

PAX ARABICA?: PROVISIONAL SOVEREIGNTY AND INTERVENTION IN THE ARAB UPRISINGS

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I. INTRODUCTION

Two moments of apparent symbolic victory punctuated 2011—a year of uprisings and incipient revolution in the Arab world. The first occurred when the deposed former-president of Egypt, Hosni Mubarak, was wheeled on a hospital bed into a makeshift courtroom for a trial in which he would be held accountable from behind the bars of a cage. The second was captured in the video footage recorded by cell phone of the final moments of Muammar Qaddafi’s life. These indelible images serve as markers of transition in Egypt and Libya respectively, but the question of what they symbolize remains open.

In the Egyptian case, the sight of the former dictator physically delivered to accountability in a court of law for his crimes might be interpreted as a decisive break from the authoritarian past. But equally the outsized focus on the former president, the makeshift nature of the courtroom and trial, the limited scope of the discourse of accountability, and the continuation of many other Mubarak-era institutions (and actors in office) raise troubling questions about the future trajectory of the transition. In the Libyan case, the sight of an autocrat being laid low at the hands of the very people he long oppressed might also be understood to reflect a clear break. On the other hand, a turning of tables that ended in Qaddafi’s summary execution and the days-long display of his corpse might just as easily be seen as continuing the prior regime’s brutality and denial of rights. The contrasting fates of Mubarak and Qaddafi reflect the challenges faced by domestic actors now struggling to define the direction of the transitions underway in Egypt and Libya. Each case also illustrates

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the degree to which transitional trajectories will continue to be influenced and shaped by external actors, whether regional or international.

From international and regional perspectives, as well as the domestic perspectives of both transitioning countries, the Arab uprisings represent an opportunity and a challenge. On the ground, sustained popular protests have disrupted legacies of authoritarianism and are slowly generating new structures of political authority. Although these uprisings are very much the accomplishment of Arab publics, regional and international players are nonetheless deeply implicated in each of the countries undergoing transition. Confronted with a rapidly accelerating dynamic that has the potential to alter dramatically the existing security arrangements in the region and the strategic balance on which they depend, actors from the Gulf monarchies to Washington, Brussels, London, and Paris are asserting their preferences in ways small and large. Unsurprisingly, events have been received with ambivalence verging on alarm in such quarters. From the counter-revolutionary forces assembled against transition in Bahrain, Yemen, and Egypt to the aggressively interventionist posture adopted towards Libya and Syria, it is difficult on first glance to discern a coherent regional and international response to the transitions of 2011.

For instance, many have commented on the allegedly inconsistent approach of the Obama Administration, heralding the democratic spirit of armed resistance groups in one setting while offering a muted response to the dogged nonviolence of opposition groups elsewhere. Beneath this alleged inconsistency, however, lies an underlying coherence that is increasingly apparent. In fact, across the board the American response has been designed to maintain its preferred regional order, capitalizing on instability where it might unseat adversaries and resisting forces of change where they target allies. From a *realpolitik* perspective, there may be nothing surprising about this posture. Why should the United States wish to see the same treatment meted out to a long-term ally like Mubarak as to an erstwhile foe like Qaddafi? In this sense, there is no contradiction in the approaches taken to Egypt and Libya. In both Egypt and Libya, popular uprisings may be instrumentalized to reinforce allies, overturn adversaries, and secure a favorable regional balance. While we agree that this description accurately captures the dynamics at work in the

uprisings across the Arab world, we reject the “realist” justifications offered for these regional and international orientations. In this paper, we instead argue that these apparently “realist” strategies will prove counter-productive in the long-run. If anything, the American posture toward Arab publics—in which indigenous preferences must align with external strategic objectives or face international reversal—is ultimately destabilizing and likely to generate repeated cycles of popular opposition and authoritarian violence.

Section two begins by exploring the underlying logic of the American approach, which we argue is premised on a vision of Arab political sovereignty as provisional and dependent on the state’s position in existing regional alliances. Indeed, we contend that this provisional sovereignty is a wider feature of the current global order, and speaks to pervasive substantive limitations on the capacity of weak states to shape domestic decision-making.

Section three then turns to the practical effects of such provisional sovereignty for Arab publics engaged in popular protest and revolution. Our discussion focuses on five transitions (Egypt, Libya, Yemen, Syria, and Bahrain) presently underway in the region and the role of international actors in shaping political possibilities and outcomes. In particular, we emphasize how—regardless of whether the United States and its allies are promoting “orderly transition” or more revolutionary overthrows—international actors are “intervening” continuously throughout the region in ways that reinforce the conditional nature of Arab self-determination.

Section four considers the resources available to Arab publics and democratic-civil-society movements to resist external pressures and to reclaim a fuller conception of sovereignty. In the process, we develop an argument in favor of a significant reordering of the Middle East around indigenous preferences rather than international priorities defended by local clients. Such a reordering would be in line with emerging and locally-rooted democratic practices, and thus have the long-term potential to generate a more stable and peaceful regional dynamic, one not premised on a precarious balance of outside interests. In effect, one reading of the Arab uprisings is as a grassroots struggle to wrest control over domestic and regional priorities away from an international geopolitical balance that supports autocratic kleptocracies at the expense of representative politics. Part of this struggle has included the recovery of vocabularies and

repertoires of transnational solidarity that reinforce rather than replace local demands for autonomy and control. We conclude with reflections on the emerging politics of transnational solidarity present in the Arab uprisings, especially its potential to define a new, grounded *pax Arabica*—one based neither on oil wealth nor international prerogatives, but instead on the popular goals of mobilized constituencies.

II. PERIPHERAL SOVEREIGNTIES AS PROVISIONAL SOVEREIGNTY?

In order to make sense of recent U.S. actions in the Middle East, especially the seeming inconsistency of these actions, it is necessary to take a step back and explore the international context within which U.S. power operates. In the following pages, we argue that the existing global order is marked decisively by a basic hierarchy between core and peripheral states—particularly in the ability of weak states to assert meaningful sovereignty over political and economic decision-making. Moreover, this inequality goes hand-in-hand with an increasingly entrenched presumption on the part of powerful global actors that for weak states such sovereign control is granted only provisionally, depending on the state-in-question's willingness to support key international and regional arrangements. Core players like the United States even claim a legitimate authority, often couched in humanitarian terms, to reconstruct dependent and postcolonial countries in the interests of external security objectives. Indeed, the American response to the Arab uprisings (premised on local alliances consistent with its strategic interests) speaks directly to these developments and highlights both the *peripheral* and *provisional* nature of sovereignty in the global south.

Since the collapse of direct colonial authority, international law has presumed the formal equality of all nation-states (regardless of previous imperial status). Such sovereign equality is founded on the assumption that indigenous rather than external actors should shape a state's domestic deliberation and policymaking. Yet today, for many countries in the global south such formal legal equality is riddled with substantive inequalities in the international distribution of wealth, political authority, and military power. The result is that the capacity of states to enjoy meaningful sovereignty is fundamentally determined by whether those states are members of a core (largely coterminous

with the global north) or periphery (overwhelmingly from the postcolonial south).

For sovereignties in the periphery, practical economic and political decision-making often does not reside with local citizens, but instead lies in the nexus between international aid donors, multinational investors (including oil and arms companies), Bretton Woods institutions, and core states. Thus, despite the end of the colonial period, through a plethora of carrots and sticks ranging from economic conditionalities to outright military intervention, the great powers continue to enjoy remarkable authority, albeit informally, over how weaker states exercise internal self-rule. Commentator James Tully notes that such informal authority generally operates “through coalitions of various kinds and with various members at different times (among the roughly G20) and through institutions of global governance set up at the end of the World War II.”¹ Along with the Bretton Woods framework, this oversight can be seen in a series of related institutions, including the Security Council of the United Nations, the North Atlantic Treaty Organization (NATO) and its military apparatus, the entrenchment of dependent elites in former colonies, and the promotion of transnational trade regimes backed by the power of the World Trade Organization (WTO).² No doubt, former colonies are participants in many of these institutions and their elites have space to make claims and to exercise voice. Yet, such voice is often dramatically curtailed by the very reliance of these elites on core support for their continued rule.³

Standing behind all these overlapping institutions is the strength of the American military and its assertion of a rightful international police power. In effect, the over one thousand official and unofficial American military bases stationed across the world provide the final line of defense against any threat to the existing order. Indeed, American military might serves as more than simply a global enforcer. Through its police power, the United States tips the scales within local disputes and protects friendly regimes by equipping and training

1. James Tully, *Informal Imperialism and Res Publica: Imperialism and Anti-imperialism in the Twenty-First Century* 3 (Apr. 4, 2009) (paper delivered at Columbia University).

2. *Id.* at 4.

3. *See id.*; ANTONY ANGHIE, *IMPERIALISM, SOVEREIGNTY AND THE MAKING OF INTERNATIONAL LAW* (2005).

armed forces. These practices create relations of security dependence, which often leave elites in the global south more reliant on American security commitments than actual public support for preserving their internal authority. Thus, U.S. global primacy is today deeply intertwined with structures of international supervision, structures which operate over the long-term to sustain the essential divide between core and peripheral sovereignty.

Perhaps the most troubling aspect about current distributions of authority is doubt over whether the international order's informal mechanisms of external influence and direction have generated either prosperity or lasting peace for peripheral sovereignties. More so than ever before, the global community is marked by stark disparities in opportunity between past imperial states and their historic colonies. While half the world's population makes less than \$2 a day and nearly 1 billion people are malnourished, the richest 1% owns wealth equivalent to that of the poorest 57%.⁴ What makes these disparities particularly noteworthy is that they have exploded just as those sites of political responsibility connecting the global north and south have increasingly dissolved. During the era of colonial dependency, imperial states, for all their coerciveness, remained bound to colonized peoples by relations of actual governance. Indeed, simply to maintain order over unruly indigenous communities, European empires had to be at least partially responsive to local expectations. By contrast, the current moment is marked not by explicit relations of control but rather by a diffusion of practical authority, spread across a variety of shifting sites, ultimately reinforced by American police power. Thus, although meaningful authority may be exercised at the international level, local publics often have limited means by which to intervene or to establish clear lines of accountability.

The youth activists who sparked the protests in Tunisia and Egypt responded to what may have been an inchoate sense of this disempowerment by taking to the streets and calling into question the domestic arrangements of political authority that undermine both accountability and agency. The central constituency of protesters across the region has included those who are marginalized politically and economically by regimes that are sustained by a "neocolonial"

4. JEREMY SEABROOK, *THE NO-NONSENSE GUIDE TO WORLD POVERTY* 24 tbl. (2003).

Arab order. Their demands have articulated in the simplest possible terms a desire to set policy priorities and hold power accountable to their own interests. Freedom, dignity, and economic justice have been the banners under which the protests are organized from Tunis to Sanaa to Manama to Damascus. Of all the commonalities across the region, the one that characterizes each of the domestic contexts most clearly is the deep gap between the rulers and the ruled. The various grievances of Arab publics—economic, social, cultural, and international—have converged on the need for fundamental political reform that would enable mass publics to reclaim the capacity to express indigenous preferences and to intervene in local politics.

Thus, discontent with existing regimes is related not only to their international impotence but also their complicity in an order widely recognized as being unresponsive to the rights of the average citizen. At base, citizens across the region understand that when they lack jobs, are beaten by the police, and ruled by unaccountable corrupt cliques subservient to an international order, change will only come through reversing their own disenfranchisement. Yet the reality of being at the periphery has meant that despite the common demands that unite Arab publics, some are empowered by the international context and others encounter more or less subtle forms of counter-revolutionary pressure.

The American response to protests across the Middle East underscores the differential treatment of common popular demands and, in the process, a key characteristic of peripheral sovereignty. It speaks to the extent to which sovereignty for weaker and postcolonial states is implicitly presumed to be conditional and dependent rather than permanent and unquestioned. In other words, states are free from the prospect of regime change, or policies aimed at subverting existing political elites, so long as those states are reliable allies of core powers and thus committed to maintaining regional arrangements. But for countries pegged as strategic opponents, U.S. and E.U. practices suggest very different consequences. In these states, internal conflicts offer a clear opportunity for Western policymakers to entrench local actors more responsive to external interests and objectives. Indeed, the primary indicator of whether regimes facing internal rebellion were confronted by an American or European policy of overthrow or one of stabilization had little to do with the relative brutality of elites on the ground.

This fact is underscored by the shifts in argumentative rhetoric deployed by senior U.S. officials when speaking about “rogue” states such as Libya or Syria in contrast to established allies like Egypt. In the former case, the rhetoric has consistently emphasized dictatorial violence and the legitimacy of external projects of regime change. President Obama, in his May 2011 Middle East speech, went so far as to condemn Qaddafi as “[t]he most extreme example” of how “leaders have turned to repression to remain in power.”⁵ But in the latter case, officials have been much more respectful discursively of the sovereign right of domestic leaders to shape the nature of transition processes. Indeed, Vice President Biden’s immediate response to the protests in Egypt was to reject any connection between popular opposition in Tunisia and in Egypt, and to state emphatically that Mubarak remained a valued ally: “Mubarak has been an ally of ours in a number of things and he’s been very responsible on . . . geopolitical interests in the region: Middle East peace efforts, the actions Egypt has taken relative to normalizing the relationship with Israel.”⁶ All this meant that Biden “would not refer to him as a dictator”⁷ and believed that it was not the United States’ role to impose outcomes on Mubarak, although he “hope[d] Mubarak . . . [would] respond to some of the legitimate concerns.”⁸ In effect, Biden implicitly and unintentionally suggested how one’s location in geostrategic alliances was central to the enjoyment by states in the global south of thick and substantive sovereign control.

In order to tease out the practical consequences for local actors on the ground of this larger structure of provisional sovereignty, we turn in the next section to a closer analysis of conditions in Egypt, Bahrain, Yemen, Syria, and Libya—focusing especially on how international influences have generated differential domestic political paths. As these cases highlight, the competing discursive strategies pursued by the Obama Administration have had far more than a purely symbolic effect. These strategies are bound to policy orientations that have

5. President Barack Obama, Mideast Speech (May 19, 2011), in *N.Y. TIMES* (May 19, 2011), http://www.nytimes.com/2011/05/20/world/middleeast/20prexy-text.html?_r=1.

6. Interview by Jim Lehrer with Vice President Joseph Biden (Jan. 27, 2011), available at http://www.pbs.org/newshour/bb/politics/jan-june11/biden_01-27.html.

7. *Id.*

8. *Id.*

significantly altered the direction of indigenous protests. If anything, the response by the United States—as well as its allies, from the Gulf Cooperation Council (GCC) and the Arab League to the European Union—highlights how external actors are “intervening” in every context across the region, in ways that are recognized as interventionist in some circumstances but go unnoticed in others.

III. THROUGH A GLASS DARKLY: ARAB UPRISINGS INTERRUPTED

Two competing strategies have been deployed in international responses to the Arab uprisings. The first has been an emphasis on the importance of order and nonviolence in the course of managed transitions. This approach suggests that democratic transition is a long-term process in which institutional prerequisites must be met, constitutional provisions respected, technocratic management prized, and public demands quelled. In short, mobilized publics cannot be trusted to engage in political transformation, but must be subjected to specific constraints to keep them on an externally-approved transitional path. An emphasis on order, stability, and nonviolence is deemed paramount to the legitimacy of the transition in this paradigm. By contrast, the second approach is far more radical, demanding an unconditional and decisive break from the prior regime immediately and, where necessary, by force of arms.

Unsurprisingly, the first approach is applied to those countries deemed to be members of the Middle Eastern “axis of moderation,” that is, countries that have supported a regional balance premised on *pax Americana*.⁹ Equally straightforward, the second approach has been applied to countries that are peripheral to or are believed to actively resist this balance, such as Libya and Syria. The United States is not the only, or in some instances even the preeminent, actor

9. The definition of “moderation” here is support for specific U.S. (and, to a lesser extent, European) regional policy priorities, including Israeli security, access to energy resources, cooperation in “war on terror” policies, and containment of Iran. The Arab countries that have been most supportive of a regional balance premised on these priorities—a regional *pax Americana*—are Egypt, Jordan, Yemen, and the GCC (plus post-occupation Iraq, which is in its own separate category as an American dependency). For a detailed argument concerning the relationship between *pax Americana* in the Arab world and the so-called “axis of moderation,” see Asli Bâli & Aziz Rana, *American Overreach: Strategic Interests and Millennial Ambitions in the Middle East*, 15 *GEOPOLITICS* 210, 224-30 (2010).

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in determining which approach applies where. The balance in question is one that was put in place by the United States and continues to be secured by its presence as a regional hegemon (through its military and economic assets in the Middle East). But many actors are invested in the balance, particularly regional actors like the GCC, and in some instances also have other goals that are consistent with but not reliant on American preferences—as with the European Union’s immigration and energy interests in Libya.

The international and regional actors we consider herein are pursuing strategies of regime change or counter-revolution in support of stabilizing and reinforcing an order underwritten by the United States, but they are not necessarily acting at the behest of U.S. policymakers. Rather, a more complex relationship exists between multiple players acting in coordination and seeking to transform the very real challenge posed by the Arab uprisings into an opportunity to deepen their preferred regional balance. Just as this broader strategy is intended to reinforce a particular version of *pax Americana*, so the indigenous preferences that have given rise to the Arab uprisings hold the promise of a new ordering principle for the region, a *pax Arabica* that by virtue of being grounded in local legitimacy may in the long-run prove more stable. To evaluate this possibility, we canvass the deployment of the two strategies—orderly transition versus regime change—and the role they have played in shaping outcomes over the course of the last year.

A. *Orderly Transition*

The logic of “orderly transition” as a mechanism for managing and containing public protest first emerged in Egypt. As soon as the Egyptian protests began, the Mubarak regime’s traditional Western and regional allies—with the Obama Administration in the lead, coordinating with European partners, Israel, and the Gulf Arab states—began a balancing act designed to contain the transformative potential of the uprising without appearing to be on the “wrong side of history.” Initially, this balancing act generated a policy in evident disarray. In a three week period, American officials went from describing the Mubarak regime as stable,¹⁰ to rejecting popular

10. Secretary of State Hillary Clinton assessed the Egyptian government as “stable and . . . looking for ways to respond to the legitimate needs and interests of

characterizations of Mubarak as a dictator,¹¹ to calling for reform overseen by Mubarak,¹² to insisting on dialog between the regime and opposition,¹³ to evoking the necessity of an “orderly transition,”¹⁴ to suggesting the transition should be presided over by Mubarak personally or his designated successor,¹⁵ to celebrating the triumph of

the Egyptian people” in contrast to Tunisia. *US Urges Restraint in Egypt, Says Government Stable*, REUTERS (Jan. 25 2011), <http://af.reuters.com/article/topNews/idAFJOE7000KF20110125>.

11. Vice President Joe Biden categorically rejected that description during a television interview with Jim Lehrer. Interview by Jim Lehrer with Vice President Joseph Biden, *supra* note 6.

12. Secretary of State Clinton described the protests as “an important opportunity . . . to implement political, economic, and social reforms to respond to the legitimate needs and interests of the Egyptian people.” Hillary Rodham Clinton, Sec’y of State, Remarks with Jordanian Foreign Minister Nasser Judeh After their Meeting (Jan. 26, 2011), *available at* <http://www.state.gov/secretary/rm/2011/01/155388.htm>.

13. In a presidential address, Obama called for “meaningful dialogue between the government and its citizens” as the only way forward in Egypt. President Barack Obama, Remarks by the President on the Situation in Egypt (Jan. 28, 2011), *available at* <http://www.whitehouse.gov/the-press-office/2011/01/28/remarks-president-situation-egypt>.

14. At the end of January, Secretary of State Clinton first articulated the administration’s view that the Mubarak regime would have to “take steps that will result in a peaceful, orderly transition to a democratic regime.” Interview by David Gregory with Sec’y of State Hillary Rodham Clinton (Jan. 30, 2011), *available at* <http://m.state.gov/md155585.htm>. President Obama followed up on February 1, 2011, by saying “an orderly transition must be meaningful, it must be peaceful, and it must begin now.” President Barack Obama, Remarks by the President on the Situation in Egypt (Feb. 1, 2011), *available at* <http://www.whitehouse.gov/the-press-office/2011/01/28/remarks-president-situation-egypt>.

15. First, former ambassador Frank Wisner was sent by the Obama Administration to consult with Mubarak about the transition. Following his meetings with Mubarak, Wisner told a gathering of the Middle East Quartet at the Munich Security Conference that “Mubarak must stay” to preside over the transition. Adrian Oroz, *Transformation in Egypt: With or Without Mubarak?—Middle East Quartet Meets in Munich*, MUNICH SECURITY CONF. (Feb. 6, 2011), <http://www.securityconference.de/Program.638+M5c6761a38ce.0.html>. Later, Vice President Biden clarified that the Mubarak official who should take responsibility for presiding over “orderly transition” was Omar Suleiman, Mubarak’s long-time head of intelligence services who had been appointed to the long-vacant Vice Presidency by Mubarak on January 29, 2011, after being designated heir apparent by external Mubarak regime allies. *Biden Presses Egypt’s Suleiman for Orderly Transition*, AL-ARABIYA (Feb. 8, 2011), <http://www.alarabiya.net/articles>

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the protest movement,¹⁶ while insisting on a caretaker government presided over by Mubarak-era military and intelligence chiefs.¹⁷ The vagaries of this policy highlighted the difficulty of seeking to stabilize a longstanding ally (a priority shared particularly by Israel and the Gulf Arab states) without further undermining U.S. credibility in the eyes of protesters.

It should be noted that all the zigzagging of American positions had little immediate impact on the course of events in Tahrir Square. However, though Western powers and regional powerbrokers were peripheral to the initial trajectory of public revolt, over time they became crucial to the transformation of the post-Mubarak context from uprising to soft military coup. The “orderly transition” that ensued under Mubarak’s defense minister—Field Marshall Mohammed Hussein Tantawi, head of the governing Supreme Council of the Armed Forces (SCAF)—began with constitutional amendments that left the Mubarak constitution largely in place. Further, SCAF sequenced parliamentary elections ahead of new presidential elections (that would replace military rule with a civilian executive) and the drafting of a new constitution.¹⁸ Such “orderly transition” eventually

/2011/02/08/136857.html. A 2006 diplomatic cable released by Wikileaks illustrates the centrality of Suleiman’s role as Egypt’s envoy to Western allies and Israel. The cable suggested that Suleiman enjoyed a strong relationship with the CIA and that “[o]ur intelligence collaboration with Omar Suleiman is now probably the most successful element of the relationship’ with Egypt.” He was also described as Mubarak’s “consigliere” on foreign policy. Gregory Viscusi & Thomas Penny, *Mubarak’s Top Spy Suleiman Rejected by Cairo Streets as Protesters March*, BLOOMBERG (Feb. 1, 2011), <http://www.bloomberg.com/news/2011-02-01/mubarak-s-top-spy-suleiman-rejected-by-cairo-streets-as-protesters-march.html> (quoting cables released by Wikileaks).

16. On February 11, 2011, the day that Mubarak resigned, President Obama stated that “[t]he people of Egypt have spoken, their voices have been heard, and Egypt will never be the same.” President Barack Obama, Remarks by the President on Egypt (Feb. 11, 2011), <http://www.whitehouse.gov/the-press-office/2011/02/11/remarks-president-egypt>.

17. When the Supreme Council of the Armed Forces (SCAF) stepped in as a transitional government, the popular revolt gave way to a soft military coup with the support of the United States, the European Union, and the Gulf Arab states. Matt Spetalnick, *Obama Urges Egyptian Army to Ensure Democratic Change*, REUTERS (Feb. 11, 2011), <http://www.reuters.com/article/2011/02/11/us-egypt-usa-idUSTRE71175920110211>.

18. David D. Kirkpatrick, *Egypt’s Military Expands Power, Raising Alarms*,

produced a power grab by the military, which sought to retain full control of the Egyptian government until presidential elections—elections that would be deferred to 2013 or later.¹⁹ With such expanded powers, the military had hoped to preside over the constitutional process, enabling SCAF to introduce amendments that offered the military “immunity from prosecution in civilian courts, protection from oversight of their operations and budget, and a writ to intervene in political affairs in the name of protecting the secular character of the government.”²⁰ This effort to consolidate the military’s control of the transitional process has been forestalled, at present, by the “second Egyptian revolution,” marked by fresh uprisings in Tahrir Square in late November 2011.²¹ Although these uprisings were first met with renewed repression, they eventually generated concessions regarding the timetable for transition to civilian rule.²² Still, it is far too soon to celebrate civilianization, given that any transfer from military authority remains deferred to late 2012.²³

Such developments underscore how the forces of counter-revolution are in evidence at multiple levels in post-Mubarak Egypt. For instance, while the chaotic trials of Mubarak and his senior lieutenants have proceeded in fits and starts before hastily arranged *civilian* courts, 12,000 Egyptian civilians have faced criminal sentencing in *military* trials for charges related to criticizing the SCAF.²⁴ As ordinary Egyptians have become disenchanted with transitional justice—based on the perceived insincerity of the trials of Mubarak regime officials, the absence of procedural protections for civilians tried in military courts, and the cosmetic nature of the

N.Y. TIMES (Oct. 14, 2011), <http://www.nytimes.com/2011/10/15/world/middleeast/egypts-military-expands-power-raising-alarms.html>.

19. *Id.*

20. *Id.* Egyptian state elites and their allies in the beltway, Tel Aviv and the GCC, prefer this model of an unaccountable military guardian entrenched through constitutional protections; it is their interpretation of the “Turkish model.”

21. Ashraf Khalil, *The Second Republic of Tahrir*, FOREIGN POL’Y (Nov. 22, 2011), http://www.foreignpolicy.com/articles/2011/11/22/tahrir_square_scaf_pro_tests.

22. *Id.*

23. Wendell Steavenson, *Back to the Square*, NEW YORKER (Dec. 12, 2011), http://www.newyorker.com/talk/comment/2011/12/12/111212taco_talk_steavenson.

24. Khalil, *supra* note 21.

reforms of the notorious Interior Ministry, among other things—the transition itself has been presided over by generals that have arrested the leaders of the Tahrir uprising. Those arrested include prominent activists and bloggers, like Alaa Abdel Fatah and Asmaa Mahfouz, who led the original uprising. Moreover, governing generals have also moved to protect the military’s economic interests and the Ministry of Defense’s conception of stability, keeping Mubarak-era institutions in place.²⁵

Thus, the transfer of power following the ouster of Mubarak did not dismantle the regime he presided over; it was a decapitation followed by a military takeover. While the forces that overthrew Mubarak were entirely indigenous, the aftermath has depended in part on the relationship between Egyptian generals and their external supporters. Among the first acts of the SCAF was a declaration that Egypt would remain “committed to all regional and international obligations and treaties,” a commitment widely interpreted as insulating the Egypt-Israel peace treaty from democratic reversal.²⁶ Because the SCAF is seen internationally as the only reliable mechanism to maintain Egyptian-Israeli relations, it has been able to expand Emergency Law powers and avoid transfer of power to a legitimate civilian government, inhibiting the initial democratizing potential of the uprisings.²⁷

If counter-revolution has taken stealth hold of the Egyptian transition, it has been far more brazen in other contexts. The most notorious such case has been Bahrain, where nonviolent demonstrations calling for democratizing reforms were met with brutal repression and then direct military intervention against *unarmed* protesters. The peaceful mass protests of February and March 2011 gave way to spasms of regime violence, bolstered by GCC armies, yielding scores of dead demonstrators and bystanders, widespread allegations of torture, introduction of emergency laws, lengthy jail terms (including for medical doctors who treated wounded protesters),

25. Steven A. Cook, *Revolution 2.0*, FOREIGN POL’Y (Nov. 22, 2011), http://www.foreignpolicy.com/articles/2011/11/21/egypt_clashes_tahrir_scaf.

26. *Army Council: Egypt Is Committed to All Treaties*, EGYPT ST. INFO. SERVICE (Feb. 13, 2011), <http://www.sis.gov.eg/En/Story.aspx?sid=53702>.

27. Marc Lynch, *Don’t Let the Israeli Embassy Disaster Kill Egyptian Democracy*, FOREIGN POL’Y (Sept. 10, 2011), http://lynch.Foreignpolicy.com/posts/2011/09/10/the_israeli_embassy_disaster.

and the demolition of *shiite* mosques producing further sectarian polarization in the majority *shi'i* island governed by a *sunni* monarchy.²⁸ The regime's decision to militarize its response to the uprisings,²⁹ backed by Saudi Arabia and the GCC, and the subsequent armed suppression of peaceful protests was met with near-universal silence on the part of the principal Western allies of Bahrain. The United States has significant assets in Bahrain, where its Fifth Fleet is based, and so as with events in Egypt, beltway policymakers perceived the anti-regime uprisings as a threat to their interests in the region.

The United States set the tone for a Western response that was muted in the extreme, mildly criticizing the regime's human rights abuses while equivocally calling for "both sides" to refrain from violence in the absence of evidence that the violence was anything but unilateral regime repression of peaceful protesters. For instance, U.S. acknowledgment of Bahraini fears of Iranian influence legitimized the recharacterization of the uprising in terms of national security rather than political reform. Against a record of excessive force by the regime, State Department officials sat by silently as Saudi troops rolled into Manama.³⁰ Moreover, in the administration's most

28. *Bahrain: An Unfolding Human Rights Crisis*, HUM. RTS. WATCH (July 5, 2011), <http://www.hrw.org/news/2011/07/05/bahrain-unfolding-human-rights-crisis>; INT'L CRISIS GRP., MIDDLE EAST/NORTH AFRICA REPORT NO. 111 POPULAR PROTEST IN NORTH AFRICA AND THE MIDDLE EAST (VIII): BAHRAIN'S ROCKY ROAD TO REFORM, at i (2011), available at <http://www.crisisgroup.org/en/regions/middle-east-north-africa/iraq-iran-gulf/bahrain/111-popular-protest-in-north-africa-and-the-middle-east-viii-bahrains-rocky-road-to-reform.aspx> (follow "Full PDF Report" hyperlink).

29. The protests in Bahrain began three days after the ouster of Mubarak, on February 14, 2011. By mid-March, hardliners in the al-Khalifa family—the *sunni* monarchy of Bahrain—invited GCC troops into the country to help put down the protests. To add to the sectarian tensions produced by the confrontation between the monarchy and mobilized peaceful Bahraini opposition groups, the regime also invoked the specter of an Iranian anti-monarchy conspiracy. GCC troops entered Bahrain on March 14, 2011, three days before the UN Security Council greenlighted, with GCC support, a military intervention in Libya. The difference, of course, was that the GCC military intervention in Bahrain was *against* unarmed protesters, while elsewhere in Libya the GCC favored military intervention *on behalf of* an armed insurgency against the sitting government. For more on the GCC mobilization in Bahrain, see INT'L CRISIS GRP., *supra* note 28.

30. It was widely rumored among Bahraini activists that Assistant Secretary of

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detailed statement about the violence in Bahrain, President Obama cited Bahraini interests in “law and order” as a legitimate constraint on popular protests. In that May speech, the President said that:

Bahrain is a longstanding partner, and we are committed to its security. We recognize that Iran has tried to take advantage of the turmoil there, and that the Bahraini government has a legitimate interest in the rule of law. . . . The only way forward is for the government and opposition to engage in a dialogue. . . . The government must create the conditions for dialogue, and the opposition must participate to forge a just future for all Bahrainis.³¹

Some six months after this speech, the Bahrain Independent Commission of Inquiry issued its report concluding that “the Bahraini authorities had used torture and excessive force during its crackdown on pro-democracy protesters,” and criticizing official illegality, abductions of civil society activists, use of security courts to try civilians, and failures of accountability.³² The Commission, headed by the well-respected international jurist Cherif Bassiouni, concluded that there was no evidence of Iranian involvement in the uprisings.³³ The report resulted in another round of muted responses by regional and Western actors and occasioned no change on the ground in Bahrain. At present, hundreds of political detainees remain jailed following military trials, and the sectarian character of the crackdown continues to poison any possibility of reconciliation or reform.

A third example of counter-revolution in the guise of “orderly transition” is evident in the case of Yemen. Here again, eleven months of popular protests have been met with periodic outbursts of regime violence while Western and regional (largely Gulf Arab) actors have moved systematically to reinforce the position of the Saleh regime against its domestic opponents, privileging order and stability

State Jeffrey Feltman was in Manama when the Saudi troops arrived on March 14, 2011.

31. President Barack Obama, Remarks by the President on the Middle East and North Africa (May 19, 2011), *available at* <http://www.whitehouse.gov/the-press-office/2011/05/19/remarks-president-middle-east-and-north-africa>.

32. Kristian Coates Ulrichsen, *Bahrain's Uncertain Future*, FOREIGN POL'Y (Nov. 23, 2011), http://mideast.foreignpolicy.com/posts/2011/11/23/bahrain_s_uncertain_future.

33. *Id.*

over meaningful engagement with protesters' demands. Persistent street protests since January have failed to oust President Ali Abdullah Saleh, but following an incident in Sana'a in which Saleh's forces shot and killed dozens of unarmed demonstrators,³⁴ mass regime defections transformed the uprisings into a near-civil war. As violence escalated in Yemen, the regional and external response was to step in through diplomatic efforts spearheaded by the GCC to broker "peaceful transition." The emphasis on Saleh's participation in a negotiated exit was roundly rejected by activists who repudiated transitional compromises premised on immunity for Saleh and his family. The skepticism of protesters was reinforced as Saleh agreed on three separate occasions to step down, transferring power to his chosen deputy—Vice President Abd al-Rab Mansur al-Hadi—only to go back on the agreements.³⁵ The most recent iteration of this model of immunity-for-transition was put in place in November 2011 when Saleh resigned, accepting an offer of immunity, and legally transferred the presidency to his deputy.

Yet even as a new "national unity" cabinet (presided over by Vice President al-Hadi) met, Yemeni civil society activist Tawakul Karman argued in her Nobel Prize acceptance speech that Saleh remained functionally in power and was pushing the country into renewed civil war.³⁶ As demonstrations persist across Yemen, rejecting Saleh's impunity as well as the so-called transition represented by the assumption of power by his surrogate, the United States continues to view the Yemeni uprisings "through the lens of counterterrorism"—taking its cues from Saleh and his Saudi allies.³⁷ While the United States may consider Saleh an ally against Al-Qaeda in the Arabian Peninsula, in effect it has been the U.S.-Saudi strategy of regime

34. It is worth noting that this massacre in Sana'a occurred on March 18, 2011, one day after military intervention was authorized against the Libyan regime for comparable attacks on *armed* protesters.

35. See *Yemen President Ali Abdullah Saleh Defiant over Exit*, BBC (Apr. 24, 2011), <http://www.bbc.co.uk/news/world-middle-east-13181324>.

36. Mohammed Ghobari & Gwladys Fouche, *New Yemen Cabinet Meets; Nobel Winner Says Saleh Wants War*, REUTERS (Dec. 11, 2011), <http://af.reuters.com/article/worldNews/idAFTRE7B907720111210>.

37. Stacey Philbrick Yadav, *Opposition to Yemen's Opposition*, FOREIGN POL'Y (July 14, 2011), http://mideast.foreignpolicy.com/posts/2011/07/14/opposition_to_yemen_s_opposition.

maintenance in Yemen that has been the enabler of unrest and rising Salafism in Yemen's tribal regions.³⁸ Meanwhile, the persistent calls for political reform emanating from Yemeni civil society are stifled under the rubric of managed transition.

B. *Intervention and Regime Change*

Standing in direct contrast to the insistence on orderly transition and the stabilization strategies deployed in Egypt, Bahrain, and Yemen, the second approach to the Arab uprisings has been direct intervention by external actors in favor of regime change. This strategy has been reserved for those regimes in the region that are perceived as adversaries of *pax Americana*. If Egypt was the incubator for the strategy of orderly transition, the anti-regime intervention model was first openly adopted in the Libyan case. Here, the convergence of a number of key factors—all driven by international and regional actors—facilitated the first ever internationally-sanctioned militarized “humanitarian” intervention under the doctrine of responsibility to protect (R2P). The underlying external factors enabling this approach included the GCC's decision to intervene in Bahrain, a strategy that was accepted by Western powers in a *quid pro quo* for intervention in Libya. Other enabling factors consisted of the European Union's interest in containing refugee flows from North Africa and maintaining privileged access to Libyan energy resources, and the broader Western interest in appearing to support indigenous demands for political transformation in the least costly Arab context. Taken together, these factors (and U.S. willingness to mobilize in *favor* of revolution in Libya following widely criticized policies on Egypt and Bahrain) generated the political will for a Security Council-sanctioned intervention against Libya.

In the case of Libya, coercive measures were the *first* rather than the last option employed by the Security Council, contrary to the formal requirements of the R2P doctrine.³⁹ The protests in Libya

38. See Jeb Boone, *Time to Freeze Saleh's Assets*, FOREIGN POL'Y (Nov. 10, 2011), http://mideast.foreignpolicy.com/posts/2011/11/10/time_to_freeze_saleh_s_assets.

39. For a comprehensive examination of the doctrine's requirements, see INT'L COMM'N ON INTERVENTION AND STATE SOVEREIGNTY, THE RESPONSIBILITY TO PROTECT (2001), *available at* <http://responsibilitytoprotect.org/>

began on February 15, 2011. The Qaddafi regime responded with violence within the first few days, much as had been the case in Egypt, Bahrain, and Yemen. Unlike those cases, however, the Council moved precipitously to address the Libyan situation. Within one week of the first protests, on February 22, 2011, the Council issued a press statement expressing its concern. Within four days of that statement, the Council adopted its first package of coercive measures in Resolution 1970—an asset freeze, arms embargo, travel ban, and referral of the regime to the International Criminal Court—without attempting any diplomatic overture to the Libyan authorities. Further, by threatening the regime with criminal indictment, this first concrete action seemed more likely to foreclose than encourage a negotiated solution to the crisis. Less than three weeks after that sanctions package was passed, the Security Council passed Resolution 1973 with an open-ended authorization to use force.

Once the NATO intervention began, the toll on the civilian population steadily increased. As the tactic of aerial bombardment failed to achieve immediate results, NATO's definition of its mission expanded, exceeding anything authorized by the Security Council.⁴⁰ First, NATO began attacking not only regime forces threatening civilian populations, but also Libyan troops in retreat. Next, they targeted Libyan forces wherever they may be, even when not involved in any threat to civilians, but stationed far from conflict in the western provinces. As these tactics failed to alter decisively the military balance, NATO resorted to increased airstrikes in Tripoli. These attacks soon took on the appearance of assassination attempts. Tripoli finally fell in brutal fighting followed by widespread reprisal attacks by rebel forces against villages and towns that they deemed overly-loyal to regime forces.⁴¹ At the close of the six-month NATO

ICISS%20Report.pdf.

40. This expanded mission was bitterly criticized by Russia and China, who had reluctantly acquiesced in Resolution 1973 on the basis of its allegedly limited mandate. Their opposition to the scope of the NATO intervention later became a basis for resisting coercive resolutions by the Council against Syria.

41. Tarik Kafala, *'Cleansed' Libyan Town Spills Its Terrible Secrets*, BBC (Dec. 12, 2011), <http://www.bbc.co.uk/news/magazine-16051349> (noting that 30,000 people had been driven from their homes in Tawergha by rebels who were acting in "revenge" for the siege of Misrata, which had been conducted partially by troops based in Tawergha). "Human rights groups have described this as an act of revenge and collective punishment possibly amounting to a crime against humanity.

intervention, the civilian death toll in Libya (according to the Transitional National Council's Health Minister) stood at over 30,000,⁴² some twentyfold greater than the death toll in the first month of the uprising, prior to the intervention. With the NATO-assisted capture of Qaddafi followed by his execution at the hands of Misratan rebels, the "humanitarian" mandate ended, but the presence of international and regional (particularly Qatari) interests in the Libyan "transition" remained in place. Indeed, we can see this continuing involvement in current battles over the state of Libya's sovereign assets, which foreign powers froze under Security Council mandate. Even today, foreign actors continue to resist returning those funds to the post-transition Libyan government, highlighting the degree of economic coercion that marked intervention.⁴³ All in all, there has been a stark contrast between Libya—where an anti-regime uprising enjoyed international support despite resorting to armed insurgency—and the countries in which *unarmed* protesters faced internationally sanctioned counter-revolution, including Egypt, Bahrain, and Yemen.

Despite fundamental differences between Libya and Syria—not least the fact of the latter's geopolitical location, sharing borders with Iraq, Israel, and Turkey, as well as Jordan and Lebanon—the Syrian case has taken a somewhat similar trajectory. This, in large part, is a result of the one significant dimension along which the two states resemble one another: they are both perceived as outside of the set of alliances that mark Middle Eastern *pax Americana*. As a consequence particularly of its relationship with Iran and its belligerent posture

Tawerghans are mostly descendants of black slaves." *Id.*

42. Naji Barakat, the interim health minister of the transitional government, offered this estimate (together with 50,000 wounded). Christine Dugay, *The Help Needed in the New Libya*, DEVEX.COM (Sept. 19, 2011), <http://www.devex.com/en/articles/from-humanitarian-intervention-to-assistance-the-issue-of-reconstruction>.

43. In remarks at a conference in February 2012, Cherif Bassiouni noted that in negotiations with the TNC, the Italian government agreed to release no more than 20% of Libya's frozen sovereign assets, requiring that the new government receive the remaining 80% through in-kind purchases of Italian goods and services. Cherif Bassiouni, Keynote Address at UCLA Journal of International Law and Foreign Affairs Symposium, February 17, 2012. For an earlier account of wrangling to release Libyan funds, see Sophie Quinton, *The Quest for Libya's Frozen Assets*, ATLANTIC (Aug. 26, 2011), <http://www.theatlantic.com/international/archive/2011/08/the-quest-for-libyas-frozen-assets/244171/>.

towards Israel, the Syrian regime does not enjoy access to the same key sources of support that were available to Egypt, Bahrain, or even Yemen in their confrontations with domestic opponents. Once Qatar, Damascus's erstwhile ally in the GCC, made the strategic decision to cut ties with the Assad regime (in the midst of Qatar's direct participation as the sole Arab army involved in military action against Libya),⁴⁴ Syria was easily isolated by other regional actors.⁴⁵ Deemed a member of the "axis of resistance" by the United States—which groups Syria together with Iran, Hizbollah, and Hamas—Syria has been targeted for regime change, a goal of American policymakers long before the Arab uprisings of 2011.⁴⁶ With the advent of popular protests in Syria⁴⁷—erupting after mass mobilization in Daraa on March 17, 2011—international steps to isolate Damascus were undertaken, albeit cautiously for fear of destabilizing the Israel-Syria border.

Again, the focal points for the international response to Syria were the GCC, the League of Arab States, and the United Nations Security Council. As early as April 2011, even as the Libyan conflict escalated, the United States and its E.U. partners were circulating a draft Security Council press statement demanding an end to the Syrian regime's crackdown.⁴⁸ While these initial efforts failed, the Council

44. Anthony Shadid, *Qatar Wields an Outside Influence in Arab Politics*, N.Y. TIMES (Nov. 14, 2011), <http://www.nytimes.com/2011/11/15/world/middleeast/qatar-presses-decisive-shift-in-arab-politics.html>.

45. There is also a sectarian dimension to Syria's isolation—something that was not present in the Libyan case. Because the Assad regime is a minority *alawite* regime presiding over a majority *sunni* population, the willingness of both GCC countries and Turkey to step in to offer support and protection to a largely *sunni* uprising, with assistance from *sunni* communities in Iraq and Lebanon, has been notable.

46. General Wesley Clark recently revealed that he had been shown a list of seven countries to be targeted for regime change by the United States following the September 11th attacks. These countries were: Iraq, Syria, Libya, Lebanon, Sudan, Somalia, and Iran. Of these countries, only Iran has not experienced some form of regime change in the last decade. Glenn Greenwald, *Wes Clark and the Neocon Dream*, SALON.COM (Nov. 26, 2011), http://politics.salon.com/2011/11/26/wes_clark_and_the_neocon_dream/.

47. Once again, the timing of the Syrian protests as with the escalation of the conflict in Yemen coincided precisely with the international decision to authorize the use of force in Libya.

48. Neil MacFarquhar, *Push in U.N. for Criticism of Syria Is Rejected*, N.Y.

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did issue a presidential statement on Syria in August 2011, as the Libyan conflict entered its final stage.⁴⁹ By late November 2011, the regime was largely isolated, with the GCC and the Arab League forging a consensus against Assad and even Turkey turning sharply against its former ally. A vote condemning the regime garnered over 120 votes in the Third Committee of the United Nations General Assembly on November 22,⁵⁰ followed within three months by condemnation by the Human Rights Council and then an overwhelming vote of 137 states in a plenary meeting of the General Assembly against the Assad regime.⁵¹

Against this backdrop, the United States,⁵² the European Union,⁵³ and Turkey⁵⁴ all adopted the posture that “Assad must go.”⁵⁵ In fact, Turkey now serves as the organizing base for the “Free Syrian Army,” a growing collection of military defectors taking up arms against the Assad regime and mounting increasingly effective attacks.⁵⁶

TIMES (Apr. 27, 2011), <http://www.nytimes.com/2011/04/28/world/middleeast/28nations.html>.

49. U.N. SCOR, 66th Sess., 6598th mtg, U.N. Doc. S/PV.6598 (Aug. 3, 2011).

50. *Syria: UN Human Rights Committee Condemns Crackdown*, BBC (Nov. 22, 2011), <http://www.bbc.co.uk/news/world-middle-east-15834540>. The third committee is the “social, cultural and humanitarian affairs” committee of the General Assembly.

51. Rick Gladstone, *General Assembly Votes to Condemn Syrian Leader*, N.Y. TIMES (Feb. 16, 2012), <http://www.nytimes.com/2012/02/17/world/middleeast/secretary-general-ban-ki-moon-castigates-syria-ahead-of-general-assembly-vote.html>.

52. Khaled Oweis, *Obama Says Assad Must Go, Orders New Sanctions*, REUTERS (Aug. 18, 2011), <http://www.reuters.com/article/2011/08/18/idINIndia-58854320110818>.

53. *U.S., Europe Call for Syrian Leader al-Assad to Step Down*, CNN.COM (Aug. 18, 2011), http://articles.cnn.com/2011-08-18/politics/us.syria_1_president-bashar-al-assad-president-assad-syrian-people?_s=PM:POLITICS.

54. Zeina Karam & Suzan Fraser, *Recep Tayyip Erdogan: Bashar Al Assad Must Step Down*, HUFFINGTON POST (Nov. 22, 2011), http://www.huffingtonpost.com/2011/11/22/recep-tayyip-erdogan-bashar-assad_n_1107162.html.

55. INT’L CRISIS GRP., MIDDLE EAST BRIEFING NO. 31, UNCHARTED WATERS: THINKING THROUGH SYRIA’S DYNAMICS (2011), available at <http://www.crisisgroup.org/~media/Files/Middle%20East%20North%20Africa/Iraq%20Syria%20Lebanon/Syria/B031%20Uncharted%20Waters%20-%20Thinking%20Through%20Syrias%20Dynamics.pdf>.

56. Mona Alami, *Syrian Rebels Seek Help Waging Civil War*, USA TODAY <http://www.usatoday.com/news/world/story/2011-12-12/syrian-rebels-civil->

Meanwhile, until he was withdrawn, the American ambassador in Damascus routinely attended opposition meetings and protests, in order to offer international protection to demonstrators.⁵⁷ Unilateral sanctions against Syria were imposed by the European Union, the United States, Turkey, and the Arab League.⁵⁸ Though Security Council action was not possible due to Chinese and Russian opposition (a reflection of their criticisms of the course of the Libyan intervention),⁵⁹ these coordinated sanctions were an effective alternative. The next steps under discussion among Western powers with respect to Syria focus particularly on intervention through funneling arms and financial support to Syrian opposition forces, with or without the authorization of the Security Council.⁶⁰ In addition,

war/51849650/1 (last updated Dec. 13, 2011).

57. See *US Ambassador Robert Ford to Return to Syria*, BBC (Dec. 6, 2011), <http://www.bbc.co.uk/news/world-middle-east-16057041> (noting that Ford “had angered Syrian authorities by showing solidarity with activists involved in an uprising against President Bashar al-Assad’s rule”).

58. Alexandra Zavis & Amro Hassan, *Arab League Approves Sanctions Against Syria*, L.A. TIMES (Nov. 28, 2011), <http://articles.latimes.com/2011/nov/28/world/la-fg-syria-arabs-sanctions-20111128>; Alice Fordham, *Turkey Announces Sanctions Against Syria*, WASH. POST (Nov. 30, 2011), http://www.washingtonpost.com/world/middle_east/turkey-unveils-sanctions-on-syria/2011/11/30/gIQAbgONCO_story.html; Aamer Madhani, *Treasury Announces New Sanctions Against Syria*, USA TODAY (Dec. 1, 2011), <http://content.usatoday.com/communities/theoval/post/2011/12/treasury-announces-new-sanctions-against-syria/1>; Sarah Kent & Benoit Faucon, *EU Sanctions Put a Chokehold on Syrian Crude Oil Exports*, WALL ST. J. (Dec. 13, 2011), <http://online.wsj.com/article/BT-CO-20111213-711160.html>.

59. *Russia and China Veto UN Resolution Against Syrian Regime*, GUARDIAN (U.K.) (Oct. 4, 2011), <http://www.guardian.co.uk/world/2011/oct/05/russia-china-veto-syria-resolution>.

60. *Arab League Chief Says Arming Syrian Opposition Might Be an Alternative*, GUARDIAN (U.K.) (Feb. 29, 2012), <http://www.guardian.co.uk/world/video/2012/feb/29/arab-league-syrian-opposition-video>; *Turkish FM: Ankara Supports Arming Syria Rebels*, EU TIMES (Mar. 4, 2012), <http://www.eutimes.net/2012/03/turkish-fm-ankara-supports-arming-syria-rebels/>; Anne-Marie Slaughter, *How to Halt the Butchery in Syria*, N.Y. TIMES (Feb. 23, 2012), <http://www.nytimes.com/2012/02/24/opinion/how-to-halt-the-butchery-in-syria.html>. Slaughter, the former director of policy planning for the State Department under the Obama Administration, argues specifically that “nations like Turkey, Qatar, Saudi Arabia and Jordan [should] arm the opposition soldiers with anti-tank, countersniper and portable antiaircraft weapons. Special forces from countries like Qatar, Turkey and possibly Britain and France could offer tactical and

referral of the regime to the International Criminal Court for crimes against humanity is also an option under discussion, drawing on the model innovated in Libya. The goal of such a referral would be to lend international legal imprimatur to the mounting external opposition to the Assad regime, complementing existing support for the “Syrian National Council”⁶¹ and the Free Syrian Army. Indeed, International Criminal Court referral has been transformed from a mechanism for criminal accountability for former regime officials to another lever for regime change and one that, in many ways, is functionally comparable to the U.S. and E.U. invocation of the R2P doctrine in the Libyan context.

By February 2012, the debates about Syria in both the Arab League and the United Nations explicitly focused on regime change. The Arab League “peace plan” for Syria established the goal of forming a new national unity government and requiring that Assad step down, conditions that hardly seemed calculated to elicit regime cooperation.⁶² The draft resolution circulated to the Security Council expressed full support for the Arab League’s goal of replacing the regime with a national unity government, occasioning Russian and Chinese vetoes.⁶³ The eruption of explicit disputes over the possibility of the Council backing demands for regime change in Syria may distinguish this case from Libya—largely due to Russian and Chinese resistance—but they also indicate the degree to which invocations of humanitarian grounds for intervention and calls for regime change now coincide. The ratcheting external pressure and

strategic advice to the Free Syrian Army forces. Sending them in is logistically and politically feasible; some may be there already.” *Id.*

61. For more on the SNC, see Randa Slim, *Meet Syria’s Opposition*, FOREIGN POL’Y (Nov. 1, 2011), http://mideast.foreignpolicy.com/posts/2011/11/02/meet_syrias_opposition.

62. Kareem Fahim, *Arab League Floats Ambitious New Peace Plan for Syria*, N.Y. TIMES (Jan. 22, 2012), <http://www.nytimes.com/2012/01/23/world/middleeast/arab-league-floats-new-peace-plan-for-syria.html>.

63. Neil MacFarquhar, *U.N. Tentatively Backs a Plan for Syria*, N.Y. TIMES (Feb. 2, 2012), <http://www.nytimes.com/2012/02/03/world/middleeast/diplomats-at-united-nations-work-on-revisions-to-syria-resolution.html>; Paul Harris et al., *Syria Resolution Vetoed by Russia and China at United Nations*, GUARDIAN (U.K.) (Feb. 4, 2012), <http://www.guardian.co.uk/world/2012/feb/04/assad-obama-resign-un-resolution>.

covert arms trafficking signal the increasing internationalization of the Syrian uprising.

Understandably, for protesters relentlessly subjected to brutal regime repression and massive human rights violations, the shift towards greater international involvement must seem welcome. Yet the potential for even greater civilian casualties as a result of internationalization is extremely dangerous, particularly when compared to the Libya precedent. In light of the United States' stake in altering Syrian policies towards Israel, Turkish interests in containing Syria's Kurdish population, and Saudi aspirations to challenge Iranian influence, as well as the internal sectarian and ethnic makeup of Syria, internationalization threatens to push the country further into a full-blown civil war. Nonetheless, the convergence of external interests with the desperation of regime dissidents may well yield a short-term preference for such intervention, particularly in the form of "indirect" arming of the opposition. Such an approach is currently the preferred scenario among Western powers and their regional allies, but may prove an even worse alternative than more direct external military intervention. This is because even with additional arms, opposition groups resisting the repressiveness of the Assad regime will remain outmanned by their state adversary. Moreover, because much of the opposition is based in cities, there is a high likelihood that more arms will ratchet up the level of violence in densely populated urban areas. In other words, additional arms, given the countervailing military power of the Syrian government, may ultimately accelerate threats to civilians (such as by intensifying the regime's already harsh response), while prolonging and deepening the conflict. One way that this deepening would occur is by accentuating the sectarian character of internal violence, since the opposition will be armed by regional *sunni* actors including those operating in Turkey, Iraq, and Lebanon. Over the long-term, the costs of intervention are likely to outweigh any initial benefits by complicating and postponing political transition while magnifying dangers to the civilian population.⁶⁴

64. See, e.g., Rami Al-Shaheibi, *Libyan Militia, Army Clash Near Tripoli's Airport*, SALON.COM (Dec. 11, 2011), http://news.salon.com/2011/12/11/libyan_militia_army_clash_near_tripolis_airport/.

Where key U.S. allies have faced destabilization as a result of the democratic demands of their populations, the approach has been to manage these demands through a combination of concessions, back-channel negotiations, and outright coercion to bolster the position of the regime. By contrast, where perceived adversaries face domestic protests, the approach has been precisely the reverse—statements of strong support for regime opponents and international pressure for rapid transformation and regime change (accomplished with the assistance of sanctions, asset freezes, travel bans, and even military intervention). Such actions—most obviously in the example of Libya and increasingly in the case of Syria—are styled as “humanitarian” and justified on grounds of the threat posed by the existing regime to the welfare of the civilian population. Yet a comparison with other regimes in the region suggests that the principal distinguishing feature of those who face international pressure to step down—rather than international assistance for managed transition—is their relationship to a regional distribution of power. Still, as we explore below, the broader concerns with the politics of interventionism and the realities of provisional sovereignty do not suggest that it is impossible for external actors to operate in solidarity with democratic movements on the ground.

IV. RECLAIMING SOVEREIGNTY AS SELF-DETERMINATION

At the same time as the United States and European Union have been interceding across the region to protect their strategic interests, the last year has also witnessed the flourishing of grassroots forms of transnational cooperation in the Middle East. Such cooperation offers an alternative to external intervention by modeling a politics of internationalism grounded in popular solidarity rather than top-down imposition. More than anything else, this new transnational politics was spurred by the fact that publics throughout the Arab world believed themselves they are confronted by the same grievances (corruption, joblessness, and authoritarianism) and are struggling for the same aspirations (civil liberties and socio-economic freedoms). This sense of a common predicament played a critical role in fanning popular protest from one country to the next and was evident in the repetition of political slogans, not to mention modes of organizing. Indeed, many of those involved in local protests explicitly based their

practices on fellow activists elsewhere and understood their own activities as part of a wider regional transformation. Through popular regional cooperation, democratic-social movement actors have generated resources to resist both local authoritarian practices and geostrategic alliances that dictate outcomes from above. In the following pages, we work through what this model of solidaristic mobilization has encompassed and the promise it holds.

One of the clearest manifestations of regional knowledge transfer among civil society actors has been evident in the use of social media. As an example, the April 6th movement in Egypt coordinated broad strategies in deploying Facebook and Twitter with their counterparts in Tunisia, while also learning basic tactics—such as measures to help offset the effects of teargas. In a recent public address, one of the leaders of the Egyptian Tahrir Square uprising, Ahmed Maher, noted that these transregional civil society connections were neither arbitrary nor accidental.⁶⁵ Rather, beginning with a meeting in Beirut, sponsored by the Carnegie Middle East Center, a collection of “illegal political groups” of the region from Tunisia to Egypt to Syria to Kuwait started coordinating with one another in building grassroots civil society movements in each of their respective contexts. Maher noted that alongside media strategies and protest tactics, broader shared vocabularies and repertoires of protest grew out of this coordination. As the chant “*ash-shab yurid isqat an-nizam*” (“the people want to overthrow the regime”) echoed from capital to capital, so too did the jokes and colloquialisms of the uprisings. The Tunisian demand that Ben-Ali “*dégage*” was transformed into the Egyptian call saying *irhal*; the shared sentiment being that the regimes should leave now. Egyptians transformed chants from “the people and the army are one hand”⁶⁶ to “the people and the people are one hand”⁶⁷ and began issuing revolutionary *communiqués* as a parody of SCAF declarations by communiqué.⁶⁸ The chants, humor, and poetry of revolution across

65. Ahmed Maher, Lecture: A Special Briefing on the Egyptian Uprising (Nov. 15, 2011).

66. An early chant that emerged when the Egyptian military refused to fire on protesters in Tahrir Square in February 2011.

67. A response to the brutal repression undertaken by the military in response to the second uprising in Tahrir in November 2011.

68. *A Communiqué from the Revolutionaries of Tahrir Square*, JADALIYYA (Dec. 4, 2011), <http://www.jadaliyya.com/pages/index/3375/a-communiqu%C3>

the region generated its own form of cultural and linguistic innovation.⁶⁹ This transregional coordination eventually transcended the Middle East, as Tunisian and Egyptian activists joined forces in meeting with the leaders of the Occupy Wall Street movement in New York's Zuccotti Park.⁷⁰

The emergence of bottom-up Arab activism has been deeply reminiscent of the pan-Arab solidarities that once defined anti-colonial politics in the Middle East. Although today's Arab activists do not understand themselves in the classic terms of the Arab nationalism that emerged in the post-colonial Middle East, they share much in common with an earlier era of Third World internationalism. Above all, current social movement activists, like their predecessors, have drawn inspiration and clear political lessons from the efforts in neighboring countries, while continuing to act *within* their own borders to alter domestic structures of governance and authority. Further, they have drawn connections between their domestic grievances and a regional order subordinating local preferences to international priorities, particularly those of Western powers and their local clients. Moreover, these social movement activists also see the success of their own freedom struggles as bound to the success of other Arab uprisings and to a fundamental regional reordering away from security imperatives and towards questions of social justice. This is because by placing pressure on authoritarian regimes throughout the region, mass movements, even when operating in political isolation, have nonetheless jointly undermined the symbolic and material resources available to all the relevant regimes.

Indeed, such transnational solidarity does more than strengthen the potency of particular, nationally-defined protests. It also offers perhaps the last, best method of challenging the logic of provisional sovereignty. By refusing to allow geostrategic alliances to determine the internal composition and objectives of governing elites, mass

%A9-from-the-revolutionaries-of-tahrir-sq.

69. For instance, this rich new cultural landscape was captured in an edited volume published by the American University of Cairo Press entitled *TRANSLATING EGYPT'S REVOLUTION: THE LANGUAGE OF TAHRIR* (Samia Mehrez ed., forthcoming 2012).

70. *From the Editor*, MIDDLE E. REP., Winter 2011, at 1, available at http://www.merip.org/mer/mer261/editor?ip_login_no_cache=549bfd9ab63f3c19a1d59894034a93dd.

movements in states like Egypt are staking a claim to meaningful and popular sovereignty over economic and political life. To the extent that such activism takes place against a backdrop of regional protest—with alliances of dissent emerging across state borders—the power of external interveners to set the terms of revolutionary change diminishes. Both intervening states and recalcitrant elites must accommodate popular practices on the ground and address the internal grievances that have stoked rebellion.

The fact that these grievances have overwhelmingly centered on socio-economic concerns provides a final lesson for external actors seeking to act in meaningful solidarity with local movements. The primary approach of U.S. foreign policy to the Middle East has been to privilege its military and security arrangements above all else, and to determine friends and enemies based on these arrangements. In order to shore up internally illegitimate but externally valued allies, the United States has then found itself propping up client states and intervening on a near continuous basis throughout the region—all in the elusive search for a durable peace. But the claims of movement actors on the ground indicate that the best method of actually producing such stability may have little to do with imposing geostrategic alliances and far more with the internal capacity of states to gain actual domestic legitimacy.

In the end, such legitimacy rests on whether there exists what Alex de Waal has called a “political contract.”⁷¹ By political contract, de Waal above all means the capacity for mass movements to “articulate a new right, and forc[e] a reluctant government to comply with its claims.”⁷² He argues that such contracts often emerge when those disenfranchised by ordinary processes are able to intervene and alter existing structures of authority.⁷³ The key point about a political contract is that the rights in question are not principally generated by external interveners or by insulated decision-making bodies. Rather, citizens—through popular mobilization and sustained political contestation—compel governments to accept institutional changes and to re-prioritize basic social needs. In a sense, what we are witnessing

71. ALEX DE WAAL, *FAMINE CRIMES: POLITICS AND THE DISASTER RELIEF INDUSTRY IN AFRICA* 11 (1997).

72. *Id.*

73. *Id.*

throughout the Middle East is the explicit drive by engaged publics to construct new political contracts—ones organized in large measure around goals of civil liberty and economic justice. In contrast to a U.S. regional order based in *provisional* sovereignty for local actors, this indigenously defined political contract is an assertion by local constituencies of both permanent sovereignty and self-determination, with these constituencies imposing popular demands on autocratic elites.

Ultimately, for such contracts to take hold, it is imperative that justice claims dominate domestic and regional reordering rather than being made subservient yet again to security arrangements. Above all, the grassroots mode of politics—emerging throughout the region and linking shared interests and goals—must be provided the space to flourish. This mode of politics speaks to a new moment of Arab and North African solidarity, but can only produce a durable and lasting political framework if foreign actors refrain from seeing the uprisings through the prism of geostrategic opportunity and peril. Provided the necessary space and support, one could imagine the rise in the region of a *pax Arabica*, grounded in the actual needs of local citizens. Over the long run, such an order has the potential to prove far more durable than the prevailing *pax Americana*, which at present has only generated further instability and, not unsurprisingly, enjoys little popular acceptance.

V. CONCLUSION

Transnational solidarity suggests a radical meaning for sovereignty. The meaning of such sovereignty is neither provisional nor parochial, but rather demands that overlapping international regimes and regional arrangements enable the expression of indigenous preferences. This conception of sovereignty and solidarity not only resonates with an earlier moment of post-colonial political praxis, it also works to recover a specifically Arab political framing that disappeared as a result of a combination of Cold War rationales, the Arab-Israeli conflict, and the rise of kleptocracies. The promise of such a conception would replace the *pax Americana* associated with the eclipsing of regional Arab solidarity with a *pax Arabica* centered on enfranchised and mobilized publics. Crucially, this new *pax Arabica* need not be understood as “anti-American.” Instead, it would

simply take local interests rather than American priorities as a starting point for regional order.

In repudiating provisional sovereignty, Arab publics have articulated a set of positive demands that point the way towards a new ordering. First, they have definitively rejected the privileging of form over substance that has long characterized the rule-of-law and good-governance reform projects advocated by external actors intervening in the region. Understanding that law has served as an instrument of dictatorship, these publics have defied the strictures of autocratic legality and demanded meaningful political *transformation* in the place of transitions predicated on the institutionalized rules of electoral authoritarianism. Second, the innovation of vocabularies and repertoires of transnational solidarity have produced a new idiom through which Arab publics recognize themselves as agents who are regionally interconnected. This is not the Arab nationalism of old but a new actualization of regional solidarity from the bottom up. Finally, by explicitly privileging social justice above military and security prerogatives, the Arab uprisings have thrown off the straitjacketing of their own interests in the name of counterterrorism, anti-Islamism, and Israeli and Western preferences. No longer an anarchic periphery, but resituated at the center of its own exercise in self-determination, the Arab uprisings have challenged most of all the post-colonial order of authoritarian privilege entrenched through external support.

Even as individual regimes face the chants of protesters in their main squares, the ordering of the Middle East as a *pax Americana*, too, has come under pressure in the last year. That pressure invites us to consider the ideological continuities between current U.S. and European engagement with the region and previous eras of imperial politics. Most importantly, it calls on us to remember how colonial relationships were formed historically in the Arab world and their lasting legacies for the present moment. The story of colonialism in the region is not merely that of the conquest of non-European peoples and the appropriation and exploitation of their lands and resources. The extraction of resources and expropriation of peoples was accompanied by justifications grounded in claims of advancing modernization, progress, and development. These idioms of external self-congratulation were designed to overcome the contradictions between liberalism and imperialism. Those contradictions and the deployment of justificatory frameworks to reduce the dissonance they

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produce are evident again today as the West and its regional allies confront the Arab uprisings. Rather than acquiescing in these vocabularies of orderly transition or interventionist humanitarianism, we would do well to remember the traditions from which such models emerge, and embrace, instead, the alternative framings offered by the public protests underway across the region.