the TPA, were both individuals and organizations; however, no glaring unifying characteristics held them together. Military actors were equally as important as civilian ones (and became more important as time went on). The NTC’s institutional structure was weak; the presentation of it here discusses how the NTC tried to organize itself militarily and administratively, but this was often confusing. Finally, the NTC’s strategies were often shifting and hard to identify.

Actors of the NTC

Introduction
Although the NTC emerged from a small group of lawyers and judges in Benghazi, it rapidly incorporated new members and rose from among other opposition groups to a level of prominence. First, as Qadhafi officials defected from his government, the NTC expanded, both on its civil and military sides, to give these new members a role. As cities across the country fell to the opposition movement, the NTC also incorporated an increasing number of representatives. Moreover, pre-existing opposition groups, most notably Islamist groups, gradually became organized and increasingly took their place in the NTC. Finally, the NTC would need to contend with a number of challengers, most notably the Federalist movement, before it could hand over power to an elected congress.

The most noteworthy feature of this array of actors is the absence of any clear criteria or distinguishing characteristics by which to categorize them. While the central leaders—almost all men—took on a vague profile of an intellectual or somewhat dissident history,
they quickly began working closely with a host of other individuals and groups from various backgrounds. These ranged from those who had recently been working quite closely with the Qadhafi government to those who had espoused using violence against it. Moreover, they worked closely with a number of outside actors who were not always unified in their means and goals.

Nonetheless, two features of Libyan society and state-society relations influenced this composition. First, differences between geographical regions – in particular, a distinct, proud identity among those from the east which had been reinforced through years of marginalization under Qadhafi—were important. Second, traditional family and tribal structures informed recruitment as well as competition and challenges\textsuperscript{347}. Given these sources of tension as well as the lack of cohesion mentioned in the previous paragraph, it is not surprising that the NTC also had to use some of its energy fending off challengers.

This section is organized as follows. It first discusses organizations that fed into the NTC, then moves to the key individuals who would take on leadership or other important roles. Finally, it discusses other outside actors. It ends with a discussion of the NTC’s challengers. Both the latter two groups, while not technically belonging to the NTC, played an important role in its work; for this reason they are discussed here.

**Formal opposition groups**

Many dissidents, lawyers, military leaders, academics and businessmen served in central roles within the NTC. In addition, individuals participating in Libyan opposition groups, all of who had been operating in exile when the uprisings began, also gradually became

\textsuperscript{347} Lacher (2011) also points out that sometimes local loyalties (i.e. loyalty to a town or city) were stronger than regional loyalties. He further argues that even though tribal dynamics played a strong role, they did not necessarily mean Libya had entered into a “tribal civil war”.

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incorporated, in some fashion, into the council. The next section provides background on each of these opposition groups that preceded the revolution and briefly explains how each became involved with or part of the NTC.

**National Conference of Libyan Opposition**
The National Conference of Libyan Opposition (NCLO) was the most important opposition group prior to the formation of the NTC. The NCLO was an umbrella organization that called for protests against the Qadhafi regime and brought together several opposition groups based outside of Libya into an alliance in July 2005; participants included the National Alliance, the Libyan National Movement (LNM), the Libyan Movement for Change and Reform, the Islamist Rally, the National Libyan Salvation Front (NLSF), and the Republican Rally for Democracy and Justice. During this meeting, participants signed a national accord, “calling for the removal of Qadhafi from power and the establishment of a transitional government” (Blanchard 2011b). A follow-up meeting was held in March 2008. Other than its initial calling for the Day of Rage, however, it does not appear that the NCLO remained a unified group with influence during the period of the NTC.

**Muslim Brotherhood**
One of the largest Islamist groups in the country, the Libyan branch of the Muslim Brotherhood had, as the result of severe repression since 1973, been operating clandestinely and outside of Libya. With the defeat of Qadhafi, it held in November 2011 its first congress inside the country in 38 years. The congress lasted for three days, and the group elected Suleiman Abdulkadr (former controller general of the organization) as its new leader.
One of the most important figures associated with the Brotherhood (although not confirmed to have actually been a member) was Dr. Ali al-Sallabi, who had participated in past dialogues between the Qadhafi government and the Islamists. Sallabi was known to Libyans for his Islamic scholarship; in mid-2011 he was instrumental in organizing a “National Gathering” of Islamist groups, partly intended to challenge the NTC. Many Muslim Brotherhood members were wary of the NTC’s largely secular profile (Cole and McQuinn 2015, 183). After some internal tension the Brotherhood left the National Gathering and in March 2012 and formed a political party, the Justice and Construction Party, which would go on to be a main competitor in the GNC elections. Prior to this effort to carve out its own space in Libyan politics, many Brotherhood members held positions on the NTC, including Abduallah Shamia, Minister of Economics, and Alamin Bilhaj, one of the NTC representatives from Tripoli. In addition, Brotherhood members were observed to have been present in emerging groups such as the local councils (discussed later) “and the business networks that fund(ed) them” (International Crisis Group 2011b, 10). In these ways, pre-existing Islamist organizations such as the Brotherhood took on an increasingly important role in the Council, even though the NTC had begun with a more “secular” identity.

**Libyan Islamic Fighting Group (LIFG)/Libyan Islamic Movement for Change (LIMC)**

Libya’s second largest Islamist opposition group was originally named the Libyan Islamic Fighting Group (LIFG). Unlike the Brotherhood, this group espoused the use of violence (described by one analyst as a “low-level insurgency” (Lacher 2011, 147))

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348 According to some sources (International Crisis Group 2011b, 11), Sallabi was also “…respected enough to be independent from any political group but whose ideas are considered close to the Muslim Brotherhood (and) spent much of the 1980s in Abu Slim Prison before living in exile in various Gulf countries, most recently Qatar….During the uprisings he traveled between Qatar and Libya, not only visiting rebel soldiers but also negotiating the Qadhafi family’s departure.” However, as Cole and McQuinn (2015, 193-194) explain, his public speeches sometimes ended in controversy.
against the Qadhafi government. Its original leadership had come largely from Libyan university campuses. The next generation of leaders had mostly studied abroad in the 1970s and 1980s; they were influenced by the Muslim Brotherhood ideology. Many of them had fought against the Soviets in the 1980s in Afghanistan. As Cole and McQuinn (2015, 179-180) note, one way this group overlapped with the Brotherhood was through members’ shared experiences as prisoners in Abu Salim. By the late 1990s, as a result of its opposition and tactics, hundreds of LIFG members in Libya had been imprisoned or forced into exile.

In 2009, the LIFG’s imprisoned leaders renounced violence and entered into dialogue with the Qadhafi Foundation, headed by Saif al-Islam. At the very start of the uprisings, with the release of leading LIFG figures from prison, the group announced its reorganization and new name, the Libyan Islamic Movement for Change (LIMC). This group now rejected violence as a means to achieve its goals.

Many LIFG members were recruited by the various local military councils in the early months following the uprising. One former LIFG leader and one of the organization’s founders, Abdelhakim Bilhaj, became an increasingly important member of the NTC, having led one of the Tripoli military groups that liberated the city.

*Other Islamist groups*

A number of other figures with an “Islamist” identity were important in the NTC. First, the National Libyan Salvation Front (NLSF) was a member of the NCLO, which also had links with Islamist groups such as the LIFG and joined forces with groups and networks.

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349 In fact, the Qadhafi regime, as part of its reform program, had begun a re-engagement with the LIFG in 2009-2010. During that period, several of the group’s leaders were released from prison (as well as many other Islamist combatants, for a total of 214, 34 from the LIFG [Chorin 2012, 150]). One of those was Bilhaj, who had also fought against the Soviets in Afghanistan (Blanchard 2011h, 18).
in Tripoli that formed at the start of the uprisings. The NSLF was a central part of the 17 February Coalition (*Itilaf al sabatash Febriar*) of Libyan opposition fighting groups which eventually helped defeat Qadhafi in their city and gained increasing influence with the NTC in the months following (Cole and McQuinn 2015, 57-104).

In addition, groups with more extremist ideologies operated in Libya under Qadhafi, including Salafists. During the period of the NTC, such groups carried out attacks on religious sites, such as one on a Sufi shrine in October 2011. The final figure to mention is Sheikh al-Sadiq al-Gharyani, another religious scholar who was also the former head of the Supreme Council for Fatwas under Qadhafi. Gharyani, like Ali al-Sallabi, often preached to Libyans on national television, including on the eve of the battle for Tripoli. The figure of al-Gharyani represents the way fighting groups (perhaps having been inspired during that battle by his sermon), Islamist figures, and former government people all came together in the NTC.

**Categories of individuals important in the NTC**

Although chronologically, individuals became important in the NTC before the organizations described above, the discussion of them here has been reversed in order to retain fluidity. The categories of individuals described here often overlap. They are:

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350 More specifically, a supervisor and teacher at Al-Fateh University’s Department of Islamic Studies in Tripoli” (International Crisis Group 2011b, 11).

351 In this case, at least, his preaching seemed to have a more positive effect than Sallabi’s (whose speech around the same time lashing out at Jibril was more controversial (Cole and McQuinn 2015, 193-194). On Gharyani, International Crisis Group (2011c, 11) says: “His address to the nation on 20 August was interpreted by some Tripolitanians as part of the NTC’s signal to begin the uprising that night”.

352 One of the most cogent presentations of these categories and their overlaps is Lacher (2011), whose clear analysis shows the various ways tribal and family dynamics challenged the NTC. This primarily occurred either because of the somewhat “elitist nature” of its leadership, with many representatives from families influential under the monarchy—which also created a regional bias,— differences between elites from families affiliated with the monarchy and those of the regime elite, or even differences among those who had defected from the regime. Lacher elaborates on some of these points in his contribution to Pack’s (ed) 2013 volume.
dissidents and academics, military leaders, regime defectors, figures from families important under the Sanusí monarchy, and other local leaders.

**Dissidents and academics**
The 17 February Coalition in Benghazi was the first attempt to put a “political face” on the 2011 uprisings. Some of those who formed the coalition played key roles in the NTC and the revolution it led. They were mostly lawyers, judges and academics from the east. Most of them had participated in the Day of Rage protest as well as earlier, smaller protests. This group of lawyers and judges initially numbered about 31, but when western towns began to be liberated, it grew to over 100 people.

**Mustafa AbdJalil**, a soft-spoken lawyer from al-Baida in the east, helped organize the local transition council of al-Baida. He became the NTC chairman following a series of meetings between those who organized the 17 February coalition and representatives of local councils. Jalil, born in 1952, was secretary of the public prosecutor in al Baida and became a judge in 1978. He was president of the court of appeals and then of the overall court system in al Baida from 2002-2007 before becoming Minister of Justice. As Justice Minister, Jalil had been openly critical of the regime, famously announcing his intention to resign due to his “inabilities to overcome the difficulties facing the judicial sector.”

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353 The total number of NTC members grew as time went on, and by summer had reached 51, including at least one woman. However, the exact final number remains unclear.
354 According to the Economist Intelligence Unit (2011b), this was decided by March 1, at the same time then-members of the NTC decided that Ghogha would be vice-president and spokesman.
355 The Qadhafi regime rejected his resignation, which was largely motivated by his opposition to detention of innocent people. This was likely a government effort to retain reformist credentials (ntclibya.org). According to Human Rights Watch and U.S. diplomatic cables, Jalil’s critical views of the Libyan judicial sector were genuine (Gritten 2011). Also the State Department Human Rights Report on Libya 2009 stated: “The Ministry of Justice admitted that both inefficient bureaucracy and disagreement between the judiciary and the Internal Security Organization led to unfair trials and detention. The ministry reported that hundreds of prisoners that had been acquitted or had served their sentences remained in prison due to...
as a regime critic originally from the East who had intervened on behalf of the Abu Salim families) likely explains his nomination as chairman of the NTC (Chorin 2012, 236-269)\(^{356}\). However, as NTC chairman he was criticized widely for being politically weak.

**Abel-Hafez al-Ghogha**, a human rights lawyer, former head of the Libyan Bar Association\(^{357}\), and son of a senior Libyan diplomat who had served under both the monarchy and Qadhafi (who was also arrested right before the protests started) became the NTC spokesman/deputy chairman to Jalil.

The man who became NTC foreign affairs minister and “prime minister”, sixty-year old **Mahmoud Jibril**\(^{358}\), was educated at the University of Pittsburgh. In 2009 Jibril became chairman of the National Economic Development board—an instrument of Qadhafi’s reformist agenda of the 2000s. During this tenure he had also become head of the Libyan National Planning Council, another powerful body in introducing liberal economic reforms during that time. During that time, he and other intellectuals were also involved with a project called Libyan Vision, which “sought to establish a democratic state” (Gritten 2011; Mezran and Alluni 2015, 262-266).

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\(^{356}\) Quote from interview with American diplomat, July 31, 2015. Other interviewees mentioned his network of tribal backings. Cole and McQuinn (2015, 35) tells how others such as Abdel Fatah Yunis were considered, but in the end Jalil was chosen because a judge was preferable to a military leader.

\(^{357}\) This association, whose members “championed for legal reforms, an end to corruption” [SIC], is not described explicitly here like its equivalent in Tunisia. However, other members of the NTC also had a history with it: specifically, Salwa Daghaili (BBC 2011).

\(^{358}\) Jibril was born in 1952, so he was actually 59 when the NTC formed. More importantly, his origins are not completely clear. In one source (Blanchard 2011e, 30) his name is given as Mahmoud Jibril Ibrahim al Warfali. If this implies that he is from the Warfalla tribe, this may have contributed to complicated dynamics surrounding the NTC. The Warfalla tribe was allied with Qadhafi’s tribe (the Qadhafa). It was also the main tribe living in the town of Bani Walid, which saw a great deal of fighting even after the defeat of the Qadhafi regime, partly because so many loyalists lived there. Mezran and Alluni (2015, 251) says it was greatly divided, “pitting Warfalla against Warfalla”. However, I have not found any sources stating that Jibril was associated with the Warfalla tribe.
It is unclear how Jibril became the foreign affairs representative and prime minister of the NTC. Jibril was prime minister until Abdelrahim al-Kib replaced him in November 2011, after having officially taken on the foreign affairs portfolio. He also formed the NTC’s executive council, which operated alongside the legislative arm. Sources note that Jibril communicated well with Western officials and diplomats; indeed, it was Jibril who met with Sarkozy and Clinton in Paris in early March and ultimately persuaded them of the NTC’s credibility.

Fathi alBaja, a former journalist and academic who had long advocated for reform, became influential in the NTC in several ways. He acted as a political advisor to chairman Mustafa Abdl-Jalil, was close to the French intellectual Bernard-Henri Lévy (who helped orchestrate meetings between the NTC and French officials immediately after the NTC formed and publicly called for international intervention in the conflict), and played an instrumental role in drafting the NTC roadmap documents. Jamal Bennour, one of the protestors who came out on February 15 and 16, was a trained lawyer and judge who would serve as coordinator for justice on the Benghazi local

359 Various sources address this issue in different ways: Lacher (2011, 142) puts the title in quotes; Chorin (2012, 219) says Jalil selected Jibril (and Essawi) to travel to Paris to meet with Sarkozy in early March but does not otherwise explain how he became prime minister, and Cole and McQuinn (2015, 38) says that Jibril took on this title unbeknownst to the other members when he was abroad. The International Crisis Group (Dec 2011, 8) wrote that “Jibril himself was never elected, and many rebels, particularly in the west, had little say in his appointment.” As will be discussed below, feelings that Jibril had “imposed” himself as Prime Minister led to hostility toward him from other NTC members (interview with NTC member, 11/8/15). One individual from an important Misrata family, Abderrahmane Suweihli, proposed himself as an alternative prime minister; however, this appears to have been more motivated by local rivalries than by direct resentment of Jibril (Lacher 2011).

360 In a leaked diplomatic cable from 2009, U.S. Ambassador Gene Cretz had described Jibril as “a serious interlocutor who ‘gets’ the U.S. perspective” (Gritten 2011). And it is worth quoting Chorin (2012, 269) who explains that Jibril…”emerged at a critical time to articulate Libya’s plight in a form that the West (Hillary Clinton, particularly) could understand. Whatever Libyans thought of him at the time, from the West’s perspective he had a number of strong pluses: he was articulate; held a PhD from a respected American university, and he did not present as an Al Qaeda sympathizer.”

361 Chorin (2012, 162-163) describes one of Baja’s experiences in publishing an article advocating for the drafting of a new constitution.
Kamel Hodeifah, like Bennour a judge in Benghazi, was one of the first few protestors in front of the Benghazi courthouse; he later served as NTC coordinator for the Benghazi military council and as deputy to Mohamed Alagi, Minister of Justice in the al-Kib cabinet. Salah Ghazal, a longtime dissident in Benghazi who had been involved in the 2006 protests, was mayor of Benghazi until his resignation in January 2012. Ghazal was also one of the drafters of the NTC’s original statement of February 22. Finally, Fathi Terbil was a well-known lawyer who had defended the families of the Abu Salim massacre victims and whose arrest on February 15 accelerated the planned Day of Rage. Terbil would become Youth Minister in the NTC’s executive council and Minister of Youth and Sport in the al-Kib cabinet. Other original members of the coalition eventually played more peripheral roles in the actual operations of the NTC: these included Hana al-Jalal, who was appointed to the NTC’s executive council but soon resigned; Abdelsalam al-Mismari, another lawyer who joined the initial protests at the Benghazi courthouse; and Zahi Mugharbi. Al-Mismari and Mugharbi both eventually formed their own groups outside the NTC, each with its own proposals for Libya’s future.

**Military leaders**

All of those who took top military posts under NTC leadership were defectors from the Qadhafi military. Omar al-Hariri had been a general who helped Qadhafi with his coup in 1969, but was imprisoned and sentenced to death in 1975 when Qadhafi suspected him of plotting an uprising. Hariri, who was from the Farjan tribe based in western Libya, took the position of Military Affairs representative (or Defense Minister) when he first joined the NTC. Khalifa Hiftar, also a former general, had been in exile in the United

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362 Mismari was tragically shot and killed by extremist groups on July 26, 2013.  
363 This tribe had a strong presence near Qadhafi’s hometown of Sirte, and “his appointment may have been aimed at wooing influential tribes” (Gritten 2011).
States when the uprising began, having turned against Qadhafi following the failed Libyan invasion of Chad in 1980. **Abdelmonem al-Houni**, like Hariri, had been part of Qadhafi’s coup in 1969, later had a falling out and become a regime opponent, but reconciled with Qadhafi in 2000. Al-Houni was serving as Libyan delegate to the Arab League when the uprisings broke out, and apparently polled other members of the delegation on whether or not they would join him (Chorin 2012). While it is not totally clear what al-Houni’s role was in the NTC, it is notable that he was acting as a close advisor to Saif al-Islam, Qadhafi’s son, up until the last minute, even helping draft his February 20 speech, before defecting to the NTC side.

Last but not least, Abdelfatah Yunis, Qadhafi’s former interior minister and Minister for Public Security and Special Forces Commander in the east, became the top commander for the opposition. The NTC was initially divided over whether to encourage Yunis to join them, because some doubted that he was no longer loyal to Qadhafi. The NTC negotiated with him through 17 February coalition members, NTC representatives, or other representatives of the protestors, and Yunis ultimately persuaded joined. In these negotiations, it seems he was forced to announce on video that he was against Qadhafi; this recording was then posted on certain social media sites. Yunis was assassinated in July 2011, and although his assassination (discussed in chapter 6) may have been linked to double-crossing the NTC, at least one source states that Yunis “remained an

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364 Cole and McQuinn (2015) mention a few other military figures, including Major Ali Amlish, a defected army officer who played a central role in developing NTC military strategy, and Yusuf al Manqoush, who became Armed Forces Chief in January 2012 and was therefore very involved with the security sector reform efforts.

365 Interestingly, both sides seemed to be trying to use this tactic, as the story of Rana al-Aqqabi described below illustrates.

366 Economist Intelligence Unit (2011g) also mentions that two of his senior aides, Colonel Mohammed Khamis and Lieutenant Nassr al-Mohkhar, were also abducted and killed.
outspoken advocate for the opposition movement until his death” (Blanchard 2011d). Following Yunis’s death, Suleiman Mahmoud al-Obeidi replaced him as military chief. Both men were from the Obeidi tribe, a large tribe from the northeast which had been favored under the Qadhafi regime.

Regime defectors
Some who took on key NTC posts had been close to the regime but defected right at the start of the uprisings. Benghazi native Ali Issawi, Qadhafi’s ex-finance minister, had been the Libyan ambassador to India when the uprisings began in early 2011; he resigned on February 21 to return to Libya and support the opposition movement. He became head of foreign affairs for the NTC, working alongside Mahmoud Jibril and even traveling with him to Paris in early March for the initial meeting with French President Sarkozy. Abderahman Shalgam, who had been the Libyan ambassador to the U.N., defected, along with his deputy Ibrahim Dabbashi; both of these men would, along with Jibril, help bring international connections to the NTC. Mahmoud Shamam was the NTC minister for media/information. Ali Tarhouni, who, like Shamam, had been living in exile in the West (as a professor at the University of Washington), became the NTC minister for oil and finance. Finally, Abdelrahman al-Kib served as an NTC representative from Tripoli until replacing Jibril as Prime Minister in November 2011.

The same source also reports that “human rights concerns prior to and potentially during the unrest could have involved forces under his command” (Blanchard 2011d, 28).

Other details about Issawi: he had previously been the youngest person to hold the post of minister of economy, trade and investment (ntcilbya.org), having been born in 1965. He had also reportedly attempted twice to resign from Qadhafi’s government over disagreements with Prime Minister al-Baghdadi, and been involved with a commission charged with designing some of Saif al-Islam’s planned reforms (Gritten 2011).

The other two Tripoli reps were Alamin Bilhaj and Sadiq al-Kabir, both mentioned elsewhere.
As the coalition became the council and as individuals began to take on distinct portfolios, other individuals with histories of dissidence began to join. **Mohamed al-Alaqi**, a Benghazi lawyer who had served as a senior official in the Qadhafi Development Foundation headed by Saif al-Islam, served as the NTC’s Minister for Justice and Human Rights and then as Justice minister when the al Kib government was formed in November 2011. **Abdullah Shamia**, a former professor from Benghazi University who had been in the 17 February Coalition and was also a member of the Muslim Brotherhood, was minister of economics (Cole and McQuinn 2015, 195-196).

**Atiya al-Awjali**, who had been serving as ambassador in the U.S., became minister of culture and community affairs. **Naji Barakat** served as minister for health. **Salwa al-Dighaili**, a lawyer and activist in the Libyan Bar Association (who would push for reforms of the legal system) prior to the uprisings, was from a well-known dissident family in eastern Libya which had been closely associated with the Sanussi monarchy; Dighaili served as interim Minister of legal affairs and women’s issues. Another of her family members, **Jalal al-Dighaili**, served as Defense Minister until November 2011 when the al-Kib government was formed. **Anwar Fituri** was the minister for transportation and communication; **Hania al-Gumia** was NTC minister for social welfare; and **Bilgasim al-Numir** was NTC minister for environment.

**Royalist and Sanusi monarchy opposition figures**
Several key players in the NTC represented important aristocratic families from eastern Libya, often with links to the monarchy (Lacher 2011). **Ahmed al-Zubair al-Sanusi**, from the important Sanusi family of Cyrenaica and one of Libya’s longest-held political

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370 Ahmad Gebreel, a “Libyan diplomat”, was part of the NTC executive committee too, though it’s unclear in what capacity. Khalid al-Gallal was supposedly a February 17 Coalition member, as was Abu Gharghis (Cole and McQuinn 2015, 33).
prisoners\textsuperscript{371}, was also a member of the February 17\textsuperscript{th} coalition. Mansour Saif al-Nasr, who served as NTC ambassador to France, and Abdelmajid al-Nasr, from Sabha, were both from a tribe of notables that had once been dominant in Fezzan (the south). Others included Mohamed Montasir, NTC representative from Misrata and also from a historically important family; and Othman Ben Sassi, NTC member for Zuwara and son of a businessman who made his wealth under the monarchy.

This category of individuals (like others) was not always unified in its stance toward the NTC. Although Abdullah al-Sanusi, a descendent from the royal Sanusi family, had been a member of the 17 February coalition, others of this family had organized a “royalist contingent” based in London. This contingent was led by Mohammed Rida al Sanusi, the son of the former crown prince. As the NTC was taking shape, Mohammed al Sanusi was reportedly meeting with members of the European Parliament to air his views for reinstating the 1951 Constitution. These ideas may have formed the basis for the al-Barqa movement (discussed later). Overall, this mix of historical influences by individual figures and the social groups to whom they were linked highlights the lack of cohesion or clear characteristics that marked the NTC and often produced fault lines within it\textsuperscript{372}.

\textit{Other local leaders}

As opposition organization was equally critical at the local level, NTC members from all these categories took on local NTC leadership roles. Some whose family background was important included: Anwar Fekini, who “[came] from a family of notables in the Western Mountains” and who led uprisings in that area; Rafiq al-Nayed, who became

\textsuperscript{371} Al-Sanusi had been jailed following the failed counter-coup against Qadhafi in 1970. He was released in August 2001.

\textsuperscript{372} Lacher (2011, 143) notes one other NTC member, Ahmed al-Abbar, whose family had been closely associated with the Sanusi monarchy, but I don’t know what al-Abbar’s position was.
CEO of Libyan Investment Authority (LIA); and Aref al-Nayed, who served as head of NTC’s stabilization team and helped Jibril with the Foreign Affairs portfolio. He and Rafiq were both sons of a Benghazian businessman who made his wealth under the monarchy (Lacher 2011, 151).

Other local leaders fit the regime dissident or academic profile better. For example, Abdul Ilah Moussa al-Meyhoub, a French-educated law professor who had criticized Qadhafi’s political and social theories, became in charge of legal affairs in Quba. Sadiq al-Kabir was the NTC representative from Tripoli along with Abdelrahman al-Kib. Finally, Suleiman al-Fortiya, a representative in Misrata, was a British-educated engineering professor who had been teaching at King Faisal University in Saudi Arabia.

Outside actors
The NTC did not include non-Libyans, but it worked very closely with them. As this section shows, however, these outside actors were sometimes at odds with each other, so it is difficult to summarize how they influenced the NTC.

France, the United States, and regional partners
Two countries, France and Qatar, took the lead in offering support to the NTC and lobbying other major Western powers to do the same. Two French figures publicly led this effort: President Nicholas Sarkozy and the journalist/philosopher/activist Bernard Henri-Lévy. Henri-Lévy is credited for meeting with Jalil in the early days of March and organizing for Jibril, representing the NTC, to travel to Paris to meet with Sarkozy in

373 Gritten (2011) lists six other NTC members important on local councils, but does not give their backgrounds. Their names are Uthman Suleiman al-Megrahi (Batnan); Ashour Hamid Bu Rashid (Derna); Hassan Ali al-Dirwai (Sirte); Mustafa al-Salihin Mohammed al-Huni (Jafra); Hassan Mohammed al-Saghir (al-Shati); and Idris Mohammed Mohammed Bu Fayed (no location given).
order to request his support (International Herald Tribune April 2, 2011). As a result, Sarkozy quickly moved to make France the first country to formally recognize the NTC, whom it would steadfastly provide with weapons throughout the war (even conducting airstrikes before the UN-authorized intervention had officially begun, drawing some criticism).

The United States was more hesitant to recognize and devote resources to aiding the NTC, famously reluctant to engage in another war in the Middle East (e.g. Pack 2013, 121; Chorin 2012, 210). Thanks largely to the efforts of Mr. Henri-Lévy, U.S. Secretary of State Clinton met with Jibril in Paris on March 14 (a few weeks after the NTC had formed, and shortly before UNSCR 1973 would be passed). Meanwhile President Obama met with his national security advisors (March 15) and a few days later voted, as a permanent member of the UNSC, to authorize the use of force, including “all necessary measures”, to protect the Libyan civilian population. Naturally, given the strength of its defense forces, American participation in the NATO mission that was to lead the militarily intervention in Libya was critical.

The other governments credited with facilitating the intervention were regional partners, who were important politically in order to avoid accusations of neo-colonialism or Western control over an Arab country. Gulf Cooperation Council (GCC) ministers in Abu Dhabi met in March and encouraged the Arab League to “take responsibility for the Arab response to the fighting in Libya”\footnote{The GCC is a regional alliance comprising Saudi Arabia, Qatar, the UAE, Bahrain, Kuwait, Oman, and Qatar.}. Two days after UNSCR 1973 was passed on March 17, NATO convened a summit in Paris to “craft the coalition’s political and
military agenda” (Bell and Witter 2011b, 23). Participants included both Arab and non-Arab partners as well as representatives from the Arab League.

Two regional countries provided significantly superior levels of support to the NTC and its fighters. These were Qatar and Sudan. Qatar, as described elsewhere, worked hard to secure oil contracts that would provide the NTC with much-needed financial support. It was the second country, after France, to recognize the NTC, then it took a lead role in setting up the Libya Contact Group (LCG, the coordinating mechanism for the NATO mission) and hosted the first LCG meeting in Doha (its military support will be discussed later). It also contributed politically and militarily to the NATO mission. Sudan, as a result of Qadhafi’s support historically for one of the main Darfur rebel movements, the Justice and Equality Movement (JEM), provided significant military support to the NTC. This included weapons, ammunitions, and supplies, and even communications equipment, intelligence officers and trainers. Although Sudan subsequently failed to convert this into “political capital” (De Waal 2012), its aid to the NTC fighters was unequivocally important. By June, Sudan and Qatar were the two main foreign suppliers of the weapons that allowed the opposition to take Tripoli.

**NATO, Operation Unified Protector, and the Libya Contact Group**

Without the UNSCR to support the Libyan opposition and the NATO-led military intervention, the experience of the NTC would likely have been drastically different, as its fighting forces almost certainly would have been defeated. Cole and McQuinn (2015, 105-125) discuss how the cooperation between international partners and the NTC forces

375 De Waal (2012, 376-378) explains how Sudan immediately provided the opposition “more than enough” weapons and supplies to liberate Kufra, a town in the southern Libyan desert on the road to Sudan, then continued to help it secure Kufra and establish an overland supply route through the desert to arm the NTC. Even after the liberation of Tripoli, Sudan reportedly continued to help monitor the southern Libyan border.
was awkward at first, but eventually a good working relationship developed that allowed for defeat of Qadhafi/loyalist forces. The NATO mission officially ended after seven months of engagement, but the overall value of the intervention remains debated (e.g. Kuperman 2015).

Bell and Witter (2011b) discuss some of the political challenges that plagued the NATO mission. Although the resolution authorizing it was swiftly passed, NATO members immediately struggled with the planning for handing over leadership from the United States to the Coalition. This handover—important because no one wanted the United States to remain in the leadership role, least of all the United States itself—was complicated not only technically, but also politically. There were three basic components to the mission (enforcing the arms embargo, the no-fly zone, and airstrikes against loyalist forces); other NATO members were reluctant to take on the second two. This was further complicated by Turkey’s reluctance to back the NATO mission. Although Turkey eventually switched positions, this was only after “much wrangling in Brussels” which significantly slowed the handover (Bell and Witter 2011b). Even once leadership of all three components had been transferred, a certain level of American support was still required for the mission to be meaningful—another delicate issue. Thus, although the Operation Unified Protector succeeded, it demanded a lot of energy from Coalition members to make it work.

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376 For instance, the strict limitations on NATO’s original mission, which meant that it lacked a direct liaison office with anti-Qadhafi forces and had a limited civilian protection mandate, made communication and information difficult and prioritization of resources necessary. Once NATO started sending ground advisers to work with the Libyan fighters, the effectiveness of the campaign increased (see Cole and McQuinn 2015, 105-125).

377 Bell and Witter (2011b, 26) explain that Turkey and France had been at odds over their foreign policies, leading Sarkozy to exclude it from the initial Paris summit. Later, Turkey’s cooperation with the NATO mission improved.
The United Nations and UNSMIL

The United Nations first became involved in the NTC’s efforts on February 26, when its Security Council voted to adopt Resolution 1970, which authorized economic sanctions, and arms embargo, and a travel ban against Libyan authorities. Shortly after, France and Britain drafted the text for Resolution 1973, which authorized the imposition of a no-fly zone over Libya, and which Lebanon agreed to cosponsor (Pack 2013, 116). Although debate over the framing of and NATO allies’ adherence to this mandate (e.g. Boguslavsky 2012), as well as conflicted members of the Security Council due to their role in other international organizations (namely South Africa), continued, the organization nonetheless provided the means for the international community to organize an intervention which would dramatically alter the experience of the NTC.

In September, following the liberation of Tripoli, the Security Council unanimously voted to send a support mission to Libya. This mission, the United Nations Support Mission in Libya (UNSMIL), mostly provided technical support in three domains: the GNC elections, security sector reform, and human rights, transitional justice, and the rule of law. From the perspective of the Mission’s head, Ian Martin, the results were on balance positive (Cole and McQuinn 2015, 150-151).378

The African Union and Russia

Two other outside actors influenced the NTC in a different way. Unlike NATO and the members of the UN Security Council, the GCC, the Arab League, the European Union, and several bilateral actors, the African Union (AU) and Russia sought for a diplomatic

378 Martin’s discussion of the challenges facing UNSMIL is instructive: while the mission was able to provide significant guidance to the NTC as it prepared for the GNC elections, particularly in developing a legal framework, making progress in the other two areas was much more challenging, largely due to the difficulty of establishing a central authority over the growing number of armed groups, most of whom did not have experience with international human rights standards.
solution to the conflict between NTC and Qadhafi forces. The AU, mainly through its Peace and Security Council (PSC), acted based on two principles: a constitutive principle of condemning unconstitutional changes in government; and a recognition of the danger of a Libyan civil war, based on experience of other African civil wars, “threatening a lawless mercenarism that could easily spill across borders” (De Waal 2012, 369). The PSC issued a communiqué which included a “roadmap” for a diplomatic solution, and set up an ad hoc committee to implement it. Russia offered its full support, “convinced that the position of the African Union should be completely taken into account when further moves toward Libyan settlement and peaceful and democratic realization of the legitimate demands of the Libyan people were contemplated” (Boguslavsky 2012, 72). AU/ PSC representatives met with both Qadhafi and NTC leaders several times, but these international actors were never able to reach a diplomatic solution.

First, the African Union in March announced a roadmap for a diplomatic solution, the essence of which was to impose a ceasefire, administer humanitarian assistance to civilians, and begin talks for a negotiated solution. An ad hoc commission from within the AU planned to travel to Benghazi on March 20, but the launching of NATO airstrikes in the second of half of March delayed the trip until April 10. Although Qadhafi accepted the AU roadmap, the NTC-led opposition rejected it, insisting that Qadhafi must step

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379 Both Libyan and non-Libyan actors were concerned about Qadhafi’s potential use of fighters from other countries (Bell and Witter 2011a). Particularly given the difficulty in securing Libya’s borders combined with the availability of weapons in Libya, this could represent a serious threat to the region (De Waal 2012, 370).
down before any ceasefire could be discussed. The AU continued its efforts to find a political solution over the following months, also in cooperation with Russia.\(^{380}\)

The AU and Russia encountered three main obstacles to their efforts. First, the military conflict often interfered with the diplomatic processes. At certain points during the summer, both sides shifted position in terms of its willingness to negotiate, according to military victories and defeats. The closest parties came to negotiating a solution was in late June/early July: the AU prepared for its summit meeting in Malabo a framework for a political solution, which included (after some controversy) a call for a ceasefire. But before this ceasefire could be implemented the rebels had moved in on Tripoli, and getting the NTC to recognize a ceasefire was no longer realistic. Second, external factors sometimes altered the mediators’ proposals. The most notable example was the issuing of an ICC warrant for Qadhafi just at the time the AU was preparing its framework, “jeopardizing the option of Qadhafi quietly going into exile” (De Waal 2012, 375).

Third, the AU and Russia’s efforts were not consistently supported by the Libya Contact Group (LCG). The AU’s initial communiqué was mentioned in UNSCR 1973, and South Africa and the two other African members of the UN Security Council\(^{381}\) had voted in favor of the resolution. But the AU remained concerned throughout the intervention that Western powers would implement its provisions selectively in order to pursue regime

\(^{380}\) Note that the African Union and Russia had objected to some of the provisions of UNSCR 1973 (De Waal 2012, 367-368). This disagreement between Russia and the AU on one side and Western powers, led by France, Qatar, and the United States, on the other, would continue until the fall of Tripoli in late August. The other country modestly attempting to carve out a role for itself as mediator at this time was Turkey (Mezran and Alunni 2015, 267).

\(^{381}\) Nigeria and Gabon.
change. Tensions arose between these two groups of outside actors due to their conflicting approaches, first, when the initial imposition of a no-fly zone interfered with AU/PSC representatives’ planned travel to Benghazi and Tripoli to meet with the different parties, and later when, just as the NTC and the Qadhafi government were to meet for negotiation in Addis Ababa, the U.S. decided to formally recognize the NTC, prompting it to abandon the talks. The U.S. even successfully intervened in Russia’s attempts to support a negotiated solution: At the G8 summit in Deauville in late May, President Obama persuaded Russian president Medvedev to leverage its longstanding supportive relationship with Qadhafi to persuade Qadhafi to step down. Some analysts have even suggested that the LCG or the P3 members were deliberately trying to thwart the AU and Russia’s efforts (Boguslavsky 2012).

Thus, outside actors, while all influential, were not unified in their dealing with the NTC. We have seen how the key actors inside the NTC were a somewhat eclectic mix of figures without a solid history of working together, and coming from various and sometimes overlapping backgrounds. The next section will describe another important actor that arose and affected the NTC – direct challengers.

**Challengers to the NTC**

Although the international community would come to recognize the NTC as the sole legitimate representative of the Libyan people, its actions were contested by several Libyan actors. One of the most significant movements against the NTC was the Federalist

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382 Their main concern was over the wording “all necessary measures” and the fact that the main three advocates for the resolution within the UNSC--France, Britain and the United States, known within the UNSC as the P3—never presented a plan for a negotiated solution (De Waal 2012).

383 This and the De Waal (2012) piece provide helpful background on why the AU took the particular approach that it did, why Russia supported it, and how the continent became divided, partly due to the AU’s poor public relations/external communication capacity.

384 Even the AU reluctantly recognized the NTC after the fall of Tripoli and eventually Qadhafi’s defeat.
movement, which took the shape of the Barqa Council in March 2012. The Barqa Council called for a reinstatement of the old 1951 Libyan Constitution, which granted significant powers to provincial and regional governments. The Council, which named Abduallah al-Senussi – another original NTC member turned critic—as its head, was thus calling for an alternative to the NTC’s constitutional declaration of August 3. Although its influence subsided, for several critical months it had an important influence as a challenger to the NTC.

In addition, some of the intellectuals who had been part of the 17 February Coalition, notably Abdesalam al Mismari and Zahi Mugharbi, were critical of many of the NTC’s actions. Mugharbi “left the NTC with a group of lawyers, writers, intellectuals, and political activists to join the think-tank styled [SIC] Consultative Support Group, based at the Libyan International Medical University” (Cole and McQuinn 2015, 38). The group appears to have focused on political transition in Libya; for example Mismari contributed to drafts of alternative roadmaps following the NTC’s original constitutional declaration draft.

Finally, Islamist actors such as Sallabi frequently expressed their own opinions on what was to happen with Libyan governance. For example, after the opposition’s siege of Tripoli in late August, Sallabi appeared on television to denounce Jibril’s executive council, which was beginning to come under pressure to organize the various fighting groups. Like Mismari and Mugharbi, Sallibi drafted an alternative to the NTC’s 5 May

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385 “On 28 February the group published the pamphlet ‘urgent steps to activate the work of the Libyan Transitional Council’, urging the NTC to take on more responsibilities and to organize like a government” (Cole and McQuinn 2015, 38).

386 Cole and McQuinn (2015, 193-195) tell about this incident in the context of increasing Islamist-secular tension, and tells how Sallabi was quite criticized for his “highly personalized” remarks.
roadmap which would ultimately – after much discussion and debate—become the August 3 Constitutional Declaration. This was the main type of outside actor that would grow in number and became increasingly important, especially in later phases.

**Summary: Actors of the NTC**
The NTC included actors from a range of political and social backgrounds, mostly critical regime members or opposition figures from outside the regime, but many others as well. It included both political and military figures, and its membership overlapped with opposition groups that had previously existed. Although the NTC received some criticism and dealt with a large number of significant issues, this compilation of actors was able (at least initially) to present itself to the outside community as a coherent provisional administration with a sufficient institutional structure to accomplish its goals.

A striking feature of the NTC’s actors is the absence of any clear characteristic or theme holding its individuals together. While in Tunisia the actors of the TPA were defined by coming from a political or civil society with a shared history of regime opposition, the various categories of individuals that comprised the NTC (not to mention the disparate opposition groups or outside actors and challengers) were not coherent or uniform. Part of this lack of coherence was due to the fact that actors’ defining traits were often based on local, family, or religious ties.

The central components of the NTC’s recruitment strategy are similar elusive. Clearly, one had to have renounced any affiliation with the Qadhafi regime. A history of having not been unconditionally loyal to the Brother Leader was also helpful. Even for that criterion, however, there is no evidence of a clear vetting system employed by the NTC as individuals joined its ranks, especially on the military front. The outside actors
working with the NTC were also not unified in their approach or, seemingly, their goals in dealing with the NTC. The next section will discuss the institutions through which these actors operated.

Institutions of the NTC

Introduction

The NTC, operating in parallel with the crumbling Qadhafi regime, initially set up committees to oversee certain tasks, ministries responsible for areas such as finance and defense, and a military council to coordinate the fight against Qahdafi. Yet because Qahdafi’s government had not given responsibilities to these kinds of institutions, the administrative capacities of these new organizations were weak. As a result, groups outside of this institutional framework formed and were often able to command as much if not more authority than the NTC and its affiliates. Such groups, and the shifting patterns of alliances among them, would sometimes challenge the legitimacy and capacity of the NTC. This section describes the civilian and the military or security institutions the NTC tried to form, as well as some of the most notable institutions operating alongside them.

The section highlights two important features of the NTC from an institutional perspective. First, in many areas, especially executive cabinet functions and the security sector, the NTC was scarcely able to set up the structures and processes necessary to guide Libya through the post-uprising phase. This is ironic, given that the NTC became the legitimate provisional administration by convincing outsiders that it could manage the transition. The second feature is the overall weakness of the administrative functions of the NTC. This is related to a long history of weak state institutions, and is irrelevant to
the fact that the NTC was in a “transitional phase”. As a result, military and security institutions received as much if not more attention than civilian ones.

**Civilian institutions**

**NTC and local councils**
The first step taken toward “institutionalizing the revolution” occurred during meetings between leaders of the 17 February Coalition in Benghazi and leaders of other local councils from the east. Through these meetings, the 17 February Coalition, less of a coalition and more of a spontaneous coming-together of protestors, initially became a council made up of seven representatives from different eastern towns: Mustafa Abd al-Jalil, Abdel Salam al-Mismari, Fathi al-Baja, AbdelHafez al Ghogha, Salwa Daghaili, Zubair al-Sanussi, and Abdullah Shamia The formation of a local, approximately 15-member Benghazi council with whom the NTC would work very closely happened around this same time. Together these two groups started coordinating the military effort as well as the delivery of public services.

Local councils in Baida, Tobruk and elsewhere, organizing themselves according to local leadership dynamics, were taking responsibility for providing public services, such as collecting trash. The Benghazi council even served as a transfer point for bringing materials in from or getting people out for medical treatment to Egypt. The Benghazi

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387 Key individuals from that were Kamel Hodeifah, Salah al Ghazal, and Jamal Bennour. Other individuals who were clearly important in this formation, although I’m not certain they were among these 15 members, were Othman Geri, Mahdi Kashbur, Bu Gharghis, Hana al-Jalal, and Zahi Marghabi. There may be some fluidity between these lists.

388 International Crisis Group (2011c, 8) reports: “Cities’ representatives to the NTC normally were decided by local councils in consultation with elders, militia leaders and other prominent personalities, although the extract nature of the process in each case is unclear.”
council members also served as especially critical links between the NTC and the other local councils\textsuperscript{389}.

As time went on, the extent of the NTC’s control over the local councils and the relationship between them became increasingly murky. One observer noted that local councils, much more than the NTC, were responsible for managing day-to-day public affairs in Libya\textsuperscript{390}. Moreover, the NTC sometimes experienced internal confusion about whether it was meant to serve only this internal coordinating role or provide an external face for the uprisings as well (discussed elsewhere). Regardless, both the local councils and the NTC at the outset assumed state responsibilities as providers of public goods, which is one of the fundamental roles of an interim government.

\textit{Legislative Council}

As towns across Libya became liberated, many of them sent representatives to serve on the NTC’s legislative council, which was responsible for making policy. These representatives were selected by local leaders (tribal elders, local notables, sheikhs, etc.), since, due to insecurity and general infrastructure challenges, holding local elections was not possible\textsuperscript{391}. Some representatives came to Benghazi by boat, since land travel was too dangerous. Over the month of April, twenty-three Libyan towns from western, central and southern Libya sent representatives, including from Buntan, Gubba, Ajdabiya, Zintan, Misrata, Nalut, Ghat, and Tripoli (with all but the first three remaining publicly unnamed for security reasons). These new representatives first met in Abu Dhabi and

\textsuperscript{389} Interview with NTC member (November 9, 2014).
\textsuperscript{390} Interview with Libya expert (November 3, 2014). An American diplomat working in Tripoli (interview, July 31, 2015) said he believed the NTC was effective at coordinating the local delivery of services; however, that same interviewee noted the important role of Libya’s “unsung heroes”, meaning citizens bravely volunteering to protect and help the people of their towns survive.
\textsuperscript{391} Ibid.
then Doha before being returning to Benghazi on 12 May. Thus, by around this time, the Legislative Council had about 40 members (Cole and McQuinn 2015, 40-41).

**Executive committee and other ministerial portfolios**
The NTC’s central cabinet/executive committee was formed in mid-April. At the outset, the organization of this group was modeled on the People’s Committees of Qadhafii’s *Jamhouriya*, in which ministries were replaced by “Popular Committees”; similarly, the NTC initially intended for its ministries to be composed of popularly-elected committees. However, this changed as the NTC’s activities and intentions took shape. \(^{392}\)

Between mid-April and June, what began as a “Crisis Management Committee” led by NTC member Jibril and with the explicit task of interfacing with the international community became an “Executive Office” (or cabinet), with individuals taking on ministerial portfolios such as health, finance, and foreign affairs. \(^{393}\) Mahmoud Jibril was head of the office, and Ali Issawi was his deputy. In addition to these Libya-based ministers, the NTC appointed four diplomatic representatives abroad. By June the Executive Council comprised 14 ministerial portfolios; according to one interviewee, there were also a few “ministers at large”. The executive office was to oversee day-to-day affairs, while the legislative arm drafted and voted on interim laws for the country. \(^{394}\)

After the first several months, then, the NTC’s Executive Office had grown from something ad hoc, reactive and loosely modeled on the previous system to a body with a

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\(^{392}\) Likewise, the NTC’s legislative council was supposed to have representatives elected by municipality-based local committees. 

\(^{393}\) The education portfolio was ultimately left unfilled: it was initially given to Hana Jalal, he resigned early on. 

\(^{394}\) Again, the division of labor between these institutions is a bit murky. Cole and McQuinn (2015, 38) say: “Over time the Crisis Management Committee became an executive implementation body—the ‘Executive Committee’, with the NTC like a legislature responsible for devising policy. Perhaps a better division might have been external and internal affairs. However, the precise relationship between the NTC and the Executive Committee was never completely settled and was a source of tension throughout the revolution.”
wide range of responsibilities. This new organizational structure helped solidify the functions of key ministries such as the Defense Ministry, which was to be in charge of weapons being supplied to the NTC from Qatar and elsewhere. As Cole and McQuinn (2015, 42-43) explain:

This management overhaul and structural metamorphosis allowed for the impression that the NTC was better able to address the growing list of issues under its purview. This included efforts to help Misrata and communities displaced by fighting in the Nafusa Mountains; deal with the proliferation of security groups in Benghazi; tackle corruption on the Egyptian border, which was impeding imports; manage local councils; receive an increasing number of visiting delegations; and feed an insatiable and growing group of foreign patrons with the story that the NTC had a plan for everything, which it did not.

In short, the NTC had become, at least superficially, more institutionalized.

Following Jalil’s liberation statement of October 23, 2011, the NTC elected a new prime minister, Abderahman al-Kib, one of the NTC representatives from Tripoli, to appoint a new interim cabinet (its constitutional declaration of August 3 had promised this, as the portfolios and positions of the NTC cabinet members were meant to be temporary). Al-Kib was elected by the sixty-something members of the NTC legislative council; he received almost 50% of the votes. Like Jalil, Al-Kib was seen as an apolitical, unifying choice (Mezran and Alluni 2015, 269). The other ministerial posts were filled over the next month; these appointments were similarly meant to appease various groups, including Islamist groups (which all by now had some kind of voice in the NTC). These ministers were tasked with running day-to-day administrative affairs such as supporting preparations for the General National Congress elections, initially planned for June 2012.

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395 See Cole and McQuinn (2015, 72). However, International Crisis Group (2011c, 21 footnote #160) reveals that the ability of the Defense Ministry to carry out such functions was not so clear. International Crisis Group (2012, 14) also states that no defense ministry existed prior to the revolution.

396 Article 30, Constitutional Declaration of August 3.
Tripoli Taskforce/Stabilization committee
With the launch of the NATO mission, Operation Unified Protector, officials from the international community and the NTC alike were coming under increasing pressure to demonstrate to international governments and reassure constituents that they had a plan for re-building Libya once the military struggle had concluded. This was especially important given the lessons the U.S. and the international community had drawn from the 2003 invasion of Iraq on post-invasion stabilization (Cole and McQuinn 2015, 67). Part of the NTC’s executive committee thus drafted in early May a two-page memo proposing a “Tripoli Taskforce,” which would be in charge of military efforts to liberate Tripoli and post-liberation stabilization.

The proposal for this taskforce evolved through meetings between the NTC and representatives of the international community, mainly the Libya Contact Group (the group comprising representatives from the coalition behind the NATO mission, which was created after the adoption of UNSCR 1973). Following a Contact Group meeting in Rome in late May, international officials had tried to establish an International Stabilization Response Team (ISRT); however, the NTC argued that such a team “would not receive sufficient buy-in from Libyans” and proposed instead a “Tripoli Taskforce” which would also play a role in coordinating the increasing foreign military and technical support arriving in Benghazi (Cole and McQuinn 2015, 67). This Taskforce was originally intended to include 10,000 to 15,000 Libyan troops, supported by foreign forces from the UAE (Economist Intelligence Unit 2011g, 10) 397.

397 The Economist Intelligence Unit (2011g, 10) offers some more detail on the original vision for the Tripoli Task Force. Drawing on a document prepared by the NTC “with help from Western governments”, the report states that: “…up to 800 senior officers from within Colonel Qadhafi forces have already secretly indicated their willingness to join the force, which will be supported by 5,000 policemen. These units
However, due to power struggles and accusations of exclusion by tribal and regional groups, the Tripoli Taskforce would not last. Ultimately, its leader, Aref Nayid, recommended to Jalil that it be reconstituted as a “stabilization committee” to be headed by Jibril. This stabilization committee worked with the U.N. and international community and local councils in the Nafusa Mountains to prepare for the fall of Tripoli. However, it was constrained in acting as an emergency agency. This was due to lack of knowledge and skills of its members as well as a division of loyalties among staff between the committee, the Tripoli Local Council, and the central NTC ministries. Loyalty of fighters was often accorded based on the connections which had brought them into the Taskforce (Cole and McQuinn 2015, 96-98; International Crisis Group 2011b, 7). By the time Tripoli fell to the opposition in late August, the NTC’s attempt at institutionalizing military and security efforts had been drastically weakened.

*National Oil Company and Central Bank*

In March 2011 the NTC declared that it had established two important institutions in Benghazi, the National Oil Company (NOC) and the Libyan Central Bank, and that these were independent from the NOC and the Central Bank in Tripoli. The defection early in the conflict of one of the major NOC-owned oil companies, the Arabian Gulf Oil Company, allowed the NTC to appoint one of the company’s former employees to oversee oil production and exports, to negotiate oil procurements with Qatar and other countries, and to establish relationships with foreign oil companies that had previously

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398 This process of dissolution of the Tripoli Taskforce is described in detail by Cole and McQuinn (2015), based on extensive interviews. The larger phenomenon of competition and rivalries leading to institutional paralysis is discussed more in chapter 6.
signed contracts with the Qadhafi government\textsuperscript{399}. By August the NTC had also begun diverting oil shipments intended for the regime in Tripoli and had restored enough infrastructure to consider resuming production. In November 2011, the NTC formed an oil ministry, which it said would share responsibility over the oil sector with the NOC. The NTC’s establishment of a Central Bank in Benghazi independent from the bank in Tripoli allowed it to circumvent international sanctions. This was important for paying salaries (essential for retaining authority, something that would later complicate its control over armed forces) as well as making electricity and fuel payments. The NTC also set up social programs and reparations to victims of the regime and ran monetary policy through the Central Bank.

\textit{Other Commissions}

\textbf{High National Elections Commission (HNEC)}

In November 2011 the NTC appointed an Elections Committee (EC), which, in January 2012, in collaboration with the U.N. Mission in Libya, UNSMIL, created a High National Elections Commission (HNEC). The HNEC was originally meant to include 17 members, but the size was later reduced to 11 members. The EC and UNSMIL also drafted legislation for the elections\textsuperscript{400}.

Under the guidance of U.N. advisors, the HNEC rebuilt the existing electorate database and managed to register 2.87 million (of an estimated 3.2 to 3.5 million eligible) voters

\textsuperscript{399}“The NTC appointed a former employee of the Arabian Gulf Oil Company, Nouri Berouin, to the position. Although exports/production had totally stopped, Libya had been given permission at the latest OPEC meeting to retain its official export quota of 1.47 million barrels per day.” The AGOC’s defection also allowed the NTC to control certain oil-producing infrastructure. Finally, though it was not a government and could not sign any new oil deals, it could cancel deals where there was evidence of corruption (Economist Intelligence Unit 2011f, 14-15).

\textsuperscript{400}These were law #3 and law #4 respectively. Cole and McQuinn (2015, 134) don’t give detail about how the members of the HNEC were selected, he just says the EC “named its members”. 

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between May 1 and May 21 (POMED 2012). The HNEC also oversaw candidate registration during the same period and credited a special commission to determine candidate eligibility. However, conducting major voter education campaigns as well as registering candidates in time for them to have a significant campaign period proved impossible, and the NTC—controversially—was forced, at the recommendation of the HNEC, to delay the elections from June 19 to July 7. Despite this and the protracted and disruptive debates over the electoral rules (discussed in chapter 6), the HNEC ultimately oversaw the achievement of Libya’s first free and fair national elections.

**Human Rights and Transitional Justice Commissions**

The NTC set up two commissions to deal with crimes committed by the Qadhafi regime. The first was an investigation commission, which worked alongside a UN investigation commission formed in February 2012 after the International Criminal Court (ICC) issued arrest warrants for several former regime or Qadhafi family members. Second, a judicial reform committee, officially called the National Committee for the Development of the Judiciary, was established with the goal of restoring public trust in the judiciary. This seventeen-member committee of judges, prosecutors, lawyers and academics submitted a report to the Supreme Judicial Council, the presiding body of the judicial system which the NTC had already attempted to make more independent from the government by altering its composition. The report recommended further reforms for guaranteeing the

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401 This special commission, called the “High Commission on the Application of Standards of Integrity and Patriotism”, or National Integrity Commission for short, went through two rounds of disqualifying various candidates. The criteria described by POMED (2012) were mostly related to having served in the former regime. This delayed the registration process since many disqualified candidates then appealed. Also the candidate registration period was only open from May 1 to May 17; a final list of candidates was issued by the commission on June 18 (POMED 2012).

402 Law #4 of 2011 changed the composition from the way it was under the Qadhafi system, where it was headed by the Justice Minister and members were from the Supreme Court, the prosecutor general, and then other top positions within the Justice Ministry, to having the Supreme Court chief “head the SJC,
judicial system’s “independence, integrity and impartiality.” However, some analyses (International Crisis Group 2013b, 16) note that these proposals “never came close to proposing a total overhaul of the judicial system”; similarly, the investigation commission encountered difficulties before even beginning its work. In short, these commissions, while bona fide institutions of the NTC, played a marginal role in its activities.

Military and security institutions
This section summarizes the armed groups in operation during the NTC period and the structures the NTC mounted or attempted to mount in order to keep control over them. The section is divided into pre- and post-liberation military institutions, with the former being mostly brigades associated with towns and the latter being more formal coordination structures (with the exception of the Tripoli Military Council). The pre-liberation brigades are thus classified here as “institutions” rather than actors because that organization makes more sense.

Pre-liberation military institutions
National Army/Free Libya Armed Forces
As the NTC was forming, many towns were arming themselves in the fight against the Qadhafi regime. The NTC managed to set up a central command structure in Benghazi, meant to oversee all the local military councils/fighting groups (“revolutionary brigades”403), thereby creating what it called the National Army (also called the “Free

403 The term “revolutionary brigades” is from McQuinn (2012), who distinguishes between those groups doing the major fighting from February to October 2011 from “post-revolutionary brigades”, which came after, and other, generally more violent and extremist militias. However, as International Crisis Group (2012, 10-11) notes, use of the term “revolutionary” became increasingly problematic after the country had
The formation of the NTC’s National Army was gradual, since many senior military commanders were defecting from Qadhafi’s army over the months of February and March. The main task of the central army leadership was to guide the local brigades in defeating Qadhafi’s forces; it also served as the counterpart for the NATO operation that supported the opposition movement in its struggle to take down Qadhafi. However, several local military councils reportedly had independent funding (International Crisis Group 2011b, 19), allowing them to operate outside NTC control. This challenge, combined with the indiscipline and inexperience of many of the fighters, challenged the effectiveness of the national army and the international coalition.

**Eastern brigades and coalitions**

Several civilian armed groups formed during this time not exactly as local military councils, but as independent groups representing tribes, localities, or ideologies (Pack 2013, 159-160). Several of these disparate groups joined together as larger coalitions. For example, three such armed civilian groups based in the east—the 17 February Battalion, the Omar Mukhtar Battalion, and the 17 February Coalition—joined forces as the Gathering of Revolutionary Companies (GRC) in May 2011. The GRC became one of if not the most important civilian armed group. In June, this group approached the NTC...
and requested to become part of the Defense Ministry (Cole and McQuinn 2015, 114). Soon after, it became involved in the discussions which led to the summoning of National Army General Abdelfatah Yunis to Benghazi, en route to which he was assassinated. The GRC’s leadership was known to have connections with the Brotherhood and the LIFG (Cole and McQuinn 2015, 192-193). Other such coalitions also had connections to political Islamist movements, specifically the United Libyan Revolutionaries. This group, “a bloc mainly comprising young fighters”, worked with the cleric Ali Sallabi in calling for elections for a GNC to replace the NTC as soon as possible (Cole and McQuinn 2015, 41 and 51).

Zintan, Misrata and the Western Mountains

The fight between the opposition and the regime for control of the Western Mountains and the western cities of Zintan, Misrata, and Zawiya were long and difficult. Zintan became the center of the Western Military Council (WMC), which coordinated closely with Benghazi to get funds and supplies and was central in the battle for Tripoli. The WMC also claimed to act as an umbrella for some 140 military councils. Finally, the Misrata Military Council became the strongest and most independent (vis-à-vis the NTC) of all local military councils, reportedly even going to Paris to meet with international allies unbeknownst to or unapproved by the NTC (Bell and Witter 2011c, 28).

406 According to Cole and McQuinn (2015, 114), the GRC also possessed “its own reporting channels to NATO members’ representatives”.

407 International Crisis Group (2011b) describes some of the features that distinguished the WMC brigades. For example, the Zinatani brigades (and some others from the WMC like Qaaqa, gained reputations for being very violent. However, much of the Western Military Council’s leadership was supposedly more experienced and disciplined than the average opposition fighters. The same report (21-23) also tells how the Misrata Military Council hardly had any central command, mostly operating at the brigade level. A good source for detail on the friction between the WMC and other military councils is Cole and McQuinn (2015, 257-284).
was also the Misratan Union of Revolutionaries with which approximately 236 “revolutionary brigades” were registered (McQuinn 2012, 2). Generally, these local brigades in the west – as well as those in the east—were known for their loose central command and consensus-oriented decision making (McQuinn 2012, 2; International Crisis Group 2011b, 3).

February 17th Coalition
Tripoli fighting forces began forming in February, after an initial peaceful uprising was suppressed. Various individuals and groups began to organize themselves in order to battle regime forces, through networks that “cut across neighborhoods” (ibid., 4) and with help from outside forces and regime defectors. Several of the most prominent of these networks formed the 17th February Coalition (itilaf sabatash febriar), which was critical for the oppositionist victory during the August 20-28 battle for Tripoli.

Tripoli Military Council
This arrangement of military groups was unstable throughout the NTC period, especially once Tripoli fell. Abdelhakim Bilhaj, who had become increasingly important in the fight for Tripoli, emerged as the central figure in leading and organizing those forces. On August 25 he announced the formation of the Tripoli Military Council, which oversaw several military brigades in Tripoli. One of these was another important Tripoli brigade, the Tripoli Revolutionaries Battalion, headed by Mehdia al-Hariati, who became the Council’s deputy. Although the Tripoli Military Council supposedly had Abdl-Jalil’s

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408 The International Crisis Group (2012) translation for the name of this group is the Misratan Union of 17 February Revolutionaries.
409 For a description of how tension between regime and anti-regime protestors built up over the night of February 20 and throughout February 21, see Bell and Witter (2011a, 29). The clashes killed approximately sixty people and left “scores” wounded.
410 Cole and McQuinn (2015, 63) note that the council started as a coalition of a few brigades but gradually grew. The total number of brigades was at least eleven (International Crisis Group 2011b).
backing (International Crisis Group 2011b, 21), it was frequently criticized and challenged.

**Post-liberation military institutions**

**Warriors’ Commission**

After the fall of Tripoli, the NTC’s first attempt at demobilization, disarmament and reintegration (DDR) was a December 2011 initiative called the “Warriors’ Commission,” set up as an inter-ministerial body under the authority of the Prime Minister. With the goal of “register(ing) all fighters still mobilized, channel(ing) them into training programs and, eventually, toward employment in the labor, interior and defense ministries”, as well as simply gaining information about the various brigades, the Commission worked through local civilian and military councils to distribute registration forms to fighters. However, it quickly became overwhelmed with the paperwork (International Crisis Group 2012, 11) and abandoned its task. Other parts of the NTC would thus pursue other initiatives to bring the fighters under their control411.

**Supreme Security Council**

Although the NTC had early on established a Defense Ministry under the leadership of Usama Juweili, in September 2011 it established a Supreme Security Council (SSC) to bring the fighters around the country under central command and to fill the gap left by the breakdown of the state police function. The SSC was originally meant to be under NTC executive committee control412, but later became part of the interior ministry and

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411 In exasperation with this process and out of mistrust for the man put in charge of the Warriors Affairs Commission, the interior and defense ministers at the time tried to start their own registration processes. The numbers were so great that both ministers “tried to register and authorize entire brigades at once” (Crisis Group 2012, 12). International Crisis Group (2012) says this would later lead to some major consequences.

412 Interestingly, while the International Crisis Group (2012) report tells the SSC as having grown out of the Warrior Affairs Commission, Cole and McQuinn (2015, 100-102) tell how it was announced by Tarhouni
operated as more of a “parallel, hybrid institution” (Cole and McQuinn 2015, 103) alongside the existing armed forces and police. The SSC, with UN and bilateral support, immediately rolled out a program for young armed Libyans to be given basic police training in Jordan.

The SSC tried to establish its authority over the plethora of armed groups in Libya was by paying them salaries. As a result, between February and April 2012 the number of armed fighters registered with the SSC grew quickly. This decision would also have later implications for the NTC, as armed groups refused to cooperate without substantial salaries. The SSC was also given, in December 2011, certain investigative responsibilities. For several reasons, it would come into clashes with many other security institutions set up by the NTC.

Libya Shield Forces

Finally, several revolutionary brigades (which had already started organizing themselves into larger coalitions) formed a national force called the Libyan Shield Force (LSF) in early 2012. This was partly in response to the communal conflicts that were occurring with increasing frequency, and partly because many of the most powerful armed groups did not trust the existing state army. In response to having the Libyan army partly removed from his control, Defense Minister Juweili in April 2012 gave official sanction to the LSF (International Crisis Group 2012, 14). The LSF operated as a parallel security

in August just at the time of the establishment of the Tripoli Military Council, with which it would engage in intense competition. As a result, it was taken out of Executive committee control and command was given to three NTC figures “of varying political backgrounds”. According to those authors, the SSC would only later come under the control of the Ministry of Interior, while the ICG report says it was started by the Minister of Interior, Fawzi Abdul Al.

413 International Crisis Group (2012, 16-17) states that the LSF formed in response to communal conflicts, and Cole and McQuinn (2015) mention twice its role in a battle in Kufra, suggesting a similar reasoning. The same volume (254) also notes that the Misrata Union of Revolutionaries was instrumental in setting up the LSF, partly because it didn’t trust the NTC army.
force, like an “auxiliary army”, which, although meant to be neutral, was sometimes accused of taking sides (Cole and McQuinn 2015, 140).

**Summary: Institutions of the NTC**
The NTC attempted to institutionalize the revolution by creating centralized, representative institutions for overseeing public service provision and the military effort, for conducting policy-making, and for interfacing with the international community and garnering international support. This entailed both setting up institutions with new functions, such as the stabilization committee in charge of post-conflict reconstruction, and taking over responsibilities of existing organizations such as the National Oil Company and the Central Bank. The NTC also tried to create security institutions by consolidating the groups of Libyans around the country who were taking up arms in the fight against the Qadhafi regime; here, however, its efforts fell short of establishing fully legitimate state institutions.

On the whole, this institutional structure hardly reflected a system which allowed for decisions to be made via rules, norms, and procedures. Occasionally the executive cabinet functions and central planning bodies appeared to outsiders as such functioning institutions, but more often they seemed weak. A few more peripheral institutions such as the electoral commission may have helped provide the NTC with capacity/structure to get things done. The biggest reflection, however, of the NTC’s lack of effective institutional structure lies in its military institutions and civil-military relations. This major aspect of the NTC’s work – both before the defeat of Qadhafi, and after, as it worked to disarm fighters and restore stability—can be much better described as disorganized and lacking a central authority or system.
Strategies of the NTC

Introduction
The NTC used a variety of short-term strategies to overcome constraints and achieve its goals, although it lacked any clear cohesive strategy (see Cole and McQuinn 2015, 31-54). This section begins by describing the constraints faced by the NTC and then the strategies it used. In the first half of the period in which it operated, from February to October 2011, the NTC faced constraints mainly stemming from the military engagement between its supporters and the Qadhafi army. These included the urgency of securing international assistance; the need for financing; and the difficulty of communication. Once that military engagement ended, the NTC, while certainly not constraint-free, could focus more on taking its planned steps toward a transfer of power. Following the discussion of constraints, this section then describes the strategies the NTC employed to both win the war and fend off any challengers.

The NTC used strategies of recruitment that brought together people who could help defeat Qadhafi and reassure Libyans that the NTC was their representative. First, its goals shifted as events changed; like the TPA, it had to adapt its behavior and functions accordingly. It also prioritized international support and worked to present a plan for a transition towards democracy. Yet overall, the NTC lacked a coherent central strategy, especially compared to the TPA.

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414 As with the TPA above, this discussion is of constraints due to the limitations of being a provisional administration and which were also particularly to this provisional administration.
Strategies the NTC used

Changing goals
The NTC emerged largely to fill a leadership and governance void; that is, to fulfill the basic functions of a state and manage the armed struggle against the Qadhafi regime (see Cole and McQuinn 2015, 35-37). It also codified the basic demands of its members and, as time went on, its own roadmap and goals (see above). None of these efforts, however, quite amounted to an articulation of a cohesive strategy or larger vision. The NTC’s primary function remained filling a void—and therefore shifting its aims/changing its goals—rather than setting in place the groundwork for a future Libya.

Initial “birth”
This lack of a larger vision (besides managing to bring the country through GNC elections) was evidenced in several ways. The NTC, like many provisional administrations, was not organized to attempt a coup d’etat or in preparation to take over whenever the Qahdafi government fell \(^{415}\). But unlike in many other authoritarian breakdowns, it became a provisional administration even as the ancien régime was still in place, though weakening. It did not necessarily form with those responsibilities in mind \(^{416}\).

The initial contradictory statements issued by two different members of the NTC immediately following its formation reflect the lack of a clear, central mission for the

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\(^{415}\) Two comments should be made here. First, as noted above, there was some speculation that the NTC emerged out of a pre-planned coup attempt or some other form of cooperation against Qadhafi that was thwarted when the uprisings on February 15 began (Pack 2013, 45-46; Mezran and Alluni 2015, 254). Additionally, some revolutionary interim governments do have a chance to work and develop as an organization before taking power, such as the Gouvernement Provisoire de la République Algérienne (GPRA) in Algeria (Shain and Linz 1995).

\(^{416}\) Interview with NTC member (November 9, 2014).
Council. They are reflective of the absence of a clear purpose: the NTC was more concerned about what it was not than what it was.

**Importance of not being perceived as having seized power**

Once the NTC issued a statement declaring itself to be the representative of the uprising/opposition movement, it continued to be preoccupied with not being perceived as having seized power (Cole and McQuinn 2015, 38). International diplomats noted that the NTC’s meetings would last for days, and decisions over who would fill certain ministerial posts would drag on endlessly, in attempts to reach collectively satisfying decisions. As time went on, this remained an important concern among members of the NTC, distracting them frequently from pursuing other aims.

**Drawing on what they knew**

In a way that is probably natural for any interim government, and certainly for any human being that finds itself in unfamiliar territory, the NTC sought to survive by relying on the methods it knew. It structured itself on the local congresses and popular committees that had been the local governance structures and a national parliament under the old regime. NTC meetings (including, presumably, at the level of the local councils) were described as extremely inefficient, in part because decisions were meant to be collective.

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417 Interview with American diplomat working in Tripoli (July 31, 2015). Also noted in Barfi (2012).

418 Interview with American diplomat working in Tripoli (July 31, 2015). Also noted in Pack (2013, 47): “[Qadhafi’s] system of direct popular democracy was supposed to be articulated through the Basic People’s Congresses (BPCs) through which the views of the population on local, national, and international policy matters were to be expressed and through which it, in theory, controlled the ‘popular committees’ responsible for translating policy into action in the political, economic, and social spheres. Their views, incidentally, were in practice expressed through mandated delegates from the BPCs at regional congresses and then in the General People’s Congress (GPC) which acted as Libya’s parliament. It, in turn, elected the members of the General Popular Committee, Libya’s equivalent of a ministerial cabinet, which in theory formulated policy in accordance with the principles passed on to it by the GPC. This policy was then transmitted through the bureaucracy to the popular committees created by and accountable to the BPCs, thus completing the bottom-up, top-down pattern of the circulation of power that was thoroughly unique to Libya.” Roughly, then, the NTC had local councils (the equivalent of the BPCs) which sent delegates to a national congress (like the GPC), while something like a ministerial cabinet (the Executive Committee for the NTC; the elected General Popular Committee under the Jamahirriya.)
rather than based on a hierarchy. If nothing else, this “sub-strategy” demonstrates the lack of a broader, fully-articulated vision.

**Evolving functions**
Throughout its life, the NTC continued to evolve and shape its own functions in response to events rather than according to a clearly-defined mission or purpose. Initially focusing solely on basic services, it soon turned to another vital task: getting outside help. Its declaration of pursuing the formation of democracy was partly in pursuit of its goal of recognition by the international community. As the summer of 2011 wore on, while the NTC retained its democratic goals, its primary aim became restoring peace and stability. Once the country had been liberated from Qadhafi, it could focus more on getting to elections, but controlling the armed groups continued to distract from these aims. In sum, this continuing shift in goals kept the NTC from ever defining a coherent strategy.

**Prioritizing international assistance**

**Securing recognition and material assistance**
Right away, the NTC saw that securing sufficient international backing as quickly as possible as its main avenue for survival in the growing struggle for post-Qadhafi leadership. Yet this was not easy, and required resources in itself. Unlike in Tunisia or Egypt, the NTC was not acting as an interim government in the wake of departure of a despot; instead, it was operating alongside the challenged dictatorship, creating parallel institutions including ministries, an army, and a Central Bank.

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419 Interview with American diplomat working in Tripoli (July 31, 2015).
420 See for example the *New York Times* exposé (Becker and Shane 2016) discussing U.S. Secretary of State Hillary Clinton’s role in the debate over whether and how to intervene at the beginning of the conflict, which quotes one of her assistant secretaries as saying: “opposition leaders ‘said all the right things about supporting democracy and inclusivity and building Libyan institutions…They gave us what we wanted to hear.’”
Soon after the NTC formed, Foreign Minister Mahmud Jibril led the council’s effort to rally the international community. Because the NTC was operating alongside the challenged dictatorship, the international community wanted to be sure of the legitimacy of this counterpart in order to justify its resources and ensure that the NTC wouldn’t emerge as an equally ruthless dictatorship once Qadhafi was overthrown. It was therefore incumbent upon the NTC to reassure the international community of its democratic intentions.

In addition, the NTC aimed to persuade international partners to provide material support. Countries such as France and Qatar were forthcoming with weapons; still their transfer and continuing provision required a fair amount of diplomacy. For example, Qatar had to be careful not to violate end-user agreements by supplying the NTC with weapons it had purchased from France (Cole and McQuinn 2015, 64-65). This also complicated the UAE’s ability to supply weapons. Moreover, such support was often contingent on the NTC demonstrating that it had plans for restoring stability (ibid., 65-66).421

Finally, the NTC requested from international partners finances in the form of international aid and the transfer of unfrozen assets or assets seized from the Qadhafi regime. This financing was often difficult for the international community to supply: the transfer of frozen assets, for example, required special funding mechanisms and finding many loopholes. It also partly caused a liquidity crisis for the NTC422. Thus persuading

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421 One Libya expert (interview November 3, 2014) who spoke with NTC leaders before the Qadhafi had been defeated remarked that they clearly had no plan for the demobilization of fighters, even though they insisted they did.

422 For more on this, see Cole and McQuinn (2015, 45-47.)
the international community of its worthiness remained a key preoccupation of the NTC until the defeat of Qadhafi⁴²³.

The plea for foreign funds was criticized from many angles. Conspiracy theories existed surrounding the eagerness of certain international partners, especially France, the UK, and Qatar, to assist the NTC. While some pointed to French and British desires to secure oil contracts (noting that both governments had had personal ties with the Qadhafi family which quickly transformed into relationships with leading NTC members) (Canal + 2013), others pointed to Qatar’s links to Islamists arousing suspicion among the wider population about its longer-term objectives (Pack 2013, 125).

**UN Security Council Resolution and NATO mission**

The NTC also asked for actual military advice and assistance. This would come in the form of UNSCR 1973 and the NATO-led coalition that arrived on March 19, 2011. The arrival of this assistance did not provide automatic relief, however: the NTC and especially its military side had to work closely with NATO troops and Operation Unified Protector (the name of the mission), which was often made difficult by constraints such as getting and sharing information. Although the two sides would ultimately form a fruitful partnership, their joint defeat of Qadhafi came at the expense of much frustration and many mistakes (see Cole and McQuinn 2015, 105-126)⁴²⁴.

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⁴²³ Moreover, the UN Mission had lots to assist with – elections and more—and it would end up extending its original mandate for an additional three months.

⁴²⁴ Kuperman (2015) and Matthews (2012) have interesting takes on the role of international assistance and the international intervention in particular. Kuperman argues the NATO intervention did more to cause damage than to serve humanitarian goals. Matthews deconstructs the argument that the international community held a “political responsibility” to intervene in Libya, finding that, while the NTC “silenced” the diversity of voices behind the rebellion, the international recognition of the NTC then “silenced” it, “conjuring...a ghostly impression of an imagined unity” (241). If nothing else, these arguments serve as a reminder that the NTC-international community partnership was larger than simply a military coalition; it
Other international assistance
At several points, some NTC members tried to cooperate with the international community to mediate a compromise solution with Qadhafi. Several efforts were made during May, June and July 2011, when the military struggle between the opposition and Qadhafi forces were at an impasse—these provoked initiatives by the African Union, Venezuela and even Russia. The individuals from the NTC who led this effort were Jibril, Fathi al-Baja, and Abd al-Rahman Shalgam. Although these attempts never led to a diplomatic solution, they reflected the NTC’s inability to defeat the regime on its own.

The international community and the NTC had a common goal of trying to protect human rights and promote democracy. The U.N. mission arrived in September 2011 following the announcement of liberation to help the NTC prepare for elections (as well as other tasks); it created a High National Elections Commission which then granted certain international organizations permission to send observing missions for the elections (Carter Center 2012). Additionally, international human rights groups such as Amnesty International and Human Rights Watch were, from the moment the uprisings had turned violent, working with Libyans and the NTC to document what was happening and advocate with the international community. And the International Criminal Court had begun investigations into violations of international law committed by the former regime.

The NTC made an effort to work with all these actors, in order to demonstrate its raised (still unresolved) moral and legal questions, its role as a “model” for international intervention is still ambiguous.

425 The case of Rana al-Aqbani illuminates the involvement of such organizations. Al Aqbani, a journalist originally from Syria (and married to a Libyan) was kidnapped by the regime and held at gunpoint during a recorded and broadcast interrogation as her loyalist kidnappers demanded she declare her support for the regime. Aqbani refused, and her life was spared. She was eventually released due to pressure created through the reports and statements released mostly by Amnesty International.
credentials both as a democratic actor and as one completed unassociated with the former regime.

Unfortunately, as one interviewee noted\textsuperscript{426}, the international community was more eager to withdraw its support after the country had been “liberated” than it had been to provide it at the start of the armed conflict. Given the other wars ramping up in the region (namely in Syria) and the international community’s desire to be efficient and leave only a “light footprint”, this was unsurprising. However, in hindsight it would appear a mistake: many people close to the NTC at the time realized that that Libya’s new government(s) and its society still desperately needed help despite having military defeated the Qadhafi regime\textsuperscript{427}.

\textbf{Strategies for inclusion}

As the NTC recruited members, there was general agreement on a strategy to include representatives of all parts of the country as well as from all backgrounds/oppositional standpoints. However, when it came to decisions over including particular individuals, sharp disagreements arose. This section explains how the NTC tried to execute this strategy and some of the difficulties it encountered.

\textbf{Dissidents “in waiting”}

One 2011 report described the core group of individuals who formed the NTC in the first moments of the uprisings—Jibril, Jalil, Ghogha, Terbil, etc. –as a “ready-made transitional government of technocrats” (Campbell 2011). That is, because those individuals had been involved, in some capacity, in planning for transition away from \textit{Jamahouriya} socialism, they were primed to take over when Qadhafi fell. In the same

\textsuperscript{426} Interview with Libyan civil society activist (July 8, 2015).
\textsuperscript{427} Ibid. Also see Pack (2013); 139-141.
vein, several of these individuals either “emerged” from the secrecy or quiet life they had been living under Qadhafi, or else returned to Libya from abroad, when the uprising broke out.

Two important cases of this type of recruitment strategy are Omar Hariri and Khalifa Hiftar. Hariri, a military officer who had been part of the Revolutionary Command Council (RCC) that staged the “revolution” in 1969 that brought Qadhafi to power, was jailed in 1975 when a plotted coup against Qahdafi, which he had helped plan, was uncovered. Considered a hero among the rebels, Hariri joined the NTC to help coordinate military affairs and “counsel” the young fighters (Gritten 2011). Similarly, Khalifa Hiftar had been living in exile ever since his falling out with Qadhafi following the Libyan invasion of Chad in the 1980s. He, too, was an obvious candidate for the NTC forces owing to his military experience and history of opposition/resistance. Overall, such original NTC members could be described as dissidents or reformers “in waiting”.

Regime defectors
Other NTC figures such as Abdelfatah Yunis were recruited more because the NTC needed their help than because of their clear opposition to the regime. However, as mentioned earlier, the issue of whether to recruit Yunis was another example of the problems the NTC encountered in trying to employ a strategy of inclusiveness. Yunis was not the only NTC member forced to choose sides once the struggle had begun. Many other important NTC members like him, such as Shammam, Awjali and others who defected from their ambassadorships or other posts around the world. This method of

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428 Blanchard (2011b, 39-40) also says of Hiftar: “In the past, (he) has been mentioned as a leader for the Libyan Movement for Change and Reform and the Libyan National Army, an armed opposition group reported to have received support from foreign intelligence agencies and alleged to have been involved in past attempts to overthrow Qadhafi.”
bringing people on because they were willing to switch loyalties to the NTC reflected an effort (if not fully conscious) to strengthen the NTC and complement those original recruits who had joined due to their “dissident in waiting” status.

**Balanced and strategic representation**

Thirdly, the NTC used strategies of recruitment based on people’s background, their constituencies or sometimes their ability to accommodate all sides. First, it attempted to recruit people from large families or tribes or who could otherwise help form an alliance to counter Qadhafi’s tribal and family network (Lacher 2011; Pack 2013, 155). In other instances, however, recruitment aimed to be more “neutral”. For example, the choice of al-Kib as interim prime minister following the fall of Qadhafi was considered safe or neutral⁴²⁹. The government he appointed, furthermore, reflected this attempt to avoid choosing radicals and, in so doing, pleased both external and internal backers. Mezran and Alluni (2015, 269)’s description is worth quoting:

The selection of Al-Kib was the result of a conglomerating process of negotiations that saw the parties involved [with the NTC] come together to negotiate their positions within the new government to take Libya through its first democratic elections. The lack of a strong leadership may have favored the aggregation of [] many factions…into a conglomerate movement, and agreement over an acceptable formula for future governance made this stage of negotiations relatively easy. Al-Kib’s selection suggests that the country’s interim rulers were seeking out a government leader palatable both the West and to Libyans who distrusted anyone connected to the Old Order. He negotiated a cabinet coalition composed mainly of moderates, marginalizing prominent members of the Islamist groups.

The quote reflects how NTC decisions were clearly aimed to please others; this aim also sometimes served to help it overcome its lack of strong leadership (discussed more

⁴²⁹ Interview with American diplomat working in Tripoli (July 31, 2015).
below). This was thus the third semblance of a “strategy of recruitment” the NTC used to survive and achieve its goals.

Other appointments in the post-liberation interim government were intended to balance eastern and western interests as well as the various ideologies that had come to be present on the Council. Moreover, many cabinet members’ deputies—including al-Kib’s—came from the Muslim Brotherhood, reflecting the movement’s growing influence in the Council. Finally, the legislative council itself was partly meant to show that the NTC was not dominated by eastern interests. Thus representatives from western towns were sent to Benghazi despite the security risks this entailed. While the NTC’s consistent reluctance to release the names of all its members led to accusations that it lacked transparency (Barfi 2011), broadening its geographic representation was an important part of this strategy for securing legitimacy within the country.

**Former regime members**
In dealing with former regime members, the NTC’s strategy was clear about very little. Throughout most attempts to mediate between the NTC and the Qadhafi government (proposed or brokered by third parties such as Russia or the African Union) the NTC stated that it would not accept any political solution that allowed Qadhafi or his family members to stay (see Mezran and Alluni 2015, 272). Yet there were some suggestions that “strands” within the NTC were considering alternatives to this position (Cole and McQuinn 2015, 64-65), and occasionally talks were attempted (see above). This suggests

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431 Also mentioned in interview with Libyan expert (November 3, 2014). My understanding is that the NTC never published any complete list of its membership.
that the NTC’s position vis-à-vis the future role the ousted regime was never completely coherent.

Other international reports from the time indicated that the continued involvement of former regime members remained unclear even as the NTC shifted its focus from defeating Qadhafi to preparing for GNC elections. Public opinion studies (e.g. Doherty 2012, 23) and expert observers (e.g. Wehrey 2012) suggested that the ability of electoral candidates to separate themselves from the former regime was a key asset to receiving public support, given concerns that regime loyalists who remained at large were part of the reason for ongoing clashes, and could interfere with elections. On the whole, the NTC operated under a basic strategy of not including former regime members, although it was not always fully able to execute this.

**Developing a roadmap**

As a final strategy for overcoming challenges and securing legitimacy, the NTC sought to detail a plan for the transition to a new government after defeating Qadhafi. It did this through a series of statements that culminated in the August 3 Constitutional Declaration. The NTC used a variety of tactics to demonstrate that it was following the roadmap laid out in this declaration, in particular by prioritizing the organization of the GNC elections once the country had been declared liberated from the Qadhafi regime.

This Constitutional Declaration contained several important elements. First, it was part of the NTC’s strategic goal to “keep the many different forces within the opposition together”. To that end, the declaration included as its second important feature clear principles for rebuilding a democratic state in Libya, including “dialogue, tolerance, cooperation, national cohesiveness, and political and intellectual pluralism” as well as a
peaceful transfer of power through elections. It further recognized the need of the country for a new constitution that included separation of powers and other democratic institutions. Third, the Declaration laid out the steps meant to lead to a new national constitution: (1) elections for a General National Congress (GNC), (2) appointment of a constitutional drafting committee (3) popular referendum and ratification of a draft constitution, and (4) creation of a Supreme National Elections Council to oversee general elections, and (5) elections for a new government (Mezran and Alluni 2015, 262-265). Importantly, the NTC would alter this step-by-step plan in the 11th hour before the GNC elections nearly a year later.

This roadmap strategy was motivated by several factors. First, it would serve to reassure internal and external supporters that the NTC had not seized power. Additionally, the declarations and roadmap, vague as they were, had a utilitarian purpose helping the NTC move toward its goal of holding elections. Thirdly, these statements, though written by the NTC, could act as a sort of interim constitution, or “basis of rule”, until the new constitution was ratified (ibid., 265). By declaring itself the leader in this way forward, the NTC inevitably had to fend off increasing challengers from all sides as it pursued its roadmap.

**Summary: Strategies of the NTC**

While the TPA tried to source legitimacy by balancing or bridging between the new and old regimes, demonstrating democratic credentials, and reassuring the country of its temporary-ness, the NTC focused on securing international assistance, and secondarily on

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432 Another point about the declaration: “Islam was not mentioned in the statement, except for a reference to a ‘State that draws strength from our strong religious beliefs in pace, truth, justice and equality’” (ibid., 263). This more “secular” flavor may be linked to later challenges by Islamist-identifying groups.
developing a roadmap to democratic elections. It also tried to balance pressures from different forces in the country, mostly by including people from different Libya regions. But this proved very difficult, resulting in a range of issues which are the subject of the next chapter. In short, the NTC focused sometimes on balance, sometimes on external assistance, and sometimes on developing a roadmap, but more often it was just trying to fill a void, with few coherent strategies or even goals to guide it.

**Conclusion**

This chapter has described the actors, institutions and strategies of the NTC. What stands out in the description is the way Libya’s characteristic “statelessness” comes through in the NTC – actors were largely based on local or family ties, etc.; it largely lacked central state institutions (or general rules, norms and procedures to guide governance), even though it tried to establish such structures; and alliances were often formed and decisions were often taken through personal connections and relationships. These features in turn made it hard for the NTC to establish a clear, shared vision or strategies for carrying out its work. The consequences of these characteristics are discussed in the next chapter.
Chapter 6: Issues for and Impacts of the Tunisian Provisional Administration and National Transitional Council

Introduction
This chapter discusses the six main issue areas with which the TPA was confronted during its existence, and four major issues for the NTC. It also analyzes how the TPA’s and NTC’s handling of these issues impacted or were reflected in subsequent events. Overall, while the TPA was certainly not free of mistakes, the section demonstrates how the TPA had more of an impact on institutional and legal reform in later phases than the NTC, and how it was more able to model or encourage dialogue and moderation than its Libyan counterpart.

Key issues for the TPA and the impacts of its actions on later phases of transition

Introduction
This section lays out the key issues the TPA dealt with, and how they were or were not resolved in subsequent phases of transition. The TPA, sometimes by choice and sometimes due to limitations on time and resources, left important decisions to its successor government—the Troika—to be appointed by the ANC. But for various reasons which are explained here, the next government took a very different turn on its approach to and resolution of these issues.

This analysis of the issues the TPA dealt with and the resulting implications also sheds light on the TPA’s influences on the state institution (re)-building that began with Ben Ali’s departure. That is, the behaviors and struggles of the TPA and its successor interim

433 As chapter 2 explains, the two-and-one-quarter years following the ANC elections, which officially ended the TPA’s work, were divided into two periods: before and after the assassination of Mohammed Brahmi on July 25, 2013. The interim government of the period before July 25 was known as the ANC/Troika period; the period after, the technocratic Jomaa government.
governments reflect how they were caught between an old system and set of rules that had been rejected and a new system that was only vaguely defined. On the one hand, this was captured in the conflicts with which the TPA dealt: nearly every issue became an arena for political jostling, which often led to delays of key reforms. It was also clear in the differing attitudes/mentalities of individuals and groups during the period. Several people believed, for example, that the Ben Achour Commission was more democratic than the ANC because it was made up of people who were “prepared to accept differences.” The difficulty of reaching compromises and tolerating a plurality of viewpoints – in other words, of allowing the “institutionalized competition” that is democracy to take hold—is reflected in all these issues, sometimes in their treatment by the TPA and in many cases by the way they became major sources of tension under the Troika.

This section discusses the major issues facing the TPA, how the TPA resolved—or did not resolve—these issues, and the impact of their actions on the successor government the Troika/ANC. These issues were: (1) representation and legitimacy (2) rethinking the role of the state and the question of national identity; (3) media reform; (4) electoral reform; (5) other political reform issues; and (6) transitional justice and judicial reform. The various aspects of each issue as they concerned the TPA, followed by their treatment under subsequent provisional administrations are discussed here in turn.

**Issue of representation and legitimacy**

The first issue that divided the TPA was that of representation. Who should be allowed to serve in what roles now that the former dictator was no longer calling the shots? Given

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434 Interviews with Ben Achour Commission members (January 19, 2015; November 13, 2014).
that Ben Ali and his party-state had disappeared, there was no clear answer to the question of who should legitimately represent the Tunisian people.

On the contrary, Tunisians and the TPA were in constant negotiations about who should be in charge. Did old regime people have any right to weigh in on decisions about what would happen next? How much legitimacy did the protestors, or the main bodies responsible for the downfall of Ben Ali, have in calling the shots? Was there a space for a more “neutral” group of people, that is, some kind of broader organ which represented Tunisian society at large? If so, what should be that representative organ’s role? Indeed, these are fundamental issues that concern any provisional administration; this section describes how the TPA dealt with these issues of representation and legitimacy and what effect its actions had on the ANC when it took over as the second transitional government.

**Involvement of former regime or RCD members**

Despite the negotiations that took place between Ghannouchi and Mebazza and the National Council for the Protection of the Revolution (CNPR) over January and February 2011, which resulted in the resignation of Ghannouchi, the constitution of an RCD-free interim cabinet, and the re-structuring of the Ben Achour Commission, the question of involvement of former regime members in the new (provisional) governments was not entirely resolved under the TPA. The process of replacing RCD members who had been serving at all levels of government, such as in state organizations and government civil service positions, took place gradually, especially at the middle and lower levels of management (Economist Intelligence Unit 2011p, 4). This slow pace of change in leaders led to continuing sit-ins and protests, such as in front of governorate offices, often
organized by the local councils for the protection of the revolution (see Redissi, Nouira and Zhgal 2012a, 200)\textsuperscript{335}.

Moreover, not all individuals with ties to the government of Ben Ali were fully excluded. After all, people like Mebazza (who had been the head of the Chamber of Deputies) or the Chief of the Armed Forces, General Rachid Ben Ammar, had been Ben Ali appointees or had only resigned from the RCD in January 2011 because of the Kasbah protests. Businessmen with ties to Mebazza and Essebsi also retained influence (Economist Intelligence Unit 2011p, 13). In late March 2011, Essebsi announced that the person who had been acting as interim Interior Minister, Ferhat Rajhi, would be replaced with Habib Essid, who had been a junior Interior Minister under Ben Ali\textsuperscript{336}. This decision caused significant controversy. Thus, individuals who represented the former regime—even though they were allegedly appointed “in the general interest” (Arieff 2011c, 11)—remained a part of the TPA. Moreover, the TPA would need to address the question of former RCD members in elections, since categorical exclusion would prohibit a very large proportion of the population from participating. In sum, individuals and interests of the former regime were still represented in the TPA, even if only in pockets.

“Revolutionary legitimacy”
Disputes continued all around the TPA over whether and how to give representative roles to the voices that had opposed the old regime. Small, local protests, sits-ins, and strikes continued throughout the period of the TPA, reflecting a widespread notion that the decision-makers in the TPA were ignoring the people’s demands. The first meeting of the

\textsuperscript{335} These local councils are mentioned in the “institutions” section and are also discussed below.

\textsuperscript{336} Rajhi subsequently defended himself on a website called “Scandali”, the “context, form and tone” of which were harshly criticized. The incident reveals the fragility of the political situation (Abderrakak 2011) and more specifically, the question of the legitimacy of government representatives.
Ben Achour Commission was marked by a series of passionate speeches declaring that their commission was not sufficiently representative and therefore lacked legitimacy. Their forceful insistence led to the original 60 or so members deciding to alter their commission’s composition in order to be more representative of the protestors and the Tunisian people. It took the next several sessions to establish the criteria and procedures for selection/appointment\textsuperscript{437}.

**Representatives of Tunisian society**

A third set of actors with weight during this period were those generally considered to be representatives of the Tunisian people rather than of political interests. Independents like Ben Achour and large organizations like the UGTT and LTDH acted as catalysts for the work of the TPA. But they and the decisions by the TPA about legitimate representation were still constantly being challenged, in all sorts of ways. For example, despite agreeing on a method for expanding its composition in order to be more representative, the Ben Achour Commission still struggled to establish criteria for inclusion. The LTDH and UGTT were tasked with helping each organization represented in the Commission to identify youth, women, and regional representatives to join, but a clear vetting process never seems to have been established. This caused several people to demand explanation for why they couldn’t also join the Commission, creating headaches for its leaders\textsuperscript{438}.

**Tradeoffs to representation**

The flipside of including such a diverse set of legitimate representatives in the Tunisian Provisional Administration was the challenge of working as a unified group. Trying to

\textsuperscript{437} One Ben Achour commission member (interview, January 14, 2015) faulted this chaotic start to the fact that the original composition had been so hastily decided upon, without any clear plan or criteria.

\textsuperscript{438} Interviews with TPA member (November 14, 2014), Tunisian academic (July 6, 2013), and civil society activist (July 10, 2013).
manage this amalgamation of groups and individuals nearly drove the commission’s head, Yadh Ben Achour, to quit several times\textsuperscript{439}. Moreover, because many youth and regional representatives joined its ranks as part of the expansion process, suddenly many people with little experience in politics were voting on the content of legal texts and other national issues. Some suggested that such members might be vulnerable to manipulation by political parties, and/or subject to the biases of the experts who had been tasked with drafting the texts and presenting them to the wider council\textsuperscript{440}.

In addition, sometimes members of the Ben Achour Commission challenged one another’s claim to be “independent”. Though Ben Achour’s status as an independent was generally accepted\textsuperscript{441}, the independent status of the vice-president and spokesperson was more controversial. Although these officers were elected by their fellow commission members, they found themselves confronted at least once by other members who felt they had been unfairly excluded from these positions\textsuperscript{442}. Similarly, Nahda opposed the process of elections for the members of the ISIE, feeling itself outnumbered by leftists who had a different understanding of independence than Nahda’s\textsuperscript{443}. Thus, the HI’s efforts to be inclusionary and operate using democratic processes did not always satisfy everyone.

\textsuperscript{439} Interviews with Tunisian academic and Ben Achour commission member (July 6, 2013; November 18, 2014). Ben Achour even described the structure of which he was in charge as: “…a circus…unmarked territory where one could find extremely rude political parties, national organizations not intending to negotiate with anyone, and uncontrollable national personalities” (Mrad and Moussa 2012, 156). Also, interestingly, one of the organizations most credited for helping the revolution succeed, the UGTT, prides itself on having always brought together a widely diverse set of members (interview with former UGTT leader, November 12, 2014). Yet this same asset, according to some Tunisian academics (July 10, 2013) rendered it impossible for the UGTT to field a candidate for the 10/23 elections.

\textsuperscript{440} Interview with Tunisian academic (December 16, 2014).

\textsuperscript{441} Interview with member of expert core (July 1, 2013).

\textsuperscript{442} Interviews with Ben Achour commission members (November 13, 2014; January 21, 2015).

\textsuperscript{443} Interview with Ben Achour commission member (January 28, 2015); Proceedings 2011.
Moreover, the notion of representation or inclusion within the Ben Achour Commission may have been compromised when certain parties quit. In May, Nahda walked out in protest over the postponement of elections. In late June, Nahda again withdrew from the Commission in protest over an article of the political parties law limiting the amount of funds a party could raise from foreign sources (Economist Intelligence Unit 2011q). The party justified its departure by claiming that only an elected assembly, and not the Ben Achour Commission, had legitimacy to be writing such laws. For some Ben Achour Commission members, this move jeopardized the “spirit of consensus” upon which the Commission was supposed to be operating. They felt its legitimacy would be reduced if another Commission was trying to operate in parallel. Though Ben Achour tried to persuade those who walked out to re-join the commission after their departure in June, they never returned. Thus the issue of legitimacy and representation, at least within the commission, was never fully resolved.

Impact of the TPA’s actions on the ANC and subsequent phases of transition
With the October 23 elections of the National Constituent Assembly (ANC), a new kind of legitimacy was introduced – electoral legitimacy. The 11 political parties represented in the Ben Achour Commission continued to be represented in the new assembly, with some individuals even moving from the Commission to the new assembly. However, many of the independent individuals and organizations from the Ben Achour Commission and the TPA, such as the constitutional experts from Ben Achour’s expert core were not involved in the new assembly. This key group thus dispersed. Many people

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444 Although most written documentation doesn’t mention CPR, some Ben Achour commission members said CPR would always follow Nahda in these withdrawals (interviews, November 18, 2014; January 29, 2015)
express regret that those independent civil society figures were not involved after the ANC elections.\(^446\)

A comparison of the actions taken in the TPA commissions with those of the elected ANC delegates suggests that the former group was more effective and perhaps more democratic than the latter. The stalemate that left the ANC suspended for several months in 2013 is one example. The Ben Achour commission’s constant interaction with civil society, as opposed to accusations that the ANC was disconnected from the people, is another.\(^447\) This important change between the first and second provisional administrations in Tunisia may have been due to a variety of factors. Some have suggested that the “democrats” from the TPA no longer had a common cause now that the authoritarian regime was gone.\(^448\) In addition, Tunisians’ inexperience with truly democratic processes may have been a cause. Not only was the electorate during the 10/23 elections unfamiliar with which candidates would best represent them, and therefore may have not elected the most qualified people, but the elected delegates themselves often got caught up in petty concerns at the expense of concrete policy debates (see below).

Yet, the independent actors in the TPA were not altogether absent in the ANC. Throughout the later part of 2012 and all of 2013, the UGTT took the lead in trying to help overcome the political crisis that was deepening within the ANC. The turning point in this process was the assassination of Mohammed Brahmi on July 25, 2013, after which

\(^{446}\) Interview with ISIE member (November 6, 2014.)
\(^{447}\) For example, as mentioned in previous chapters, the Ben Achour Commission was consulting with civil society organizations from outside its structure, and it drafted statements about its work on a regular basis. Its sessions were also open to the public. On the gap between the ANC and society, see Mrad (2014, 175.)
\(^{448}\) Interview with civil society activist (January 6, 2015.)
point the independent voices of the TPA period (such as the Bar Association, the constitutional experts from the expert core, and others) could return.

Although it is difficult to pinpoint a single cause, the negotiations that constituted the subsequent National Dialogue, under the auspices of the so-called Quartet—the UGTT, the LTDH, the Bar Association, and the business owners’ union, UTICA—were a turning point in Tunisia’s political trajectory. As reflected in the 2015 awarding of the Nobel Prize to this Quartet, the success of the National Dialogue led to the adoption of a new constitution. Perhaps it was because of the coup in Egypt, which prompted Nahda to cooperate rather than risk being overthrown as the Muslim Brotherhood had been; perhaps it was due to the joining of forces of four organizations representing large and complementary swaths of society. Or perhaps the third political assassination in less than one year prompted political and societal leaders to put their differences aside – for instance, the head of UTICA remembers calling Abassi, head of the UGTT, the moment she heard the news to say that it was time to unite in order to save the country. The National Dialogue likely succeeded due to a combination of all these (and maybe other) factors.

The National Dialogue and final phase of constitution-writing recalled the representative and legitimacy issues of the TPA in several ways. For one thing, the expert core of the Ben Achour Commission—who were, after all, experts in constitutional law—had worked hard to develop a draft for the ANC to work from, and had offered to give

449 The number of lawyers in the country can be estimated at around 6,000 (Gobe 2013, 46). The UGTT’s membership, recorded in the same year at 517,000 (Ghilès 2012) dwarfs this. Assuming the membership of the LTDH falls somewhere between these two, the organizations and professions may cover somewhere close to 750,000 Tunisians.

450 Interview with civil society member (February 2, 2015). Cooperation between the workers’ union and the business-owners union is notable because usually those two groups are in opposition.
support to the ANC early on. The ANC rejected these offers. Eventually, however, the ANC became aware of its need for expertise, and began engaging with many of the Ben Achour commission experts (also members of the Tunisian Association for Constitutional Law)\(^{451}\). As mentioned above, the influential role of the representative organizations such as the UGTT, LTDH, and the Bar Association also reappeared (notably in the form of the Quartet). And finally, the “technocrat” government of Mehdi Jomaa, if not in its actual composition, recalled the role of the 2011 Essebsi cabinet in its apolitical and circumscribed function of getting to new elections.

In sum: some people involved with the Ben Ali regime, many people who had opposed the former regime, and people and organizations considered representative of Tunisian society were all considered, at least to a degree, legitimate representatives during the TPA. During subsequent phases, even though they had been elected, the ANC delegates and Troika ministers gradually lost their legitimacy due to their inability to move things forward. They were replaced by yet another interim government, the Jomaa government. The process by which the Jomaa government replaced the Troika (known as The National Dialogue) reflected the TPA in that it emphasized representing the people via civil society and expertise, and the Jomaa government reflected the TPA in that it was not a government meant to represent political interests.

*Issues of state-building and national identity*

Historically in Tunisia, a strong, well-functioning state has been a source of pride and an aspect of national identity, yet had also been used as excuse to repress free society,

\(^{451}\) Interviews with TPA members, (January 12, 2015; December 9, 2014).
including Islamists. After January 2011, in the absence of any new accepted “social contract”, this tension became a weighty issue for the TPA. The TPA and its successors had to resolve two main issues of state-building and national identity: (1) the legitimacy of a strong central authority in Tunisia; (2) the role of religion in politics and national identity (including in the constitution.) These debates often took delegates off task and sometimes prevented the TPA and its successors from being able to carry out their work.

**Role of a strong central state**
Because the departure of Ben Ali had introduced so many new uncertainties in Tunisian political life, the TPA was forced to improvise. The balance between state and society—once dictated by an idea/notion that the state had a tutelary role in helping the country develop (Alexander 2010, 36-67)—had all of a sudden been thrown into question. Hence, TPA structures like the Ben Achour Commission took on a quasi-revolutionary government role, with their high proportion of radicals (having been derived from the CNPR which was originally quite radical), their forceful demands (such as ability to control the work of the Essebsi government), and their insistence on representation of youths and people from the interior. At the same time, the TPA exhibited a generally-accepted recognition of the need for some kind of state-like actor, some kind of established central authority – in other words, it demonstrated a commitment to the state. This organization of the TPA, albeit almost accidental, reflected its strategies of consensus and inclusion and also its position caught in between an old system and a new one.

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452 Hibou (2011, 279-281) does not discuss this directly but implies it in her analysis of the term “policing state”. Erdle (2010, 305-207) also includes a useful discussion of how this worked.
453 “The state” and “state-building” are two highly discussed concepts in political science (e.g. McGovern 2005). The notion of state as a central authority is basically Hobbes’s conception of it: a leviathan
This had pros and cons. For one thing, the new opportunity for non-state and non-partisan actors to have a voice in governing introduced a wealth of experiences and new perspectives into the TPA’s decision-making. It led to innovations like the High Independent Authority for Audiovisual Communication (*Haute Autorité indépendente pour la communication audiovisuelle*, or HAICA), an audiovisual media regulation body meant to protect freedom of speech while also controlling hate speech and other offenses). On the other hand, the TPA’s insistence on retaining some authority in central ministries and other state institutions even when they had been severely weakened (such as the Ministry of Interior and the internal security services) made it hard to accomplish certain goals. For example, TPA members were so focused on day-to-day security issues that addressing comprehensive security sector reform—a clear need given the role of the state security apparatus in Ben Ali’s repression—was nearly impossible (Mahfoudh 2014, 8-9). In short, the TPA found itself walking a tightrope between maintaining authority and a commitment to the state while taking care to not appear overly-authoritarian as it tried to ensure law and order and provide services.

*Defining a national identity*

The largest divide in Tunisian politics has long been over Tunisian national identity. The complex question of the relationship between a modern, secular government and the Muslim-Arab culture of the people governed had been at the heart of political battles necessary to prevent anarchy. The fact that the TPA was caught between continuity of the state and revolution was reflected in other events and institutions— for example, the creation of INRIC was meant to lay the groundwork for government regulation of the media, but often the TPA and INRIC found the media trying to control it. One Tunisian academic (interview, December 6, 2014) described the TPA as having both a “government of the state” (the Essebsi cabinet) and a “government of the people”.

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since the time of independence\textsuperscript{455}. With the departure of the old regime and especially the legalization of Nahda on March 1, 2011, these repressed debates reemerged in the public sphere.

The TPA made a mild attempt to channel this conflict, but its effectiveness was minimal. Early in April, when the new electoral law was nearly complete, the wider representative council of the Ben Achour Commission formed a sub-committee to draft a “Republican Pact” to aid in the constitution-writing process by providing a broad outline of the new country’s new social contract. When introducing this process to his commission, Ben Achour noted that it was intended to represent a moral commitment to a state-society relationship (as opposed to something that would be legally enforced) and that the original ANC of 1956 had drafted such a Pact (\textit{Proceedings} 2011). In other words, it was presented as a key next step in moving forward with a post-authoritarian transition.

But the process of drafting such a pact was difficult for several reasons. First, the leaders of the Ben Achour Commission frequently felt the commission had more urgent matters to deal with, and the project often got sidelined (see \textit{ibid.}). Second, as would be the case with many issues the commission encountered, the Republican Pact became a platform for cross-accusation among opposing political parties. For example, while parties such as

\textsuperscript{455} This is mentioned briefly in the historical background given earlier. At the time of independence in 1955-56, there was a split between two top leaders of the nationalist Neo-Destour party (which would become the PSD and then the RCD) Habib Bourguiba and Salah Ben Yousef, partly over their vision for an independent Tunisia. Bourguiba wanted to emphasize modernity and de-emphasize the Arab-ness, while Ben Yousef wanted to emphasize the Muslim and Arab identity of the nation. Bourguiba won, but those who wish to see Islam play a larger role in society and politics did not go away, giving Ben Ali a pretense for his constitutional coup in 1987. As has been well-documented elsewhere, tolerance for an Islamist vision contending for power with the secular elite did not last long (e.g. Perkins 2004; Willis 2012: Lust 2014, 702-729).
Ettakatol and the Nationalistes democratiques456 believed such a pact must be written before any elections took place, Nahda and CPR argued that it could only be written by an elected body. Moncef Marzouki of the CPR accused the other members of the Ben Achour Commission of introducing the pact in order to stall the elections (Redissi, Nouira and Zghal 2012a, 211)457.

Finally, and most importantly, the pact was the first chance for the sensitive issue of national identity to rise to the surface. Under the authoritarian rulers, national identity had been used as a strategy for control. No one knew what it was like to live in a system where diversity of opinions was permitted: previously, one always had to choose between buying into the ideas of the state—which, since independence, had been to emphasize the country’s “openness” and “modernity”, embrace secularism, and de-emphasize the Arabo-Muslim identity—or remaining silent. In short, addressing the question of a national identity that all Tunisians could accept was a heavy-duty task that the TPA could not resolve but only manage until the ANC took over. As one Ben Achour Commission member involved in the drafting of the Republican Pact said about the process:

That’s where we started seeing the outlines of the existence of two projects in the country – those who wanted liberalism and modernity and those who want to access their Arabo-Muslim identity, the Arabic language, etc. …That’s when we realized that after the revolution, we were being faced with many questions that hadn’t really been visible before. Because of repression, the lack of liberty and communication …But that was a sign that we would meet problems….There was a major opposition/debate – even against the rights of women, about the question of citizenship, relationship between religion and politics…these

456 Abbreviated as WATAD, the National Tunisian Democratic Front was established in 1962 (Tachau 1994).

457 Redissi, Nouira and Zghal (2012a) also cite this video to show what Dilou says: http://www.gnet.tn/temps-fort/videosamir-dilou-retrait-definitif-dennahdha-de-la-haute-instance/id-menu-325.html and cite an article in Le Temps for Marzouki.
questions are still with us today, even if lots of problems were dealt with in the constitution…458

Because it was such a deep-seated and emotional issue, the TPA’s efforts to reach a consensus on national identity would prove insufficient.

It should be noted in this quote that the speaker says “even the rights of women…” were at stake. Bourguiba had inculcated, particularly through the Tunisian school system459, the idea that Tunisian national identity – la Tunisianité—was based on values such as the emancipation of women. Now that the lid of repression was no longer on and everyone who had something to say could participate in this debate, some may have been shocked to realize that not everyone truly believed in these values (see Gana 2013).

State building and national identity in later phases
State building—including the balance between the powers of the state and those of civil society—and national identity were deeply controversial issues that the TPA was not mandated/did not have the capacity to resolve. These issues only became more fraught with controversy in later phases and even led to violence. The frequent attacks on security forces during the ANC period, and an attack on the U.S. Embassy in September 2012, reflected a continued inability of the government to assert control, leading to heightened criticism of the Troika/ANC government (Cavatorta and Merone 2015, 31). Many accused the leading party of the Troika, Nahda, of being tied to the radical Islamist groups that were claiming responsibility for the attacks.

This controversy helped lead to the formation of a new political party, Nida Tounis, or “call for Tunisia”, announced in April 2012. “The project of Béji Qaïd Essebsi…the party

458 Interview with Ben Achour commission member (January 14, 2015).
459 Interview with Ben Achour commission member (January 21, 2015).
cast itself as a necessary counterweight to the political force of Nahda and the Troika government….Nida Tounis was formed in opposition to what its leaders describe as ‘instances of disturbing extremism and violence that threaten public and individual liberties, as well as the security of citizens’” (POMED 2014). Although many would come to accuse the party of representing the old regime, for others it represented a return to security and order.

The Ben Achour Commission eventually agreed upon a text of the Republican Pact, but it was largely disregarded by the ANC. Instead, the issue of identity became a major source of controversy within the Assembly. Just as the old authoritarian rulers had done, delegates tried to manipulate the issue to their advantage: in other words, to use national identity as a strategy for control. A researcher on the ANC noted that many delegates, lacking a technical expertise, felt more comfortable discussing values and identities, or tried to use those issues as a way to control the agenda. “For example, if a regional development project gets proposed, they can bring up shariaa and everyone gets sucked into that debate and forgets about the development plan…”

The TPA’s failure to reach broad consensus on the issue of national identity may have contributed to the violent acts that eventually brought down its successor provisional government. The TPA’s approach to governance, however, did seem to have an important, indirect influence on events. This is most clearly manifest in the National Dialogue process. During that process, a “Quartet” of civil society organizations that included some of the TPA participants led an article-by-article discussion of the draft

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460 Author meeting with researcher (July 10, 2013).
461 As explained briefly in chapter 2, extremist groups such as Ansar al-Sharia, purporting to accept no law but God’s, helped fuel accusations among the general public that the Nahda government was at fault for the rising insecurity in 2012/2013.
constitution until an acceptable compromise was reached, restoring the model of non-violent confrontation and democratic debate. Overall, the TPA had recognized the need to address the issue, but was unable to address it sufficiently\(^\text{462}\).

**Issue of media reform**
The question of reforming the media sector was another complex and delicate task the TPA faced. Many new media outlets were forming and, given their lack of experience, journalists and other media actors often acted quite unprofessionally: spreading rumors, making alliances, or hampering the Ben Achour commission’s work by leaking draft decrees or statements before they were complete\(^\text{463}\). However, like its control over national identity, repressing freedom of expression had been an important tool for state control under Ben Ali and Bourguiba\(^\text{464}\); thus any member of the TPA who tried to control the media in any way risked being accused of trying to take this new-found freedom away (see Gana 2013, 176). The TPA would again take important steps toward resolving issues of media reform (which entailed their own tradeoffs), with varying impacts in later phases.

*Handling freedom of expression in the media*
Countless incidents occurred during the TPA period that reflected the media’s immaturity. Unsubstantiated articles were published, for example, accusing members of Ben Achour’s expert core of being sympathetic to or part of Islamist groups\(^\text{465}\). The newspaper *Essabah* reported in May that the Ben Achour Commission had failed to reach an agreement with the government on the contentious Article 15 of the elections law, just

\(^{462}\) Even when a new constitution was passed in January 2014, the issue didn’t go away. For example, with the *Charlie Hebdo* attack in Paris in January 2015, the debates reemerged.

\(^{463}\) Interviews with TPA members and Tunisian legal experts (December 12, 2014; December 22, 2014).

\(^{464}\) Under Ben Ali, controlling the media was not only a way to limit domestic criticism; it was also a way to prevent the international community from learning about the conditions in the country.

\(^{465}\) Interview with expert core member/Tunisian academic (October 31, 2014).
as an agreement was being reached (Mrad and Moussa 2012, 158). One observer summarized it nicely, stating: “Whether it was political parties or activists from newspapers…liberty of expression was being confused with what was more like insults…we weren’t accustomed [this] to freedom of expression”\textsuperscript{466}.

The difficulty for the TPA was twofold. On the one hand, it had to demonstrate that it recognized the role of independent media in monitoring the government\textsuperscript{467}. On the other hand, it was also responsible for keeping daily life generally under control; it thus had an interest in not letting the media stir up too many suspicions or fears. Although the TPA initiated the development of long-term measures for setting standards for both free and ethical media, the tradeoff once again of being a provisional government was that it would have little influence over the long term.

\textit{Accepting criticism and letting go of control}
Not only did the media have little experience with freedom of expression, but practiced politicians were also unused to such an environment. This led them to sometimes revert to the practices they were accustomed to, even if these were not those to which they aspired. For example, INRIC was charged with recommending certain radio and TV stations for an official license based on its review of their applications and its understanding of independent media. Although the commission was meant to be independent, interim Prime Minister Essebsi demanded several times to preview the list of TV stations, implying that he should “approve” them before the list went public. INRIC asserted its independence and was ultimately able to publish the list without the

\textsuperscript{466} Interview with Tunisian legal expert (December 22, 2014).
\textsuperscript{467} \textit{ibid.}
government’s intervening. Politicians were also unused to taking criticism. One journalist remembered how during one press conference, a persistent questioner made Essebsi so angry that he tried to grab her microphone. Another journalism expert noted that politicians were ill-at-ease with media reform during this period because there were no competent advisers who could serve them. These incidents reflect the TPA’s struggle to abandon past ways and build a new order.

*The media as a venue for advancing personal agendas*

Several media outlets during the time of the TPA had been owned by cronies of Ben Ali. Members of INRIC and the sub-committee of the expert core working on media reform recall the fierce resistance to the proposed reforms (such as the creation of the HAICA, the audiovisual media regulation body) staged by the owners of private TV stations. Even journalists who had been known for speaking out in support of free media under the dictatorship failed to keep up with the changing rules. In one instance, a station called *Radio Kalima* tried to take advantage of the TPA in order to get what they wanted. The INRIC report describes how it would recommend any outlet that met certain internationally-held standards, as long as it followed a certain application process, but *Radio Kalima* insisted that, as an outlet that had always defended free speech, it should be exempt from these processes. It maintained that it did not need to uphold standards set by INRIC, with the owner, Omar Mestiri, “initially refus(ing) to update his application and present all the documents INRIC requested as a condition for reviewing applications.

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468 Interview with INRIC member (December 12, 2014); INRIC General Report (2012). The report and the interview have slightly different versions of the incident: the report simply mentions that the Prime Minister’s office pressured INRIC to delay its announcement of the television stations that would receive permits until after the elections.
469 Interview with Tunisian journalist (January 15, 2015).
470 Interview with INRIC member (December 12, 2014).
471 Interviews with INRIC member (December 12, 2014) and expert core member (December 24, 2014). They particularly note Nesma TV and Hannibal TV.
He “initially refus(ing) to update his application and … ‘simply fil[ing its] request under the pretext that he received a promise from … Essebsi to receive a permit within a few days’” (INRIC 2012, 122). \(^{472}\)

When the INRIC refused to grant it a license as a private radio station, Radio Kalima launched an attack against the commission. But the media, like other sectors, were beginning to be governed by rules that applied equally to everybody, regardless of their history, and INRIC persuaded Essebsi of this. Even after this incident, however, the TPA’s struggle to protect media standards against personal agendas continued.

**Media reform in subsequent phases**

Like with state-building and national identity, developing an institution of free media was a long-term process that the TPA only mildly influenced. The Ben Achour commission, in collaboration with INRIC, did draft and pass two decree laws about the media: 115 on print media and 116 on audiovisual media. But according to one journalist\(^{473}\), these laws were largely ignored in subsequent phases. As a result, controlling the media and developing a regulated sector comprised of public and private media outlets that also self-regulated according to ethical standards became even more difficult in the ANC/Troika phase.

\(^{472}\) The report further describes the pressures INRIC faced from the Tunisian Union of Free Radio Stations, which issued a statement in which it accused INRIC of “adopting ‘favouritism and courtesy’ as the only standards for distributing permits. The union wrote a letter to the former prime minister asking him not to adopt the recommendations of INRIC. However, on 26 September 2011, the union issued another statement stating that, ‘despite some differences with INRIC and some reservations’, it supported INRIC and ‘condemned all attempts at defamation and all insult campaigns targeting INRIC with the aim of weakening it and hindering its work.’ The union said in the same statement that ‘it surprised at the [SIC] transitional government’s procrastination and its lack of impartiality in implementing and approving INRIC’s recommendations’” (INRIC 2012, 122-123). This is another example of the constant challenges to the transitional institutions which was an overall issue for the TPA, manifest in the domain of media reform.

\(^{473}\) Interview with Tunisian journalist (January 15, 2015.)
Despite its tensions with other parts of the TPA, INRIC was generally able to carry out its work as an independent commission playing a consultative role for those working on reform. Yet the commissioners became increasingly frustrated as this changed under the ANC and Troika government. When the Troika government came to power, it made unilateral appointments to the directors of state media outlets (Chouikha 2013, 5). The Troika government’s practices were so reminiscent of the way the media had been coopted under the former regime that thousands of journalists staged a huge, 80-day strike in front of the national TV station. The Troika government also ignored INRIC in other ways: for example, when in 2012 it organized a National Consultation on media reform, it neglected to recognize the recommendations INRIC had been working for over a year to develop, invited only journalists INRIC had already identified as having cooperated with the former regime, and did not consult INRIC in any form. In short, INRIC felt the Troika government had absolutely no intention of reforming the media sector so that it was actually held to international standards of freedom of expression and free speech (ibid., 5). For this reason, it decided to publish its report and fold prematurely, which it did on July 5, 2012.

Moreover, the reforms for the radio-television sector (i.e. audiovisual media sector) envisioned by the TPA would stall under the Troika government in a process that somewhat paralleled judicial reform (discussed below). The drafters of DL -116 on governance of the audiovisual media sector had envisioned an independent body to govern those media, known as the HAICA. Although the drafters of decree law had thought carefully about a composition that would preserve the commission’s

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474 Interview with INRIC member, (December 12, 2014).
475 Also interview with INRIC member (December 12, 2014.)
independence, the Troika government suffered from extensive controversy over the members it nominated, delaying its creation until May 2013 (Chouikha 2013, paragraph 19). Once in place, the HAICA became subject to criticism and accusations of being a new authoritarian government in disguise. Each time the HAICA condemned or punished a certain station, it was publicly attacked and accused of bias\textsuperscript{476}. Moreover, because the drafters of DL-116 failed to specify that it should set a term limit for the heads of national media the HAICA appointed, the position became more vulnerable to politicization\textsuperscript{477}. These were all issues the TPA had either not anticipated or did not have the capacity to prevent.

**Issue of electoral reform**

The issue of electoral reform evolved somewhat differently from that of media reform. Within the Ben Achour Commission, a healthy debate occurred over the type of electoral system (e.g. proportional representation or majoritarian, closed list PR, etc.) that would govern the ANC elections. However, the issues went beyond this to include debates over other articles within the electoral law (discussed below); the creation of an electoral management body and the process of organizing the proper electoral infrastructure; and the institutionalization of all these procedures. More so than in other sectors, the TPA was able to manage these issues in a constructive way.

**Learning by the ISIE**

The ISIE (Instance Supérieure Indépendante pour les Elections) was created through a decree law passed by the Ben Achour Commission to manage the elections; the


\textsuperscript{477} Discussion of HAICA composition issues from interview with TPA expert core member (December 24, 2014). The Nahda government, for example, could remove anyone who wasn’t cooperating with it.
commission then held elections for the ISIE members. Because the ISIE had no precedent to follow, it became almost an incubator for the development of an electoral management system. Its members spent considerable time learning what was required to develop a “free” electoral system with an independent electoral management body, including how to allocate its limited resources. This learning entailed, of course, mistakes, which would have an impact on the TPA, the electoral process and outcomes, and therefore subsequent phases.

The ISIE demonstrated its inexperience in several ways. It struggled to properly educate voters about both the registration process and the elections themselves: the final report from the Carter Center observation mission (a U.S. based elections observation NGO), for example, noted that the ISIE failed to take full advantage of its website and facebook page to communicate and disseminate procedures and decisions (Carter Center 2011, 25-26)\(^\text{478}\). This may have been one of the causes for the relatively low turnout (55% of eligible voters). The ISIE also failed to take simple steps to speed up the vote-counting process and to warn the public that the results would not be announced immediately, thus raising anxieties\(^\text{479}\).

Finally, the ISIE learned that very rigid application of the elections law didn’t always produce the best results. As per the electoral law\(^\text{480}\), the ISIE tried to ensure that the head of each party list was allotted three minutes of air time on a public TV/radio station to introduce themselves and make a profession of good faith at the start of the campaign

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\(^{478}\) The report describes one such incident where the ISIE decided to ban political advertising during a certain portion of the campaign period, but announced the decision so late that it was difficult for all parties to follow. Naturally, this created controversy (Carter Center 2011, 35-36).

\(^{479}\) Author meeting with international electoral assistance worker (July 10, 2013) and interview with civil society activist (July 8, 2013).

\(^{480}\) DL 2011-35.
period. However, it did not anticipate that the high number of lists registered, as well as the refusal of private stations to participate in the airing of those statements, would place a great burden on public TV and radio stations (Chouikha 2012, 175-176). Moreover, the law stated that no voters were to receive assistance of any kind during the casting of their ballot. But because ISIE staff (and staff of the local branches, called * Instances Régionales Indépendantes pour les Elections*, or IRIEs) applied this to illiterate voters as well, many ballots during the ANC elections were cast in error\textsuperscript{481}. Because of the limited timeframe within which the ISIE was working, these types of considerations could not be corrected; they could only be taken into account for future elections.

*Joint learning by the ISIE and other TPA institutions/bodies*

The ISIE also learned in tandem with other parts of the TPA. Tavana (2014, 9-10) describes how the ISIE’s capacity improved as it slowly came to trust the Essebsi government’s support. The ISIE also needed to work with numerous parts of the state administration to establish a new civil registry, conduct awareness-raising and voter education, and oversee a smooth campaigning and election period\textsuperscript{482}. The first of these was the most difficult. The ISIE’s decision to build a new registry from scratch in order to show its independence and clear departure from the corrupt ways of the former regime helped give it credibility, and it did manage to construct a new voter database through cooperation with a large number of state agencies such as the National Statistics Office and local civil society groups. But due to its tight time constraints, it made many mistakes.

\textsuperscript{481}Author meeting with international electoral assistance worker (July 10, 2013). Approximately 20% of the Tunisian population is illiterate.

\textsuperscript{482}Interviews with TPA members (November 14, 2014; January 26, 2015; October 28, 2014).
The ISIE also had to resolve controversies in regard to the electoral law. It declared eight of the seats won by the Popular Petition party (al aridha al shaabia) invalid immediately following ballot counting, mostly because of violations of the campaign finance laws. The party appealed these decisions through the Administrative Tribunal (the court system handling such disputes), but most of their appeals were rejected, largely because the ISIE had not clearly communicated the filing procedure (Carter Center 2011, 55). Incidentally, these violations, if they actually occurred, may have reflected the insufficient capacity of the ISIE and the rest of the TPA to enforce laws: reports were also filed of parties violating the funding regulations specified in the political party law, and violating the electoral law by campaigning during the silent period\(^{483}\).

**Institutionalization of the ISIE and experiences of ISIE 2**

The members of ISIE 1 were to serve only until the ANC was in place, according to the DL that created it. However, the need for institutionalizing an electoral management body to oversee future elections soon became clear (Hubler 2012, 64\(^{484}\)). Thus, a second ISIE, (known as ISIE 2) and would learn from the mistakes of the TPA’s ISIE when in late 2014 it oversaw the elections for a new Parliament and President.

Under the ANC/Troika, the process of selecting the members of ISIE 2 became, like the creation of the HAICA, a forum for political jockeying to create an acceptable representation of political parties. As with the HAICA, this caused great delays in the

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\(^{483}\) On political party financing violations: interview with TPA member (January 29, 2015); Carter Center (2011, 38). On campaigning during the silent period: interview with civil society activist (July 6, 2013); meeting with international aid worker (July 10, 2013); National Democratic Institute (2011, 18).

\(^{484}\) Notably, Hubler (2012, 64) tells how the experience of establishing an electoral management body in Egypt to ensure independent elections after President Mubarak resigned was comparatively much more difficult.
establishment of a new ISIE, which in turn delayed the elections. However, when ISIE 2 was finally appointed, observers noted that it was more professional and experienced than ISIE 1. Like ISIE 1, ISIE 2 also had to organize elections within a tight timeframe, but it had learned the importance of building an effective communications strategy. It even worked with a Washington, D.C.-based NGO to develop a manual for dealing with illiterate voters.

In this sense, the process of institutionalizing a new/reformed electoral system was less erratic and difficult than in other sectors. For example, members of the Amor Commission for the investigation of corruption complained that they wished they had received chances to build on their experiences and acquired knowledge as the reform process continued. Similarly, the HAICA did not have a predecessor to learn from or build on, because the INRIC (which created it) had played an explicitly consultative role. Thus, the ISIE laid significant groundwork during its tenure under the TPA (including lessons about things not to do) for a future electoral management system and future electoral infrastructure. Although it committed mistakes in the process which would lead to some imperfections during the ANC elections, by and large it represented a firm step on the path to electoral reform.

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485 The extensive debates within the ANC over various constitutional articles had already delayed the appointment of the ISIE 2 members.
486 Author meetings with TPA members and Tunisian academics (July 1, 2013; October 24, 2014).
487 International Foundation for Electoral Systems (IFES). During the 2014 elections, voters still were not allowed to receive assistance, but illustrated posters about the voting process were to be hung in every polling station, and the ISIE had also produced posters and videos about the voting process (IFES 2014).
488 Interviews with commissioners (November 18, 2014; December 16, 2014). A new commission for evaluating corruption claims (including those the Amor Commission had not had time to finish) was appointed, but at the time of my fieldwork in 2014-2015 the government was still refusing to provide the commission with adequate funding, allegedly due to lack of political will.
Other political reform issues

Other issues related to political reform reflect how the TPA’s limited mandate constrained its ability to address several critical political and social concerns. The TPA could not predict how its decisions would unfold in future phases. Nor was its successor government, the ANC/Troika, beholden to any of the TPA’s decrees: after all, it was a new, elected legislative body with no constitutional principles to uphold or follow. As a result, the TPA’s influence in most political reform areas was often reduced to modeling a process for making political decisions. Moreover, in areas where the TPA did not make any decisions—usually because it considered such decisions beyond the scope of its mandate—its successor governments, especially the ANC/Troika, struggled.

The TPA’s limited resources often forced it to cut corners in order to achieve its declared goals. Several members of independent commissions complained of struggling to accomplish their assigned tasks due to lack of resources. Although the Essebsi government tried to provide adequate material resources to the commissions, the intense time and psychological pressure as well as limited funds from the state meant their members were often pulled in all directions. Another issue was lack of experience with democratic institutions: because there was no history of ensuring free and fair elections, availability of qualified staff for the ISIE, for example, was limited (Tavana 2014, 3-4). The Amor Commission staff similarly did not have the capacity to process all 11,000 complaints about corruption it received before the ANC elections, leaving the majority of them to be handled by the future judicial system.

489 As discussed below, even the ANC’s legislative role was a power the Assembly bestowed upon itself.
490 Interviews with TPA members (November 14, 20; December 11, 2014).
Laws governing associations
A new law changed the system governing associations from a “permit system” (régime de visa) to a “declaration system” (régime de déclaration). This meant that an association would no longer be obliged to obtain a permit from the government; rather it could exist legally so long as it didn’t violate certain rules. But members of the expert core explained that, in drafting this law, the TPA was over-zealous and made the law too liberal. In fact, the Ben Achour Commission had drafted and passed a stricter version of the law than the final version that was signed by Mebazza, but the Prime Minister’s office had made changes without concurrence of the Ben Achour commission. The upshot was that the final legal text gave recognition to organizations the TPA had never expected to emerge.

Under this law, an organization calling itself the National League for the Protection of the Revolution was legalized in June 2012. This League was created by the executives of the local councils that had originally formed as vigilante groups during the days around January 14 and were precursors to the National Council for the Protection of the Revolution (CNPR - see chapter 3). Thus, although it had a central national executive, the National League remained a collection of disparate local leagues. During the second half of 2012 and the first half of 2013 the Leagues were accused—but not convicted—of committing violent attacks against Nida Tunis and UGTT representatives. Several

491 The law for print media (DL 2011-115) also changed the system from “visa” to “declaration”.
492 Interviews with expert core members (January 6, 2015; December 23, 2014).
493 Interview with expert core member (December 23, 2014).
494 Courrier de l’Atlas, Dec 2012 (Mrad 2014). Nida Tounis was formed in June 2012 in response to the rising insecurity and declining economic conditions, and became a political challenger to Nahda. The relationship between the UGTT and Nahda was also becoming increasingly antagonistic due to the government’s handling of the economy (Ghilès 2012).
media reports associated the Leagues with Nahda\textsuperscript{495}, understanding them to be the party’s militia wings, although many members declared themselves independent of party affiliations (Belghith and Patel 2013). Such accusations against the Leagues were enhanced when Nahda refused to disband them, claiming that they were legally mandated.

The local leagues thus reflected the increasingly intense ideological struggle that was unfolding at the time. Although they had originated in leftist movements such as Hamma Hammami’s workers party, they split with these movements following the ANC elections. During the subsequent period, as Nahda and disparate leftist groups (Ghilès 2012) grew increasingly at odds with one another, the Leagues became associated with the Islamist side of the divide. Thus, for the TPA, the issue of how much to break with the former regime by loosening government control over associations had unexpectedly created legal protection for groups that were complicating and worsening the polarization of subsequent periods. According to experts from Ben Achour’s expert core, the drafters of the new associations law had not expected that liberalizing the law would lead to legal organizations allegedly committing violence\textsuperscript{496}.

\textit{Gender parity in the elections law}

The issue of gender parity in the electoral law was another example of how the TPA’s progress was stalled during subsequent periods. Due to the historical importance of women’s rights in Tunisia, many passionate voices within the Ben Achour Commission urged the incorporation of the gender parity principle, or a requirement to alternate the candidates on each party list by gender, into DL-35 (see Gana 2013). However, other

\textsuperscript{495} Ibid.
\textsuperscript{496} Interviews with expert core members (December 23, 2014; January 6, 2015).
voices staged significant opposition: some of the more conservative representatives from the interior may have been opposed in principle, and many smaller or newer parties were concerned about finding an adequate number of female candidates. Nahda too, initially hesitated to give support, but changed its position when it realized the gender parity rule would help it politically.497

Some parties did not achieve full parity but were still allowed to compete in the ANC elections. Moreover, during the Ben Achour Commission debates there had been many advocates for “zipper parity”, or the requirement to alternate male-female candidates down each list (“vertical parity”) and across the heads of lists (“horizontal parity”—since heads of lists were the first candidates to become actual delegates when a party won a seat in a certain district). This regulation was agreed upon in principle, but not adopted in the law, and of the final lists that competed in the ANC elections, only 7% had women at the head498 (the final composition of the ANC was 30% women).

Nonetheless, this particular article of the electoral code was also reflective of the kind of influence the TPA unwittingly cast in the debates over the new constitution that took place within the ANC. The 2014 constitution’s requirement of horizontal parity, (plus a statement that parties should “strive” for vertical parity) again shows how the work of the TPA reappeared in later phases499.

498 Interview with expert core member (January 6, 2015).
499 Some drafters of the TPA’s elections law suggested that the ANC’s decision to preserve its choice of electoral system, PR with remainders, demonstrated its suitability. Interview with expert core member (November 12, 2014).
Mandate and competencies of the ANC
As mentioned earlier, the TPA faced a minor crisis in August and September 2011 as the
elections approached. Several parties from both inside and outside the Ben Achour
Commission began demanding a referendum to specify the mandate of the ANC (i.e.,
what it was allowed to do and the timeframe it had to do it) before holding the
elections. In response to this agitation, as well as to the recent departure by Nahda and
CPR from the commission, Ben Achour organized the parties represented in his
commission into an external committee to draft an agreement on the role of the ANC.
Although it had formally left the commission, Nahda joined this committee, and the
result was a political accord known as the September 15 document (Pickard 2011).
This issue was thus resolved through one of the TPA’s core strategies, namely
cooperation and consensus.

Ben Achour called the statement “short but precise,” and, indeed, it gave little clear
direction. It stated that the elected Assembly was to be in place for one year, and that it
would appoint an interim President, Prime Minister, and Head of Parliament to govern
during the period while the constitution was being written. Following these appointments,
Essebsi and Mebazza along with the rest of the cabinet would cede their positions to the
new interim government. Drafters could not reach agreement on whether the ANC should
have legislative powers. This question was left unaddressed in the document.

Once in place, the ANC’s first task was to write its by-laws ("règlements d’intérieur"), at
which point it decided to give itself legislative authority (Proctor and Ben Moussa 2012,

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500 Interview with Ben Achour commission member (November 18, 2014).
501 Pickard also notes that the agreement resembled the negotiations leading to the election of the
Constituent Assembly that wrote South Africa’s new constitution from 1991-1995.
This expansion of its own powers, in addition to intransigence during debates over constitutional issues, meant the ANC’s deadline of November 2012 (set forth in the September 15th document and adopted/accepted by the ANC at the start) would pass long before its work was done. The delegates justified this exceeding of their time limit by claiming that the September 15th document was not legally binding. The ANC ignored the lesson of the TPA that an effective provisional administration needs to be just that—provisional—even though it may entail tradeoffs in power and capacity. This failure to demonstrate a true commitment to being provisional would cost the ANC/Troika government its legitimacy—as 2012 gave way to 2013, it came under increasing accusations of trying to hold on to power (in addition to being unfit to govern).

**Issue of transitional justice and judicial reform**

Two critical issues addressed by the TPA that had an impact in later phases were judicial reform and transitional justice. Transitional justice refers to the processing of former officials for human rights violations and financial crimes as well as the exclusion of party officials complicit in such crimes. The central goals of transitional justice include pursuing perpetrators of past crimes through the court system; truth seeking; reparations for victims; and institutional reform (Gray 2013). Judicial reform refers here to more broad efforts to render the judicial system democratic and independent. The following section explains the steps the TPA did or did not take to address these tasks and the impacts of its actions in later phases.

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503 Interview with expert (December 23, 2014). According to the interviewee, various ANC delegates and Troika politicians claimed that the September 15 document was “only political, not legal.” Another Tunisian legal expert/scholar (January 12, 2015) said the ANC was very protective of its “sovereignty.”
The TPA was not set up to think comprehensively about a transitional justice program; all the decisions it took related to dealing with the unjust acts of the former regime were therefore ad hoc and temporary. These included arrests of former officials, decisions on rules for participation and exclusion by former RCD members in the ANC elections and investigations meant to contribute to truth and reconciliation processes. Although at first glance it may seem appropriate that the TPA did not attempt to do more—after all, why should it be limited to doing everything else in a provisional manner, but have the power or capacity to make permanent decisions about transitional justice?—there were particular consequences of not addressing the critical issue of transitional justice in a more permanent way.

First steps toward transitional justice by the TPA

Arrests and trials of former officials
The TPA’s first actions in transitional justice were the prosecution of high level officials from the Ben Ali era whose crimes were well-known. Several family members and close associates of Ben Ali had been arrested in the early days after January 14, and the TPA, especially the Amor Commission on investigating corruption, studied cases in other countries of how such figures are tried and punished. Moreover, partly as a result of the work of the Bouderbala commission, several police and figures from the Ministry of Interior were convicted of having committed crimes during the uprisings (such as killing or injuring peaceful protestors) which essentially amounted to human rights violations. These initial steps represented a clear intention of the TPA to halt the injustices practiced under the Ben Ali regime, and were thus relatively non-controversial.

504 Interview with TPA member/Tunisian legal expert (December 9, 2014).
505 Interview with Tunisian academic (December 16, 2014).
506 Interview with Tunisian legal expert (December 22, 2014).
Investigating abuses during the revolutionary period

The Bouderbala Commission had investigated and documented all claims of violence by the state during the revolutionary period. The recommendations in the commission’s final report also touched on the issue of reparations for victims. However, the commission had a limited, defined mandate, which was to investigate, collect information, and document it. It was not to make decisions about what the victims with whom it dealt were owed. Some commissioners felt frustrated by these limitations—noting, for example, that reparations/indemnities were dispersed in uneven or unfair ways, particularly in regards to women.\(^{507}\) These recommendations included the creation of a Truth and Dignity Commission (TDC) to investigate all crimes since 1955. This ability to influence an ongoing process by offering recommendations for its successor administration represented a step toward setting up permanent transitional justice mechanisms for the country.\(^{508}\)

Political Exclusion and Article 15

The TPA and its successors had to decide whether and how to reincorporate former RCD members into politics. For the TPA, this entailed deciding whether former party members could be eligible candidates for the ANC elections. The question sparked a fierce and lengthy debate. Those in the expert core who wrote the first draft of the law meant to govern the ANC elections had excluded from eligibility any member of the RCD during the previous ten years. But many members of the Ben Achour Commission felt strongly

\(^{507}\) One commissioner explained, for example, that the commission was unprepared for dealing with cases of sexual abuse (which occurred particularly against women), although many women were also hesitant to come forward, Interview December 19, 2014). Gray (2013) also discusses the trickiness of reparations for female victims.

\(^{508}\) In the French version of its report (published by UNDP), the Bouderbala Commission recommended a more comprehensive reparations scheme, saying it should include people killed “other than by live ammunition” and benefit “all victims from the period, without distinction” (UNDP 2013, 71, my translation).
that the law should be broadened to exclude anyone who had been a member of the RCD under all 23 years of Ben Ali’s rule. They felt that excusing any former party members would be inappropriate, given that they were all complicit in the unjust policies and actions of the ruling regime. Those in favor of the shorter period argued that the regime’s most outrageous abuses had only been committed during the last ten years of Ben Ali’s rule, and that delimiting the period in this way would avoid excluding too great a proportion of the population.

As one member explained, the final compromise solution, codified in “famous” Article 15 of the 2011 elections law, was a temporary mechanism for addressing what they saw as a long-term aspect of transitional justice. It defined people who were ineligible to participate in the elections not by the years during which they had been party members but by their role in the party, and it was temporary because it applied to the ANC elections only. As such, Article 15 represented an attempt to punish members of the former regime without abandoning the TPA’s strategy of inclusion, while also delaying the decision of dealing with former regime members outside that particular electoral process.

509 “The regime” should not necessarily be synonymous with the RCD, but President Ben Ali had manipulated laws and institutions in such a way that the RCD controlled governmental decision-making. Therefore, the argument was that on the one hand, one could have been a party member without actually having committed abuses of power, especially prior to 2001; on the other hand, to be a party member was to openly buy into/be complicit with the non-democratic nature of the system.
510 Interview with Ben Achour commission member (January 29, 2015). Another commission member (interview, November 13, 2014) described the issue as “the famous Article 15”).
511 Article 15 specifies: “May not be candidate: all persons having assumed a position of responsibility within the government during the era of the fallen President, except those who were not members of the RCD, and all persons having assumed a position of authority within the RCD structures. The relevant responsibilities are set by decree following propositions of the Haute Instance: All persons having supported the candidacy of the fallen president for a new term in 2014. A list to this effect will be established by the Haute Instance” (DL 2011-35). However, experts criticized the article for not specifying procedures for individuals to challenge a decision placing them in one of those three categories, and that it “failed to notify banned persons” (Lamont 2013).
Transitional justice during the ANC/Troika

Though the TPA had taken tentative steps toward dealing with the two goals of transitional justice described above, under its successor interim government the issue became an arena for political competition.

Arrested officials released

Under the Troika government, many of the officials from the Ministry of Interior and other government agencies who were arrested and convicted of committing crimes in 2011 were given light sentences or even released from jail. Moreover, in December 2013, following a national consultation on transitional justice organized by the Troika government, the ANC passed a transitional justice law which sent those convicted before military tribunals to be tried. In April 2014 those who had been tried were all acquitted due to lack of evidence (much evidence had been hidden or destroyed in the flurry of the days around January 14). These events led to widespread disillusionment, as they suggested that the persecutors of past crimes would never be prosecuted. As one judicial expert explained, this was especially unjust when it came to families of martyrs. Those Tunisians – mostly parents of the youths who protested in December 2010 and January 2011—would never have an answer to their only question: “who killed our children?”

Although a modification to the December 2013 law was passed in May 2014, the complexity of establishing these processes reflects the difficulty of knowing in a

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512 DL 2013-53.
513 Interview with Amor Commission member (December 16, 2014).
514 Meeting with Tunisian legal expert (December 22, 2014).
515 The amendment stated that people accused of such crimes—those that could be considered human rights abuses according to international standards—should be tried before civil, rather than military, courts (ibid).
transitional situation who should be held responsible for what crimes, and under what justice system they should be tried\textsuperscript{516}.

Establishment of a Truth and Dignity Commission

The Truth and Dignity Commission (TDC) that had been recommended by the Bouderbala Commission was legally created via the December 2013 transitional justice law. Like with the commission’s reparations recommendation, this was an important step in the transitional justice process and therefore one of the TPA’s more important legacies. However, once again, the process of establishing the committee entailed the selection of a group of people theoretically meant to be independent, which quickly turned it into a political issue. The launching of the commission’s work faltered multiple times throughout 2014, as politicians and civil society members protested the NCA’s selection of commissioners, and several commissioners resigned due to personal and partisan disagreements (Williamson 2015). The law also placed the TDC under the purview of the newly-created Ministry of Justice and Human Rights, which became another locus of political bickering, as opponents accused each other of trying to dominate the issue, further delaying effective implementation of the TDC.

In the middle of these debates, Troika President Marzouki unilaterally launched an investigation, purportedly in the name of transparency and in the spirit of the new truth-seeking body, into all journalists who were complicit with the former regime. Many have

\textsuperscript{516} See Ben Aissa (2014). Ben Aissa elegantly presents the complexities of dis-entangling transitional justice and democratic transition by assessing the constitutionality of the transitional justice law of December 2013 in light of the new constitution which was passed after it (January 2014). His analysis shows that the success or failure of any transitional justice process—which is meant to serve a larger process of democratic transition—depends on the answers to the questions of how to confront the past: how to determine who should be held responsible for crimes committed under the dictator, how to punish them, and how to accord reparations to victims. Thus, the fate of the process is in the hands of those who determine the answers to those questions – and if such actors have any reason to hide the truth about the past, the whole democratic transition may fail.
noted, however, that his investigation itself was not transparent, and thus lacked credibility and hampered the transitional justice process (Tolbert 2013). Indeed, one journalist remarked that Marzouki’s “Black Book”, meant to blacklist journalists for their crimes under Ben Ali, was so poorly and hastily compiled that the first journalist to interview him about it was actually one of the journalists it listed! Such criticisms suggest that this was a purely political move, rather than in the genuine interest of furthering transitional justice. Further, the episode highlights how the absence of transitional justice mechanisms can theoretically permit unjust convictions and prosecutions.

Debate over political lustration

A closely-related issue of transitional justice was whether and how to exclude people involved with the deposed regime from politics. The compromise of Article 15 in the 2011 electoral law, which excluded certain members on a temporary basis, thus postponing a “real” or permanent decision, had an interesting set of effects. This postponement allowed the law to become yet another battleground for the Islamist-secularist competition in 2012 and 2013 (Gray 2013). It differed, however, from the political jockeying that was occurring over other issues in that it reflected a common desire among former victims of repression, whether or not they identified as Islamists, to

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517 Interview with Tunisian journalist (Januray 15, 2015).
518 Ben Aissa (2013-14, 1-2) also notes that the ANC’s delay in passing DL-53 on transitional justice was difficult to understand given that it did not have the same issues of legal uncertainty that constrained its predecessor, the TPA, and that it had stated its willingness to launch a comprehensive transitional justice process in the first law it passed, the organization of public powers law of December 2011.
519 Lamont (2013) uses the term “lustration” “in reference to the vetting of individuals against the records of the former regime for membership in former ruling parties and other organizations associated with the maintenance of the former regime’s political, economic, and social order. If found to be members of these parties or organizations, such individuals are excluded from either public service or electoral politics. As such, like lustration in post-Communist Europe, lustration in Tunisia is primarily aimed at excluding persons from transitional processes on the basis of past affiliations, which may not necessarily mean that an individual has committed a criminal offense.”
punish their repressors (Lamont 2013). This overcoming of ideological divisions theoretically threatened the passing of a law that was truly democratic, as it provided the opportunity for past victims to take revenge on their persecutors (as is often the case in transitions – see Shain and Linz 1995, 97; O’Donnell and Schmitter 1986, 28-32; Lust 2012, 2). And indeed, Nahda proposed in December 2013 a political exclusion or “lustration” law which would ban from government anyone who had been an RCD member for the full 23 years of Ben Ali’s rule.

The ANC ultimately did not pass the proposed lustration law. The TPA’s decision to write a law for only the first elections and to delay the longer-term transitional justice decisions ended up being favorable to the transitional justice process. If it had taken more extensive decisions about categorically excluding RCD members from politics, this may have prevented the cooperation that occurred later under the National Dialogue. Therefore, the TPA’s self-restraint in trying to influence transitional justice of later phases proved in this sense to be a wise strategy.

Judicial reform
Questions of how to try former regime members accused of crimes, the nature of reparations for victims, and the nature of punishments for complicit party members are all linked to questions of broader judicial reform. Although various institutions of the TPA, notably the Amor Commission, had worked on recommendations for strengthening the independence of the judiciary, almost all decisions were left for successors to the TPA. This process, too, became heavily politicized under the ANC/Troika.

The TPA’s first organization of public powers decree law of March 23, 2011 had suspended the constitutional council. Although it did not suspend the Supreme
Magistrates’ Council (both councils under Ben Ali were supposed to guarantee the independence of the judicial system, but in practice had been a tool of the president)\textsuperscript{520}, the ANC, under guidance from the TPA, did. Yet the Troika government’s Minister of Justice soon restored the council, before the provisional authority meant to replace it according to the organization of public powers law passed in December 2011 could be formed. The necessary law for forming such an authority was finally passed in May 2013 due to relentless pressure from the judges’ associations\textsuperscript{521}. Yet like the Truth and Dignity Commission, the actual formation of the new council and the starting of its work was delayed by continuing political competition and crises, and was still being set up when the new constitution was passed\textsuperscript{522}.

In addition, the new Justice Minister Nourdine Bhriri, of the Nahda party, dismissed 82 judges “who were claimed to be ‘incontrovertibly linked to the Ben Ali regime’ soon after he was appointed. This move caused great uproar among judges associations as well as the human rights community (Institute for Integrated Transitions 2013, 21) because it was not made through agreed-upon procedures. Instead, as with Marzouki’s “Black Book”, it represented an attempt by figures holding power during the ANC/Troika period to dominate the transition process.

\textsuperscript{520} Erdle (2010, 170-172) describes how both councils under Ben Ali lacked independence from the Executive branch – for one thing, they were headed by the President; the President also hand-picked members of the former.
\textsuperscript{521} Author meeting with Tunisian legal expert. (December 22, 2014). This was despite the rivalry between the two judges’ organizations, the SMT and the AMT (discussed earlier), which may have contributed to the delay: “Some local and international analysts have noted that this conflict plays into the hands of the Justice Ministry, which is able to divide and rule more easily…” (Institute for Integrated Transitions 2013).
\textsuperscript{522} This therefore represents a deviation from the “roadmap” of sorts set by the ANC/Troika, the organization of public powers law DL #6 of December 2011, because this provisional judicial authority was meant to be in operation and working toward guaranteeing judicial independence until the new constitution was passed. The TDC was only legally established with the passage of the transitional justice law DL 2011-53 in December 2013.
Opportunities lost?
Despite some cautious steps by the TPA toward transitional justice mechanisms and judicial reform, and despite the favorable outcome on the political exclusion issue, some feared that certain opportunities for transitional justice may have been lost. Much has been written about the importance of truth commissions in helping a society overcome its torn past (e.g. Gray 2013). This includes both listening to victims’ stories as part of the healing process (e.g. Redissi, Nouira and Zghal 2012b, 42) and helping them understand what happened. Building a clear “inventory of the past” also helps prevent the mistakes and crimes of the regime from being repeated by future governments. Yet such tasks require a collective dedication to certain non-political goals; such a mentality was predominant in the TPA but immediately gave way to serious political competition under the Troika/ANC. Moreover, although the mentality of moving forward via consensus, cooperation and compromise was somewhat restored with the National Dialogue and Jomaa government, and although this helped initiatives like the TDC and High Magistrates/Judicial Council move forward, the call for taking an “inventory of the past” faded away. By 2016, the new permanently-elected leaders of the country—many of whom were closely tied with the Bourguiba regime--were urging national conciliation by turning away from the past and looking to the future523.

Conclusions: Issues and Impacts of the TPA
In every aspect of its work, the TPA left some kind of impact or legacy for its successors. This was true even in areas where it didn’t do anything! Sometimes, it modeled certain behaviors (which were sometimes ignored, then reappeared, occasionally via individuals from the TPA who had modeled them). Other times, when it chose not to take any

523 Meeting with Tunisian legal expert (including the term “inventory of the past”; December 22, 2014).
decisions, it left more of a “blank slate” for the ANC/Troika. Overall, although the TPA tried to restrict its mandate to preparing for and overseeing ANC elections, it confronted a host of other issues. Much can be learned in regards to its impact from how it attempted to resolve them.

**Issues and Impacts of the NTC**

**Introduction**
This section describes the four key challenges facing the NTC as it strove to govern provisionally and hold elections, the issues it had to resolve, and the impacts of its decisions on events in the two years following the NTC’s existence. These include: the internal divisions that plagued the NTC and its ability to agree on a roadmap for transition; the proliferation of armed groups and the urgent need to control them; its lack of experience in governance and with democratic governance; an acute need to secure international support; and the difficulties of establishing processes for transitional justice and a system of human rights.

Despite these challenges, the NTC managed to see the country through the democratic elections of July 7, 2012. This achievement should not be understated. Nonetheless, this achievement did not mean that the NTC had resolved key issues or established a unified vision for Libya’s future. The failure to resolve many of these issues led to increasing instability over the two years following those elections.

**Internal divisions and lack of trust in resolving them**
The first issue with which the NTC dealt was a host of disagreements among its members and between the NTC and its critics. These disagreements included the details of a transition roadmap and steps for handing over power, overcoming personal rivalries, and
writing electoral legislation. The NTC’s inability to resolve these issues reflected a profound lack of trust among members and of a shared purpose. These divisions would only worsen after the NTC finished its work.

**Agreeing on a roadmap**
The NTC knew it needed to codify its intentions to hand over power to an elected government, which it tried to do in a statement issued initially in March 2011. However, the details of this statement became a source of controversy. As a result, even by the time it finished its work, the NTC had not established firm consensus on the next steps for post-authoritarian governance.

During the course of its work, the NTC released several public statements. The first of these was the *bayan* of 22 February, in which it articulated protestors’ demands, including an explicit statement of “hopes and intentions to create a democratic and unified state” (Chorin 2012, 196). However, this document lacked details on how exactly the NTC and its successors would achieve this. The next several days saw the first of several public contradictions by the NTC. On February 26, speaking from Baida, Chairman Jalil officially announced the creation of the NTC and declared that “it would govern for three months leading up to elections and the selection of a new leader”. This was immediately followed by a statement made by Deput Chairman Ghogha from Benghazi, that the NTC “would administer liberated eastern cities until Colonel Qadhafi’s overthrow, and help free other cities in the country” (Economist Intelligence Unit 2011b). Although by March 1 the Council had rectified the confusion by stating that it was a unified body of which Jalil was chair and Ghogha was vice-chair, the incident was foreboding.
The NTC’s next official statement of its intentions was on March 29, ahead of a planned summit of foreign powers in London (at which the Libya Contact Group would be established). This was the first statement to lay out the Council’s “vision”. It promised to build a democratic state based on the rule of law and respect for human rights through the drafting of a new constitution “crafted by the people and endorsed in a referendum”. This state would be built on a social contract “that must lead us to a civil society that recognizes intellectual and political pluralism and allows for the peaceful transfer of power through legal institutions and ballot boxes” (McGreal 2011). Whether this statement was purposely aimed at getting official recognition from foreign powers is unclear, but France, Qatar, Italy and Kuwait had all recognized the council or announced their support for it by early April.

May 5 was the next public declaration of the NTC’s vision/plans, but its effect was much less unifying. The main authors were Fathi Baja and Mahmoud Jibril, both central NTC members with an academic or management background. As Cole and McQuinn (2015, 39-41) explain, this draft roadmap generated much controversy when it was presented at a Contact Group meeting in Rome. The NTC therefore issued a “Constituent Covenant for the Transitional Period”, endorsed by the NTC’s executive committee on 21 June. However, this draft did not resolve the key controversial issue of how the NTC would hand over power. Article 30 stated that the NTC would continue working even after the elections for a constituent committee and parliament had occurred, and included a timeline for organizing elections once the country had been liberated. The biggest critics

525 At least four groups issued alternative drafts of the plan (Cole and Mcquinn 2015, 51).
of this article were the members of the NTC representing the Muslim Brotherhood, who felt the NTC should be dissolved with the completion of elections. According to some accounts, the Brotherhood was leery of the secular profile of NTC members, and therefore wanted to limit its power (International Crisis Group 2011c, 2; Cole and McQuinn 2015, 183). Article 30 thus sparked a protracted debate within (and also outside) the NTC. An emergency meeting was called on July 27 to finalize the document. In the final version, Article 30 stated that the NTC would dissolve itself once a new national congress, which was to form a new cabinet and constituent committee, had been elected. But, coming just at the time General Abdelfatah Yunis was assassinated and thus owing to a renewed sense of urgency within the Council to present a united front, this official roadmap through the transition was drafted in haste and without all voices at the table. Some members felt the Muslim Brotherhood had taken advantage of the confusion and chaos created by the assassination to push through what it wanted. In short, the NTC felt pressured to issue something rather than to take more time to reach consensus around its content. The revised Article 30 was included in the officially-adopted roadmap, called the “Constitutional Declaration”, of August 3.

**Personal rivalries (and settling old scores)**
Tensions and rivalries among different members/factions within the NTC were present almost from the start. First, there was much speculation that Chairman Jalil and Prime Minister Jibril did not get along, or at the very least did not communicate well (Cole and McQuinn 2015, 38-39). Several individuals resented the manner in which Jibril joined the council, having not been among the original Benghazi-based members and immediately
traveling to Doha in February 2011. Jalil’s appointment incited another kind of suspicion, simply because he had been a minister under Qadhafi and then suddenly became the lead representative of the opposition. The chaotic conditions and need for outside support, however, meant that even people with reservations about Jalil or Jibril felt forced to accept them for the sake of unity.

An even uglier fault line developed within the NTC around the presence of General Abdelfatah Yunis in the Council, reflecting a lack of unity and trust among its members. Some NTC members were worried he would remain loyal to the old regime, while others argued that his defection would be a big boost for opposition forces. These divisions around Yunis persisted even after he joined and was assassinated.

Regardless of the facts surrounding it (which remain undetermined), the assassination reflected deeper distrust among members. For instance, many of the judges who were members of the NTC had been political prisoners when Yunis was serving as a top figure in the regime security forces; mutual suspicion about his loyalties may have remained.

Moreover, the assassination took place just after certain Benghazi-based members, who were also former judges, had summoned Yunis to Benghazi for questioning. These members, potentially worried about being sidelined or even double-crossed, may have...

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526 As one NTC member (interview, November 8, 2014) explained: “We were at war, the country was suffering….and he just appointed himself the head and was based outside the country. This was not logical.”
527 Interview with Tunisian civil society member (July 8, 2015).
528 Interview with NTC member (November 8, 2014).
529 Some blamed his assassination on extremist Islamist elements who took advantage of a mentally handicapped member of Yunis’s tribe to arrange his killing (Interview, November 8, 2014). AbdJalil made a statement that it appeared to be “an act of personal revenge” (Cole and McQuinn (2015, 193).
530 Interview with NTC member (November 8, 2014).
been trying to discredit Yunis in order to weaken Jibril’s plan for organizing the security forces once Tripoli had been liberated\textsuperscript{531}.

Another example of the individual tensions among NTC members is reflected in the behaviors of another NTC military commander, Khalifa Hiftar, who appears to have been combative, frequently in an argument with someone. Some reports suggested that, sometime during the summer, “the NTC may have sought to remove him from a command role, and that Hiftar resisted those efforts” (Blanchard 2011e, 29-30). Hiftar and Yunis also jockeyed for position (Cole and McQuinn 2015, 192) until Yunis’s death. Though no major public conflicts around Hiftar developed before the end of the NTC’s work, he was a figure who would reappear at a moment when the country was becoming much more clearly divided.

\textit{Electoral conflicts}

The drafting of the electoral law in spring 2012 became the source of great debate. The first draft law, passed on February 12, was non-committal about the allocation among regions of seats in the GNC. On March 14, however, the High National Electoral Commission (HNEC) announced the allocation: 102 seats for western Libya, sixty for the east and thirty-eight for the center and south (Cole and McQuinn 2015, 215-216)\textsuperscript{532}. This left some eastern members feeling that their region was under-represented. Several groups organized conferences to discuss the draft, during which they focused their discontent with that article. Aggressive protests began in January and February, reaching a climax when protestors stormed the NTC office. These protests were so disruptive that

\begin{footnotesize}
\textsuperscript{531} This included Issawi, Salim al-Shaikhi, Fawzi Bu Katif from the 17 February Battalion, and defense minister Jalal al-Daghaili (Cole and McQuinn, 48-50). The authors also note that Jalil himself was against Jibril’s plan.
\textsuperscript{532} According to these authors, it was supposed to have been within two weeks.
\end{footnotesize}
NTC member Abdel Hafiz Ghogha resigned in frustration. In March 2012 a group of thousands of actors announced the Barqa Council, whose purpose was to advocate for more autonomy for the east and create a federal region. Two months before the elections, the Barqa Council, which had originally been planning to field candidates, called for eastern residents to boycott the elections. It also threatened that violence would ensue if the elections went forward.

These threats put the NTC, and particularly Chairman Jalil, under pressure from two directions. First, Jalil was concerned that any delay of the elections would undermine the entire process, opening the NTC to accusations of clinging to power. On the other hand, and more importantly, the NTC needed to find a way to appease the Barqa Council’s demands for changes to the electoral law that would further its goals of creating a federal region in the east. For this reason, the NTC announced in March 2012 that the General National Council (GNC) would appoint a sixty-member committee to draft the new constitution rather than drafting it themselves. The appointed committee was to have an equal number of representatives from each region. More dramatically, on 5 July—two days before the elections—the NTC announced that the sixty-member committee would be directly elected, through an electoral process that the GNC would set up, and its decisions would be taken with 2/3 plus one majority. In short, the NTC struggled until its last days to settle the controversy of allocation of members and to stick to its declared roadmap.

533 “…the NTC’s promised law on administrative decentralization did not materialize and the Barqa Council held a follow-up meeting in Baida on 10 April 2012 in King Idris’s summer capital. The Council rejected the new electoral law, announced a 200-member governing council and, echoing the monarchy’s tribally recruited Cyrenaica Defence Force, announced a regional guard to protect the Barqa region. Most worryingly to the NTC, the Barqa Council also, as the GNC elections approached, called for eastern residents to boycott the polls in favor of a referendum on establishing a federal region” (Cole and McQuinn 2015, 220).
Although the Barqa Council’s calls for federalism met significant opposition (Mezran and Alluni 2015, 274; Blanchard 2012), they were reflective of long-standing national issues which the NTC, despite having originally unified opposition movements around it, could not suppress. The internationally-guided establishment of a constitutional monarchy in Libya had originally set up a federal system of government for the country, but the King eventually abandoned it in favor of a more centralized form of government, especially after the discovery of oil (Vandewalle 2012, 50). However, as several sources on the NTC/post-Qadhafi period note (e.g. Cole and McQuinn 2015), numerous sub-national dynamics re-emerged and continued to shape conflicts and debates as the country tried to re-build itself.

**Impact – deepening divisions and inability to follow a roadmap**

These issues that divided the NTC and its critics would only deepen once the GNC elections were complete. Although personal rivalries among central NTC members such as Jalil and Jibril ceased to be an issue once the NTC had dissolved itself, different factions within the NTC continued to vie for power, both before and after the GNC elections. As a result of the NTC’s last-minute change to the electoral law, the GNC was elected without a mandate to draft a new constitution. Rather, it was to organize popular elections for a constitutional committee. This hasty decision obscured what Libyans were actually voting for – in the end, they essentially participated in elections for new elections. This undermined the credibility of the elections themselves, in addition to stalling the constitution-writing process (Mezran 2012a).

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534 Interview with Libya expert (November 3, 2014).
The GNC eventually passed an electoral law in July 2013. Elections for a constitutional committee were held at the end of February 2014, and the newly elected committee managed to move ahead (barely) with a legitimate constitution-writing process (Lacher 2014, 4; Mezran and Alluni 2015, 282-283). However, as the deep polarization that preceded these steps shows, the chance for establishing general consensus on the transition process/roadmap had been lost.

In addition, even with Jibril’s party (which had won a plurality of seats in the GNC elections) calling for unity\(^{535}\), debates over Federalism continued to rage. The rise in security incidents—including the attack on the U.S. consulate which killed four American diplomats in Benghazi in September 2012, shortly after the appointment of the new interim cabinet—also stymied the GNC’s work (Blanchard 2012, 2; Economist Intelligence Unit 2012d, 23). Suspicion of foreign agendas also continued to fuel mistrust (\textit{ibid}; Lacher 2011, 150; Sawani 2012, 23)\(^{536}\). Hostilities among various factions became so tense that, in December 2012, former NTC chairman Mustafa Abdal-Jalil was brought to trial for having orchestrated the assassination of General Yunis (Middle East Journal

\(^{535}\) Specifically, the National Forces Alliance (NFA) “considered Libya to be a pluralistic, civil democratic society, and it plans to protect the freedom of all its citizens, promising to guarantee gender equality and to protect minority rights. It supported decentralization but not federalism” (Mezran and Alluni 2015, 273). The Alliance brought together a large number of political parties (around 60) and hundreds of civil society organizations and independent “national figures” (\textit{ibid.;} Blanchard 2012, 15).

\(^{536}\) Several sources note that such suspicion caused problems. Lacher (2011, 150) observed that any external backing for security sector reform had the potential to be perceived as backing one faction against another (since armed groups were characterized by rivalries). Other reports (e.g. Economist Intelligence Unit 2012d, 4) suggest that rumored external support for Islamist parties during the 7/7 elections (from Qatari groups like al Watan, or connections between the Justice and Construction Party and Egypt’s Muslim Brotherhood), may have contributed to their relative lack of electoral success. Finally, although on the one hand the NTC and opposition forces were explicitly requesting – indeed, were dependent on – foreign support, Libyan observers in particular note a weariness of too much foreign involvement, even in post-war reconstruction planning (Sawani 2012, 22-3; Pack 2013, 80).
In short, when the NTC left power, it left many divisions and unresolved issues behind it.

**Controlling armed groups**
Although the NTC was supposed to be the central, overriding coordinator of the local civilian and military councils, it was never in full control of the fight against Qadhafi. Nor was it always even aware of the movement of weapons into and across the country, which was occurring as foreign powers gave their support to various units and as weapons stashes hidden by Qadhafi were uncovered. As a result, managing armed groups was a challenge that plagued the NTC from beginning to end. Though the NTC made some efforts to monitor the weapons coming into the country and control human rights violations by its fighters\(^{538}\), its primary concern was defeating Qadhafi. The problem of widely-available arms combined with a large number of young men not otherwise engaged or employed and a system of paying people off for cooperation (see Cole and McQuinn 2015, 137-143) led the NTC to lose control of the security sector.

**Managing weapons**
The NTC was eager to get weapons from Qatar, and Qatar was eager to supply them. However, Qatar insisted on arming certain “militia” groups, likely due to personal connections (International Crisis Group 2011b, 21; Cole and McQuinn 2015, 77)\(^{539}\). This fed into the delicate and sometimes explosive divisions of leadership in the struggle against Qadhafi, and especially the battle for Tripoli during August 2011, and

\(^{537}\) Although evidence of this was weak.
\(^{538}\) Interview with NTC member (November 8, 2014), also see Cole and McQuinn (2015, 127-152; 153-174).
\(^{539}\) For example, International Crisis Group (2012, 10), describes how Qatar apparently had “personal relationships” with the NTC’s defense minister as well as some of the leading commanders in Tripoli (who were not unified themselves), and as a result other NTC commanders felt excluded (International Crisis Group 2011c).
exacerbated the already daunting challenge of building a functioning security apparatus\textsuperscript{540}.

Alongside this was an internal flow of weapons. Some groups were armed with weapons they had looted from the former regime’s stockpiles or that the regime had distributed. Several arms depots remained unsecured, and the disarray of the state army and police left people feeling vulnerable, leading to hoarding of arms and ammunitions. Minefields laid by loyalist troops in different regions of the country also needed to be cleared (Bell and Witter 2011d, 25). This availability of weapons helped fuel on-going attacks by those who had been fighting Qadhafi’s forces on the Tuareg, the Tebu and the Mashashiya tribes in retaliation for their loyalty to the Qadhafi regime (Lacher 2011, 145; International Crisis Group 2011b, 27-28).

\textit{Lack of central military leadership}

The NTC struggled from the start to gain firm military leadership. Tensions between commanders such as Yunis and Hiftar emerged quickly, weakening the military effort as different NTC factions scrambled over weapons and failed to present a unified position to their NATO allies\textsuperscript{541}. In the meantime, the various groups that had been organizing the resistance in Tripoli were acting independently from one another (Blanchard 2011b, 38-39). As the fight for the capital city began, NTC military forces thus lacked a clear leadership structure and divided into two camps over the question of how to bring the fighters together. Jalil was forced to mediate between Jibril and Aref Nayid on the one

\textsuperscript{540} Many Western think tank reports at the time were calling for international support in helping train police and security forces, support disarmament, mobilization and reintegration (DDR), etc. (e.g. \textit{ibid}; Mezran 2012b).

\textsuperscript{541} As the authors explain, there was particular concern over weapons coming in from Qatar, since much of Qatari support—though not all—came through “Islamist networks”, with whom Bilhaj was associated (Cole and McQuinn 2015, 71).
hand and figures associated with the Muslim Brotherhood, notably Abdelhakim Bilhaj, on the other (Cole and McQuinn 2015, 64-71). Though the dispute was temporarily resolved when the Tripoli Taskforce was taken away from the Executive Committee (and thus from Jibril), the inability of the NTC to build up unified security forces reflected these divisions among its top leadership.

**Challenge of institutionalizing security**

Developing a strong security apparatus was a near-impossible task for the NTC. For one thing, it had no institutional structure on which to build. Vandewalle (2012) describes how Qadhafi had prevented the Libyan army from professionalizing by balancing and rotating its leaders and supplying them with up-to-date military equipment while simultaneously strengthening internal security organizations intended to protect the regime from dissidents – notably, the Revolutionary Committee system established in 1977. Many army and military leaders under Qadhafi defected to the NTC at the start of the uprising, but this did not mean the NTC could easily build up its own army under those leaders, nor could it easily create something that would rival or replace Qadhafi’s internal security forces. For one thing, the overall state structure to frame an institutionalized security apparatus was weak: several observers noted that the Defense and Interior ministries were quite weak compared to the militias (International Crisis

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542 Vandewalle (2012, 147) also describes how part of the Jamahiriya concept was a “People’s Militia”, or the notion of armed citizens meant to ensure “popular resistance and collective self-defense…as opposed both to a standing and professional army” (although the regime’s later moves essentially amounted to an admission that it would be threatened by this armed citizenry, and the People’s militia never occurred). He further describes other informal power mechanisms, such as three informal circles, one of which was in charge of “social stability”. Another good source for some of these details is Mattes (2004).
Group 2011b, 15-16). And, even under ideal circumstances, the NTC could not simply raise a professional army in a matter of weeks or even months\(^\text{543}\).

Second, throughout the spring and summer and into the fall, after Tripoli had been liberated, the number of armed groups around the country proliferated. Despite NTC declarations and promises to create a police force and an army that would protect the Libyan people, these groups continued to act on their own initiative (see International Crisis Group 2011b). The NTC’s efforts to organize the groups into first a “Warrior’s Commission” and then a Supreme Security Council fell prey to factionalism within the NTC leadership as well as to the demands by fighters that they be paid. Without a plan, the NTC was obliged to pay salaries to the fighters as it attempted to bring them under control – a move frequently cited as one of the NTC’s great mistakes\(^\text{544}\). NTC “civilian” leadership could not resist\(^\text{545}\).

Though Kib’s administration resisted, the simultaneous pressure of a 20% government budget deficit due to the 2011 conflict compelled Kib, Abd al-Jalil, Sidiq al-Kabir—by then the governor of the Central Bank—and the finance minister to petition the UN Security council to unfreeze government assets. On 5 December, over $100 billion was released under UNSCR 2016, and the government, and local council and municipal buildings across Tripoli, immediately came under enormous pressure from armed groups…On 18 December, Kib, after being surrounded by armed fighters at his offices in Tripoli, stated he would personally ensure that anyone registered at a military or local council, and registered with the government, would be paid. Thus began Libya’s incorporation of militias into a bloated, hybrid security sector, all but outside state control (Cole and McQuinn 2015, 103).

\(^{543}\) Interview with Libyan civil society member (July 31, 2015).
\(^{544}\) Interviews and meetings with NTC members or Libyans closely involved with the NTC (November 13, 2014; November 8, 2014).
\(^{545}\) Several NTC members/observers blamed Jalil for this problem. These individuals claimed that they, as close comrades/colleagues, warned him that such a move would lead the government to lose control over the fighters (Interviews, November 13, 2014; November 8, 2014).
As described below, this lack of central authority would propel the continuing of armed conflict in the country, and the absence of an overall common vision, ideology, or commitment meant that divisions among Libyans would only worsen.

**Impact – the fighting worsens**
The NTC’s and its successors’ inability to bring the fighting groups under their control ultimately led to a Libya in which the armed groups controlled the NTC rather than the other way around. Several analyses cite the decision to pay salaries to the various fighting groups as the moment when governing authorities fully lost control of them. Others trace it back to the granting of immunity to revolutionary fighters in May 2012 (see below). In either case, the result was that none of the NTC’s successor cabinets or parliaments would be able to insulate itself from the influence of these armed groups. This meant that compromise politics was no longer possible.

The increasing strength of armed groups prevented the NTC and its successors from carrying out activities essential to a strong government, such as judicial reform. As mentioned below, local fighting groups accused and detained those they believed had committed crimes against the revolution, for example when Misratans captured the Touareg community in retaliation for supposedly having been loyal to the Qadhafi army. This led to a “vicious cycle” in which the more active the armed brigades became, the weaker the judicial system and courts seemed, giving the armed groups further justification for taking matters into their own hands. In addition, attempts at prosecuting perpetrators of torture or other such crimes were often thwarted by armed attacks (such as

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546 Ibid.
547 However, International Crisis Group (2013b, 28) also says the NTC caused a problem when it passed Law 38 granting them full immunity.
on the Benghazi courthouse) or death threats (International Crisis Group 2013b, 21 and 29-30).

As time went on, the strength of the fighting groups undermined other state security institutions as well. In a similar manner to their opposition to the courts and judicial trials, fighting groups attacked state police, leading to decline in public trust of police capability, and increasingly took on “policing” duties themselves. The police lacked the necessary arms (since many of them had been seized by the various fighting groups) and manpower to arrest those brigades, which were known to have committed crimes (ibid., 27). The Libyan General Prosecutor’s office struggled to carry out its duties, including the promised investigation into the September 2012 attack on the American consulate and the November 2012 attack on a Sufi shrine in Tripoli, because judges assigned to the investigation resigned due to fear of retaliation.

In addition to dominating state security functions, militia groups gradually managed to prevent state legislative functions from being carried out. In March 2013 there were reported attacks on the GNC’s office, as well as the Prime Minister’s office and the Justice Ministry (ibid., 38). Laws such as the highly controversial May 2013 Political Isolation law were therefore not negotiated and voted as a democratic legislature would intend; rather they were adopted “at gunpoint”548. More generally, this growing instability made governance more difficult: for example, there were also some attacks on oil fields which prevented the necessary production and export of Libya’s most lucrative resource.

548 Interview with Libya expert (November 3, 2014). Mezran and Lamen (2012) describe the involvement of militias as the law was being pushed through, and Cole and McQuinn (2015, 160) note that revolutionaries occupied the Ministries of Foreign Affairs and Justice in May 2013 as a means of putting pressure on lawmakers. Term also used in Pack (2013, 8).
Eventually, policy-makers could no longer act independently of these fighters. Though a few ministers declared their intention to rein in the militias, more frequently the armed groups acted with the GNC’s backing (International Crisis Group 2013b, 5). Thus, armed groups with competing loyalties and interests squashed any attempts by the GNC to establish rule of law, let alone draft an electoral law and establish a new constitutional framework for the country. This situation exploded when General Khalifa Hiftar, who had been one of the top commanders during the liberation war in 2011, led an attack against Islamist militias in Benghazi, preventing the newly-elected House of Representatives (HOR), once intended to act as the interim legislative body until permanent elections under a new constitution could be held, from taking its seat. The HOR’s move to Tobruk prompted the GNC to refuse to recognize it; however, militias from Zintan aligned with General Hiftar’s forces then began attacking the GNC offices. This myriad of divisions, which had begun under the NTC, had now come fully into the open, as possession of weapons became far more important than rule of law.

**Issues of leadership and management**
A third set of issues with which the NTC struggled centered on how to lead and manage the transition. The NTC’s lack of experience and guidance in leadership led it to make consequential mistakes and open itself to a raft of criticisms. This section describes how the NTC was not endowed with the proper resources to fulfill its functions, how its lack of experience caused it to commit errors, and what the consequences of these errors were.

549 It is important to note this was not necessarily a battle between “Islamist” and “anti-Islamist” forces. The attacks by Hiftar were partly in response to a series of assassinations against former security officials from Qadhafi’s regime, which were supposedly carried out by jihadi-type groups, but Lacher (2014) explains that there were disparate groups with varying agendas aligned with both his forces and the Zintani militias and that their attacks led disparate forces—including more radical Islamist groups such as Ansar al Sharia, as well as more moderate Islamist groups and groups defined by their local communities—to align with those who were attacked.
Resource constraints

The NTC, as a provisional government, was thrown into the role of governing without much experience and without the chance to prepare. This alone made its tasks extraordinarily difficult. The NTC was also pressured by time and an inability to control events. Knowing, for example, that delaying the GNC elections would cause further unrest, Jalil and the NTC were constantly forced into tradeoffs between sticking to the timeline and making sure all issues were resolved. Furthermore, the military conflict with the Qadhafi regime, the instability in neighboring countries such as Egypt, Tunisia and Mali, as well as the agendas of foreign partners on whom the NTC depended for survival were all factors outside its control and raised uncertainties that severely constrained its ability to plan.

On top of this, Libyan state administrative functions were weak, and the NTC could not depend on them to provide services and fulfill their mandates. This was partly the reason the Defense Ministry and Interior Ministry struggled to keep the militias and other fighting groups under their command (see above)⁵⁵⁰. Other ministries similarly struggled to carry out their responsibilities; the health ministry, for example, was especially burdened with humanitarian demands (International Crisis Group 2011b)⁵⁵¹. And in terms of international assistance, the absence of clear channels for the NTC to articulate its

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⁵⁵⁰ No defense ministry even existed under Qadhafi, which meant the NTC defense ministry had no pre-existing staff or structure there to facilitate its duties.
⁵⁵¹ Several sources (e.g. ICG 2011c, interviews) note the role of ordinary citizens in trying to fulfill tasks such as the delivery of basic supplies and services. One set of interviewees (December 4, 2014) commented that the health ministry in particular struggled against corruption/nepotism. These same interviewees did say, however, that the education ministry managed to get new school books printed during this time (although most likely when fighting flared up again it was hard to keep all schools open.)
needs (whether in the form of technical, humanitarian, or military assistance) and inability to reach swift decisions frustrated the international community\textsuperscript{552}.

\textit{Lack of experience with democratic government}

Members of the NTC lacked experience governing democratically. Partly as a result, the NTC frequently was accused of opacity. For example, though several representatives from non-liberated cities and towns joined the NTC’s legislative arm, their identities were kept a secret, allegedly for security reasons\textsuperscript{553}. The NTC’s failure to publish a final list of its members aroused suspicion in many corners (Barfi 2012). Also for security reasons, the NTC did not hold open meetings, which under different circumstances may have helped it gain trust from the public\textsuperscript{554}. Indeed, Libyans lacked an understanding of the NTC and its internal proceedings (Barfi 2011) and were weary of corruption within the Council (Doherty 2012, 12). Other NTC activities also remained obscure: the details of Yunis’s assassination, for example, or relationships between the Council and countries such as Qatar and France.

The NTC made several significant decisions that were later called major mistakes. The important decision of where the interim government should be based was a point of contention that the NTC failed to resolve satisfactorily due to its overall lack of political experience. Following the country’s liberation on October 20, the NTC began moving its seat to Tripoli. This was in accordance with its Constitutional Declaration, made in the name of continuity (as the seat of government had previously been there) or perhaps as an effort to reassure western Libyans that the country would not be dominated by eastern

\begin{footnotes}
\item[552] Interviews with NTC members and American diplomat working in Tripoli (November 8, 2014; July 31, 2015).
\item[553] ntcLibya.org
\item[554] Interview with Libyan civil society member (July 8, 2015).
\end{footnotes}
interests. However, the NTC itself was not firm about this move, and Jalil expressed reluctance and proposed to move only the Executive, “relenting only when the security disputes in Tripoli between Abd al-Hakim Bilhaj and Mahmud Jibril [over which brigades should be in control] compelled his presence” (Cole and McQuinn 2015, 214).

The decision to move the government seat from Benghazi to Tripoli was so contentious that it sparked a protest movement which became known as the “12/12 movement” for the manifestations in Tree Square in Benghazi on December 12, 2011. Moreover, several interviewees expressed the view that moving the capital to Tripoli was one of the NTC’s chief mistakes. Many of them blame Jalil’s lack of political courage, attributing the decision to the growing influence of figures like Bilhaj over him. These critics argue that moving the NTC’s key ministries to Tripoli re-opened them to the channels of corruption that had built up under the Qadhafi regime, and gave power to figures from the old regime who did not have the interests of a future democratic Libya in mind.

The NTC’s lack of experience in ruling also led it pass laws in the run-up to elections that were highly controversial but did not get fully discussed or resolved. In one law passed that spring, for instance, the NTC banned political parties based on religion, tribe, or ethnicity, leading to an outcry from many new parties. The NTC also tried to restrict civil society organizations for fear of foreign influence, to the discontent of many. And

Sources such as Cole and McQuinn (2015, 214) explain how the move generated resentment among easterners, who felt some propriety over the revolution and also recalled Qadhafi’s “relocation of government and symbolic institutions (such as then national airline carrier and National oil company) from Benghazi to Tripoli.”

Interviews with Libyan activists and civil society members, (July 8, 2015; November 8, 2014). However, it should also be noted that others such as businessmen may have been encouraging the NTC/Jalil to make the move – interview with Libyan civil society activist (July 8, 2015).

Law #43 (dated May 16).

finally, the infamous Law 37 banning any statement against the revolution or glorifying Qadhafi, called by one “completely stupid…Just like during the Qadhafi era”, was never amended and remained controversial. These conflicts can be attributed in part to the lack of experience and guidance in drafting electoral law.

**Lack of leadership skill**

Perhaps most importantly, the NTC lacked the leadership skills and political savvy to achieve some of its crucial tasks. Several accounts note the interference of members’ personal ambitions with the Council’s larger goals, most notably Ali Tarhouni and Mahmoud Jibril. While Tarhouni’s leadership was critical during the crisis moments of late July and early August, observers also describe his inability to maintain control over competing fighting groups (Cole and McQuinn 2015, 101-103). Jibril was criticized for being outside the country most of the time while the NTC was working (Chorin 2012, 260; Vandewalle 2011).

The NTC lacked a single, unifying figure around which people could rally in order to fight for a common cause. Although Jalil initially represented such a figure, his subsequent actions led many to accuse him of “political stupidity”. For example, in Jalil’s statement following the Yunis affair, in which he called for the elimination of “fifth columns”, or Qadhafi loyalists still active in the east. For some, this kind of statement was indicative of the NTC’s inexperience, because it provoked retaliations or forced people trying to remain neutral to align with one side for fear of being identified as a traitor (Vandewalle 2011). Jalil’s “Liberation Speech” of October 23 was also criticized.

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559 Interview with Libya civil society activist (July 9, 2015).
560 One Libyan (ibid.) said his inexperience was also clear when he was serving as President of the Constitutional Committee, although no specifics were given.
561 Ibid.
by more liberal-leaning figures for focusing on unrelated issues such as polygamy. In general, neither Jalil nor anyone else in the NTC had the requisite political experience to lead it through these challenging tasks.

**Difficulty managing international support**

Limitations

As noted above, the NTC often lacked the capacity to absorb the military and technical assistance offered by the United States, Qatar and other countries. Even in the domains of development, humanitarian and reconstruction assistance the NTC was unable to secure what was needed. The U.N. mission, UNSMIL, arrived in Libya in September 2011, primarily to support democratic elections, as well as to advise in security reform and transitional justice, human rights protection and building rule of law. The U.N. Security Council soon voted to also mandate UNSMIL to assist with the threat of arms proliferation. Although the U.N. did help the NTC and al Kib government to achieve its goal of holding peaceful GNC elections, it was unable to provide all the technical assistance and capacity building it had to offer during its tenure in Libya, especially in the security sector (Cole and McQuinn 2015, 150). It also struggled to support the implementation of a system for preventing the human rights abuses and impunity by opposition fighters.

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562 *Ibid.* The interviewee said the speech was “really weird.” Because the speech was delivered on October 23, three days after Qadhafi had been called, some even wondered if Jalil was purposely trying to avoid an appearance of celebrating the death of Qadhafi.

563 In the sources I’ve consulted, there is much more discussion of diplomatic and military support to the NTC during the conflict than of other forms (such as development or humanitarian assistance – although Chorin (2012, 295-302) has a brief discussion.

564 In fact, Human Rights Watch ([https://www.hrw.org/news/2015/10/27/militias-and-quest-libyan-unity](https://www.hrw.org/news/2015/10/27/militias-and-quest-libyan-unity), accessed December 15, 2015) says the UN never even had that on their agenda. Ian Martin, the head of UNSMIL, tells how the UN tried to work with the NTC to transfer detainees from prisons set up by the fighting battalions into state custody, but was “disappointed” by interim government’s lack of action (Cole and McQuinn 2015, 145-146).
In some instances, it did benefit from foreign assistance, but at certain costs. For example, although the NATO mission and the NTC found ways to work together, this came at the expense of a learning period, especially in regards to information coordination (see Cole and McQuinn 2015, 113-117).

One important cost of receiving this assistance was dependency. The NTC was so reliant on foreign assistance that the mere prospect of ending assistance caused a crisis. During a meeting between French President Nicholas Sarkozy and Jibril in mid-May, for example, Sarkozy warned Jibril that France could not support the NTC forever, implying that Jibril needed to find a way to overcome the impasse (Cole and McQuinn 2015, 65). Soon after, U.S. Secretary of State Clinton also expressed concern about the opposition’s ability to take Tripoli. At some points, the NTC faced an acute shortage of funds, forcing it to make desperate pleas to the international community (Bell and Witter 2011b, 25; Cole and McQuinn 2015, 43-48). As a result of demands from international funders, the NTC was compelled to establish communication networks and plans that helped it ultimately in taking Tripoli, and did manage to secure more funds transfers from countries such as Turkey. Nonetheless, the country clearly could have benefited from more sustained assistance, given the political, security and humanitarian crises that would develop.

Problems of foreign involvement
Foreign countries’ agendas sometimes interfered with the NTC’s ability to control events. Sometimes the NTC appeared able to coordinate among different external actors: Sudan, for example, intended to send supplies and troops in Southeastern Libya, which it did; a second shipment was then canceled once it became clear that Qatar could get supplies to NTC fighters more quickly (De Waal 2012). Other times, however, foreign assistance to
the NTC’s cause became confusing and sometimes harmful. The UAE and Qatar had their own geostrategic interests in arming certain groups with Islamist ideologies which contributed to dis-unity and a sense of competition among fighting groups (rather than a common cause). It also interfered with elections, as certain parties began to gain a reputation of being tied to foreign interests or certain Islamist ideologies. This exacerbated another challenge the NTC already faced in the domain of external support: overcoming or mitigating Libyan’s mistrust of foreign influence (Sawani 2012, 23).

**Impacts – Failure to control events**

Although the NTC drafted a roadmap for building a new political system and indeed reached an important milestone on that roadmap, the democratic elections of July 7, 2012, its lack of experience with democratic politics led it to commit several highly-consequential mistakes during the process of conceiving the roadmap. This failure in leadership to establish consensus on a vision for a future Libya and failure in management of step-by-step plans for achieving that vision would lead to the ongoing conflicts and deepening divisions described above.

The NTC’s preoccupation with obtaining foreign support often came at the cost of undertaking more difficult, longer-term tasks. Jibril in particular, who was in charge of foreign affairs, made several promises to the international community (such as the International Contact Group) that the NTC was not prepared to keep. Key examples of such promises include the overly-ambitious timetable it set for the transition and the NTC’s assurance that it had a plan for demobilizing the opposition fighters once the country had been liberated, which it clearly didn’t. In a similar manner, the NTC often

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565 Interview with Libya expert (November 3, 2014). Also see Cole and McQuinn (2015, 42-43).
insisted on sticking to its elections timetable at the cost of obtaining consensus on fundamental issues. A key example is its concession to federalists’ demands for a balanced constitutional committee to be appointed by the NTC after the HNEC had already passed the electoral law.

Yet another frequently cited mistake is the NTC, and especially Jalil’s, inability to respond to Islamist demands in a manner acceptable to all. This was evidenced by the chairman’s focusing on topics important to conservative Muslims such as the presence of polygamy in the country during the “liberation speech” of October 23. Such perceptions of NTC leaders exacerbated their existing inexperience and weak leadership skills.

**Human rights and transitional justice**

To address human rights and transitional justice issues required the NTC to undertake certain activities requiring skill and courage: investigating and prosecuting former regime members for their crimes; controlling abuses by militia and local military groups; establishing a legal framework for protection of human rights, and allowing former regime officials to participate in politics. Although the NTC did not ignore these issues, its handling of them was inadequate.

**ICC arrest warrants and prosecutions**

The first arrest warrants issued by the International Criminal Court (ICC) on June 27, 2011 were for Colonel Qadhafi, his son Saif al-Islam al-Qadhafi, and the head of military intelligence, Abdullah Senussi. The Libyan opposition resisted the idea of these individuals being tried in the International Criminal Court, preferring to try them in Libya. Thus when Saif al-Islam was captured in late 2011, Zintani militia decided to transfer him to his hometown of Sirte rather than surrender him to the ICC (Economist.
Intelligence Unit 2011k, 10). This insistence on trying former regime officials in Libya led to slow, difficult prosecutions of many of officials and prevented Libya from benefitting from the experience of other post-conflict war crimes prosecutions (Cole and McQuinn 2015, 166).

The belief among some opposition fighters that former Qadhafi regime members should be prosecuted through the Libyan system led to an episode which demonstrated the NTC’s failure to address this issue of transitional justice. In June 2012, two female advisors from the ICC who had been meeting with the imprisoned Saif al-Islam were detained and held in a prison in Zintan, reportedly by “local authorities”. The advisors’ two male colleagues elected to stay in the prison with them, prompting Libyan authorities of accusing the advisors of “attempting to pass messages and communications equipment to Saif” (Economist Intelligence Unit 2012b). After being held for approximately a month, the four prisoners were released in July, following an agreement between the ICC and the NTC. Despite the agreement, suspicion between the ICC and the Libyans remained, and the Libyans lost the opportunity for assistance from a credible international justice institution.

Investigation and other commissions
An important step in transitional justice is collecting facts, but in this area too, the NTC made little progress. The NTC established a Fact-finding and Reconciliation Commission in February 2012, but by April 2013 it had not yet commenced its work, partly due to difficulty in reaching agreement over its composition (International Crisis Group 2013b,

566 The Economist Intelligence Unit and Middle East Journal give some details on the detainees. One of the women was an Australian lawyer, Melinda Taylor, and the other was a Lebanese-born translator, Helene Assaf.

567 The President of the ICC stated that the ICC would launch its own investigation into the matter (Economist Intelligence Unit 2011g, 19).
The commission was also apparently overwhelmed by the daunting challenge of investigating such a high number of alleged human rights abuses.

The NTC, having defined standards for judicial independence in its constitutional declaration of August 3, established a Judicial Reform Commission to help clean the court system of its corruption and lack of independence. The NTC worked closely with the U.N. on this matter (see Cole and McQuinn 2015, 146). Again, however, the process was slow, because even as courts reopened and judges returned to work, several were accused by NTC fighters of working for the former regime. This led to calls to “cleanse” the system of anyone who might have such associations (International Crisis Group 2013b, 18; Cole and McQuinn 2015, 163).

Finally, the NTC facilitated the use of “traditional” reconciliation or mediation mechanisms, many of which involved principles of Islamic sharia law, such as compensation and other community conflict-resolution mechanisms. Sometimes the NTC (and its successor Congress, the GNC) sent reconciliation committees to mediate local conflicts, which were occurring with increasing frequency. These were of limited effectiveness, however, because they largely amounted to mediation of local disputes rather than addressing the roots of conflict. In addition, the NTC was meanwhile falling short in its promises to develop a roadmap for national reconciliation, leaving many feeling frustrated (Cole and McQuinn 2015, 162-163).

**Impunity?**
A third area of human rights and transitional justice that the NTC had to manage was violations of human rights by opposition fighters. The U.N. mission documented, for
example, numerous instances of torture and ill-treatment against detainees whom “rebel” militias were holding, usually for alleged loyalty to the Qadhafi regime. It documented cases in places like Tripoli, Zawiya, and Zintan, especially against dark-skinned Africans living in Libya—mainly legal and illegal migrant workers whom the opposition fighters accused of being “mercenaries”. Some of the most notorious cases were against Tuarega, members of a dark-skinned community south of Misrata whom the Misratans accused of committing atrocities against them and whom they attacked, hunted and abducted, and the Tebu in Kufra who were attacked by the Zway tribe (International Crisis Group 2012, 6-7).

Legally, the NTC did little to hold these “revolutionary fighters” accountable for their crimes. This was due to its shrinking capacity to control armed groups, combined with its ongoing struggle to ensure fair judicial processes and erect transitional justice mechanisms. The NTC organized several conferences on the issue of national reconciliation, for example, but with few results. In response, fighters who had helped defeat the former regime began accusing the NTC of trying to “reconcile” with those former regime officials who had committed crimes, and used this as a basis for taking matters into their own hands (Cole and McQuinn 2015, 163). For instance, the NTC member responsible for monitoring prisons for human rights violations reported that

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568 Cole and McQuinn (2015, 146-147) explain: “There was little immediate prospect that justice would extend to human rights violations by revolutionaries themselves. The NTC passed laws containing provisions for amnesty, but their language was open to different interpretations, as it depended on whether acts were deemed ‘to promote or protect the revolution.’ In any event, prosecution or even effective investigation remained highly unlikely.”
some militia refused to obey prison guards, whom they accused of working for the old regime\textsuperscript{569}. Meanwhile, killings and abuses of prisoners were rampant.

\textit{Controversial legal frameworks}

The NTC issued texts in three legal areas: judicial reform, treatment of former regime members, and treatment of counter-revolutionaries. It also gave brief consideration to reparations for victims of Qadhafi-era abuses. First, the NTC took steps toward establishing judicial independence by stating in the August 3 declaration that “The Judicial Authority shall be independent...Judges shall be independent, subject to no other authority but the law and conscience”\textsuperscript{570}. It also set up the above-mentioned Judicial Reform Committee and took steps like passing Law 4 in November 2011, which was intended to make the Supreme Judicial Council more independent by altering its composition\textsuperscript{571}. Beyond these more general legal declarations, however, the NTC was unable to implement judicial reform. During its tenure several courts were barely functioning, and many controversial judges from the Qadhafi era were not removed.

A second area of judicial reform with which the NTC struggled unsuccessfully was decisions over how to legally handle former regime members. According to some, this question became marred for the NTC at its creation, when several regime members took prominent positions on the council\textsuperscript{572}. No laws addressing such questions were formulated until the NTC established a High Commission for Integrity and Patriotism to review eligibility of candidates wishing to run in the elections. Even then, processes for

\textsuperscript{569} Interview with NTC member (November 8, 2014).
\textsuperscript{570} Article 32, Constitutional Declaration.
\textsuperscript{571} Under Qadhafi it had been headed by the Justice Minister; Law 4 changed it to be headed by the Supreme Court chief. The law was criticized because the council remained financially dependent on the Justice ministry and because both the Supreme Court chief and prosecutor general are appointed by the legislature (International Crisis Group 2013b, 16).
\textsuperscript{572} Interviews with NTC members and civil society activist (July 8, 2015; December 15, 2015).
distinguishing between types of former regime officials were murky\(^{573}\). On May 2, the NTC’s legislative council passed Law 38, which was supposed to grant amnesty for “militia, security or civilian ‘acts made necessary by the 17 February revolution’” (Economist Intelligence Unit 2012b, 10)\(^{574}\). Such moves to elevate those who had fought against the regime and excuse their human rights violations without clarity on how to handle former regime members, all during the run-up to elections, would have later implications for stability.

During this time, the NTC also passed Law 37, which prescribed prison punishment for any insults against Libya or its people, insults against Islam, attempts to impede the 17 February revolution, and glorification of Muammar Qadagli and his sons\(^{575}\). This law was heavily criticized by international human rights groups\(^{576}\) as well as by the National Council for Civil Liberties and Human Rights, which was actually established by the NTC. Eventually, the law was repealed\(^{577}\), but it was indicative of the NTC’s difficulty in passing acceptable laws aimed at reconciling with the past.

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\(^{573}\) This commission, established through Law #26 of April 2012, vetted candidates according to their involvement with the former regime and whether they had been committed to the revolution. Specifically: “Some former members of the regime—such as ministers, ambassadors, security and military officers, and popular leaders—may be eligible for candidacy if their allegiance to the revolution prior to March 11, 2011 is unequivocally established. Other regime members—such as Revolutionary Guard officers, revolutionary committee members, those who glorify the ideology of the regime and the Green Book, former regime business partners, and those implicated in torture in prisoners—are forbidden from holding office regardless of when they pledged allegiance to the revolution. [However]…The process for establishing whether one pledged allegiance to the revolution by a certain date is unclear, and the extent to which one must have ‘joined’ the revolution has not been established. Some criteria for disqualification, such as ‘those known to glorify the former regime’, do not require concrete evidence in order to disqualify the candidate” (POMED 2012, 7).

\(^{574}\) According to the ICG April 2013 report (which was published shortly before the law was amended), the law said that even revolutionary fighters guilty of rape, torture, and murder would be granted immunity.

\(^{575}\) Law #37-2012.


\(^{577}\) Struck down by the Supreme Court.
A final area of urgently-needed judicial reform was reparations for victims of past abuses. The NTC tried with little success to resolve the issue of reparations. The NTC tried to use reparations to garner loyalty among various groups without any comprehensive truth-seeking process to accompany it. It first passed a law issuing reparations for former political prisoners, then one for the opposition fighters, leading war-wounded fighters to occupy the GNC offices until they were also promised financial support. The NTC also never figured out how to deal with harms caused by land tenure laws passed under Qadhafi (see Cole and McQuinn 2015, 164).

Impacts - Political isolation and “revolutionary legitimacy”
In human rights, transitional justice and judicial reform, the NTC’s shortcomings had several consequences. The GNC continued the NTC’s efforts to carry out judicial reform. However, due to the increasing strength of the armed groups and the depth of corruption in the judicial system under Qadhafi, these efforts were limited). The more obvious legacy left by the NTC’s efforts in this area was the growing issue of “revolutionary legitimacy” and the violent fights between groups who believed themselves defenders of the revolution and those they believed had remained loyal to the old regime. These conflicts escalated as arms spread and reconciliation processes stalled.

Such contests over legitimacy were reflected in the Political Isolation law of April/May 2013. This law was an amendment to the NTC’s Law 38 granting immunity to revolutionary fighters. The Political Isolation law categorically excluded individuals involved with the former regime from politics, making it appear an attempt by newly-formed parties and alliances to exclude their rivals from participation in politics (Cole
and McQuinn 2015, 160-161). It was revoked again after the HOR was elected, but by then Hiftar had launched his coup against the GNC, and the country was soon faced with two legislatures that refused to recognize one another. In sum, the two subsequent years following the period of the NTC saw, as part of a larger struggle for control, an ongoing contest over how to deal with the former regime.

In this area, again, the NTC’s inability to establish clear transitional justice mechanisms, as well as the lack of finesse and leadership necessary for generating unity and leading national reconciliation processes, crippled attempts to prevent these conflicts. Had it been more able to garner support and cooperation in these areas, it may have been able to launch a genuine fact-finding effort, a prerequisite for any reconciliation process. Moreover, it might have generated cooperation in setting up a functioning independent court system and firmly establishing rule of law, which in turn would allow for strong transitional justice mechanisms to operate. But it fell short, leaving the country teeming with bands of armed youths who were swayed by various ideologies and a traumatized society which became increasingly pessimistic about a brighter future.

**Conclusions: Issues and Impacts of the NTC**

This section has described the major challenges with which the NTC grappled as it tried to address key issues in the transition: repairing internal divisions, controlling fighters, overcoming its lack of leadership capacity and experience, and establishing procedures for human rights respect and transitional justice. In its struggle to meet these challenges, the NTC committed several poor political decisions; two years after the NTC’s dissolution political conflict still raged and was becoming increasingly violent. The next

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578 Lacher (2014), Mezran and Alluni (2015), and Cole and McQuinn (2015, 153-174) all discuss how this law played a big role in the political polarization and paralysis that followed.
chapter will compare these experiences with those of the TPA in Tunisia in order to draw broad lessons and inferences about the influences of provisional administrations.
Chapter 7: Comparison and Conclusion

Main findings
First provisional administrations clearly face many challenges. The absence of legal or other institutional structures, the issue of timing, and the need to respond to an infinite number of demands from groups that have all of a sudden found their voice in the wake of authoritarian collapse are only a few of the most obvious. Moreover, first provisional administrations who want to gain trust and be considered legitimate are limited in what they can do: they must act quickly, but not too quickly (and likely without any knowledge or guidance of exactly when their term or mandate should finish), and they must take what they believe to be the best decisions knowing that their successor interim government will not be beholden to any of them. Political change takes time and is influenced by many factors, and this study certainly does not mean to suggest that the actions of first provisional administrations are the only thing that matters. Nonetheless, the study has shown that early decisions in authoritarian collapse are critical, as they represent a bridge between the past and an uncertain future.

The TPA in Tunisia and the NTC in Libya approached very differently their common mandate of holding democratic elections. The actors of the TPA had a democratic mindset and a history of working together, as well as a presence of soft-liners, that were lacking in the NTC (where much more unresolved internal conflict and lack of experience was evident). The TPA drew on existing institutions more effectively overall, especially structures and procedures for decision-making. In contrast, the NTC had few. Finally the TPA used certain strategies that helped it be perceived as democratic and
provisional, thereby enhancing its legitimacy, while the NTC was characterized by an inability to fully stave off challengers.

The study supports the proposition that the actors who form the first provisional authorities shape the process and decisions that led to democratic elections. They can set up temporary institutions that buffer against entrenched officials who try to reassert their influence (like the TPA’s Ben Achour Commission and its ad hoc system of checks-and-balances); they can also propose legal frameworks to allow for the continuation of these temporary institutions into later phases. Similarly, first provisional administrations like the TPA that model the effective use of negotiation, dialogue and consensus, while also managing to reach decisions within a reasonable time frame, may be important for the continuing use of these mechanisms/methods in later phases. Conversely, a first provisional administration like the NTC that does not adequately consider fair legal reforms or is too hasty (or delayed) in setting a roadmap or other form of agreement based on broad consensus may open the door for extremist influences in later phases.

Yet the study also demonstrates that while actors in these situations do matter, their decisions are heavily influenced by pre-existing structures. Both the shapes and behaviors of the TPA and NTC were heavily influenced by the government structures that had come before them as well as the societal institutions, such as tribal networks/alliances, and even more elusive conditions such as trust among alliances in shaping moments of regime upheaval. Existing Institutions do not determine political outcomes after an authoritarian collapse, but they constrain actors’ choices of outcomes and how to achieve them. Institutions can be shaken by violent upheaval – like revolution—but the more resilient ones will remain. That is why, in Tunisia, the presence of a strong state administrative
structure, an identifiable civil society, and a history of negotiation and dialogue—even over contentious issues such as national identity—led the TPA to navigate the first phase of transition along these lines, and why its successors ultimately continued in this vein. In Libya, meanwhile, the NTC inherited state institutions that did not permit effective or democratic governance—and, although the NTC did manage to temporarily erect some procedures of a Western democracy, they did not last, due to the weakness of the necessary institutions to hold them in place. In sum, both the shapes and behaviors of the TPA and NTC were heavily influenced by the structures that had come before them.

Finally, the study shows how actors in first provisional administrations do influence later phases of transition (following first elections). They influence reform processes in critical sectors, including electoral infrastructure and law, media reform, judicial independence, and security sector reform (see Seely 2009). They can set up temporary institutions that buffer against entrenched officials who try to reassert their influence; they can also propose legal frameworks to allow for the continuation of these temporary institutions into later phases. Similarly, first provisional administrations that model the effective use of negotiation, dialogue and consensus, while also managing to reach decisions within a reasonable time frame, may be important for the continuing use of these mechanisms/methods in later phases. Conversely, a first provisional administration that does not adequately consider fair legal reforms or is too hasty (or delayed) in setting a roadmap or other form of agreement based on broad consensus may open the door for extremist influences in later phases.

Nonetheless, all these decisions are channeled by the institutional structures within which actors in first provisional administrations find themselves operating. As such, this
dissertation tells a story of continuity – it shows how differences before uprisings and authoritarian collapse continue beyond them, even as actors try to seize opportunities for change/reorientation\textsuperscript{579}. The following comparison of the periods before, during and after the first provisional administrations in Tunisia and Libya and their impacts summarizes why, despite the NTC’s ability to maintain control and oversee first elections, post-uprising stability was more easily restored in Tunisia than in Libya during later phases.

**Comparison**

**Different experiences of authoritarianism**
Both the TPA and the NTC governed in many ways under the shadow of the past. Many of the differences in how they governed can be explained by the differences between the political structures in place before the uprisings: the characteristics of state-societal relations and state institutions and the space for developing strategies for leading a transition from authoritarian rule.

Some important features of pre-2011 Tunisian politics and society included: its active political opposition and associational life and the effectiveness of its state institutions, both their administrative capacity and their ability to act as a central authority. Bourguiba’s policy of free, relatively high-quality universal education led to an educated middle class and an environment that allowed for emergence of political and social activists (Norton 1995, 124). In addition, policies during the Bourguiba and Ben Ali eras

\textsuperscript{579} In some ways, this dissertation recalls studies of political change that use a “critical juncture” framework, “which suggests that political change cannot be seen only as an incremental process. Rather, it also entails periods of dramatic reorientation…that commonly occur in distinct ways in different countries, leaving contrasting historical legacies” (Collier and Collier 1991, 745). In her study of the transition governments in Benin and Togo in the early 1990s, Seely (2009) also emphasizes how these moments represented critical junctures, or sharp changes with the past. Because this dissertation is concerned more with explaining the differences between the first provisional administrations in Tunisia and Libya than by demonstrating how they did or did not reorient their respective institutions, it does not use such a framework.
experimented with “opening” that permitted opposition parties to form, opposition media outlets to be established, and associational life to grow (albeit within limits). In Qadhafi’s Libya, by contrast, much more brutal and unpredictable efforts to squash opposition had produced a more fractured, frightened and largely apolitical population, and many dissidents were in exile.

A side-by-side comparison of some of the key experiences in regime opposition before 2011 captures this contrast. Many Tunisian activists believe the uprising against the authoritarian regime began not in 2010, but in 1978, when the first major labor strike led to state violence and a major backlash. So when, in 2008, miners in Gafsa rose up to protest their disfavored status in the eyes of the state, one saw a remarkable solidarity among the various strands of militantisme that had been fighting in their own way against the regime for so long. Outspoken journalists or critics, judges and academics, and exiled dissidents all worked to join the protests, send supplies or in some other way became involved. Although not the only distinguishing factor, Gafsa’s geographical isolation compared to Sidi Bouzid meant that the regime could more easily cut the protesting miners off from the rest of the country, helping quell the unrest. But those activist individuals and their commitment to a more just system of government would all be reflected in the character of the TPA that would eventually emerge.

Despite the harsh crackdown on the opposition Tunisian authorities had let build up, Qadhafi’s use of violence to stifle dissent was much worse. Moreover, many observers have documented they ways his divide-and-rule tactics led to mistrust and effectively

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580 As chapters 2 and 3 mention, this is not to ignore analyses of the Tunisian opposition that point out how it was also divided.
neutralized the opposition (e.g. Vandewalle 1995). And the use of state violence, such as the massacre at Abu Slim prison in 1996 (in which more than 1, 2000 prisoners were killed), was often plain cruel.

The Brother Leader was also purely unpredictable. Hence, Omar Hariri, who had been a member of the original Revolutionary Command Council that staged the 1969 coup that brought Qadhafi to power, was sentenced to death after he (and others) tried to overthrow Qadhafi in 1975. For reasons that are unclear, however, Qadhafi decided to commute the sentence, leaving Hariri to languish under house arrest. Other individuals who disagreed with him had a hard time finding any productive means of channeling their disagreement, such as Jalil, who had not been permitted to resign when he tried, or Tarhouni (and others) who went into exile. In contrast, Tunisian dissidents did not need to give up so easily on their pursuits, with options, for example, to continue writing and publishing critiques in foreign publications or finding international advocacy organizations with whom to work.\footnote{Such as Larbi Chouikha and Kamel Laabidi. As far as I know Libya didn’t even have any equivalent journalist critiques (the most famous is perhaps the writer Hisham Mattar), and certainly no one was permitted to try to write or publish anything from the inside.}

Key differences between the TPA and the NTC
The key differences between Tunisia’s TPA and Libya’s NTC were the role of a network of civil society actors in Tunisia, which was absent in Libya; the soft-liners, or members of the former regime who were able to compromise, playing a critical role in Tunisia but not in Libya; the importance of functioning state institutions in Tunisia; the TPA’s relative success in balancing delicate legitimacy and in including a range of voices in the
dialogue and reaching consensus. A final difference between the two provisional administrations was the importance of armed groups in their activities.

*The role of a network of civil society actors*

The TPA was made up of actors who largely sourced their legitimacy from being independent of both the former regime and any political party and who were part of a wide network of people who believed in fundamental change. Existing political structures had allowed enough of a “civil society” to develop pre-2011 that actors possessing a particular mentality were poised to step in during authoritarian breakdown. When Ben Ali was ousted, a large network of human rights activists and members of the political opposition joined forces to fill the void. These actors—who collectively formed the institutions of the TPA and helped articulate and enact its strategies—were defined by two features: their commitment to democratic principles and shared vision of transforming the Tunisian political system, and the links among them and their past history of working together.

The previous regimes in Tunisia had permitted sufficient freedom of association and expression for individuals to advocate certain rights and develop a reputation of independence—either as individuals or through associational work, or both. This occurred even as Bourguiba and Ben Ali attempted to silence or coopt opposition (e.g. Waltz 1991). For example, Yadh Ben Achour, the head of the Ben Achour Commission, gained a certain fame when he resigned from the Constitutional Court because he refused to sign a constitutional amendment that was a thinly-disguised attempt to block the LTDH. In other words, he was standing up for the right to freedom of association and for
human rights more broadly—and it was this bravery and integrity that eventually helped him earn his position under the TPA.

Another extremely important characteristic of the actors of the TPA was their history of working together. This history was also something for which space had been accorded via the nature of the prior regimes. Thus, one saw not only independents from civil society but even actors from Tunisian political society— that is, people who had become engaged with groups that were to establish political parties, etc.—forming a network of opposition activists. As Haugbølle and Cavatorta (2011) point out, and as many incidents both during and after the period of the TPA attest, the members of this network or community had never fully managed to overcome their differences prior to 2011, and they were not working underground in common cause. However, their connections mattered when the TPA formed.

Moreover, their shared history allowed for the establishment of mutual recognition and respect across TPA institutions and even outside them\(^\text{582}\). The LTDH and UGTT had many adherents across the country whose support for the organization’s representatives in the TPA was important.

This was also true of Nahda, even though the party had been previously illegal. Similarly, the presence of Islamists and others who had represented Islamists helped the TPA gain trust and support. In sum, this dynamic network of individuals and organizations, with a

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\(^{582}\) For example, legal experts like those in the Ben Achour expert core, who for the most part knew each well from years of working together at the law faculty in Tunis, were also close with people in other parts of the TPA, such as Abdelfatah Amor (head of the Commission for Investigation on Corruption and Embezzlement). Several such experts had been invited to join more than one commission in January 2011 (interviews with TPA members, December 24, 2014 and December 9, 2014).
history of working together despite diverse ideologies among them, was a critical facet of
the TPA actors.

This gets murky when it comes to the question of Islamist vs. secular opposition. In
several ways, actors of the TPA evidenced their ability to overcome differences on the
issue of religion in politics: the Human Rights League (LTDH) had historically been
involved in defending the rights of Islamists who were tortured and jailed, even though
other civil society organizations such as the Tunisian Association for Democratic
Women) were less tolerant of Islamist beliefs (Gana 2013, 232). As discussed, secular
political parties were also divided on the question. Yet among these actors, enough
acceptance of individual beliefs and a tolerance for diversity—part of the “civic values”
underlying civil society—had developed that they could come together into structures
such as the Ben Achour commission and cooperate, for the most part, toward a common
goal.

In contrast the absence of actors in Libya with political experience, whether as civil
society/human rights activists, political party members or opposition political party
members, or even government officials was clear in the NTC. Jalil’s lack of political
experience, described at length in earlier chapters, is testament to this. This inexperience
came from the fact that Qadhafi and arguably the Sanusi monarchy before him had not
allowed even government officials to develop an ability to respond to populations and
balance among competing interests: As one observer said, NTC actors lacked experience
with “the art of politics”583. Even those with “reform” portfolios had been buying into the
regime to a certain extent. Meanwhile, officials like Jalil who had disagreements with

583 Interview with American diplomat working in Tripoli (July 31, 2015).
Qadhafi – perhaps the equivalent of Ben Achour—were simply not free to resign without serious consequences. Although opposition groups had formed, they were mostly founded on Islamist ideologies, which does not always mesh with the individual rights premise of other opposition activists\(^584\).

Cole and McQuinn (2015, 21-22) also explain how having historically been denied opportunities to pursue any form of opposition politics also affected interpersonal relationships within the NTC, because there was no one well-known enough to cut across regional or local divides. This led to tensions between factions in the NTC, such as between those who had done the fighting and those who had been in positions of political leadership. Moreover, governance under Qadhafi had never allowed for the necessary relationships that constitute a “political community” to develop:

Although Qadhafi had insisted that his system of popular committees and congresses embodied a perfect and decentralized democracy, this experimentation had systematically destroyed not only the necessary institutions of a modern democratic polity, but also the supporting norms and arrangements—trust in the system, interpersonal trust, the willingness to provide guarantees to those who lose out in political contestations—that sustain democratic systems. Qadhafi’s nullification of all forms of affiliation—the country’s tribal system, labour unions, civil society organizations, and organized Islam—that had traditionally provided alternative forms of identity and allegiance to citizenship meant that the NTC and its backers encountered a low sense of political community and a _sauve-qui-peut_ attitude among Libya’s citizens (Cole and McQuinn 2015, 22).

Thus, the ensemble of actors in the NTC looked very different from the TPA. Although it had several individuals who were committed to a transition away from authoritarian rule,

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\(^{584}\) Without getting into what it means to be “Islamist”, it should be noted here that (1) Lisa Anderson (1986a) discussed the deep historical roots of Islam/religion in the Libyan identity, so I do not mean to suggest that this was all an effect of Qadhafi’s policies; (2) Norton (ed, 1995, 18-25) discusses how standing up for individual rights is related to the development of a civil society, and how Islamist organizations, while they often undertake similar social activities and share many of the same goals as civil society activists (or other regime opponents), also operate with different principles.
on the whole its actors were less competent, because they were less experienced\textsuperscript{585}, and less politically savvy, as evidenced by their numerous internal disagreements and difficulty establishing a shared vision. Finally, they were less familiar with the principles of democracy for which the TPA actors had been fighting for so long, leading to less transparency and clear notions of democratic principles such as individual rights.

\textit{The role of soft-liners}

As the TPA was forming, some of those who had opposed the Ben Ali government were seeking to instate a fully revolutionary government in its place. Yet soon it became clear that the “old guard” had not completely dissolved, and still had enough strength to resist an overthrow. For this reason, is hard to classify the TPA as either a revolutionary government or a power-sharing government, according to the typology developed by Shain and Linz (1995). Yet the TPA had a remarkable ability to balance between these forces: the Essebsi government was characterized as having political legitimacy, while the Ben Aâchour Commission had revolutionary legitimacy.

As a result of how Ben Ali had governed, two “soft-liners” were serving in high positions when Ben Ali fled. During the negotiations that followed Ben Ali’s departure and the creation of TPA institutions, Mohammed Ghannouchi and Fouad Mebazza allowed for the provisional administration to take on some of these characteristics. What Ghannouchi, a technocrat, had in mind during those early weeks when the actors and institutions of the TPA were being negotiated was not his own power but the stability of the country. For one thing, Ghannouchi ran the negotiations that led to the creation of “two heads”: the

\textsuperscript{585} Admittedly, this claim is somewhat weak, because they were also working in a very different context than their Tunisian counterparts. But some of the one-to-one comparisons of certain individuals, like Essebsi’s political sensitivity and “charisma” compared to all Jalil’s fumbles, make this seem true.
executive function of the interim cabinet, headed initially by Ghannouchi, and the Ben Achour Commission, which would fill a more legislative function. In other words, it was a clear compromise solution between a cautious preservation of old structures and more radical revolutionary demands. Ghannouchi was therefore critical not in defending the old guard against the new, but in helping usher in more palatable changes.

Interview data also make clear that Ghannouchi’s main priority during the first approximately 18 hours after Ben Ali’s departure was to prevent a void at the head of the state. He stepped in to call the constitutional committee to determine as rapidly as possible what measures should be taken within a constitutional framework. Ghannouchi was trying to prevent a total collapse of the state, which the revolutionaries were pushing for. But he was not trying to stop the revolutionaries completely. He also put into place several key measures that served as the foundation for the TPA. He called in a set of legal experts to form the Ben Achour Commission and the two investigation commissions, and he instigated INRIC. He argued convincingly for the head of state to issue laws by decree and for the choice of Mebazza to fill that role as interim head of state. The literature tends to overlook how important Ghannouchi was in the transition, because he was driven out. Yet his presence early on strongly influenced the positive direction of the TPA, even though he had been a key figure in the fallen regime.

Fouad Mebazza, who became interim head of state thanks to Ghannouchi, played a similar role. The CNPR and the constitutional council agreed that as interim head of state, Mebazza was to issue laws by decree; he also helped Ghannouchi in managing the

586 Interview with member of Ghannouchi’s interim cabinet (January 5, 2015).
587 Ibid.
588 Redissi, Nouira and Zghal (2012b, 15-34) and Elloumi (2011) constitute something of an exception here, because they do discuss the work of Ghannouchi’s first and second cabinets.
negotiations with the CNPR/the revolutionaries. Though he had been high placed in the Ben Ali government, Mebazza was acceptable to revolutionaries because he had also worked under Bourguiba, and he reassured the old guard of at least some “continuity of the state”. As interim president, Mebazza had little power; generally he was expected to approve all texts the Ben Achour Commission submitted to him. Yet his presence assured moderation—he said yes to everything, but perhaps if the texts had been too revolutionary, he wouldn’t have. Moreover, he allowed the government to be headed by someone with experience. In sum, Mebazza, as a soft-liner, was acceptable to revolutionaries because he was essentially powerless, but he did force some moderation into the TPA’s decisions. This moderation, in addition to his experience in government, was critical.

The NTC did not have any equivalent individuals, even though it did have people who had been working with the Qadhafi regime. As discussed, those coming from the previous government who could be categorized as “reformers” did not really have the experience to play a role like Mebazza played, balancing between old and new or trying to impose calm on the revolutionary fervor. This is evidenced in the way it was difficult for the NTC to counter demands for “revolutionary legitimacy”, or the claim that those who had “paid a price” in removing the dictator were entitled to certain rights and powers (e.g. International Crisis Group 2011b, 18); Cole and McQuinn 2015, 159). The result was a struggle between extreme positions rather than a tendency toward moderation.

589 The example of the change Mebazza’s office made to the Associations law before publishing the final version in the official journal (discussed in chapter 6) is suggestive of this.
590 Interview with member of Ben Achour commission (November 18, 2014). In other words, if an opposition party leader had taken the position, that person’s inexperience with positions of power may have caused him to take more extreme or otherwise problematic decisions.
Importance of functioning state institutions

The TPA retained many of the institutional structures of the Old Order (Zartman and Hafaiedh 2015, 55-56): the constitution was gone, but the TPA still tried to work through legal texts, have two government bodies as “heads”, and retain large sections of key ministries, including the Ministry of Interior. The TPA worked through clearly-defined and codified rules and procedures (whether or not they came from the old order) to guide the country to constituent assembly elections.\(^{591}\)

The TPA’s effective use and adaptation of existing institutional structures and its creation of new institutions—always emphasizing the use of rules, norms, and procedures—was evident in two ways. First, things got done. Even the new CNPR, managed largely by the revolutionaries, helped contain what could have quickly become a chaotic situation (Redissi, Nouira and Zghal 2012a, 191-192). The TPA also used line ministries wisely to provide necessary executive/administrative functions, such as when the ministry of finance helped the ISIE attain the budget it needed to build a new voter registration database and train local poll-booth and observer staff. Without this solid emphasis on assuring state administrative functions, the TPA would not have been as effective as it was.\(^{592}\)

Second, the collection of institutions making up the TPA mitigated tensions between continuity and change. These institutions often checked and balanced each other, such as each time the Ben Achour commission (the wider council) called ministers in for

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\(^{591}\) Pierson (2000, 265) defines institutions as “formal rules, policy structures, or norms”.

\(^{592}\) One interviewee who was also a member of the Essebsi cabinet under the TPA said he thought the Essebsi government was the best Tunisia had ever had (interview, October 28, 2014). Also, Shain and Linz (1995, 93-95) argue that preserving institutional structures not only prevents an interim government from having to rebuild a state, it also helps them from being overtaken by armed factions or “minority revolutionary movements”. Although the TPA and its successor struggled significantly with security issues, they certainly would have struggled more without the state bureaucracy that existed.
questioning. Moreover, they provided a semblance of order--basing or framing everything on legal texts, voting for decision-making or at least making sure all members were consulted, following a sort of “roadmap” that included holding ANC elections, then drafting a new constitution --while also trying to absorb revolutionary demands (such as giving a space for every group to be represented and heard and abrogating the old constitution).

Unlike the TPA in Tunisia, which could build on and adapt existing institutions for its own goals (and, consequently, for later phases of change), the NTC in Libya had few institutions to build on that employed fair or logical structures for decision-making. Qadhafi consistently manipulated the few state institutions that existed to preserve himself and his family, at the expense of regulated structures and systems that would guarantee security and prosperity for the Libyan people (Vandewalle 2012, 143-150). The state military was disintegrating as generals defected and Qadhafi’s overall legitimacy crumbled; moreover, the NTC could not use existing structures like the Ministry of Defense to coordinate its own army. Thus, it had to rely on individuals to build up a new military and security apparatus from scratch.

Even though some of the NTC’s commissions, appointed agencies or interim ministries initially appeared to have a clear organizational structures, a closer look at them, especially its military institutions, reveal a lack of administrative capacity. The assassination of General Yunis, as well as many other events, speak to the absence of internal procedures or by-laws in the Libyan institutions that often resulted in internal

593 Naturally, this did not always work smoothly. One commissioner from the Amor Commission recalled how the Ben Achour Commission once demanded that she and her colleagues come meet with them, and used the occasion to question and attack their work in a thoroughly un-constructive manner (interview, December 11, 2014).
confusion, competition, or duplication of efforts. These were in stark contrast to Tunisia’s administrative bodies.

**Managing delicate legitimacy**

One of the TPA’s strategies was the use of democratic principles and processes, which helped it secure legitimacy. Procedures integral to the functioning of democracy, including voting, passing laws, distributing power across branches of government, etc. were all familiar in Tunisian political life, and were thus easy for the TPA to adopt. That these public demonstrations of using democratic principles and procedures emerged at all may have been due to the ways the previous regime had permitted those ideas within its political and civil society to develop. (It just hadn’t permitted them to be applied—election results had been skewed, parties had been outlawed, etc.) Thus, democratic-ness as a characteristic of its strategies was something familiar.

Yet this application of democratic processes and principles was not enough for the TPA to secure and retain legitimacy: it also had to carefully balance this with not appearing too dictatorial. Part of this recognition of the need for democratic behavior was the importance of operating within defined rules and time limits (even if the TPA itself set those rules and time limits). Thus, even though the old regime had used many democratic procedures in a superficial way, the TPA was challenged to genuinely show that it was breaking with the old regime, and that it intended to keep its promises of transferring power via elections and ensuring a roadmap for transition. The TPA could have easily used the context of heightened insecurity or political agitation\(^\text{594}\) as an excuse to hold on to power. But because this would have been reminiscent of the old regime, it avoided

\(^{594}\) Such as political parties’ demand for a referendum starting around August 2011, the agitation that led to the September 15th document.
doing this. Rather than being brought down by challenges and challengers, the TPA’s legitimacy was actually reinforced because of them.

Finally, the TPA balanced the need to move things forward with the need to avoid imposing major decisions through a strategy of drawing on historical legitimacy. Transformation of political system requires the development of a new social contract, which in turn requires reaching a consensus on national identity. The main way the TPA addressed this was through what could be called its “historical legitimacy”: in other words, it employed a strategy of drawing on historical traditions in order to propose a way forward that was acceptable to all. However, the TPA was fortunate in the sense that it didn’t need to oversee a final agreement on that question (instead, this was the responsibility of the drafters of the constitution). In this way, the TPA’s strategies of respecting the country’s history and historical identity while also acknowledging what needed to be changed about the Old Order, while also (sometimes conveniently) limiting its own mandate, allowed it to be perceived as fair and democratic. Although it had to overcome many obstacles and fend off many critics along the way, the TPA managed this tricky balance effectively.

In contrast, the NTC did not appear to have an overall, unifying strategy or even vision for how it would govern (Cole and McQuinn 2015, 37). In fact, other than the need for external support, the only common goal across the NTC was the importance of not appearing as a new dictator-in-disguise. This (along with its lack of strong institutions/decision-making structures mentioned above) translated into an inability to
reach decisions. In short, the NTC actors knew they wanted a change from Qadhafi’s rule, but they did not have a common vision, let alone a plan for a way forward. The result was a frail legitimacy that would continue to unravel as time went on.

**Presence of balance, dialogue, and consensus**
Although the TPA’s strategies were based on democratic procedures and inclusion, part of their effectiveness also came from a recognition that revolutionary demands included a restoration of dignity. After six-and-a-half decades of unmet promises by those in power, “mostly educated, partly modernized Tunisians from the big cities and… ordinary Tunisians of the towns and villages of the interior” (Zartman and Hafaiedh 2015, 53) all had reason to want things to change. The TPA’s strategies tried to respond to these demands.

First of all, its principle of inclusion, reflected in things like the Ben Achour Commission’s initial move to get more representatives of women, youth and the regions, served this purpose. This effort to include previously-marginalized groups even had a precedent: the caravans organized by the CNPR during the Kasbah protests. This move was sometimes criticized: in hindsight, some experts say maybe such a massive body to get to a new constitution (including, following the Ben Achour commission, the election of an ANC) was unnecessary. But the TPA had no choice, given that the very first meetings of the Ben Achour Commission (and even the creation of the commission itself) were dominated by “revolutionary” voices calling for such inclusion, declaring that the

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595 Interview with American diplomat working in Tripoli (July 31, 2015).
596 The slogan of the revolution was “khobz, hourria, karama watania”: “bread, freedom, national dignity.”
597 Interview with constitutional law expert (December 23, 2014). Not all experts agree, however (author meeting with constitutional law expert, January 27, 2015).
provisional administration would otherwise be illegitimate. Giving everyone a chance to participate was thus one way the TPA secured legitimacy.

The TPA needed to do more than just include all types of people: it needed to find common ground among them (Zartman and Hafaiedh 2015, 53). By emphasizing consensus, the TPA not only avoided appearing to be calling the shots—it actually instituted a mechanism for getting everyone on board before moving forward.

In contrast, no evidence exists of the NTC finding effective mechanisms for getting all parties into agreement before moving forward. Instead, it was marked by numerous internal disagreements and an increasing tendency to succumb to the demands of armed groups.

**Importance of armed groups**
The final difference between the two cases is the importance of armed groups in influencing each provisional administration’s actions. The state army in Tunisia was part of the reason the TPA formed in the first place – during the peak of the December-January uprisings, it made clear that it would support the Tunisian people. Throughout

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598 Indeed, in many such situations of reform, those in power need to make this kind of decision. This entails—another form of tradeoff: seek legitimacy and maybe even a better ultimate outcome (not just a more stable one) by making sure everyone has a voice, or arrive more quickly at a (presumably high-quality) product by assigning the task to a small, closed committee of experts. Morocco in 2011 tried to strike a compromise between these two options. Following popular uprisings calling for a Parliamentary Monarchy, enhanced dignity and rights, and end to corruption, King Mohammed VI appointed an expert advisory committee to reform/revise the constitution in seven areas laid out in a speech which inaugurated it.Yet the committee was to use a “participatory approach” where it invited all (or almost all) civil society groups, political parties, and syndicates to submit and defend a memorandum outlining its views. Moreover, a “political mechanism” made up of representatives of political parties and syndicates was formed to give a popular stamp of approval to the advisory committee’s text...However, the question of whether this was more optimal/”stable” solution for responding to popular protests has until now not been clearly answered.

599 A good example is the September 15th document – everyone had the chance to participate in the discussion about what the ANC would actually do once elected, and nothing would happen until an agreement was reached. Also, note here again a contrast with the Moroccan experience, where almost anyone who wished was invited to make a statement before the Royal Constitutional Committee, but the Palace had the final say on all issues.
the period of the TPA, it did not represent an important actor. Other armed groups – namely extremist groups that used violence as a method to pursue their goals, such as Ansar al-Sharia— influenced the TPA by distracting it from its other goals and tasks (for example, the Ben Achour Commission often made statements in response to such events, which required it to hold unplanned plenary sessions). But by and large armed groups were not a central actor in the story of the TPA.

As has been shown, armed groups took on an increasingly influential role during the period of the NTC (as well as after). Even before the NTC’s defeat of the national army, many military councils and “revolutionary” brigades that “belonged” to the NTC began acting on their own accord. It is probably fair to say that the NTC at no point had a cohesive army or military under its command that could then become a state army once a new government was formed. This reflects the importance of the institutionalized state that the TPA inherited from its predecessors and past that was lacking in the NTC (where statelessness reigned.

**Different impact on later phases**

Although both countries appeared to experience immediate breakdowns in stability following the elections organized by their first provisional administrations, they ultimately followed different trajectories of attempted transition from authoritarianism. By the end of the two-year period following the first post-uprising elections, Tunisia appeared much more successful in overcoming the destabilizing effects of regime overthrow. This difference can be attributed in part to the different influences of the TPA and the NTC (each which had acted within certain institutional constraints).
Impact of the TPA’s decisions and actions

Many of the key actors, strategies and decisions present in the TPA period disappeared when the ANC took over the government. Strikingly, many then re-appeared following the assassination of Brahmi, when the Quartet helped the ANC out of its impasse and finalize the drafting of a new constitution (which permitted elections for a permanent government to take place). This was true of discrete decisions or features of the TPA, although not necessarily of everything it did.

The TPA influenced later phases of the transition in three main ways: It provided a central role for moderate/independent actors, it influenced legislative and institutional reform processes, and it employed dialogue, negotiation and consensus as change tools.

Providing a role for moderate and independent actors

The older generation of TPA actors, who had lived their formative years during the repressive decades prior to 2011, had much less of a prominent role in the ANC than they had had in the TPA. Apart from a few representatives in the Ben Achour commission who won seats in the ANC, none of the interim ministers who had served in the Essebsi cabinet, nor the legal experts from Ben Achour’s expert core, nor any of those national personalities or others who had been so helpful in “bridging” the old regime and the newly-elected one, had an official role during the next interim phase. Several observers remarked on this notable rupture: for instance, one such activist said there was nothing to hold them together any more. Most clear was the inability of the new executive cabinet (the Troika government) and legislative assembly (the ANC), despite having been

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600 Interview with Tunisian academic (December 6, 2014). In other words, it would have been frightening to just all of a sudden have an Islamist-led government in power, after such a long history of Islamist parties being banned, and secularism being such a key feature of political life.

601 Interview with Tunisian human rights activist (January 6, 2015).
elected, to reach agreement and move forward with the tasks with which they had been charged.

In contrast to the TPA, the main actors under the ANC/Troika were very political/partisan. This was a direct result of decisions made by the TPA, whose roadmap to elections was designed to encourage political parties to form and support candidates (as opposed to the members of the Ben Achour Commission, who had been recruited as representatives of associations, or other segments of society, as well as political parties).

The TPA had also legalized dozens of new political parties, and it had voted on an electoral system (PR with remainders\textsuperscript{602}) that permitted a large number of competing parties to gain a seat. This meant that the ANC included a wide number of members often representing only small groups of people. These electoral results, in turn, determined the composition of the new government that replaced the Essebsi government, with Ennahda’s Jebali in the Prime Minister position.

The Troika government included many officials whose decisions would come to be seen as extremely controversial. For example, Nahda Justice Minister Nourdine Bhiri made early on a decision to dismiss eighty-two judges on loose grounds of their association with the Ben Ali regime. In this environment, moderate, non-controversial decisions became increasingly rare. Moreover, the heads of the country’s largest two political parties, Rachid Ghannouchi of Nahda and Béji Qaïd Essebsi of Nida Tunis\textsuperscript{603}, began receiving large amounts of publicity. This important role for these two individuals captures the polarized, political context of the first constitution-writing phase, which

\textsuperscript{602} More specifically, Hare Quota with Remainders (Carey 2013).
\textsuperscript{603} Which was not created until June 2012.
sharply contrasted with the TPA: Rachid Ghannouchi had been largely publicly absent under the TPA, and Béji Qaïd Essebsi, while in an important role, had acted in a non-partisan manner.

Prominent moderate and independent actors in the TPA returned to the scene during the second constitution-writing phase. Under the ANC/Troika, Tunisian politics had turned into a quagmire. Rather than descending into further chaos, however, in the second constitution-writing phase several actors from the TPA—which, in retrospect, began to look increasingly effective as an interim government—were called upon to return. Several constitutional experts, who had either been part of the expert core or were members of the Tunisian Association for Constitutional Law (ATDC) were at first rebuffed by the ANC, then later re-called when the ANC realized it could benefit from their technical expertise. In this way, people like Yadh Ben Achour and expert core and Essebsi cabinet member Mohammed Salah Ben Aissa could return as moderate, independent actors who could ease the tension that had come to characterize that second phase. The most critical return of key players from the TPA was the National Dialogue process of June/July to December 2013, led by a “Quartet” of civil society associations who had played key roles under the TPA.

Influencing legal and institutional reforms
A second way the TPA influenced later phases of Tunisian transition was through the legal and institutional reforms it either did or did not launch. The TPA created an institutional environment that helped ease the country away from a system dominated by the President and his interests into one that more effectively balanced different voices and

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604 Although not entirely.
centers of power (ie also individual rights). Some of the new structures it put in place, such as the ISIE, INRIC, and institutions for judicial reform (including anti-corruption), and their continuation later on highlight the important reform process in crucial sectors that the TPA helped launch. The ISIE’s role in setting up independent elections was so important that the need for an ISIE 2 to manage elections for a permanent President and Parliament (2014) was never called into question (although its appointment was delayed due to political squabbling). INRIC helped establish the HAICA, which played an indispensable role in guaranteeing an independent media during the transition, and the Amor Commission and Bouderbala Commission were critical in the creation of the TDC (Truth and Dignity Commission).

Two areas of reform in which the TPA made less progress were security sector reform and transitional justice. As for the former: The TPA did not create a commission to oversee the transition period, though it did take definite steps to address the most urgent problems within the state security system (issues which had motivated the uprisings that brought the TPA into existence in the first place, such as the importance of Ben Ali’s hated “political police” [Schraeder and Redissi 2011]). It did not accompany these steps by plans or procedures for reform (Mahfoudh 2014). As a result, the inability of security forces to prevent attacks by Islamist extremist groups as well as local clashes worsened during later phases; in this context, all remaining parts of the security apparatus became more focused on stabilizing present conditions than tackling deeper/larger-scale security sector reforms. Moreover, many of the high-level security officials dismissed under the TPA were later re-integrated (Mahfoudh 2014). Unlike the electoral commission or media
reform, the security sector was much less able, even by the time the new constitution was adopted in January 2014, to overcome the politicization that was encumbering it.

The TPA started a process of transitional justice and judicial reform, though its longer-term impact on these processes is at best unclear. The TPA’s actions were instigated by the protests that had prompted Ben Ali to call for the establishment of two investigative commissions. Though several groups pressured it to establish a commission to oversee judicial reform, the TPA resisted, claiming that this was beyond its mandate as an interim government. Judicial reforms have been fraught with challenges, leaving open the question: If the TPA had taken firmer actions right away—for example, by deciding to make the Amor Commission and the Bouderbala Commission permanent—might it have allowed the country to more smoothly complete an “inventory of the past”? Would this in turn provided space for a more comprehensive consideration of how to deal with crimes of the past, their perpetrators and their victims?

In regards to both security sector reform and transitional justice, it is hard to blame the TPA for not doing more than it did. Like any government (interim or not), it had to prioritize, and it chose to focus instead on holding elections within the agreed-upon timeframe. The example of the TPA highlights the difficulty of such choices, due to the pressure to respond to seemingly urgent demands and an inability to anticipate certain consequences.

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605 For instance, he names all sorts of reasons for the lack of progress that are somewhat familiar: inadequate political support, lack of clear goals or a comprehensive framework, etc.
606 Which were both quite apolitical and by the time of the 10/23 elections had become broadly accepted (as far as I understand).
Employing dialogue, negotiation and the search for consensus
Political life in Tunisia under the TPA modeled the importance of dialogue and negotiation. Even during the first weeks after the uprisings, the TPA ultimately managed to stabilize the political situation through a negotiation between protestors and government actors (with the protestors themselves comprising a diverse body with many demands). This remarkably successful negotiation demonstrated the TPA’s ability to pull the country away from the brink of crisis and toward a more balanced center (see Zartman and Hafaiedh 2015).

Once it was established, the TPA instituted a dialogue among different ideological views within Tunisian society; that is, the beginnings of a dialogue about national identity. The TPA and the Ben Achour Commission especially provided a space for people to come together and work together, for each representative to try and balance the advancement of his or her narrow interests with the needs of the country. It was a chance for new political parties and individuals to gain experience working with others and settling decisions through discussion and vote. Thus, because it was so inclusive and avoided taking unilateral decisions, it set the stage for a new political era.

During the first constitution-writing phase in Tunisia, the ANC/Troika government allowed the country to fall off balance once again. It was dominated by inexperience and fighting, and a strategy of balancing partisan or group interests with the needs of the country was not nearly as evident. The crucial role of negotiation was restored with the National Dialogue that began after the Brahmi assassination (and marked the beginning of Phase 3). That event, which was the culmination of many events including intense

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607 This was manifest in its drafting of a Republican Pact (discussed in chapter 3 and 6).
608 Interview with Ben Achour Commission member (January 21, 2015).
polarization within the ANC, major attacks by Salafist groups such as the one on the American Embassy (and several others), declining economic conditions, two earlier political assassinations\textsuperscript{609}, also reflected a restoration of that mentality. Once again, the country’s leaders declared a need to find a common solution—something more than just compromise and the lowest common denominator, but a real consensus to help the country move forward (Zartman and Hafaiedh 2015).

The National Dialogue helped the country reach agreement on the way forward, even though criticisms still remain. A good example are those who believe the governance decisions by the TPA and in the new 2014 constitution should have taken further steps toward decentralizing the political system\textsuperscript{610}. Others felt that the TPA, despite including representatives of the region and many parts of civil society, was still dominated by “elites” (another potential explanation for why the dynamics prevalent in the subsequent ANC phase were so different). Finally, it should be re-iterated that several of the issues discussed or mentioned here continued following the adoption of the 2014 constitution and the elections for a new parliament and president at the end of that year\textsuperscript{611}. However, the appearance of certain key elements of the TPA during the National Dialogue phase clearly helped steer the country away from crisis.

\textit{Impact of the NTC’s decisions and actions}

In contrast to the TPA, the NTC in Libya largely failed to provide a central role for moderate and independent actors, to influence legislative and institutional reform processes, and to employ dialogue, negotiation and consensus as change tools. The NTC

\begin{flushleft}
\textsuperscript{609} Lotfi Naguedh and Chokri Belaid.
\textsuperscript{610} Interview with Tunisian academic/legal expert (December 16, 2014).
\textsuperscript{611} For instance, the TDC took a long time to get off the ground and remained highly controversial. Another example is the crisis of Nida Tunis in 2016.
\end{flushleft}
did include some actors who might be described as moderate, but they did not re-appear in later phases. Instead, they became increasingly influenced by outside/external actors. The NTC’s attempts to launch institutional and legal change processes largely ended with its tenure; those that did carry over into later phases never served the purposes the NTC had intended for them. The Constitutional Declaration (with its controversial Article 30) and Laws 37 and 38 served not to begin needed reform processes, but only to drive a deeper wedge between groups with conflicting interests. Finally, the NTC’s choices of what to prioritize—namely external assistance—came at the cost of achieving internal unity.

First, the NTC’s lack of influence over later phases of change stemmed in part from its failure to assert moderate voices early on, letting them be drowned out by louder, more radical voices that would usurp control over the country’s experience of change. In addition to the Islamist groups and former military leaders gaining more of a role in the transition government, other forces distracted the NTC from building processes to reach consensus. Advocates for a federalist system and regional autonomy, as well as local militias pursuing their own agendas were also able to exert significant pressure on the NTC in one form or another. One major outside player to whom the NTC of course owed a lot of attention (and debt) was the international community (discussed below).

Second, in contrast to the TPA, the NTC did very little in the way of starting key institutional reforms that would carry over into later phases. It failed to put in place any clear structures, rules or laws that were continued. The two areas in which it focused its efforts were elections and security. It tried to declare a roadmap for transition; that is, to lay out the steps for change that the NTC and its successors could follow. These efforts to
begin institutional reforms and changing of the governance/political system in Libya, however, were stymied or blocked by counter-initiatives or else complete institutional breakdown during the two years that followed.

The Electoral Code used to govern the GNC elections was abandoned once the new congress was in place, because that Congress was then charged with organizing new elections for a constitutional committee (as well as acting like a legislative body). Because of increasing insecurity the GNC could not pass laws and set up constitutional committee elections as the NTC had envisioned. Instead it became fraught with violent crises and political wrangling and increasingly beholden to outside forces, especially armed militia612. The GNC did eventually pass a new electoral law. But by the time of the February 2014 Constitutional Committee elections, the population was so discouraged by continual delays in the roadmap, including for elections, the rising insecurity in daily life as well as political life, and the lack of clear positive change that voter turnout was low. Although the NTC had had the opportunity to put in place an electoral law that may have brought to power an effective new governing body, its decisions around this law were heavily influenced by outside actors, which shaped the body (the GNC). The NTC as a result left few examples of good electoral laws for subsequent interim governments to follow.

The failure of security sector reform is even more disturbing. The NTC failed to establish central authority over the various militia and armed groups around the country. This showed that the NTC was not able to serve the functions of a state (defined as a group of actors with monopoly of the legitimate use of force in throughout its territory [Weber

612 This was what happened with the Political Isolation law.
The absence of this key security institution prevented Libya from politically developing (Fukuyama 2014); this, in turn, by 2012 and then even more in 2013 and 2014 permitted significant levels of internal fighting.

Finally, the NTC’s rush toward elections and neglect of finding effective measures for organizing dialogue or finding consensus appears to have contributed to later chaos.

Although in its early days, the NTC made some serious efforts to be inclusive, the NTC was mainly making ad hoc decisions that did not create a process for reaching consensus on how to reform political structures. A prime example was the NTC’s final Constitutional Declaration issued on August 3, 2011. The vote followed serious negotiation and debate on its content, but because it coincided with the Yunis assassination, it did not reflect a consensus:

The Constitutional Declaration was a bittersweet achievement in various ways that fundamentally altered the relationships between the emerging factions within the NTC. Article 30 had been completed in emergency session on the evening of the day of Yunis’s arrest, though it was never clear if the two events were connected. When final voting on all the provisions of the Declaration to place on 3 August, several key members of the NTC were absent – including Baj’a, who had left for Washington, D.C., for consultations. Jibril, Baja, and the Executive Office felt that the Muslim Brotherhood and others had taken advantage of the drama and tension of the moment to push through a fundamentally different sequence to what they envisaged. The NTC apparently had no internal by laws for managing absentee voting at the time (Cole and McQuinn 2015, 53).

The NTC’s prioritization of international assistance, and its rush toward elections despite some major challenges, prevented it from taking the time to introduce governance methods based on dialogue and consensus. Given the circumstances it was facing, it would be very difficult for us to conclude here that the NTC could have made different
decisions, but in any case, unlike the TPA, it did not model dialogue or consensus-building, and these processes did not reappear in later phases of the transition.

**Broader contributions**
Existing Institutions do not determine political outcomes after an authoritarian collapse, but they constrain actors’ choices of outcomes and how to achieve them. This finding contributes to existing knowledge of transition from authoritarian rule, because it helps weigh the importance of agency vs. structure in determining post-authoritarian outcomes. It highlights the ways in which important features in a transitional context, such as the existence of a civil society held together by norms of trust and cooperation and autonomous from the state, interact with the particular decisions concerning elections, reconciliation, and other critical issues during the first phase of attempted transition. The study leaves for further testing using new cases the proposition that, while actors in these situations do matter, their decisions are heavily influenced by pre-existing structures.

Other findings in this dissertation contribute to a wide range of themes in the transitology literature and add the Tunisia and Libya cases to our understanding of these themes. They include the roles of institutions such as state administrative structures and security apparatuses in channeling or influencing actions during attempted transition, and the importance of addressing institutions such as the media. The dissertation makes further empirical contributions to questions of elections—the timeframe and timing of elections, electoral management bodies, rules for elections, etc.—during attempted transition. Finally, the dissertation treats another set of closely related themes from the literature such as issues of transitional justice, inclusivity in governance, and legitimacy in post-authoritarian or post-revolution governance.
The dissertation has contributed to the debate in the literature concerning the “exceptionalism” of the MENA region in transitioning from authoritarian to democratic political structures. Early phases of post-authoritarian governance in Tunisia and Libya do not suggest that the region exhibits particular characteristics that make it unable to undergo regime change, despite many decades (and many continuing cases) of authoritarian resilience. Several of the variables highlighted in the literature review in Chapter 1 examined by scholars of transitions in other regions, such as the role of civil society actors and the importance of elite bargaining, are equally applicable to these two cases. Moreover, no single analytical variable has emerged as a key explanation for “successful” transition from authoritarian rule generally, and these two MENA cases have highlighted the unavoidable messiness of attempted transitions everywhere. This makes attempted transitions in MENA, as in all other regions, fascinating but difficult to analyze.

One challenge to extending these findings outside the MENA region is the issue of Islam in governance, which was a question with which both first provisional administrations had to grapple. In Tunisia, a deep polarization developed following the period of the TPA over the role of Islam in politics. In Libya, many of the extremist actors who came to weigh heavily on NTC actions and decisions were Islamists, even if their ideology wasn’t as fiercely opposed as in Tunisia. In resolving this complex and deep-seated issue, first provisional administrations may not have much influence. But, as the dissertation has shown, first provisional administrations have the opportunity to encourage principles.

613 However, this was not the only issue angering people, and the party itself (as mentioned) did not always make sound decisions about governing during that time.
such as *balance, moderation* and *dialogue*, and may choose to prioritize them above everything else, perhaps even above elections.
## Appendix A: Tunisia Chronology

<table>
<thead>
<tr>
<th>Year</th>
<th>Month</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>2010</td>
<td>December 17</td>
<td>Self-immolation of Mohammed Boazizi</td>
</tr>
<tr>
<td>2010</td>
<td>December 28</td>
<td>First Ben Ali speech. Dismissals of certain cabinet members and governors begin. Protestors clash with police forces in several towns; deaths and injuries occur.</td>
</tr>
<tr>
<td>2011</td>
<td>January 13</td>
<td>Third Ben Ali speech promising not to run for re-election.</td>
</tr>
<tr>
<td>2011</td>
<td>January 14</td>
<td>State of emergency imposed, but protestors take to the streets in major way, including in front of Ministry of Interior in Tunis. In evening Ben Ali boards plane for Saudi Arabia. Prime Minister Ghannouchi calls for application of Article 56 of the Constitution, allowing him to temporarily take over duties as president.</td>
</tr>
<tr>
<td>2011</td>
<td>January 15</td>
<td>Constitutional Court advises on application of Article 57 of the Constitution instead, permitting head of Chamber of Deputies, Fouad Mebazza, to act as interim president for no more than 60 days.</td>
</tr>
<tr>
<td>2011</td>
<td>January 17</td>
<td>Ghannouchi forms national unity government. Several ministers immediately resign.</td>
</tr>
<tr>
<td>2011</td>
<td>January 18</td>
<td>Ghannouchi announces creation of three commissions, one on Political Reform, one on investigation of state abuses, and one on investigation of embezzlement and fraud. A fourth commission on media reform is also created soon after. He, Mebazza, and other remaining RCD cabinet members resign from the party.</td>
</tr>
<tr>
<td>2011</td>
<td>January 20</td>
<td>Ghannouchi government announces amnesty for political prisoners and recognizes all banned political parties. Kasbah 1 protests on-going.</td>
</tr>
<tr>
<td>2011</td>
<td>January 27</td>
<td>Ghannouchi announces new cabinet.</td>
</tr>
<tr>
<td>2011</td>
<td>January 30</td>
<td>Rachid Ghannouchi, leader of Ennahda, Tunisia's main Islamist movement, returns after 22 years of exile.</td>
</tr>
<tr>
<td>2011</td>
<td>February 6</td>
<td>Former ruling party, Constitutional Democratic Rally (RCD), suspended.</td>
</tr>
<tr>
<td>2011</td>
<td>February 9</td>
<td>Parliament passes legislation allowing interim president Mebazza to rule by decree, thus effectively dissolving the parliament.</td>
</tr>
<tr>
<td>Date</td>
<td>Event</td>
<td></td>
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<td>-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
<td></td>
</tr>
<tr>
<td>February 18</td>
<td>Decree law passed creating, via the merging of the political reform commission and the CNPR, the High Authority for Political Reform, Realization of the goals of the Revolution, and Democratic Transition (Ben Achour Commission).</td>
<td></td>
</tr>
<tr>
<td>February 20</td>
<td>Kasbah 2 begins, demanding resignation of Ghannouchi and elections for a national constituent assembly.</td>
<td></td>
</tr>
<tr>
<td>February 27</td>
<td>Interim Prime Minister Ghannouchi resigns and announces that Béji Qaïd Essebsi will replace him.</td>
<td></td>
</tr>
<tr>
<td>March 3</td>
<td>Interim President Mbazaa announces plan for National Constituent Assembly (ANC) elections on July 24. Béji Qaïd Essebsi gives speech promising democratic transition. Kasbah 2 protests end.</td>
<td></td>
</tr>
<tr>
<td>March 7</td>
<td>Essebsi forms third interim cabinet (largely the same as the previous one).</td>
<td></td>
</tr>
<tr>
<td>March 9</td>
<td>RCD formally dissolved through court system.</td>
<td></td>
</tr>
<tr>
<td>March 15</td>
<td>Ben Achour Commission holds its first meeting and decides to enlarge in order to include more women, youth, and representatives from the regions.</td>
<td></td>
</tr>
<tr>
<td>March 23</td>
<td>Adoption of decree law on provisional organization of public powers.</td>
<td></td>
</tr>
<tr>
<td>March 28</td>
<td>Interim Interior Minister Rajhi replaced by Habib Essid.</td>
<td></td>
</tr>
<tr>
<td>April 18</td>
<td>Ben Achour commission creates Independent High Authority for Elections (ISIE). ISIE members elected on May 9 and hold first meeting on May 18.</td>
<td></td>
</tr>
<tr>
<td>May 10</td>
<td>Ben Achour Commission formally adopts new elections law.</td>
<td></td>
</tr>
<tr>
<td>May 22</td>
<td>ISIE announces postponement of elections until October.</td>
<td></td>
</tr>
<tr>
<td>May 26</td>
<td>G8 Deauville meeting results in pledges of foreign assistance to Tunisia.</td>
<td></td>
</tr>
<tr>
<td>May 27</td>
<td>Nahda withdraws from Ben Achour commission as a result of negotiations over new political parties law.</td>
<td></td>
</tr>
<tr>
<td>Late June</td>
<td>Salafist attack on Tunis cinema.</td>
<td></td>
</tr>
<tr>
<td>July 8</td>
<td>Revised draft of political parties law announced.</td>
<td></td>
</tr>
<tr>
<td>July 11</td>
<td>Voter registration for ANC elections opens.</td>
<td></td>
</tr>
<tr>
<td>Date</td>
<td>Event Description</td>
<td></td>
</tr>
<tr>
<td>---------------</td>
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<td></td>
</tr>
<tr>
<td>July 21</td>
<td>Demonstrations by political parties in Tunis to oppose on-going violence, including attacks claimed by Salafists.</td>
<td></td>
</tr>
<tr>
<td>July 27</td>
<td>Interim president Mebazza extends state of emergency permanently.</td>
<td></td>
</tr>
<tr>
<td>September 15</td>
<td>Under guidance of Yadh Ben Achour, 12 major parties including Nahda sign political agreement to specify mandate of elected ANC.</td>
<td></td>
</tr>
<tr>
<td>Late September</td>
<td>Interim Finance minister Jelloul Ayed presents Economic Development Plan to senior US, IMF, and World Bank officials.</td>
<td></td>
</tr>
<tr>
<td>October 1</td>
<td>Electoral campaign period begins.</td>
<td></td>
</tr>
<tr>
<td>October 9</td>
<td>Salafist attack against Nesmaa TV for airing of Persepolis. (Eventually charges brought against Nesmaa for airing film that defamed Islam).</td>
<td></td>
</tr>
<tr>
<td>October 23</td>
<td>ANC elections held. Nahda takes most seats, followed by Congress for the Republic (CPR).</td>
<td></td>
</tr>
<tr>
<td>Late October</td>
<td>New government formed; Nahda’s Hamadi Jebali named as next interim prime Minster.</td>
<td></td>
</tr>
<tr>
<td>November 22</td>
<td>First meeting of ANC. New government coalition comprising Ennahda, CPR, and Ettakatol (known as the “troika” government) confirmed.</td>
<td></td>
</tr>
<tr>
<td>December 16</td>
<td>ANC adopts new organization of public powers law.</td>
<td></td>
</tr>
<tr>
<td>December 22</td>
<td>As a result of agreement to form “troika” coalition, CPR’s Moncef Marzouki becomes interim president and Ettakatol’s Mustafa Ben Jaafar becomes head of Assembly. Jebali gives key cabinet posts to Ennahdah.</td>
<td></td>
</tr>
<tr>
<td>2012</td>
<td></td>
<td></td>
</tr>
<tr>
<td>January 20</td>
<td>ANC adopts by-laws.</td>
<td></td>
</tr>
<tr>
<td>May 26</td>
<td>MEJ: Salafis threw firebombs and stones at a police station and alcohol stores in the northern Tunisian town of Jendouba in protest of the arrest of a Salafi Islamist on May 25. The violence came one week after Salafis stormed through the town of Sidi Bouzid, the epicenter of the Tunisian revolution, and attacked bars and alcohol stores.</td>
<td></td>
</tr>
<tr>
<td>June 16</td>
<td>Béji Qaïd Essebsi announces creation of a new political party, Nida Tounis.</td>
<td></td>
</tr>
<tr>
<td>June 26</td>
<td>One hundred members of ANC call for a no-confidence vote against interim Prime Minister Hamadi Jebali.</td>
<td></td>
</tr>
<tr>
<td>Date</td>
<td>Event</td>
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</tr>
<tr>
<td>August 31</td>
<td>ANC announces first draft of new constitution.</td>
<td></td>
</tr>
<tr>
<td>September 14</td>
<td>Attack on U.S. Embassy and nearby American school.</td>
<td></td>
</tr>
<tr>
<td>October 16</td>
<td>UGTT launches first attempt at National Dialogue to reconcile differences among constitution-drafters.</td>
<td></td>
</tr>
<tr>
<td>October 17</td>
<td>Major strikes by journalists and representatives of the media against Troika government’s new media restrictions.</td>
<td></td>
</tr>
<tr>
<td>October 18</td>
<td>Lotfi Naguedh, a coordinator of the new Nida Tounis party, dies in riot in Tatouine where clashes between secularists and Nahda supports led to attacks against the politician.</td>
<td></td>
</tr>
<tr>
<td>November 5</td>
<td>Beginning of ANC plenary sessions to draft new electoral law.</td>
<td></td>
</tr>
<tr>
<td>December 14</td>
<td>ANC announces second draft of constitution.</td>
<td></td>
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<tr>
<td>2013</td>
<td></td>
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<tr>
<td>February 6</td>
<td>ANC delegate Choukri Belaid assassinated.</td>
<td></td>
</tr>
<tr>
<td>February 19-23</td>
<td>Prime Minister Jebali resigns after his party, Nahda, rejects his call for the formation of a new technocratic government. Party member Ali Larayedh replaces him and is charged with forming a new government. Larayedh’s appointment leads to protests.</td>
<td></td>
</tr>
<tr>
<td>March 8</td>
<td>Prime Minister Larayedh unveils new cabinet. Major posts that had been held by Nahda ministers go to independents.</td>
<td></td>
</tr>
<tr>
<td>April 22</td>
<td>ANC announces third draft of the constitution.</td>
<td></td>
</tr>
<tr>
<td>May 16</td>
<td>UGTT initiates second round of national dialogue to help resolve disputes over constitution.</td>
<td></td>
</tr>
<tr>
<td>June 1</td>
<td>ANC drafting committee announces fourth draft of constitution.</td>
<td></td>
</tr>
<tr>
<td>July 1</td>
<td>Over a dozen ANC delegates resign in protest of the draft constitution.</td>
<td></td>
</tr>
<tr>
<td>July 3</td>
<td>Egyptian Islamist president Mohammed Morsi overthrown.</td>
<td></td>
</tr>
<tr>
<td>August 18</td>
<td>Meeting in Paris between Béji Qaïd Essebsi, head of Nida Tounis party, and President of Nahda, Rached Ghannouchi.</td>
<td></td>
</tr>
<tr>
<td>September 17</td>
<td>Four civil society organizations, UGTT, LTDH, UTICA, and the Bar Association, present a plan for national dialogue convening the different political parties negotiating the constitution.</td>
<td></td>
</tr>
<tr>
<td>September 28</td>
<td>Ruling party Nahda concedes to step down and form caretaker government in order to help overcome political gridlock.</td>
<td></td>
</tr>
<tr>
<td>Date</td>
<td>Event</td>
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<tr>
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<td></td>
</tr>
<tr>
<td>October 5</td>
<td>First session of national dialogue.</td>
<td></td>
</tr>
<tr>
<td>December 14</td>
<td>After much negotiation, National Dialogue/Quartet names Minister of Industry, Mehdi Jomaa, as new interim prime minister.</td>
<td></td>
</tr>
</tbody>
</table>

**2014**

<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>January 3</td>
<td>Launching of formal article-by-article discussion mediated by Quartet.</td>
</tr>
<tr>
<td>January 8-9</td>
<td>ANC elects members of a new ISIE.</td>
</tr>
<tr>
<td>January 26</td>
<td>ANC votes to adopt new constitution.</td>
</tr>
<tr>
<td>May 1</td>
<td>ANC adopts new electoral law.</td>
</tr>
<tr>
<td>October 26</td>
<td>Parliamentary elections held. Most seats go to Nida Tounis followed by Nadha.</td>
</tr>
<tr>
<td>Nov-Dec</td>
<td>Presidential elections; Béji Caïd Essebsi of Nida Tounis wins.</td>
</tr>
</tbody>
</table>
## Appendix B: Libya Chronology

<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>2011</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Mid-January</strong></td>
<td>Protests over inadequate housing occur in Benghazi, Bani Walid, Baida, Derna, and Sebha. The government tries to acknowledge grievances and develop a strategy to avoid a Tunisia-like revolution.</td>
</tr>
<tr>
<td><strong>February 1</strong></td>
<td>Web-based Libyan activist arrested. National Conference of Libyan Opposition (NCLO) begins calling for organized protests and a “Day of Rage” against the Qadhafi regime.</td>
</tr>
<tr>
<td><strong>February 3</strong></td>
<td>Under the leadership of Saif al-Qadhafi (son of Moammar), Libyan government releases 10 political prisoners.</td>
</tr>
<tr>
<td><strong>February 15</strong></td>
<td>Libyan government arrests human rights advocate Fathi Terbil two days before a planned “Day of Rage”, just as hundreds of protestors begin gathering in Benghazi’s central square and clashing with security forces. An organizing committee led by Abdl-Jalil forms in Baida; Prime Minister Mahmoudi contacts him to discuss the protests.</td>
</tr>
<tr>
<td><strong>February 17</strong></td>
<td>February 17 Coalition, mostly comprising lawyers and judges, forms in Benghazi. Protests begin in Tripoli. Benghazi local council (mainly in charge of local service provision) also forms.</td>
</tr>
<tr>
<td><strong>February 18-19</strong></td>
<td>Qadhafi security forces open fire on protestors. International community condemns use of violence against citizens.</td>
</tr>
<tr>
<td><strong>February 20</strong></td>
<td>Saif al-Qadhafi gives speech promising reforms but also criticizing and vowing to continue fighting against protestors.</td>
</tr>
<tr>
<td><strong>February 21</strong></td>
<td>Qadhafi regime officials begin to defect.</td>
</tr>
<tr>
<td><strong>February 22</strong></td>
<td>Colonel Qadhafi gives speech denouncing protestors as “cowards and traitors”.</td>
</tr>
<tr>
<td><strong>February 25-26</strong></td>
<td>U.N. Security Council adopts resolution 1970 authorizing multilateral sanctions against Qadhafi and certain regime officials. U.S. President Obama also passes executive order authorizing sanctions and freezing certain financial assets.</td>
</tr>
<tr>
<td><strong>February 26</strong></td>
<td>NTC announced it would lead defeat of Qadhafi regime and setting up of transitional government. Abdl-Jalil named Chairman.</td>
</tr>
<tr>
<td><strong>March 5</strong></td>
<td>First official meeting of NTC in Benghazi; key position appointments announced.</td>
</tr>
<tr>
<td><strong>March 7</strong></td>
<td>U.N. humanitarian assistance team dispatched to Libya and former Jordanian Foreign Minister Abdelilah Al-Khatib sent as a special envoy.</td>
</tr>
<tr>
<td>Date</td>
<td>Event Description</td>
</tr>
<tr>
<td>------------</td>
<td>-----------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>March 14</td>
<td>American Secretary of State Hillary Clinton meets with NTC foreign minister Mahmoud Jibril in Paris.</td>
</tr>
<tr>
<td>March 17</td>
<td>U.N. Security Council passes UNSCR 1973, calling for international community to use “all necessary measures” to protect civilians and authorizing the creation of a no-fly zone.</td>
</tr>
<tr>
<td>March 19</td>
<td>Paris summit among international coalition forces convened; international coalition airstrikes against Qadhafi begin.</td>
</tr>
<tr>
<td>March 23-April 4</td>
<td>NATO takes over for US to lead coalition forces in protection of civilians against Qadhafi and control of no-fly zone over Libya.</td>
</tr>
<tr>
<td>March 29</td>
<td>NTC issues first charter on democratic transition.</td>
</tr>
<tr>
<td>April 10</td>
<td>Ajdabiya falls to opposition forces.</td>
</tr>
<tr>
<td>April 11</td>
<td>AU announces Qadhafi’s readiness to negotiate an agreement with NTC/opposition forces, but NTC rejects proposed plan.</td>
</tr>
<tr>
<td>Late April</td>
<td>NTC Executive Council created.</td>
</tr>
<tr>
<td>April 30</td>
<td>NTC rejects Qadhafi’s call for ceasefire.</td>
</tr>
<tr>
<td>May 5</td>
<td>International Contact Group meets in Rome to establish funding mechanisms for NTC. NTC also presents draft transition roadmap.</td>
</tr>
<tr>
<td>May 27</td>
<td>Following G8 summit in Deauville, Russia agrees to try and negotiate Qadhafi’s exit from power.</td>
</tr>
<tr>
<td>June–July</td>
<td>NTC enters liquidity crisis; International community (led by France and Qatar) try to respond.</td>
</tr>
<tr>
<td>June 27</td>
<td>Arrest warrant for Colonel Qadhafi, Sayf al Qadhafi, and intelligence chief Abdullah al-Sanussi issued by ICC.</td>
</tr>
<tr>
<td>July 6</td>
<td>Opposition forces take town of Qawalish, 60 miles south of Tripoli.</td>
</tr>
<tr>
<td>July 15</td>
<td>U.S. and Libya Contact Group formally recognize the NTC. U.N. dispatches envoy to try and broker ceasefire.</td>
</tr>
<tr>
<td>July 24</td>
<td>Jalil makes statement that Qadhafi can stay but NTC will decide what happens to him.</td>
</tr>
<tr>
<td>July 28</td>
<td>NTC General Yunis assassinated.</td>
</tr>
<tr>
<td>August 3</td>
<td>NTC Constitutional Declaration issued.</td>
</tr>
<tr>
<td>August 8</td>
<td>Jalil dissolves NTC cabinet and promises to appoint a new one.</td>
</tr>
<tr>
<td>August 20</td>
<td>Opposition forces take control of Zawiya (important strategic town near Tripoli). Battle for Tripoli begins.</td>
</tr>
<tr>
<td>August 25</td>
<td>NTC announces its capital will be moved from Benghazi to Tripoli.</td>
</tr>
<tr>
<td>August 28</td>
<td>Tripoli falls to opposition.</td>
</tr>
<tr>
<td>Late August-early September</td>
<td>NTC forms High Security Council to try and coordinate fighting groups.</td>
</tr>
<tr>
<td>September 1-3</td>
<td>Members of international community meet to discuss plan for Libyan reconstruction. Number of countries recognizing NTC as legitimate representative of Libyan people surpasses 45. U.N. sends support mission led by Ian Martin.</td>
</tr>
<tr>
<td>Mid-September</td>
<td>Libya’s seat in UN transferred to NTC.</td>
</tr>
<tr>
<td>October 3</td>
<td>After much delay, Jalil announces new NTC cabinet.</td>
</tr>
<tr>
<td>October 12</td>
<td>Qadhafi’s son Motassim captured in Sirte.</td>
</tr>
<tr>
<td>October 17</td>
<td>Qadhafi’s youngest son Khamis pronounced dead, having been killed on August 29 by NTC fighters</td>
</tr>
<tr>
<td>October 20</td>
<td>Qadhafi killed in Sirte, along with other members of his inner circles.</td>
</tr>
<tr>
<td>October 23</td>
<td>Jalil gives “liberation speech” in Tripoli.</td>
</tr>
<tr>
<td>November 18</td>
<td>Libyan Muslim Brotherhood holds first public congress in 25 years.</td>
</tr>
<tr>
<td>November 22</td>
<td>Kib names a new interim government</td>
</tr>
<tr>
<td>November 28</td>
<td>Amizigh stage major protests in front of NTC office, demanding minority rights.</td>
</tr>
</tbody>
</table>

**2012**

<p>| Mid-January | NTC issues first draft elections law for GNC elections. Multiple parties reject its terms. Renewed fighting breaks out in Bani Walid. |
| January 22 | Abdel Hafiz Ghoga resigns as Deputy Chairman of NTC |
| January 28 | Revised electoral law issued by NTC. |
| February 12 | Final electoral law issued. Law for creation of High National |</p>
<table>
<thead>
<tr>
<th>Date</th>
<th>Event Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>February 20</td>
<td>Elections Council (HNEC) also issued around this time.</td>
</tr>
<tr>
<td>March 6-9</td>
<td>Demonstrations for more autonomy in east (Cyrenaica) begin. Barqa Council announced.</td>
</tr>
<tr>
<td>April 1</td>
<td>Jalil announces GNC elections being planned for June 19.</td>
</tr>
<tr>
<td>April 25</td>
<td>Baja announces that NTC is petitioning for no-confidence vote against al-Kib government. Jalil later announces that NTC cabinet will remain in place until elections.</td>
</tr>
<tr>
<td>May 2</td>
<td>Laws 37 and 38 passed.</td>
</tr>
<tr>
<td>Early/Mid-June</td>
<td>Salafist group claims responsibility for explosion outside U.S. embassy compound in Benghazi.</td>
</tr>
<tr>
<td>June 19</td>
<td>HNEC announces delay of elections until July 7.</td>
</tr>
<tr>
<td>July 2</td>
<td>ICC lawyers released</td>
</tr>
<tr>
<td>July 5</td>
<td>NTC announces change in elections procedure, that GNC will no longer appoint a constitutional committee but instead set up elections for one while also acting as interim legislative body.</td>
</tr>
<tr>
<td>July 7</td>
<td>Elections for GNC lead to (initially) peaceful transfer of power. Jibril’s NFA takes most seats allocated to political parties.</td>
</tr>
<tr>
<td>August 8</td>
<td>NTC formally hands over power to GNC. Magariaf elected President of GNC.</td>
</tr>
<tr>
<td>September 12</td>
<td>Mustafa Abushagur elected by GNC as new prime minister.</td>
</tr>
<tr>
<td>September 12</td>
<td>American Ambassador Christopher Stephens and several other American diplomats killed in attack on U.S. compound in Benghazi.</td>
</tr>
<tr>
<td>October 18</td>
<td>Abushagur removed in no-confidence vote; replaced by Ali Zeidan.</td>
</tr>
<tr>
<td>2013</td>
<td></td>
</tr>
<tr>
<td>May 7</td>
<td>GNC passes Political Isolation Law.</td>
</tr>
<tr>
<td>October 10</td>
<td>Prime Minister Ali Zeidan kidnapped by armed groups, later removed.</td>
</tr>
<tr>
<td>2014</td>
<td></td>
</tr>
<tr>
<td>February 20</td>
<td>Constitutional committee elected.</td>
</tr>
<tr>
<td>Date</td>
<td>Event</td>
</tr>
<tr>
<td>----------</td>
<td>---------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>March 11</td>
<td>Prime Minister Zeidan removed by GNC in vote of no-confidence. Replaced by Abdallah al-Thinni.</td>
</tr>
<tr>
<td>April 18</td>
<td>Al thinni resigns. Replaced in divided vote by Ahmad Maitag.</td>
</tr>
<tr>
<td>May 16</td>
<td>Hiftar stages attack against GNC, purportedly in objection to heavy Islamist influence.</td>
</tr>
<tr>
<td>June 18</td>
<td>A new parliament, House of Representatives, elected. GNC, based in Tripoli, refuses to recognize it.</td>
</tr>
</tbody>
</table>
References


http://nawaat.org/portail/2013/01/03/etudebeji-caid-essebsi-un-vieillard-tunisien-ancien-dictateur-encore-assoiffe-de-pouvoir/7/.


اللجنة الوطني لاستقصاء الحقائق في التجاوزات و الانتهاكات المسجاة خلال الفترة الممتدة من 17 ديسمبر 2010 حين زوال موجبها التقرير “Tunis.”
SABINA HENNEBERG
777 7th St NW, #810 | Washington, DC 20001 | sabina.henneberg@gmail.com |

EDUCATION

Johns Hopkins University  Washington, D.C.  December 2016
School of Advanced International Studies (SAIS)
Ph.D., International Relations
  • Dissertation on the first interim governments following the 2011-2012 Arab Uprisings in Tunisia and Libya
  • Coursework on research methods (qualitative and applied), comparative politics, statistics, econometrics, various regional courses
  • Comprehensive exams in comparative politics, African studies, and international political economy

Johns Hopkins University  Washington, D.C.  May 2008
School of Advanced International Studies (SAIS)
M.A., International Relations
  • Concentration: Conflict Management and International Economics

Colorado College  Colorado Springs, CO  May 2004
B.A., International Political Economy

TEACHING EXPERIENCE

  • Visiting Professor, Colorado College, Department of Political Science, Democracy and Authoritarianism in North Africa (Spring 2017)
  • Teaching Assistant, Johns Hopkins University SAIS, Comparative National Systems (Fall 2016)
  • Teaching Assistant, Johns Hopkins University SAIS, Statistical Methods for Business and Economics (Fall 2016)
  • Teaching Assistant, Johns Hopkins University SAIS, Principles of Microeconomics (Summer 2015)
  • Teaching Assistant, Johns Hopkins University SAIS, Stochastic and Quantitative Methods (Summer 2014)
  • Teaching Assistant, Johns Hopkins University SAIS, Statistical Methods for Business and Economics (Spring 2014)
  • Teaching Assistant, Johns Hopkins University SAIS, Statistical Methods for Business and Economics (Fall 2013)

AWARDS, FELLOWSHIPS AND HONORS

  • Zartman Fellowship, Johns Hopkins University School of Advanced International Studies (2016)
  • David A. Boren Fellow, National Security Education Program (2015)
  • Cosmos Scholar, Cosmos Club Foundation (2015)
  • Research Travel Grant, Johns Hopkins University School of Advanced International Studies (2014)
Edith Bramhall Award for best student in Political Science, Colorado College (2004)
Pi Gamma Mu National Honor Society (2004); Alpha Lambda Delta Honors Society (2000-01)

**DISSERTATION**

**PUBLICATIONS**


**WORKS IN PROGRESS**

**PRESENTATIONS**
“Understanding Tunisia’s Liberal Democratic Compromise” (Co-authored with Fabio Merone). Middle East Studies Association (MESA), Denver, CO (Nov 2015).
“Governing Uncertainty: Governance After Authoritarian Breakdown in Tunisia and Libya in 2011-12”. FORUM *Realités* (June 2013); Center for the Study of Islam and Democracy (March 2013).

**CONFERENCES AND WORKSHOPS**
Panel Organizer, Middle East Studies Association 49th Annual Meeting, Denver, CO, Nov 2015
Participant, Institute for Qualitative and Multi-Method Research, Syracuse, New York, June 2014
Participant, Summer Arabic and Politics Exchange, organized by Mideastwire.com, Tunisia, June-July 2013
Participant, Middle East Studies Association, 47th Annual Meeting, New Orleans, LA, Oct 2013
INTERNATIONAL RESEARCH AND STUDY

- Arabic language study and independent research (Rabat, Morocco), Jan –July 2016
- Ph.D. fieldwork (Tunis, Tunisia), Oct 2014-Feb 2015
- Ph.D. fieldwork (Tunis, Tunisia), June 2013-July 2013

PROFESSIONAL EXPERIENCE

Internews Network

Consultant, Program Development Unit, March 2013-Aug 2015
- Analyzed survey data and wrote report on information access among Syrian refugees in Lebanon
- Wrote reports of annual program survey results (qualitative and quantitative) and drafted memo on state of monitoring and evaluation in media development assistance
- Reviewed and compiled experience related to youth, elections and gender programming
- Prepared write-ups for a variety of audiences on communications experience in specific programmatic areas
- Produced and updated program development documentation, including project summaries and past performance references

Creative Associates International, Inc.

Technical Manager, Education for Development (ED) Division, Nov 2010-June 2012
- Designed and implemented education and civil society projects, mainly in North Africa (Tunisia, Algeria, Libya, Egypt)
- Planned and monitored project activities on field sites, travelling extensively to Algeria, Egypt, Jordan, and other regions
- Managed sub-grants to local organizations under USAID Community Livelihoods Project in Yemen
- Managed MEPI/DOS-funded Partnership Schools Program in Algeria, Bahrain, Libya, and Oman
- Conducted research on best practices in youth and workforce development programming

Creative Associates International, Inc.

Program Associate, Education for Development (ED) Division, Nov 2008-Nov 2010
- Supported management of USAID-funded project in Sudan’s Three Areas and MEPI/DOS-funded Partnership Schools Program in Libya, Algeria, and Oman
- Prepared, tracked and realigned project budgets
- Managed subcontractors and consultants
- Prepared quarterly and annual technical and financial reports
- Developed budgets and technical documents to support business development activities in Algeria and Sudan
Oriel Research and Consulting  
Consultant  
May-June 2014

- Drafted strategic papers for client use on energy investment in Algeria and risk potential in Algerian energy markets
- Provided up-to-date and concise analysis on Algerian political affairs
- Monitored, analyzed and reported on current events in Algerian political and economic dynamics and factors and conditions involved in U.S. and international energy investment in Algeria

United Nations Population Fund  
Consultant, Humanitarian Response Unit (HRU)  
July-Sep 2008

- Coordinated 2008 Gender-Based Violence (GBV) training course in Ghent, Belgium
- Managed website for UN Action, a multi-UN entity group seeking to improve response to sexual violence in conflict
- Provided administrative support for ongoing GBV programs within the Humanitarian Response Unit

Amnesty International USA  
Intern, Asia Advocacy Program  
Oct 2007-April 2008

- Tracked current events in Asian human rights issues and assisted with preparation for advocacy meetings and congressional hearings on Asian human rights issues
- Reviewed and edited letters and documents
- Participated in meetings on Asian human rights issues

United Nations Population Fund  
Intern, Humanitarian Response Unit (HRU)  
May-Aug 2007

- Developed contextual background briefs, compiled statistics, reviewed existing practices on sexual violence in conflict. Prepared content for Stop Rape Now website, an advocacy campaign against sexual violence in conflict
- Participated in working group meetings on sexual violence and represented HRU at humanitarian coordination meetings

Nankai University  
Teacher, English and Teacher Training Departments  
Sep 2004-June 2006

- Taught English reading and speaking to first-year college students and university teachers, professionals and graduate students
- Developed and taught a curriculum for three semesters of spoken English

LANGUAGE SKILLS

English (native), French (fluent), German (fluent), Arabic (advanced), Chinese (basic)

PROFESSIONAL ASSOCIATIONS

- Member, Middle East Studies Association (MESA)
- Member, Association for the Study of the Middle East and Africa (ASMEA)
- Member, American Tunisian Association (ATA)
- Member, African Studies Association (ASA)
- Member, Amnesty International