

The dynamic of Libyan legislative process in the post-Gaddafi era: The case of the NGC and the NTC

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ABSTRACT

Libya early practice of legislative process goes back to the years of political independence, when the first popular parliament was elected in 16 February 1952 during the era of the constitutional monarchy. Nevertheless, the era of Gaddafi's regime (1969 to 2011) resulted in a vacuum of legislative process. The resumption of the Libyan legislative process reoccurred since the early days of the 17th February revolution of 2011; therefore, the National Transitional Council "NTC" was established by revolutionary leaders from different parts of Libya on 27th September, 2011. The most important legal document that was issued by the NTC is the Interim Constitutional Declaration "ICD" on 3 August, 2011, a document that draws the roadmap for the Libyan future. The legislative processes of the NTC, and especially the National General Congress "NGC", reflected the division of labour technique; thus, permanent, non-permanent and common committees were operational. This study assumes that the Libyan legislative process is a policy influencing rather than an executive dominated branch of government. In order to examine the influence of the NTC and the NGC on public policy, this study is divided into the following sections: the Evolution of Libyan legislative process, the Libyan legislative process, the Influence of the NTC and the NGC, the Future of the legislative process in the new Libya, and a conclusion. The findings of this study support, by and large, the underlying hypothesis that described the NTC and the NGC as policy influencing rather than executive dominated legislative bodies.

Keywords: 17th February Revolution, Legislative Process, Internal System, National General Congress, National Transitional Council, House of Representatives, Interim Constitutional Declaration, Government of National Salvation.

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INTRODUCTION

Political systems, according to Easton (1966, 1979); Easton and Dennis (1969), convert their inputs to outputs. While the input reflects the internal and external surrounding environments, the output results in a feedback process that links the outcomes with the environment. Accordingly, the dynamic of Libyan legislative process is to respond continuously to the environment during the process of converting inputs into outputs. Furthermore, the Libyan legislative process consists of subsystems that represent political environment, e.g., constitution, relationship between branches of government, as well as economic, social and

cultural milieus.¹

The relationship between the legislative and executive branches of government depends, by and large, upon the type of political system that is adopted by countries. While the presidential political system adopts the principle of separation of powers; review of literature

¹ - Although system theory deals with conversion process as a black box, due to its macro approach of analysis, this study adopts also rational theory which enable us to combine between macro and micro approaches of analysis (Babbie, 2008: 36)

reveals that the interaction between the two branches of government is a main characteristic of parliamentary political system. Although the national assembly system is a democratic one, e. g., Switzerland, the legislative institution dominated the executive branch of government. Nevertheless, in most non-democratic political systems, the rule is the supremacy of the executive branch of government. Obviously, the policy influencing Assemblies are more connected with democratic political systems rather than with the executive dominated parliaments.²

LITERATURE REVIEW

Literature review reveals that comparative politics' texts focus either on individual countries based on particular dimension such as culture orientations (Hafstede, 1980) or thematic approach whose comparison reflects across countries in particular (Newton and van Deth, 2012). According to Kuhn (2012), the field of comparative politics reflects three different paradigms in terms of theories, approaches, methods, and techniques, e. g., traditionalism, behavioralism and post-behavioralism.³ Linking methods to theories is one aspect of behavioural and empirical studies in the field of comparative politics (see for example, Axford, 2002: 87-88; Pumper et al, 2005). Since the focus of Comparative politics is to explore, describe and analyze political systems; therefore, it means, "a search for similarities and differences between and among political phenomena, including [legislative process]" (Lim, 2010:10).

Further review of the literature demonstrates that while Hofstede (1980 and 1991) emphasized national culture as a determinant classification to countries on the one hand, Easton (1979: 12-22) considers converting inputs into outputs as a crucial factor that enable us to classify political systems on the other hand. Obviously, Easton's theory (1979) did not ignore the role of cultural element in contemporary political process, but it dealt with it as a sub-system that reflects internal and external milieus.⁴ Consequently, culture is one element of internal and external milieus that does not enable us to examine political process; thus, this study adopts system and decision making approaches, which deal with political

regimes on the macro and micro level of analysis simultaneously.

Nevertheless, scientific writings on legislative process go back to the 1960s, when behavioralism dominated the field of political science.⁵ Scholars such as David Easton and Gabriel Almond dealt with contemporary political systems as dynamic and fulfilling certain functions. Among the functions on the policy level is legislative process⁶ that is affected and infected by internal and external environments at the same time (Almond and Coleman (1960); Almond and Powell (1966, 1978); Almond et al. (1993, 2000)). Generally, there is a gap in the Libyan legislative process, due to temporal and methodological consideration. The Libyan democratic transformation is a new process that reflects the post-Gaddafi era. Consequently, the significance of this study reflects an attempt that aim to narrow, hopefully, some of the gap in the literature.⁷

The Libyan political system converts also inputs into outputs, but writings on this topic are very limited.⁸ Review of the literature reveals that there is a lack of writings in this regards by Libyan and foreign scholars as well. Wiarda (2007) described Libya during the Gaddafi era, as a non-democratic country by all means, because it remains top-down and authoritarian (Wiarda, 2000: 156). Furthermore, Potter et al. (2001) classified Libya during the years 1975 to 1995 as an authoritarian political regime, due to the following four factors:

1. Dictatorship was the dominant process during the years, 1969 to 2011;⁹
2. The absence of accountable and transparent popular and competitive elections during the Gaddafi era;
3. The absence of individual and civil political rights;
4. The lack of autonomous associations and organizations.

Generally, the history of the Libyan legislative process is old;¹⁰ and thus, while some scholars connected that with the period of Islamic state, others denied that and related

² - Unpublished paper presented to the International Conference on Understanding Legislations: Role and Potentials of Arab Parliaments in Times of Transformation, Berlin on 4 – 8 November, 2014, Germany

³ - for more details on the focus of comparative governments and politics' literatures (Harrop and Hague, 2001)

⁴ -Hofstede (1980 and 1991) identified four characteristics of national culture: implicitly, core, casualty, territorial uniqueness and shared values. Furthermore, Hofstede (1980 and 1991) argued that national culture is a sub-system of global system. He was inconsistent when he "identified national cultures per se and yet sometimes also to have identified differences between national cultures" (Mcsweeney, 2002).

⁵ - Riggs (1961 and 1964) argues that dynamic political systems interact continuously with its internal and external surrounding environments.

⁶ - Regarding the title of legislative process, see for example the literature concerning American politics, e.g. Keefe and Ogul (1977) and Patterson (2002).

⁷ - Ibrahim and Otto (2015) edited a legal study that assessing legislation for Libya's reconstruction and mainly consists of four parts: firstly, part one distinguish between constitution making and 'ordinary' lawmaking in Libya during 2014-2015; secondly another part summarizes the main findings of the report; thirdly, policy recommendations are suggested; and finally the project assessment of constitutional and ordinary lawmaking are provided. Despite the importance of this project, legislative political process was ignored due to the legal background of its team; thus, this study will attempt narrow this gap.

⁸ - Some literature focused on different topics that concern Libya since political independence in 1951, e.g., tribe and revolution. (Davis, 1987).

⁹ - Gaddafi declared war against all his enemies, particularly the Muslim brotherhood movement; therefore, he either assassinated their leaders or sent them to jails, and for more details see for example; (Potter, et. al., 2001: 358-361)

it in a way or another to the constitutional monarchy era (1952 to 1969). Nevertheless, Libya exercised different aspects and levels of legislative processes during its modern and contemporary political history. Since the objective of this study is to describe and analyze the Libyan legislative process in a comparative manner that takes into consideration historical and geographical backgrounds, a review of the literature is required in order to fill out the literature gap if any of it do exist.

The topic of Libyan legislative process was not mentioned by classical studies on Libya, such as the book El-Fathaly (El-Fathaly et al., 1977). In chapter six, El-Fathaly and Chackerian (1977) mentioned briefly the role of the people's Congress and Popular Committees in the process of Libyan legislative process during the early years of Gaddafi era (El-Fathaly et al., 1977: 92-99). The dictatorship of Gaddafi era was among several factors that resulted in the absence of rich literature regarding the topic of Libyan legislative process. Filling the gap in this regard reflects the importance of this study from methodological point of view.

Furthermore, non-accountable and non-transparent elections during the early years of political independence (1952 to 1965) on the one hand, and the *imperial King* who exercised unlimited executive and legislative authorities as indicated by the constitution of 1951 on the other hand, resulted in a deteriorated Libyan legislative process. According to the Libyan Kingdom's constitution that issued on 7th October, 1951, King Edress exercised executive and legislative powers as well.¹¹ Obviously, there is a wide gap in the literature regarding the topic of Libyan legislative process; thus, the main objective of this study is to narrow down this gap as much as possible.

DATA AND METHODOLOGY

The focus of this study is to describe and analyze the legislative process during the period of the non-elected National Transitional Council "NTC" and the National General Congress "NGC" that was elected on 7 July, 2012. Furthermore, the aim of this study is to describe and analyze the legislative process of the NTC and the

NGC, due to the following factors:

1. The NTC was the first legislative authority that led the revolutionary movement against the Gaddafi dictatorship during the period (from 27-2-2011 to 8-8-2012). Furthermore, The NGC is the first elected popular legislative body after the overthrow of Gaddafi's regime.
2. The election on 7th July, 2012 that resulted in the existence of the NGC was transparent and accountable from the one hand, and recorded a higher level of voters' turnout on the other hand,
3. The NGC still exercise its powers due to procedural and substantial processes that delayed the transformation of power into the new elected House of Representatives "HOR",
4. The election of the HOR resulted in a deep political and military conflict, and the issue of its legality was before the Libyan Supreme Court.¹² Furthermore, a large number of the HOR members are boycotting its meeting due to its controversial nature. Most of its meeting lack generally even the required simple majority votes emphasized by the ICD. Consequently, the HOR will be excluded by this study, due to its controversial position.

Since most legislative authorities are generally classified as either *policy influencing* or *executive dominated parliaments*, a legitimate methodological question might be raised here: *where the contemporary Libyan legislative branch of government stands from all that?*, or in another word: *Is the Libyan NTC and NGC a policy influencing or an executive dominated branch of government?* In order to answer this question, we assume that: *"the NTC and NGC are influencing the process of public policy in the new Libya."* Obviously, a causal relationship is assumed between the two independent variables, namely the NTC and NGC on the one hand, and the public policy making processes on the other hand.

By the end of this section, several points should be mentioned, such as methods, limitations and data analysis. This study combines between different approaches, e.g., system and decision making approaches; multi-methods, e.g., descriptive, analytical, case study and comparative methods; and techniques, e.g., qualitative content analysis. Figure 1 shows the theoretical approach of Libyan legislative process, where decision makers respond to internal and external environments through input mechanism and adopt laws and decisions that result in feedback reactions.

¹⁰ - From a structural approach point of view, Bromley (2011) argues that the issue of democracy in the Arab World, and Libya is no exception for that, reflected a historical patterns of state and class formation. Thus, there was some scope for limited constitutional rule and democratic accountability. (Bromley, 2001:321-344, at p. 340) Furthermore, another scholar argued that different elements, e. g., religious, cultural, economic and technological, delayed the democratization processes in the Arab World.(Ayubi, 2001: 345-366)

¹¹ - Article (41) of the Libyan Constitution of 1951 emphasized that the King share and exercise legislative power with the parliament. While the king exercise full executive power (Article 42), the Libyan Constitution of 1951 indicated also that the judiciary authority exercise its power by the king name only (Article 43). Since elections during the monarchy period (1952-1965) were not accountable and transparent; therefore, the legislative processes cannot be described as a democratic as it should be.

¹² - Constitutional Courts deals usually with disputes that related to constitutional issues. The Libyan judicial organizational structure indicates a hierarchical court system, but without a Constitutional Court. The Libyan judicial system deals with constitutional disputes by the supreme courts instead of a Constitutional Court. Thus, the Constitutional Circuit of the Libyan Supreme Court held several meetings during August and October, 2014, in order to examine the legality of those meetings and decisions that were taken by the HOR since its first illegal meeting on 4th August, 2014.



Figure 1. Theoretical approach of the Libyan legislative process: the case of NTC and the NGC.

Finally, there are also temporal and spatial constraints; thus the focus of this study is on Libyan legislative process in the early years of democratic transformation. Contemporary Libyan legislative process represents a distinctive case study for the Arab Spring countries; therefore, the significance of this study reflects the examination of new phenomenon in Libya post Kaddafi.¹³ Finally, qualitative and quantitative data are utilized in this study. Documents such as the ICD and figures are examples of data represented in this context.

THE EVOLUTION OF THE LIBYAN LEGISLATIVE PROCESS

Libyan real practice of legislative process goes back to the early years of independence, when the first popular parliament was elected on 16 February, 1952 during the era of constitutional monarchy. There were two chambers of parliament during the years (1952 to 1965). While the lower house was elected every four years, the members of the upper house were appointed by the king Edress Al-Sousni. But, the elections of the lower house were not transparent and accountable as it should be; therefore, many reports describe those elections as fraud and corrupted.¹⁴

Nevertheless, the era of Gaddafi's regime (1969 to 2011) resulted in vacuum of legislative process. Gaddafi invented in 1977 what he called the authority of Libyan

people through popular conferences and popular committees. While the popular conferences held its meeting annually, the popular committees on the local and national levels, that supposedly represent the executive arm of Libyan authority, were in continuous meetings. Nevertheless, the legislative process cannot be called democratic, simply because they were built on ideological dictatorship bases instead of transparent and accountable popular elections.

The resumption of the Libyan legislative processes reoccurred since the early days of the 17th February, 2011; therefore, the NTC was established by revolutionary leaders from different parts of Libya on 27th February, 2011. The members of the NTC were not elected due the revolutionary circumstances that existed during the months from February until October 2011. The most important legal document was issued by the NTC is the Interim Constitutional Declaration "ICD" on 3 August, 2011.

The election on 7th July, 2012 was supervised by global and local institutions, such as the UN, the EU and local and global civil society organizations; therefore, it was transparent and accountable by all means. Furthermore, the parliamentary election on 7th July, 2012 witnessed the highest voters' registration (over 90%) and voters' turnout (over 70%) in the history of Libyan elections. The two hundred members of the NGC were elected according to population and geographical criteria; therefore, large regions with low density population, e. g., Alkofera and Sirt, were given semi equal weight of small regions with high density population, such as Tripoli and Benghazi.

The second popular election was held on 25th of June, 2012, and suffered from low voters' turnout (around 40%). Thus, the new parliament raised controversial issues, such as convening its session in a place that was not indicated by the ICD as well as holding its meeting with a high percentage absence of its members (around 50% absence). Furthermore, the ceremony of transferring power from the NGC to the HOR is legally controversial. The new HOR did not meet in Benghazi city as it was

¹³ - The uniqueness of the Libyan case reflects the existence of two conflicting legislative bodies that elected democratically, but they delayed the process of peaceful transformation of powers. Despite the significance of this dilemma, it is beyond the scope of this study to examine that for methodological limitations. Political conflict and delayed transformation of powers in the new Libya is a topic requires further research.

¹⁴ - Although the election of Libyan parliament in 1964 was repeated in 1965, the election of 1965 was also a fraud one. The 1965 election was generally the last conducted one, due to the king dissatisfaction and critic for political corruption since the early 1960s.

planned by the ICD, and instead it held its sessions in the city of Tobruk, which is located in the eastern part of Libya near the border with Egypt. Furthermore, around half of the new HOR's members boycotting its session due to its violation of the ICD, especially what concern its meeting in Tobruk instead of Benghazi as well as its violation for the principle of peaceful transfer of power.

The Libyan legislative process

The ICD and the Internal Systems of the NTC and the NGC spelled out in details the steps of decision making for the Libyan legislative processes.¹⁵ Since the early days of the 17th February 2011, three legislative bodies were created. As mentioned before, and due to methodological reasons, the focus of this study will be on the legislative process of the NTC and the NGC only.¹⁶

The Libyan legislative process: the NTC

Since the objective of establishing the NTC was to manage the crisis of the revolutionary stage in Libya post Gaddafi, it adopted the *consensus rule* during the process of decision making that lasted for almost one year and half (from 2-3-2011 to 8-8-2012). Accordingly, the NTC was formed on the basis of *revolutionary legitimacy* instead of *electoral legitimacy*. The environmental conditions surrounded the Libyan revolutionary movement in the year 2011 did not allow for general election; thus, representatives from local councils all over the countries constituted the membership of the NTC.

Although examining the organizational structure of the NTC does not indicate the existence of working committees system, the author interviews with some members of the NTC assure the existence of this system during the legislation process. Thus, according to the author interviews of some members of the NTC, there were in fact many specialized working committees that cover political, economic, social and cultural affairs. But, those members of the NTC emphasized that the most prominent specialized working committees were as

follows:¹⁷

- i. Political committee,
- ii. Security Committee,
- iii. Legal Committee,
- iv. Financial Committee.

The ultimate aim of the NTC was to manage the Libyan crisis on the one hand, and build the state of laws and institutions on the other hand; thus, it involved in almost semi daily official meeting in order to take crucial decisions and make laws that respond to the internal and external pressures during that critical stage of the Libyan contemporary history.¹⁸ Internally, the NTC dealt with local crises effectively through the official and unofficial available conflict resolutions mechanism, e. g., good offices, mediations and conciliation. Furthermore, the NTC issued the famous ICD that draw the *Libyan road map* for the democratic transnational period. Externally, the NTC established an executive committee, known as the *Executive Office*, in order to gain global support for the revolutionary movement of the new Libya.¹⁹

Figure 2 indicates generally the organizational structure of the NTC. As indicated by Figure 2, the president and vice-presidents of the NTC occupied the highest political legislative ranks, while departments reflect the bureaucratic level. In short, the legislative process during the era of the NTC was characterized by the following elements:

1. The legislative process was interdependent and complicated at the same time. The political aspects of the legislative process during the era of the NTC reflected generally social elements, such as weight and impact of Libyan tribes and regions. Furthermore, the psychological and security elements affected the process of decision making, e. g., the impact of charismatic leadership and daily battles between Kaddafi and anti Kaddafi forces in the different regions of Libya. As far as the complication

¹⁵ - The Libyan legislative processes reflect generally the thesis of rational theory, where decision makers identify their goals and explore the available alternatives in terms of gains and losses. The decision makers can select in the final stage of rationality the options that either maximize benefits or minimize losses (Barry and Hardin, 1982)

¹⁶ - Although the focus of this study is on the legislative process, it should be mentioned (see Figure: 1) that this process is a response to demands, oppositions, supports and resources; and inputs reflects internal and external milieu. Furthermore, outputs are the end product of legislative process; and thus reactions towards laws and decisions leads to positive and negative responses. However, the feedback sub-system communicates responses to the environments and so on (Easton, 1979)

¹⁷ - Personal and telephone interviews were conducted by the author regarding the working committees system during the era of NTC. For example, a telephone interview was conducted by the author with the representative of Tigrigna (professor of public law *Mansor Millad*) in 28-12-2012), and he emphasized the adaptation of the working committees system mechanism since the inception of the NTC.

¹⁸ - Pressure groups, including armed clusters and non-governmental organizations affect the process of decision making in the new Libya, and for more information in this topic see for example: (Armed Groups in Libya). Due to methodological limitations, this study will not describe and analyze the role of pressure groups in decision making process, a topic requires certainly further research.

¹⁹ - The aim of establishing the Executive Office is to manage the Libyan internal and external crisis on the executive level, and it consists from the following members: Dr. Mahmoud Gibril (president), Dr. Ali Al-Issawi (foreign affairs minister), Dr. Ali Tarhouni (financial and economic affairs), Osama Al-Jaweli (defence affairs) and the prominent journalist Mahmud Shamam (media and communication). The five mentioned persons were also members of the NTC, but they were given more time to manage the Libyan crisis with the global community.

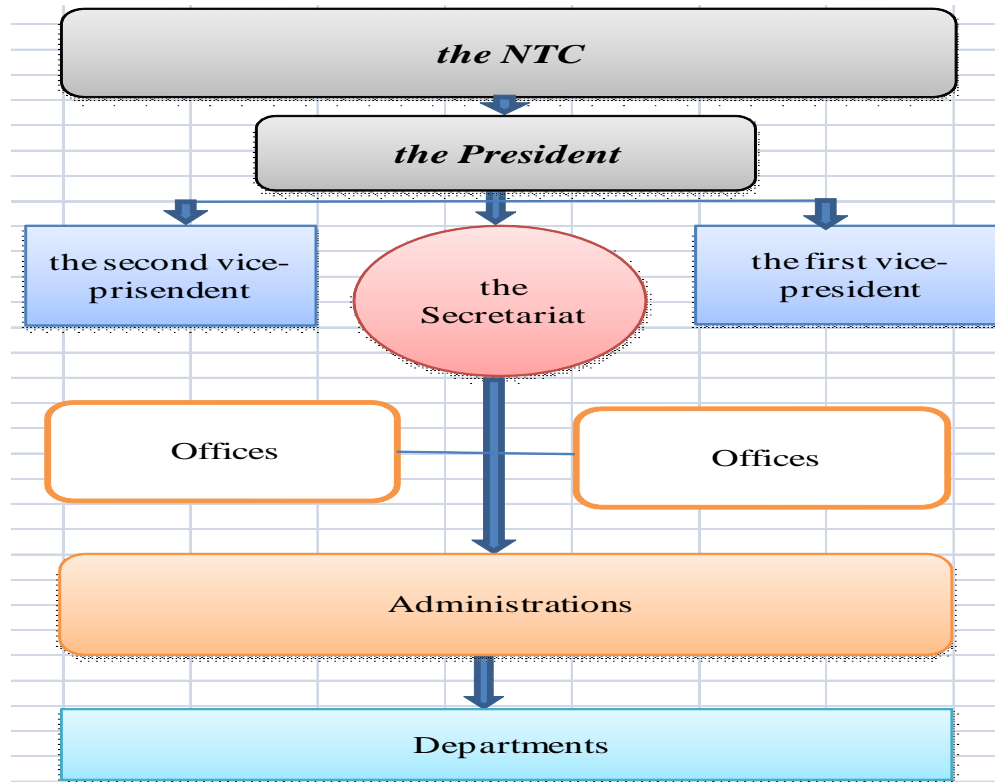


Figure 2. Organizational structure of the NTC.

elements of legislative process are involved, the mechanism of decision making process was not clear cut; therefore, it reflected the rule consensus plus the involvement of specialized working committees and the impact of external pressures.

2. Semi daily meetings led the NTC to adopt the rule of consensus as well as a limited system of specialized working committees and use of *personality factor* when it is necessary. The charisma of the NTC's president (*Mustafa Abdeljalil*) was a crucial factor during the process of controversial decision-making, because of his popularity and influence in the new Libya,

3. The output of the legislative process during the era of the NTC resulted in multi package of laws and decisions that ended the stage of revolution and began the first steps of building the state of law and institutions. The most important political and legal documents issued by the NTC are: the ICD, the political entities law (political parties and civil society organizations), and the election law,

4. The success of the legislative process during the era of the NTC led practically into an outstanding success of 7th July, 2012 election on the one hand, and a peaceful transformation of power to the new elected parliament named the NTG on 8 August, 2012 on the other hand.

In short, the NTC began the first step towards democracy in the new Libya. Furthermore, the NTC established new

rules that guided the legislative process during the NGC era. Thus, the limited committees system was enlarged into expanded committees system by the NGC, in order to cope with new challenges that the new Libya are facing on internal and global levels.

The Libyan legislative process: the NGC

On the contrary of the internal system of the NTC, the internal system of the NGC indicated in details the steps of the legislative process on the one hand, and various working committees that reflect the division of labour principle on the other hand. Table 1 indicates the actual working committees within the NGC.²⁰ According to the Internal System of the NGC there are three types of committees, and they are:

1. Twenty Permanent Committees, that focuses on various political, economic, social and cultural topics. Actually, the tasks of Permanent Committees are to discuss and follow up any issues that reflect the agenda

²⁰ - The second part of the NGC's internal System indicated in articles 12-46 the formation and function of the specialized working committees that considered the core of the decision making process from 8 August until the writing of this paper.

Table 1. Permanent working specialized committees of the NGC.

No	Committee's name
1	Legal, Legislative and Constitutional Committee
2	Internal Affairs Committee
3	Foreign Affairs Internal Affairs Committee
4	Defence Committee
5	Planning and Financial Committee
6	Education Committee
7	Health and Environment Affairs Committee
8	Population and Public Utilities Committee
9	Labour, Social, Youth and Sport Affairs Committee
10	Administration and Local Council Committee
11	Human Rights Committee
12	Energy Affairs Committee
13	Economic, Trade, Investment and Industry Committee
14	Justice and Islamic Affairs Committee
15	Media, Cultural and Civil Society Committee
16	Agriculture and Irrigation Affairs Committee
17	Communication and Transportation Committee
18	Revolutionlists Affairs Committee
19	NGC Management Affairs Committee
20	Died, Injured and Missing Persons Affairs Committee

Data source: the Internal System "IS" of the NGC (Tripoli: unpublished document, 2012), p. 9.

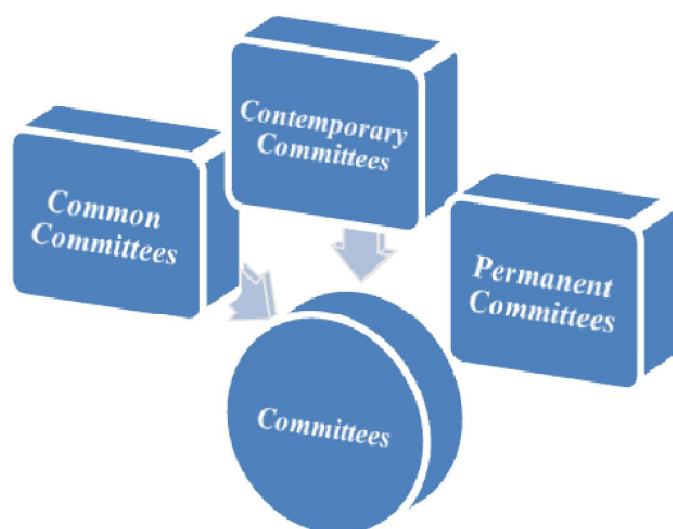


Figure 3. The organizational structure of the NGC legislative process.

of the executive branch of the Libyan government.

2. Contemporary Committees are established when it is necessary.

3. Common Committees are created when issues become interdisciplinary ones.

Furthermore, Figure 3 indicates generally the legislative process during the era of NGC. Examining the Internal System of the NTC, Figure 3 leads us to the following conclusions:

1. The NGC adopts the rule of Labour division; thus, twenty specialized committees were established in order to cover different functional fields (Table 1). In this regard, article 16 indicated that the NGC elects permanent and contemporary committees within the range of 7 to 17 members. Obviously, the various working committees of the NGC indicated the first serious step in the legislative process that emphasize the beginning of take off step to build the new Libya on the basis of legal and revolutionary legitimacy simultaneously.

2. Drafts of laws and decisions might be introduced into the presidency of the NGC by its members, political blocs and parties, civil society organizations and citizens as well. Then the president of the NGC transfers either the drafts of laws and decisions to the specialized committees, or discuss them among the members of the NGC, if the internal system requires that step.

3. Drafts of laws and decisions are studied and discussed fully and immediately either by a permanent specialized committee or by a non-permanent specialized committee, in order to make them acceptable for legislators. Of

course the permanent and non-permanent specialized committees require certain data and information from different informal and formal institutions; and therefore, they contact them to obtain what is available in order to make the drafts of laws and decisions more rational.

4. When drafts of laws and decisions are complicated, an interdisciplinary committee could be created from members that belong to more than permanent and non-permanent committees. The President of the NGC, or any of his vices, could chair the sessions of any interdisciplinary committee, in order to reach compromises after he succeed in the process of narrowing down the differences, if they exist in the first place.

5. Drafts of laws and decisions transfer again to the concerned committee, so it can approve by simple majority. If the votes split equally, the IS of the NGC is biased to the side that includes the chairman of the committee.

6. The chairman of the permanent specialized committee transfers the approved drafts of laws and decisions into the president of the NGC, who is supposed to include it in the agenda of the NGC. Although the position of the permanent specialized committee is very important, drafts of laws and decisions are discussed again by the members of the NGC. While crucial issues, e. g., security and government appointment, are taken by two thirds, procedural matters are taken by simple majority.

7. Law and decisions that are taken by the NGC are transferred into the executive branch, in order to be executed, and become generally available to the public on the web site of the NGC.²¹

Obviously, the legislative process during the NGC era becomes more complicated and overlapped. Political parties, interest groups, civil society organizations, public opinion and media existed as new players in the legislation process. The election law of the NGC adopted the systems of simple majority (120 seats) and proportional representation (80 seats) simultaneously. The conflict between the liberal and Islamic political parties dominated the NGC floor; thus, a polarization process was the result. Political parties, interest groups, civil society organizations, public opinion and media supported one side or another according to their mutual interests. Consequently, the Libya legislative process during the NGC era was not restricted to the NGC, but it also included other political players as well. The phenomena of multiple political players did not exist during the NTC era, because of unified war against Kaddafi forces. Nevertheless, this study will not describe and analyze the impact of new political players upon the decision making process simply for methodological reason concerning the limitations of the study.

²¹ - For further information, the NTC and the NGC websites are consecutively as follow: <<http://www.ntc.gov.ly>>, and <<http://www.gnc.gov.ly>>

Influence of the NTC and the NGC

Most Assemblies or legislative authorities are generally classified as either *policy influencing* or *executive dominated parliaments*. Legislative authorities, particularly policy influencing assemblies, fulfil several functions, such as (see for example, Keefe and Ogul, 1977: 14-19; Heywood, 2000: 215):

1. Rule making powers,
2. Oversee and scrutinize the executive or the government,
3. Act as a representative body of government,
4. Recruit and train politicians and political leaders,
5. Assist in maintaining the legitimacy of political system,
6. The creation of popular attitudes and values that affecting government and politics.

Although the NTC and the NGC are legislative bodies, their influence exceeded the step of making laws and decisions into the stage of implementing and monitoring the process of public policy. The presidents of the NTC and the NGC acted in many occasions as chief executives; therefore, they were considered *commanders in chief* and representatives of Libya abroad.²² The influence of the NTC and the NGC exceeded the legislative aspect into the executive dimension. As mentioned before, the Libyan legislative branch of government fulfils several tasks; and thus, its political influence increase when these tasks accomplished, and the opposite is true.

To begin with, the influence of the NTC and the NGC might be demonstrated in their power to make laws. The Libyan legislative process resulted in a wide range of outputs that were very necessary to move from revolution period into state building stage. The outputs of the Libyan legislative process reflected not only the ITC, but it also includes several types of outputs, such as: laws, decisions, regulations, declarations, briefings and announcements. The outputs of the Libyan legislative process aimed generally to transfer the country from revolution stage into state building process. While the ITC indicated a roadmap to build the new democratic Libya, the election of the NGC law prepared for the first accountable and transparent popular election.

As far as the ITC is concerned, the NTC adopted it on 3rd August, 2011, and it was consisted from thirty seven articles. The ITC spelled out in details the process of transferring post Gaddafi Libya into a democratic country. Libya during the Gaddafi era was a dictatorship; and

²² - Although the deadline of adopting a new Libyan constitution according to the ICD already passed, the ICD still operational. The ICD did not draw a sharp line of duties between the executive and legislative branches; thus, the NGC took a decision considered its president as commanders in chief. Furthermore, de facto practices of Commanders in chief, meeting foreign officials and representing Libya abroad make, to some extent, the presidents of the NGC like imperial president.

therefore, the influence of the NTC is reflected in adopting the ITC that spelled out the process of democratic transformation. Furthermore, the ITC emphasized in details a roadmap to build the state of law and institutions. The road map indicated deadlines for the election; thus, an accountable and transparent popular election was conducted on 7th July, 2012, and resulted in the elected NGC.

Obviously, the road map process that was indicated by the ITC was almost fulfilled. Elections were conducted on time, and the Constitution Drafting Committee "CDC" was elected successfully on 20th February, 2014. But, the CDC did not finish its task as it was planned by the road map, due to the complicated responsibilities and deterioration of security conditions in Libya.

Oversight of the executive and bureaucracy is another impact of the legislative process. The executive branch is the authority to implement the public policies; thus, the legislative authority involved in oversight process towards the executive and bureaucracy. During the last three years, five governments were in charges. Since 8 August, 2012 the NGC witnessed four governments, due to constitutional, political and financial reasons. The government of Dr. Abdelrahiem Al-Keep was resigned due to its transitional period. But, the government of Ali Zedan was accused of corruption; therefore, he ran away when he was dismissed and asked for criminal investigation by the NGC. Later on the NGC appointed Abdullah al-Thinni as the third Prime Minister for a temporary period, but he split and joined what is known Hifter's camp in the eastern part of Libya. Finally, the NGC appointed Omer Al-Hassi as a new Prime Minister for what is known the Libyan government of National Salvation.²³

In short, the NGC exercised firmly its power in order to oversee the executive branch and the bureaucracy, especially during the era of Ali Zedan government. Democracy is a new game in Libya; thus, a huge budget (more than 65 billions) was wasted by Zedan government; thus, the NTC dismissed this government and asked him for investigation and criminal charges after removing prerogative privilege that he enjoyed during his government.

Furthermore, the NGC acted, by and large, as a representative body of government. Direct and indirect contacts between the representatives and their constituencies were continuing process. But, as the honeymoons' months passed quickly, and demonstrations against the NGC performance were an

ordinary manner throughout the country. Later on, events and deep investigations showed that the pro-Kaddafi regime as well as anti-17th February revolution were behind the riots and the use of violence against the NGC. Although the Libyan people elected (low voters' turnout) the HOR on 25th June, 2014, the peaceful transformation of power process was not accomplished; and thus, two parliaments and two governments exist in the new Libya since 4 August 2014. Continuous demonstrations against the HOR in various Libyan cities show the existence of a wide gap between the representatives on the one hand, and the Libyan political activists on the other hand.

Another aspect of legislators influence is demonstrated in the process of recruiting and training activists and politicians. Recruiting and training politicians and political leaders are new phenomena that exist in the new Libya. During the Gaddafi era, recruiting and training politicians and political leaders were restricted to loyalists only on the basis of ideological background. In order to prohibit the Kaddafi loyalists from governing, the NGC issued on 25th December, 2012 the *Law of Political Isolation*, which forbids pro-Gaddafi from occupying higher political positions.²⁴ According to this law, some political leaders resigned and others were removed after they were elected or appointed. Thus, a new generation of political leaders existed since the inception of 17th February revolution on 2011. Obviously, the legislative process resulted in a new package of laws that either prohibit pro-Kaddafi politician from being elected or appointed in leadership positions at least for the coming ten years, or encourage a new generation of activists and political leaders to participate effectively in building the state of law and order.

After a long period of dictatorship (1969 to 2011), the Libyan new legislative branch succeeded in the process of assisting in maintaining the legitimacy of political system. Public supports resulted in legitimate political system; therefore, the Libyan government represents the interest of Libyan people, who can reward or punish politicians during the general or local elections that are considered an essential element of democracy.

Finally, the impact of legislative process is reflected in the creation of popular attitudes and values that affecting government and politics. Freedom of speech and media contributed positively into the process of democratization in the new Libya; thus, public opinion becomes a new factor in the contemporary Libyan politics. Although conducting polls by local and global organizations are rare and a new phenomenon that is taken into consideration by Libyan politicians and scholars, the legislators cannot ignore the public attitudes towards them. Review of the literature in this regard reveals that

²³ - The government of national accord (GNA), is chaired by Fayez Mustafa Alsarraj and recognized by the global community, is generally an interim government for Libya that was formed under the terms of the Libyan Political Agreement that signed on 17 December, 2015 in Morocco (Libyan Political Agreement, 2015). The aim of the GNA is to unify political efforts to build the new Libya; therefore, it encourages all parties to be part of it. The website of the GNA is: <https://www.temehu.com/gna.htm>.

²⁴ - The final draft of Political Isolation Law was issued by unanimous votes by the NGC in 5 May 2013; therefore, many politicians were either resigned or removed from their positions, e. g., the president and the first vice-president of the NGC.

there are indications emphasizing the considerable shift from parochial and subjective into the *participation cultures*.²⁵ This new environment of shifting attitudes means that public opinion becomes more influential, and the democratic government becomes also more responsive.²⁶

In short, the previous discussion shows that the Libyan legislative process fulfil, by and large, those functions related to contemporary parliaments in democratic countries. But, the influence of the Libyan legislative process is not obsolete, due to the split of the Libyan people and civil society organizations between supporters and opponents to democratic process in the first place. However, since democracy means pluralism; thus, one might say that the Libyan still in the first grade of democracy, but certainly they need more time to learn how to listen to each other views.

THE FUTURE OF THE LEGISLATIVE PROCESS IN THE NEW LIBYA

As far as the future of the legislative process in the new Libya is concerned, three different scenarios might be identified. Figure 4 refers to *optimistic*, *pessimistic* and *moderate* scenarios. Obviously, there are evidences that support the theses of each scenario, and we will explore each one separately as follow:

Moderate scenario

There are indications that split of legislative authorities will continue; thus, part of NGC will operate in the Libyan capital (Tripoli), and the new elected fragment HOR will remain working in Tobruk. According to this scenario, legislative process will remain divided; thus, both Assemblies continue to make occasionally irrational and opposing laws and decisions that affect negatively their legitimacy in the medium and the long run. The existence of the two legislative bodies will encourage more international interference in Libyan internal affairs by supporting a third government that might include political opponents in order to save the future of Libyan people. In short, this scenario means continuing business as usual; therefore, the future of Libyan legislative process will be a continuation for the present circumstances.²⁷

²⁵ - Participation culture spread generally in democratic countries, and for more details see for example: (*Nie and Verba, 1975*)

²⁶ - There is limited focus among the Arab and Libyan scholars regarding the topic of political culture and its relevance to democracy (*Kedourie, 1994, Obeidi, 1996, 2001*). The author also published a book in 2013 (in Arabic) entitled "The Impact of Democratic Transformations upon the Libyan Political Culture".

²⁷ - The disagreement between the NGC and the HOR reflects generally the continuing conflict between two camps, namely: pro-and anti 17th February revolution, and for more details in this regard see for example: Bernard

But further scenarios are either *optimistic* or *pessimistic* on the one hand, and they indicate that the future will be different from the present situation on the other hand. The main argument of the remaining two scenarios focus on the changing circumstances in the future rather than the thesis of "business as usual", which emphasized by the moderate scenario.

Optimistic scenario

According to this scenario things will change to the better, which means that dialogue process will succeed despite the awkward circumstances. The UN sponsored dialogue that begins in Gadamis city will be enlarged to include all political adversaries, who are expected to narrow down most of their differences. Global support to the Libyan government is expected to be more effective, consequently the efforts of building the state of law and constitutions will be accomplished successfully.

Furthermore, there will be more bilateral, regional and global technical and political supports to the united Libyan government. The internal and external willingness to help a Libyan united government to deals with its problems effectively will lead to more effective and powerful legislative and executive authorities; thus, the new Libya will overcome most of its problems.

In short, Libya will be able to deal effectively with its problems on internal and global levels. According to this scenario, Libya will succeed in the process of transferring the weakness into strengths and threats into opportunities (Table 2). According to this scenario, the national dialogue lead by the United Nations will succeed, security will be accomplishing, the phenomena of split government will disappear, and effective roles of Informal organizations, such as: civil society, mass media and political parties will be enhanced. Consequently, the Libya legislative process will fulfil successfully its functions; and thus, become more influential branch of government.

Pessimistic scenario

The worst scenario indicates that the Libyan adversaries continued to solve their problems by violence and use of force instead of dialogue and peaceful solutions. Further deterioration of security conditions in Libya could lead to real civil war that weakens the country to a degree disable the government to fulfil its main duties effectively.

Gwertzman, "Is It Too Late for Libya?" *Council on Foreign Relations* (October 3, 2014), Available at this link: <http://www.cfr.org>; Frederic Wehrey and Wolfram Lacher, "Libya's Legitimacy Crisis: The danger of Picking Sides in the Post-Qaddafi Chaos," *Foreign Affairs* (October 6, 2014), available at: <http://www.foreignaffairs.com>; and Jason Pack, "Libya on the Brink: How to stop the Fighting," *Foreign Affairs* (July 28, 2014), available at: <http://www.foreignaffairs.com>

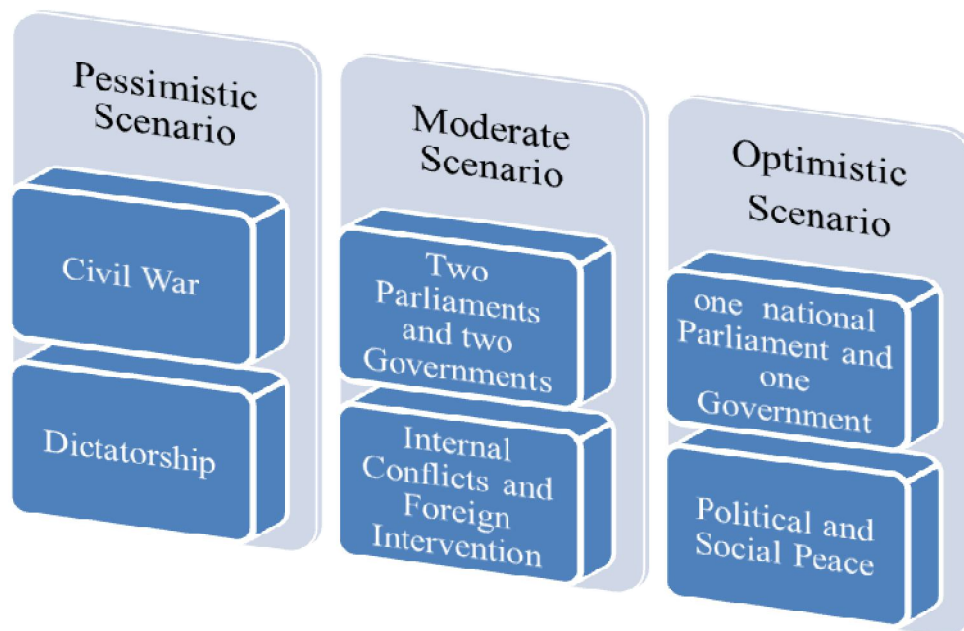


Figure 4. Scenarios of Libyan legislative process.

Table 2. Libyan Legislative Process: SWOT analysis.

Internal milieu	Strengths	Weaknesses
1	Elected legislative Bodies	Split Legislative Bodies
2	Effective Rule Law Making Power	An Increasing Gap with Public Opinion
3	Recruit and train politicians and political leaders	Security Deterioration
4	Accountable and Transparent	Absence of national dialogue
5	A Crucial Step towards Democracy	Ineffective Political Parties and Mass Media
External milieu	Opportunities	Threats
1	Global Support for Legislation Process	Foreign Intervention and Agenda
2	Involving in Global Sponsoring Dialogue	Civil War
3	Adopting successful Global Models of Legislation Process, e.g., Tunisia	Deteriorating Economy
4	Adopting National Agenda	Extremism
5	Benefiting from UN and Global Technical Assistancess	Ignoring Global Milieu

Here, the *law of force* will replace *the force of law*, due to political and legal vacuum that Libya might fall in case of more deterioration of security conditions and regional or global interventions.

Many indicators support the thesis of this scenario, such as the continuous fighting between the supporters and anti 17th February revolution, the political and military interferences of international and regional powers in the Libyan internal affairs, e.g., Italy, France, Egypt, UAE. According to this scenario, the Libyan government, especially the executive branch, will be weakened or vanish as whole. The democratization process is expected to collapse totally, and authoritarianism or anarchism will prevail. In short, according to this scenario

Libya will be divided to mini fragment rivalry states that serve the interests of regional and global countries.

CONCLUSION AND RECOMMENDATIONS

The democratic practices and legislative processes in Libya existed since the early months of political independence. On 19th February, 1952, the first popular election was conducted, and the result was the establishment of Libyan parliament that issued various documents that reflected the process of building the state of law and institutions. The Libyan constitution of 1951 spelled out in details the powers of the legislative and the

executive authorities, so one could say that Libya early practice of legislative process is old in history. But, the Libyan early practice of legislative process was criticized as non-democratic, because the parliamentary elections during the years (1952 to 1965) were described as non-accountable and non-transparent. Furthermore, the *coupe d'état* of 1969 established a dictatorship regime (1969 to 2011) that concentrated all powers in one man hand.

The resumption of legislative process existed again when the Libyan people overthrow the Gaddafi regime and established the NTC, who adopted a roadmap that indicates steps of building the state of law and institutions. Consequently, accountable and transparent elections were conducted since the first parliamentary election on 7th July, 2012; and thus, effective legislative process is demonstrated. While the NTC was non-elected, the NGC and HOR were elected legislative bodies.

The focus of this study was on the non-elected NTC and the elected NGC; and therefore, the HOR was excluded for methodological reasons. The description and analysis of the new Libya legislative process lead us to the following conclusions:

1. Libya exercised legislative process since the early months of political independence. But, the popular elections during the years (1952 to 1965) were described as non-accountable and non-transparent. Regardless, the early practice of Libyan legislative process influenced the political environment considerably, so Libya became one of the first constitutional monarchy in the region.
2. The Libyan legislative process vanished during the Kaddafi dictatorship era (1969-2011), because he simply consolidated all powers in his hand.
3. The 17th February revolution of 2011 transferred Libya from dictatorship era into new democratic process, so Libya was among the Arab countries that witnessed what is called in the literature the *Arab Spring revolutions*.²⁸
4. Although the NTC was non-elected legislative body, due to the revolutionary circumstances that existed during the Libyan revolution (17th February, 2011 to 23 October, 2011), it affected considerably the political process, e. g., the ITC and the roadmap.
5. The NGC and HOR were elected democratically, and the elections of 7 July, 2012 and 25th June, 2014 recognized as accountable and transparent.
6. The rule of consensus was adopted by the NTC, due to the nature of revolutionary stage and surrounding environment,
7. Although the NTC Internal System did not indicate directly to the committee system as a method of decision making process, interviewing some of its members

²⁸ - Libya as well as Yemen and Syria did not finish its revolution and move from the state of upheaval into the stage of building institution and democracy (Fraihat, 2016).

assure that the NTC adopted a limited committee system.
8. The NGC decision making process interacted successfully with the surrounding environment; thus, most of its decisions reflected the conversion of inputs into outputs.

9. The NGC adopted the committee system; therefore, permanent, non-permanents and common committees where established as a response to the surrounding milieu.

10. The influence of the NTC and the NGC was demonstrated in different fields that reflected in the first place the optimal functions of the executive branches in democratic countries, e.g., the president of the NGC as commanders in chief.

11. The impact of the NTC and the NGC was related in the first place in their powers to make laws that help in building the new Libya as a state of laws and institutions.²⁹

12. The influence of the Libyan legislative process might be demonstrated either in the success or the failure of the NTC and the NGC in the field of overseeing and scrutinizing the executive branch of government.³⁰

13. The NTC and the NGC did not act necessarily as a representative body of government; therefore, public demonstrations against the NGC and the HOR were noticeable. Demonstrators used excessive violence against the NGC headquarters in Tripoli in order to issue or cancel certain laws.

14. Recruiting and training politicians and political leaders is another aspect of political influence by the Libyan legislative authorities; thus, they produced a new trained generation of political leaders, e.g., presidents and vice-presidents of the NTC and the NGC, the chairmen and members of committees.

15. The Libyan legislative authorities assisted in maintaining the legitimacy of political system, which reflected in fact both revolutionary and electoral legitimacies.

16. The NTC and the NGC created popular attitudes and

²⁹ - The most prominent legal document adopted by the NTC, and revised later on by the NGC, is the ITC, which spelled out a roadmap of democratic processes. The adoption of a new constitution is not yet accomplished; and therefore, there is some delay in the Libyan process of democratic transformation. Other crucial laws were made by the NTC and NGC, such as: the election law, the political party law, the political entities law. The important laws that adopted by the NTC and the NGC reflected their influence upon the new Libya. Nevertheless, deterioration of security conditions in Libya delayed the process of adopting a new constitution according to the roadmap; therefore, the influence of the NTC and the NGC in this regard is not necessarily obsolete.

³⁰ - Despite the short period of legislative process in the new Libya, five governments were appointed by the NTC and the NGC. Additionally, the interim government that appointed by the HOR is another government (Number six) could be identified since 2011. Practically, these governments failed to fulfill its main functions, especially dealing effectively with security matter and spread of armaments. Political and financial corruption was a main feature of these governments, particularly the governments of Ali Zidan and Al-Teni. In short, oversee and scrutinize function of the NTC and the NGC were limited as a whole.

values that affected government and politics. The democratic transformation that carried out by Libyan legislative bodies resulted in attitude change process, e.g., shifts from parochial and subjective cultures into participation culture.

Obviously, the findings of this study support, by and large, the underlying assumption that described the Libyan legislative process as *influential authority*. But, case study method and short duration of the NTC and the NGC cannot lead us to generalize our findings, which mean further studies in this regard are certainly required. As far as the recommendations of this study are concerned, they might be summarized in the following points:

1. More concern on the Libyan legislative process should be emphasized, in order to narrow down the gap in the literature.
2. Increase the level of coordination and cooperation between Libyan and non-Libyan scholars and institutions regarding the topic of legislative process.
3. Enhancing the skills of Libyan legislators through seminars and workshops in order to be more affective during the legislation process.
4. Strengthen the ties between the Libyan legislators on the one hand, and civil society organizations on the other hand. Further coordination and cooperation with other government authorities is also required.
5. Holding scientific conferences on legislative process are important in order to enhance the democratic transformation in the new Libya.

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