

1 *Introduction*

An Interim Government Forms

On January 13, 2011, Tunisian President Zine al-Abidine Ben Ali appeared on national television in an attempt to quiet a powerful anti-government uprising that had begun four weeks earlier. He announced a series of sweeping democratic reforms and price cuts and promised that he would not seek reelection. At the end of the speech, delivered in the local dialect, Ben Ali alluded to Charles de Gaulle's famous 1958 remarks in Algiers, in which he told the French settlers of the colony that was fighting bitterly for its independence "I have understood you" (*"fahimtikum"*). The Tunisian people's response to Ben Ali was "Get out" (*"dégage"*).

The next day, the government declared a state of emergency. Ben Ali fired nearly his entire cabinet and announced that legislative elections would take place within six months. Yet thousands of Tunisians took to the streets demanding Ben Ali's immediate resignation. They gathered first in front of the headquarters of the national trade union, l'Union Générale des Travailleurs Tunisiens (UGTT), at Mohammed Ali Square, and then moved to the front of the Ministry of Interior. Around five o'clock that evening, President Ben Ali and his wife, Leila Trabelsi, boarded a plane for Saudi Arabia in exile.

In the chaotic weeks following Ben Ali's flight, protest leaders entered into negotiations with remaining elites from the *ancien régime*. These negotiations resulted in a succession of interim governments (prime ministers and their ministerial cabinets), with gradual elimination of the outgoing regime. Meanwhile, a wide group of political and civil society actors organized themselves into various interim committees and governing structures to help prepare for elections of a National Constituent Assembly, which would draft a constitution and organize elections for a new permanent government. I call this ensemble of structures the Tunisian Provisional Administration (TPA);

it became the first interim government in Tunisia's attempted political transition and was in place until October 23, 2011, when it began transferring authority to the Assembly.¹

Meanwhile, in neighboring Libya, the first rumblings of an anti-authoritarian movement began – not by coincidence – in January 2011. Encouraged by what had happened to Ben Ali in Tunisia that month, Libyan protestors gathered in the cities of Bani Walid and Benghazi to denounce the government's failure to provide adequate housing. These protests quickly spread to towns such as al-Baida and Derna in the east and Sebha in the south. The government, led by Colonel Moammar Qadhafi, responded swiftly, ordering the police to avoid violent clashes and not to fire live ammunition, and instructing clerics to call for calm during their sermons.

Soon, an opposition group of exiled activists, the National Conference for Libyan Opposition (NCLO), called for a Libyan "Day of Rage" on February 17 in all cities, intended as massive protests against the government.² The government responded to the NCLO's message by reaching out to associated individuals and sending Colonel Qadhafi's son Saadi, a Special Forces commander, and Abdullah al-Sanusi, head of internal security, to Benghazi.³

On February 15, security forces arrested human rights lawyer Fathi Terbil – one of several political activists detained⁴ – who was known for defending the families of victims of a massacre at Abu Salim prison in 2006. His arrest sparked protests in Benghazi (ahead of the planned Day of Rage), which quickly became violent. Protests also broke out in the eastern cities of al-Baida and Tobruk. Qadhafi let it be known that live bullets would be fired on people who joined the protests, and that anyone associated with organizing demonstrations would be arrested.

¹ TPA is not an official term; it is a term I created. At the time, what was thought of as the interim government in Tunisia was more limited than what I describe here, so I have chosen to use the term TPA to distinguish it.

² 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.

³ Several sources (e.g. *Middle East Journal*, "Chronology," 482; Bell and Witter, *Roots of Rebellion*) report the release of political prisoners over the month of February. Some of these meetings and warnings also reportedly involved regime figures like Saif al-Islam giving warnings "not to further inflame the situation" (Bell and Witter, *Roots of Rebellion*).

⁴ Another important arrest was that of Terbil's colleague Faraj al-Sharani (Mundy, *Libya*, 55).

The conflict between government forces and protestors continued over the next few days, and the violence escalated.⁵

Unlike Tunisia's TPA, which did not form until President Ben Ali had fled, Libya's first interim government was led by an organization that formed before the Qadhafi regime fell, which called itself the National Transition Council (NTC). The NTC was based in Benghazi and originally 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 with representatives from around the country, and a military branch, which attempted to coordinate military operations in the fight against the Qadhafi regime and control various local militias.

During the five months after it formed, the NTC drafted a constitutional declaration and a roadmap to elections. Its first major step after Qadhafi was removed⁶ was naming a postliberation government. This first "official" interim government was tasked with adopting electoral legislation and overseeing the transition to a constitution and elections for a General National Congress (GNC). Elections for the GNC were held on July 7, 2012, seventeen months after the NTC had formed.

First Interim Governments: A Unique Moment

These extraordinary and virtually simultaneous events in Libya and Tunisia constitute a poorly understood but critical phase of attempted transition to democratic rule – the short period between authoritarian collapse and the first post-authoritarian elections. During this phase, a struggle unfolds between forces calling for continuity with the past and those pushing for change, with the result captured in a phenomenon I call a "first interim government." This book examines the forces that

⁵ On February 18 and 19 it would get much worse, with regime forces firing on a funeral procession in Benghazi and a retaliation by protestors in which they attack national army barracks – including that of the dreaded Khamis (32nd) Brigade in a siege that lasted three days (see Chorin, *Exit the Colonel*, 195; Bell and Witter, *Roots of Rebellion*). Human Rights Watch counted eighty-four dead by February 19 (*Middle East Journal*, "Chronology," 65, no. 3, 482).

⁶ Several sources (e.g. Gaynor and Zargoun, "Gadhafi Caught Like 'Rat' in a Drain, Humiliated and Shot") document the violent manner in which he was killed near his hometown of Sirte.

shaped the first interim governments in Tunisia and Libya and seeks to understand how each one influenced the events that followed.

The TPA in Tunisia and the NTC in Libya emerged from two very different (though both brutally harsh) experiences of authoritarian rule. The two countries' different "starting conditions"⁷ undeniably contributed to some of the differences between the TPA and the NTC. However, to make a direct connection between these historical experiences in Tunisia and Libya and their divergent trajectories in the years following the 2011 authoritarian collapse would be to ignore the critical decisions each interim government took immediately after the uprisings. A comparison of these two first interim governments, operating in the same timeframe and the same geographic region, offers a unique opportunity to examine how those who emerge as political leaders can take advantage of the authoritarian collapse, and how they are simultaneously constrained by the structures and legacies they inherit.

The dramatic differences between events in Tunisia and Libya during the first several years following the TPA and NTC, respectively, also reveal the critical importance of seminal decisions and actions taken during the initial phase of attempted transition. In Tunisia, the first round of elections (organized by the TPA) gave way to increasing instability and political polarization under its successor, the National Constituent Assembly (NCA), and the troika government it formed. Eventually, key actors from the TPA stepped in to overcome the governance stalemate and help the NCA complete the draft constitution. With a new constitution in place to define the principles, structure, and procedures of a new governance system, elections for the first democratically elected and non-interim president and unicameral legislature could be held. In Libya, by contrast, the elected congress, the GNC, that replaced the NTC was almost immediately overwhelmed by the demands of armed militia and other societal groups. The GNC struggled to organize elections for a constitutional committee as intended, in large part due to interference by a proliferating number of militia with independent funding and "revolutionary" prestige. Thus, while the first interim government in each country managed to hand over power to a second representative body,

⁷ I am indebted to Seth Kaplan for creating this term.

subsequent events couldn't have been more different. These differences would become even more apparent in later years.

The Study of Interim Governments during Transition from Authoritarian Rule

First interim governments take on a unique responsibility and face daunting challenges. While interim governments across history have assumed a variety of forms and functions, their legitimacy has been accorded based, in part, on the historical time period in which they have appeared.⁸ Today, most interim governments that follow an authoritarian overthrow – whether as the result of a popular uprising, a military coup, or violent conflict – must promise to hand over power to a government chosen by the people.

McGuire describes how interim governments are paradoxically in a position to both be extremely influential and work under conditions of limited capacity:

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.⁹

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.

Despite their importance, interim governments have remained an understudied aspect of attempted democratic transition since its

⁸ Shain and Linz, *Between States*, 8.

⁹ McGuire, "Interim Governments and Democratic Consolidation: Argentina in Comparative Perspective" (in Shain and Linz, eds., *Between States*), 180.

emergence as a subfield of comparative politics.¹⁰ Samuel Huntington's "third wave" of transition from authoritarianism began with the popular overthrow of the Portuguese, Greek, and Spanish regimes in the mid-1970s.¹¹ These first cases helped scholars understand transition actors (such as militaries, elites, and mass protest movements) and their decision-making contexts. Studies of the transitions that unfolded in the subsequent years in Latin America gave more insight into the roles of actors like labor movements as well as the influence of economic conditions on bargaining elites.¹²

The unique context of the Eastern European transitions in the early 1990s highlighted the role of outside actors (the Soviet Union and the United States and its allies) in shaping transition processes.¹³ These events also gave rise to studies of how the different Communist parties either adapted to new forms of government or disappeared and how they negotiated with the rising civil society movements that challenged them. This era, which was characterized by a series of "roundtable" negotiations on the shape of the new political order, led to a literature on constitutional design.¹⁴

Several sub-Saharan African countries in the early 1990s also experienced popular uprisings that destabilized the dictatorships that had been ruling since independence. As the roundtable talks had in Eastern Europe, the National Conferences organized in several of these African countries provided important transition mechanisms for study.¹⁵ The

¹⁰ A few exceptions exist, and have offered a critical foundation for this study. See especially Shain and Linz, *Between States*, and Seely, *The Legacies of Transition Governments*. To my knowledge, the only other studies that directly examine the challenge for interim governments of establishing legitimacy are Guttieri and Piombo, *Interim Governments* and Rangwala, "The Creation of Governments-in-Waiting." However, both these works focus on the involvement of the international community in creating interim governments, which is not the model of interim government experienced in Tunisia and Libya in 2011–2012.

¹¹ Huntington, *The Third Wave*.

¹² E.g. Collier and Collier, *Shaping the Political Arena*; Haggard and Kaufman, "The Political Economy of Democratic Transitions." The latter set of authors includes some Asian cases.

¹³ Rose et al., *Democracy and Its Alternatives*.

¹⁴ The broader literature on constitutional design generally includes works by Jon Elster (e.g. *The Roundtable Talks and the Breakdown of Communism*) and the scholars associated with the Comparative Constitutions Project (such as Tom Ginsburg, Zachary Elkins, and James Melton).

¹⁵ Such countries include Benin, Chad, Comoros, Congo, Gabon, Mali, Niger, Togo, and former Zaire. See Heilbrunn, "The Social Origins of National Conferences"; Bratton and van de Walle, *Democratic Experiments in Africa*.

role of civil society organizations such as the church also began to come to the fore.¹⁶ Michael Bratton and Nicholas van de Walle brought together these and other factors (including the preexistence of democratic institutions) in a multivariate model that sought to explain variation in transition paths across the continent.¹⁷ Scholars such as Richard Joseph contributed to the debate by highlighting the importance of changes in the international economy on these events.¹⁸

Before the uprisings of 2011, the literature on political transitions in the Middle East and North Africa (MENA) had not succeeded in explaining why waves of democratic transition had passed over the region.¹⁹ Studies in MENA countries were limited to exploring patterns of opposition and participation and patterns of authoritarian rule.²⁰ The lack of transitions from authoritarian rule in the region gave social scientists much to explore in terms of factors permitting the “persistence of authoritarianism.”²¹ Their works provide a rich collection of resources on specific institutions such as political parties, civil society, and elections and electoral processes, as well as evaluations of state strength and governance.²²

¹⁶ Heilbrunn, “The Social Origins of National Conferences”; Widner, *Political Parties and Civil Societies in Sub-Saharan Africa* (cited in Seely, *The Legacies of Transition Governments*, 7–8). The church also played an important role in many Latin American cases.

¹⁷ Bratton and Van de Walle, *Democratic Experiments in Africa*.

¹⁸ Joseph, “Challenges of a ‘Frontier’ Region.”

¹⁹ One exception is Turkey, where, until relatively recently, the country was considered a case of secular democracy after 1945 (despite being punctuated by military coups).

²⁰ E.g. Anderson, “Lawless Government and Illegal Opposition”; Lust-Okar, *Divided They Rule*.

²¹ E.g. Salamé, *Democracy without Democrats?*; Schlumberger, ed., *Debating Arab Authoritarianism*; Bellin, “The Robustness of Authoritarianism in the Middle East.” It should be acknowledged that there were rounds of popular protest during these years in several MENA countries. 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 2007. Even Libya in 2006 experienced protests in Benghazi, which related more to human rights than economic demands.

²² On political parties, see, for example, Lust and Zerhouni, eds., *Political Participation in the Middle East*; Storm, *Party Politics and Prospects for Democracy in North Africa*. On civil society, see, for example, Norton, ed., *Civil Society in the Middle East*; Cavatorta and Durac, *Civil Society and Democratization in the Arab World*. On elections, see, for example, Blaydes, *Elections and Distributive Politics in Mubarak’s Egypt*. On state strength and governance, see, for example, Dawisha and Zartman, eds., *Beyond Coercion*.

The events of 2011 were unprecedented in postcolonial North Africa and the Middle East. Scholars have had few reference points as they have sought to identify causes of the regime downfalls in North Africa and Yemen, as well as the varying patterns of uprising and regime response across the region. Some have identified themes such as the role of social media and the changing public; others have focused on studying more closely the events themselves.²³ Several edited volumes with contributions on countries from across the MENA region bring together the range of factors and dynamics that made up the events and their aftermath.²⁴ In general, as Kao and Lust assert, this literature reflects the tendency within comparative politics to focus on macro-historical accounts and structural variables at the expense of decisions by local actors.²⁵

Despite its valuable contributions to our understanding of attempted transitions from authoritarian rule, the existing literature fails to resolve whether structural variables or agency variables matter more during regime transition. On the one hand, this debate is easy to resolve, because scholars generally agree that in any transition, *both* types of variables shape outcomes. However, few studies take as their *problématique* the issue of how these types of variables interact. Our understanding of how political transitions unfold and why they unfold

The Durability of the Arab State; Ayubi, *Over-Stating the Arab State*; Salamé, ed., *The Foundations of the Arab State*.

²³ E.g. Lynch, *The Arab Uprising*; Tessler and Robbins, “Political System Preferences of Arab Publics” (in Lynch, ed., *The Arab Uprisings Explained*); Brynen et al., eds., *Beyond the Arab Spring*; Zartman, ed., *The Arab Spring*; Bayat, *Revolution without Revolutionaries*. A common theme throughout these studies is the role of the Islamist parties in the unfolding dynamics of regime destabilization. Several individual works have also been devoted to that topic, including works specifically on Tunisia. See, for example, Wolf, *Political Islam in Tunisia*; McCarthy, *Inside Tunisia’s Al-Nahda*.

²⁴ To name only a few, Lynch, ed., *The Arab Uprisings Explained*; Diamond and Plattner, eds., *Democratization and Authoritarianism in the Arab World*; Kienle and Sika, eds., *The Arab Uprisings*; Diwan, ed., *Understanding the Political Economy of the Arab Uprisings*. A few studies focus specifically on North Africa, e.g. Frosini and Biagi, eds., *Political and Constitutional Transitions in North Africa*; Volpi, *Revolution and Authoritarianism in North Africa*.

²⁵ Kao and Lust, “Why Did the Arab Uprisings Turn Out As They Did? A Survey of the Literature.” In their special issue of *Comparative Political Studies* published shortly before the uprisings, Capoccia and Ziblatt attempt to address this same tendency within the literature (Capoccia and Ziblatt, “The Historical Turn in Democratization Studies.”)

as they do can be enhanced by closer examination of the array of variables that interact during attempted transition and the stages at which different variables matter.

Moreover, neither aggregated analyses nor individual case studies adequately take into account how decisions made in the *first phase* of an attempted transition take on a particular importance in directing what follows. While explanations of narrow aspects of transitions, such as negotiated pacts or electoral processes, are informative, these tend to occur relatively late in a rapidly unfolding and blurry sequence of events. Similarly, studies of class structure and other social or economic features of the attempted transition overlook the fact that actors during the *immediate* stages of authoritarian collapse may have been relatively free from these institutional constraints. Without examining the options and choices taken by actors in those moments, and *how* they worked within those constraints, we cannot know how much weight to give to the structures transition actors inherit.

Studying the phase of attempted democratic transition that is delineated by the appearance of an interim governing body on one end and by first democratic elections on the other requires the study of several key decisions. Is a foundational governing document, such as a constitution – even if temporary – needed for the transition to proceed? If so, by what procedures should it be written and adopted? What should be the role of existing state institutions during this period, including the military, especially if this is not clearly defined by an interim constitution or statement? What steps should be taken to ensure the closure of and to perhaps punish the former regime? How much assistance should be accepted or requested from foreign powers? Should the first elected authority be a constitution-drafting body or a new legislature and/or head of state, and when should elections take place?²⁶ Finally, who should be allowed to participate in those elections, and in what capacity?

Existing scholarship on regime transitions has dealt with many of these questions but not as a comprehensive set of decisions that can influence a country's trajectory during authoritarian collapse. Critical questions of constitution writing, for example, as noted above, have been treated extensively by Jon Elster and colleagues, including debates

²⁶ Presumably, elections should take place as soon as possible, but someone must be charged with determining exactly when that is.

over the institutional design best suited for emerging democracies, especially for countries emerging from violent conflict, as well as over issues of individual rights and the spatial separation of power.²⁷ Others have brought to the fore the importance of the “constitution-making environment”²⁸ as well as the actors involved in the writing process and the constraints they face.²⁹

But how is the stage for that constitution-writing process set? The authorities who govern between authoritarian collapse and the launching of a constitution-writing phase (often through the establishment of a constituent assembly) play a key role in determining those actors, environments, and constraints. For example, in both Tunisia and Libya, as in other Arab-uprising countries, the authorities who took charge produced texts meant to acknowledge the role of a constitution in securing democratic governance. These texts, both by the content they contained (or omitted) and the processes by which they were adopted, played an important role in determining later events and structures.

Similarly, the scholarship considering the question of which leaders should succeed an outgoing authoritarian ruler takes into account both a country’s “starting conditions” and the identity and actions of individuals involved in the transition. Linz and Stepan, for instance, highlighted the role of “initiators of transition.”³⁰ More recently, and in regards to specific cases, Jennifer Seely has studied the actors involved in Sovereign National Conferences in Benin and Togo, and Glen Rangwala and Alice Alunni have highlighted the role of unique actors such as diaspora communities and other external actors in both creating and legitimating interim governing forces.³¹ No less attention has been given to the question of “founding elections” following

²⁷ E.g. Cheibub, *Presidentialism, Parliamentarism, and Democracy*; Carey and Shugart, “Incentives to Cultivate a Personal Vote”; Horowitz, “Comparing Democratic Systems”; Lijphart, “The Political Consequences of Electoral Laws: 1945–85”; Sisk, *Democratization in South Africa*.

²⁸ Linz and Stepan, *Problems of Democratic Transition and Consolidation*, 66–83.

²⁹ See Zachary Elkins, “Constitutional Engineering,” in Bertrand Badie, Dirk Berg-Schlosser, and Leonardo Morlino, eds., *International Encyclopedia of Political Science* (Thousand Oaks: SAGE Publications, 2011): 414–416.

³⁰ Linz and Stepan, *Problems of Democratic Transition and Consolidation*, 66–83. On this, also see Francisco, *The Politics of Regime Transition*, 48.

³¹ Alunni, “Long-Distance Nationalism and Belonging in the Libyan Diaspora”; Rangwala, “The Creation of Governments-in-Waiting”; Seely, *The Legacies of Transition Governments*.