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Forced migration governance at critical junctures of state formation in Tunisia

Müller-Funk, L.; Natter, K.

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MAGYC

Migration Governance and Asylum Crises

Forced migration
governance at critical
junctures of state
formation in Tunisia

Lea Müller-Funk

(GIGA / Danube University
Krems)

Katharina Natter
(Leiden University)

MAGYC: The MAGYC (**Migr**Ation **G**overnance and **AsY**lum **C**risis) project seeks to assess how migration governance has responded to the recent “refugee crises” and has since been influenced by it, and how crises at large shape policy responses to migration. This four-year research project (2018–2022) brings together twelve international partners: the Hugo Observatory from the University of Liège (Coordinator), Sciences Po, the University of Economics in Bratislava, the GIGA institute of Global and Area Studies, Lund University, the IDMC, SOAS University of London, the University of Milan, the Lebanese American University, the University of Macedonia, Sabanci University, IfPO/CNRS.

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Lead authors:

Lea Müller-Funk, GIGA / Danube University
Krems
Katharina Natter, Leiden University

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MAGYC Working Paper

Abstract

How do states govern forced migration at critical junctures of their state formation? Drawing on interviews and archival material from Tunisia between 1950 and 2020, this paper analyses how the Tunisian state has dealt with the large-scale arrival of forced migrants from neighbouring countries during two critical junctures of state formation: its independence in 1956 and its democratic opening since 2011. During the Algerian War of Independence (1954–1962), nearly 200,000 Algerians fled to Tunisia, where they were welcomed as *prima facie* refugees in a spirit of brotherhood between two independence-seeking nations. Multiple local, national and international actors provided short-term support to Algerian refugees and later organized their return – making it the UNHCR’s first mission in Africa, and outside Europe. Similarly, since the beginning of the Libyan conflict in 2011, an estimated 500,000 Libyans arrived in post-revolutionary, democratizing Tunisia. While they initially received a warm welcome, the Tunisian state has ultimately been reluctant to provide humanitarian assistance and residence permits to Libyans. What constellation of domestic, geopolitical, and international dynamics underpin Tunisia’s forced migration governance in the context of independence and democratization? We argue that to understand forced migration governance at critical junctures of state formation, we need to analyse whether accommodating a forced migrant group is perceived as an asset or a risk to the political transformation process at play. We show that during the Algerian war of independence, perceptions of displaced Algerians as political assets on the domestic, geopolitical and international level outweighed perceptions of economic and political risks, resulting in a supportive-open approach. Displaced Libyans, on the other hand, have been perceived as economic assets on the domestic level but as political risks at the domestic, geopolitical, and international level, explaining Tunisia’s *laissez-faire* approach. Ultimately, at both critical junctures of state formation, the affirmation of national sovereignty was a key factor in forced migration governance, with the international refugee regime being used and integrated but also strongly controlled to not jeopardize the political transformation process.

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Introduction

Migration governance – including responses to large-scale forced migration – is unlike any other field of public policy. As scholarship around the ‘migration state’ has argued, migration governance is part and parcel of state making (cf Torpey 1997, 2000; Zolberg 1978, 2006; Vigneswaran and Quirk 2015, McKeown 2008; Adamson and Tsourapas 2020). For Adamson (forthcoming), “migration management, therefore, is not simply a technical issue or policy field that contemporary states must navigate but is also the very means by which states constitute and reconstitute themselves or “perform” sovereignty and statehood (cf Mitchell 1991).”

From a historical institutionalist perspective (Collier and David 1991, Sewell 1996, Pierson 2000, Page 2006), policies usually do not radically change unless there is a ‘critical juncture’ – a situation of high uncertainty during which more dramatic change is possible (Capoccia and Kelemen 2007, 352). Independence and democratization are such critical junctures – these are moments when the social contract is renegotiated, when national identity narratives are rewritten, when socio-economic power dynamics and foreign policy alliances are revisited. Responses to migration in such periods are therefore particularly insightful, as they provide a lens into the delicate balancing between affirming national sovereignty domestically and securing the geopolitical standing of the state.

Indeed, managing and controlling forced migration has played a central role in histories of post-colonial state-building (Adamson and Tsourapas 2020; Rahal and White 2022) and post-revolutionary regime transformation (Natter 2021). Research has shown for example how the displacement, expulsion or reception of people – often from a particular ethnic group or political allegiance – can be central in shaping the political set up of newly independent states (Manby 2018; Chatty 2010; Rahal and White 2022). Work on India puts forward how, since independence, the Indian state actively mobilizes migration policies for nation-building – be it by expelling minorities or by strategically granting stay permits to particular religious groups such as Christians, Hindus, or Sikh from Pakistan and Bangladesh as a counterweight to India’s Muslim population (Mongia 2018; Sadiq and Tsourapas 2021). Research on civil war states after revolutionary upheavals, such as Libya and Syria, also demonstrates how different actors attempt to manipulate a country’s demography to their own favour in a process of state-making (Fröhlich and Müller-Funk 2022).

Existing research about what has become known as the “politics of forced migration” (Adamson 2006; Castles 2003) highlights in particular path dependencies, international relations, economic factors, security, and capacity of host communities to explain variation in forced migration governance. Jacobsen (1996), for example, underlines the importance of bureaucratic path dependencies and power struggles between ministries, perceptions of national security threats potentially posed by a refugee influx as well as international relations, including potential pressures of the

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international refugee regime, relations with donors and sending countries as key factors shaping state's responses to forced migration. She also highlights the need to consider the absorption capacity of the local host community, including dominant beliefs and attitudes about refugees, ethnicity and kinship, historical experience, and the economic capacity of the host country (Jacobsen 1996, 660 ff.). In a similar vein, scholars working particularly on the Middle East (Mencütek 2018; Tsourapas 2019) have stressed the role of foreign policy and securitization as drivers of forced migration governance, as receiving countries might use refugees to destabilise or embarrass another country or might perceive incoming refugees as a challenge to state sovereignty. In addition, they have put forward economic development explanations for refugee rentierism, whereby forced migration governance becomes a bargaining chip to secure development aid.

Research looking more specifically into international organisations (IOs) operating in the mandate of the international refugee regime shows that while IOs explicitly aim to support vulnerable and displaced populations, they also have to cater to other audiences and might be subject to internal conflicts of interests that can deviate their activities from initial humanitarian intentions (Barnett and Finnemore 1999). Indeed, to be able to operate on a specific state territory, IOs need to negotiate with origin and host states alike. While forced migrants have a special status within migration governance due to the Geneva Convention and the widely accepted definition of who qualifies as refugee, depending on the nature of a host state's regime and its economic and political interests, IOs' respective room for manoeuvre varies.

We argue that we need to bridge these different explanations of forced migration governance – focussing respectively on the role of state (trans)formation, foreign and development policy, as well as IOs – in order to understand how they play into each other. Our analysis demonstrates that to understand forced migration governance at critical junctures of state formation, we need to analyse whether accommodating a forced migrant group is perceived as an asset or a risk to the political transformation process at three levels: the domestic level, which encompasses local and national state and societal actors; the geopolitical level, which refers to state actors and their foreign policies; as well as the international level, which encompasses non-state actors such as international organizations (IOs) and international non-governmental organisations (INGOs) working in the mandate of the international refugee regime.

Tunisia offers an excellent case to explore forced migration governance at critical junctures of state formation, as independence and democratization, in 1956 and 2011 respectively, were also the times when the country was faced with the largest arrivals of forced migrants on its territory: During the Algerian War of Independence (1954–1962), nearly 200,000 Algerians fled to Tunisia, while since the beginning of the Libyan conflict in 2011, an estimated 500,000 Libyans arrived in post-revolutionary, democratizing Tunisia. We show that, during the Algerian war of independence, perceptions of displaced Algerians as political assets on the domestic, geopolitical, and international level

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outweighed perceptions of risks, resulting in a supportive-open approach, followed by repatriation. Displaced Libyans, on the other hand, have been perceived as economic assets but political risks on the domestic, geopolitical, and international level, explaining Tunisia's *laissez-faire* approach. Ultimately, at both critical junctures of state formation, the affirmation of national sovereignty was a key factor in forced migration governance, with the international refugee regime being used and integrated but also strongly controlled to not jeopardize the political transformation process.

The article starts with a discussion of our research design and methodology, paying particular attention to our case selection strategy and data collection. In the article's main body, Tunisia's governance of Algerian and Libyan displacement is first presented briefly and then systematically compared along three core aspects: the framing of forced migrants at a crucial moment of national identity formation; the state's delicate balancing of perceiving forced migrants as economic assets and potential political allies or security threats; and the ways in which IOs were involved in negotiating the legal status of Algerians and Libyans in Tunisia. We conclude with a note on how this analysis may be further expanded to shed light on forced migration governance of South–South and North–North migration.

1. Case selection, relevance and data

In this article, the term forced migration denotes the movement of people who have been displaced internally or across borders due to violent conflict, war and persecution, natural or man-made disasters, or the effects of development projects (Martin 2012). Building on Zolberg (1978, 243) and Natter (2019, 31), we define forced migration governance as the set of (i) formal policies, laws, and regulations with regard to border control, entry, integration, and exit of forced migrants; (ii) informal administrative practices; and (iii) *laissez-faire* and the purposive absence of regulation. Our definition thus includes not only border control and entry regulations but also opportunities to stay and gain rights in host countries. We also see the societal and political negotiation of forced migration terminology – i.e. the labelling of forced migrants – as part of the politics of forced migration, as different terms have different implications for state reactions to forced migration (Zetter 1991; 2007; Ottonelli and Torresi 2013; Erdal and Oeppen 2017).

Tunisia offers an excellent case to systematically explore forced migration governance at critical junctures of state formation, as it allows to compare Tunisia's governance of Algerian displacement in its immediate post-independence period (1956-1962) and Tunisia's governance of Libyan displacement since the 2011 Arab Spring revolution and democratic transition. We build our study on a within-case analysis of Tunisia following a most similar system design (Seawright and Gerring 2008): Indeed, the two cases represent the two largest arrivals of forced migrants in Tunisian contemporary history and have both occurred at key moments of empowerment of the Tunisian people – be it against the French colonial power or against a corrupt, authoritarian

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ruler – where domestic political dynamics, geopolitical alliances and national identity narratives were reset. However, the Tunisian state, together with international organizations and NGOs, has offered a strong humanitarian response towards Algerians which were considered refugees, while it adopted a policy of no policy towards Libyans, who were not considered refugees, and sought to limit involvement of international actors (see table 1). Given that the ways in which states and societies deal with ‘the other’ are intrinsically related to the self-understanding of the nation and polity in place, analysing forced migration governance at these two critical moments of state transformation will offer novel insights into the link between domestic, geopolitical and international factors shaping forced migration governance.

Tunisia is a typical case for forced migration governance when considering relevant patterns of displacement, policymaking around asylum and regional dynamics of political change. First, over 80 per cent of the world’s forced migrants live in the Global South, and if forced migrants cross international borders, they mostly flee to neighbouring countries and stay within the region (UNHCR 2022). As a neighbour to the conflicts in Algeria and Libya, Tunisia indeed has been the main host country for Algerians and Libyans, next to Morocco and Egypt, respectively: At the end of the Algerian War of Independence, there were around 2,2 million internally displaced people inside Algeria (Perret and Bugnion 2011, 725), while 155,000 Algerians fled to Tunisia and 120,000 to Morocco until 1960 (UNHCR 1960).¹ Similarly, during the Libyan conflicts, the majority of Libyans have been either internally displaced or externally to neighbouring Tunisia and Egypt. Around 1.4 million Libyans of the pre-war Libyan population of 6.2 million have been internally displaced since 2011 (IDMC 2021), while between 660,000 (IRMC 2019) and 1.5 million have left to Tunisia and between 315,000 (UNHCR 2018) to 750,000 to Egypt (Libyan Forum for Human Rights).

Second, many host countries across the globe, especially those in the Global South, have no national asylum determination procedure in place even if they signed or ratified the 1951 Geneva Convention Relating to the Status of Refugees. Tunisia is a signatory of the 1951 Refugee Convention and its 1967 Protocol as well as the OAU Convention governing the specific Aspects of Refugee Problems in Africa (1969). As we further analyse below, Tunisian authorities have also drafted a national asylum law in the post-2011 period, but the legislative process has stalled since 2016 for domestic and geopolitical reasons.

Third, political change often does not halt at national borders but englobes whole regions, as has been the case with decolonisation across the African continent in the 1950s and 1960s, the end of communist rule in Central and Eastern Europe in the late 1980s and early 1990s or the Arab Spring revolutions in the Middle East and North Africa in the 2010s. Indeed, Tunisia went through

¹ 11_1-13_1_31 TUN (volume 2) Assistance to Algerian Refugees in Tunisia (Part1) (1957-1961), p. 57, Licross/UNHCR Working Committee of Joint North African Operation, 29 November 1960.

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similar political transformation processes as its neighbouring countries Algeria and Libya, almost simultaneously: it became independent in 1956 – during the Algerian War for Independence (1954-1962) – and experienced the overthrow of an authoritarian regime in 2011 – one month before Libya. Tunisia is thus also a typical case for political transformation processes that have regional dynamics.

Table 1. Key features of case selection

	Tunisia's governance of Algerians, 1956-1962	Tunisia's governance of Libyans, since 2011
Critical juncture of state transformation in Tunisia	Decolonization and independence, 1956	Revolutionary upheaval and democratization, 2011
Trigger for displacement from neighbouring country	Algerian War of Independence: 1954-1962	Libyan Revolution / Civil War: 2011 ongoing
Tunisia's forced migration governance approach	<p><i>Framing</i></p> <ul style="list-style-type: none"> Algerians framed as Arab brothers in need Algerian displacement framed as problem and important domestic and international issue <p><i>Political response</i></p> <ul style="list-style-type: none"> Systematic emergency relief Important involvement of IOs and INGOs No long-term integration measures Return operations through UNHCR at end of conflict <p><i>Legal status</i></p> <ul style="list-style-type: none"> <i>Prima facie</i> status, no individual asylum procedures Registration by Tunisian authorities and Algerian Red Crescent 	<p><i>Framing</i></p> <ul style="list-style-type: none"> Libyans framed as Arab brothers in need Libyan displacement not framed as refugee crisis (in contrast to arrival of non-Libyans) <p><i>Political response</i></p> <ul style="list-style-type: none"> Policy of no-policy, with a few exceptions Limited involvement of IOs and INGOs No long-term integration measures No return operations <p><i>Legal status</i></p> <ul style="list-style-type: none"> Tourist visa or irregular status, few individual asylum procedures No registration by Tunisian authorities

Methodologically, we draw on historical and contemporary data to identify the factors shaping forced migration governance at domestic, international and geopolitical levels. Our analysis of the Algerian independence war (1954-1962) relies on archival data on UNHCR's relief operation for Algerian refugees in Tunisia and Morocco (1957-1963) as well as documents from UNHCR's archive about the refugee situation in Tunisia between 1964 and 1984. These 875 documents include Interoffice Memoranda, monthly reports, travel reports, telegrams, letters, media articles and notes. Given the historical timeframe of the Algerian independence war, it proved unfortunately impossible to also include testimonies of displaced Algerians into our analysis. However, the rich UNHCR archival data included detailed observations of Algerians' living conditions in Tunisia. In addition, we conducted a media analysis of key

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moments of large-scale arrival and return during the Algerian independence war in two Tunisian daily newspapers, *La Presse de Tunisie* and *aṣ-ṣabāḥ*. *La Presse de Tunisie*, published in French and founded during the French mandate as the press of the colonizers, was state-owned after independence. *Aṣ-ṣabāḥ*, published in Arabic and founded in 1951 with a neo-destourian leaning, had the highest number of publication around independence (Souriah-Hoebrechts 1975, 55-67).

Our analysis of the Libyan case study draws on a similar media analysis in the same newspapers, focusing on key dates of large-scale displacement from Libya in 2011, 2014 and 2019. We also rely on 45 expert interviews conducted with relevant stakeholders (political actors, representatives of IOs, local and regional NGOs, and academics) between 2016 and 2020, as well as 43 narrative interviews with Libyans who experienced displacement, return, and/or immobility, conducted in 2020 in Libya (Tripoli and Benghazi) and Tunisia (Tunis and Sfax). Both types of interviews addressed how mobility, stay and return was governed and how assistance to forced migrants was organised and experienced. All interviews have been anonymised and are quoted with codes.²

2. Tunisia's governance approach to Algerian and Libyan displacement

After 75 years of colonization, Tunisia gained independence from France in 1956. In that year, the Algerian War of Independence (1954-1962) was already in full swing, triggering intense and bitter fighting between Algerian independence fighters and the French colonial army as well as large-scale displacement into Tunisia and Morocco. Algerians started to arrive in Tunisia between 1955 and 1956 ('Aṣūl 2009; Perret and Bugnion 2011, 723) and at the end of the war, Tunisia hosted approximately 171,000 Algerians, although these numbers were subject to continuous debate between Tunisian authorities and relief organizations as they were taken as basis to calculate the financial relief effort. Most of the refugees remained in the South-West of Tunisia close to the Algerian borders, and returned with Algeria's independence from France in July 1962.

How has Tunisia responded to this large-scale arrival of Algerians at a moment in time where it was rebuilding its nation-state and independent political system after colonization? In short: by involving the international community and highlighting the humanitarian nature of the crisis. The young state and its leaders were aware of their limited economic capacity and know-how in offering effective protection to Algerians, but were also keen in living up to the responsibility as a newly independent state to support those fleeing from a war of independence they had luckily avoided: In this vein, the Secretary General of the ICRC notes that "*the [Tunisian] government is willing to accept aid from*

² LIBLIB = narrative interviews with Libyans inside Libya; LIBTUN = narrative interviews with Libyans in Tunisia who left Libya in the context of the conflicts; TUNEX = expert interviews.

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*any and all sources but will not tolerate independent relief actions from any agency. It takes the position that the government is responsible for the refugees and their welfare”, as “related to this position is the question of sovereignty and the extraordinary sensitivity of the Tunisian authorities.”*³

To redirect international attention – which in 1956 was focused on the refugee dynamics in the context of the Hungarian uprising – to the refugee situation unfolding at the Algerian-Tunisian border, President Bourguiba in his letter of 31 May 1957 called upon UNHCR to intervene.⁴ Between February 1959 and July 1962, UNHCR and the League of Red Cross Societies, supported by the Tunisian Red Crescent, set up and coordinated a large-scale humanitarian relief effort, the so-called joint operation. It was supported financially by the Tunisian government and the international community, principally the US, Switzerland but also France, which was eager to demonstrate commitment to Algerians, whom it continued to consider as French citizens.⁵ Also the Front de Libération Nationale in Algeria participated in the relief operation (Benatia 1997; Rahal and White 2022) asserting itself as a state-in-waiting, engaging with UNHCR outside Algeria and coordinating humanitarian actions with the Algerian Red Crescent. In addition, Tunisia also received food donations from Eastern Europe and the United Arab Emirates.

While support to Algerians in Tunisia focused solely on humanitarian aid – food, clothes, housing, medicine, education to a smaller degree – the dynamics surrounding the relief effort were deeply politicized due to domestic, geopolitical and international reasons: Independent Tunisia had a clear position in the Algerian independence war given that Tunisian independence was a moment of empowerment of the Tunisian people against the French colonizer. At the same time, Tunisia was involved with gaining financial independence and redrawing a new social contract, reflected in the discussions leading up to the new constitution in 1959. Tunisia was also aware that without international and European support, relief would be insufficient and overly costly for the freshly independent state which was struggling economically.⁶

For UNCHR, the intervention in Tunisia (and Morocco) was the first outside European territory since its creation and the first after the Hungarian revolution in 1956. Those involved had heightened awareness of the sensitivities surrounding national sovereignty in a post-WWII, post-colonial context. The ad-hoc, *prima facie* recognition of Algerians as refugees by UNHCR however, did not trigger any discussions on long-term integration or legal status of refugees

³ 11_1-13_1_31_TUN vol 1 part 2, p. 24-30, Mr. Dunning to Mr. Lindt, 19 September 1959.

⁴ 11_1-13_1_31_TUN vol 1 part 1, p. 89, Mr. Bourguiba (Tunisian Prime Minister) to High Commissioner, 31 May 1957.

⁵ In official documents, France speaks of “French Muslims of Algeria” to refer to Algerian refugees, see: 11_1-13_1_31 TUN (volume 2) Assistance to Algerian Refugees in Tunisia (Part2) (1957-1961) p.3-4, Interoffice Memorandum, Mr. Björnberg to High Commissioner, 31 March 1960.

⁶ 11_1-13_1_31 TUN (volume 2) Assistance to Algerian Refugees in Tunisia (Part1) (1957-1961), p.49-52, Interoffice Memorandum, Mr. Rorholt to High Commissioner, 12 January 1961.

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in Tunisia: “*Authorities are so far not much interested in questions of legal protection,*” the UNHCR Representative in Tunisia concluded.⁷ Ultimately, most of the Algerian refugees returned to Algeria upon its independence in 1962, and those who stayed in Tunisia seemed to be of no particular interest to the Tunisian state, which closed the chapter of refugee reception for the next decades: As UNHCR reports from a press conference held by Tunisian State Secretary of the Interior on 30th July 1962: “*Today Mr Mehiri concluded that the problem of refugees with all that it entails in terms of suffering and difficulties is settled for Tunisia*”.⁸

Fast forward to early 2011: Shortly after the Tunisian revolution toppled the regime of Ben Ali, neighbouring Libya also went through a revolution and popular upheaval against long-time authoritarian leader Ghaddafi. Yet, while in Tunisia the regime change kick-started a democratization process, in Libya, a civil war broke out between different political – and tribal – factions. The intensity of fighting and extent of political instability fluctuated over the years – with particularly heated moments in 2011, 2014 and 2019 – and the conflict is still ongoing more than one decade later. As a consequence, many Libyans have left their country towards Tunisia (and Egypt) over the years. As with Algerian refugees in the 1950s, the exact size of Tunisia's Libyan community has been highly debated: the 2014 Tunisian census recorded 8,000 Libyan citizens, official declarations have spoken of 1-1,5 million Libyans and estimates by scholars and respondents in the field hover around several hundred thousand (Natter 2021). Yet, while there has been no attempt by the state to get a comprehensive record of the number of Libyans in Tunisia (in contrast to the meticulous counting of Algerians), it is clear that Libyans are by far the largest migrant group in Tunisia today.

How has Tunisia responded to this large-scale arrival of Libyans at a moment in time where it was focused on democratizing its institutions and recasting its national identity? To make it short, by pursuing mostly a policy of no-policy – a policy of state absence. Since 2011, Libyans arriving in Tunisia have not been framed nor recognized as refugees in political discourse: “*Libyans are not refugees*” has been a repeated statement in our expert interviews (TUNEX9, TUNEX11, TUNEX24, TUNEX27 TUNEX35, TUNEX45). Instead, Libyans are cast as brothers or neighbours whose “*de facto protection*” (TUNEX31) is guaranteed because freedom of movement between both countries theoretically exists since a 1973 bilateral agreement between Libya and Tunisia.⁹ In this vein, the Tunisian state has tolerated and accommodated the presence of Libyans by granting children access to schools, by not enforcing laws related to overstaying and irregular stay and by easing regulations on purchasing property. At the same time, there has been no attempt at registering or legalizing the situation of Libyans through giving them refugee status or issuing

⁷ 11_1-13_1_31 TUN (volume 2) Assistance to Algerian Refugees in Tunisia (Part1) (1957-1961), p.49-52, Interoffice Memorandum, Mr. Rorholt to High Commissioner, 12 January 1961.

⁸ 11_1-13_1_31_TUN (volume 4) Assistance to Algerian Refugees in Tunisia (Part 1) QA complete, p.28: UNHCR Tunis to UNHCR Geneva, 1 August 1962.

⁹ Establishment Agreement with Libya, 6 June 1973.

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stay permits. For many Libyans in Tunisia, their legal situation remains unclear: *“now you learn the truth and how some laws are blurry, each person would give you different information and [there is] nothing official or legal that you can count on”* (LIBTUN23). Others reported that a legal residency remains in practice inaccessible for Libyans (LIBTUN1; LIBTUN18; LIBTUN20; LIBTUN25): *“They make it hard [to get the legal residency for Libyans]; no one wants Libyans [...], so even if the procedures are easy, they make it hard”* (LIBTUN18). At the same time, as Tunisian authorities do not fine or imprison Libyans without a regular stay permit, many Libyans do not consider it worthwhile to even try regularising their papers (LIBTUN2; LIBTUN4; LIBTUN10).

In terms of involvement by IOs, UNHCR has opened a fully-fledged delegation in Tunisia in 2011 and has been a key actor in organizing the reception, repatriation, and resettlement of non-Libyans arriving from Libya in 2011. Yet, UNHCR has not focussed in its activities on registering Libyans or providing them with legal or humanitarian support. In parallel, while Tunisian civil society has flourished since 2011 and taken on the plight of refugees and migrants in their agenda, only two of the many NGOs dealing with migrants also include Libyans in their protection and advocacy work (Observatoire des medias and Terre d'Asile Tunisie).

Similar to the Algerian case, there are domestic, geopolitical and international factors explaining Tunisia's mostly laissez-faire response to large-scale Libyan forced migration: Domestically, Tunisian authorities are juggling security and economic challenges in post-revolutionary Tunisia and eager to avoid politicizing the Libyan presence that could further polarize society. In fact, Tunisian authorities do not want to take sides in Libya's civil war and eventually jeopardize its future economic relations with Libya by recognizing Libyans as refugees: *“The Tunisian perception is that once the Libyan situation is resolved or improves, they will be the first ones to benefit. That's why they try to be as neutral as possible, not to take sides in the Libyan conflict”* (TUNEX28). Authorities are also weary to formalize the stay of Libyans given the potential long-term legal consequences and responsibilities this might entail, particularly in view of continuously high pressures from the European Union to step up migration and refugee reception. As a result of this deliberate no-policy, and although many Libyans arrived in Tunisia with initially better structural conditions as Algerians in the late 1950s, Libyan interviewees narrate experiences of persecution, dispossession and impoverishment (LIBTUN5; LIBTUN12; LIBTUN18; LIBTUN19; LIBTUN23; LIBTUN24, LIBTUN25) as the Libyan community in Tunisia faces more and more protection needs that remain unresolved ten years after the civil war started, (TUNEX6, TUNEX20, TUNEX45, see also Mouley 2016).

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3. Forced migrants as domestic, geopolitical and international assets or risks

To what extent are Algerians and Libyans perceived as assets or risks for the political transformation process at play? What domestic, geopolitical and international dynamics underpin Tunisia's forced migration governance in the context of independence and democratization? And more broadly: What drivers of forced migration governance do critical junctures of state formation bring out in the open?

In the following, we show that imbrications of domestic and geopolitical dynamics are key factors to explain Tunisia's forced governance approach, with the international refugee regime being integrated in Tunisia's governance approach but also strongly used and controlled. In doing so, we zoom in on three crucial drivers of Tunisian forced migration governance: (1) the ways in which the Tunisian state redefines itself against the inside and the outside, i.e. Europe and (North) Africa, at these critical junctures of state formation; (2) the delicate balancing of different state actors between security and economic interests; and (3) the integration but also the control of international organisations in discussions around the legal status of Algerians and Libyans.

These three lenses allow us to explore whether the forced migration group at stake is perceived as a risk or asset to the political transformation process at the domestic, geopolitical and international level (see table 2) and thus to understand why the Tunisian state reacted with a support-open approach towards Algerian refugees in the 1956-1962 period, while it adopted a policy of no-policy towards Libyans since 2011.

3.1. Who are we and who are they?

A first important driver of forced migration governance is that both in the late 1950s as well as since 2011, Tunisia has lived through a period of intense redefinition of the self, which reshaped how the Tunisian state approached 'the other', i.e. forced migrants arriving from neighbouring Algeria and Libya. In both cases, upholding and demonstrating national sovereignty was key, as Tunisia redefined itself against the inside (domestic) and the outside (geopolitical / international) to assert its position between Europe and (North) Africa. In this process of redefinition of the self, Algerians and Libyans served as ideological assets.

After 75 years of colonization, independence in 1956 meant that Tunisian national identity and the structure of political institutions could be crafted anew. With the move from the Beylical system to a republic, the nationalist leaders – first and foremost independence-hero Bourguiba – sought to revive a modern, united Tunisia. This redefinition of the self also entailed a repositioning towards the other in terms of geopolitical alliances – with a distancing from the previous colonizer France and other potential foreign influences and a rapprochement to other independence leaders across Africa and the Arab world. Thus, in the 1950s, Tunisia redefined its political institutions

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and identity first and foremost against the outside – in contrast to that of the colonizer, but also in a spirit of supporting decolonisation, fostering Pan-Arab solidarity and developing an independent voice on the international level.

Table 2: Refugees as risks and assets on the domestic, geopolitical and international level

	Domestic	Geopolitical	International	Approach
Algerian displacement	<p>Asset: ideological asset (brothers in need)</p> <p>Risk: economic risk (burden in already weak economy), political risk (conflict might spill over)</p>	<p>Asset: towards Africa/other independent countries, also towards France</p> <p>Risk: towards European/Western partners</p>	<p>Asset: to assert national sovereignty and channel funds</p>	<p>Supportive-open</p>
Libyan displacement	<p>Asset: ideological asset (brothers in need); economic asset (reviving tourism; Tunisian-Libyan migration and labour relations);</p> <p>Risk: security risk (terrorism, importing tribal conflict)</p>	<p>Risk: potentially jeopardizing relations with winning Libyan faction</p>	<p>Risk: pressures of EU/international community to enshrine asylum law, step up refugee protection</p>	

After the 2011 revolution, similarly, Tunisian societal and political leaders sought to redefine the rules of politics and substance of national identity against the inside and outside: in contrast to that of the corrupt autocratic leadership under Ben Ali (and other authoritarian regimes in the region) but also in contrast to a xenophobic and restrictive Europe. The fact that Tunisia kick-started a regional movement of revolts and popular empowerment meant that it had to live up to its responsibility as a role model for democratization. With the outbreak of the civil wars in Libya and Syria and the return to authoritarianism in Egypt, Tunisia repeatedly presented itself as one of the few successful examples of political transformation (*"The two paths of the Arab Spring"*¹⁰). In this context, the new Tunisian leadership sought to cut ties with repressive rulers across the Arab world and support progressive movements, without however jeopardizing international cooperation with Europe, the United States or other major investors that remain central to Tunisia's economic survival strategy. In its push for progressive politics, Tunisia had to perform a delicate balancing act in its relations with Europe: taking a stance against Europe's securitization of migration and asylum in the Mediterranean and externalisation attempts on the one hand, while not missing out on economic

¹⁰ La Presse de Tunisie, 5 June 2011.

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cooperation and tourism, on the other. (*"Our Eldorado against the fortress of Europe. (...) Tunisia has welcomed the 'misery of the world': it has done so at the Libyan border, in a great burst of enthusiasm and solidarity"*¹¹).

The strong national and regional identity of the post-independence and post-revolution periods were critical in informing how Tunisia approached 'the other' – namely Algerians and Libyans. In both periods, Tunisia's new political leadership saw it as a responsibility to host those who arrived in this crucial moment, seeing them as 'brothers' in a shared fight (for independence or democracy) with a shared cultural heritage (Maghreb). Narratives of brotherhood and solidarity dominated public discourse – at least initially. Algerians and Libyans were considered as 'brothers' or 'neighbours' – who are welcomed but also not supposed to stay forever. In both contexts, Tunisia emphasised the humanitarian character of its response, without perceiving itself necessarily as an immigration, asylum, or transit state. President Bourguiba addressed Tunisia's role in managing Algerian displacement in one of his weekly speeches in 1957 for example as follows: *"Our action will, I hope, contribute to bringing closer the hour of liberation for the Algerian people and, for France itself, the hour when it will be able to free itself from this colonialist virus which tarnishes its reputation and harms its material interests. (...) The government, the national organizations and the people as a whole will continue, as they have done for two years, to share with our Algerian brothers our resources and food, housing, medicines and hospital means."*¹² Similarly, an editorial in *La Presse de Tunisie* titled in June 2011: *"And if the Libyan brothers enjoy rest and relaxation [in Tunisia], their hearts still beat with their brothers and sons on the Libyan soil where the war continues between the battalions and the revolutionaries, looking forward to happy news that may reach them about the end of the war to return to their homes."*¹³

In both conflicts, Tunisian efforts of solidarity were geared towards humanitarian emergency relief – housing, food, medicine, clothing. In the 1950s and 1960s, Algerians largely stayed in the border regions in South-Western Tunisia, where refugee camps and support structures were erected by the Tunisian Red Crescent and UNHCR. Many Algerians were also accommodated privately. After 2011, Libyans who arrived in Tunisia were mostly housed in private homes and hotels in the South-East of Tunisia, and later on, in rented accommodation in urban settings, mostly in Tunis, Médénine, and Sfax.

The fact that Tunisia had a very clear and consistent stance in the Franco-Algerian conflict in support of Algerian independence meant that Algerian refugees continued to be welcomed throughout the entire period (1956-1962) and that authorities univocally framed the situation as a 'problem'. Tunisia had a very clear view of France's role and responsibility in the war, seeing Algerian displacement as the result of France's oppression of the independence

¹¹ *La Presse de Tunisie*, 3 April 2011.

¹² *La Presse de Tunisie*, 31 May 1957.

¹³ *Aş-Şabāḥ*, 28 June 2011.

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movement and its “cleaning operations” in the border region: “Chased by French troops, the refugees reported to be from Ain El Hout (Algeria) where a cleaning operation was underway, causing loss of life and significant damage.”¹⁴ In contrast, when it became clear that the Libyan revolution would not be as quick and successful as the Tunisian one, and a civil war broke out, Tunisian authorities became weary to position themselves too clearly on either side of the conflicting parties to avoid negative repercussions once the war would end. This meant that while there was a lot of enthusiasm to host Libyans in early 2011, ultimately Libyans were not considered ‘refugees’ and Tunisian authorities preferred to adopt a *laissez-faire* approach, whereby Libyans were neither the target of politicization and exclusion, nor the beneficiaries of support and integration measures.

3.2. Forced migrants as economic assets and potential political allies or security threats

The second driver of Tunisia's forced migration governance towards Algerians and Libyans is the delicate balancing of different state actors between security and economic interests on the domestic and geopolitical level. In the context of independence, perceptions of displaced Algerians as political assets ultimately outweighed perceptions of economic and political risks, with the MoI taking a central role in registering Algerian refugees. In the post-revolutionary context, displaced Libyans, on the other hand, have been perceived as economic assets and political risks at the domestic and geopolitical level, with the MoI blocking granting residency permits and refugee status to Libyans and securitizing the border, the MoFA aiming at keeping borders open to continue tourism, business relations and labour migration.

In both cases, Tunisia was in a fragile economic situation that dominated national political debates and demanded international support and emergency interventions, primarily from UNHCR, but also from European donors and international civil society actors such as ICRC. Media reports of the post-independence period emphasised in particular Algerian refugees' vulnerability, and the fact that Tunisia did not have the financial capacities to assist them alone (e.g. “*masses of people left to hunger, cold and disease, their faces pale, their eyes haggard, a multitude of children were deprived of their parents and seemed seized with despair and fear an atmosphere of desolation and destitution reigned over the refugee camp.*”)¹⁵

In contrast to the framing of Algerian refugees as poor and vulnerable, Libyan refugees have been perceived as economic assets in Tunisia's struggling economy after 2011. Libyan-Tunisian strong economic relations go back to the discovery of oil in Libya in 1959, after which Libya became a major destination for Tunisian labour. There is also a long history of (informal) cross-border trade

¹⁴ La Presse de Tunisie, 27 and 28 May 1957.

¹⁵ La Presse de Tunisie, 9 November 1957.

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between Libya and Tunisia, which has sustained the deprived Tunisian south since Bourguiba and became especially important after the UN embargo of 1992, when Tunisia became Libya's economic lung. Since the opening of the borders under Ben Ali in 1988, a more or less tacit pact between the Tunisian state and those engaged in border trade has allowed informal trade to flourish. Libyans have also massively invested in the Tunisian economy, contributed to tourism revenues and have been welcome clients in Tunisia's private clinics before 2011. The revolution in 2011 and the conflict in Libya reshuffled the cards – Tunisian labourers returned, at least temporarily, and Libyans fled to Tunisia. However, in the long term, Tunisians are aware that they will be the first to benefit economically once the Libyan crisis is resolved. Until then, Tunisia acts as neutral as possible, not siding with any of the competing factions.

In such a context, Tunisian and Libyan authorities and tribes have kept the Libyan-Tunisian border open – for potential Tunisians emigrants to leave to Libya and Libyan refugees to enter Tunisia. Tunisian authorities also did not regulate or restrict the potential financial exploitation of Libyans but reacted with a *laissez-faire* policy, which ultimately also resulted in extracting high prices from Libyan refugees, especially in housing and health care. In Tunisian print media, Libyan refugees were sometimes even praised for reviving Tunisia's tourism: *"Thanks to the confirmation of reservations and high rate of Libyan arrivals, the tourism activity has revived in the Djerba-Zarzis tourist area and the accommodation rate is 100%."*¹⁶ In 2014, there was also an attempt to introduce an exit tax for Libyans when leaving the country. This attempt was short-lived, however, as protests broke out at the two main border posts and Libyan brigades threatened to impose an import tax on Tunisians in exchange, which would have meant the halt of cross-border trade. In 2016, regulations to buy property for Libyans were also eased in view of stimulating the real-estate market.

However, in both situations, security concerns emerging from transnational political activities were looming in the background. While hosting Algerian refugees was instrumental for demonstrating Pan-Arab solidarity and reaffirming Tunisia's national sovereignty on the international level, Tunisia was also careful to not conflate refugee relief with political support to the Algerian independence movement, out of fear of losing European financial and UNCHR's organizational support. Although Bourguiba declared his unlimited support for Algeria's independence, he also saw the war as a danger for internal security and wanted to take on a "conciliatory" role pushing for peace negotiations between France and Algeria. In this vein, Tunisian authorities were keen to showcase to European and international actors that Algerian independence fighters and their families were excluded from refugee relief: *"The [Tunisian] Ministry of Interior replied that [...] it was the policy of the Tunisian government that there should be no confusion between the relief action for refugees and any assistance (which might be given to the FLN, etc) for the Algerian war effort. He emphasized the wish of the Government to keep*

¹⁶ Aş-Şabāh, 5 August 2014.

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straight lines and to avoid that any organization, Government, or the public in general give contributions to warlike purposes in the belief that they were given to refugees."¹⁷ Tunisian authorities were also afraid of the conflict spilling over on Tunisian soil as France perceived Algerian refugees in Tunisia as a security threat and felt the potential danger of a joint struggle for North Africa, with Algerian revolutionaries and Tunisian activists joining forces. In some incidences, French and Algerian military forces indeed transgressed the border into Tunisian territory. In 1958, for example, the leaders of the FLN set up a base for the National Liberation Army (ALN) in Tunisia near Sakiet Sidi Youssef, which was shortly after bombed by the French army. Bourguiba recalled Tunisia's ambassador in Paris as a result, demanding the withdrawal of French troops from all Tunisian territory (Perret and Bugnion 2011).

Similarly in post-revolutionary Tunisia, fears of terrorist attacks from Islamist fighters or Tunisian returnees, as well as fears from importing tribal conflicts from Libya onto Tunisian territory have led to the securitization of the Tunisian-Libyan border and the construction of a border wall after 2014 ("*Tunisia and Libya are between two fires, a struggle against the "counter-revolution" or terrorist crimes*"¹⁸). In that vein, Tunisian authorities have also avoided the politicization of the Libyan presence in Tunisia and allegedly struck an agreement with tribal leaders in Tunisia that they would refrain from political activism on Tunisian territory. The Mol has taken on a securitarian approach, allegedly blocking the granting of residence permits to Libyans out of fear to lose its discretion in managing residence permits.

What stands out from our analysis of this delicate balancing of economic and security interests on the domestic and geopolitical level are the institution-specific priorities and the resulting inconsistencies and conflicts around forced migration governance: In order to effectively deal with Algerian refugees, the Mol set up regular weekly meetings with the ICRC and UNHCR to discuss ongoing issues in 1959¹⁹ – but as the crisis evolved, UNHCR sought to strengthen relations with the MoFA and to set up an informal interministerial committee to enable discussions directly with representatives of technical committees instead of having to go through the Mol who "*does not encourage contact with competent ministries*".²⁰ While the Ministry of Foreign Affairs has been more accommodating to international cooperation, the Ministry of Interior has prioritized domestic and border security and attempted to minimize external intervention.

¹⁷ 11_1-13_1_31 TUN (volume 3) Assistance to Algerian Refugees in Tunisia QA complete (1957-1961) p.139-140, Interoffice Memorandum, Mr. Rorholt to High Commissioner, 9 March 1961.

¹⁸ Aş-Şabāh, 2 August 2014.

¹⁹ 11_1-13_1_31_TUN vol 1 part 2, p.39-43, Memorandum, Mr. Schaeffer to Mr. Read, 26 March 1959.

²⁰ 11_1-13_1_31 TUN (volume 2) Assistance to Algerian Refugees in Tunisia (Part1) (1957-1961), p.49-52: Interoffice Memorandum, Mr. Rorholt to High Commissioner, 12 January 1961.

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3.3. Disputed legal definitions or the taming of the international refugee regime

In both of these critical junctures of state transformation, Tunisia considered it crucial to strive for national sovereignty on the international level. While Tunisia demanded international solidarity in managing displacement and international organisations, such as UNHCR and ICRC, were key actors in providing assistance, this happened under the tight control of the Tunisian authorities: In the context of independence, Tunisia's government wanted to keep the management of the relief operation centralised in Tunisian hands and clearly decided which international organisations (IOs) and foreign NGOs were allowed to operate on its territory and how. For example, Tunisia repeatedly refused to allow the American NGO CARE to operate in Tunisia to participate in the relief operation, leading finally to CARE giving up on receiving an invitation from the authorities in 1961: "We have done all we can, the next move is up to them".²¹ "The [Tunisian] government does not want teams representing foreign organizations operating in the frontier districts, and they do not want any such organizations to establish more or less independent operations to assist the refugees".²² Also, while UNHCR was the driving force behind introducing a registration process for Algerian refugees to calculate needs, Tunisian authorities ultimately kept the controlling hand over its implementation, with IOs remaining dependent on the numbers Tunisia provided: "*Being a comparatively new country, Tunisia is inclined to be a little bit touchy and to consider as "a violation of its sovereignty" actions and situations which more firmly established countries would take in their stride. Officials are not inclined to leave matters to be worked out by the League and UNHCR. They feel that they should have the final decision, should approve and authorize.*"²³

Accepting international humanitarian aid played out differently at the central vs. local level governance: While central authorities pursued the explicit goal to become independent from external support to affirm their sovereignty and demonstrate their autonomy, local authorities in areas with high numbers of arrivals were much more ready to accept international intervention to provide emergency relief and more systematic support. In his report, the UN High Commissioner was "*impressed with the closeness of liaison between the HC representative and the delegate of the League, as well as with the responsible officials of Mol, particularly the various frontier provinces where the majority of refugees reside*". However, "*one unfortunately gained the impression that*

²¹ 11_1-13_1_31 TUN, MOR, GEN (volume 3) Assistance to Algerian Refugees in Morocco and Tunisia (Part1) QA complete, p. 34, Mr. Homann-Herimberg to UNHCR Tunis, 1 January 1961.

²² 11_1-13_1_31_TUN vol 1 part 2, p. 23, Mr. Björnberg to Mr. Lindt, 2 October 1959.

²³ 11_1-13_1_31 TUN (volume 2) Assistance to Algerian Refugees in Tunisia (Part1) (1957-1961), p. 49-52: Interoffice Memorandum, Mr. Rorholt to High Commissioner, relations with authorities, 12 Jan 1961.

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many of the Tunisian higher authorities were not perhaps as grateful or even as helpful as they might be vis à vis our joint humanitarian action".²⁴

The decisions and debates around the legal status of displaced Algerians and Libyans in Tunisia are illustrative for the ways in which the international refugee regime was integrated, used, and controlled by Tunisian authorities in these moments, based on whether these groups were perceived as assets or risks on the domestic and geopolitical level.

In both periods, Tunisian state actors decided the extent of UNHCR's mandate in the country, especially when it comes to refugee definitions, which nationalities should be given asylum status and the asylum law-making process in the post-2011 period. Tunisian authorities opted for temporariness as their main approach to displacement. Despite narratives of solidarity, Tunisian authorities avoided to enshrine Algerians' and Libyans' status in law, instead working with informal, flexible and easily reversible policy tools. Although Algerian refugees in the 1950s and 1960s received collective asylum by the Tunisian state (*prima facie* status) which gave them access to humanitarian assistance, discussions about long-term residence or work permits were absent in the UNHCR archival material. Also, despite its ratification of the Geneva Convention, Tunisia did not consider developing a national asylum procedure in the post-independence period.

In fact, Tunisian authorities did not consider potential long-term consequences of Algerian displacement for two reasons: On the one hand, Tunisian authorities made it clear that they had no capacity to think about integrating Algerian refugees structurally into Tunisian society at a moment in time where the focus of politics was to consolidate the independent political institutions and to ensure Tunisia's economic survival in the face of plummeting French capital and investments: "*Authorities are so far not much interested in questions of legal protection, such as recognition of "old" refugees and eligibility procedure.*"²⁵ On the other hand, the geopolitical dynamics driving the displacement gave rise to optimism as to the future status of Algeria and led to the assumption that most Algerians would return in the wake of independence. To what extent and how Tunisian authorities' position towards Algerian refugees would have changed in the event of a prolonged war or different outcome (such as the continuation of Algeria under French rule) remains a speculation. However, the expectation of return was undeniably a factor that both hindered legal developments and long-term thinking, as well as prevented a shift away from solidarity and reception. In the end, this approach turned out to be sustainable because two-thirds of the 171,000 Algerian refugees recorded in early 1962 were returned through UNHCR

²⁴ 11_1-13_1_31 TUN (volume 3) Assistance to Algerian Refugees in Tunisia QA complete (1957-1961) p. 113-116: High Commissioner to Mr. Casson, Report of his visit to Algerian refugees in Tunisia (4-8 April 1961).

²⁵ 11_1-13_1_31 TUN (volume 2) Assistance to Algerian Refugees in Tunisia (Part1) (1957-1961), p. 49-52, Interoffice Memorandum, Mr. Rorholt to High Commissioner, relations with authorities, 12 Jan 1961.

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repatriation programs by the time of the Algerian independence referendum on July 1st, 1962.²⁶

Overall, the Tunisian government shifted between asking and needing (financial, organizational) support from the international community, and asserting its sovereignty and power over (relief) governance. Tunisia played a leading role in raising global awareness about the Algerian displacement, arguing that Tunisia had equal rights to request international support as Austria had in 1956 during the Hungarian refugee crisis. For UNHCR, defining who was considered a refugee and who not (for instance excluding Algerians who had been present in Tunisia before the war; injured ALN fighters, or vulnerable Tunisians) was key to budget its relief operation together with the League of Red Cross Societies. Tunisian authorities did so reluctantly, pushing for the broadest definition possible on the one hand and keeping a controlling hand over the issuing of ID documents on the other. In this vein, Tunisian (and Moroccan) authorities gave into UNHCR's and France's worries that Algerian fighters could benefit from assistance, especially in the later phase of the conflict, attempting to depoliticise the relief operation by asserting that fighters were excluded from receiving assistance: *"The Mol replied that [...] it was the policy of the Tunisian government that there should be no confusion between the relief action for refugees and any assistance [...] for the Algerian war effort. He emphasized the wish of the Government to keep straight lines and to avoid that any organization, Government, or the public in general give contributions to warlike purposes in the belief that they were given to refugees"*.²⁷

At the same time, Tunisian (and Moroccan) actors lobbied for a broad refugee definition to maximise access to aid, which led UNHCR to drop Algerian nationality as selection criterion for material assistance in 1960. A refugee was then defined by UNHCR as someone who had habitual residence in Algeria, who had fled to Morocco or Tunisia from Algeria since 1956 as a consequence of the events there, and who was in need. Excluded were "nomadic tribes, undisturbed by events in Algeria or persons from Algeria who had habitual residence in Morocco or Tunisia".²⁸ UNHCR made it clear that this was a concession to the Tunisian and Moroccan authorities: *"The High Commissioner had already made a tremendous concession in dropping the criterion of nationality thus adopting by far the most liberal definition ever accepted by this Office"*.²⁹ UNHCR repeatedly complained that the criteria of the Tunisian authorities for refugee determination remained blurred: *"What are the criteria of the Tunisian authorities for determination as to who is a refugee? This whole*

²⁶ 11_1-13_1_31_TUN (volume 4) Assistance to Algerian Refugees in Tunisia (Part 1) QA complete, p. 28:

UNHCR Tunis to UNHCR Geneva, 1 August 1962.

²⁷ 11_1-13_1_31_TUN (volume 3) Assistance to Algerian Refugees in Tunisia QA complete (1957-1961) p. 139-140: Interoffice Memorandum, Mr. Rorholt to High Commissioner, 9 March 1961.

²⁸ 11_1-13_1_31_TUN, MOR, GEN (volume 2) Assistance to Algerian Refugees in Morocco and Tunisia (Part1) QA complete, p. 39-40; Mr. Lindt to Mr. Dunning, 20 Apr 1960.

²⁹ 11_1-13_1_31_TUN, MOR, GEN (volume 3) Assistance to Algerian Refugees in Morocco and Tunisia (Part1) QA complete, p. 87-88: Interoffice Memorandum, UNHCR Morocco to UNHCR Geneva; criteria for material assistance, 29 Oct 1960.

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question is loaded with political dynamite but may also considerably influence the question of the number of real refugees to whom our rations are being distributed."³⁰ UNHCR also admitted that it was in practice impossible to ensure that fighters would not benefit from assistance via family members.³¹

Similarly, in the context of the Libyan conflicts, international organisations were key actors in providing assistance to Libyans and non-Libyans fleeing Libya to Tunisia, especially in 2011, and lobbying for a new asylum law, yet Tunisian authorities decided which groups would ultimately benefit from assistance and legal protection. The Tunisian state relied on pre-existing, temporary arrangements to allow for the mobility of Libyans into Tunisia, but no long-term integration or naturalisation. Tunisian authorities and other actors justified the laissez-faire approach adopted with regards to Libyans by emphasizing that the historical (1973) free mobility agreement with Libya provided them with a 'de facto protection status' that did not necessitate further regulation or attention. In fact, Libyans can enter and stay on Tunisian territory legally for three months, upon which they need to exit (and re-enter) Tunisia. While Libyans could have applied for refugee status with UNHCR, or for a work permit with the Tunisian Ministry of Labour, only a few have done so. Allegedly, there is a deal between the Tunisian authorities and UNHCR that prevents UNHCR from dealing with Libyans and from recognising Libyan asylum-seekers as refugees: *"So in fact UNHCR had almost no right to issue refugee cards to Libyans or Syrians, Palestinians a little more, but Syrians and Libyans, no. (...) They can apply for asylum, so they can be asylum-seekers, but they will never have the card, the refugee status in Tunisia. This is a political issue"* (TUNEX43). As a result, the majority of Libyans resides in Tunisia either irregularly or on the basis of a temporary tourist status. This is, however, tolerated by Tunisian authorities in practice. Those Libyans who register at UNHCR as asylum-seekers are individual persecution cases who neither feel safe in Tunisia nor in Libya (homosexuality, high profile journalists etc) and/or are in a particularly vulnerable economic situation.

In contrast to the 1950s, when UNHCR's mission was purely humanitarian and did not (yet) entail the goal to advance national asylum legislation and capacity building across the globe, after 2011, UNHCR actively worked with Tunisia's Ministry of Justice towards a draft asylum law. If the draft asylum law got passed, all refugees recognised by UNHCR would automatically receive a refugee status from the Tunisia state (TUNEX38). However, while there was some enthusiasm to develop a national asylum system within Tunisian administration in 2011-2012, as well as in 2014 after the ratification of the new constitution, the draft has been shelved since 2016. Also, implicitly, the debates around the asylum law left aside the issue of Libyan displacement, given that, in the Tunisian perspective, Libyans enjoyed a *de facto* protection through the mobility agreement and were not necessarily perceived as in need. Similarly,

³⁰ 11_1-13_1_31 TUN (volume 2) Assistance to Algerian Refugees in Tunisia (Part1) (1957-1961), p. 10; Mr. Jamieson to UNHCR Tunisia, 6 Feb 1961

³¹ 11_1-13_1_31 TUN, MOR, GEN (volume 3) Assistance to Algerian Refugees in Morocco and Tunisia (Part1) QA complete, p. 21; Mr. Beer to Mr. Schnyder, 18 February 1961.

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UNHCR actors did not lobby for a stronger legal protection of Libyans: *“Libya is different because Tunisia has agreements with Libya that date back, I think, to 1963, which says that Libyans are treated a bit like local Tunisians in Tunisia, in the sense that they have the right to free movement, the right to work, the right to reside, so they are a bit like Tunisians. (...) Well, I would say that any Libyan who would like to settle in Tunisia, settles in Tunisia and has all the rights of citizens, without having to go through UNHCR Tunisia”* (TUNEX44).

Two main factors account for this dynamic: On the one hand, Tunisian authorities had to legitimize policies in front of an electorate – which was split between those supporting an asylum law in the spirit of the revolution and rule of law, and those highlighting the need to first take care of Tunisians' needs before inviting in perceived millions of potential asylum seekers from across (North)-Africa, fearing in particular new influxes from Libya. On the other hand, while there were strong pressures from the international community to develop a national migration policy and asylum law, this was paralleled with the 2015 'refugee crisis' in Europe, which accelerated externalization attempts by the European Union, including suggestions such as extra-territorial processing of European asylum claims in North Africa. In this context, Tunisian authorities but also civil society were critical of a genuine partnership between South and North in terms of refugee protection and careful not to give into European and international pressures.

Conclusion

This paper systematically compared Tunisia's response to large-scale displacement of Algerians and Libyans at critical junctures of state formation, namely shortly after its independence from France in 1956 and the 2011 revolution that kick-started a democratization process. Our analysis showed that in order to understand forced migration governance at such key moments of state transformation, we need to assess whether hosting the group of forced migrants in question is an asset or risk to the political transformation process at play – at the domestic, geopolitical and international levels. While research on forced migration governance has highlighted the relevance of each of these levels of analysis, we believe that speaking in terms of risks and assets to the political transformation process provides us with analytical tools to explore the imbrication of domestic, geopolitical and international factors.

In the case of Tunisia, we showed that perceptions of displaced Algerians as political assets on the domestic, geopolitical and international level outweighed perceptions of economic and political risks, resulting in a supportive-open approach in the 1950s-60s, while displaced Libyans have been perceived as economic assets on the domestic level but as political risks at the domestic, geopolitical, and international level, explaining Tunisia's laissez-faire approach since 2011. The analysis highlighted that it was the combination of three factors – the redefinition of national identity domestically and towards the (European, African) other, the balancing of different state actors between security and economic interests, and the integration but also

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control of IOs in forced migration governance – that can explain Tunisia's response to Algerian and Libyan displacement on the ground.

While the nature of this case study by definition limits its immediate generalizability, we believe that the framework of identifying risks and assets at domestic, geopolitical and international levels has potential to travel beyond the Tunisia. In particular, we believe that it would be a fruitful approach to understand forced migration governance in both, South-South and North-North forced migration contexts, such as Venezuelan displacement to Columbia but also the Hungarian crisis in 1956 and the Ukrainian crisis in 2022. Further research would also have to look at sub-state variation. While this paper has focussed on the state as a key actor of forced migration governance for methodological and analytical reasons, it would be beneficial to zoom into non-state and non-national state actors more in detail, especially in the context of developing economies and transitioning political regimes. Finally, future research could also analyse path dependencies in a more longitudinal perspective to ultimately understand if and when critical junctures of state formation constitute also critical junctures of forced migration governance.

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