Qaddafi, Assad, and political legitimacy: The Obama administration's policy on rightful governance

Nicolas Persons
University of Washington

On March 3, 2011, in the midst of the popular uprising in Libya, President Barack Obama made clear his administration's stance on the situation there: "Muammar Qaddafi has lost the legitimacy to lead and he must leave."[1] In the following months, as the state-initiated violence in Syria elicited widespread international opprobrium, Secretary of State Hilary Clinton described President Bashar al-Assad in similar terms. Following attacks on the U.S. embassy in Damascus, she averred that the Syrian ruler "has lost his legitimacy,"[2] a claim reiterated the next day by President Obama. In both cases, the United States took its stand on the political legitimacy[3] of an autocratic and increasingly violent regime.

Interestingly, though, no such decisions were rendered regarding the embattled, and eventually deposed, rulers of Tunisia, Egypt, and Yemen. The administration was late in backing the popular uprising against Zine El Abidine Ben Ali in Tunisia. It did eventually call for a "transition" in Egypt, though the legitimacy of President Hosni Mubarak was not publicly questioned. And while the U.S. did help facilitate Ali Abdullah Saleh's exit in Yemen, no mention of his legitimacy was made.

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[1] "Remarks by President Obama and President Calderón of Mexico at Joint Press Conference | The White House," accessed June 6, 2012, http://www.whitehouse.gov/the-press-office/2011/03/03/remarks-president-obama-and-president-calder-n-mexico-joint-press-confer.

[2] "Syrian President Bashar Assad Has 'Lost Legitimacy,' Says Secretary Of State Hillary Clinton," accessed June 6, 2012, http://www.huffingtonpost.com/2011/07/12/syria-president-bashar-assad-lost-legitimacy_n_895354.html.

[3] In this paper "legitimacy" and "political legitimacy" are used interchangeably and synonymously. There are, of course, other kinds of legitimacy not related to politics. This paper, though, will only be addressing legitimacy in its political form.

This raises some questions: How does the administration conceptualize political legitimacy? What are the criteria by which it decides whether a ruler is legitimate or not? Is the logic and application of these criteria consistent? This paper seeks to address these questions by analyzing the administration's use of the term "legitimacy" in its statements on the Arab uprisings that began in January 2011. Because the term was only used publicly with reference to the Libyan and Syrian regimes, the statements analyzed here will focus entirely on these cases.

Before analyzing the administration's views on the term, though, I will offer some background on how "legitimacy" is conceptualized in the social sciences, particularly in political science. A comprehensive review of the administration's use of the term during the "Arab Spring" is then provided, along with a careful analysis of this usage. The analysis will take a close look at the internal logic of how the term is used, as well as how this usage fits within the broader academic framework laid out in the preceding section. Lastly, this paper will conclude with a few thoughts on how "legitimacy" should and should not be used in the field of international politics, particularly from the perspective of the United States government.

Conceptualizing political legitimacy

It may be helpful to begin a discussion about legitimacy by first offering a meaning for the term. Bruce Gilley defines it as "the rightful holding and exercise of political power," with rightfulness containing "three underlying dimensions: legality, justification, and consent."[4] This tripartite conceptualization of the term, Gilley says, has found some consensus within the social sciences.[5] Holding a similar yet distinct view, Rodney Barker considers legitimacy to be "the

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[4] Bruce Gilley, *The Right to Rule: How States Win and Lose Legitimacy* (New York: Columbia University Press, 2009), 209.
[5] Ibid., 8.

belief in the rightfulness of a state, in its authority to issue commands, so that those commands are obeyed not simply out of fear or self-interest, but because they are believed in some sense to have moral authority, because subjects believe that they ought to obey."[6]

Both of these definitions help to identify what is meant by the term. However, they also reveal a very important difference in how the term is used, a difference that is worth exploring in-depth here. Following Barker's analysis, it is my position that inquiries about legitimacy can be investigated in at least two ways, which may at times be starkly different. In the first approach, one is asking essentially a philosophical/ethical question: Is a ruler or state legitimate, in that state commands *ought to be* obeyed, even in the absence of fear or self-interest? The second approach poses an equally valid, but quite different question: Is a ruler or state legitimate, in that state commands *are being* obeyed, even in the absence of fear or self-interest? Essentially, the first question is a normative or ethical one posed by the philosopher, who tries to determine the "moral basis of obedience and disobedience."[7] The second inquiry, meanwhile, is a positive (or operational/functional/observable) one asked by the social scientist, who is merely interested in whether the claim to legitimacy is accepted, and to what degree. This dichotomy is evident in the two definitions posited above. In Gilley's conception, one is directly investigating whether political power is being "rightfully" held and exercised. In Barker's definition, though, one is simply investigating the *belief* in a state's rightfulness. Thus, Gilley's definition necessary elicits a normative/ethical response.[8] For Barker, though, there is no normative judgment of the ruler's

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[6] Rodney S. Barker, *Political Legitimacy and the State* (Oxford; New York: Clarendon Press; Oxford University Press, 1990), 11.

[7] Ibid., 9.

[8] Gilley does not seem to view his approach to legitimacy as a purely ethical one. Rather, it is his (rather ambitious) goal to employ legitimacy as a tool of analysis. Leaving aside for now the difficulties of this approach, it remains that, if one were to investigate a ruler's or a state's legitimacy using his conceptualization, a normative answer is necessary. While empirical methods may be used to determine this legitimacy, the very preference of those methods over others is itself a normative judgment. Why, for instance, should "consent" be considered a

or the state's legitimacy. Rather, the question is only whether the people *believe* that rule to be legitimate. Barker's framing of legitimacy is clearly of the second variety, stemming from the positive (or operational/functional/observable) approach to investigating legitimacy. One may summarize it in this way: inquiries about legitimacy itself are necessarily normative, while inquiries about *perceptions* of legitimacy are positive. Of course, neither of these approaches is necessarily better than the other, as they are essentially asking different questions. Thus, each is valuable in its own way.

While this binary framework is an important one that will be referenced elsewhere in this paper, it should also be noted that, while there exists a difference between the two approaches, the first often informs the second. That is, the on-the-ground reality is often reflective of moral considerations. A philosopher, for instance, may make the case that a ruler is not legitimate if his or her power does not derive from the consent of the governed. But it is also true that, empirically, a dearth of democratic institutions can hurt a ruler's perceived legitimacy among the people. Thus, there is often a good deal of overlap. It remains, though, that the two approaches are theoretically distinct, and they are treated as such in this paper.

Having established a general idea of what political legitimacy is and how it can be conceptualized, it is now appropriate to review the bases of legitimacy — i.e., what makes a ruler or state legitimate. Again, the importance of the binary framework becomes apparent: the bases of normative legitimacy are often different from those of positive legitimacy. From Hobbes to Hegel, for instance, "consent emerged as the leading doctrine of political legitimacy."[9] It remains

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dimension of legitimacy, but not tribal affiliation? Foregrounding the former at the expense of the latter to determine political legitimacy is not necessarily problematic, but it is an inherently normative assessment, regardless of the empirical methods involved.

[9] Patrick Riley, *Will and Political Legitimacy: a Critical Exposition of Social Contract Theory in Hobbes, Locke, Rousseau, Kant, and Hegel* (Cambridge, Mass.: Harvard University Press, 1982), 1.

today an essential part of many conceptions of legitimacy, both popular and academic. Gilley, as we have seen, mentions it alongside legality and justification as one of the three foundations of legitimacy. And yet many non-democratic regimes in the world continue, it would seem, to retain a large degree of popular legitimacy. Thus, consent may be considered an integral part of normative legitimacy, but not always a necessary component of positive, observed legitimacy. It may be that the legitimacy of the ruler, and thus the long-term durability of the state, depends on the consent of an elite few, as Weber suspected.[10] Just exactly who matters in determining political legitimacy is still debated.[11]

While the standard, three-pronged approach offered above may be persuasive from a normative perspective, it is worth mentioning in brief a few of the other sources which may improve a ruler's legitimacy in the eyes of his or her people (i.e., in a positive, operative sense). One convincing alternative to the legality-justification-consent narrative, particularly within the context of the Arab world, is the idea that a state's legitimacy suffers when the provision of material goods to the population is jeopardized.[12] This certainly seemed to play a role in the Egyptian revolution, where calls for freedom (*huriya*) were mixed with demands for bread (*'aish*) and social justice (*'adala ijtima'iya*). Interestingly, though, the Obama administration has not centered its indictment of any Arab state on its failure to provide for the most marginalized elements of society. Rather, as is documented in the next section, the administration has pointed to other factors as the driving forces behind these regimes' loss of legitimacy. Perhaps this because such a narrative, coming as it often does from a Marxist perspective, may unsettle an

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[10] Barker, *Political Legitimacy and the State*, 61.
[11] Gilley, *The Right to Rule: How States Win and Lose Legitimacy*, 9.
[12] Barker, *Political Legitimacy and the State*, 95.

administration pushing IMF reforms, which at times include recommendations of subsidy

reductions and a more open market.

While material provision is one important source of positive legitimacy, there are many,

many others. Gilley offers an entire chapter on the sources of legitimacy,[13] and actually provides

a ranking of the factors that have the greatest positive correlation with observable legitimacy, as

he conceptualizes it.[14] At the top of the list, indicating a high correlation with legitimacy, are

measurements of "general governance," "income level," "gender equality," "welfare level," and

"economic governance." Meanwhile, a handful of factors were found to have little or no

correlation with legitimacy: "religious homogeneity," "nationalism," "population size and

growth."

But the accuracy of such a measurement system depends on the trustworthiness of the

mechanisms used to gauge popular, positive legitimacy. Gilley classifies these "indicators of

legitimacy" into two groups: attitudes and actions.[15] Among the former variety are attitude

surveys measuring the perceived performance of the state and government employees. The latter

category includes a more varied list of social phenomena, such as "law abidance," "tax

payments," "reliance on foreign aid or military support," and "election turnout." By carefully

recording and analyzing these sorts of indicators, he suspects, the social scientist can provide a

rough "legitimacy score" of states. Gilley actually carries this through and assigns a numerical

value, on a scale of 0 to 10, of 72 countries.[16] He then ranks them, forming a spectrum from the

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[13] Gilley, *The Right to Rule: How States Win and Lose Legitimacy*, 29.
[14] Ibid., 41.
[15] Ibid., 13.
[16] Ibid., 17.

most legitimate states to the least. Denmark and Norway lead the pack, while Russia, followed by Pakistan, is judged to be the least legitimate state on the list.

What is one to make of such an ambitious attempt to quantify the legitimacy of states? At least two things must be said. First, Gilley's efforts should be welcomed, so long as the purpose of such inquiries is to determine positive — and not normative — legitimacy. That is, the ultimate objective of such research should be to determine how a country's population envisions the state's legitimacy, and not how legitimate the state actually is. But after allowing for this caveat, I do believe such studies are useful.

The second point, however, is to keep in mind that such estimates are just that — estimates. In this way, the numerical value is somewhat deceiving, as it tends to indicate a high degree of precision. But this is clearly not the case, as the quantitative rankings sometimes conflict with qualitative analysis. There are six Middle Eastern states (excluding Pakistan) included, and they are ranked in the following order, with the overall ranking (out of 72 countries) and legitimacy score (on a 1 to 10 scale) in parentheses: Morocco (32, 5.25); Egypt (40, 5.01); Jordan (41, 4.99); Iran (44, 4.72); Algeria (48, 4.48); and Turkey (62, 3.39). The shortcomings of this regional ranking — to say nothing of the other 66 values — should have been apparent at the time of publication (2009), and are only more glaring after the Arab uprisings of 2011-12. The most striking piece of data, of course, is that Turkey is approximately one-third *less legitimate* than Egypt. This would have seemed perplexing in 2009, but it is downright absurd in 2012, when many Egyptians are talking about "the Turkish model" as an ideal system of government in the post-Mubarak era.[17] But rather than question the rating Egypt

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[17] "TelhamiEgyptPoll_May2012.pdf", n.d., 9, http://sadat.umd.edu/TelhamiEgyptPoll_May2012.pdf.

received, Gilley stands by his data, saying that Egypt and other surprisingly high-rated countries "appear to be in rather good health from the perspective of popular legitimacy. Gloomy writings about the reasons for legitimacy crisis in these countries may be causes in search of effects."[18] And while the events of the past year-and-a-half impugn the reliability of such ratings, the methodology by which they are obtained is also problematic. How, for instance, is one to investigate political attitudes in places such as Saudi Arabia or Syria? Does a lack of demonstrations in a police state indicate a higher level of popular legitimacy, even when fear clearly plays some factor? There is much more one could say about these issues, but it is sufficient to note here that, while not altogether untrustworthy, quantified legitimacy scores do not always properly reflect reality.

Given these serious shortcomings, does it then follow that the academic study of legitimacy is a fruitless endeavor? I believe Gilley is right when he says that the complexity and ambiguity of the term should not be a deterrent to its study.[19] This is particularly true when one considers the importance of legitimacy in politics. Every state, even the most oppressive, seeks to be viewed as legitimate among its people (or at least some segments of them).[20] And, as will become clear in the next section, the term plays an undeniable role in the discourse of international politics. Thus, while measuring legitimacy is an inherently speculative undertaking, it is indeed justified, albeit with qualifications.

Legitimacy, the Arab Spring, and the Obama Administration

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[18] Gilley, *The Right to Rule: How States Win and Lose Legitimacy*, 19.
[19] Ibid., xiii.
[20] Barker, *Political Legitimacy and the State*, 129.

As was mentioned in the introduction, the Obama administration eventually reached

conclusions about the legitimacy of Muammar el-Qaddafi and Bashar al-Assad, but not about the

other regimes threatened during the Arab uprisings of the past year-and-a-half. Following the

first official statements denouncing the legitimacy of Qaddafi (March 3, 2011[21]) and Assad (June

12, 2011), the term has appeared several dozen times in various mediums: speeches, press

conferences, press releases, interviews. While the administration has, of course, used other

language to describe the regimes in question, the term "legitimacy" recurs with such frequency,

and in the remarks of such a wide variety of speakers, that it seems to be enshrined as a central

principle in how the White House conceptualizes the Libyan and Syrian uprisings. Since

February 2011, it has been used several dozen times by administration officials to describe the

Libyan and Syrian regimes. While the vast majority of official statements on the issue have

come from administration spokespeople, most notably White House Spokesman Jay Carney, it is

important to note that both President Obama and Secretary Clinton have gone on the record

denouncing the legitimacy of Qaddafi and Assad. Most of the official comments on the issue are

fairly basic and merely reaffirm the administration's position that these rulers have, indeed,

squandered away whatever legitimacy they might have had. But occasionally this glib refrain is

expanded on — often, though not always, after some nudging by inquisitive reporters — and the

reasoning behind the designation is revealed. Thus, this analysis will focus mainly on those

statements and exchanges that illuminate the administration's reasoning on the issue.

On the last day of February 2011, just days before the administration officially

denounced the Qaddafi regime as illegitimate, State Department Assistant Secretary P.J. Crowley

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[21] While this was mentioned by administration officials in the week prior to this, this date marks President Obama's official endorsement of the claim.

said that "there are some very specific legal criteria that we go through were we to consider derecognizing Libya as a government."[22] Unfortunately, as this section demonstrates, these criteria are not necessarily clear and consistent. Rather, there seem to be a few standards that have been employed by the administration to explain its stances on the legitimacy question. In all of the administration's statements on this issue, though, two criteria seem to recur frequently:[23] a regime is illegitimate, from the perspective of the United States, when 1) its use of coercion against its people is unjustified, and 2) when the regime loses legitimacy in the eyes of its people. Thus, the following section will be mostly devoted to detailing and analyzing the administration's logic behind each of these criteria. It should be noted up front that there is a clear difference between these two types of reasoning: A regime's use of force could be considered indefensible by the United States (a normative judgment), yet the regime may still hold — or at least appear to hold — plenty of legitimacy among its people (a positive, observable phenomenon). However, the administration has at times tried to bridge the gap between these two criteria. Its attempts to do so are highlighted at the end of the section, following an explication of the two main justifications.

Unjustified coercion

While the administration did not officially declare Qaddafi's illegitimacy until March 3, 2011, there were indications that this decision was on the way. During a telephone call with Chancellor Angela Merkel of Germany on Feb. 26, Obama said, in the context of the Libyan uprising, that "when a leader's only means of staying in power is to use mass violence against his

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[22] "Daily Press Briefing - February 28, 2011," accessed June 6, 2012, http://www.state.gov/r/pa/prs/dpb/2011/02/157424.htm.

[23] While other criteria aside from these two may be occasionally employed by the administration, the conspicuous presence of these two justifications warrants their central location in this paper.

own people, he has lost the legitimacy to rule and needs to do what is right for his country by leaving now."[24] This appears to be a clear principle held by the president. Its premise is repeated elsewhere, as well. In an August 2011 discussion with reporters aboard Air Force One, White House Spokesman Jay Carney seemed to apply this criterion to indict the Assad regime. "President Assad has to cease the systematic violence, mass arrests, and the outright murder of his own people. *By his actions* he has demonstrated that he has lost legitimacy to lead, and the President has no doubt that Syria will be better off without him" (emphasis added).[25] Again, the reason why Assad is no longer a legitimate ruler is clearly enunciated: his *actions* are what belie his claim to legitimacy. Carney reiterates this point in a January 2012 press briefing, when he says that Assad's "legitimacy has long since been lost because of the wretched violence he's perpetrated upon his own people."[26] Again, it is the violence itself that undermines legitimacy.

While these are the most direct statements made by the administration that equate unjustified coercion with illegitimacy, there are other allusions to this principle. In a December 2011 press briefing, Carney seems to tie the Assad regime's "crackdown" and "what's happening in that country" to his illegitimacy.[27] During another press briefing in November 2011, Carney states, "What is clear is that President Assad has lost his legitimacy to lead. He has taken brutal action against his own people. And we call on that regime to cease the kinds of violent acts that we continue to see against innocent Syrians. Again, we're seeing broad isolation of Syria

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[24] "Readout of President Obama's Call with Chancellor Angela Merkel of Germany | The White House," accessed June 6, 2012, http://www.whitehouse.gov/the-press-office/2011/02/26/readout-president-obamas-call-chancellor-angela-merkel-germany.

[25] "Press Gaggle by Press Secretary Jay Carney Aboard Air Force One En Route St. Paul, Minnesota | The White House," accessed June 6, 2012, http://www.whitehouse.gov/the-press-office/2011/08/15/press-gaggle-press-secretary-jay-carney-aboard-air-force-one-en-route-st.

[26] "Press Briefing by Press Secretary Jay Carney, 1/10/12 | The White House," accessed June 6, 2012, http://www.whitehouse.gov/the-press-office/2012/01/10/press-briefing-press-secretary-jay-carney-11012.

[27] "Press Briefing by Press Secretary Jay Carney, 12/21/2011 | The White House," accessed June 6, 2012, http://www.whitehouse.gov/the-press-office/2011/12/21/press-briefing-press-secretary-jay-carney-12212011.

because of that behavior of the regime … (sic)".[28] A final example of how the Obama

administration has applied this standard comes from a June 2011 press conference, following the

International Criminal Court's announcement of arrest warrants for Qaddafi, his son Saif Al-

Islam, and his intelligence chief Abdullah Al-Senussi. Carney responded to the news by calling it

"another indication that Muammar Qaddafi has lost his legitimacy. We certainly believe that in

the face of crimes of the magnitude that he has committed and the gravity, that there must be

justice and accountability, and the court's decision underscores the stakes and importance of the

coalition effort in Libya."[29] Again, there seems to be a link between the ruler's use of force and

his political legitimacy.

What is one to make of this position, that unjustified coercion leads to a loss of

legitimacy? The position is not entirely indefensible. If one views the state's capacity to retain

power as a mix of popular legitimacy and coercion,[30]then an overreliance on the latter may

indicate a dearth of the former. Ideally, legitimacy alone would be sufficient to secure the

support (or at least the obedience) of individuals. However, this typically is not considered a

realistic possibility, as at least some degree of coercion is needed to sustain order. But after

allowing that the state is entitled to use coercion in at least some circumstances, a more difficult

issue remains: When is state-sanctioned coercion appropriate or *legitimate*, and when is it simply

unlawful violence and thuggery? Furthermore, at what point does the state's unjustified use of

coercion jeopardize its legitimacy? President Obama's initial statement at the beginning of this

section is certainly reasonable, in that coercion without legitimacy is intolerable. But while

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[28] "Press Briefing by Press Secretary Jay Carney, 11/21/2011 | The White House," accessed June 6, 2012, http://www.whitehouse.gov/the-press-office/2011/11/21/press-briefing-press-secretary-jay-carney-11212011.
[29] "Press Briefing by Press Secretary Jay Carney, 6/27/2011 | The White House," accessed June 6, 2012, http://www.whitehouse.gov/the-press-office/2011/06/27/press-briefing-press-secretary-jay-carney-6272011.
[30] Barker, *Political Legitimacy and the State*, 132.

coercion can, at least in some circumstances, be observed and measured, the same cannot be said

of legitimacy. Thus, how can one say that a regime's rule is *wholly* dependent on coercion —

and not at all dependent on legitimacy — when legitimacy cannot be precisely measured

(particularly in repressive states and during crises)? Barker is correct when he says that effective

coercion "must either terrorize or be legitimate."[31] But how can one tell the difference? Many in

Syria view their struggle against government forces as legitimate, because of the widespread,

government-sponsored campaign of terror. And yet there remains a substantial part of the Syrian

population who seem to believe the opposite: The revolutionaries are the terrorists, and the

government's reaction to their violence is thus legitimate. Thus, there can be difficulty in

determining whether state coercion is legitimate or not. One could craft specific formulae (e.g.,

human rights legislation) that describe the difference between justified and unjustified coercion,

which would help. But more difficult is determining what level of illegitimate coercion needs to

ensue before the ruler/state which employs it is also delegitimized. And most difficult would

then be the universal application of this standard, without discrimination; this is not a realistic

goal for the statesman, an uncomfortable reality which is further explored in the concluding

chapter. This criterion of unjustified coercion, however, has not been the only factor proffered by

the administration to explain its conceptualization of political legitimacy.

No legitimacy among the people

Speaking in front of the Australian parliament on a November morning in 2011, President

Obama gave a half-hour address that touched on a wide range of issues. Eventually, legitimacy

came up.

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[31] Ibid., 137.

"These are not American rights, or Australian rights, or Western rights. These are human rights. They stir in every soul, as we've seen in the democracies that have succeeded here in Asia. Other models have been tried and they have failed -- fascism and communism, rule by one man and rule by committee. And they failed for the same simple reason: They ignore the ultimate source of power and legitimacy -- the will of the people."[32]

Whatever other bases of legitimacy there may be, they are ultimately inconsequential. Only if a regime is in accordance with "the will of the people" will it obtain true legitimacy. Thus, one may assume, a ruler holding power apart from the people's will is not in possession of such a high quality of legitimacy. In many of the administration's statements regarding the illegitimacy of the Gaddafi and Assad regimes, this principle is the guiding maxim: If a regime does not have popular legitimacy among its people, then it does not have official legitimacy in Washington.

Generally speaking, this is the administration's most frequently-used justification — when justification is provided, that is — for renouncing the legitimacy of the Libyan and Syrian regimes. Even when reference is made to gross human rights violations and the inexcusable use of state violence, there is often (in more than a dozen circumstances) some mention of "the people" and the sentiments of disapproval (and often worse) they hold for their regime. Again, this seems to indicate that this principle is embedded in the administration's approach to the Libyan and Syrian uprisings.

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[32] "Remarks By President Obama to the Australian Parliament | The White House," accessed June 6, 2012, http://www.whitehouse.gov/the-press-office/2011/11/17/remarks-president-obama-australian-parliament.

Speaking before a House subcommittee in May 2012, the State Department's assistant secretary for Near Eastern Affairs, Jeffrey Feltman, reiterated this position in a hearing about the Middle East. "Governments old and new must recognize and respond to the legitimate aspirations of their people if they want to retain their legitimacy to rule."[33] In one of the administration's first comments on Qaddafi's legitimacy, about a week before Obama's official pronouncement on the issue in early March, White House Spokesman Jay Carney said that the Libyan ruler's "legitimacy has been reduced to zero in the eyes of his people."[34] During the same press conference, Carney emphasized that Qaddafi's fate is "a matter for the people of Libya to decide," and that they have indeed decided that his actions are "totally unacceptable."

While this approach sounds reasonable enough, it also has some real problems, which have occasionally been exposed by inquisitive reporters. A June 2, 2011, exchange between an unnamed reporter and a State Department spokesman, Mark Toner, illuminates the ambiguity in such an approach.[35]

> QUESTION: Yeah. I want to go back to the statement that the Secretary made about the legitimacy being, if not gone, nearly run out. At what point does it run out?

> MR. TONER: Again, I think that's something for the Syrian people to decide.

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[33] "Assessing U.S. Foreign Policy Priorities and Needs Amidst Economic Challenges in the Middle East," accessed June 6, 2012, http://www.state.gov/p/nea/rls/rm/189572.htm.
[34] "Press Briefing by Press Secretary Jay Carney, 2/25/2011 | The White House," accessed June 6, 2012, http://www.whitehouse.gov/the-press-office/2011/02/25/press-briefing-press-secretary-jay-carney-2252011.
[35] "Middle East Digest - June 2, 2011," accessed June 6, 2012, http://www.state.gov/r/pa/ei/mideastdigest/mayaug/164930.htm.

QUESTION: Well, but you can take a position, though, as to whether … he's lost the legitimacy to lead. … Why do you keep saying that the window is closing? I mean, at what point … is it closed?

MR. TONER: Again, it's up to the Syrian people to decide when he's lost legitimacy. And I think given what actions they've taken over the past weeks only increases their isolation and makes it more and more impossible for them to take the kind of meaningful reform that would in any way end this crisis.

QUESTION: If it's up to the Syrian people to decide when President Asad is no longer a legitimate ruler, do you therefore suggest that the people who are on the streets of Damascus don't represent a majority of the Syrians? Are they just a minority protesting against the government?

MR. TONER: No. I mean, I think we're looking for – look, again, this is a – the onus on this should be on the Syrian Government. The United States is working hard with its international partners to put the kind of pressure that will encourage or force Asad and his government to make the kind of reforms, to cease the violence, to engage in a meaningful dialogue with the opposition.

The questions posed by the reporter have a certain potency: What is the tipping point on legitimacy? What does it mean to speak of "the Syrian people"? How do they "decide" on the legitimacy of their government? These are penetrating and important questions that were met with glib, inadequate responses.

A second fascinating exchange on the topic of popular legitimacy occurred in mid-July 2011, when an unnamed reporter asked Secretary Clinton about the administration's "people as the source of legitimacy" doctrine, but from an unexpected angle.[36]

QUESTION: … [T]he new Arab League chief Nabil Elaraby has said that – from Syria that nobody can withdraw the legitimacy of a leader because it's up to the people to decide. What's your reaction to that?

SECRETARY CLINTON: Well, we have had, as you might guess, a number of discussions today with our colleagues about Syria. I think we all share the same opinion, that what we are seeing from the Asad regime in its barrage of words, false promises, and accusations is not being translated into any path forward for the Syrian people. And it is ultimately the responsibility of the Syrian people to choose and chart their own course.

We have said that Syria can't go back to the way it was before, that Asad has lost his legitimacy in the eyes of his people because of the brutality of their crackdown, including today. And we, along with many others in the region and beyond, have said we strongly support a democratic transition. But we also are well aware that the ultimate destiny of the Syrian regime and the Syrian people lies with the people themselves.

The interesting part of the question is that it asks the administration why it is not following its own position by letting the Syrian people "decide" the issue of Assad's legitimacy by themselves. The response does not really resolve the issue. Secretary Clinton acknowledges the importance of letting the Syrian people decide, in an theoretical sense, but does not

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[36] "Secretary Clinton on Progress in Libya and Discussions on Syria | IIP Digital," accessed June 6, 2012, http://translations.state.gov/st/english/texttrans/2011/07/20110715144538su0.2253338.html#axzz1wtgmmk2E.

necessarily try to reconcile this with the reality that, in order to deduce what exactly they have decided, a great deal of interpretation is required. That is, if the "Syrian people" have indeed "decided," how can we know their decision?

Perhaps the sharpest questioning of this principle came during an April 2011 press conference with Jake Sullivan, the director of policy planning at the State Department.[37] Coming over a month before the administration declared the Assad regime illegitimate, Sullivan fielded multiple questions about legitimacy.

> QUESTION: It was also up to the Tunisian people, and it was also – it's also up to the Bahrainis, and it's also up to the Yemenis. But in the case of Libya, you said that Qadhafi has to go. That doesn't appear to be up to the – you're not saying that's up to the Libyan people. He has to go, you think. Why do you not think that Asad because of what he has done, particularly in Daraa in the last couple of days – which rivals anything that Qadhafi has done – why is he still given -- why do you still give him a chance? Why is he -- why is it not time for you to come out and say, as the former spokesman for this Department said this morning, that Asad has now lost his legitimacy and needs to go?

> MR. SULLIVAN: I think what I can put before you is the clear and unequivocal position of the U.S. Government about how we view the actions that he's taken and about how we see the way forward, which is, ultimately, this is something that's got to be in the hands of the Syrian people.

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[37] "Briefing on Recent Developments in the Middle East and Other Issues," accessed June 6, 2012, http://www.state.gov/p/nea/rls/rm/161818.htm.

QUESTION: Yeah, but that – Jake, you have to understand that that answer – that's not an answer to the question. That's a nice dodge… Why does the administration think that Asad still could redeem himself after some 400 people were slaughtered by his forces in Daraa?

MR. SULLIVAN: Unfortunately, Matt, I can't accept the premise of the question that you just gave. I mean, we are stating – and I keep repeating it because you keep coming back to a -- to characterizing an affirmative administration position, and I keep telling you what the position actually is. The position is that the future of Syria is up to the Syrian people.

QUESTION: Jake, that's not a position. That is something that you say for every – I mean, that is just the way it is. Of course it's up to the Syrian people. What is the policy on Asad right now? Is he or is he not a legitimate leader, given what he has instructed or ordered his troops to do to innocent civilians?

MR. SULLIVAN: I really believe at this point I've given you everything I can give you on the subject.

Sullivan's final response is strongly suggestive. It is not only so because he does essentially nothing to answer the difficult question being posed. But it is also revealing because of Sullivan's crucial position in the administration. If he cannot satisfactorily explain the United States' policy on political legitimacy, it is unlikely that anyone else can.

Clearly, each of the two criteria reviewed here, which seem to form the backbone of the administration's reasoning on political legitimacy, are deeply flawed. These flaws are apparent in both their internal logic and in their relation to each other. While attempts to remedy the internal

logic have been unsuccessful, the administration has also occasionally tried to reconcile these two criteria into a single, cogent approach to political legitimacy. Its attempts to do so are highlighted here.

Bridging the gap between legitimacy criteria

In a March 2011 press conference, after the administration's pronouncement on Qaddafi's illegitimacy, Jay Carney seems to blend these two criteria into a single argument against the legitimacy of the Libyan government. "… [W]e have said the Libyan people need to decide who their leaders are. We think, quite clearly, that Qaddafi has lost legitimacy *in the eyes of his people*, not least *because he has murdered his people in large numbers*" (emphasis added).[38] This statement is quite interesting, in that it blends the first criterion (legitimacy is lost upon the use of unjustified state violence) with the second (legitimacy is lost when the people of that country believe it to be lost). Not only does Carney make the assumption that the "Libyan people" have reached a verdict about Qaddafi's legitimacy, but he also purports to know the reason why. Secretary Clinton appears to do the same thing in the quotation mentioned above, when she says that "Asad has lost his legitimacy in the eyes of his people because of the brutality of their crackdown."[39] This is not to say that Carney and Clinton are wrong; both conclusions may very well be correct, in some sense. But it remains that this chain of reasoning is not deductive: widespread, state-sponsored violence against civilians does not *necessarily* lead to a loss of mass legitimacy, however it may be measured. Even bypassing this jump in logic, an obvious question remains: Why is Qaddafi just now losing his legitimacy? He has murdered his

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[38] "Press Briefing by Press Secretary Jay Carney, 3/25/2011 | The White House," accessed June 6, 2012, http://www.whitehouse.gov/the-press-office/2011/03/25/press-briefing-press-secretary-jay-carney-3252011.
[39] "Secretary Clinton on Progress in Libya and Discussions on Syria | IIP Digital," accessed June 6, 2012, http://translations.state.gov/st/english/texttrans/2011/07/20110715144538su0.2253338.html#axzz1wtgmmk2E.

people "in large numbers" for decades, and yet only now the "Libyan people" — and consequentially the U.S. government — find him to be illegitimate? This seems a rather dubious assertion.

On another occasion, State Department Spokeswoman Victoria Nuland similarly seeks to unite the two criteria. During a sharp exchange with a reporter at a press conference on July 12, 2011 — the same day the administration officially denounced Assad's legitimacy — Nuland tried to articulate the administration's position on the issue.[40]

> The future for [Assad] and for his regime are for the Syrian people to decide. What we are saying is that we can appreciate the concerns that they have, because how can a guy who has continued to be involved in this kind of brutality have legitimacy in the eyes of his own people. But what we're saying as well is this is not a made-in-America situation. This is a made-in-Syria situation, that the Syrian people have to decide what the future of their country is going to be. We stand with them as they do that. The Syrian people have to write their own future. That's what they want.

Here, Nuland seems to resist the temptation to blame Assad's recently-lost legitimacy on the horrendous acts of violence perpetuated by government forces. She reaffirms that, ultimately, the Syrian people must "decide." This is actually a departure from the reasoning of Carney and Clinton, who conclude that the state-sponsored violence has *caused* Qaddafi's lack of legitimacy. While Nuland seems to suggest that that might indeed be true, she seems to abstain from directly saying so. In any case, all of these statements illuminate the tension between these two criteria, which have no intrinsic, necessary connection but are nonetheless often used in tandem — and

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[40] "Daily Press Briefing - July 12, 2011," accessed June 6, 2012, http://www.state.gov/r/pa/prs/dpb/2011/07/168137.htm.

sometimes placed in a causal relationship — to explicate the administration's policy on political legitimacy.

Conclusion and recommendations

Talking about the critical issue of political legitimacy clearly has its merits. From a normative perspective, it helps us identify the indispensable values that citizens ought to look for in their governments. From a positive perspective, it allows us to approximate the degree that rulers retain power by obtaining the public's approval, and to what extent they rely on either unbridled coercion or political indifference. In any case, legitimacy as an academic field of inquiry is, when approached with caution, a worthwhile endeavor.

But dealing with legitimacy is also problematic, for both the scholar and the politician. From an academic perspective, both the normative and positive modes of inquiry struggle to identify what the "bases" of legitimacy are. In asking the normative question, one must determine what criteria must be met in order for a government to be considered legitimate. While democracy and the principles associated with it continue to garner global support, there remain alternative bases of legitimacy that many still find appealing. Preferring one's sources over another's is, in many cases at least, eventually going to be a matter of personal choice. Thus, locating a common set of sources of legitimacy is not a simple undertaking. Likewise, studies meant to locate positive legitimacy are fraught with difficulty. First, one must decide which societal indicators (e.g., attitudes and behaviors, to use Gilley's approach) seem to indicate positive legitimacy, and verify that data on such indicators can be collected in a given state (some of it often cannot). Then, one must assign a relative degree of importance to each of these indicators — which will inevitably be contentious and, to some extent, arbitrary. Lastly, upon

doing all of this, one must trust that these models of locating positive legitimacy describe reality — which, in at least some circumstances, they likely do not.

In addition to these uncertainties, a policymaker hoping to employ legitimacy as a tool in international politics will face additional hurdles. Firstly, it seems reasonable to conclude that governments should not be designated as "legitimate" or "illegitimate," as there are degrees of legitimacy.[41] Secondly, it does not make sense for the diplomat to employ such a crude tool as a "legitimacy score" in statecraft. Assigning such scores is likely to be forever relegated to academia, as the public announcement of such scores would undoubtedly alienate crucial allies who test poorly in certain legitimacy criteria. Furthermore, the dubious credibility of such models makes it unlikely that they will be utilized with any consistency in U.S. foreign policy.

Thus, the term "legitimacy" is not terribly useful for the policymaker, particularly when it is used in the dichotomous manner of "legitimate or illegitimate." However, it may be helpful in other government sectors, such as within the intelligence community, where it could be used as a tool to help determine the long-term viability of regimes. By measuring legitimacy in tandem with a state's coercive capacity, along with other salient factors, one may be able to approximate a regime's stability. The key in all of this, though, is "approximate." Because no single, reliable model of measuring positive legitimacy exists, there are destined to be misleading indicators which either over- or under-estimate a regime's actual legitimacy among its people. This means that, while efforts to gauge the legitimacy of states can be fruitful if carefully (and secretly) employed in intelligence analysis, they have little role to play in public diplomacy, where such estimations may collide with U.S. interests, and where a "miscalculation" could prove acutely

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[41] Gilley, *The Right to Rule: How States Win and Lose Legitimacy*, 10.

embarrassing for all parties involved. Rather, diplomats and policymakers should work to improve the popular legitimacy of U.S. allies, while highlighting the "illegitimate" aspects of non-friendly states. The discussion should focus on the specific indicators, though, and not on the much larger issue of legitimacy. If it is referenced at all, it should always be in relative terms (i.e., "more" or "less" legitimate). The reasoning for this is clear enough. For instance, if a U.S. ally's questionable commitment to "legality" is thought to be damaging its legitimacy, then the U.S. would be wise to encourage reforms to strengthen the rule of law there. On the other hand, the U.S. can seek to weaken its foes by denouncing their lack of commitment to the same principle.

Of course, these tactics are already in full implementation. The error, however, becomes clear when these independent indicators are tied to "legitimacy." By commenting publicly on this issue, it shows that the United States is in the business of judging the legitimacy of foreign states, regimes, and rulers. This is a dangerous business when done in the open, as it is likely to irritate American allies and expose the U.S. as a hypocrite when it fails to apply its "criteria" of rightful governance universally and without discrimination. None of this is a recipe for amiable relations with foreign states. Thus, I believe legitimacy should continue to be investigated in the academy and in the intelligence community, while being mostly (or perhaps entirely) banished from statecraft. Pushing to improve the "indicators" of legitimacy (e.g., democracy, respect for human rights), however, should certainly remain central to U.S. foreign policy.