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# Interim Governance Arrangements in Post-Conflict and Fragile Settings

Sixth Edinburgh Dialogue on Post-Conflict Constitution-Building, 2019



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Sixth Edinburgh Dialogue on Post-Conflict Constitution-Building, 2019

Robert Forster

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## Summary

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On 9–10 December 2019, International IDEA—together with the Edinburgh Centre for Constitutional Law, the Global Justice Academy and the Political Settlements Research Programme at the University of Edinburgh, and with financial support from the UK Foreign, Commonwealth & Development Office (FCDO)—hosted the Sixth Edinburgh Dialogue on Post-Conflict Constitution-Building. The Edinburgh Dialogue is an annual event that brings together experts and practitioners from the fields of constitution-building, conflict resolution and mediation to advance research on a specific issue in post-conflict constitution-building. The topic of this year’s Edinburgh Dialogue was ‘Interim Governance Arrangements in Post-Conflict and Fragile Settings’.

This Report provides an understanding of how temporary governance during major political transitions is structured and how it works in practice. Interim governance arrangements are 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 an un-constitutional rupture), with the aim of restoring constitutional order through new or revised institutions (De Groof and Wiebusch 2020: 1–2). During transitional periods, interim governance arrangements are critical, delicate, and prone to collapse. There are numerous cases where arrangements have stalled (e.g. South Sudan 2015–ongoing), been overtaken by the emergence of a new conflict (e.g. Yemen 2014–ongoing), or relapsed back into the former conflict (e.g. Rwanda 1993). When designing and implementing interim governance arrangements, the following aspects are considered important:

1. Interim governance arrangements are an institutional framework established to create a ‘bridge’ from political or violent crisis often situated in an authoritarian past, towards a more peaceful, inclusive and democratic government. As a bridge to a more permanent set of governance and constitutional arrangements, interim arrangements are not intended to be a destination. Their design must reflect realistic expectations as to what can be achieved using impermanent arrangements. It is important, for example, that decisions on the inclusivity of participation and the comprehensiveness of reforms be balanced against the need to not ‘overload’ the bridge and collapse the transition.
2. While the design of interim arrangements is context-specific with broad variation, such arrangements usually contain three components: (a) the formation of a power-sharing government between key stakeholders; (b) a commitment to the suspension of

- hostilities; and (c) a mechanism through which power is transferred to a post-transition government (usually via elections).
3. These three functions are often situated within four themed ‘tracks’ that the transition may address:
    - A **political track** provides for the formation of an interim government tasked with governing during the transition and with putting in place the reform processes.
    - A **security track** includes enforcement of the ceasefire, disarmament, demobilization and reintegration (DDR) mechanisms for armed actors, and security sector reform (SSR) of state forces, including a potential merger of forces and military command structures.
    - A **constitutional track** provides for legal and constitutional reforms including establishing processes of public consultation.
    - An **economic track** provides for externally-driven funding of the transition.
  4. In a transition, each component forms an arena of intense competition between political-military elites that is subject to scrutiny by domestic and international stakeholders. Public assessments of the inclusivity and the ‘fairness’ of decision-making have an impact on the legitimacy of the process. Each component introduced into the transition, therefore, introduces a degree of vulnerability, since the transition’s tracks are inter-related and developments in one area are likely to impact developments elsewhere. Progress in a transitional reform process may, for instance, build momentum and contribute to breaking a deadlock within the political transition. However, deadlock in one area of the transition can also act to stall progress overall.
  5. Considerations of ‘good design’ often play a minor role in the shaping of interim institutions and agreements on reform processes. Rather, the drivers of the reform processes depend on the logic of negotiations between stakeholders and can be affected by structural factors which must be continuously managed. These factors include:
    - The balance of power between stakeholders;
    - The strength of existing institutions;
    - The nature of the crisis sparking the transition;
    - The need for symbolic change;
    - The nature of the political negotiation process;
    - The pre-existing legal frameworks.
  6. Interim governance arrangements can be national or arise at the sub-state level. Sub-state interim governance arrangements are adopted in territorial conflicts where they operate as a mechanism to establish new sub-state political settlements. However, sub-state interim arrangements are constrained by the ‘constitutional space’ offered by the central state’s constitution, which may limit the design of both interim and permanent governance arrangements at the sub-state level and even lead to them being challenged in courts.

7. International actors play a critical role in the implementation and stabilization of interim governments and reform processes through international recognition, as well as through offering technical support, political support and military assistance, and financing the transition. A critical issue requiring better approaches is the question of funding of the transition. Paradoxically, interim governments often must use short-term project-based funding and will lack the track-record needed to access stable long-term funding from development finance instruments.
8. The temporary aspect of interim arrangements contrasts with the long-term impacts of the decisions taken and the institutional structures established during the transitional period. The interim period is a moment of intense political competition between stakeholders attempting to ensure their access to state resources, to guarantee their political survival, and to provide a means of influencing ongoing and future state agendas. The high stakes mean that the entire process is vulnerable to commitment problems as stakeholders hedge against the process in order to improve their respective bargaining positions in the future, or as new armed actors try to assert a place in the transitional structures. A number of key tensions need to be handled: These include:
  - Inclusion: How to balance the inclusion of political-military elites and ‘deal-making’ necessary to stability with broader civic participation and deliberation necessary to sustaining the transition over time.
  - Sequencing: How to manage the relationship between reform tracks in a logical sequence that responds also to local political realities
  - Security: How to address security challenges of both demobilizing existing violence and stopping new groups entering the fray during transition.
9. In addition, a number of stumbling blocks to the progress of transition typically need to be navigated. These include:
  - Difficulties forming the power-sharing government
  - Unclear and overlapping mandates for transitional institutions
  - Timelines which are unrealistic or cannot be achieved and need breached
  - The difficulty of managing ‘transitions within transitions’ as one process stalls and a new interim governance arrangement seeks to replace it.
  - Interim governance actors being unprepared to exit power at the end of transition and working to subvert or lengthen the transition.
  - Public disaffection and loss of legitimacy due to the absence of on-the-ground impact.
  - Difficulties of delay, extension and postponement.
  - Challenges of ‘adaptive management’ as the transition unfolds and the need to address new and changing contexts.
10. Finally, there are a number of critical decisions that need to be made if these stumbling blocks are to be avoided or managed. These include:
  - Prioritizing the formation of inclusive interim governance bodies with clear decision-making and deliberation modalities.



- Separating out agenda items that can be dealt with by existing institutions and processes, or will continue after the end of the formal transition period, and timetabling these reforms accordingly.
- Agreeing on realistic and credible dispute resolution mechanisms.
- Being realistic about transition timetables, that they are not so short and inflexible that they are unrealistic and have to be breached, and not so long that momentum and public buy-in is lost.
- Making sure that actors with commitments to reform are adequately funded to support the transition to deliver.
- Remaining open to adaptive management and recognize and set up modalities of ongoing mediation to keep re-connecting civic reform processes with political bargaining processes, and vice versa.

## 1. A bridge from crisis

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Interim governance arrangements are an institutional framework established to create a ‘bridge’ from a situation of governance that has been interrupted by political or violent crisis often situated in an authoritarian past, towards a more peaceful, inclusive and democratic government.<sup>1</sup> Consisting of a body or set of bodies, usually in the form of an unelected government, and tasked with overseeing a set of reform processes, interim governance arrangements have been a common feature of peace and transition processes since 1990 and have often been the go-to solution for moving from political crises towards a new or revised political settlement (Strasheim 2014; see Annex A for a list of states with interim governance arrangements).

There is a perception among practitioners that peace processes and interim governance arrangements are becoming increasingly complex and include more issues, sub-processes, tasks, and interim bodies than they did during the 1990s. However, while some of the most intricate and fraught contemporary peace processes are based on interim governance with multiple reform processes, the scope of such arrangements still vary widely, and transitional periods can last from a few weeks to several years. Reasons behind the variation in the length of transitional periods include the number of necessary tasks required to be accomplished in order to prepare for adequately free and fair elections, as well as other structural factors explored in greater detail in this report.

The bridge metaphor for interim governance arrangements captures the idea of the transition as a way of moving from one situation to another, while leaving the nature of the transition open to include:

- supporting the move from conflict to an absence of conflict;
- enabling the transition from illegitimate to (more) legitimate governance;
- providing breathing space in which to agree to a more permanent constitutional settlement; and
- offering a framework for ‘ordinary’ governance while other reform processes occur.

Most interim arrangements attempt to achieve several of the above list of aims simultaneously. However, the interim period also creates a new political ‘field’ in which stakeholders continue to compete for their preferred version of the future state to emerge post-transition. In the case of the ongoing Sudanese transition, for instance, tensions emerged between urban protesters that ‘strive to establish civil-rights based rule’ and those residing in conflict zones that ‘prioritise achieving peace and security and ending regional marginalization’ (Mustasilta 2019: 4). Interim governance arrangements therefore bear the

heavy responsibility of having to continue to broker and build agreement over the nature of the state in the face of competing visions for the country.

### 1.1. The components of interim governance arrangements

Interim governance arrangements have three main elements: (a) the temporary body or set of bodies responsible for governing the country in the interim period; (b) the reform processes to be overseen by these bodies to provide the conditions necessary to end the transition; and (c) a specified transitional period, often with clear time limits.

Interim governance bodies, usually with forms of power-sharing between the opposing sides in the conflict, are often the central component of the transition. The structure, membership and portfolios of such bodies are subject to intense negotiations among competing stakeholders. The formation and consolidation of the interim executive is often one of the first tasks undertaken in a transitional process just after a ceasefire. Membership, decision-making functions and institutional linkages are heavily contested since they provide members with access to power, state resources, esteem and political relevance. At their most basic, interim governance bodies are responsible for two main areas: first, the continuation of state administrative functions; second, the implementation of agreed reform processes (Strasheim 2014). Basic state functions include the management, provision and facilitation of law and order (e.g. the courts and police forces), ensuring the provision of goods and services (e.g. water, electricity, waste disposal, reconstruction efforts) and international representation, which has an impact on the ability of the state to secure funding through multilateral financial architecture. The full list of these functions, and whether there is a hierarchy among them, is heavily debated (see Herbert 2014: 2–3). Transitional legislatures may be established. However, many transitions limit their focus to the establishment of an executive, leaving the legislature in abeyance. Competition over membership and structure of the executive means many interim governance bodies fail to be formed or become deadlocked.

There are many variations in the structure of interim governance bodies—all involving modes of power-sharing between the key stakeholders in the conflict. The most common model is an unelected power-sharing ‘unity’ government, where seats are divided between domestic stakeholders (most commonly the largest conflict actors). In semi-presidential systems, power-sharing is often characterized by instating the incumbent leader as president and the opposition leader as prime minister or speaker of the parliament (e.g. Central African Republic 2013). In presidential systems, there are a variety of options, including the use of one or multiple deputy or vice presidents to provide executive seats reflecting the number of conflict actors (e.g. Comoros 2001). State or presidential councils may be established in an attempt to include a wider set of actors in executive positions. The composition of the State Council of Liberia was renegotiated five times between 1993 and 2003. Similarly, the status of co-presidents was subject to intense debate in Madagascar between 2009 and 2011. Libya’s post-2015 Presidential Council contained nine members, including a president, five vice presidents and three ministers drawn from different stakeholder groups. In each scenario, decision-making mechanisms vary and models often incorporate different modalities, including veto capabilities, unanimous voting requirements and majoritarian requirements, in addition to regulations on the minimum number of persons required to participate for a vote to be legitimate.

Interim governance bodies are all unique to their context. The 1992 Peshawar Agreement in Afghanistan, for example, broke with convention of a figurehead executive to propose a 51-member Islamic Council to provide transitional governance. Where the conflict and the transition process relate to sub-state regions, sub-state interim governance bodies are often shaped by pre-existing legal frameworks and constitutions to which they must adhere. In the

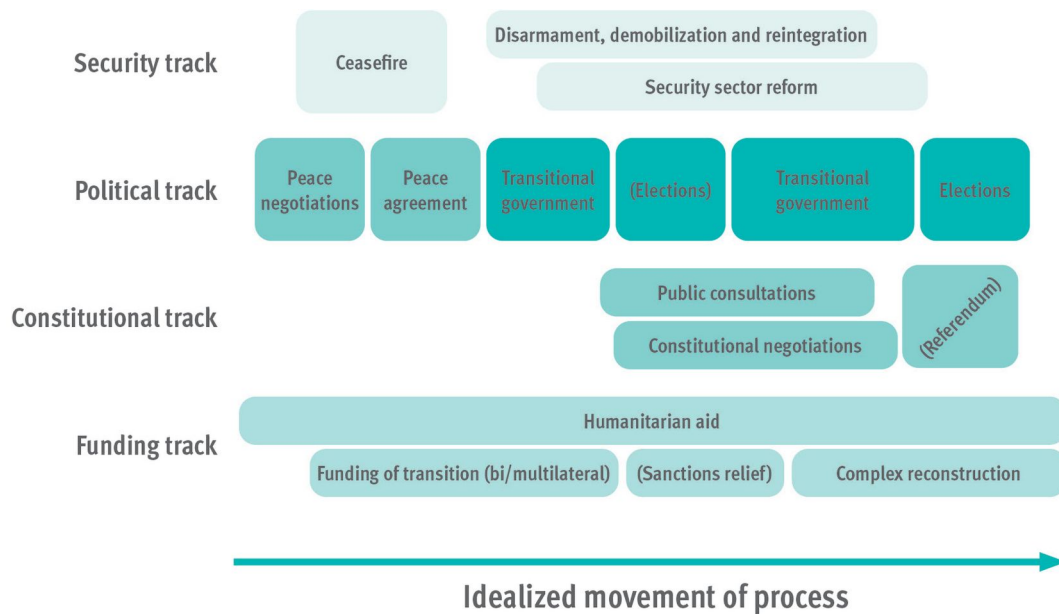
Mindanao conflict in the Philippines, the 2012 Framework Agreement on the Bangsamoro envisioned a Transitional Commission for Mindanao, which would be responsible for implementing the reform processes outlined in the agreement. Meanwhile, normal government of the central state would be continued by the national-level government that was not 'interim' in nature. In Bougainville (Papua New Guinea), the 1998 Basic Agreement was negated by legislative vote in the Papua New Guinean Parliament due to inconsistencies with the national constitution. A provincial government was established on the same model as those elsewhere in Papua New Guinea, which would not have provided the power-sharing between Bougainvillean groups that was needed for the peace process. Despite this setback, the Bougainvilleans found a way to suspend the official provincial government and set up a Bougainville People's Conference, which was more representative, helping to bolster the process, and was officially recognized as an advisory body to the sub-national interim government later established in 2005 (Regan 2002: 32–35).

### Transitional reform processes

In addition to variation in the structure of interim governments, interim governance arrangements vary considerably in the number and nature of reform processes implemented during the transition. The reform processes are agreed upon as a result of bargaining between the stakeholders. The simplest interim governance models rely on three components: (a) the formation of a power-sharing government between key stakeholders; (b) a commitment to the suspension of hostilities; and (c) a mechanism through which power is transferred to a post-transition government (usually via elections). Simple models are often adopted in more limited conflicts, such as following the coup d'état in Guinea-Bissau in 1999, where failure of democracy and democratic transfer of power was understood to be the trigger for the crisis.

More complex transitions addressing protracted armed conflict often seek to overhaul a country's political system and include comprehensive reforms touching on the very nature of the state (e.g. Burundi 2000–2005, the Democratic Republic of the Congo 2003–2006, Sudan 2005–2011). Reforms usually target specific strategic sectors, including governance, security, legal frameworks, justice, human rights and the economy (access to resources, taxation, etc.) (De Groof 2019). However, many reform processes are connected to each other, which may result in the process 'ballooning' and growing in unforeseen ways during the transition. For instance, the need for elections can mean that interim governance arrangements need to form a national electoral commission, conduct a census of the population, redraw administrative units and review electoral and political party laws, in addition to legally underpinning such reforms, depending on the needs of the transition.

Figure 1. Different tracks of reform processes



Source: Adapted from Bell, C. and Forster, R. A., 'Constituting Transitions: "Predicting Unpredictability"', in E. De Groof and M. Weibusch (eds), *International Law and Transitional Governance: Critical Perspectives* (Abingdon: Routledge, 2020), p. 41.

Figure 1 indicates the different tracks of reform and provides a simplified shorthand for understanding how an interim governance arrangement and transition process may be pieced together, how reform processes are affiliated to each other, and how the building blocks of each transition can be sequenced in different orders. Bracketed issues are not so commonly included but may occur. These tracks comprise:

1. The **political track** provides for the formation of an interim government and the implementation of the transitional framework agreed by conflict stakeholders including extensive reform of the civil and economic sectors, electoral law reform, and when and how to hold elections.
2. The **security track** includes enforcement of the ceasefire, disarmament, demobilization and reintegration (DDR) mechanisms for armed actors, and security sector reform (SSR) of state forces, including a potential merger of forces and military command structures.
3. The **constitutional track** provides for legal and constitutional reforms that guide the political, security and economic arrangements, including implementing options for public consultation (e.g. national dialogues in Yemen 2013/2014 and Libya 2018, or public consultations such as in Zimbabwe 2008–2009 and 2019), the formation of a constitutional assembly, and in some cases a constitutional referendum.
4. The **economic track** provides for externally driven funding of humanitarian relief and backing of the interim government and reform processes, in addition to wider humanitarian and developmental support through aid delivery, as well as post-conflict reconstruction. Other actions may include the lifting of sanctions (a central concern for the 2019 Sudanese transition) or denial of earmarked international funding as a

diplomatic tool to break deadlock (for instance, the withdrawal of election funding in Madagascar in 2013).

However, Figure 1 is idealized. In practice all the tracks are closely interdependent and inter-related and the content of each component and its sequencing changes in different transitional processes. For example, the application of SSR in Tajikistan—where the United Tajik Opposition was subject to voluntary disarmament, repatriation, merger with the Tajikistan Army, and a quota of representation at 30 per cent in law enforcement (Protocol on Military Issues, 1997)—contrasts with SSR requirements in Gabon—where the role of the security forces was merely redefined and lines of command reshuffled (Accord de Paris, 1994).

Nonetheless, each of these areas will need to be addressed and sequenced in an integrated way that enables each phase of the process to build on itself and reinforce the aim of the transition at large. In addition, interim governance arrangements rely on international multilateral architectures that provide both logistical and financial support for the transition process, although questions remain as to whether the international architecture for ‘transition management’ is fit for purpose (see Section 1.4).

## 1.2. Factors impacting on the selection of reform processes

Considerations of ‘good design’ often play a minor role in the shaping of interim institutions and reform processes. Rather, the drivers of the reform processes depend on the logic of negotiations between stakeholders and can be affected by the structural factors listed below.

**Balance of power between stakeholders.** During negotiations, the stronger party is often able to dictate preferential terms for the transitional period, including a higher number of seats in the power-sharing government, as well as the highest executive office. Incumbents are often privileged and may enforce their position with the use of the military and security forces, which—unlike opposition militias—will not come under pressure to disarm during the reform process (Svensson 2007).

**Strength of existing institutions.** In some countries, certain institutions—such as the courts—are stronger, more independent or more trusted than other institutions. This may be a reflection of the fact that those institutions do not replicate the injustices found elsewhere in those societies, or because such institutions had maintained their independence in the face of encroachment by illiberal governments. In some cases, strong institutions are instrumental in interim governance arrangements, in their role as dispute resolution mechanisms. Pre-existing strong legal systems—for instance, in cases such as Nepal or South Africa—were reformed to be more inclusive and then relied on to steward their respective transitions to completion.

In other cases, an obstacle to reform can be the strength of institutions that operate as independent political actors in the countries concerned. In many conflict-affected states, for example, the military often plays a particularly significant role in the governing of the state and receives a large percentage of the state budget, enabling them to behave as independent political actors. The result is that interim governance arrangements must accommodate, or at times incorporate, military representatives to ensure their support for the transition. In the case of Madagascar, the military, which threatened to intervene in the transition on multiple occasions, refused to be targeted for reform, despite fragmentation between its units (Cawthra 2010: 18; Hauge 2011: 525–27). Malagasy military actors rejected article 22 of the Transitional Charter despite the limited mandate of the proposed security committee (Charte de la Transition, 2009). Involvement of the military—as is seen in the case of the 2019 Sudan transition—will also likely limit the potential for accountability that may threaten the political survival of senior military officials (Skaar 2020, 1999).

**Type of crisis sparking the transition.** Interim governance arrangements following electoral crisis, political deadlock or coups d'état are more likely to attempt targeted reforms in specific areas, such as the electoral system, decentralization or the under-representation of groups in particular sectors, such as the civil service and military, in addition to building confidence in the government through power-sharing, rather than undergo major reform processes (e.g. Guinea 2020, Guinea-Bissau 1999, Lebanon 2008). In contrast, secessionist conflicts focus on decentralization as a core area of concern (Papua New Guinea/Bougainville 1994, 1998; Philippines/Mindanao 2012). Stakeholders in prolonged civil conflicts, on the other hand, are more likely to demand an overhaul of the state and implement exhaustive reform programmes targeting multiple sectors (e.g. Sudan 2005, Nepal 2007). The exception to this generalization is if incumbent governments in so-called 'unilateral peace processes' (Bell et al. 2020: 5) provide an offer of reform to avoid mass defection, such as in Bahrain (2000) or Algeria (1994), where more limited reforms are likely to be put in place. In each case, therefore, the type of crisis will likely impact the type and extent of proposed reforms.

**Symbolic need for change.** Some institutions during a transition are seen as part of the root cause of the crisis, and this will place them clearly on any agenda for change. Issues of symbolism can include extant constitutional orders that allow for the perpetuation of poor governance or that have become irrelevant in the face of emergency legislation and therefore require renewal. Security agencies and the military may be linked to human rights abuses or oppression and require reform to re-establish trust. When transitions aim to facilitate increased democratization, there may be popular demand for an overhaul of central institutions to facilitate a 'break' with the old system. In Egypt, for instance, at the outset of the transition led by the Supreme Council of the Armed Forces after the overthrow of President Hosni Mubarak in early 2011, constitutional reform was viewed as a central pillar in terms of providing symbolic change from the previous regime (Serôdio 2017).

**Stage of negotiations.** The level of detail of interim governance arrangements also varies depending on the context at different points in a negotiation process. Simpler 'roadmap'-style documents<sup>2</sup> that provide a summary of necessary reforms will go into less detail on how these reforms will be achieved. The Arta Declaration that proposed interim governance arrangements in Somalia in 2000 is an example of such a document. To account for the lack of detail, many interim governance arrangements are negotiated through multiple agreements that lay out the agreed changes in a piecemeal fashion.<sup>3</sup> 'Blueprint' documents, however, 'set an agenda' that is comprehensive in scope and less ambiguous than roadmaps (Holsti 1991, cited in Lacatus and Nash 2020: 907, fn1). These can be produced by assembling multiple agreements into a comprehensive document, such as in Tajikistan (General Agreement, 1997), or as the product of long-term negotiations such as the 1999 Lomé Agreement in Sierra Leone, or the 2005 Comprehensive Peace Agreement in Sudan.

**Pre-existing legal frameworks.** Transitional arrangements will also be shaped by the pre-existing legal framework and decisions as to whether to replace, revise or ignore it. Options for 'legalizing' interim governance arrangements exist on a spectrum that goes from adhering to an existing constitutional framework at one end, to providing momentary 'ruptures' in existing legal frameworks through extra-constitutional declarations, to forming new legal frameworks which disregard those already in place at the other end (Bell and Forster 2020). Each path has its strengths and weaknesses. Arrangements adhering to existing frameworks may face limitations on the extent of reform. In the case of sub-national arrangements, this has had implications on the extent of decentralization originally attempted in Papua New Guinea/Bougainville and the Philippines/Mindanao. Processes seeking to form entirely new legal frameworks and constitutions, on the other hand, face issues regarding the legitimacy of deliberation processes and participation, and these are explored in greater detail below. Renegotiated interim governance agreements may also become hamstrung by previously



established peace and transition documents when one stakeholder refuses to depart from those structures. In the case of Yemen, a red line in the ongoing negotiation process since March 2015 is the strict adherence to the ‘three references’. These pertain to: (a) the 2011 Gulf Cooperation Council (GCC) Initiative that underpins the interim government of Abd-Rabbu Mansour Hadi and its legitimacy; (b) the Outcomes of the Comprehensive National Dialogue Conference (NDC) mandated by the GCC Initiative; and (c) the United Nations Security Council Resolution 2216 (UN 2015) that provides the terms for contemporary peace negotiations. These documents provide a framework favourable to the Hadi government, which—after eight years in power—has lost much of its legitimacy.

### 1.3. Role of international actors

International political, financial and peacekeeping architectures are often critical in empowering and enabling transitions. This is particularly evident in cases where transitional governments rely on international recognition, and govern parts of the country in name only (e.g. Somalia, see Hesse 2010: 252–53; Yemen, see Salisbury 2018: 14). Intra-state conflicts do not operate within vacuums and have an impact on neighbouring states, whether in relation to trade, migrant and refugee flows or politics in adjacent non-warring countries. Moreover, most intra-state conflicts are internationalized in multiple ways, including cross-border ethnic linkages, transnational political/military support and porous borders (see Gleditsch 2007). Interim governments are required to meet international legal obligations on good governance and human rights to be eligible to trade and receive development and peace process funding (Salmon, forthcoming). International actors may play critical roles in supporting the transition, including those listed below.

**Technical support.** International actors are sources of technical expertise that can be valuable in shaping choices by domestic stakeholders in relation to the transition, particularly during the first 18 months (Salmon, forthcoming). Technical experts from foreign governments, multilateral organizations, international non-governmental organizations and universities provide input and training on best practice in reforming strategic sectors, drawing on practical and comparative experience. In doing so, the transmission of expertise may build the capacity and professionalize interactions between domestic stakeholders. Often, training sessions provide unofficial forums for negotiation, bringing together individuals from opposing stakeholder groups and wider civic actors. Unplanned and ad hoc interventions by international actors, however, may lead to ineffective or harmful practices. The dominance of international actors can have an impact on domestic agency by drowning out local voices, and weak coordination mechanisms between international actors may lead to conflicting aims (OECD 2012: 50–54).

**Political support.** Using a spectrum of measures from punitive—for example, peacekeeping, sanctions and condemnation—to less coercive ones such as forums, meetings, good offices and less formal procedures (Griffiths and Barnes 2008), international actors may influence the transition process by:

- enhancing the capability of stakeholders;
- boosting the visibility of marginalized groups;
- providing security guarantees (Walter 2002);
- encouraging ‘ripeness’ between the stakeholders to come to an agreement (USAID 2009: 6);
- helping to overcome difficulties inherent in identifying solutions (Walter 2002);



- forming neutral and trusted channels of communication through which mediation may take place; and
- changing relationships between stakeholders ‘by influencing the social and economic environment in which conflict and peace dynamics take place’ (Frerks 2006: 14–15).

Although some international actors opt for neutrality, there are also multiple instances where states or organizations actively support one conflict actor and may contribute to prolonging the conflict.

**Financing interim arrangements.** International actors also play an essential role in funding negotiations leading to interim governance arrangements and their implementation. Such funding can be critical as the interim state must be able to pay for salaries, goods and services to avoid increased risk of public discontent and further instability. International funding, however, regularly faces two issues. First, funding is a slow process, and second, funding tends to be short term and project based (OECD 2012: 56). This means that there is a degree of precarity to interim governance arrangements, which are prone to break down once the funding dries up. International funding may be derived from bilateral relationships between states, where donors pledge to support the process or aid in reconstruction. When countries are unable to secure multilateral funding, newly established interim governments may be required to ‘shop’ for mediators based on bilateral funding.

Another source of funding lies with development finance instruments related to development banks, including the World Bank, in addition to humanitarian aid. To access development funding, countries are required to have a track record in upholding certain governance and development criteria—something that war-torn countries struggle to demonstrate. Countries that do not meet the criteria are placed in an awkward position between the World Bank (and other development banks) and the UN, neither of which is able to grant longer-term funding. Often the interim period itself will not be enough time to establish a track record in achieving the necessary criteria. The political aspect of these processes is limited to the moments when countries vote on whether a country has access to funds, whereby the flow of funds becomes sustainable. Therefore, the implementation of interim governance arrangements is likely to rely on shorter-term humanitarian aid projects, as well as on donor pledges managed through Multi-Partner Trust Funds established to support governance and peacebuilding projects (see Multi-Partner Trust Fund Office n.d.).

**Military assistance.** External actors regularly play a role in sustaining armed groups. This practice was particularly prevalent during the Cold War but continues today in various conflict contexts such as external funding of various militant groups in Syria since 2011. According to Dudouet and Galvanek (2018: 3), funding can ‘include money, weapons, equipment and/or training’. During the process of consolidating interim arrangements, continued funding—particularly from multiple sources—may therefore be detrimental to the process.

**Sanctions and embargoes.** As a punitive measure against undesirable actions of another state, sanctions aim to restrict war-making abilities (through trade embargos) or restrict damage towards vulnerable populations (through arms embargos) (Griffiths and Barnes 2008: 10). Individualized or group approaches include asset freezes and travel bans. For groups funded primarily by diaspora, sanctions regulations may be helpful in curbing those sources of income, as in the case of the Liberation Tigers of Tamil Eelam, which were added to the EU sanctions list in 2006 (Dudouet and Galvanek 2018: 6). At times, sanctions may help by bringing concessions during negotiations—for example, the threat of sanctions against Yemen’s President Ali Abdullah Saleh in 2011. But they may also be harmful and harden conflict identities causing groups to ‘rally-around-the-flag’ (Griffiths and Barnes 2008: 11). Moreover, specific types of sanctions, such as placing individuals or groups on

terrorist watch lists, may isolate some stakeholder groups that are needed for broad-based inclusion in the process, preventing engagement in dialogue and further radicalizing their stance, when legitimate claims to inclusion are not addressed (Griffiths and Barnes 2008). In the case of Sudan, listing the transitional government on international terrorism financing lists has proven to be a substantial issue, when attempting to secure funding for the current interim governance arrangements (Hudson 2020).

#### 1.4. Sub-state interim governance arrangements

Sub-state interim governance may arise in response to top-down efforts to revive state capacity or as a result of local agency (Menkhaus 2006). Sub-state interim governance arrangements (henceforth, sub-state arrangements), which have similar features to those of the national-level phenomenon described above, are considerably less common. Nonetheless, the practice is used where a sub-state national transition from conflict to peace is attempted—for example, as part of an attempt to solve sub-national territorial conflicts (Zulueta-Fülscher and Welikala 2017). The use of sub-state arrangements is linked to sub-state conflict, and often the need to develop both a more inclusive regional settlement within a country and a new relationship between the sub-state region and the central state.

**The local as a legitimizing factor.** Even when the focus is not primarily on a sub-state transition, there will be a need to find ways to ground a national transition in new local governance and transition initiatives. Many political transitions focus on the national level and become vulnerable when national-level decisions are rejected in the peripheral regions. This is particularly in relation to national-level processes where developments may be separated from the citizenry and their day-to-day lives. These practices are most apparent via spatial separation constituted by concrete blocks, barbed wire, luxury hotels and talks in distant capitals (Al-Ali 2018: 152; Hill 2017: 263). In the case of the Sudanese transition that began in 2019, the continued governance of peripheral regions by military representatives (due to previously established states of emergency) encouraged resistance to the central transition process in affected regions.

Moreover, when the principles of power-sharing on the national level are not applied to regional or local governments, localized versions of the national conflict endure. In Afghanistan, a different model was trialled where ‘citizens’ charters’ were adopted as a means of improving service delivery and state–community engagement, with the aim of furthering local ownership of development and localizing sovereignty (Government of the Islamic Republic of Afghanistan 2016; see also, Loha 2018). If an agreement on political transitions is perceived as driven or imposed by foreign governments, it damages the narrative of local ownership and creates a gap in trust that is difficult to surmount.

**Fitting local arrangements into the state.** Coordination mechanisms between the national and local levels are necessary regardless of whether interim arrangements are on the national or the sub-state level. For sub-state arrangements to contribute to peacebuilding beyond the management of violence in local conflicts, there needs to be a degree of coordination with peacebuilding developments on the national level (Wise, Forster and Bell 2019). In the case of the Philippines/Mindanao, the 2012 Framework Agreement on the Bangsamoro provided for a new Transitional National Authority to oversee the transition in Mindanao and form a sub-state arrangement. A Transitional Commission was then established with members appointed by both the Moro Islamic Liberation Front and the Government of the Philippines to work on the sub-state constitution (the Basic Law), revisions to the Philippines Constitution, and development programmes for Mindanao (Framework Agreement on the Bangsamoro, 2012 and Annex on Transitional Arrangements and Modalities to the Framework Agreement on the Bangsamoro, 2013). Myanmar, on the other hand, struggled to facilitate coordination due to ambiguities in the Nationwide

Ceasefire Agreement of 2015 that conferred ‘tasks to be implemented during the interim period’ onto the ethnic armed organizations (EAO). However, as indicated by South et al. (2019: 16–17), the agreement failed to specify these tasks or any coordination mechanism between the EAO governance mechanisms and the state (see Chapter 6 of the Nationwide Ceasefire Agreement). As is evident from other cases, such as Somalia, a lack of specification on how to integrate sub-state arrangements into larger settlements may allow empowered entities to emerge as spoilers that may actively resist the integration process (Menkhaus 2006).

### Endnotes

1. For seminal literature on interim governments see, Y. Shain and J. J. Linz (eds), *Between States: Interim Governments in Democratic Transitions* (Cambridge: Cambridge University Press, 1995); J. Strasheim, ‘Interim Governments and the Stability of Peace’ (Doctoral Dissertation, Heidelberg, University of Heidelberg, 2016); K. Guttieri and J. Piombo, *Interim Governments: Institutional Bridges to Peace and Democracy?* (Washington D.C.: United States Institute of Peace, 2007).
2. Negotiated transitional documents take many forms using a spectrum of legal options, including peace agreements, interim constitutions, constitutional declarations, charters and roadmaps. They also appear at different ‘stages’ in the negotiation process, including pre-negotiation, framework or comprehensive agreements, but not in ceasefire agreements (Bell and Forster 2020).
3. Multi-stage interim governance arrangements can be a product of process design, wherein stakeholders agree to reform certain aspects—or reform previously agreed-to aspects—in a piecemeal fashion, such as in Burundi (2000–2005), the Democratic Republic of the Congo (2000–2006), Guinea-Bissau (1998–1999), Kenya (2008–2010), Nepal (2006–2015). Alternatively, a relapse back into conflict may necessitate renegotiation of agreements and a reassessment of their content, such as in Afghanistan (1992–1993), Angola (1994–1998), Burundi (1994–2000), Central African Republic (2013), Liberia (1993–2003), Libya (2011–2015), Mali (2015).

## 2. Challenges inherent in interim governance arrangements

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Each reform process and institution that make up interim governance arrangements must navigate several challenges related to inclusive participation, the deliberation process, the sequencing of reforms, and how to provide sufficient security and economic well-being to enable these to happen. Failure to successfully navigate these issues is likely to de-incentivize buy-in and potentially stall the process. Ultimately, stakeholders must anticipate and prepare for the challenges that may arise, and design adequate dispute resolution mechanisms to enable them to adapt to the inevitable ongoing changes in circumstance as the transition progresses.

Some typical challenges are apt to arise, as outlined below, where each touches on core issues of buy-in and the legitimacy of the process. Each challenge is driven by ongoing political bargaining over how the interim arrangements will impact on the post-transition political landscape,<sup>1</sup> related to the ambitions of conflict stakeholders to stay in power. While an interim period is useful as a means of re-establishing government legitimacy, postponing contentious issues and providing stop-gap temporary measures until a more inclusive process can take place (Brandt et al. 2011: 67–70), it is also the time when many stakeholders (not just the government and armed groups) have the opportunity to define the political agenda. Therefore, the interim period becomes a time of intense political competition to ensure political relevance and to maximize gains. The high stakes mean that the entire process is vulnerable to commitment problems when stakeholders (particularly powerful stakeholders) hedge against the process if they believe that they may be able to improve their bargaining position in the future (Mattes and Savun 2009).

### 2.1. Inclusion and participation

Over time, and given that many transitions have been triggered by civic protest, increased forms of public deliberation, broad inclusion and public participation in transitional politics are now an expectation among key stakeholders and the international community. In practice, the transition must often strike a balance between the elite pact (i.e. the horizontal deal between the parties to the conflict) that is necessary to end the violence and a broader, deeper, new social compact based on popular buy-in (i.e. the vertical relationship between the government and the people). Central to the social compact will be assurances of greater rights, recognition and greater equality in the distribution of public power and resources. Decisions will affect how a transition is perceived, which must be balanced by realistic expectations of the tasks the transition is expected to fulfil. Key elements of the transition,

such as a constitution-making or constitutional reform process, in particular need broad participation, given their nature as a sovereign exercise of the people and given the broad impact on transition outcomes.

Common questions related to participation include: Who are the stakeholders? Which stakeholders are included in what processes? What are the criteria for inclusion? How are representatives from each group chosen? How does the choice of representatives affect the political impact of the group? These questions come up repeatedly in relation to transitional institutions related to governance and legal reform (such as interim government, transitional parliament, constituent assemblies). How these questions are answered can throw up multiple sticking points that in turn can undermine the interim arrangement.

At the elite level, a common method for deciding which stakeholders to include is based on identifying ‘veto players’, i.e. choosing groups that can single-handedly continue the conflict if unsatisfied with the terms of agreement (Cunningham 2013). However, although this principle appears simple, the criteria for identifying veto players is not always clear in each conflict context and conflict level, and the true capability of actors may be obscured through propaganda and other informational barriers (especially where local, national, transnational and international conflicts are ‘nested’). An over-emphasis on including armed actors (most often considered to be veto players) may also incentivize new groups to increase their levels of violence so as to gain access to the political space. Broadening vertical inclusion to facilitate a new social compact or ‘constitutional deal’ is also not a straightforward task considering the potential number of stakeholder identities (including religious, civil society, political, ethnic and gender) that may lay claim to participation. While inclusiveness matters, an argument given for limiting participation is usually that a larger number of actors makes agreement more difficult. Another challenge with regards to inclusion is how to ascertain, in the absence of elections, whether participants are truly representative of their purported constituents. Without adequate legitimacy and authority among those constituents, the compromises they will inevitably have to make at the negotiating table may not hold.

Jostling between stakeholders over where the lines of participation are drawn is a central aspect of interim governance arrangements. This tension played out in the formation of Sudan’s Transitional Government in August 2019, which consisted of five members selected by the Transitional Military Council (TMC), five members selected by the opposition coalition and one consensus member chosen by both parties. One apparent strength of this arrangement was the inclusion of a tiebreaker in the final member. However, others questioned the extent of genuine reforms possible due to the powerful role played by the military and the connection between TMC members and the Rapid Support Forces—a militia linked to human rights violations in Darfur (Ghitis 2020). The future role of the Sudanese military in domestic politics and its potential impact on democratization is now a central question in the transition process.

Renegotiation of the lines of elite participation regularly takes place as the transition progresses, often simultaneously in multiple arenas, by setting criteria for political parties, limitations on reform processes and rules about who can run for office and so on. The degree of popular participation, on the other hand, is affected not just by the criteria for inclusion, but by the wider civic space and issues such as rights provisions, including freedom of speech and assembly, criteria for who can vote or legal regulation over non-governmental organizations. The parameters of popular and elite inclusion have an impact on the structure of transitional institutions and the parameters of participatory deliberation, such as the form of the interim government, the form of the legislature, election modalities (including defining administrative territories) and the design of national dialogues and other public consultations.

The power to change regulations unilaterally is also a means through which one group can alter the playing field in their favour in ways that first appear innocuous. In Madagascar, for

instance, the incumbent, Andry Rajoelina, lowered the age of the presidential candidacy (allowing himself to stand for election) and introduced restrictions on persons with multiple citizenships standing (denying one of his opponents from running) (Connolly 2013). Many transitional processes stumble when one or more of these modalities are manipulated or appear to be manipulated to the exclusion of other groups (whether political, ethnic or gender-based). The issue of participation as it arises throughout the process in the form of input into deliberation modalities is explored below.

## 2.2. Deliberation modalities

Interlinked with the issue of participation is the institutional design of deliberation modalities and mechanisms and their impact on the choices that are made during the transition, which reflects the quality of decision-making.<sup>2</sup> As highlighted by Castillejo (2017: 4), the focus on inclusive formal processes often overshadows ‘the decisions and policies that emerge from such processes [and] the outcomes these produce for populations’. The process of how decisions are made is intensely scrutinized by each transitional stakeholder, and to ascertain the advantage of each particular stakeholder in the decision-making process requires intimate knowledge of the context in which the transition is playing out. Common questions related to the deliberation process include: Was the decision-making mechanism fair and representative? Who designed the decision-making mechanism? Did a stakeholder have an advantage (such as over-representation, veto power) when making decisions using that mechanism? Was the decision ‘fair’? Could the decision have been made in a better or more comprehensive forum? Similar to the questions related to participation, the response to these questions may highlight sticking points in interim institutions.

An example is found in the Yemeni transition, which had an innovative popular consultation mechanism through the NDC. Despite the NDC’s strengths, problems of participation arose, and in turn impacted on deliberation of particular issues. Among other issues was the fact that two insurgent movements—the Houthis and the Southern Movement—were not consulted in the initial call for the NDC outlined in the GCC Initiative that established the framework for the transition. Their inclusion in the NDC, each with its dedicated working group, did not repair the initial exclusion, and both groups announced on multiple occasions that the NDC was illegitimate and hedged against it. Discontent intensified when the broad-based modality of the NDC was pared down to the 82-member National Body, where the insurgent movements once again felt inadequately represented. Paralysis over the final form of the Yemeni state and its proposed regions led to interim President Hadi using veto powers to break the deadlock—paring down deliberation modalities even further and contributing in part to a return to a steadily escalating conflict. The case of Yemen indicates how the design of institutions should remain consistent with the ‘spirit’ of a transition, i.e. if a transition is touted as ‘inclusive’ and there is popular expectation that this will be delivered, then interim governance arrangements should attempt to reflect those expectations. The inclusion of a group’s representatives does not necessarily guarantee their influence on the process (Castillejo 2017). An inability to have meaningful influence can erode that narrative and be held up by opposing stakeholders as a reason to defect.

## 2.3. Sequencing of modalities and reform processes

Sequencing refers to how an interim governance arrangement sets out transitional tasks and timetables, and it poses a number of challenges. Should certain reforms occur before others? Does a particular sequence help to stabilize and consolidate the process? What administrative and practical obstacles affect sequencing? What is the procedure if a process is unavoidably



delayed? Interim governance arrangements are a paradox in that they usually contain at least some explicit process sequencing outlined in transitional documents, but this runs against the more ‘organic’ sequences produced by the ‘logic of negotiations’ (on peacebuilding and sequencing, see Herbert 2014; Bell and Zulueta-Fülscher 2016; Langer and Brown 2016).

Sequencing adopted in interim arrangements is based on four assumptions that emerge from the logic of transition and are underlined in peacebuilding literature. First, the overarching assumption is that interim arrangements are based on the adoption of an incremental approach to peacebuilding, where issues are dealt with one by one and divided into more manageable pieces (Weiss 2007). Second, it is widely considered necessary for a relative degree of security to be present for a transitional process to progress (Steadman 2008: 148). The third assumption is that an interim government must be put in place for many of the reform processes to be possible, and for the country to function in the meantime. A final assumption is that the institutionalization of the state should occur before the liberalization of politics, either because of the potentially destabilizing impact of elections and open political discussion and/or because often some sort of institutional reform is necessary before it is possible to hold free and fair elections (Paris 2004).

Elections often require popular consultation modalities and broad-based stakeholder participation during particularly fragile periods. One means of offsetting this challenge and providing sufficient time to build trust and stabilize the country is through an extended transitional period. However, the longer the time period lasts, the more an appointed unelected interim government will appear illegitimate. In practice, the often short timelines included in transitional documents are often driven by practicalities—shorter transitions are less expensive and promise to minimize the period of unsettlement, which can boost international and local support. From an international perspective, backers of interim governance arrangements rely on funding cycles that push for shorter transitions to ensure their own ability to disengage from the process.

## 2.4. Security challenges

Throughout the transitional process, domestic stakeholders experience multiple security challenges, which can affect how a transitional period progresses. In the beginning of negotiations, governments experience a challenge over whether to negotiate with non-state groups, thereby legitimizing their struggle and potentially incentivizing other insurgents who see a possible pay-off to picking up arms. Non-state actors, on the other hand, face a security challenge during the disarmament process, in that, once they disarm, there is no recourse should the government, which keeps its armed forces, decide to crack down during the implementation process (Svensson 2007). All stakeholders face a security challenge during the implementation process because they can be put at a disadvantage if another party decides to defect from the agreement and strike first. Similarly, during ceasefires, there are multiple examples of conflict actors using the designated time to manoeuvre troops to their advantage in anticipation of the next round of conflict. These challenges are present in all peace processes and are not particular to interim governance arrangements, but national and international actors are required to manage them if the transition is to move forward.

### Endnotes

1. Interim constitutions may be very similar or the same as their ‘final’ iterations. See the 2007 Interim Constitution of Nepal and the 2015 Constitution of Nepal, or the 2001 Transitional Constitution in Burundi and its 2005 Constitution.
2. On the difference between participation and deliberative processes in the context of constitutional reform, see Suteu and Tierney (2018).

### 3. Stumbling blocks during the interim period

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In part due to the challenges outlined above, interim governance arrangements are prone to break down or to revert to the status quo, wherein the process continues through the instalment of iterative processes. Some of the issues that arise are listed below.

**Broken ceasefires.** The defection of conflict actors is possible at any time during a transition. Defection can be the result of any of the above-mentioned dynamics relating to deficits in participatory deliberation modalities, the fact that stakeholders feel that they can get a better outcome outside of the agreement, or the inability of the arrangements to provide sufficient security guarantees to enable the stakeholders to move into interim arrangements. If interim governance arrangements are established, a ceasefire at the start of the process between the main conflict parties is necessary, as stakeholders will be unable to form a power-sharing government if their constituents are in open combat. Nonetheless, the implementation of some transitions has continued, despite regionalized violence (for example, the continuation of regionalized insurgencies in the Democratic Republic of the Congo during the implementation of the 2003 Sun City Accord (Autesserre 2008: 94)). These conflict dynamics reflect the increased elements of conflict, where local, regional and national conflicts are often nested within each other, to create a wider conflict system which poses a challenge for transition management.

**Power-sharing challenges.** As a means of guaranteeing political survival and the continued relevance of the conflict actors during the transitional process, power-sharing modalities are good at enticing stakeholders to reach agreement, but often present difficulties for implementing the transition. November 2019, for instance, saw the extension of South Sudan's 'pre-interim' period, which aimed to assemble the transitional power-sharing government within 100 days due to lack of agreement over the government composition (APA News 2019). Not only do difficulties arise in appointing ministers according to power-sharing formulas, but problems may arise when stakeholders refuse to integrate parallel structures such as loyalist military units into the state army as part of military power-sharing security arrangements. It is necessary to manage power-sharing deals in order to minimize incentivization of coercion and competition between stakeholders (Avis 2020: 14). National-level power-sharing deals also face difficulties if such arrangements are limited to elite institutions that have no capacity to support institutional development and conflict resolution at the local level, meaning that arrangements are perceived as elitist and not relevant to the wider population. Meanwhile, when power-sharing arrangements do stretch to the sub-state level, they are often the cause of mass turnover of employment when local administrations attempt to match local power-sharing formulas, resulting in a loss of institutional memory and potentially the employment of unqualified persons. There are also critiques of power-sharing arrangements as institutionalizing the political divisions of the



conflict in ways that prove difficult to move on from (Bell 2018). Power-sharing institutions may also unintentionally increase the size of the state itself by creating otherwise superfluous or inflated transitional institutions, such as expanded presidential councils, numerous overlapping advisory bodies or inflated legislatures.

**Unclear institutional mandates.** In designing transitional arrangements, ambiguity may be useful in providing enough leeway around contentious issues; however, if this results in unclear institutional mandates it can throw up tensions. As explained by Mahiga (2018: 366–67), the Transitional Federal Government of Somalia established in 2004 saw difficulties surface due to tensions ‘between President Sheikh Sherif Ahmed and then Prime Minister Omar Sharmake over issues related to the division of administration responsibilities and the implementation of the transitional tasks outlined in the Federal Charter, especially the process of crafting a new constitution’. Unclear institutional mandates are often incorporated into transitional documents through ‘a combination of all parties inserting the mechanism they want, and international mediators throwing as many solutions at the problems as possible’ (Bell 2008: 275). However, the need to find a way to clarify and implement mandates indicates why interim governance arrangements are not the final step in peace negotiations, and why dispute resolution mechanisms and continued negotiation are essential to circumvent deadlock that occurs as a result of institutional design.

**Difficulty of managing ‘transitions within transitions’.** When an arrangement deteriorates, mediators and stakeholders often attempt to piece together a new transition. These may diverge from the previous interim governance arrangements, but usually they are heavily based on previous frameworks. The 2018 Revitalised Agreement on the Resolution of the Conflict in the Republic of South Sudan, for instance, attempted to re-institute the 2015 agreement of a similar name with only minor revisions. A more drastic example relates to the 2015 Libyan Political Agreement, which attempted to renegotiate the transition that initially relied on the 2011 Constitutional Declaration as the originating legal framework. ‘Transitions within transitions’ are complicated to implement as the legacy of previous agreements shapes the available options, and the failures of earlier arrangements can tarnish newer attempts to widen the transition.

**Governance actors unprepared to exit power at the end of the transition.** Many interim governance arrangements feature members within the leadership that are unwilling to leave power. This is not unsurprising considering that the struggle for power and inclusion will have triggered the need for a transition in the first place. This reality means that interim governance powerholders will often seek to rig the outcome of the transition to enable them to continue in power, or else that they will simply be disincentivized to see the process to completion. One result can be the extension of the transition itself with the same leadership, or officials find a way to remain in power beyond the transitional period, even if lacking in legitimacy. Individual motivations are important but remaining in power is made possible in part due to the political economy of transitional processes. Participation in interim governance arrangements grants newfound access to rent via state institutions, international funds (including funding for peace processes) and profit from war economies. This access grants individuals the ability to consolidate patron–client relationships and increase the durability of their supposedly temporary positions. With few incentives to move into the next phase of the transition, the process will stall. A second potential result occurs when there is sufficient follow-through and elections are held. Even when elections are free and fair, transitional figures are often in a good place to win given that they are public figures with a track record in leadership and therefore have an advantage in the campaigning process. Although not inherently in bad faith, it highlights how members of the so-called interim government become entrenched. An example of a transitional figure continuing post-election is Hamid Karzai of Afghanistan, who was first appointed President and Chairman of the

Interim Administration for the period between 2001 and 2004. In 2004, Karzai won the presidency, and he was re-elected to a second term in 2009 until 2014.

**Absence of on-the-ground impact.** Speaking about the 2019 Sudan transition, one lawyer noted: ‘Changing the law is the easy part . . . how to change the mindset—that is the challenge’ (Hamilton 2019). A key driver of success for interim arrangements is ensuring that the political reforms promised at the national level are felt on the ground. If pre-transitional practices continue—whether it is violations by security forces or corruption by local officials—the gains made in national-level talks and the optimism regarding the process diminish. Another equally important facet is the need for improving economic conditions on the ground. Political upheaval often brings with it a number of economic issues, including the disruption of the economy, a decrease in investor confidence, monetary inflation, influxes of displaced persons and an increased cost of living, in addition to the immense costs of reconstruction. Transitional governments are further disadvantaged due to the destruction of government, accounting systems and public infrastructure, corruption and the inability to keep skilled workers, and cash-flow concerns including difficulties in paying the salaries of public servants. Broader unemployment creates a labour pool from which combatants are more easily recruited. Conflict may have weakened infrastructure and damaged public services including electricity provision and waste management. In some cases, development funding may dry up as it is funnelled into political processes and programming rather than maintaining already precarious humanitarian and development programming.

**Difficulties of delay, extension and postponement.** Initial euphoria may die down if transitions are delayed or extended; moreover, transitions may be deemed less legitimate, especially when governments are unelected. It should be made clear which reform processes will extend past the initial transitional period and, if possible, these should be ‘detached’ conceptually and politically from the rest of the process. In other areas, where there is potential for delay—such as the formation of government and the implementation of popular consultation modalities—dispute resolution mechanisms should be incorporated.

**Difficulties of adaptive management.** Incorporating dispute resolution mechanisms is essential for the adaptive management of an interim arrangement. Documents outlining arrangements are produced by a specific constellation of stakeholders at a particular moment in time, and these conditions are likely to change and do so rapidly. New actors may emerge, others may become less relevant, international support may wax and wane, and political moments may galvanize new alliances or drive existing ones apart. The strain under which interim governance arrangements must perform means that they regularly fall apart or threaten to do so. The many arrangements renegotiated due to conflict are ample evidence of this (Bell and Forster 2019)—particularly those that ‘widen’ the settlement to include new actors through additional seats in the cabinet or seats in the legislature.

A reliance on ‘consensus decision-making’ in the hope of optimizing the views of all stakeholders assumes that all parties negotiate in good faith, which is often not the case. The presence of third parties—particularly armed peacekeepers—is effective when enforcing negotiated settlements. In the absence of such commitments, some processes rely on international mediators to solve disputes (e.g. South Sudan 2013–ongoing). In less internationalized contexts, indigenous solutions must be found. If independent, courts can be an effective method of dispute resolution that does not create additional transitional bodies (e.g. Kenya and Nepal). Other methods from peace processes (although not necessarily interim governance arrangements) include implementation and monitoring commissions (e.g. Colombia, Nepal, South Africa) or dispute resolution committees (e.g. Libya), the use of traditional dispute resolution mechanisms (e.g. Kenya, Nigeria, Philippines/Mindanao, South Sudan), or the adoption of specific dispute resolution procedures (e.g. Papua New Guinea/Bougainville).<sup>1</sup> Dispute resolution mechanisms can also be sector specific, with electoral disputes often being the domain of supreme courts or

national electoral commissions. Whenever considering a mechanism, it is worth considering whether the chosen body may become politicized. Relying on non-neutral parties to break deadlocks could inflame tensions further.

#### Endnotes

1. Examples drawn from peace agreements related to these processes are accessible on the PA-X Peace Agreement Database (<<https://www.peaceagreements.org>>).

## 4. Ways of easing the pressure on interim governance arrangements

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Each reform process or interim body incorporated into interim governance arrangements introduces another ‘field’ in which stakeholders can continue their conflict non-violently through negotiation. Therefore, each field also opens up the possibility of deadlock, failure or disappointment that may delegitimize a transition process and is therefore also a source of potential vulnerability. Under the demands made by international and domestic stakeholders, interim governance arrangements have the potential to ‘balloon’ and become unwieldy with multiple ongoing and interlinked negotiations that have the potential to escalate conflict rather than placate it. A key consideration is whether it is possible to streamline interim governance arrangements in the hope of avoiding overloading the ‘bridge’, recognizing that the process is only a means to an end. The following recommendations suggest ways to achieve this.

**Prioritize interim governance infrastructure.** Prioritize the formation of inclusive interim governance bodies with checks and balances and clear deliberation modalities. Many processes stall simply because of the inability of stakeholders to agree on who shall hold which office. Ways of incentivizing broad-based commitment should be developed, by establishing fair practices relating to the selection of offices, or by introducing measures such as rotating offices or quotas. Interim governance bodies provide leadership that, although at times precarious, is nonetheless a symbol for the transition; delaying their appointment may be a hindrance to the transition overall.

**Identify agenda items that can be dealt with through existing institutions, or after the period has formally ended.** Not all issues need to be addressed in their entirety through peace talks and placed on reform agendas. For many issues, infrastructure may already exist that can help in resolution. Relying on existing institutions and bureaucracies, when they have some capacity and participative legitimacy, can help to avoid questions related to inclusivity or deliberation modalities in new institutions.

**Agree on dispute resolution mechanisms.** There are a variety of institutional types and structures that can be adopted for the purpose of resolving disputes, and multiple aspects must be considered including their longevity, structural make-up, neutrality, political independence, mandate and legal authority, as well as the persons involved. If a process relies on consensus decision-making, then mediators should incorporate support structures to help overcome deadlock; these should be either informal or formally linked to the process (Barsoum et al. 2019: 28).

**Be realistic about the transitional timeframe.** It takes time to build up trust and a culture of cooperation between stakeholders and within institutions, and the 12–24 months

usually designated for transitional periods will often not be long enough for all tasks to be completed. Attention to sequencing and realistic time periods for different reform tasks is important, and insight can be drawn from the *actual* timescale in other contexts. To achieve the reintegration of forces, it took the Nepali transition process almost six years (Nepal Institute for Policy Studies 2013: 6). Transitional justice is also a lengthy process: Rwanda's gacaca courts, for instance, took a decade to try almost 2 million individuals (BBC World Service 2012). Therefore, even processes that are often considered technical can take many years. While setting timeframes in interim governance documents is important for establishing clear timetables and goals for the process, it is often wise to recognize that they may need to be adapted. A balance must be struck between keeping some momentum in the process and having the capacity to adapt.

**Conceptualize longer reform processes to be outside of interim arrangements.**

Alternatively, isolating processes that are likely to extend beyond the transitional period or sequencing multiple task-focused transitions, more akin to South Sudan's adoption of a pre-interim period for the formation of an interim government, may be helpful in better managing and focusing transitional tasks. Although such mechanisms appear to involve semantics (what is a pre-transition period as opposed to a transition period?), they can help to bolster the narrative of necessary incrementalism, lowering the stakes for stakeholders to participate by suggesting that not all matters involving participation are irrevocably settled.

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In conclusion, transition management often involves a balancing act between elite inclusion and broader participation; between creating forward momentum in a transition process, without moving so fast as to collapse the process; and between not moving into elections before they can bestow legitimacy beyond the transition, while recognizing that the transitional structures will lose any legitimacy they have the longer the transition continues without elections. The metaphor of transition as a bridge from a conflicted past to a more peaceful future is useful in cautioning stakeholders not to overload the bridge with expectations, which can cause it to collapse. However, the bridge is one that in a sense has to be built and rebuilt as a country travels along it, because the conflicts and power relationships which it must account for are complex and shifting.

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## Annex A. List of states with interim governance arrangements

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The PA-X Peace Agreement Database (<https://www.peaceagreements.org>) contains records of agreed-to peace and transitional documents from 1990 to 2019. The following list mentions countries and years in which negotiated documents provide for the formation or revision of a transitional, interim or provisional executive body. Countries may include multiple negotiated documents per year. The list does not include internationally imposed transitions combined with military interventions, such as Afghanistan (2001), Cambodia (1993), Croatia (1992), East Timor (2006), Iraq (2004) or Kosovo (2008).

Country	Years with negotiated interim governance arrangements
Afghanistan	1992, 1993
Algeria	1994
Bosnia and Herzegovina	1993–1994
Burundi	1994, 2000, 2001, 2003, 2004
Central African Republic	2013
Comoros	1999, 2001, 2010
Cote d'Ivoire	2003
Democratic Republic of the Congo	2002, 2003
Ethiopia	1991
Gabon	1994
Guinea-Bissau	1998
Guinea	2010
Honduras	2009
Israel/Palestine	1993
Kenya	2008
Lebanon	2008

Country	Years with negotiated interim governance arrangements
Liberia	1990, 1991, 1993, 1994, 1995, 2003
Libya	2011, 2015
Madagascar	2009, 2011
Mali	2012, 2015
Nepal	2006, 2007
Papua New Guinea/Bougainville	1994, 1998
Philippines/Mindanao	2012, 2013
Rwanda	1992, 1993
Sierra Leone	1999
Somalia	1997, 2000, 2004, 2012
South Africa	1993
South Sudan	2014, 2015, 2018
Sudan	2002, 2005, 2019
Tajikistan	1997
Togo	2006
Ukraine	2014
Yemen	2011, 2014, 2019
Zimbabwe	2008

Source: The PA-X Peace Agreement Database (<https://www.peaceagreements.org/>).

Additional data sets on transitional governance and interim government using slightly different criteria of inclusion feature in De Groof (2019) and Strasheim (2016).

## Annex B. Agenda

DAY ONE: 9 December 2019	
Time	Session
09:30–10:00	Registration
10:00–10:30	<p><b>Session I: Welcome and introductions</b></p> <p><b>Christine Bell</b>, Professor of Constitutional Law; Director, Global Justice Academy, Edinburgh University  <b>Asanga Welikala</b>, Director, Edinburgh Centre for Constitutional Law  <b>Louise Hancock</b>, Governance Adviser, FCO-DFID Joint Sudan Unit  <b>Sumit Bisarya</b>, Head—Constitution-Building, International IDEA</p>
10:30–11:45	<p><b>Session II: Setting the stage</b></p> <p><b>Moderator: Jason Gluck, UNDP</b>  <b>Nicholas Haysom, United Nations:</b>  Painting the Big Picture—What Are the Key Questions, Issues, Drivers?  <b>Katia Papagianni, Center for Humanitarian Dialogue:</b>  The Conflict Mediation Perspective  <b>Sumit Bisarya, International IDEA:</b>  The Constitution-Building Perspective</p>
11:45–13:30	<p><b>Session III: Focusing on interim governance arrangements: Triggers, nature, form and composition</b></p> <p><b>Moderator: Kimana Zulueta-Fülscher, International IDEA</b></p> <p><b>Christine Bell, Edinburgh University:</b> What circumstances give rise to interim governance arrangements and what effect does the difference in origin have?</p> <p><b>Tom Ginsburg, Chicago Law School:</b> What systems of government do we see in interim governance arrangements? How are such systems chosen? What are the trade-offs under different systems in terms of stability and inclusion?</p> <p><b>Cheryl Saunders, Melbourne Law School:</b> How does the interim governance arrangement affect state structure in terms of sub-national governance? With federalization increasingly common as a pillar of the political settlement, what are the common issues and challenges for interim governance arrangement vis-à-vis negotiations towards federalism?</p> <p><b>David Lanz, SwissPeace:</b> Overcoming the power sharing challenge: How do interim governance arrangements function as a forum for negotiation of issues relating to the conflict and to the eventual establishment of a new constitutional order? What is/should be the role of external parties (esp. both local and international mediators) in overcoming obstacles to progress?</p>



13:30–14:45	Break
14:45–16:30	<p><b>Session IV: The bigger picture: Political economy, parallel reform processes and the role of international actors</b></p> <p><b>Nicholas Haysom, United Nations:</b> How does political economy affect the design and composition of interim governance arrangements? How does the war economy challenge the stability and objectives of the interim governance arrangements?</p> <p><b>Jago Salmon, SIPRI:</b> International finance and aid: What are the key challenges in unlocking international finance and aid for interim governments? What are the driver and pre-conditions?</p> <p><b>Paul Seils, Transitional justice and interim governance arrangements:</b> How do commitments to transitional justice affect interim governance arrangements? What mechanisms for transitional justice can be put in place during the interim governance period? What place for pre-commitments not to prosecute?</p>
<b>DAY TWO: 10 December 2019</b>	
<b>Time</b>	<b>Session</b>
09:30–11:00	<p><b>Session V: South Sudan part one—Understanding the interim governance arrangements in the R-ACRSS</b></p> <p>Moderated discussion among participants from South Sudan and high-level international partners. <b>Moderator: Louise Hancock</b></p> <p><b>Oyet Nathaniel Pierino, SPLM-IO:</b></p> <ul style="list-style-type: none"> <li>• How was the R-ARCSS negotiated and what are its main features in terms of interim transitional governance at the national level?</li> <li>• What are the other major milestones envisioned in the R-ARCSS?</li> </ul> <p><b>H.E. Minister Richard Mulla, Minister of Federal Affairs, Transitional Government of South Sudan:</b></p> <ul style="list-style-type: none"> <li>• What were the drivers for the commitment to federalism in the R-ARCSS?</li> <li>• Why are the number and boundaries of states so contentious?</li> <li>• What are the other current challenges in the implementation of the R-ARCSS?</li> </ul>
11:00–11:15	Break
11:15–12:30	<p><b>Session VI: South Sudan part two</b></p> <p>Moderated discussion among participants from South Sudan and high-level international partners. <b>Lorna Merekaje, South Sudan Democratic Engagement, Monitoring and Observation Program</b> <b>Jackline Nasiwa, Thematic Lead CSF Constitutional and Legislative Reform Cluster</b> <b>Guy Bennett, Director, United Nations Mission in South Sudan Political Affairs Division</b> <b>Stephen Oola, Senior Advisor on Legal and Constitutional Affairs, JMEC</b> <b>Moderator: Sumit Bisarya</b> Draft guiding questions:</p> <ul style="list-style-type: none"> <li>• What is the state of the economy in South Sudan, and how does this affect the transitional governance objectives and stability? What revenue is available and how is it being allocated? How is war economy income to be replaced?</li> <li>• What role has civil society played? How can this be strengthened during the transitional phase?</li> <li>• What role have the key external mediators played?</li> <li>• What will be the key challenges and contentious issues in the constitution making process?</li> </ul>
12:30–13:30	Break

13:30– 15:00	<p><b>Session V: Sudan</b></p>
	<p>Moderated discussion among participants from Sudan:  <b>Professor Munzoul Assal, Director Peace Research Institute, Khartoum University</b>  <b>Sami AbdelHalim Saeed, Law Reform Specialist</b>  <b>Abdelgalil Elmekki, Senior Governance Advisor, British Council</b>  <b>Moderator: Christine Bell, University of Edinburgh</b>            Draft guiding questions:</p> <ul style="list-style-type: none"> <li>• Overview of the Constitutional Charter—its key contents vis-à-vis interim governance arrangements, and how it was negotiated.</li> <li>• The formation of the transitional government and implementation so far: what are the key challenges and successes to date?</li> <li>• International influence: what has been the influence of international actors, including external mediation and international finance?</li> <li>• What is envisioned for the constitution making process? What challenges do you foresee?</li> <li>• How is the issue of transitional justice dealt with? What challenges do you foresee?</li> </ul>
15:00– 15:15	Break
15:15– 16:00	<p><b>Session VI: Concluding remarks and closing</b></p> <p><b>Christine Bell</b>  <b>Cheryl Saunders</b></p>

## About the author

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**Robert Forster** is a PhD Fellow at the Chr. Michelsen Institute in Bergen, Norway, and an Associate of the Political Settlements Research Programme (PSRP) at the University of Edinburgh. He was a Research Associate with PSRP from 2015 to 2019, where he was a core contributor to the PA-X Peace Agreement Database, and a researcher on the UN Women project, 'Enhancing Women's Leadership for Sustainable Peace in Fragile Contexts in the MENA region'. Robert is currently writing his doctoral thesis at the University of Bergen on responses to and experiences of urban displacement in Tripoli, Lebanon, from 1955 until present day under the Norwegian Research Council-funded project 'Urban Displacement, Development and Donor Policies in the Middle East'. He holds a Master's in International Relations and Arabic from the University of Edinburgh. Forster's research focuses on governance, conflict resolution and forced migration in the Middle East, in particular, Lebanon and Yemen. His work has been published in *Middle East Journal*, *Middle East Policy* and the *Journal of Peacebuilding and Development*.

## About International IDEA

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The International Institute for Democracy and Electoral Assistance (International IDEA) is an intergovernmental organization with the mission to advance democracy worldwide, as a universal human aspiration and enabler of sustainable development. We do this by supporting the building, strengthening and safeguarding of democratic political institutions and processes at all levels. Our vision is a world in which democratic processes, actors and institutions are inclusive and accountable and deliver sustainable development to all.

### What do we do?

In our work we focus on three main impact areas: electoral processes; constitution-building processes; and political participation and representation. The themes of gender and inclusion, conflict sensitivity and sustainable development are mainstreamed across all our areas of work.

International IDEA provides analyses of global and regional democratic trends; produces comparative knowledge on democratic practices; offers technical assistance and capacity-building on reform to actors engaged in democratic processes; and convenes dialogue on issues relevant to the public debate on democracy and democracy building.

### Where do we work?

Our headquarters are located in Stockholm, and we have regional and country offices in Africa, Asia and the Pacific, Europe, and Latin America and the Caribbean. International IDEA is a Permanent Observer to the United Nations and is accredited to European Union institutions.

<<https://www.idea.int>>

This Report provides an understanding of how temporary governance during major political transitions is structured and how it works in practice. Interim governance arrangements are an institutional framework established to create a 'bridge' from a situation of governance that has been interrupted by political or violent crisis often situated in an authoritarian past, towards a more peaceful, inclusive and democratic government.

In December 2019, International IDEA—together with the Edinburgh Centre for Constitutional Law, the Global Justice Academy and the Political Settlements Research Programme at the University of Edinburgh, and with financial support from the UK Foreign, Commonwealth & Development Office (FCDO)—hosted the Sixth Edinburgh Dialogue on Post-Conflict Constitution-Building. The Edinburgh Dialogue is an annual event that brings together experts and practitioners from the fields of constitution-building, conflict resolution and mediation to advance research on a specific issue in post-conflict constitution-building.



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