SPOTLIGHT SERIES
Rapid - Reaction - Response

Transitional Management: Comparative Guide to Tasks, Timing, Issues

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PA-X Spotlight Series

The following brings together the Political Settlements Research Programme's comparative research on transitional government and accompanying processes into a 'Quick Guide' on the management of negotiated transitional arrangements as a mechanism for moving from conflict or social crisis to peace. The Guide aims to set out the basic modalities and processes involved in 'transition management', and some of the dilemmas raised.

This Guide draws on a larger body of work by PSRP referenced at the end. In this Guide, we address three key questions (although not in this order):

1. What elements matter most, over what timeframes and in what circumstances, if negotiated transitions are to avoid serious violence, open up inclusive political settlements, and start building long-term stability?

2. What does the evidence tell us about the main risks, trade-offs and factors that determine success or failure of political and war-to-peace transitions?

3. How does question 2 play out with regard to:

► military/security sector;
► ruling and opposition parties;
► non-state actors (including armed groups, churches, civil society);
► elections;
► international actors (bilateral, multilateral, regional).

1. Introduction: Transition Management

Processes of enforced change of government as part of a peace settlement are often managed by putting transitional arrangements in place as 'bridges' from conflict to post-conflict societies. Our working definition of these transitions focuses on the use of interim governance arrangements as:

The exercise of public power by an interim executive, and sometimes legislative, authority, to conduct governance and reform processes in the context of political unrest or conflict (often following un-constitutional rupture), with the aim of restoring constitutional order through new or revised institutions.[1]

We identify the following four contexts which produce these arrangements:

► Political crises catalysed by electoral violence, political uprising, succession crisis, coup d'état and political deadlock between the parliament and executive or in the cabinet – all of which may involve levels of political violence;
► Violent conflict between the state and non-state organisations;
► International use of force ending in temporary international governance such as in Afghanistan (2001) or Iraq (2003) or East Timor (2006);
► Complex combinations of the above.

These situations influence the form of transitional government that emerges, and facilitate the political transition. There are several different models, which flow from different types of transitions[2]:

► A care-taker government consisting of elites from the preceding regime that manage an incumbent-led transition process, as occurred in Egypt following mass demonstrations against President Hosni Mubarak in 2011; or as has characterised the initial transition in an ongoing fluid situation in Sudan in 2019.

► If elites agree through either consensus or threat of force to share power in the executive and/or legislature with opposition political parties or rebel groups, then an interim power-sharing government emerges, as was the case in Yemen after the signing of the GCC Implementation Mechanism in November in 2011, or Zimbabwe in 2008.

▶ A provisional revolutionary government emerges when a former government is ousted by force or a coup d'état as was the case in Libya in 2011, when the National Transitional Council toppled the government of Muammar Gaddafi.

▶ An internationally administered transitional government can be implemented after the use of force by external actors, even in the absence of an agreement, as was the case of the Coalition Provisional Authority in Iraq in 2003.

▶ An 'assertion of sovereignty by federal entities' can result in the emergence of secessionist interim governments as occurred in the case of the Southern Transitional Council in South Yemen in 2017 or Somaliland in 1991, which may then be given statehood such as in Yugoslavia, but more commonly remain unresolved for extended periods.

The facilitation of these governments often includes international support through channels such as the 'good offices' of the United Nations or regional organisations (AU, GCC, SADC, etc.), or 'international contact groups'. However, the degree of intervention is dependent on the scale of conflict and the political ambitions of external governments (that may be in conflict with each other). The Government of Somaliland, for instance, has never received formal international recognition.[3]

Table 1: Form of Transitional Government Likely to Arise Following Political Crises, Violent Conflict, or International Use of Force

	Incumbent-led caretaker government	Power-sharing government	Revolutionary government	Emergence of federal entities as transitional governments	International administration
Political Crises	X	X	X		
Violent Conflict		X	X	X	X
International Use of Force					X

2. Overview: Analysis of Transitional Arrangements

Transitional arrangements for peace processes or political transitions seek to provide a space of ongoing brokerage between opposed parties, often with the involvement of the international community.

The popularity of transitional arrangements is founded on their potential ability to overcome several systemic issues related to how to move from conflict, authoritarianism or social crisis, to a more stable democratic social order. These issues include:

► Lack of security and political guarantees;
► Lack of coherent structure for governance;
► Lack of legitimacy of existing legal and constitutional framework;
► The need for consultative reform processes before a political settlement can be achieved that is capable of defining the nature of the state and its institutions.

However, each stage – from initial negotiations to forming a transitional government, to establishing reform processes such as national dialogue or constituent assembly, or an electoral reform process – encounters several characteristic tensions:

► How should the transitional government and its arrangements be configured?
► What actors and groups need to be included or excluded in the transitional arrangements?
► When should elections be held?
► How can broad inclusion in reform processes be enabled alongside the need to avoid key political actors withdrawing?
► How can local ownership be balanced with international brokerage and support?

The transitional arrangements themselves will often embody some of these tensions. At times, such arrangements may exclude essential parties, for example as too intransigent or violent, or include powerholders that the transition is meant to replace.

Even when transitional arrangements are drafted to navigate these tensions, not all of the future problems can be anticipated and addressed. As PSRP research by Forster and Salmon shows, design of transitional arrangements will have been driven by political dynamics rather than 'good design'.[4]

The slightly negative conclusion from our research is that, in most cases, transitional arrangements will be unable to deal with most of these tensions, thus providing some easy targets for actors to de-legitimize the transition or justify their own departure from its governance and processes. More constructively, it is best to support such transitions from a position of understanding that 'adaptive management' will be needed. This means understanding that rigid formulae and timetables are likely to require modification over time. Approaching transitional arrangements as requiring 'adaptive management' and ongoing brokerage and re-brokerage, can usefully inform transition design to build-in capacity for this approach.

It may be useful for those involved in transition process design to think of the minimum institutional development that will need to be put in place at each stage of the transition, to enable forward momentum away from conflict, even if the transition is designed to be more ambitious and holistic.

3. Link Between the Transitional Instrument and Established Legal Frameworks

Legal instruments establishing transitional institutions and timelines can be situated on a spectrum of constitutionality, from adhering to existing provision with some 'tweaks' to permit transitional governance structures, to breaking and forming entirely new constitutional orders.[5] These options may be broken into four pathways. Table 2 visualises this spectrum in addition to providing examples of transitions that adhere to these typologies.

Table 2: Legal Options for Constituting Transitions [6]

Constitutionality	Transition Type	Explanation	Examples
Within the existing constitutional frame	Unilateral offer of reform process in response to unrest	Incumbent government responds to violent unrest by offering a form of transition: consultations, dialogue, inquiry, with a view to making a 'unilateral offer' of constitutional reform.	Bahrain 2000 [7]
	Negotiated sub-state peace or transition process	Negotiated agreement is carefully crafted within the constitutional space allowed by the national constitution, without the need to amend the existing order.	Philippines 2014
Constitutional amendment within the existing order	Negotiated peace or transition process	The existing constitution is properly amended under its amendment procedures to give effect to terms reached by negotiated peace/transition agreement so as to constitute the transition. Often contemplates a further constitution reform/making process during the transition.	South Africa 1993; Zimbabwe 2008
	Negotiated sub-state peace or transition process	The existing constitution is properly amended to give effect to terms reached by negotiated agreement with creation of sub-state transitional constitutional order.	Papua New Guinea 1994/98; Northern Ireland 1998 [8]

Constitutionality	Transition Type	Explanation	Examples
Other legal mechanism (context specific): ambiguous as to whether within and outside existing constitutional order	Negotiated peace or transition process	A peace or transition agreement uses executive orders, regulations or other legal modalities to enact the transition, ostensibly with the constitutional order still formally in place (implicitly or explicitly), although fundamentally revised without formal legal amendment. The constitution is usually targeted to be formally revised or replaced by the transition process itself.	Angola 1994/98; Comoros 2010; Gabon 1994; Honduras 2009; Lebanon 2008; Yemen 2011 [9]
Supra-constitutional amendment effected by the peace or transition agreement: outside existing order but leaving it partially in place	Negotiated sub-state peace or transition process	A negotiated peace agreement provides for a supra-constitutional deal (usually including power sharing or early elections) which is presented as a temporary adjustment to the constitution, parts of which are to remain in place, until the transition 'completes' and it can be restored in full, or reformed or replaced.	Algeria 1994; Liberia 1990/95; Liberia 2003, Mali 2012; Guinea 2010; Sierra Leone 1999; Togo 2006
Supra-constitutional replacement: outside existing order replacing it	Negotiated peace or transition process	When a new constitutional order is formulated using a peace agreement out-with the existing constitution and its amendment procedures.	Afghanistan 1992/93; Afghanistan 2001; Bosnia 1992/94; Burundi 2000/03; Cambodia 1990; DRC 2002/04; Ethiopia 1991; Iraq 2003/04; Libya 2011; Madagascar 2009; Rwanda 1992/93; Somalia 2000/04/12; South Sudan 2014/15

4. Managing Transitions: Key Elements to Address

4.1. Mediation

Who should mediate transitional arrangements and how is a balance between indigenous leadership and mediation and international mediation struck?

4.1.1. Options. Mediation options cannot be 'chosen' but will be dictated by the nature of the crisis triggering the transition, the particular contextual dynamics, the regional pressures, and the geopolitical dynamics. These factors will in practice dictate whether mediators are 'international', for example through UN Secretary General; groups of 'friends' (whom will also have their own geopolitical interests); close neighbours (whom may be directly affected by the crisis in terms of their own internal situation); non-governmental organisations or a range of 'informal' mediators; or are domestically led by local political leaders, or the main contenders to power (although it is rare for there to be no brokers or would-be brokers).

4.1.2. Tensions between outside mediation and internal dynamics. If the situation is one of violent conflict, external mediation of some form is almost always used. However, in situations of popular overthrow or uprising, international mediation can be more complicated and/or resisted by either or both sides. For those who wish to preserve an authoritarian status quo, mediation spells internationalisation and loss of control; for those who wish to see democracy 'sweep away' the authoritarian regime, even suggesting that a compromise is mediated can appear as external, and can be used to undermine the democratic movement. Both fears are valid. There are no magic answers or clear comparative lessons on how to best provide mediation support. Almost inevitably, internationalised diplomacy will be part of the picture, and inevitably external parties bring different reasons and approaches to mediation to their preferred outcome. Therefore, it is perhaps more important to recognise that the diplomatic level will require inter-international actor mediation strategies. The political dynamics of these international conversations will be closely related to conversations in-country and should be approached by trying to set parameters and principles for how international diplomacy should coordinate and offer support, in conversation with a range of in-country stakeholders.

4.2. Timeframes

From our research and examination of timelines, transitional arrangements are set in place for very different periods, and these timelines are subject to change.[10] Often the perceived electoral and democratic illegitimacy of the transitional government leads to short and rigid timelines being set out – particularly by high level diplomatic international negotiations.

There are some simple and perhaps obvious points that can nonetheless be made:

4.2.1. **The transitional period needs to be long enough to be able to achieve the reform agenda set out in the transition, and no longer.** Ambitious reform agendas require extended timeframes to realistically realise. This is often overlooked. The Sudanese transition (2005-2011) was planned to last for six years. Nepal, on the other hand, opted for an open-ended approach. The 2008 Zimbabwean transition was envisioned to be finalized before elections scheduled for 2013, thereby allowing actors time to implement the comprehensive constitutional reform agenda so as to try to ensure that these elections would see a smooth transfer of power. Another important factor is providing enough time for political forces to coalesce/re-group and potentially form parties – new political forces are rarely able to compete in environments often dominated by the ancien régime.

4.2.2. **Advantages to short timelines.** Short timelines are meant to incentivise parties to move forward and are often linked to attempts to resolve large-scale conflict and consolidate a fragile ceasefire. The theory is that without rapid forward movement in the transition process, violence is likely to return. Short time frames may also be driven by grand-scale international mediation approaches, which tend to try to work on rapid timelines and provide donors with an exit date, although this seldom works. Short timelines work best for very limited transitions. The shortest transitional arrangement lasted one month and sought to provide a short-term extra-constitutional pathway to solve the crisis resulting from the 2011 coup d'état in Mali.

4.2.3. Risks to short timelines. Generally, transitional arrangements collapse because they are too short, rather than too long. Often international actors or mediators lose face and undermine their own process as they set rigid timelines which must then be extended. The danger of a short timeline is that: (a) it may not provide enough time to build the type of social and political consensus for a new political settlement, and embed any elite deal in wider civic processes that this would require; and (b) it can incentivise parties to continue fighting because one party knows that they are likely to lose power in forthcoming elections, which will terminate the power-sharing arrangement. The Libyan Political Agreement (2015) originally provided for a '12+12'-month transition. When the deadline passed in December 2017, opposition actor, General Khalifa Haftar, immediately called the legality of transitional institutions into question to bolster his own position.[11] If extensions are needed, the reform processes that need to be extended 'should be 'detached' conceptually and politically from the rest of the process'.[12]

4.2.4. Advantages to long timelines. These can reassure parties that they will stay in power for a reasonable time, reducing incentives to violence. They can also enable broad and deep reform processes.
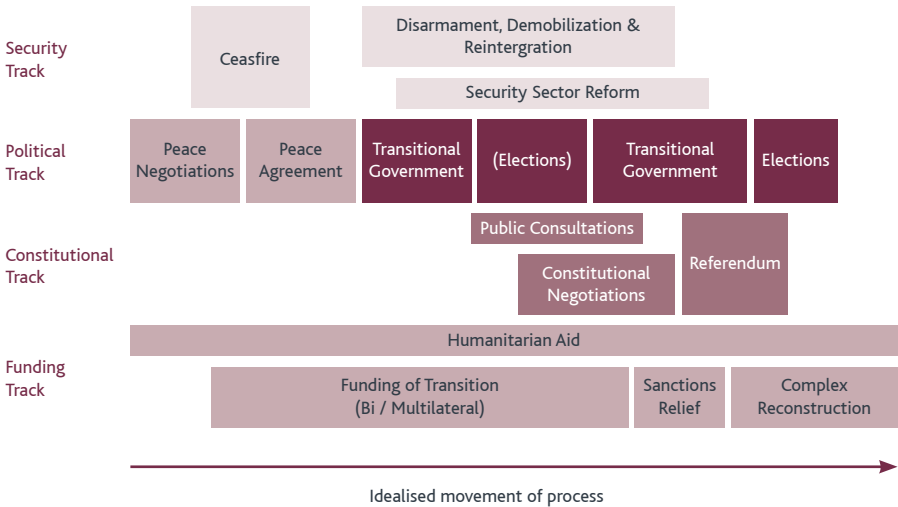
4.2.5. Risks to long timelines. Given that transitional governments mostly happen without and before elections, the longer the timeline, the longer a government with limited legitimacy is in place, and this legitimacy will decrease over time – particularly as reform processes prove slow and little change is seen on the ground. Alternatively, one actor – usually the most powerful and incumbent one – will be able to take advantage of the long transition to consolidate their power and gain advantages in the subsequent electoral process (lack of change on the ground being a key stumbling block for successful transitions) or consolidate its military victory over the other parties.[13] Transitions are 'moving targets' and the power balances that allow for the negotiation of transitional framework are apt to change quickly within a few months, with transitional arrangements coming under pressure to be revised.

4.2.6. Conclusion. Balancing risk and designing mitigation factors. Approaching timelines must therefore be done, in ways that attempt to balance the timeline against the scale of task, and understand and mitigate risks to whatever timeline is chosen as much as possible. The issue of timelines should perhaps be approached by considering how best to ensure some forward momentum to the process. This is likely to involve putting in place some timelines to inject a sense of pace, while retaining capacity to adapt timelines over time.

4.3. Important Elements to Address: Substantive

The question of what is important to address depends on the context, actor and civil society demands, and what issues underlay the political upheaval or armed conflict. There are certain elements that resonate across conflict types, but policy-makers should be wary of 'one size fits all'. Diagramme One below indicates an amalgamated 'idealised' transitional framework from violent conflict (akin to the transitions set out in Geneva Communique (Syria, 2011) and the GCC Initiative (Yemen, 2011)), but models in practice must be responsive to the risks and rewards of potential transitional mechanisms. It is also worth noting that in the model below the 'political track' is presented as distinct from other tracks, when in reality all the tracks are 'political', and really a three-dimensional diagramme in which all were overlayed rather than presented as on different tracks would be more accurate.

Diagramme One: Idealised Transition Sequence

Security Track		Ceasefire		Disarmament, Demobilization & Reintergration			
				Security Sector Reform			
Political Track	Peace Negotiations	Peace Agreement	Transitional Government	(Elections)	Transitional Government	Elections
Constitutional Track				Public Consultations	Referendum	
				Constitutional Negotiations		
Funding Track		Humanitarian Aid				
		Funding of Transition (Bi / Multilateral)		Sanctions Relief	Complex Reconstruction	

Idealised movement of process

Depending on the triggers of the conflict, typical reform agendas include:

4.3.1. Electoral process.
Electoral processes are often at the heart of allegations of lack of democracy and conflict, and have to be reformed and addressed, to ensure free and fair elections including modalities such as electoral commissions, political party laws, districting, and process timelines.

4.3.2. Constitution reform, replacement, or development.
Permanent constitutional revision to institutionalise any new political arrangements is often also part of a transition agenda for change. Research by Bell and Forster shows that constitutional changes during transition periods vary from adhering to existing constitutional orders, to breaking entirely from them and creating transitional arrangements based on supra-constitutional frameworks (Burundi 2000-2005; Democratic Republic of Congo 1999-2004; Sudan 2005-2011).[14] They also vary regarding the institutionalisation of rights protection, with supra-constitutional arrangements often including extensive human rights provisions. International legal standards are increasingly expected to guide interim arrangements, creating what is often referred to as 'legal internationalization'.[15]

4.3.3. Human rights.
An immediate risk in transitions, particularly those involving 'coup-like' features, is that public protest gives an excuse for abrogating key human rights protections (in fact this happened during the 'transition' instigated by Rhodesia's Unilateral Declaration of Independence in 1965 — while the constitution and the Supreme Court was kept in place, key rights were 'overridden' by emergency provisions). Association, movement, and the media are regularly the first freedoms to be subject to regulation. Incorporation of human rights can strengthen the position of non-aligned groups and women, and act as mechanisms for envisioning a more just future.[16]

4.3.4. Police and military reform.
Aimed at making human rights protections effective as well as building greater confidence in the military. Security sector reform regularly includes the restructuring and reassignment of army units, the integration of former combatants, training and greater checks and balances including civilian oversight and building of long-term civilian police services, over the long- and short-term.

4.3.5. Poverty and economic development: a feature often ignored by analysis on transitions. A lack of economic prospects is often a salient feature underlying crisis and used as a foil to rally support by incoming and incumbent politicians. The Democratic Republic of Congo's Sun City Agreement (2003) for instance, provides for an Emergency Social and Economic Programme to facilitate largescale infrastructure building, and the introduction of a financial system to benefit community initiatives, among other initiatives.[17]

4.3.6. Forming a new political settlement? Addressing the above matters as discrete matters will not necessarily enable a new political settlement, as in a new set of formal and informal understandings of the nature of the state and its institutional commitments to inclusion of groups on each side of political and identity divisions. Where society is deeply divided, ensuring that groups are accommodated politically may need to be part of the political solution, rather than expecting elections alone to institutionalise democracy.

4.3.7. Risks. It is important to note that while many of the matters above appear to be related to questions of 'good governance', reform of these areas in deeply divided societies are experienced as small or large ways of redistributing political power. Resistance to reform can therefore be expected, and international carrots and sticks in addition to strong civil society mobilisation are essential to implementing reform. Other approaches include:

▶ approaching matters as technical ones, even if they are not;
▶ helping to monitor and support space for civil society to mobilise and organise to generate ideas for change and reform;
▶ providing financial and political incentives to the government to engage in a meaningful reform process.

4.4. Transition without Transition

What if the transitional process is put in place without any real commitment of key actors to 'transition' to a new power structure? Sometimes governments may instigate reform processes in response to conflict or emerging social crisis, that fall short of a commitment to a comprehensive transition, but which begin to put in place forms of transitional process.[18]

There may be 'no process'. Crisis may result in power remaining in the hands of the incumbents. Nonetheless, a leader seeking to unite and reform a country, or more cynically stave off wider democratic claims, may instigate a 'unilateral' transition in recognition that there is pressure for reform. There are several ways to do this.

4.4.1. Unilateral reform. It is possible to set up reform processes which completes previous 'reform processes'. These initiatives often include an 'opening' of power to opposition groups through absorption into parliament, as well as robust commitments to social and especially economic reform. Previous examples are most often found in rentier states, such as Algeria (1992-2004) and Bahrain (2000). This can involve establishing committees, task forces, or similar bodies, to take forward consultations and a reform agenda. The level of transparency of how these tasks are taken forward is indicative of good will.

4.4.2. Commission of Inquiry. In Bahrain, a reform process was instigated by establishing a Commission of Inquiry that set out a reform agenda-for-change and was able to consult widely in a way the government itself would not have done, even though one of the government's agendas would likely have been to limit transition by offering only limited reform. While problematic, meaning also that the implementation process floundered, this was an interesting model of transition in which the project of defining what problems are needed and what type of reform or transition process might meet those needs, was essentially 'tendered out'. This enabled the government not to secede power to opponents who sought to replace it, while engaging an independent reform inquiry.

4.4.3. National Dialogue. Another potential mechanism of reform is the use of a National Dialogue as a means of airing grievances and proposing solutions. Popularised during the 1990s in West African states, National Dialogues provide a useful non-institutional forum for representatives that may be elected, appointed, or both. Representatives then agree to a series of principles that may be incorporated into a new constitution,[20] or agree on a transition roadmap.[21] However, National Dialogues can also be a way that governments uncommitted to meaningful change kick reform projects into the long grass while appearing to engage with them.

4.4.4. Vountarily constructing a broader transition: transitional government of national unity. It is also possible to agree voluntarily, or under political pressure, to a power-sharing brokered transition and have it map out a new agenda for change. If such a process was agreed, then standard process matters need to be clarified:

► Who is to be in the government?
► What is the legal framework for the transition?
► What is the timeline for transition?
► What processes are to be put in place, to deal with which issues?

5. Managing Trade-offs: Transitions as Bridges

As any transitional moment moves forward there will be trade-offs that arise which international actors can seek to help domestic actors manage.[22] The impacts of how these trade-offs are handled will in most cases have long-term consequences.[23]

5.1. Transitions as Bridges: Streamlining Versus Overloading

5.1.1. Transitional arrangements. Are sometimes described as bridges which are meant to lead to a destination rather than be the destination.[24] A careful cost-benefit has to be undertaken by all those involved in relation to choosing the scope of reform attempted during a transitional governance period. It is tempting to include as many reforms and processes as possible to ensure a comprehensive and 'complete' process and maximize future democratic legitimacy. However, reform processes take time, and completing multiple reform processes against a tight timetable is very difficult to achieve in practice. Transitional arrangements tend to 'balloon' as the need to achieve one goal, expands into a series of related reform tasks. For instance, the need for elections may include a re-do of technical requirements such as a national census, the drawing of electoral boundaries and so forth.

Further, the interconnectedness of reform processes means that the more 'spaces' that open up during a transition — whether as a mechanism, a process, or an office or institution — the more 'spaces' are available for deadlock or delay that may threaten the process. The need to 'not overload' the 'bridge', however, also needs to be balanced with the desire for true reform. Any negotiated document will often become the framework for the transition — anything left off the agenda may therefore not be addressed and threaten inclusivity or limit the opportunity for genuine reform.

5.2. Elite versus popular process. There is a tension between moving quickly to institutionalise some change during a window of opportunity for elite buy-in, and taking time to consult and try to re-establish a social contract — which requires broader consultative processes which take time. De Groof finds that commitment to inclusive transitions is now the rule rather than the exception, inclusivity having been emphasised since 1994.[25]

5.3. Military versus civil-led transition. In many states, the military are independent political actors. They will often be tied up with either the past regime, as part of the status quo ante, or may have been instrumental in its overthrow. They may be able to credibly argue that they are one of the only forces able to bring stability. Either way, the military will often assert a key role in transitional governments. However, military councils have a history of eroding human rights as a means of reaching their aims. Moreover, the recruitment practices of militaries may favour certain segments of a society along ethnic, tribal, territorial, or sectarian lines.

Depending on the crisis type, civilian bodies may be underdeveloped or too fragmented to assert power to govern effectively. This is more common in post-war or post-authoritarian transitions, rather than political crisis resulting from problematic elections, deadlock in parliament, or similar. Alliances between civil political parties and the military parties also complicate governance and lead to the balance of power shifting to one party and potential for exclusion. In the case of Madagascar, international engagement was effective at disciplining diverging parties. Given the capacity of interim arrangements to become 'sticky' – that is to remain in place long-term, or to circumscribe and enable transitional incumbents to win subsequent elections and remain in power – the balance between military and civilian shares of government during the transition has a longer-term significance because it can create 'pathway dependences' for the political settlement that emerges.

5.4. Constitutional reform process: backwards reform versus progressive status quo?

Constitutional reform is not always necessary for the success of a transition. Some transitional arrangements explicitly state that the constitution shall remain as it is, despite its inability to provide for the transition itself. This is often where conflict or social rupture is considered to have been a constitutional departure, and the purpose of the transition is to return to the constitutional order. The 2003 Comprehensive Agreement in Liberia for instance, recognised its own status as temporary and extra-constitutional, and asserted the need to return to the constitutional order rather than re-define it. Constitutions can become foils around which some political actors encourage divisive politics for their own gain. The amount of time dedicated to constitutional reform provides an extended window for such opportunities. However, in other contexts where the past constitutional order is viewed as unjust, the symbolism of constitutional reform is salient as a 'new beginning', particularly when replacing constitutions written or underpinning illegitimate regimes. In such scenarios, the constitutional drafting process may form a point of pride. Moreover, in many cases constitutional reform provides an opportunity to define the rules of institutional structures and checks and balances – which are often the most rigorously debated aspects of transitions.

5.5. When and how to engage in security sector reform.

When the military is an independent political actor at the genesis of the transition, they are likely to remain so throughout the process. They will need to be treated as a political actor to be negotiated with, rather than an institution that the political actors or international technocrats can simply 'reform'. This reality may need to shape the pace and nature of reform. Incorporating parallel security institutions is essential as a means of mitigating spoilers.[26] Often transitions aim to incorporate different armed actors in state institutions, for example through parallel institutions rather than genuinely shared institutions. There parallel institutions can accommodate group identities and ties and networks based on personal loyalties, clientelism, kinship, tribal, clan or ethnic networks. They can be accommodated as special batallions, for example, within institutions such as the military. Incorporating them must be undertaken gradually to avoid backlash and disrupting the balance of power too quickly, and stands somewhat in tension with the longer-term imperative to reduce the scale of the military, and bring them under forms of civilian oversight and democratic control.

5.6. When to put in place international funds and lift sanctions with a view to helping immediate economic stabilisation and alleviation of suffering. While any transition process will need to address how it is funded as a matter of urgency, international funds have a form of leverage and should not be used to prop up a government unwilling to reform.[27] Moving too early to support without credible reform processes can be dangerous, but letting a poor economic situation become catastrophic will also undermine any attempt at social change (the latter was a prominent factor in the collapse of the GCC Initiative in Yemen). See further Salmon 2020.

5.7. Timing of elections. The short-term/long-term risks need to be managed as outlined above. Whichever party thinks it can win will have an incentive to move forward quickly, and the other party will have an interest in delaying. International and domestic actors will need to decide whether to move forward robustly in supporting elections and monitoring that these are credibly 'free and fair'. There is a direct trade-off in this situation between delaying the elections to engage in a longer period of reform, and the damage to democracy that the act of suspending elections with someone who is in the Presidential role without an election can do.[28]

5.8. Land reform. Often on transitional agendas, land reform manifests in context-specific ways. In the aftermath of conflict, land rights often focus on reclaiming land owned by returning displaced persons and refugees, such as in the Dayton Peace Agreement in Bosnia and Herzegovina.[29] Alternatively, longer term processes may involve navigating the issue of reconstruction, land ownership, and the de facto claims made by those displaced by conflict who may live in properties they purchased or rent but under unclear legal circumstances, such as during the 1990s in Beirut, Lebanon.[30]

5.9. Transitional justice. There may sometimes be pressure for some accounting for the authoritarian regime, or for conflict violence during the transitional period. Some of PSRP's other publications address ways to deal with the past. Transitional justice measures raise the usual issues of whether accountability might undermine any power-sharing or cooperative arrangements necessary to transition. De Groof shows that recent state practice 'confirms the conviction that transitional justice [...] is a part and parcel of [transitional government]'.[31]

5.10. Implementation Bodies. Transitions must often provide for ongoing transition momentum. Review or reform by providing for either a 'joint' implementation body, a neutral implementation body, or a monitoring entity. When sequencing transitions, mediators and political actors are dealing with a political environment with many unknown possibilities and a weakness of comprehensive transitional arrangements is the inability to mobilize or reform fast enough to deal with these issues as they arise. Strong implementation bodies can help to address this issue.

5.11. The role of international actors. In his report, Salmon (2020) highlights how international actors - states, international organisations, regional organisations, international financial institutions, and non-state actors – play a key role in implementing and stabilising interim governments and the reform processes which form a part of the transitional arrangements. International support can influence national protagonists through providing additional resources. International actors do this mainly through:

5.11.1. Political support. To access international political, financial, and peacekeeping architecture which lends aspects of sovereignty to national governments, transitional administrations require formal political support from other states. Simultaneously, international actors are equally a source of deterrence through mechanisms such as sanctions and military actions. See further Salmon 2020.

5.11.2. Technical support. Sharing of knowledge and comparative experience with the aim to build capacity of national systems. Often technical support also aims to ensure alignment with international standards.

5.11.3. Financial support. Often the primary focus for international support, most commonly reported as Official Development Assistance (ODA). International financial support is not always fit for purpose, and there is specifically a need for medium-term financial support equipped to manage shocks. See further Salmon 2020.

To be successful, Salmon suggests international actors engaged in transition arrangement must: (1) ensure 'effective' domestic ownership of the transition; (2) ensure the build-up and stability of international coalitions; (3) ensure effective coordination of international support; and (4) engage with the need for 'sequencing' when deciding on priorities for resources and support amongst the different 'tracks' of the transitions.[32]

6. Key Areas of Contention

Each transition has specific areas in which there is more political competition which must be managed over time. Efforts and negotiations to produce interim arrangements are most prominently focused on access to power and the shape of executive and legislative institutions.

6.1. The Form of Executive Offices: Options for Power-sharing

There are multiple options for how to form executive or interim governments. During peace processes, most executives opt to divide power and decision-making between executive institutions, such as the President as head of state and the Prime Minister as head of government. In positive terms, this means that decisions must be made by consensus and neither party may make unilateral decisions. More commonly, however, this often leads to deadlock between the institutions. It is therefore important to try to include tie-breaking mechanisms, ideally using institutions one step removed from political actors, even though they will struggle to assert political leverage in practice.

Positions within the executive will almost always be contested and often revolve around access to benefits, including access to resources.

6.1.1. Presidential systems: the head of the strongest party (usually the incumbent) is President, and the head of the opposition is made Vice President. This was the decision in South Sudan in the arrangement between Salva Kiir and Riek Machar. When there are multiple groups to be incorporated into government, there is regularly more than one deputy or vice-president in place. In the DRC, the 2002 Pretoria Agreement provided for four Vice-Presidents from each of the major armed groups.

In a federal republic, Presidents may be selected on a rotational basis from different regions. The 1999 Accords d'Antananarivo in Comoros sets out a three-year rotational presidency between the three major Islands. Lebanon's confessional system, on the other hand, is centred around the three major religious sects, whereby the President is a Maronite Christian, the speaker of the parliament, a Shia Muslim, and the Prime Minister, a Sunni Muslim.

6.1.2. Semi-Presidential systems: the strongest party is made head of state (President), whereas the head of the opposition becomes head of government (Prime Minister). Both parties thereby form the cabinet by consensus. This occurred in Afghanistan in the 1993 Islamabad Agreement and in the Libreville Agreement (2013) in the Central African Republic.

The head of government appoints the prime minister and then together they form the cabinet by consensus. The effectiveness of these arrangements depends on the balance of power. The Transitional National Charter (2013) from the Central African Republic centralizes power with the Presidency compared to previous agreements, but nonetheless provides some checks that worked when the President was forced to step down a year later. On the other hand, when power is stacked against the incumbent, he may be forced to select an opposition member as head of government, as was the case laid out in the 2003 Linas-Marcoussis Agreement in Cote d'Ivoire.

6.1.3. Executive Councils:
▶   May be present in both presidential and semi-presidential systems.
▶   Usually involve 3 to 9 members including a Head, Deputies and Members.

The number of members in a presidential council is meant to ensure consensus decision-making by the executive. However, it is often disputed how many members there should be and how to divide power.

Liberia (1991-1996): A Council of State (presidential council) first contained five members and struggled to balance power between the various factions in a way that ensured mutual vulnerability (and an inability of one group to dominate). Reform of the Council in subsequent agreements sought to reflect the increased factionalization of the conflict parties. Eventually in 1995, the Council was expanded to include six individuals and unaligned (non-armed) representatives to balance the power and form a tie-breaker between the armed groups.[33] This last model was the most successful and a peaceful transfer of power took place in 1997 before conflict re-erupted two years later.

Libya (2015): The Presidential Council included nine members affiliated with the two major blocks as well as technocrats.[34] The legitimacy of Council was called in question and members of the eastern bloc were fired after failing to come to work. The shape of the Council was subsequently one of the main points of contention until a vote to unanimously reform the Council in late 2018.[35]

Madagascar (2009): not an official Presidential Council, but the appointment of two co-Presidents in addition to the President himself after a unilateral attempt to form government. This arrangement was not implemented.

6.2. Criteria for Contesting Elections

Who gets to stand for election is often a point of contention. Criteria for inclusion/ exclusion of candidates may often appear arbitrary. Among criteria used to attempt to limit candidates include:

▶ whether candidates have lived in the country for the requisite amount of time;
▶ whether the candidates have previously held office;
▶ whether the candidate was born in the country or hold another nationality;
▶ whether the candidate has been affiliated with illegal groups;
▶ whether the candidate has been sentenced for previous crimes (corruption/war crimes).

These criteria may also be extended to close family members to limit them from running for office.

6.3. The Form and Offices that Make up the Cabinet, and Who Gets Which Seat

If the parties are unable to decide on who should occupy positions within the cabinet, the process may deadlock. Agreements from the Malagasy (Madagascar) transition (2009-2013) have cabinet positions conspicuously empty and attempts to unilaterally form government sparked renewed cycles of crisis.[36]

Fewer agreements contain mechanisms for how cabinet positions may be filled although there are exceptions (see for example the Revitalised Agreement on the Resolution of the Conflict in the Republic of South Sudan, 11 September 2018[37]).

6.4. Power-sharing and Expansion of the Legislature

Negotiation of the legislature is usually secondary to the executive, but may nonetheless represent a point of contention (see Table 3). Sometimes the effective collapse of state institutions and the short timeline contemplated for transition means that no legislature is provided for and the question of the legislature is just left suspended. However, where a legislature is provided for, there are four main options of constituting it: [38]

(1) The legislature from the pre-transitional period continues in current or slightly altered form.[39]
(2) Appoint a legislature, based on a selection mechanism that ensures greater diversity.[40]
(3) Convert another elected body into the legislature, for instance converting an elected constituent assembly into a temporary parliamentary legislature.[41]
(4) Elect a transitional legislature.[42]

These options may be changed and mixed as institutional circumstances allow.

Table 3: Negotiation of the Legislature during the Liberian Peace Process, 1989-2003

Final Statement from the All-Liberian National Conference, 1991	Cotonou Agreement, 1993	Akosombo Agreement, 1994	Comprehensive Peace Agreement, 2003
• 26 seats for the 13 counties (half from Gbarnga Assembly and half from Monrovia Assembly). • 12 seats for the 6 political parties. • 6 seats for the NPFL. • 5 seats for the Independent National Patriotic Front of Liberia (INPFL). • 2 seats for interest groups.	• 13 seats for the Interim Government of National Unity (ECOWAS supported). • 13 seats for NPFL. • 9 seats for ULIMO.	• 13 seats for the Interim Government of National Unity (ECOWAS supported). • 13 seats for NPFL. • 9 seats for ULIMO. • 13 seats for Eminent Liberians (one from each county selected by Ministry of Internal Affairs).	• 15 seats for the 15 counties. • 12 seats for Government of Liberia (Taylor). • 12 seats for the Movement for Democracy in Liberia (MODEL). • 12 seats for the Liberians United for Reconciliation and Democracy (LURD). • 18 seats for the political parties. • 7 seats for civil society and interest groups.

6.5. Decision-making in Transitional Institutions

Transitional institutions regularly face deadlock. Some transitional arrangements provide for dispute resolution mechanisms and other means of avoiding deadlock. Incorporating dispute resolution management mechanisms into reform processes, especially reform processes which are likely to need extensions beyond original timelines such as formation of government (see Section 4.2 above), is key to adaptive management of interim arrangements.[43] Article VI of the Lome Accord in Sierra Leone[44] provided for a Commission for the Consolidation of Peace, with a set of 9 sub-commissions (for example, joint monitoring commission), and to be comprised of two representatives of civil society, one representative named by the Government and the Revolutionary United Front (RUF/SL).[45]

Another tactic is to attempt to avoid deadlocks through institutional design. As noted in the Liberian example of the Council of State mentioned above, this may involve a complicated political 'dead reckoning' in attempting to design an institution whereby conflict parties are evenly matched and have a 'civilian' arbiter as a tie breaker — in the Liberian case in the form of the individuals from academia/civil society, for example Wilton Sankawolo and Ruth Perry. These balances, however, are time sensitive and often will not be able to remain even for sustained periods of time.

Other dispute mechanisms include:

- ▶ Decision in a joint meeting between President and Cabinet[46]
- ▶ Referral to the co-chairmen (of Presidency Council), who makes a binding decision[47]
- ▶ Interpretations by an Apex Court (constitutional/supreme)[48]
- ▶ Apex courts may also be involved at the request of specific offices,[49] or a qualified minority (25%) of legislative members[50]
- ▶ Mediation by the legislature[51]
- ▶ The creation of special commissions, such as the Council of Elders and Religious Leaders[52] or a Joint Committee, possibly with a neutral arbiter such as the United Nations[53]
- ▶ Allowing one office to act as the tiebreaker, such as the President[54]

6.6. Amnesty and Transitional Justice

Amnesties feature regularly into transitional arrangements, particularly those following armed conflict or coup d'états, whereby one party fears potential legal retribution for actions committed as part of the process. 24 percent of transitional arrangements contain provisions related to amnesty. However, if a transitional arrangement falls apart, this issue becomes more pertinent, particularly in relation to which office can grant amnesties (thereby reflecting the issue of who holds executive power more generally). Transitional justice measures which attempt to both account for the repression of the past, but also 'decriminalise' those who were criminalized by an authoritarian regime for oppositional activities, is often also an issue to be addressed in transition.[55]

7. Conclusion: the Difficulties of Ending Transition

Transitional processes can be put in place and over time lead to elections that, formally heralding an 'end' to transition. For this to happen a number of factors have to be in place:

- ▶ a stable interim governance arrangement;
- ▶ credible processes of reform; and
- ▶ the joint commitment of all the main political forces.

If any of these are lacking, the transition is unlikely to complete, or to complete without violence.

However, even when the transition successfully moves through a phase of elections, a transition is seldom over, but can better be viewed as starting what is likely to be a slow process of democratic development for which some ongoing longer-term reform processes will be needed.

A final central trade-off, often neglected by the international community, is whether permanent 'group' power-sharing solutions are needed in deeply divided societies, where electoral loyalties align with groups rather than being open to different political choices over time. In other words, what type of political settlement would enable ongoing 'buy-in' from government and opposition forces, and enable peaceful transfers of power at moments of elections? What type of public commitment to any new arrangement could be built?

Transition is never over, so thinking when and how to have these longer more difficult discussions even where the answer is uncertain, would be useful.

Resources

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Appendix: Comparative Sequences

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2   Adapted from Yossi Shain and Juan J. Linz, eds., *Between States: Interim Governments in
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     institutions-for-long-lasting-peace

3   Claire Felter, 'Somaliland: The Horn of Africa's Breakaway State', *Council on Foreign Relations,*
     1 February 2018, https://www.cfr.org/backgrounder/somaliland-horn-africas-breakaway-state

4   Forster, 'Interim Governance Arrangements in Post-Conflict and Fragile Settings'; Jago Salmon,
     'Moving from Conflict: The Role of International Actors in Transition Management' (Political
     Settlement Research Programme, University of Edinburgh, 2020)
     https://www.politicalsettlements.org/publications-database/moving-from-conflict-the-role-of-
     international-actors-in-transition-management/

5   Christine Bell and Robert Forster, 'Constituting transitions: Predicting unpredictability' in
     Emmanuel De Groof and Micha Wiebusch (eds.), *International Law and Transitional Governance:
     Critical Perspectives* (Abingdon: Routledge, 2020), pp. 36-37

6   Findings based on analysis of 89 documents establishing negotiated transitional arrangements
     (including subsequent amending documents) identified on PA-X version 1 (2018),
     www.peaceagreements.eu

7   Technically the 1973 Bahraini Constitution was suspended.

8   De facto amendment because the United Kingdom has an unwritten constitution.

9   Yemen's GCC Initiative (2011) is interestingly constituted by both executive order (Presidential
     Decree No. 24) and, arguably, by UN Security Council (UNSC) Resolution 2014. Similarly, Article 56
     of the Libyan Political Agreement, signed December 17, 2015, calls for the UNSC to endorse
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10   Bell and Forster, 'Constituting Transitions: Predicting Unpredictability', supra.

11   Al Jazeera English, 'Haftar: Libya's UN-Backed Government's Mandate Obsolete', December 18, 2017, https://www.aljazeera.com/news/2017/12/haftar-libya-backed-government-mandate-obsolete-171218064242570.html

12   Forster, 'Interim Governance Arrangements in Post-Conflict and Fragile Settings', p. 26.

13   Ibid.

14   Christine Bell and Robert Forster, 'Constituting transitions: Predicting unpredictability', supra.

15   Emmanuel De Groof, 'The Features of Transitional Governance Today' (Political Settlements Research Programme, University of Edinburgh, 2019), https://www.politicalsettlements.org/publications-database/features-of-transitional-governance-today/

16   Ibid.

17   Democratic Republic of Congo, "Sun City Agreement," April 2, 2003, https://www.peaceagreements.org/view/404/

18   Christine Bell, Juline Beaujouan, Tim Epple, and Robert Wilson, 'State responses to social unrest: Pathways out of crisis', (Political Settlement Research Programme, 2021), https://www.politicalsettlements.org/publications- database/state-responses-to-social-unrest-pathways-out-of-crisis/

19   See the work of the Inclusive Peace led by Thania Paffenholz, https://www.inclusivepeace.org/

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22   See further Salmon, 'Moving From Conflict', supra.

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24   Forster, 'Interim Governance Arrangements in Post Conflict and Fragile Settings', supra.

25   De Groof 'The Features of Transitional Governance Today', pp. 27-33.

26   Strasheim, 'Interim Governments and the Stability of Peace', pp. 252-256.

27   Jago Salmon, 'Moving from Conflict' supra.

28   Underwood, Bisarya, and Zulueta-Fülscher, *Interactions between Elections and Constitution-Building Processes in Fragile and Conflict-affected States* (International IDEA/Political Settlements Research Programme, 2018), https://www.politicalsettlements.org/publications-database/interactions-between-elections-and-constitution-building-processes-in-fragile-and-conflict-affected-states/

29   See Annex 7 in Bosnia and Herzegovina, 'General Framework Agreement for Peace in Bosnia and Herzegovina (Dayton Peace Agreement)', November 21, 1995, https://www.peaceagreements.org/view/389/

30   Aseel Sawalha, '"Healing the Wounds of War": Placing the War-displaced in Post-war Beirut', in Jane Schneider and Ida Susser (eds.), *Wounded Cities: Destruction and Reconstruction in a Globalised World* (London: Bloomsbury Academic, 2003), pp. 271-290.

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33   Liberia, 'Abuja Peace Agreement to Supplement the Cotonou and Akosombo Agreements as Subsequently Clarified by the Accra Agreement', 19 August 1995, https://peaceagreements.org/masterdocument/194; Liberia, 'Supplement to the Abuja Accord', 17 August 1996, https://peaceagreements.org/masterdocument/551

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