

## U.S. FOREIGN POLICY AND THE ARAB SPRING: TEN SHORT-TERM LESSONS LEARNED

PAUL R. WILLIAMS\* AND COLLEEN (BETSY) POPKEN\*\*

As the Arab Spring states continue down the long path towards democracy, it is important to reflect upon the previous year of the Arab Spring in order to better understand what actions will help to bring future stability to the region. Originally presented as part of a panel on U.S. foreign policy and the Arab Spring, this article sets forth ten observations about the Arab Spring from two public international law practitioners working with clients in several Arab Spring states, including Tunisia, Egypt, Yemen, Libya, and Syria. In particular, these observations seek to contribute to a more complete and balanced understanding of the Arab Spring, to inform the decisions of policymakers and analysts in the months ahead.

### 1. THE U.S. IS WILLING TO CONSIDER POLICY OPTIONS BEYOND “MAINTAIN THE STATUS QUO”

For decades, the U.S. has sought to maintain the status quo in the Middle East,<sup>1</sup> particularly in the Arab Spring states, by relying on dictatorships to provide stability in the region. A review of U.S. foreign policy over the last year, however, reveals that in limited circumstances, the U.S. is willing to loosen its traditional attachment to the status quo in favor of democratic change. In nearly all of the Arab Spring states, the U.S. has moved away from long-standing relations—and in some cases, devoted allies—to support pro-democracy movements.

Although Egyptian activists criticized the U.S. government for its tardy condemnation of President Mubarak, in reality, it took only one week for the

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\* Dr. Paul R. Williams is the Rebecca I. Grazier Professor of Law and International Relations at American University. He is also the co-founder and President of the Public International Law & Policy Group, a global *pro bono* law firm providing assistance to parties engaged in peace negotiations and drafting post-conflict constitutions. In this capacity, Dr. Williams has provided *pro bono* legal assistance to the Libyan Transitional National Council, Egyptian civil society groups, the Syrian National Council and other members of the Syrian opposition, as well as the new governments of Tunisia and Yemen. Ph.D Cambridge, J.D. Stanford Law School, A.B. U.C. Davis.

\*\* Betsy Popken is an associate at Orrick, Herrington & Sutcliffe LLP and provides *pro bono* legal and policy assistance through the Public International Law & Policy Group to the Syrian National Council and other members of the Syrian opposition. Ms. Popken has also provided *pro bono* legal assistance to the Libyan Transitional National Council and members of the Yemen opposition. J.D. University of Southern California, L.L.M London School of Economics, B.A. UCLA. Dr. Williams and Ms. Popken would like to thank Ellie Stevenson and Max Margulies for their research contributions to this paper.

1. Haviland Smith, *Transition to Democracy in the Middle East*, AMERICAN DIPLOMACY (Mar. 2012), [http://www.unc.edu/depts/diplomat/item/2012/0106/ca/smith\\_transition.html](http://www.unc.edu/depts/diplomat/item/2012/0106/ca/smith_transition.html).

administration to call for a transition to a representative government. In so doing, President Obama noted that, “the status quo is not sustainable.”<sup>2</sup> Mubarak ruled Egypt for three decades, during which time he forged close bonds with many in the administration. A U.S. reversal of policy—however tepid—to abandon support for a ruler described as a “friend” by officials, including Hillary Clinton and Dick Cheney, represents a serious and surprising willingness to reevaluate the U.S.’s relationship with states that were once staunch allies.<sup>3</sup>

In Libya, historically tense relations with Colonel Muammar al-Qadhafi likely made it easier for the U.S. to abandon its support for the dictatorship. And yet, despite Qadhafi’s role in the bombing of Pan Am Flight 103—which resulted in the deaths of hundreds of U.S. citizens—as well as the regime’s notorious intimidation, torture, imprisonment, and murder of Libyan citizens, relations between the U.S. and Libya had in fact begun to warm in recent years. This is largely attributable to the U.S.’s increased reliance on Qadhafi for cooperation in the post-9/11 War on Terror. Despite these improved relations, just fourteen days after the uprising began, President Obama called upon Qadhafi to step down. Another fourteen days later, the U.S. supported, and indeed largely drafted, a U.N. Security Council resolution authorizing the use of force to end Qadhafi’s rule.<sup>4</sup>

Notwithstanding the eventual willingness of the U.S. to break from the status quo in Libya and Egypt, its support of the Arab Spring pro-democracy movements has been neither unconditional nor uniform. The response of the U.S. appears in some instances to depend on the likelihood that the ruler’s ousting is inevitable. In Syria, for example, over five months passed with the death toll exceeding the tens of thousands before President Obama finally called upon President Bashar al-Assad to step down.<sup>5</sup> Since then, the U.S. has only matched this demand with sanctions and diplomatic slaps on the wrist. Additionally, the response by the U.S. to the violent suppression of the pro-democracy movement in Bahrain, the strategic headquarters of the U.S. Navy’s Fifth Fleet, has been notably muted. The U.S. has been critical of the minority-Sunni monarchy’s arrest and detention of Shiite pro-democracy movement members, but such criticism has fallen short of support for a democratic transition.

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2. Karen DeYoung, *Obama Presses Mubarak to Move “Now,”* WASH. POST, (Feb. 2, 2011), <http://www.washingtonpost.com/wp-dyn/content/article/2011/02/01/AR2011020106860.html>; Marc Lynch, *America and Egypt After the Uprisings*, 25 SURVIVAL 31, 32-37 (April-May 2011), available at <http://www.marclynch.com/wp-content/uploads/2011/03/survival-america-egypt.pdf>.

3. Michael Blood, *Cheney Calls Mubarak A Good Friend, U.S. Ally*, HUFFINGTON POST, (Feb. 6, 2011), [http://www.huffingtonpost.com/2011/02/06/cheney-calls-mubarak-a-good-friend\\_n\\_819196.html](http://www.huffingtonpost.com/2011/02/06/cheney-calls-mubarak-a-good-friend_n_819196.html); Glenn Kessler, *Obama and Mubarak and Democracy—An Accounting*, WASH. POST (Jan. 29, 2011), [http://voices.washingtonpost.com/fact-checker/2011/01/obama\\_and\\_mubarak\\_and\\_democrac.html](http://voices.washingtonpost.com/fact-checker/2011/01/obama_and_mubarak_and_democrac.html).

4. CHRISTOPHER BLANCHARD, CONG. RESEARCH SERV., RL 33142, LIBYA: UNREST AND U.S. POLICY 3-4 (2009).

5. Ian Black, *Syrian Death Toll Rises as Arab States Protest*, THE GUARDIAN (Aug. 8, 2011), <http://www.guardian.co.uk/world/2011/aug/08/syria-deaths-arab-states-protest>; JEREMY M. SHARP & CHRISTOPHER M. BLANCHARD, CONG. RESEARCH SERV., RL33487, ARMED CONFLICT IN SYRIA: U.S. AND INTERNATIONAL RESPONSE, SUMMARY (2012).

Thus, while the U.S. is showing some willingness to consider options other than the status quo in Arab Spring states, it is hesitating to do so where change is perceived as too risky. As a result, and unfortunately for the Syrian and Bahraini pro-democracy movements, the U.S.'s risk analysis does not always fall in favor of taking actions necessary to support a democratic transition. In making this observation, it is also important to remember that the U.S.'s trend towards loosening its embrace on the status quo is not irreversible. Given unfortunate post-conflict developments in Egypt and Libya, it may only be a matter of time before the U.S. reverts to its traditional approach of relying on undemocratic leaders in the name of stability. Indeed, this may be a part of the administration's current calculation on Syria. Nonetheless, the U.S.'s actions in some of the Arab Spring states demonstrates a recognition of the value gained in supporting democratic movements in lieu of maintaining the status quo.

## 2. THE MUSLIM BROTHERHOOD IS ALIVE AND WELL

The Muslim Brotherhood has emerged from the Arab Spring as a winner. Prior to the Arab Spring, Arab dictators often attempted to suppress the controversial Muslim Brotherhood, which they viewed as a source of political opposition. Despite this, the Muslim Brotherhood has emerged as a leader in the post-conflict periods and in some cases, during the initial movements toward democratic transition.

Although youth activists sparked the Egyptian pro-democracy movement, the Muslim Brotherhood has emerged as the principle opposition party and will likely be successor to the Supreme Council of the Armed Forces ("SCAF") in post-Mubarak Egypt. With organizational structures and fundraising plans already in place, the Muslim Brotherhood's Freedom and Justice Party secured the largest number of parliamentary seats—more than forty-seven percent—in the state's first post-Mubarak parliamentary elections.<sup>6</sup> The Muslim Brotherhood in Libya is also gaining traction since the revolution ended. Though smaller than its Egyptian counterpart and with less historical opportunity to organize, the Muslim Brotherhood in Libya formed its first political party—the Justice and Construction Party—in November 2011.<sup>7</sup> The Syrian Muslim Brotherhood has emerged as a major player too. It has the highest percentage of members in the opposition party Syrian National Council ("SNC"), and members of the Muslim Brotherhood serve on some of the most influential committees within the SNC.<sup>8</sup> In Tunisia, the moderate Islamist Ennahda Party, which was inspired by the Muslim

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6. *Egypt's Islamist Parties Win Elections to Parliament*, BBC NEWS (Jan. 21, 2012), <http://www.bbc.co.uk/news/world-middle-east-16665748>.

7. Omar Ashour, *Libya's Muslim Brotherhood Faces the Future*, BROOKINGS (Mar. 9, 2012), <http://www.brookings.edu/research/opinions/2012/03/09-muslim-brotherhood-ashour>.

8. Martin Chulov, *Syria Endgame: Who and What Will Emerge From the Ruins?*, THE GUARDIAN (July 21, 2012), <http://www.guardian.co.uk/world/2012/jul/21/syria-bashar-al-assad-free-syrian-army>.

Brotherhood,<sup>9</sup> won forty-one percent of the seats in the Constituent Assembly and has formed a government with two center-left secular parties.<sup>10</sup>

What does the emergence of the Muslim Brotherhood as a major player mean for the future of the Arab Spring states? It is difficult to know whether the Muslim Brotherhood's rise is a result of actual support for its ideology, empathy for the group as representative of the oppressed masses, or respect for an entity capable of delivering during a time of important transition. The rise of the Muslim Brotherhood likely reveals a rather unsurprising desire for religion to play a greater role in post-Arab Spring states. However, more surprising—and concerning—is the success of Salafist parties in Egypt and their slow rise in revolutionary Syria. Together, these trends suggest future tensions between those who would like to see a secular, democratic state in the Western tradition and those who would prefer their new state to be governed by Islamic law.

The effects of this emergence are yet to be seen, but one thing is certain: the Muslim Brotherhood is now a major player in the region. While the U.S. may disagree with certain policies and beliefs of the Muslim Brotherhood, U.S. policy-makers would benefit from a serious reconsideration of their arms-length relationship with the Brotherhood.

### 3. THE ARAB LEAGUE IS PLAYING IN THE BIG LEAGUES

Though the effectiveness of the Arab League's actions may be debated, the League has undeniably played a significant role in the Arab Spring. At a minimum, the events of the Arab Spring have afforded the League an enhanced status in regional conflict resolution. After two controversial interventions in Iraq and Afghanistan, Western states have happily allowed the Arab League to take the lead in the Arab Spring. However, internal divisions and weak enforcement mechanisms have prevented the Arab League from taking consistently effective action. Though unilateral action by the Arab League may be insufficient to facilitate democratic transition, the League's increased role in the international dialogue shows that the world may prefer Arab-led solutions to Arab Spring conflicts.

In the early days of the Arab Spring, the Arab League was hesitant to strongly condemn the Tunisian and Egyptian authoritarian regimes. The Arab League was largely quiet during the pro-democracy movements and subsequent transitions in both states, though the uprisings were relatively quick compared to what followed in Libya and Syria. After President Zine al-Abidine Ben Ali fled Tunisia, Arab League Secretary-General Amr Moussa predicted that the unrest in Tunisia would spread to the entire region, and called for an Arab "renaissance" to alleviate the poor living conditions in many Arab states.<sup>11</sup> Similarly, in Egypt, Amr Moussa

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9. Aidan Lewis, *Profile: Tunisia's Ennahda Party*, BBC NEWS (Oct. 25, 2011), <http://www.bbc.co.uk/news/world-africa-15442859>.

10. ALEXIS ARIEFF, CONG. RESEARCH SERV., RS 21666, POLITICAL TRANSITION IN TUNISIA, SUMMARY (2011).

11. *Arab Leaders Warned of 'Revolution'*, ALJAZEERA (Jan. 19, 2011), <http://www.aljazeera.co>

called upon President Mubarak to institute serious reforms that would lead to multi-party democracy, though he did not urge Mubarak to resign.<sup>12</sup>

After taking a relatively restrained position during the Egyptian and Tunisian revolutions, the Arab League took a more aggressive position toward the Libyan and Syrian dictators. In Libya, calls for a no-fly zone went unanswered until the Arab League decided that it supported the plan, at which time the Western states took action. In fact, U.N. Security Council Resolution 1973 expressly “[took] note . . . of the decision of the Council of the League of Arab States of 12 March 2011 to call for the imposition of a no-fly zone on Libyan military aviation . . . .”<sup>13</sup> However, some Arab League representatives retracted support for the no-fly zone once they saw what was required to enforce such measures.<sup>14</sup>

In Syria, the Arab League reacted quickly with warnings, and then suspended the state’s membership when those warnings failed to yield results.<sup>15</sup> The Arab League also imposed sanctions on the Syrian government, though the implementation of such sanctions is voluntary for member states.<sup>16</sup> In addition, the Arab League has engaged in peace efforts, which have included promoting a transition plan, and setting up a short-lived observer mission in Syria to monitor the human rights situation.<sup>17</sup> Unfortunately, however, the regime rejected the transition plan,<sup>18</sup> and the international community criticized the observer mission for its ineffectiveness as well as for the fact it was led by a Sudanese military commander associated with the genocide in Darfur.<sup>19</sup> Recently, the Arab League referred the situation to the U.N.<sup>20</sup> Ultimately, though Arab League actions in Syria have been unsuccessful thus far in ending the violence, its measures far exceed those taken in the initial year of the conflict by other international organizations.

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m/news/middleeast/2011/01/2011119165427303423.html.

12. Keith Weir, *Arab League Head Wants Egypt Multi-party Democracy*, REUTERS (Jan. 30, 2011), <http://af.reuters.com/article/egyptNews/idAFLDE70TOB620110130?sp=true>.

13. S.C. Res. 1973, U.N. Doc. S/RES/1973 (Mar. 17, 2011).

14. Edward Cody, *Arab Group Decries West’s Broad Air Campaign in Libya*, WASH. POST, (Mar. 21, 2011), at A13, available at <http://english.hku.hk/washington%20post/2011/03/21/Ax13.pdf>.

15. Neil MacFarquhar, *Arab League Votes to Suspend Syria Over Crackdown*, N.Y. TIMES (Nov. 12, 2011), <http://www.nytimes.com/2011/11/13/world/middleeast/arab-league-votes-to-suspend-syria-over-its-crackdown-on-protesters.html?pagewanted=all>.

16. *Arab League: Carry Out, Monitor Syria Sanctions*, HUMAN RIGHTS WATCH (Mar. 29, 2012), <http://www.hrw.org/news/2012/03/29/arab-league-carry-out-monitor-syria-sanctions>.

17. Rene Wadlow, *Syria-Arab League Observer Mission*, PEACE AND COLLABORATIVE DEVELOPMENT NETWORK (Jan. 26, 2012), [http://www.internationalpeaceandconflict.org/forum/topics/syria-arab-league-observer-mission?xg\\_source=activity](http://www.internationalpeaceandconflict.org/forum/topics/syria-arab-league-observer-mission?xg_source=activity).

18. *Syria Rejects Arab League Transition Plan*, AL JAZEERA (Jan. 23, 2012), <http://www.aljazeera.com/news/middleeast/2012/01/201212305618873831.html>.

19. Kareem Fahim, *Chief of Arab League’s Mission in Syria is Lightning Rod for Criticism*, N. Y. TIMES (Jan. 2, 2012), <http://www.nytimes.com/2012/01/03/world/middleeast/arab-league-criticized-over-syria-observer-mission.html?pagewanted=all>.

20. Yasmine Saleh & Lin Noueihed, *Arab League Proposes New Plan for Syrian Transition*, REUTERS (Jan. 22, 2012), <http://www.reuters.com/article/2012/01/22/us-syria-idUSTRE8041A820120122>.

The lack of an effective response to the violence in Syria is not unique to the Arab League, and indeed, Western insistence on Arab League leadership may actually represent a stalling tactic. While a regional solution is important, the West must recognize the limits of the Arab League and take action itself when the Arab League has reached them. Similarly, to continue to be relevant the Arab League will need to embrace more emphatically the responsibilities that the new regional environment demands of it, including reevaluating the structure of the organization. Additionally, the Arab League would benefit from serious encouragement of its member states to institute internal democratic reforms. In the end, a more active regional organization capable of protecting democratic interests and promoting true stability may lessen the need for Western intervention.

In making this observation, it is also worth noting that the Arab League is not the only regional organization involved in Arab Spring conflict resolution. In particular, when the Arab League was mostly silent, the Gulf Cooperation Council ("GCC") played an important role in the transition of Yemen's President Saleh from power. The GCC initiatives were ultimately successful in brokering a deal, in which Saleh handed power to Vice President Abdurabu Mansour Hadi to institute constitutional reform and supervise open elections.<sup>21</sup> However, there are concerns that a more active GCC, which largely represents the interests of established Sunni—and especially Saudi—monarchies, may actually be detrimental to democratic progress.<sup>22</sup> Similar concerns were expressed about the Arab League's silence during the largely Shia-led pro-democracy movements in Bahrain.<sup>23</sup> Thus, in relying upon the Arab League and other regional organizations like the GCC in the future, policy-makers and analysts will need to be aware of the potentially competing interests of individual member states, as well as the organizations' capabilities and shortcomings.

#### 4. R2P MATURES, BUT IS USED INCONSISTENTLY

The Responsibility to Protect ("R2P") has evolved from a policy vision discussed and debated by academics to a norm adopted by the U.N. Security Council. R2P first emerged in response to the debate on the legality of humanitarian intervention in several humanitarian crises in the 1990s. R2P consists of three pillars: (1) states' responsibility to protect their own citizens; (2) the international community's responsibility to aid states in protecting their

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21. *Arab League Body Wants to Suspend Syria, Yemen Membership*, REUTERS (Sept. 20, 2011), <http://af.reuters.com/article/egyptNews/idAFL5E7KK0RX20110920>; Hugh Naylor & Hakim Almasmari, *The Election Only One Man Can Win—But Yemen is Used to That*, THE NATIONAL (Feb. 16, 2012), <http://www.thenational.ae/news/world/middle-east/the-election-only-one-man-can-win-but-yemen-is-used-to-that>.

22. Mehran Kamrava, *The Arab Spring and the Saudi-Led Counterrevolution*, 56 ORBIS 96, 96 (2011), available at <http://www18.georgetown.edu/data/people/mk556/publication-61403.pdf>; *Saudi Arabia in the New Middle East*, COUNCIL ON FOREIGN RELATIONS (Jan. 26, 2012), <http://www.cfr.org/saudi-arabia/saudi-arabia-new-middle-east/p27205>.

23. Bill Law, *How the Arab League Embraced Revolution*, BBC NEWS (Dec. 2, 2011), <http://www.bbc.co.uk/news/world-middle-east-15948031>.

citizens; and, (3) timely and decisive action by the international community if states manifestly fail to do so.<sup>24</sup> Libya and Syria represent perhaps the two strongest candidates for humanitarian intervention under the third pillar of R2P.

The military intervention in Libya represented the first time, since the articulation of the doctrine, that the international community employed the full extent of the measures available under the third pillar. With Security Council Resolution 1973, the U.N. authorized, and NATO then enforced, many of the military options available under the third pillar. These included (1) the use of “all necessary measures” to enforce the resolution; (2) the protection of all “civilian populated areas . . . including Benghazi”; (3) the protection of areas “under threat of attack”; (4) an exception to the arms embargo for the protection of civilians; (5) an exclusion of a “foreign occupation force” that still allowed for limited presence on the ground; and (6) a no-fly zone with teeth.<sup>25</sup> The success of the intervention in Libya has set a precedent for the circumstances in which R2P should be invoked, as well as for the appropriate military measures that may be used in its enforcement. In this way, the Arab Spring has led to the further refinement of R2P and the available options to states considering humanitarian intervention.

When the security situation in Syria took a turn for the worse, with the government directly targeting civilians, the Syrian democratic forces began to demand from the international community certain protections that their counterparts in Libya received: a no-fly zone, targeted airstrikes, arms to defend themselves, and safe zones (though in Libya, all “civilian populated areas” were given protection).<sup>26</sup> In fact, the Syrian pro-democracy movement has named different Friday protests after the protections they are seeking, for instance, October 28, 2011 was “No-Fly Zone Friday.”<sup>27</sup>

Despite the Syrian democratic movement’s requests for protection, the international community has yet to move beyond limited sanctions and pinprick diplomacy. This is perhaps due to the international community’s systemic reluctance to undertake humanitarian intervention. Additionally, it appears that the circumstances that contributed to the success of R2P in Libya may be hindering its application in Syria. Intervention in Libya was supported in large part because the Arab League endorsed it. The notion that such regional support is necessary for intervention under R2P gained further credence after President Obama’s “A Responsibility to Act” speech, which cited Arab world support as a major reason for the intervention. As a result, some have argued that action cannot be taken

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24. U.N. Secretary-General, *Implementing the Responsibility to Protect: Rep. of the Secretary-General to the General Assembly*, ¶ 11(a)-(c), U.N. Doc. A/63/677 (Jan. 12, 2009).

25. S.C. Res. 1973, ¶¶ 4, 6-12, U.N. Doc. S/RES/1973 (Mar. 17, 2011); S.C. Res. 1970, ¶¶ 9, 24, U.N. Doc. S/RES/1970 (Feb. 26, 2011).

26. S.C. Res. 1973, U.N. Doc. S/RES/1973 (Mar. 17, 2011).

27. Shadi Hamid, *Why We Have a Responsibility to Protect Syria*, THE ATLANTIC (Jan. 26, 2012), <http://www.theatlantic.com/international/archive/2012/01/why-we-have-a-responsibility-to-protect-syria/251908/>.

without the consent of major regional players,<sup>28</sup> though such an argument may defeat the underlying purpose of R2P. Indeed, in Syria, R2P has only been helpful in its capacity as an advocacy tool for Syrians, but it has failed to provide a solid basis for any meaningful action. Thus, while intervention in Libya is a significant step forward for the third pillar of R2P, it has not yet prompted consistent or decisive application in the Arab Spring.

#### 5. THE BRIC COUNTRIES MAY NOT BE READY—OR EAGER—FOR PRIMETIME

If the Arab Spring has shown that the Arab League may be ready for a greater role in world politics, the opposite is true of two of the four “BRIC” (Brazil, Russia, India and China) countries—Brazil and India. Despite the hopes of many, their apparent disinterest in supporting the broad consensus for support of the Arab Spring pro-democracy movements raises serious questions as to whether they are ready to transform their successful economic development into global political leadership. And, in the case of the other two BRIC countries, Russia and China, they continue to more or less adhere to their traditional positions of supporting sovereignty and non-interference over the principles of democratic transformation.

As a result, although the BRIC states aligned themselves with the initial sanctions in Libya, participated in the condemnation of the government crackdowns in Yemen, and supported an observer mission in Syria, they have blocked meaningful action in Syria, and appear ready to put the brakes on democratic transformations in the region.

When the international community was organizing and implementing a response to the conflict in Libya, Brazil and India were happy to cede leadership to the traditional powerhouses—the U.S., U.K., and France. Indeed, the BRIC countries constituted four-fifths of the Security Council states that abstained from Resolution 1973, with the fifth being Germany.<sup>29</sup> The individual fears that the BRIC countries voiced when explaining their abstentions, which mostly emphasized unpredicted consequences of intervention and difficulties with implementation, turned out to be unfounded. In the case of Russia and China, the states were protecting their longstanding interests in sovereignty and non-intervention. In the case of Brazil and India, their abstentions reflected a hesitancy to accept their responsibilities as Security Council member states to assume the weight of leadership and either endorse humanitarian intervention or stand firmly against it.

In Syria, both Russia and China vetoed the two initial resolutions that came before the U.N.—including one condemning the use of force against civilians in Syria. Their opposition to these resolutions rested mostly on principles of non-

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28. E.g., James Traub, *Intervention in Syria is Morally Justified—and Completely Impractical*, THE NEW REPUBLIC (Feb. 10, 2012), <http://www.tnr.com/article/world/100615/syria-symposium-intervention-arab-league>.

29. Press Release, Security Council, Security Council Approves ‘No-Fly Zone’ Over Libya, Authorizing ‘All Necessary Measures’ to Protect Civilians, by Vote of 10 in Favour with 5 Abstentions, U.N. Press Release SC/10200 (Mar. 17, 2011).

intervention and respect for national sovereignty and territorial integrity, though Russia also expressed concern that the second resolution was unbalanced in its treatment of rebel forces. Additionally, Russia has refused to support any initiative that would facilitate “regime change,” or a transition of Assad from power.<sup>30</sup> Though Russia and China recently voted in favor of Resolution 2042, which authorized deployment of some unarmed U.N. military observers into Syria, they only did so following extended negotiations to ensure that the Resolution dealt equally with the Assad regime and the Syrian pro-democracy movements.<sup>31</sup>

#### 6. THERE IS INCENTIVE TO PLAN FOR THE “DAY AFTER”

Pro-democracy movements and their leaders are learning about the challenges they will face in a post-conflict transition period, and are beginning to take steps to plan for these difficulties before they arise. In particular, they are learning from the mistakes that others have made, for instance in Iraq and the Balkans, and are reaching out to experts who have tackled these issues before. They are finding that there are many incentives to developing “day after” plans early on—before gaining power, or even the upper hand.

In general, pro-democracy movements are learning that their ability to anticipate challenges that are likely to arise during the transition period will make them easier to overcome. A transition plan can also demonstrate the responsibility and capability of a state’s future leadership. Additionally, a proactive transition plan that outlines what the democratic forces hope to accomplish post transformation can encourage stakeholders, both within and outside the state, to support the pro-democracy movement’s efforts. Early transition planning can also help to identify qualified individuals to groom for leadership roles in a new government, and may afford the time and opportunity to obtain the resources necessary for a healthy democracy. Such plans may also be useful in identifying and approaching potential funders for various initiatives prior to the transition.

In Egypt, when youth activists first took to the streets simply seeking “democracy and freedom,” they did not anticipate how their protests would end or what they would achieve.<sup>32</sup> They certainly were not prepared for the speed with which Mubarak resigned and the military assumed the reins of power. As a result, relatively little advance planning took place to shape what post-Mubarak Egypt would look like. After Mubarak resigned, Egyptians were left scrambling to plan forums to educate one another about elections, constituent assemblies, and

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30. Colum Lynch, *Russia and China Veto Security Council Resolution Condemning Syria*, FOREIGN POLICY TURTLE BAY BLOG (Oct. 4, 2011), [http://turtlebay.foreignpolicy.com/posts/2011/10/04/russia\\_and\\_china\\_veto\\_security\\_council\\_resolution\\_condemning\\_syria](http://turtlebay.foreignpolicy.com/posts/2011/10/04/russia_and_china_veto_security_council_resolution_condemning_syria).

31. S.C. Res. 2042, ¶ 7, U.N. Doc. S/RES/2042 (Apr. 14, 2012); *Security Council Unanimously Approves Observers for Syria*, USA TODAY (Apr. 14, 2012, 4:41 PM), <http://usatoday30.usatoday.com/news/world/story/2012-04-14/syria-shelling/54269782/1>.

32. Shaimaa Fayed, *Egypt Presidential Elections: Democratic Vote Won’t Erase Arab Spring Country’s Mubarak Memories*, HUFFINGTON POST (May 22, 2012), [http://www.huffingtonpost.com/2012/05/22/egypt-presidential-elections\\_n\\_1535438.html](http://www.huffingtonpost.com/2012/05/22/egypt-presidential-elections_n_1535438.html).

democratic reforms. In the meantime, SCAF took this opportunity to fill the void and continue a modified version of the earlier system of authoritarian rule.<sup>33</sup>

Ironically, inherent in this observation is the recognition that the longer the conflict is, the more time there is to plan for the transition period. Syrian opposition members are taking advantage of the unfortunate length of the conflict in their state to plan for post-Assad Syria.<sup>34</sup> Naturally, Syrians outside of the country who are not faced with the challenges of protecting their families or overthrowing the regime have more time to do so. But as long as planning is being done, and connections are being made with all interested parties, then one can hope that whoever ends up in power after the fall of Assad will have access to a well-developed transition plan for the state.

Even with plans in place, however, the Arab Spring states are learning that their implementation during the transition period is naturally quite challenging. In Libya, the National Transitional Council (“NTC”) focused significant effort on transition planning, and yet they still face many difficulties in a post-Qadhafi era—including how to administer transitional justice and foster reconciliation, the role of religion in the new constitution, and how to enforce security and encourage disarmament among a diverse group of actors.<sup>35</sup> Even Tunisia, which has successfully held elections for a National Constituent Assembly and is making progress in drafting their constitution, faces key challenges, such as how to deal with dissent and stimulate a stagnant economy.<sup>36</sup>

## 7. JUSTICE IS A TOP DEMAND

Justice is a top demand of Arab Spring pro-democracy movements. Those seeking a democratic transition not only want their dictators to step down; they want them held accountable for the crimes they committed during the uprising and throughout their time in power. When Yemen’s former President Saleh received amnesty as part of his negotiated transition from power, democracy activists took to the streets in protest.

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33. Yasser M. El-Shimy, *The Final Task for Egypt's Brass*, N.Y. TIMES (May 21, 2012), <http://www.nytimes.com/2012/05/22/opinion/the-final-task-for-egypts-brass.html>.

34. See Pub. Int'l. Law & Policy Grp., *Planning for Syria's "Day After"—Security, Rule of Law & Democracy* (Mar. 2012), available at [http://gallery.mailchimp.com/91ab76eaf4f3105e695b69fac/files/PILPG\\_Report\\_Planning\\_for\\_Syria\\_s\\_Day\\_After.pdf](http://gallery.mailchimp.com/91ab76eaf4f3105e695b69fac/files/PILPG_Report_Planning_for_Syria_s_Day_After.pdf).

35. *Libya: Challenges Abound in post-Gaddafi Era*, NEWSFROMAFRICA (Sept. 15, 2012), [http://www.newsfromafrica.org/newsfromafrica/articles/art\\_13559.html](http://www.newsfromafrica.org/newsfromafrica/articles/art_13559.html); Luke Harding, Chris Stevens, *US Ambassador to Libya, killed in Benghazi Attack*, THE GUARDIAN (Sept. 12, 2012), <http://www.guardian.co.uk/world/2012/sep/12/chris-stevens-us-ambassador-libya-killed>.

The challenges faced by Lybia are exemplified by increased violence in the region. For example, in September 2012, the U.S. Ambassador to Libya, Chris Stevens, was killed after Islamist militants fired rockets at their car in the Libyan town of Benghazi.

36. *IMF Survey: Tunisia Faces Economic, Social Challenges amid Historic Transformation*, INT'L MONETARY FUND (Sept. 5, 2012), <http://www.imf.org/external/pubs/ft/survey/so/2012/CAR090512A.htm>.

But what does it mean for justice to be served and who is to administer it? Some Arab League dictators have simply fled, while others have been imprisoned or killed. Likewise, some Arab Spring pro-democracy movements have called for justice by international courts, namely the International Criminal Court (“ICC”), while others have insisted on justice at home. As to the latter, few will soon forget the image of Mubarak standing trial in a cage. Egyptians wanted an Egyptian trial and Egyptian justice for their dictator. Libyans, on the other hand, initially embraced the referral of the situation in Libya to the ICC and the subsequent indictments of Colonel Qadhafi, the Colonel’s son, Saif al-Islam Qadhafi, and Libyan intelligence chief Abdullah al-Senoussi. However, when the time came for justice to be served, Libyans instead wanted local justice. Those who watched the video of Qadhafi’s demise online are unlikely to forget the fate he suffered at the hands of his captors. Additional questions regarding the Libyan commitment to international justice have arisen since Saif al-Islam was captured, disguised as a Bedouin in the Sahara desert last November. He now sits in a Libyan prison, and is currently the subject of argument between the new Libyan authorities and the ICC regarding where he should be tried. Similarly, Abdullah al-Senoussi was recently captured in a Mauritanian airport carrying a fake passport. Now, the ICC is asking for Mauritania’s cooperation in surrendering him to the Court, while the NTC calls for his extradition to Tripoli.<sup>37</sup>

In another instance, while Tunisia did not have much time for planning before the transition period began, the state has employed a range of tools to pursue transitional justice. The interim government established three separate commissions to investigate constitutional reforms, corruption, and crimes committed against the population during the pro-democracy demonstrations. Although Ben Ali and his family fled, the government continues to seek his extradition and has begun trials in absentia.<sup>38</sup> Other officials from his regime are also awaiting trial. Additionally, the government has sought help from NGOs to improve its capacity to prosecute war criminals.

Finally, while Arab Spring pro-democracy movements are eager for accountability, they are also aware of truth and reconciliation measures that can benefit a country in transition. Truth and reconciliation measures, however, are not always compatible with demands for strict accountability. In light of the complex considerations involved in the transition, incorporating plans for transitional justice into “day after” planning efforts may increase the likelihood of lasting success for Arab Spring pro-democracy movements in the transition and post-transition periods.

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37. Rami al-Shaheibi, *ICC: Libya has Evidence of Killing by Gadhafi Son*, ASSOCIATED PRESS (Apr. 19, 2012), available at <http://www.icc-cpi.int/iccdocs/doc/doc1407190.pdf>.

38. David D. Kirkpatrick, *Ex-Tunisian President Found Guilty, in Absentia*, N.Y. TIMES (Jun. 20, 2011), [http://www.nytimes.com/2011/06/21/world/middleeast/21tunisia.html?\\_r=0](http://www.nytimes.com/2011/06/21/world/middleeast/21tunisia.html?_r=0).

8. INTERIM GOVERNMENTS SHOULD BE AWARE OF THE COUNTER-REVOLUTION OR MORE-OF-THE-SAME

Arab Spring pro-democracy movements should be aware of the possibility for counter-revolution. This is partly due to the fact that, many times, states experiencing democratic transition are often fragile in the wake of violent conflict, and are thus vulnerable to counter-revolution. New governments or opposition figures planning for the transition period should thus put mechanisms in place to identify potential spoilers and create incentives and punishments to deter counter-revolutionary behavior. On the other hand, new governments should make sure not to punish an entire group of people solely on the basis that they were loyal to the last regime. Arab Spring states can learn from the mistake in Iraq, for example, of conducting a wholesale *de-baathification* of the regime, rather than a careful vetting process.

Additionally, striking a balance between protecting civil rights, particularly freedom of expression, and preventing the transition from being hijacked by counter-revolutionaries is difficult. Nearly all of the new Arab Spring governments have at some point stifled legitimate political dissent in ways that run counter to the principles of freedom and democracy that inspired the pro-democracy movements in the first place. In Egypt and Tunisia, for instance, security forces have continued to use excessive, and sometimes lethal, force to silence groups who criticize the nature or pace of the transition process.<sup>39</sup>

In the post-conflict jockeying for power, groups seeking a democratic transition should also be aware of those who may have fought for change, but whose ambitions are too similar to the recently departed dictator. When strong authority is all a state knows, the fight to fill that authority gap can lead to more of the same. In Egypt, for instance, some of the original January 25th pro-democracy movement members now believe that they were better off under Mubarak's rule than they currently are under the SCAF. In Libya, on the other hand, it remains unclear which elements of the original pro-democracy movement will ultimately be in charge and how regional interests will be represented in the new government, which incidentally has resulted in a surge of post-Qadhafi violence.

Similarly, there is the possibility of trading true democratic reform for peace and stability. In Yemen, Ali Abdullah Saleh handed formal power to his Vice President. However, Saleh remains the leader of the General People's Congress Party, which is well represented in the cabinet. This has allowed him to continue to play a major role in Yemeni politics, and many fear that he is using his position to sabotage the coalition government and democratic progress.

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39. Elliott Abrams, Op-Ed., *In Tunisia, Press Freedoms are in the Crosshairs*, WASH. POST (Mar. 11, 2012), [http://www.washingtonpost.com/opinions/tunisia-press-is-coming-under-attack/2012/03/11/gIQA5Dgx5R\\_story.html](http://www.washingtonpost.com/opinions/tunisia-press-is-coming-under-attack/2012/03/11/gIQA5Dgx5R_story.html); *Egypt: Dismantle Tools of Repression*, HUMAN RIGHTS WATCH (Jan. 16, 2012), <http://www.hrw.org/news/2012/01/16/egypt-dismantle-tools-repression>; *Tunisia: Dismantle Repressive Ben-Ali-Era Laws*, HUMAN RIGHTS WATCH (Dec. 17, 2011), <http://www.hrw.org/news/2011/12/17/tunisia-dismantle-repressive-ben-ali-era-laws>.

## 9. REBELS MUST BE MEDIA-SAVVY

The Arab Spring has taught us that rebels must be media savvy. Many analyses of the Arab Spring have focused on the role that social media has played in sparking and facilitating the revolutions. For instance, media has contributed to showing those in the Arab world what other systems of governance are available. Additionally, social media enabled rebels inside the Arab Spring states to communicate with the international community, and within their own ranks, to a degree that would have been impossible only five years ago. And pro-democracy activists have used social media to organize protests and events on the ground during the uprisings and to keep rebels in one town or city apprised of what is going on in another.

Importantly, rebels are also using social media and the Internet as a tool to market themselves, their ideas, and their needs. This has allowed them to gain support both from their counterparts within their own states as well as from the international community. The NTC's website explicitly states that its goal was to connect Libyans to the outside world so that their voice could be heard.<sup>40</sup> In some cases, pro-democracy movements have used the Internet to facilitate and encourage military operations. For example, the SNC's website published four maps that showed the location and type of Syria's air defense systems.<sup>41</sup>

The role of media in facilitating the Arab Spring also has lessons for new governments. Egypt's attempt to put an end to the pro-democracy movement by closing off access to the Internet—presumably eliminating the movement's ability to communicate—actually backfired. Unable to communicate with each other remotely, dissenters were forced into the streets to reach one another, leading to an increase in the size and intensity of the pro-democracy movement.<sup>42</sup>

## 10. DO NOT FORGET SOUTH SUDAN AND IRAQ

Since the Arab Spring began, much time and effort has been directed to deciphering what combination of factors led to the 2011 pro-democracy movements, which have now spilled over into 2012. Many studies attribute the Arab Spring to the rising level of education in the region, the lack of decent jobs available, and the growth of social media, without examining other democratic trends that have developed in the region.<sup>43</sup> Few, however, acknowledge the two

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40. *The Council's Statement*, THE LIBYAN INTERIM NATIONAL COUNCIL, [www.ntclibya.org/english/](http://www.ntclibya.org/english/) (last visited October 22, 2012).

41. David Kenner, *Syria National Council Publishes Maps of Syrian Air Defenses* \*\*updated, FOREIGN POLICY PASSPORT BLOG (Oct. 3, 2011), [http://blog.foreignpolicy.com/posts/2011/10/03/syrian\\_national\\_council\\_publishes\\_maps\\_of\\_syrian\\_air\\_defenses](http://blog.foreignpolicy.com/posts/2011/10/03/syrian_national_council_publishes_maps_of_syrian_air_defenses).

42. Noam Cohen, *Egyptians Were Unplugged, and Uncowed*, N. Y. TIMES (Feb. 20, 2011), <http://www.nytimes.com/2011/02/21/business/media/21link.html>.

43. Sarah Hamdan, *Arab Spring Spawns Interest in Improving Quality of Higher Education*, N. Y. TIMES (Nov. 6, 2011), <http://www.nytimes.com/2011/11/07/world/middleeast/arab-spring-spawns-interest-in-improving-quality-of-higher-education.html>; Adeel Malik & Bassem Awadallah, *The Economics of the Arab Spring*, CENTER FOR THE STUDY OF AFRICAN ECONS. (Dec. 2011), available at <http://www.csae.ox.ac.uk/workingpapers/pdfs/csae-wps-2011-23.pdf>; Ekaterina Stepanova, *The Role of*

most recent changes from dictatorship to democracy that took place in the Arab Spring states' backyard—in Iraq and South Sudan—as contributing factors. Any discussion of the Arab Spring would thus be remiss without analyzing its relationship to the democratic transitions in these two states.

In January of 2005, the Iraqi people voted in the first democratic elections the state had ever seen. In the wake of U.S. troop withdrawals from Iraq almost seven years later, President Obama related that, “Iraq is not a perfect place, but we are leaving a sovereign, stable and self-reliant country with a representative government elected by its people.”<sup>44</sup> Parallels can be drawn between the aspirations for freedom and democracy of the Iraqi people during that time and the Arab Spring pro-democracy movements over the last year.<sup>45</sup> While democratic fervor in Iraq may have finally rubbed off on other Arab states, the U.S. invasion of Iraq may have alternatively delayed the desire for democracy in the Arab world.<sup>46</sup> Though the exact effect of Iraq's transition cannot be quantified, the birth of the Arab Spring cannot be analyzed without it.

Likewise, the momentum of the Arab Spring must be examined in light of the recent self-determination of the South Sudanese. Though northern Sudan still suffers from the authoritarian grip of President Omar al-Bashir, the South Sudanese are squarely on the path of democracy. The timeline for preparing the South, set forth in the Comprehensive Peace Agreement, substantially improved the chances for a successful separation and transition to democracy. The transition, while not threatened from an internal counter-revolution, does remain threatened by the aggressive posture of northern Sudan. In fact, one cannot really consider the Arab Spring to have run its full course until there is a democratic transformation in northern Sudan, and President Bashir stands before the ICC to face his indictment for genocide in Darfur.

For those seeking democratic transition in the Arab Spring movement, the prospect of free and fair elections was – and in some cases, still is – a dream worth risking their lives for. The cases of Iraq and South Sudan illuminate the challenges involved in transitioning to democracy, as well as the importance of democratic change. In Sudan, conflicts constantly threatened the implementation of the peace agreement and continue to pose a risk to the stability of South Sudan. In Iraq, democratic elections were both volatile and polarizing. Our knowledge of the origins, progression, and future of the Arab Spring will be much improved by considering these two recent democratic transitions.

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*Information Communication Technologies in the “Arab Spring”: Implications Beyond the Region*, PONARS EURASIA (May 2011), available at [http://www.gwu.edu/~ieresgwu/assets/docs/ponars/pepm\\_159.pdf](http://www.gwu.edu/~ieresgwu/assets/docs/ponars/pepm_159.pdf).

44. David Gordon Smith, *Without Iraq ‘Arab Spring May Have Broken Out Earlier,’* DER SPIEGEL (Dec. 16, 2011), <http://www.spiegel.de/international/world/0,1518,804204,00.html>.

45. Con Coughlin, *Without Iraq, There Would Be No Arab Spring*, THE TELEGRAPH (Dec. 15, 2011), <http://blogs.telegraph.co.uk/news/concoughlin/100124358/without-iraq-there-would-be-no-arab-spring/>.

46. Ulf Laessing & Alexander Dziadosz, *Insight: In Sudan, Glimpses of an Arab Spring*, REUTERS (Feb. 8, 2012), <http://www.reuters.com/article/2012/02/08/us-sudan-idUSTRE81713Z20120208>.

More than a year and a half after the Arab Spring began, some states in the region continue to be in turmoil, while others are just beginning their democratic transitions. By learning these simple, short-term lessons from a review of the first year of the Arab Spring, the U.S. and its allies can better respond to the continued calls for democratic transformation in the region, and improve their efforts to promote stable and lasting transitions.