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## Artificial States and the Remapping of the Middle East

Ash U. Bali

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## Artificial States and the Remapping of the Middle East

Ash Ü. Bâli\*

### ABSTRACT

*This Article critically examines arguments tracing contemporary crises in the Arab world to the making of the Arab state system a century ago. A series of popular and scholarly articles occasioned by the recent spate of World War I-related centenaries suggest that new boundaries be drawn in the Middle East to produce more stable nation-states. More specifically, a set of authors has advocated for different borders that would avoid ethno-sectarian conflict by designing relatively homogenous smaller states to replace multiethnic, multisectarian states like Iraq and Syria. Such proposals are significant for the underlying presumptions they reflect concerning the relationship between stability and diversity in the Middle East. This Article first offers a historical corrective to the purported artificiality of the current boundaries defining the states in the region. Second, the Article calls into question the legal and political grounds for arguing that more homogenous states would be more stable or better reflect the preferences of the underlying population. The Article*

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*concludes by suggesting alternative reforms that might serve the goals of conflict resolution in the Middle East.*

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### I. INTRODUCTION

The last five years have been marked by a flurry of centenaries connected to the First World War. Like much of the postcolonial world, the modern Middle East state system is in part an artifact of the postwar settlement and the sequence of events this set in motion. By the end of the war, the Ottoman Empire had collapsed bringing down with it the long-standing order that had defined much of the Middle East.<sup>1</sup> What followed was a period of intense negotiations among the victorious imperial powers to carve up the region into a variety of quasi-colonial protectorates and spheres of influence.<sup>2</sup> Agreements to divide the region were concluded, reversed, renegotiated, and resurrected for years beginning in the midst of the war and continuing on and off for at least half a decade thereafter.<sup>3</sup>

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1. See generally EUGENE ROGAN, *THE FALL OF THE OTTOMANS: THE GREAT WAR IN THE MIDDLE EAST* (2015) (ebook) (discussing the catalysts of the end of the Ottoman empire and the various stages of change in the Middle East).

2. See DAVID FROMKIN, *A PEACE TO END ALL PEACE: THE FALL OF THE OTTOMAN EMPIRE AND THE CREATION OF THE MODERN MIDDLE EAST 389-416* (1989) (describing the negotiations following the fall of the Ottoman empire)

3. See *id.*

Because the centenaries of these events have coincided with a period of violence and instability in much of the Middle East,<sup>4</sup> they have occasioned a deluge of commentary tying current crises to origin stories that date back one hundred years.<sup>5</sup> It is in this context that a century after they met to conclude a secret agreement dividing Ottoman territories into British and French zones of influence, Mark Sykes and François Georges-Picot were back in the news.<sup>6</sup> Images of an ISIS (the Islamic State of Iraq and Syria) bulldozer rolling over a small section of the frontier between Syria and Iraq in order to destroy the “Sykes-Picot” border shone a spotlight on the centenary of their agreement.<sup>7</sup>

Following ISIS’ cue, popular commentary in the West has largely taken as given that the Sykes-Picot Agreement imposed a European-designed system of borders on Arab lands.<sup>8</sup> Many of the English-language commentators invoking Sykes-Picot, from David Ignatius<sup>9</sup> to Noam Chomsky,<sup>10</sup> shared with ISIS the view that this colonial imposition bore a portion of responsibility for the contemporary ills of the region. Likewise, political leaders in the region from President

4. See Borzou Daraghi, *As the New Year Dawns, More Wars are Brewing in the Middle East*, INDEP. (Dec. 31, 2018), <https://www.independent.co.uk/preview-of-the-year-2019/middle-east-wars-conflict-saudi-arabia-khashoggi-israel-iran-syria-trump-us-iraq-a8679831.html> [https://perma.cc/MJH8-JLC6] (archived Nov. 10, 2019) (discussing violence and instability throughout the Middle East stemming from power struggles).

5. See James Reinl, *Sykes-Picot Agreement Unravelling on its Centenary*, MIDDLE E. EYE (May 12, 2016), <https://www.middleeasteye.net/news/sykes-picot-agreement-unravelling-its-centenary> [https://perma.cc/R28G-SNXT] (archived Nov. 10, 2019) (explaining unrest in the Middle East in terms of the unraveling of the Sykes-Picot Agreement).

6. See, e.g., *A Century on: Why Arabs Resent Sykes-Picot*, AL JAZEERA (May 2016) <https://interactive.aljazeera.com/aje/2016/sykes-picot-100-years-middle-east-map/index.html> [https://perma.cc/7LLE-6NW3] (archived Nov. 10, 2019) (discussing criticisms of the Sykes-Picot Agreement) [hereinafter *Why Arabs Resent Sykes-Picot*].

7. See Malise Ruthven, *The Map ISIS Hates*, N.Y. REV. BOOKS (June 25, 2014), <http://www.nybooks.com/daily/2014/06/25/map-isis-hates/> [https://perma.cc/2EY4-PRTP] (archived Nov. 10, 2019) (reproducing the images distributed by ISIS).

8. See, e.g., Jim Muir, *Sykes-Picot: The Map that Spawned a Century of Resentment*, BRIT. BROAD. CORP. (May 16, 2016), <https://www.bbc.com/news/world-middle-east-36300224> [https://perma.cc/W5M3-AAMX] (archived Nov. 10, 2019) (describing the conflict surrounding the Sykes-Picot map).

9. See David Ignatius, Opinion, *Piecing Together the Shattering Middle East*, WASH. POST (June 17, 2014), [https://www.washingtonpost.com/opinions/david-ignatius-piecing-together-the-shattering-middle-east/2014/06/17/e73812f8-f63a-11e3-a606-946fd632f9f1\\_story.html](https://www.washingtonpost.com/opinions/david-ignatius-piecing-together-the-shattering-middle-east/2014/06/17/e73812f8-f63a-11e3-a606-946fd632f9f1_story.html) [https://perma.cc/V4SD-7Z7S] (archived Nov. 10, 2019) (arguing the dividing line from the Sykes-Picot agreement contributes to instability in the Middle East).

10. Interview by Maha Zaraket with Noam Chomsky, Author & Professor, in Beirut (June 17, 2013), <https://zcomm.org/znetarticle/noam-chomsky-interview-sykes-picot-is-failing-by-noam-chomsky/> [https://perma.cc/FKX6-2TYV] (archived Nov. 10, 2019) (discussing how the Sykes-Picot Agreement is falling apart).

Recep Tayyip Erdogan of Turkey<sup>11</sup> to Lebanon's Druze leader, Walid Jumblatt,<sup>12</sup> invoked Sykes-Picot as part of their explanation for current instability. Some historians of the region offered incisive critiques of these claims, but their views reached far smaller audiences.<sup>13</sup> Instead, the voices of Middle East policy analysts in the United States and the United Kingdom, like Itamar Rabinovitch<sup>14</sup> and Patrick Cockburn,<sup>15</sup> lent their authority to the growing chorus that attributed the sectarian wars engulfing Iraq and Syria to the boundaries set by Sykes-Picot. Even as the ISIS threat has receded somewhat and the Sykes-Picot centenary has passed, new arguments

11. In a particularly colorful example of such invocations, during a speech at Marmara University Erdogan accused "modern Lawrences" of concluding new "Sykes-Picot agreements" while "hiding behind freedom of press, a war of independence or jihad" to justify their activities. He appeared to be referring to journalists covering Turkey's blockage of Kobani in the fall of 2014, but also to foreign supporters of his nemesis Fethullah Gulen as well as supporters of the PKK. He went on to argue that "each conflict in this region has been designed a century ago when the borders of the Middle East were redrawn after World War I." Agence France-Presse, *President Erdogan Slams Modern 'Lawrences of Arabia' in Middle East*, HURRIYET DAILY NEWS (Oct. 13, 2014), <http://www.hurriyetdailynews.com/president-erdogan-slams-modern-lawrences-of-arabia-in-middle-east-72903> [<https://perma.cc/GHS3-YM5E>] (archived Dec. 30, 2019) (internal quotation marks omitted); see also Marc Champion, *Erdogan of Arabia*, BLOOMBERG (Oct. 14, 2014), <https://www.bloomberg.com/opinion/articles/2014-10-14/erdogan-of-arabia> [<https://perma.cc/3JUL-4T4D>] (archived Dec. 30, 2019).

12. See Robert Fisk, *The Old Partition of the Middle East is Dead. I Dread to Think What Will Follow*, INDEP. (June 13, 2014), <https://www.independent.co.uk/news/world/middle-east/robert-fisk-the-old-partition-of-the-middle-east-is-dead-i-dread-to-think-what-will-follow-9536467.html> [<https://perma.cc/Q3LR-MGMU>] (archived Nov. 10, 2019).

13. See, e.g., Daniel Neep, *Focus: The Middle East, Hallucination, and the Cartographic Imagination*, DISCOVER SOC'Y (Jan. 3, 2015), <https://discoversociety.org/2015/01/03/focus-the-middle-east-hallucination-and-the-cartographic-imagination/> [<https://perma.cc/S2ZV-3YF5>] (archived Nov. 10, 2019); Sara Pursley, *'Lines Drawn on an Empty Map': Iraq's Borders and the Legend of the Artificial State (Part 1)*, JADALIYYA (June 2, 2015), <https://www.jadaliyya.com/Details/32140> [<https://perma.cc/AZ6G-HUN2>] (archived Nov. 10, 2019). Neither of these critiques appeared in major newspapers or other mainstream venues and so the dominant view of Sykes-Picot as the root of an "unraveling" Middle East remained largely uncorrected among policymakers and general audiences.

14. See generally Itamar Rabinovitch, *The End of Sykes-Picot? Reflections on the Prospects of the Arab State System*, 32 BROOKINGS MIDDLE E. MEMO (2014).

15. See generally Patrick Cockburn, *Is It the End of Sykes-Picot?*, LONDON REV. BOOKS (June 6, 2013), <https://www.lrb.co.uk/the-paper/v35/n11/patrick-cockburn/is-it-the-end-of-sykes-picot> [<https://perma.cc/K9TG-DTKB>] (archived Dec. 30, 2019).

concerning the redrawing of borders from Yemen<sup>16</sup> to Libya<sup>17</sup> to Syria<sup>18</sup> continue to be discussed prominently by journalists, analysts, and scholars of the Middle East.

The underlying argument connecting these analyses is that the “artificial” boundaries that were drawn by European colonial powers produced fault lines that have driven conflicts in the region.<sup>19</sup> A century later, the argument continues, those borders are being erased by events on the ground that are reshaping the distribution of power between communities and the lines that divide them.<sup>20</sup> The purported erasure of the Iraq–Syria border by ISIS fighters in 2014 may have been the most commonly invoked example of this phenomenon.<sup>21</sup> But the assessment that existing states are fracturing was shared by some American officials as well, who commented that the partitioning of

16. See, e.g., Vincent Lafaso, *Could Yemen Be on the Way Towards Inevitable Partition?* – Analysis, EURASIA REV. (Feb. 2, 2018), <https://www.eurasiareview.com/02022018-could-yemen-be-on-way-towards-inevitable-partition-analysis/> [<https://perma.cc/QA7Y-8QQ7>] (archived Nov. 10, 2019); Bruce Riedel, *Is Yemen Headed for Partition?*, AL-MONITOR (Oct. 31, 2016), <https://www.al-monitor.com/pulse/ru/originals/2016/10/yemen-war-houthis-saudi-arabia-partition.html> [<https://perma.cc/UR2Y-ZPLL>] (archived Nov. 10, 2019).

17. See, e.g., Stephanie Kirchgaessner & Julian Borger, *Trump Aide Drew Plan on Napkin to Partition Libya into Three*, GUARDIAN (Apr. 10, 2017), <https://www.theguardian.com/world/2017/apr/10/libya-partition-trump-administration-sebastian-gorka> [<https://perma.cc/M3U6-RDWG>] (archived Nov. 10, 2019) (discussing proposed plan to divide Libya); *Libya: Controlling Oil, Fearing Partition*, ARAB CTR. WASH. D.C. (July 16, 2018), [http://arabcenterdc.org/policy\\_analyses/libya-controlling-oil-fearing-partition/](http://arabcenterdc.org/policy_analyses/libya-controlling-oil-fearing-partition/) [<https://perma.cc/GE7A-ASCW>] (archived Nov. 10, 2019) (discussing the geographic implications of divisions in Libya).

18. See Carol E.B. Choksy & Jamsheed K. Choksy, *To Resolve the Syrian Crisis, Partition Is Necessary*, YALE GLOB. ONLINE (May 9, 2017), <https://yaleglobal.yale.edu/content/resolve-syrian-crisis-partition-necessary> [<https://perma.cc/H33C-C7F6>] (archived Nov. 10, 2019) (describing proposed partition plan for Syria).

19. See, e.g., Robin Wright, *How the Curse of Sykes-Picot Still Haunts the Middle East*, NEW YORKER (Apr. 30, 2016), <https://www.newyorker.com/news/news-desk/how-the-curse-of-sykes-picot-still-haunts-the-middle-east> [<https://perma.cc/9S5H-YJG2>] (archived Nov. 10, 2019) (noting that the Sykes-Picot map “is still viewed as the root cause of much that has happened ever since”).

20. See Thomas L. Friedman, *Obama on the World*, N.Y. TIMES (Aug. 8, 2014), <http://www.nytimes.com/2014/08/09/opinion/president-obama-thomas-l-friedman-iraq-and-world-affairs.html> [<https://perma.cc/C9RE-EEYQ>] (archived Nov. 10, 2019) (former U.S. President Barack Obama stating that “[he does] believe that what we’re seeing in the Middle East and parts of North Africa is an order that dates back to World War I starting to buckle”).

21. See, e.g., James Miller, *Why Islamic State Militants Care So Much About Sykes-Picot*, RADIO FREE EUR. RADIO LIB. (May 16, 2016), <https://www.rferl.org/a/why-islamic-state-cares-so-much-about-sykes-picot/27738467.html> [<https://perma.cc/7NF2-STNK>] (archived Nov. 10, 2019); Charles M. Sennott, *How ISIS is Tearing Up the Century-Old Map of the Middle East*, PUB. RADIO INT’L (June 17, 2014), <https://www.pri.org/stories/2014-06-17/how-isis-tearing-century-old-map-middle-east> [<https://perma.cc/PFX2-A8NY>] (archived Nov. 10, 2019); Ruthven, *supra* note 7.

Syria into two or three states and the secession of Kurds from Iraq were possible outcomes of current conflicts.<sup>22</sup> More recently, such projections concerning redrawn boundaries have been extended to additional countries in the region experiencing civil conflict.<sup>23</sup>

Frequently, the laments about the imperial line drawing of the post–World War I era are written by enthusiastic contemporary cartographers, eager to take pen to paper to draft new maps.<sup>24</sup> Indeed, while the most recent wave of attention to Sykes-Picot arose in the aftermath of a 2014 ISIS video,<sup>25</sup> proposals for new maps of the region began to proliferate well before ISIS emerged on the scene or the centenary loomed on the horizon. Beginning shortly after the 2003 Iraq invasion and the sectarian conflict that ensued, latter-day mapmakers began to translate their analyses of a destabilized Arab world into new borders that would, it was imagined, provide for a more stable set of political arrangements.<sup>26</sup>

Proposals for new borders are a puzzling recipe for a more stable or peaceful Middle East. A cardinal principle of the international legal

22. See Ken Dilanian, *Intelligence Chief: Iraq and Syria May Not Survive As States*, A.P. NEWS (Sept. 10, 2015), <https://apnews.com/ad0d463f16f24879aae1febe2a3ce609> [https://perma.cc/A4QZ-MYAE] (archived Nov. 10, 2019) (quoting Lt. Gen. Vincent Stewart, head of the Defense Intelligence Agency: “On Iraq, Stewart said he is ‘wrestling with the idea that the Kurds will come back to a central government of Iraq,’ suggesting he believed it was unlikely. On Syria, he added: ‘I can see a time in the future where Syria is fractured into two or three parts.’”).

23. See, e.g., Guma El-Gamaty, *Opinion, Regional Interference Is Threatening Libya’s Future As One State*, AL JAZEERA (Mar. 7, 2018), <https://www.aljazeera.com/indepth/opinion/regional-interference-threatening-libya-future-state-180307133334067.html> [https://perma.cc/LDS4-ZVWQ] (archived Nov. 10, 2019) (discussing Libya’s need for a stable, legitimate centralized government); Imad K. Harb, *Opinion, The Looming Partition of Yemen*, AL JAZEERA (Aug. 20, 2019), <https://www.aljazeera.com/indepth/opinion/looming-partition-yemen-190819143901514.html> [https://perma.cc/V522-FLZX] (archived Nov. 10, 2019) (discussing how the UAE’s withdrawal of troops from Yemen catalyzed the prospective partition of Yemen).

24. See *infra* Part III (proposing new, alternative boundary lines).

25. See Mark Tran & Matthew Weaver, *Isis Announces Islamic Caliphate in Area Straddling Iraq and Syria*, GUARDIAN (June 30, 2014), <https://www.theguardian.com/world/2014/jun/30/isis-announces-islamic-caliphate-iraq-syria> [https://perma.cc/DFN6-ZNCS] (archived Nov. 10, 2019) (in June 2014, ISIS declared that it was creating an Islamic “caliphate” in a region spanning parts of Iraq and Syria. The declaration was accompanied by the release of a video, titled “The End of Sykes Picot” that showed the razing of an apparent border marker between Iraq and Syria. ISIS propagandists claimed that joining territories straddling the Iraq-Syria border amounted to an erasure of the border once set by the Sykes-Picot Agreement); see also *supra* note 21 (discussing resurgence of critiques of Sykes-Picot).

26. See Ralph Peters, *Blood Borders: How a Better Middle East Would Look*, ARMED FORCES J. (June 1, 2006), <http://armedforcesjournal.com/blood-borders/> [https://perma.cc/7XYF-G9LU] (archived Nov. 10, 2019). This was the earliest such map-making exercise that garnered significant attention. It argued explicitly that an adjustment of borders to reflect the underlying ethn-sectarian demographics of the region would produce a “more peaceful Middle East.” *Id.*

order, *uti possidetis*, begins from the exact opposite premise.<sup>27</sup> This principle—that borders may not be shifted other than as provided by treaty—was developed in its modern form to require that the newly formed sovereign states that emerged from decolonization retain their colonial borders precisely to avoid territorial conflict.<sup>28</sup> That is, international law settled on a rule that prized peace over justice. Despite the normative problems with colonial border drawing, this rule opts to preserve existing boundaries to avoid the inevitable wars of territorial acquisition that would ensue should the status of those boundaries be challenged.<sup>29</sup> Understanding that all borders are at some level artificial—as identity does not naturally coincide with geography—preserving *these* borders was deemed better than shedding blood in pursuit of adjustments.<sup>30</sup> Why then, in the Middle East, do new borders hold potential appeal as a conflict resolution strategy where everywhere else the preservation of borders has been deemed essential to international peace and stability?

This question is an important one to address because the idea of revised borders to resolve conflicts in the region has recurred with some regularity over the last fifteen years among not only commentators but also American policymakers across the political spectrum.<sup>31</sup> With particular focus on Iraq and Syria, the idea that

27. See Fozia Lone, *Uti Possidetis Iuris*, OXFORD BIBLIOGRAPHIES, <https://www.oxfordbibliographies.com/view/document/obo-9780199796953/obo-9780199796953-0065.xml> (last updated May 26, 2016) [<https://perma.cc/26EU-22DR>] (archived Nov. 10, 2019) (describing principle of *uti possidetis iuris*).

28. Frontier Dispute Case (Burkina Faso v. Mali), Advisory Opinion, 1986 I.C.J. Rep. 554, ¶ 20 (Dec. 22) (“[Uti possidetis] is a general principle, which is logically connected with the phenomenon of obtaining independence, wherever it occurs. Its obvious purpose is to prevent the independence and stability of new states being endangered by fratricidal struggles provoked by the changing of frontiers following the withdrawal of the administering power.”).

29. For an early sketch of my argument on this point, see generally Ash Bâli, *Sykes-Picot and ‘Artificial States’*, 110 AJIL UNBOUND 115 (Sept. 28, 2016), <https://www.asil.org/sites/default/files/Bali,%20Sykes%20Picot%20and%20Artificial%20States.pdf> [<https://perma.cc/XK7F-K8KE>] (archived Nov. 10, 2019) (arguing that rule of peace over justice prevents wars that would stem from territorial challenges).

30. See generally Enver Hasani, *Uti Possidetis Juris: From Rome to Kosovo*, 27 FLETCHER F. WORLD AFF. 85 (2003) (discussing the principle of *uti possidetis iuris* as it has applied to defining post-colonial borders).

31. See John R. Bolton, *John Bolton: To Defeat ISIS, Create a Sunni State*, N.Y. TIMES (Nov. 24, 2015), <https://www.nytimes.com/2015/11/25/opinion/john-bolton-to-defeat-isis-create-a-sunni-state.html> [<https://perma.cc/Y3GG-8XJ9>] (archived Nov. 10, 2019); Juan Cole, *Partitioning Iraq*, SALON (Oct. 30, 2006), [https://www.salon.com/2006/10/30/iraq\\_partition/](https://www.salon.com/2006/10/30/iraq_partition/) [<https://perma.cc/E77K-5HBQ>] (archived Nov. 10, 2019) (noting that “[b]oth Republicans and Democrats have endorsed a loose Iraqi federation of three equal parts”); Leslie Gelb, *The Three-State Solution*, N.Y. TIMES (Nov. 25, 2003), <https://www.nytimes.com/2003/11/25/opinion/the-three-state-solution.html?auth=login-email&login=email> [<https://perma.cc/R674-4R7Z>] (archived



partition may be the optimal—or indeed the only—way to address identity conflicts in these countries has been given voice by prominent Democrats and Republicans.<sup>32</sup> While the specific maps that have proliferated have largely been drawn up by analysts distant from the corridors of power, they reflect and distill an off-the-shelf conventional wisdom that might yet make its way into official policies of the United States as it seeks new avenues to address ongoing conflicts in the region. Moreover, the recurrence of formulae for conflict resolution through partition from the Dayton Accords to the present suggests the need to address the premises that support such proposals.<sup>33</sup>

This Article examines the appeal of revising borders by querying the underlying logic of the new cartographers. Why do these analysts believe that setting new borders in the region would produce a more stable or peaceful Middle East? The answer lies in three propositions that they embrace. First, Sykes-Picot symbolizes the view that there was something peculiarly arbitrary and illegitimate about the particular borders of the Arab state system that came into existence in

Nov. 10, 2019) (proposing the division of Iraq into three separate states); James Stavridis, *It's Time to Seriously Consider Partitioning Syria*, FOREIGN POL'Y MAG. (Mar. 9, 2016), <https://foreignpolicy.com/2016/03/09/its-time-to-seriously-consider-partitioning-syria/> [<https://perma.cc/58VT-K93E>] (archived Nov. 10, 2019) (arguing the partitioning of Syria can end conflict and foster negotiation); Bret Stephens, *The Only Syrian Solution*, WALL ST. J. (Sept. 5, 2016), <https://www.wsj.com/articles/the-only-syrian-solution-1473116696> [<https://perma.cc/PC3T-ZX28>] (archived Nov. 10, 2019) (advocating for the partitioning of Syria).

32. See Tara Copp, *Iraq Is No More': Congress, Pentagon Coming To Terms with 3-way Split*, WASH. EXAMINER (June 17, 2015), <https://www.washingtonexaminer.com/iraq-is-no-more-congress-pentagon-coming-to-terms-with-3-way-split> [<https://perma.cc/WK4X-GF6P>] (archived Nov. 10, 2019) (as Secretary of Defense under the Obama administration, Ash Carter stated in congressional testimony, "What if a multisectarian Iraq turns out not to be possible? . . . [W]e will still try to enable local ground forces, if they're willing to partner with us, to keep stability in Iraq, but there will not be a single state of Iraq."); Mike Huckabee *Lays Out Path to 2016 Republican Nomination; Amb. John Bolton Talks NSA Surveillance, Growth of ISIS*, FOX NEWS (May 24, 2015), <https://www.foxnews.com/transcript/mike-huckabee-lays-out-path-to-2016-republican-nomination-amb-john-bolton-talks-nsa-surveillance-growth-of-isis> [<https://perma.cc/H36X-ZASE>] (archived Nov. 10, 2019) (John Bolton, who served as National Security Advisor under the Trump administration (2018–19), commented in 2015 that "I think our objective should be a new Sunni state out of the western part of Iraq, the eastern part of Syria run by moderates or at least authoritarians who are not radical Islamists.").

33. See MARINA OTTAWAY & MAI EL-SADANY, *SUDAN: FROM CONFLICT TO CONFLICT*, CARNEGIE PAPERS 1 (2012) (arguing "[a]ll signs suggest that the transition from greater Sudan to the Republics of Sudan and South Sudan is not the end of a conflict but rather the beginning of multiple new ones"); Conner Gordon, *The Dangers of Partition as Peace*, PRINDLE POST (May 16, 2016), <https://www.prindlepost.org/2016/05/ethnic-partition/> [<https://perma.cc/J4EU-B88F>] (archived Nov. 10, 2019) (critiquing the logic of partition in the Dayton Accords); see also Peter Lippman, *Bosnia's Politics of Paralysis*, OPEN DEMOCRACY (Oct. 19, 2010), <https://www.opendemocracy.net/en/peter-lippman/> [<https://perma.cc/7ZYL-VGTA>] (archived Nov. 10, 2019) (discussing problems with Bosnia's post-war settlement agreement).

the post–World War I period.<sup>34</sup> Second, this illegitimacy is frequently located in the alleged disconnect between the borders that were drawn on paper and the underlying ethno-sectarian makeup of the populations living in post-Ottoman lands.<sup>35</sup> Lastly, the instability that is now engulfing parts of the Levant, Mesopotamia, and even North Africa is understood to be a consequence of the collapse of Arab states that were never able to produce a coherent “nation” out of the heterogeneous populations within their borders.<sup>36</sup> These states ruled by coercion rather than consent over societies characterized by deep identitarian cleavages.<sup>37</sup> They are now coming undone as a result of popular revolt that has weakened their monopoly on coercion.<sup>38</sup> One prominent political scientist has argued that Iraq and Syria, among others, are “devolving into . . . ‘quasi-states,’ internationally recognized *de jure* as sovereign even though they cannot implement *de facto* the functional requisites that sovereignty assumes.”<sup>39</sup> The new cartographers argue that resolving the conflicts that have caused state

34. Dan Williams, *Bloodshed blurs Middle East borders set 100 years ago by UK-French pact*, REUTERS, May 16, 2016, <https://www.reuters.com/article/us-mideast-crisis-israel-borders/bloodshed-blurs-middle-east-borders-set-100-years-ago-by-uk-french-pact-idUSKCN0Y71LS> [<https://perma.cc/GH5L-7DAC>] (archived Mar. 22, 2020) (noting there is “support among many Arabs for deeming Sykes-Picot dead . . . to solemnize the end of often arbitrary Western-imposed boundaries.”).

35. See Saad Eddin Ibrahim, *Ethnic Conflict and State-Building in the Arab World*, 50 INT’L SOC. SCI. J. 229, 232 (2002) (arguing that colonial designs led to the “fragmentation of the Arab world” into territorial states with “equally fragmented ethnic minorities,” highlighting the relationship between ethnic conflict and state formation in the Middle East).

36. See *infra* Part II. See generally Raffaella A. Del Sarto, *Contentious Borders in the Middle East and North Africa: Contexts and Concepts*, 93 INT’L AFF. 767 (July 2017) (assessing the relationship between legitimacy, borders, and state formation in the Middle East).

37. See, e.g., Ariel I. Ahram & Ellen Lust, *The Decline and Fall of the Arab State*, 58 SURVIVAL: GLOBAL POL. & STRATEGY 7, 17 (2016) (“With the state’s coercive grip suddenly weakened all kinds of political movements came forward to make claims. Some opposition movements sought to upend regimes while laying claim to the entirety of existing unitary states. Others tried to carve out new territorial foundations for statehood or reinstate previously discarded ones.”); Aleksa Djilas, *Tito’s Last Secret: How Did He Keep Yugoslavia Together?*, 74 FOREIGN AFF. 116 (July 1995) (explaining the rise of ethnic conflict in Yugoslavia following the death of its long-term authoritarian leader, Jsp Broz Tito).

38. See, e.g., Adham Saouli, *Back to the future: the Arab uprisings and state (re)formation in the Arab world*, 22 DEMOCRATIZATION 315 (2015) (arguing that the Arab uprisings have produced state fragmentation).

39. F. Gregory Gause III, *Is This the End of Sykes-Picot?*, WASH. POST (May 20, 2014), <https://www.washingtonpost.com/news/monkey-cage/wp/2014/05/20/is-this-the-end-of-sykes-picot/> [<https://perma.cc/Z644-XEP3>] (archived Nov. 10, 2019) (citing ROBERT H. JACKSON, QUASI-STATES: SOVEREIGNTY, INTERNATIONAL RELATIONS AND THE THIRD WORLD (Cambridge Univ. Press 1993) (questioning the normative desirability of extending juridical sovereignty to post-colonial states unable to exercise the positive functions of statehood)).

failure requires drawing new and better lines that will produce more governable territories with cohesive communities that are more likely to adhere to territorial boundaries reflecting their communal identities.<sup>40</sup>

To assess these propositions, this Article begins first by briefly reviewing the history of the Sykes-Picot Agreement and the subsequent treaties that came to define the borders of the modern Arab state system. In what ways were these borders especially artificial or flawed? Next, this Article considers some of the alternative maps that have circulated among commentators and policy analysts to describe the benefits ascribed to newly proposed borders by their authors. If Arab “quasi-states” were illegitimate as a consequence of borders that assembled disparate peoples under a single juridical sovereign, such maps suggest that new borders offer the promise of stability grounded in demography. Lastly, this Article critically examines the logic of deriving cartography from demography. This Article is particularly interested in understanding how arguments concerning the illegitimacy of externally imposed borders a century ago have given way to defenses of new borders on maps drawn by experts in the West. In conclusion, this Article suggests alternative avenues—including decentralizing reforms—that may hold some potential for addressing the sources of current conflict in the region without resorting to shifting existing state boundaries.<sup>41</sup>

## II. UNDERSTANDING SYKES-PICOT AND ITS PROGENY

If there is one thing that historians of the modern Middle East can agree on, it is that the borders of the region were not set by the Sykes-Picot Agreement.<sup>42</sup> The most obvious sense in which this is true is that

40. In one such map-making exercise, the experts who gathered to discuss new borders in the region noted that they were offering a descriptive rather than prescriptive account to “discern configurations that implicitly already exist.” See Cullen Murphy & Haisam Hussein, *Lines in the Sand*, VANITY FAIR (Feb. 24, 2008), <https://www.vanityfair.com/news/2008/01/middle-east-cultural-political-map> [<https://perma.cc/2ZDN-UVSS>] (archived Nov. 10, 2019) (providing a map by four experts—David Fromkin, Dennis Ross, Kenneth Pollack and Daniel Byman—invited to “chart the region’s more ‘natural’ divisions as they look today.”).

41. See LOCAL GOVERNMENTS AND PUBLIC GOODS: ASSESSING DECENTRALIZATION IN THE ARAB WORLD (Mona Harb & Sami Atallah eds., 2015) (discussing current efforts at decentralization in the Arab region).

42. See, e.g., James Gelvin, *Don’t Blame Sykes-Picot*, OUP BLOG (Feb. 7, 2015), <http://blog.oup.com/2015/02/dont-blame-sykes-picot/> [<https://perma.cc/T7HZ-5ARX>] (archived Nov. 10, 2019) (arguing modern-day borders of the Middle East were not determined by the Sykes-Picot Agreement because it “was already a dead letter” after World War I).

the agreement was never implemented.<sup>43</sup> More generally, the Sykes-Picot Agreement was one link in a long chain of agreements that determined more or less the boundaries that were established in the region following the breakup of the Ottoman Empire. It was not the first,<sup>44</sup> nor would it be the last,<sup>45</sup> in the chain, and it is arguable whether it was among the most consequential.<sup>46</sup> Yet, in popular commentary, “Sykes-Picot has become a cliché, an all-purpose lament for the unjust and ill-thought-out carving up of the Ottoman Empire after World War I.”<sup>47</sup> As one historian has noted, Sykes-Picot’s symbolic significance far outweighs its historical significance.<sup>48</sup> For those in the Middle East, the agreement symbolizes Western attempts to keep the region divided.<sup>49</sup> And in the West, the agreement stands

43. See Umut Özsü, *Why Sykes-Picot Is (Still) Important*, OUP BLOG (June 6, 2016), <https://blog.oup.com/2016/06/why-sykes-picot-is-still-important/> [<https://perma.cc/KL2R-LG94>] (archived Nov. 10, 2019) (Sykes-Picot Agreement “was not implemented directly or comprehensively”).

44. Among earlier significant agreements, for example, was the “Reglement Organique” that separated Mount Lebanon from Syria. An international commission composed of France, Britain, Austria, Prussia, Russia and the Ottoman Empire came to a joint agreement, following fighting between the Maronite and Druze communities in 1860, that the territory would be given a semi-autonomous status governed in consultation with an administrative council representing the various religious communities inhabiting the region (Maronite, Greek Orthodox, Druze, Sunni, Shi’a, and Melkite). See generally CAESAR E. FARAH, *POLITICS OF INTERVENTIONISM IN OTTOMAN LEBANON 1830–61* (2000) (describing international involvement in Ottoman Lebanon).

45. The final link in the chain came in 1939 with the cession of Alexandretta/Hatay province from the French mandate of Syria to Turkey. This territorial change was a consequence of an arrangement brokered by the League of Nations that first separated Alexandretta/Hatay from the rest of mandate Syria in 1937 and then, following a highly contested popular referendum, witnessed a French-Turkish agreement for the Turkish annexation of the province. See EMMA JÖRUM, *BEYOND SYRIA’S BORDERS: A HISTORY OF TERRITORIAL DISPUTES IN THE MIDDLE EAST* 91–94 (2014).

46. See, e.g., Nick Danforth, *Forget Sykes-Picot. It’s the Treaty of Sèvres That Explains the Modern Middle East*, FOREIGN POL’Y (Aug. 10, 2015), <https://foreignpolicy.com/2015/08/10/sykes-picot-treaty-of-sevres-modern-turkey-middle-east-borders-turkey/> [<https://perma.cc/UF7V-HYA8>] (archived Nov. 10, 2019) (arguing for the influence and importance of the Treaty of Sèvres).

47. Sean McMeekin, *In the Mideast, Borders Have Always Been Drawn in Blood*, L.A. TIMES (Mar. 20, 2015), <https://www.latimes.com/opinion/op-ed/la-oe-0322-mcmeekin-middle-east-sykes-picot-boundaries-20150322-story.html> [<https://perma.cc/PQ4P-NGR>] (archived Nov. 10, 2019).

48. See James Gelvin, *Obsession with Sykes-Picot Says More About What We Think of Arabs Than History*, CONVERSATION (May 12, 2016), <https://theconversation.com/obsession-with-sykes-picot-says-more-about-what-we-think-of-arabs-than-history-58775> [<https://perma.cc/8WJB-CUUF>] (archived Nov. 10, 2019) (noting Sykes-Picot’s significance as a metaphor for “Western treachery”).

49. See, e.g., Robert Johnson, *The de Bunsen Committee and a revision of the ‘conspiracy’ of Sykes-Picot*, 54 MIDDLE E. STUD. 611, 611 (2018) (noting that the “Sykes-Picot Agreement is often cited as evidence of a Western conspiracy to carve up the Middle

for an understanding of the Middle East as “irrevocably divided into mutually hostile sects and clans, destined to be mired in conflict until another external intervention imposes a new, more authentic, set of political units.”<sup>50</sup> To understand why Sykes-Picot has taken on these mythic<sup>51</sup> proportions it would be helpful to better understand the context for the agreement, its substantive terms, and the developments that followed.

### A. *The End of an Imperial Era*

The Ottoman Empire had acquired the sobriquet the “sick man of Europe” by the end of the nineteenth century.<sup>52</sup> As the indebted empire sought to modernize everything from its military to its banking institutions, it fell under the financial control of European powers and lost its Balkan territories to wars of independence.<sup>53</sup> The decline of the empire was not unique—the Hapsburgs of the Austro-Hungarian empire and the Romanovs of the Russian empire faced a similar decline.<sup>54</sup> By the end of World War I, all three of these empires were defunct. Russia was engulfed by a prolonged civil war and the Austro-Hungarian empire dissolved into smaller successor states making up a redrawn map of Eastern Europe.<sup>55</sup> The fate of the Ottomans was distinct, however, in that its Anatolian territories were occupied and its Arab territories partitioned and subjected to imperial mandates overseen by the victorious European parties to the war.<sup>56</sup>

East and subordinate the Arabs . . . a prevalent view across the region.”); Larry Hannant, *100 years on: Why the Sykes-Picot pact is still hated in the Mideast*, GLOBE & MAIL (May 9, 2016), <https://www.theglobeandmail.com/opinion/100-years-on-why-the-sykes-picot-pact-is-still-hated-in-the-mideast/article29929515/> [https://perma.cc/GMR5-PSAG] (archived Mar. 14, 2020); Muir, *supra* note 8 (noting that the Agreement “epitomized the concept of clandestine colonial carve-ups . . . [and] has become the label for the whole era in which outside powers imposed their will, drew borders and installed client local leaderships, playing divide-and-rule with the ‘natives’ . . . .”); *Why Arabs Resent Sykes-Picot*, *supra* note 6.

50. Toby Dodge, *The Danger of Analogical Myths: Explaining the Power and Consequences of the Sykes-Picot Delusion*, 110 AM. J. INT’L L. UNBOUND 132 (2016).

51. See, e.g., David Siddhartha Patel, *Repartitioning the Sykes-Picot Middle East? Debunking Three Myths*, 103 MIDDLE E. BRIEF (2016) (challenging myths surrounding the Sykes-Picot Agreement).

52. M.E. YAPP, *THE MAKING OF THE MODERN NEAR EAST 1792–1923*, at 92–93 (2013).

53. See ROGAN, *supra* note 1, at 14.

54. See MICHAEL D. BERDINE, *REDRAWING THE MIDDLE EAST: SIR MARK SYKES, IMPERIALISM AND THE SYKES-PICOT AGREEMENT* 86–87, 125 (2018); FROMKIN, *supra* note 2, at 239–49 (explaining decline of Russian Empire); see also FROMKIN, *supra* note 2, at 434 (explaining decline of Austro-Hungarian Empire).

55. See YAPP, *supra* note 52, at 60–69.

56. See generally STANFORD J. SHAW & EZEL KURAL SHAW, *HISTORY OF THE OTTOMAN EMPIRE AND MODERN TURKEY* (1977) (describing history of the period of the Ottoman decline and eventual defeat in World War I).

That the allies in the war would have concluded a number of agreements to determine the postwar fate of the Ottoman territories was hardly surprising. Secret treaties and diplomacy over spheres of influence and managing trade and commercial competition were long-standing tools for preserving the imperial balance of power amongst European states on the continent and abroad in their colonial possessions.<sup>57</sup> By the end of the nineteenth century significant rivalries had already emerged between France, Britain, and Russia concerning their respective stakes in and influence over the Ottoman territories.<sup>58</sup> The defeat of the Ottomans would surely be marked by competition over the division of lands and assets had the allies not sought a prior understanding among themselves as part of their war strategy.

The Ottomans entered the war fighting with the Central Powers following a Russian declaration of war.<sup>59</sup> Because the Ottomans were fighting Allied forces on the Middle Eastern front, British and French war planners developed a two-pronged approach.<sup>60</sup> First, they sought to cultivate an indigenous revolt against the Turks to hasten Ottoman military defeat.<sup>61</sup> Second, they began negotiating between themselves their respective claims to head off a secondary European conflict over Middle Eastern lands at the end of the war.<sup>62</sup> The twin objectives were given expression first in the Hussein-McMahon Correspondence of 1915 and then in a separate agreement between the British and French in 1916.<sup>63</sup> Sharif Hussein, who was leading the Hashemite revolt against the Ottomans in Arabia, was promised a united Arab kingdom with vague boundaries that would exclude British positions in the Ottoman provinces of Iraq and French claims on Ottoman Syria.<sup>64</sup> Following this broad agreement, the British invited the French to send

57. Megan Donaldson, *Textual Settlements: The Sykes-Picot Agreement and Secret Treaty-Making*, 110 AM. J. INT'L L. UNBOUND 127, 127 (2016).

58. WILLIAM L. CLEVELAND & MARTIN BUNTON, A HISTORY OF THE MODERN MIDDLE EAST 95 (5th ed. 2013).

59. See ROGAN, *supra* note 1, at 51, 75.

60. See *id.* at 75.

61. See *id.* at 230, 276 (discussing the Hussein-McMahon correspondence as part of an effort to encourage Arab revolt); FROMKIN, *supra* note 2, at 222.

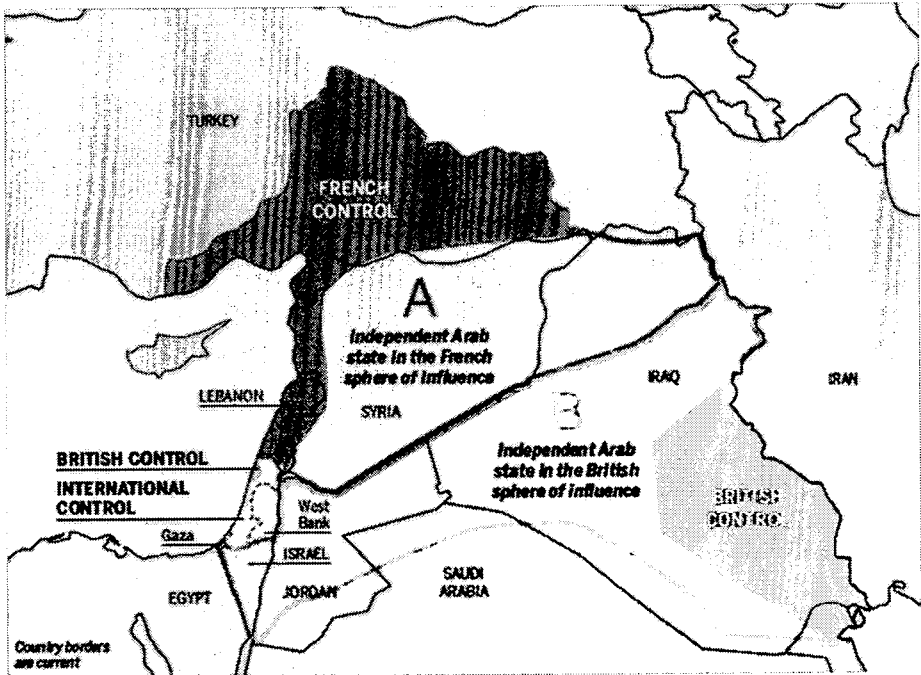
62. See Eugene Rogan, *A Century After Sykes-Picot*, CAIRO REV. GLOB. AFF. (2015), <https://www.thecairoreview.com/essays/a-century-after-sykes-picot/> [<https://perma.cc/S95K-VUGX>] (archived Nov. 11, 2019) (discussing the positions and objectives of the British and French leading up to the Sykes-Picot Agreement); see also ROGAN, *supra* note 1.

63. JAMES BARR, A LINE IN THE SAND: BRITAIN, FRANCE AND THE STRUGGLE THAT SHAPED THE MIDDLE EAST 17–26 (2011).

64. MICHAEL PROVENCE, THE LAST OTTOMAN GENERATION AND THE MAKING OF THE MODERN MIDDLE EAST 63 (2017).

representatives to London to determine the extent of their demands in Syria.<sup>65</sup> The stage was thus set for the Sykes-Picot Agreement.

### B. Sykes-Picot<sup>66</sup>



*Sykes-Picot Map<sup>67</sup>*

The agreement reached between the British and French representatives did not produce a map of territorial boundaries so much as a map dividing areas of direct administration from zones of influence.<sup>68</sup> The former represented territories that would remain under European administration while the latter territories would be zones of indirect control, which might lend themselves to the Arab

65. See generally Edward P. Fitzgerald, *France's Middle Eastern Ambitions, the Sykes-Picot Negotiations and the Oil Fields of Mosul, 1915–1918*, 66 J. MOD. HIST. 697 (1994) (discussing British and French discussions in London regarding Syria).

66. See Sykes-Picot Agreement, Gr. Brit.–Fr., May 15, 1916, [https://wwi.lib.byu.edu/index.php/Sykes-Picot\\_Agreement](https://wwi.lib.byu.edu/index.php/Sykes-Picot_Agreement) [<https://perma.cc/26NY-ZKJJ>] (last visited Mar. 4, 2020) (archived Nov. 11, 2019). The original Sykes-Picot map has been reproduced in every modern history of the Middle East. See Ruthven, *supra* note 7 (reproducing the images distributed by ISIS).

67. This simplified mapping of the division of the region produced by the Sykes-Picot Agreement can be found here: <https://i.redd.it/aw2mcfz3iwy11.png> (last visited Mar. 4, 2020) [<https://perma.cc/ZX4S-GC6S>] (archived Mar. 4, 2020) [hereinafter Sykes-Picot Map].

68. BERDINE, *supra* note 54, at 79–80.

kingdom promised to the Hashemites or might become quasi-independent states in some other formulation.<sup>69</sup>

To conduct these negotiations, the French sent François, Georges-Picot their former consul general in Beirut, to meet with Mark Sykes, Middle East adviser of the British War Secretary Lord Herbert Kitchener.<sup>70</sup> The agreement and attendant map reflected various Ottoman administrative demarcations (the Sykes-Picot lines were drawn on an Ottoman map, transliterated into Latin characters, that clearly showed these designations) as well as positions of influence already occupied by Britain and France respectively in Mesopotamia and the Levant by 1916.<sup>71</sup> By contrast, the map they drew does not correspond to the modern boundaries of Arab states, as illustrated by consulting the map above, which shows Sykes-Picot overlaid onto a map of the contemporary Middle East.<sup>72</sup>

The orange area shown on the map was to be under direct British rule and contained the Ottoman provinces of Basra and Baghdad, as well as a portion of what is today Kuwait and the Gulf coast of Saudi Arabia. The Anbar region of western Iraq was included in the British sphere of influence while Mosul province was in the French sphere of influence. The Ottoman designation for the cluster of three provinces (Baghdad, Basra, and Mosul), "Irak Arabi," is clearly visible on the original Sykes-Picot map even as the lines drawn sever the historic ties between Mosul and the other provinces of Ottoman "Irak."<sup>73</sup>

The blue area shown on the map was to be under direct French control and contained a large part of southeastern Anatolia together with the eastern Mediterranean coast from Alexandretta through Damascus and down to Palestine. In other words, this area does not correspond to the political boundaries of any current states in the region but encompasses all of Lebanon and parts of Turkey, Syria, and historic Palestine. The description inscribed on the underlying

69. CHRISTOPHER SIMON SYKES, *THE MAN WHO CREATED THE MIDDLE EAST* 258–59 (William Collins 2016) (noting that non-Arab communities, like the Kurds, with a significant presence on these lands were not acknowledged in the arrangements sketched on the Sykes-Picot map).

70. See BARR, *supra* note 63, at 25.

71. See Karin Loevy, *Railways, Ports, and Irrigation: The Forgotten Regional Landscape of the Sykes-Picot Agreement*, 36 B.U. INT'L L.J. 287, 333–34 (2018).

72. David Gardner, *Middle East: Cracking Up*, FIN. TIMES (Nov. 26, 2013), <https://www.ft.com/content/82550c80-4c7e-11e3-958f-00144feabdc0> [<https://perma.cc/92CF-D9CW>] (archived Nov. 11, 2019) (including the map superimposing the map accompanying the Sykes-Picot agreement on the modern borders of the Middle East).

73. See *Sykes-Picot Agreement*, WIKIPEDIA (2019), [https://en.wikipedia.org/wiki/Sykes%E2%80%93Picot\\_Agreement#/media/File:MPK1-426\\_Sykes\\_Picot\\_Agreement\\_Map\\_signed\\_8\\_May\\_1916.jpg](https://en.wikipedia.org/wiki/Sykes%E2%80%93Picot_Agreement#/media/File:MPK1-426_Sykes_Picot_Agreement_Map_signed_8_May_1916.jpg) [<https://perma.cc/29K7-9QT2>] (archived Nov. 11, 2019) (image of the original map appended to the Sykes-Picot Agreement).



Ottoman map reads “Syria” in capital letters running from Palestine to just inland of Latakia. This area, known as greater Syria for the Ottomans, encompassed provinces from Jaffa in the south up to Aleppo in the north, including inland areas that lie in contemporary Jordan.

The central area of the map is divided into “A” and “B” territories that were to become an “independent Arab state” or a “confederation of Arab states” with the northern A region envisioned as a French sphere of influence and the southern B region as a British sphere of influence.<sup>74</sup> The agreement on the ultimate status of these territories was left ambiguous, possibly to enable the eventual reconciling of this map with the Hussein-McMahon Correspondence, allowing the designated spheres of influence to serve as the basis for a single independent Arab state.<sup>75</sup> The terms of the agreement equally suggest that these zones might eventually become the basis for two Arab states each with significant economic concessions for the respective colonial powers.<sup>76</sup> Finally, Palestine was separately designated for international administration, the ultimate form of which was to be determined based on consultation with the Russians.<sup>77</sup>

The only border of present-day Iraq that corresponds in any way to the Sykes-Picot lines is the southern section of the border with Syria. Under the terms of the agreement, this was not actually a border for the British administered Iraq region but rather a part of the boundary between the A and B spheres of influence. Moreover, when this border was eventually established between present-day Syria and Iraq, it was not on the basis of the Sykes-Picot Agreement, but relied on earlier Ottoman administrative designations together with demands made by local resistance movements.<sup>78</sup> The remainder of the lines on the Sykes-Picot map do not correspond to any of the contemporary borders of the Arab world. Indeed, the swath of territory that ISIS sought to control in 2014 corresponds to the French sphere of influence designated by the Sykes-Picot map, joining central and eastern Syria with the Mosul province of Iraq.<sup>79</sup> Rather than erasing the Sykes-Picot boundaries, ISIS unwittingly worked to resurrect them.

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74. See BARR, *supra* note 63, at 26 (the division reflected an entirely Arabized conception of the post-Ottoman trajectory of these territories).

75. See YAPP, *supra* note 52, at 278–80.

76. See BARR, *supra* note 63, at 26.

77. See Sykes-Picot Map, *supra* note 67 (the Palestinian cities of Acre and Haifa, however, were carved out as areas of British administration, as is visible on the map).

78. Reidar Visser, *Proto-Political Conceptions of ‘Iraq’ in Late Ottoman Times*, 3 INT’L J. CONTEMP. IRAQI STUD. (2009).

79. Sara Pursley provides this important observation in her excellent two-part essay on Iraq’s borders, critiquing David Fromkin. See Pursley, *supra* note 13 (observing ISIS’s sought-for land corresponded with the French area on the Sykes-Picot map, critiquing David Fromkin).

C. *Setting the Borders: Facts on the Ground over Lines on the Map*

The Sykes-Picot Agreement was overtaken by events long before it could be implemented.<sup>80</sup> The agreement itself was concluded at the high point of Anglo-French imperial ambition and optimism, confidence that was shaken by the end of the war with the intervention of the Americans.<sup>81</sup> The British contribution to the war effort in the Middle East was far greater than the French and, inevitably, the distribution of territory and zones of influence was destined to shift.<sup>82</sup> Moreover further commitments had been made in the years between Sykes-Picot and the end of the war, not least the Balfour Declaration,<sup>83</sup> which would require direct British control over Palestine rather than an international administration.<sup>84</sup> Following the 1918 armistice, a meeting between French Prime Minister Georges Clemenceau and British Prime Minister Lloyd George renegotiated the respective shares of Ottoman Arab territories accorded to each country.<sup>85</sup> This revision awarded the British the control they desired over Palestine and annexed to the British sphere of influence the Mosul province, which had become strategically significant with the discovery of oil.<sup>86</sup>

At the Paris Peace Conference of 1919, the gap between the various Anglo-French agreements and the Hussein-McMahon Correspondence became apparent.<sup>87</sup> The head of the Arab delegation to the conference, Sharif Hussein's son, Faisal, demanded an Arab Kingdom through the union of Ottoman greater Syria (with international mediation on the question of Palestine) and the Hijaz (already ruled by Hussein).<sup>88</sup> To secure their own claims over Iraq, the

80. Indeed, most of the Anglo-French agreements during the war were revisited or jettisoned after the armistice. For example, the earlier Constantinople Agreement was another set of secret commitments by the British-French-Russian triple entente during the war, assigning the straits between the Black Sea and the Mediterranean to Russia. The agreement became moot with Russia's withdrawal from the war. See FROMKIN, *supra* note 2, at 137–55.

81. See BARR, *supra* note 63 (describing rapid transformation of British and French positions after the conclusion of the agreement); see also FROMKIN, *supra* note 2, at 342–44 (noting contemporaneous denunciations of the treaty by senior British officials).

82. See FROMKIN, *supra* note 2, at 373–79.

83. See *id.* at 253–99.

84. See BERDINE, *supra* note 54, at 174.

85. See BARR, *supra* note 63, at 56–70.

86. See James Barr, *The Divisive Line: The Birth and Long Life of the Sykes-Picot Agreement*, in RAJA SHEHADEH AND PENNY JOHNSON, *SHIFTING SANDS: THE UNRAVELING OF THE OLD ORDER IN THE MIDDLE EAST* 33, 45–46 (2015).

87. See BARR, *supra* note 63, at 65–67.

88. This position actually reflected a concession on the part of the Arab delegation. Accepting international mediation of the Palestine question was a retreat

British chose instead to honor agreements that recognized French claims over Syria.<sup>89</sup> The result was a new Arab revolt, this time seeking the creation of a Syrian kingdom under Faisal. An independent Arab kingdom of Syria was proclaimed in Damascus on March 8, 1920, forcing the British and French to repudiate Hashemite claims to rule and formalize the division of Ottoman territories at a conference the following month in San Remo.<sup>90</sup> While Faisal's forces were easily defeated by the French, this first revolt in 1920 marked the beginning of a series of skirmishes involving not only the British and the French but also local actors contesting boundaries and asserting nationalist claims requiring territorial renegotiations from 1920 to 1939.<sup>91</sup> These included Arab, Armenian, Kurdish, and Turkish forces all waging battles of resistance against the European carve up of the region, resulting in changes on the ground that impacted the final contours of Arab boundaries.<sup>92</sup>

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from the position taken in the earlier correspondence. But having issued the Balfour declaration in the intervening period, the British were no longer able to accept this concession, since they were committed to directly administering Palestine in keeping with their Balfour commitment. See ROGAN, *supra* note 1, at 315. The separation of Palestine from greater Syria was seen at the time by the local populations of the region as the most illegitimate of the lines drawn in the aftermath of World War I. The polling of Arab publics undertaken at the time by the American King-Crane commission in 1919 showed widespread support for Palestine remaining attached to greater Syria. On the polling data, see James Zogby, *Opinions Matter: A Lesson from History*, HUFFINGTON POST (May 25, 2011), [https://www.huffpost.com/entry/opinions-matter-a-lesson\\_b\\_112259](https://www.huffpost.com/entry/opinions-matter-a-lesson_b_112259) [<https://perma.cc/4AZP-B4N6>] (archived Nov. 12, 2019) (polling of Arab publics undertaken at the time by the American King-Crane commission in 1919 showed widespread support for Palestine remaining attached to greater Syria). See generally James Gelvin, *The Ironic Legacy of the King-Crane Commission, in THE MIDDLE EAST AND THE UNITED STATES 13–30* (David W. Lesch ed., 2007).

89. See CLEVELAND & BUNTON, *supra* note 58, at 151, 153.

90. The significance of San Remo for the French was to formalize the British withdrawal from Syrian territories so that they could impose terms on Faisal without British interference. Thus, the goals of San Remo were set by Arab demands for independence. Once Faisal was vanquished, the French still faced popular resistance in Damascus and Aleppo, causing them to resort to a divide-and-rule strategy to further partition of Syria in the hopes of blocking the formation of a united nationalist front across the territory. In the end, those French subdivisions did not endure. See Ayse Tekdal Fildis, *The Troubles in Syria: Spawned by French Divide and Rule*, 18 MIDDLE E. POL'Y COUNCIL 4 (2011), <https://www.mepec.org/troubles-syria-spawned-french-divide-and-rule> [<https://perma.cc/KB5K-8EZJ>] (archived Nov. 12, 2019) (discussing the establishment of Syria). For a detailed discussion of the San Remo conference and the agreement it produced, see PAUL C. HELMREICH, FROM PARIS TO SÈVRES: THE PARTITION OF THE OTTOMAN EMPIRE AT THE PEACE CONFERENCE OF 1919-1920, at 291–313 (Ohio St. Univ. Press 1974) (detailing the conference at San Remo).

91. See DANIEL NEEP, OCCUPYING SYRIA UNDER THE FRENCH MANDATE 34–38 (Cambridge Univ. Press 2012).

92. See ROGAN, *supra* note 1, at 317–18 (the independence movements that drove these conflicts were concentrated in Syria, Iraq, the Arabian peninsula and the Anatolian territories of Turkey. As a consequence of these conflicts, Turkey and Saudi Arabia eventually emerged with boundaries set by their military victories rather than European map-making. Their boundaries also determined frontiers for parts of Syria, Iraq and Jordan, among others.).

Less than a year after San Remo, a second conference was convened, this time in Cairo, to address local resistance to European administration by coming to terms with Sharif Hussein and his sons.<sup>93</sup> In the time between the two conferences, a nationwide revolt against British rule in Iraq was put down through aerial bombardment and scorched earth tactics that killed thousands of Iraqis and reportedly also led to several hundred British deaths.<sup>94</sup> The insurgency against the British began in Baghdad but quickly spread throughout Iraq, drawing in the provincial tribes, the major urban centers, and all of the ethnic and religious communities of the country.<sup>95</sup> In the aftermath of the revolt, British officials met with their chosen Arab interlocutors at the Cairo conference in March 1921 to resolve the conflicting commitments they had made in the various World War I-era agreements.<sup>96</sup> The meeting yielded a decision to create a new kingdom in the territory east of the Jordan river for Hussein's son Abdullah, to install Faisal as the king of Iraq, and to recognize Sharif Hussein as the king of Hijaz.<sup>97</sup>

The San Remo and Cairo conferences shaped European responses to local resistance movements opposed to the Anglo-French division of Ottoman territories.<sup>98</sup> As borders were adjusted to accommodate demands from local actors and to reconcile conflicting commitments to Arab publics as well as European partners,<sup>99</sup> the lines of Sykes-Picot were overridden and literally overwritten from 1915 to the 1930s until little remained of the secret Anglo-French agreement.

The most definitive repudiation of European mapmaking in this period was the Turkish war of independence that overturned the terms of the (never ratified) Treaty of Sèvres, which had apportioned much of Anatolia between Britain, France, Greece, Italy, and the Kurdish and Armenian populations of the region.<sup>100</sup> The treaty was rendered obsolete by military resistance by Turkish and Kurdish forces that eventually succeeded in liberating Anatolia from occupation forces and

93. See FROMKIN, *supra* note 2, at 502–03.

94. See CHARLES TRIPP, *A HISTORY OF IRAQ* 40–45 (2d ed. 2002) (describing Iraq's revolt against British rule).

95. See *id.* at 40–44.

96. See BARR, *supra* note 63, at 112–14.

97. See MADAWI AL-RASHEED, *A HISTORY OF SAUDI ARABIA* 39–46 (Cambridge Univ. Press 2010) (ebook) (The lines dividing Hijaz from the rest of central Arabia would eventually be redrawn by the conquest of Hijaz by the Saudis in 1924–25, establishing new boundaries that had not been contemplated on European maps of the region.).

98. On the outbreak of an anti-colonial revolt in Iraq in response to the San Remo conference, see SARA PURSLEY, *FAMILIAR FUTURES: TIME, SELFHOOD AND SOVEREIGNTY IN IRAQ* 37–45 (2019).

99. On the negotiation of Iraqi borders under the British mandate by British officials responding to the demands of local populations, see, e.g., Pursley, *supra* note 13.

100. See ROGAN, *supra* note 1, at 312.

setting the borders of Turkey.<sup>101</sup> The resolution of the Greco-Turkish War set the modern boundaries of the two states<sup>102</sup> and indirectly resulted in the downfall of Lloyd George, whose inability to muster the support of European allies to defend the Dardanelles led to a withdrawal of support in parliament, triggering a general election that swept him from office.<sup>103</sup> Territorial realities reversed not only maps but the fortunes of mapmakers. Additional military campaigns in Turkey eventually resulted in setting the northern borders of Syria and Iraq in Article 3 of the Treaty of Lausanne,<sup>104</sup> with several additional adjustments between 1925 and 1939 to take into account continued conflicts over Mosul and Alexandretta/Hatay province.<sup>105</sup>

In the end, the frontiers that emerged in the Ottoman territories after the fall of the empire were not only a result of European imperial designs but also local resistance and renegotiation over a period of two decades marked by armed border contestation and nationalist mobilizations. As discussed above, Sykes-Picot was not controversial because it set boundaries, since its vision of a post-Ottoman European order for the Middle East was never implemented. Rather, it was controversial first because of the secrecy surrounding the talks between Sykes and Picot that produced a self-interested bilateral pact excluding the interests of wartime allies including Arab nationalists.<sup>106</sup> Second, because the agreement planned to prolong European tutelage rather than transition the post-Ottoman territories to independence, it was seen as inconsistent with the terms of the

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101. *See id.* at 395.

102. *See id.*

103. *See* KRISTIAN COATES ULRICHSEN, *THE FIRST WORLD WAR IN THE MIDDLE EAST 178–80* (2014).

104. These military campaigns were heavily fortified by Kurdish forces who were fighting alongside Anatolian forces in the Turkish war of independence. This military alliance took shape under the framework of a National Pact (*misak-i milli*) to liberate from foreign occupation all lands designated by the final Ottoman Parliament as destined to be part of a Turkish homeland. These lands included both Mosul province and parts of Aleppo province, areas with large Kurdish communities. The Kurdish objectives in joining the Pact were to maintain the territorial integrity of the Kurdish lands of the Ottoman territory. This goal, in turn, was connected to commitments by Turkish leaders that after independence they would found a Muslim state composed of Turkish and Kurdish peoples. On the vision of the National Pact as a struggle for a state composed of the “Turkish and Kurdish remnants of the empire,” *see* DAVID MCDOWALL, *A MODERN HISTORY OF THE KURDS 187–90* (1996). On Mustafa Kemal’s commitments to Kurdish leaders during the independence struggle, *see* ERIC J. ZÜRCHER, *TURKEY: A MODERN HISTORY 170* (2004) (ebook). These commitments were later betrayed, as will be discussed below. *See infra* notes 244–245 and accompanying text.

105. On the setting of the final Turkish borders, *see* SARAH SHIELDS, *FEZZES IN THE RIVER: IDENTITY POLITICS AND EUROPEAN DIPLOMACY IN THE MIDDLE EAST ON THE EVE OF WORLD WAR II 230–44* (Oxford Univ. Press 2012).

106. *See* CLEVELAND & BUNTON, *supra* note 58, at 152. Also excluded were the preferences of non-Arab communities, like the Kurds, present on the same territories. *See id.*

alliance between the British and the leaders of the Arab revolt.<sup>107</sup> Sykes-Picot was flawed not because the lines it drew were artificial, but because they were negotiated in secret and without the participation of local actors.<sup>108</sup> The actual borders that emerged after World War I bore little resemblance to Sykes-Picot and were instead a function of later Anglo–French renegotiations influenced by preexisting Ottoman administrative lines and contemporaneous resistance by local actors in battles on the ground from Anatolia to Iraq to Palestine.

### III. PROJECTS IN CONTEMPORARY CARTOGRAPHY

While most commentators and analysts might agree with the basic empirical observation that the Sykes-Picot Agreement does not correspond to the borders of the modern Arab state system, they would likely defend the view that these are nonetheless artificial states produced by a more complicated series of European agreements and negotiations. At base, they argue, the borders of the region are fraying because of their imperial origins and attendant artificiality.<sup>109</sup> In the words of one commentator:

Let's look at the reality on the ground in the Middle East: Iraq and Syria are effectively partitioned along sectarian lines; Lebanon and Yemen are close to fracturing; Turkey, Egypt and Saudi Arabia survive intact but as increasingly authoritarian states. . . . The state boundaries drawn by the Versailles Treaty in 1919 to replace the Ottoman Empire can't hold the fractious peoples together.

107. *See id.*

108. Sykes-Picot remains controversial in the Kurdish communities of the Middle East for the additional reason that it revealed the erasure of Kurdistan from Western imperial designs for a post-Ottoman order. The agreement reflected a European conception of the region premised on its *Arab* identity in the parts of the empire not inhabited by Turkish-speakers. While the Sykes-Picot map did not take any local actors' preferences into account, its failure to even acknowledge Kurds as a community with an equally long-standing territorial basis in the region was striking. A century later, Sykes-Picot was still remembered bitterly by Kurdish leaders in the region as a symbol of western erasure of their collective claims. For example, Massoud Barzani, then the president of the Kurdistan Regional Government in Iraq, used the occasion of the centenary to pursue an independence referendum. *See* Sangar Ali, *Kurds Call for Independence on Sykes-Picot Anniversary*, KURDISTAN24 (May 16, 2016), <https://www.kurdistan24.net/en/economy/4e04350b-fce1-4e57-bfdb-a1f25055c27e/Kurds-call-for-independence-on-Sykes-Picot-anniversary> [<https://perma.cc/25ZX-VN93>] (archived Nov. 10, 2019).

109. *See* David Ignatius, *Piecing Together the Shattering Middle East*, WASH. POST (June 17, 2014), [https://www.washingtonpost.com/opinions/david-ignatius-piecing-together-the-shattering-middle-east/2014/06/17/e73812f8-f63a-11e3-a606-946fd632f9f1\\_story.html](https://www.washingtonpost.com/opinions/david-ignatius-piecing-together-the-shattering-middle-east/2014/06/17/e73812f8-f63a-11e3-a606-946fd632f9f1_story.html), [<https://perma.cc/V4SD-7Z7S>] (archived Nov. 10, 2019)

And a U.S.-led system that kept the region in a rough balance has been shattered by America's failed intervention in Iraq.<sup>110</sup>

Ignatius goes on to describe the “new map” that is emerging under these pressures.<sup>111</sup> His depiction echoes debates in the Beltway and beyond concerning the potential partition of Iraq and Syria.<sup>112</sup>

In broad strokes, Ignatius is describing the processes that have defined the region's borders and connecting them to current destabilization.<sup>113</sup> First, the collapse of the Ottoman order, then the end of the mandate system followed by an American-led regional balance of power that held borders in place, and now, with the unraveling of the American security order following the Iraq War, a new era in which states are being fractured into what Ignatius describes as “ethnic cantons.”<sup>114</sup> This diagnosis of the challenges facing the region was shared by numerous American commentators and analysts, with a deluge of analysis along these lines at the height of ISIS' campaigns in Syria and Iraq.<sup>115</sup> What also emerged out of this conventional wisdom was a series of experiments in trying to design new borders for the region.<sup>116</sup>

Beyond the initial diagnosis of what ails the region, what these maps share in common is a perceived mismatch between current frontiers and the reality of underlying social divisions that are ethnic, tribal, and sectarian. In seeking to remedy this mismatch, the new maps draw lines that are designed to better correspond to social cleavages. For some commentators, new lines need to reflect both local identities and prevailing geopolitical realities.<sup>117</sup> For instance, in describing the need for new states or “fully autonomous areas in Sunni northern Iraq and eastern Syria,” one analyst invokes first the realities of Sunni revolt in the two countries.<sup>118</sup> But by the same token, the argument also requires recognizing that Russia would have to be made a stakeholder in the new borders:

Procuring a Russian agreement to the creation of these two new entities would not be easy; but there would be considerable prizes for Russia in such a deal. The

110. *Id.*

111. *Id.*

112. *See id.* (“Iraq has splintered into a Sunni north and west; a Kurdish northeast; and a Shiite south that, with Iranian help, retains Baghdad; Syria is a patchwork, with an Alawite-dominated corridor from Damascus to Latakia on the Mediterranean coast; Druze and Kurdish minorities have mini-cantons, but much of the rest of the country is held by fighters from the Sunni majority.”).

113. *See id.*

114. *Id.*

115. *See supra* notes 4–15 and accompanying text.

116. *See infra* Sections III.A–C.

117. *See* Anatol Lieven, Opinion, *The Key to Crushing ISIS*, N.Y. TIMES (Dec. 3, 2015), <https://www.nytimes.com/2015/12/04/opinion/anatol-lieven-the-key-to-crushing-isis.html> [<https://perma.cc/UL73-SZ3J>] (archived Nov. 10, 2019).

118. *Id.*

first would be that the existing Syrian state would be preserved over much of its territory allowing the continued presence of Russian military bases and economic ties . . . The second would be an American and NATO recognition of equal partnership with Russia in solving this crisis.<sup>119</sup>

The creation of new states in northern Iraq and eastern Syria is described at once as the realpolitik recognition of facts on the ground and as part of a new grand chessboard in which powerful external actors—not the British and the French, but the United States, NATO, and Russia—would have to strike a deal involving functional spheres of influence in the new countries. More recently, American analysts and officials have advocated the creation of “safe zones” in northern Syria backstopped by an agreement between the United States, Turkey, and Russia on a similar logic.<sup>120</sup>

While many commentators have offered arguments that describe the fracturing of existing states and then provide a normative rationale for new borders, a smaller number have actually produced maps corresponding to their vision and traced imagined cartographies of a new Middle East. In what follows, this Article will describe three such remappings before addressing the arguments that underpin the logic of new borders.<sup>121</sup>

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119. *Id.*

120. See, e.g., Michael R. Gordon et al., *Turkey Seeks U.S. Aid in Syria*, WALL ST. J., Jan. 5, 2019, at A1 (noting that James Jeffrey, “the State Department envoy, is seeking to forge an arrangement with the Turks that would allow them to enter northern Syria, while avoiding largely Kurdish areas . . . Mr. Jeffrey and his State Department team have created a color-coded map of northeastern Syria in an attempt to negotiate a power-sharing plan . . . One former U.S. official described the map as ‘Sykes-Picot on acid,’ a reference to the secret post-World War I deal between France and England that carved up the Middle East into colonial spheres of influence.”).

121. I omit several additional “new maps” due to space constraints. An early example not considered in detail here was proposed in *Vanity Fair* in 2007 and discussed briefly above. Incorporating insights provided by David Fromkin, Dennis Ross, Kenneth Pollack and Daniel Byman, the magazine produced a “social and cultural” mapping of the region to illustrate the variance between communal identities deemed salient and the actual political boundaries in the region. The result identifies seventeen “nations of the Middle East,” including such imagined nations as “Arabia Felix,” (spanning parts of Yemen and Saudi Arabia) and Tetrapolis (including parts of Syria and Jordan). See Murphy & Hussein, *supra* note 40. Another remapping was offered by Syria scholar Joshua Landis on Fareed Zakaria’s CNN program, *Global Public Square* (or GPS). Landis argued for a north-south partition of Syria. One state would be in north-eastern Syria, largely land-locked with a possible port in the northwest corner of the country. This would be a Sunni state to be supported by regional Sunni countries tasked with ensuring the emergence of a non-ISIS form of rule. Southern Syria would remain governed by the Alawite minority, though it would encompass Damascus and Druze areas and would remain a multi-confessional state. Landis left indeterminate in his account the fate of an “autonomous Kurdish region.” Ultimately, he claimed that his new map of Syria would be more stable because it would reflect the sectarian realities on the



### A. Ralph Peters's Blood Borders<sup>122</sup>

In one of the earliest examples of a new mapping exercise, retired United States Army lieutenant colonel Ralph Peters published a map in the *Armed Forces Journal* that created quite a stir.<sup>123</sup> Peters explicitly argued in the article that “without such major boundary revisions, we shall never see a more peaceful Middle East.”<sup>124</sup>

The borders Peters drew were designed to “correct” for injustices visited on communities with national identities that were not awarded states.<sup>125</sup> Corrections included some relatively conventional recommendations, such as the creation of an independent Kurdistan, though Peters’s map produced a larger Kurdish country out of the lands of Turkey, Syria, Iraq, and Iran than others might envision.<sup>126</sup> Iraq was then further subdivided to produce a “Sunni Iraq” and an “Arab Shia State” that would also gain territory from Saudi Arabia and Iran.<sup>127</sup>

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ground. See *Landis on a Syria Solution*, CNN (Nov. 7, 2014), <http://www.cnn.com/videos/bestof/2014/11/08/exp-gps-landis-sot-syria.cnn> [<https://perma.cc/VWR5-TPGP>] (archived Nov. 10, 2019). For a discussion of a larger collection of the new maps that proliferated among American and French analysts over the last fifteen years, see Neep, *supra* note 13.

122. See Peters, *supra* note 26.

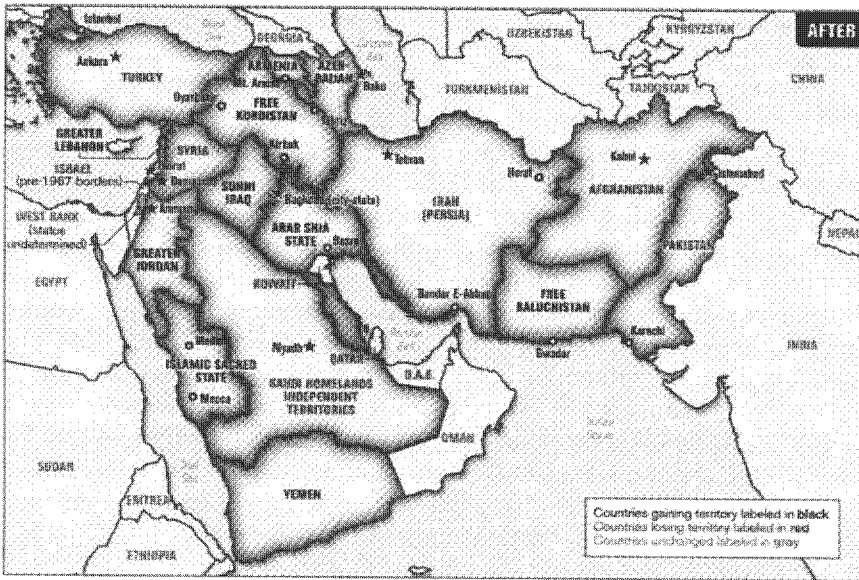
123. On the controversial reception of Peters’ map, see Christopher Dickey, *Don’t Redraw the Mideast Map*, NEWSWEEK (Oct. 4, 2006), <https://www.newsweek.com/dickey-dont-redraw-mideast-map-111485> [<https://perma.cc/JQ2E-WN9P>] (archived Dec. 31, 2019) (noting the experience of American reporters encountering the map in a mosque in Baghdad and among Kurdish guerillas in northern Iraq). Dickey notes that “[a]t the NATO Defense College in Rome last month, another American colonel reportedly presented Peters’ cartographic fantasy for discussion, only to have the Turkish officers in the lecture walk out.” *Id.*

124. Peters, *supra* note 26.

125. *Id.*

126. See *id.*

127. *Id.*



*Peters's Remapping of the Middle East*<sup>128</sup>

Less conventional recommendations include the division of Saudi Arabia with some of its territory absorbed by an expanded Jordan; an expanded Yemen; and a new Arab Shia State, which would absorb Bahrain and encircle Kuwait: The remaining rump portion of Saudi Arabia would be further divided in two, with what he described as “a sort of Muslim super-Vatican” called the Islamic Sacred State encompassing the Hijaz.<sup>129</sup> He also recommended the dismemberment of Pakistan, the expansion of Lebanon (at the expense of Syria) and the return of Israel to its pre-1967 borders.<sup>130</sup>

All of these changes are justified for Peters on the grounds that “this hypothetical redrawing of boundaries reflects ethnic affinities and religious communalism—in some cases, both.”<sup>131</sup> He concluded that “[i]f the borders of the greater Middle East cannot be amended to reflect the natural ties of blood and faith, we may take it as an article of faith that a portion of the bloodshed in the region will continue to be our own.”<sup>132</sup> The redrawing of Middle Eastern boundaries is necessary

128. Peters’ “Blood Borders” Map, ARMED FORCES JOURNAL (Oct. 2, 2013), <http://armedforcesjournal.com/peters-blood-borders-map/> [https://perma.cc/ZK7T-VNNR] (archived Mar. 22, 2020).

129. Peters, *supra* note 26.

130. *See id.*

131. *Id.*

132. *Id.*

for Western security, on his account, as much as it is for the region's stability.<sup>133</sup>

Peters, a regular commentator on Fox News until his abrupt resignation from the network in 2018, is a retired United States Army lieutenant colonel and intelligence expert who writes about United States strategy in the Middle East.<sup>134</sup> His vision for “amending” national boundaries tracks an idealized conception of the ethnic and sectarian makeup of the underlying population in the different regions, the kind of abstraction that would have been familiar to colonial mapmakers. But this idealized conception of the region elides the fact that the demographic concentrations on the basis of which the new lines are drawn reflect, at most, the identity of a plurality of the population in the regions he renders autonomous. Like most of the Middle East, these territories are actually incredibly diverse, with multiple ethnic and religious communities coexisting in different proportions throughout and straddling across each of the new borders.<sup>135</sup> To transform the existing underlying makeup of the region into the relatively homogenous imagined new entities Peters conjures would require a degree of violence and population transfer that is rarely made explicit. Even after such violence, the new states would likely still contain significant minority communities living within borders designed for an ethno-sectarian majority, reproducing the very risk of instability the new map was drawn to address.

### B. Jeffrey Goldberg's *After Iraq*<sup>136</sup>

In describing his new mapping, Goldberg begins with the observation (quoting David Fromkin) that “the modern map of the Middle East . . . ‘became what it is today both because the European

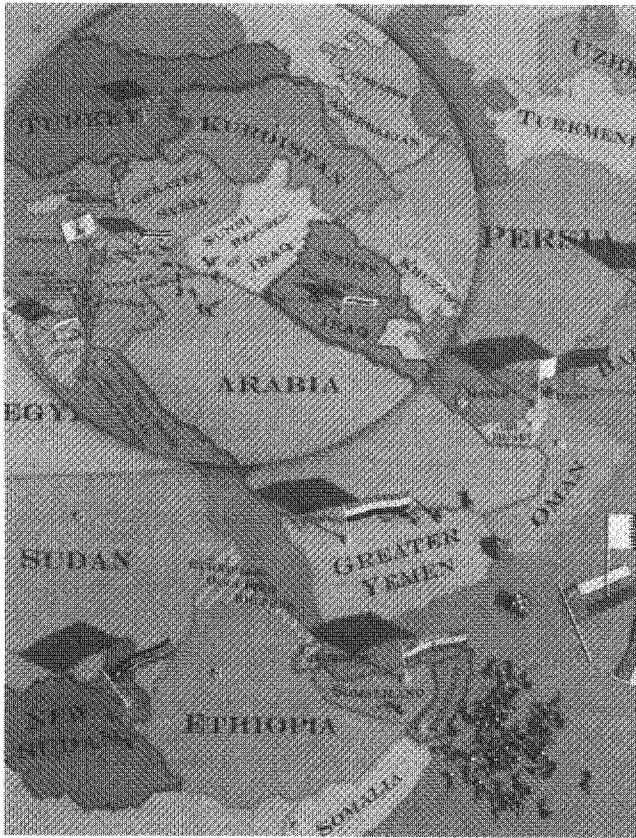
133. *Id.* Specifically, by arguing that “a portion of the bloodshed in the region will continue to be our own” if borders are not redrawn, Peters explicitly linked the imperative of new borders to the interest in ending American bloodshed in the region.

134. See Tom Namako, *An ‘Ashamed’ Fox News Commentator Just Quit the Propaganda Machine*, BUZZFEED NEWS (Mar. 20, 2018), <https://www.buzzfeednews.com/article/tomnamako/ralph-peters> [https://perma.cc/59UD-JH72] (archived Nov. 10, 2019).

135. For a discussion of the persistent heterogeneity of cities like Baghdad and Basra in Iraq, see Sami Ramadani, *The Sectarian Myth of Iraq*, GUARDIAN (June 16, 2014), <https://www.theguardian.com/commentisfree/2014/jun/16/sectarian-myth-of-iraq> [https://perma.cc/6JR8-CHEQ] (archived Nov. 10, 2019).

136. See generally Jeffrey Goldberg, *After Iraq*, ATLANTIC (Jan.–Feb. 2008), <https://www.theatlantic.com/magazine/archive/2008/01/after-iraq/306577/> [https://perma.cc/UB4A-SLVY] (archived Nov. 10, 2019) [hereinafter Goldberg, *After Iraq*]. Goldberg reprinted the map with additional comments on its boundaries in a follow-up online article for the magazine seven years later. See Jeffrey Goldberg, *The New Map of the Middle East*, ATLANTIC (June 19, 2014), <http://www.theatlantic.com/international/archive/2014/06/the-new-map-of-the-middle-east/373080/> [https://perma.cc/R75R-TTXH] (archived Nov. 10, 2019) [hereinafter Goldberg, *The New Map of the Middle East*].

powers undertook to re-shape it and because Britain and France failed to ensure that the dynasties, the states, and the political system that they established would permanently endure.”<sup>137</sup> In the absence of long-term colonial rule or indirect administration to shore up these allegedly artificial states, they proved unsustainable on this account.<sup>138</sup> The boundaries that will emerge in the wake of Arab state failure will presumably be more authentic expressions of local identities and preferences.<sup>139</sup> Like Peters’s map, Goldberg’s includes an independent Kurdistan as an instantly recognizable example of “natural” lines resurfacing.<sup>140</sup>



*Goldberg’s Remapping of the Middle East*<sup>141</sup>

137. See Goldberg, *After Iraq*, *supra* note 136.

138. See *id.*

139. See *id.*

140. See *id.*

141. See Goldberg, *The New Map of the Middle East*, *supra* note 136. This image was originally published in *The Atlantic* on June 19, 2014, and is republished here with *The Atlantic’s* permission.

Similarly, Iran is reduced to its predominantly Persian territories, ceding land to a “Greater Azerbaijan,” and a newly created Arab Khuzestan.<sup>142</sup> Writing in 2008, Goldberg projects the tripartite division of Iraq and argues that long-term instability in the region could also result in the breakup of Sudan, Syria, Lebanon, Iran, and Pakistan.<sup>143</sup> Such breakups, he notes, would likely make for a less conflict-prone and more stable region once new borders were established.<sup>144</sup> A substantial section of the article accompanying his map describes Goldberg’s interview with Peters about his earlier map.<sup>145</sup> The largely approving description of Peters’s conception of “a more logical Middle East” ends with Peters’s perplexity at why neoconservatives within the Bush administration had remained committed to a unified Iraq rather than seeking a more ambitious objective.<sup>146</sup> In a follow-up article on his own map, written in 2014, Goldberg observes: “When we were preparing the map that accompanied the article, we erred on the side of whimsy and exaggeration. However, in looking it over today, it doesn’t seem entirely fanciful.”<sup>147</sup> He goes on to note that in the intervening period, Sudan had become two countries and that something like an “Alawite Republic” has emerged out of the Assad-dominated parts of Syria.<sup>148</sup>

Strikingly, in 2014 Goldberg concludes his reflections on the “new map” drawn in the pages of the *Atlantic* six years earlier by returning to the question of Sykes-Picot:

I was very critical of the imperial hubris that motivated the Sykes-Picot division of the Middle East by the British and French. But I’ve warmed to the argument that the Sykes-Picot arrangement was, in one sense, inadvertently progressive. The makers of the modern Middle East roped together peoples of different ethnicities and faiths (or streams of the same faith) in what were meant to be modern, multicultural, multi-confessional states. It is an understatement to say that the Middle East isn’t the sort of place where this kind of experiment has been shown to work.<sup>149</sup>

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142. See Goldberg, *After Iraq*, *supra* note 136.

143. See *id.* In his article, Goldberg cites as an unintended consequence of the Iraq war, “the likelihood that the Kurds will achieve their independence and that Iraq will go the way of Gaul and be divided into three parts.” *Id.*

144. See *id.*

145. See *id.* (The interview is described in a subsection of the essay titled “Mapping the New Middle East.”)

146. See *id.* (“Peters said he noticed early on as well that the administration was committed to a unified Iraq, and to the preexisting, European-drawn map of the Middle East. ‘This is how strange things are—the greatest force for democracy in the world has signed up for the maintenance of the European model of the world,’ he said.”)

147. Goldberg, *The New Map of the Middle East*, *supra* note 136.

148. See *id.* Interestingly, Goldberg does not acknowledge that his prediction that the division of Sudan would end the violent conflict in those territories did not come to pass.

149. *Id.*

Thus, for Goldberg, one of the advantages of imagining a new map is abandoning what he views as illusions of multicultural coexistence. Instead, on his account, clear-eyed realists must embrace, at a minimum, the partition of Iraq, while taking care to “forestall the creation of permanent jihadist safe havens.”<sup>150</sup> As with Peters, the price of Goldberg’s recipe for a more stable region must necessarily include population transfers and ethnic cleansing. While the prospect of demographic engineering receives little attention in Goldberg’s analysis, the reminder to beware of unintended consequences involving jihadists provides a reminder of the Western security concerns that animate the new maps.

*C. Robin Wright’s Imagining a Remapped Middle East*<sup>151</sup>

In 2013, Robin Wright introduced her proposed remapping by observing that “the centrifugal forces of rival beliefs, tribes and ethnicities—empowered by unintended consequences of the Arab Spring—are pulling apart a region defined by European colonial powers a century ago.”<sup>152</sup> Unlike the earlier maps, hers takes note of the developments in the region following the Arab uprisings and, importantly, the Libya intervention.<sup>153</sup> In the end, her map focuses on the fates of five countries: Syria, Iraq, Saudi Arabia, Yemen, and Libya. While Iraq and Syria are divided into four states based on sectarian or ethnic identity (Alawitistan, Shiitestan, Kurdistan, and Sunnistan), Saudi Arabia, Yemen, and Libya are divided along geographical and tribal identities for the most part.<sup>154</sup> The resulting map produces fourteen countries in place of the five that she begins with.<sup>155</sup> Wright treats what she is describing on her map as the medium-term outcome of trajectories that have been set in motion through a combination of the Arab uprisings and the Syrian civil war.<sup>156</sup>

She argues that “[n]ew borders may be drawn in disparate, and potentially chaotic, ways. Countries could unravel through phases of federation, soft partition or autonomy, ending in geographic divorce.”<sup>157</sup> That description tracks, perhaps intentionally, the

150. *Id.*

151. Robin Wright, *Imagining a Remapped Middle East*, N.Y. TIMES (Sept. 28, 2013), [archive.nytimes.com/www.nytimes.com/2013/09/29/opinion/sunday/imagining-a-remapped-middle-east.html](https://archive.nytimes.com/www.nytimes.com/2013/09/29/opinion/sunday/imagining-a-remapped-middle-east.html) [<https://perma.cc/WF69-F7A2>] (archived Apr. 29, 2020).

152. *Id.*

153. *See id.*

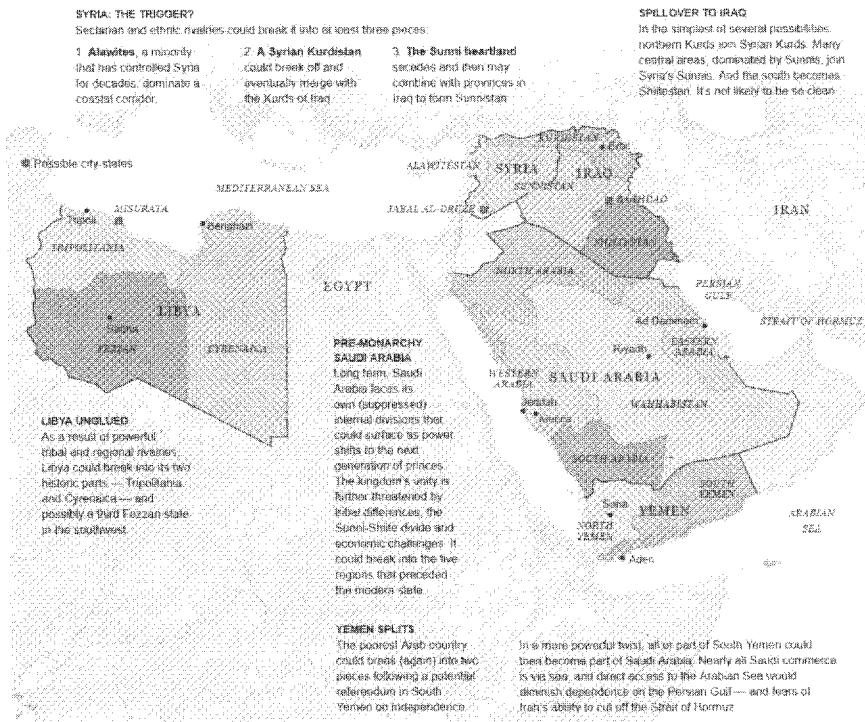
154. *Id.*

155. *Id.*

156. *See id.* (“The Arab Spring was the kindling. Arabs not only wanted to oust dictators, they wanted power decentralized to reflect local identity or rights to resources. Syria then set the match to itself and conventional wisdom about geography.”).

157. *Id.*

trajectory of Iraqi Kurdistan from the “soft partition” established by the no-fly zone set up over the territory in 1991 to the autonomy verging on secession currently enjoyed by the Kurdistan Regional Government.<sup>158</sup>



*Wright's Remapping of the Middle East*<sup>159</sup>

Wright concedes that there are factors that could keep the region's borders from fraying to produce the partitions she traces.<sup>160</sup> These factors include “good governance, decent services and security, fair justice, jobs and equitably shared resources, or even a common enemy.”<sup>161</sup> She concludes, however, that such factors are “far off” in the Arab world while the Syrian War's continuing destabilization of the region makes state breakdown more likely.<sup>162</sup>

158. *Id.* (In reflecting on the possibility of an independent greater Kurdistan, Wright notes that in 2013, Massoud Barzani, president of Iraqi Kurdistan, announced plans for the first summit meeting of six-hundred Kurds from nearly forty parties in Iraq, Syria, Turkey, and Iran. “We feel conditions are now appropriate,” said Kamal Kirkuki, the former speaker of Iraq's Kurdish Parliament, about trying to mobilize disparate Kurds to discuss their future.”).

159. *Id.* Image from the New York Times. © 2013 The New York Times Company. All rights reserved. Used under license.

160. *Id.*

161. *Id.*

162. *Id.*

Of course, at some level Wright, like all of these mapmakers, understands her own thought experiment to be equally as “far off” as the likelihood of good governance in the region.<sup>163</sup> But the shared characteristic across all three maps is the fundamental belief that stability in the region would require that ethnic, religious, and tribal cleavages correspond directly to spatial divisions on a map and, by extension, political sovereignties. What is troubling about these maps is not the probability of their implementation. Rather, it is the intuition that the pathologies of the region are grounded in the identities of its diverse peoples rather than state institutions that might be amenable to reform.

Remappings of the region’s borders are generally presented as thought experiments intended to reveal the sources of current destabilization and the potential trajectory of apparently fracturing states. There is one area where all of the new lines converge: Kurdistan. Here, the maps are less flights of imagination and more grounded exercises of realpolitik. For example, in discussing the critical role of the Kurds as ground forces in the fight against ISIS, numerous commentators observe that an unintended consequence of arming the Kurds has been facilitating ambitions for full independence and the attendant risk of dismembering Iraq (and possible secession of Rojava from Syria to a newly independent Kurdistan).<sup>164</sup> The 2017 Kurdish independence referendum is perhaps the only example of a concrete development on the ground in the region that suggests an appetite for new state formation.<sup>165</sup>

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163. *See id.*

164. *See, e.g.,* Paddy Ashdown, *Western intervention over Isis won't prevent the break-up of Iraq*, GUARDIAN (Aug. 14, 2015), <https://www.theguardian.com/commentisfree/2014/aug/14/western-intervention-isis-iraq-muslim> [https://perma.cc/P6HQ-24YV] (archived Nov. 10, 2019) (arguing that the US and the UK will “end up acting as handmaidens to Kurdish ambitions for full independence”); Henri Barkey, *The Meaning of Kobani*, AM. INTEREST (Oct. 18, 2014), <https://www.the-american-interest.com/2014/10/18/the-meaning-of-kobani/> [https://perma.cc/F67X-866C] (archived Nov. 10, 2019) (arguing that US aerial bombardment of IS positions in Kobani secured a Kurdish victory that has consolidated Kurdish nationhood); *see generally* DAVID L. PHILLIPS, *KURDISH SPRING: A NEW MAP FOR THE MIDDLE EAST* (2015).

165. On September 25, 2017, an independence referendum was held in Iraqi Kurdistan at the initiation of the Kurdish Democratic Party and its leader, then-president of the Kurdistan Regional Government (KRG), Masoud Barzani. 93% of votes cast favored independence. Predictably, however, the Iraqi Constitutional Court declared the vote unconstitutional. Within weeks, Baghdad marched troops into the oil-rich city of Kirkuk, which had previously come under KRG control, occasioning substantial loss of territory for Iraqi Kurdistan. Most observers believe that Barzani campaigned for a referendum to shore up his own party against Iraqi Kurdish opposition groups and to strengthen the KRG’s hand in negotiations with Baghdad for greater autonomy within existing borders. If so, the gamble backfired badly, weakening the



The Kurdish case in some ways exemplifies the mapmakers' dilemma. On the one hand, Sykes-Picot and the subsequent agreements between European powers, Turkish leaders, and various Arab representatives all reflected a profound disregard for the Kurdish community's longstanding territorial claims. The toponym "Kurdistan" has as much historical significance as "Irak Arabi" or any of the other regional designations on the Ottoman map.<sup>166</sup> An area that enjoyed a large measure of autonomy under the Ottomans until the modernizing and centralizing reforms of the nineteenth century, Kurdistan was inhabited by a population that shared a language and cultural identity that was recognized as distinctive under the empire.<sup>167</sup> With the fall of the Ottomans, the Kurds sought autonomy arrangements either through an alliance with the successor state to the Ottomans—which they hoped would enable the restoration of their autonomy through a form of decentralized rule—or through an independent state.<sup>168</sup> Neither of these came to pass as Kurdish lands were divided three ways between the British and French mandates and the new Turkish state.<sup>169</sup> Moreover, the British and French negotiated the future of their mandates primarily with local Arab leaders, reflecting their conception of the post-Ottoman Middle East as an essentially Arab region without equal regard for other communities.<sup>170</sup> On the other hand, the Kurdish case reflects the acutely destabilizing potential of any attempt to redraw borders, however deep their historical antecedents. The Kurdish communities now enclosed within the post-Ottoman territorial boundaries of Turkey, Syria, and Iraq have each

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KRG's position and shrinking its territory. The referendum demonstrated both that the overwhelming majority of Kurds in Iraq support independence in principle, and that the constraints of the regional context have led them, for the most part, to seek more meaningful autonomy within Iraq rather than actual secession. For my analysis of the referendum, see Ash Bâli, *Independence Referenda Through the Prism of Kurdistan*, INT'L J. CONST. L. BLOG (Dec. 27, 2017), <http://www.iconnectblog.com/2017/12/independence-referenda-through-the-prism-of-kurdistan-i-connect-column/> [<https://perma.cc/5HP7-2RKC>] (archived Nov. 10, 2019).

166. MCDOWALL, *supra* note 104, at 6 (noting that the term "Kurdistan" was first used as a geographical term by the Seljuk dynasty in the twelfth century).

167. See *id.* at 1–87 (history of Kurdish identity and social formation as well as its status under the Ottomans).

168. As discussed briefly above, Kurdish forces joined the Anatolian military campaign as part of the National Pact (or *misak-i milli*) in a bid to maintain the territorial integrity of Ottoman Kurdish lands. *Id.* at 124–47 (noting that to keep Kurdish forces on side, the Turks promised to "support a policy . . . of decentralized local government by the subject races" in their new state. The Kurdish struggle to free the province of Mosul of western occupation as part of the National Pact campaign was eventually betrayed by Turkish leaders who signed the Lausanne Treaty, setting borders that left Mosul under the British mandate. With Turkey's borders set after Lausanne, Ottoman Kurdish territories were left divided.).

169. *Id.* at 115–50 (Chapter 7: "Redrawing the Map: The Partition of Ottoman Kurdistan").

170. ROGAN, *supra* note 1, at 390–406 (describing the post-war view of the non-Turkish Ottoman territories as "Arab lands" by European powers).

pursued autonomy *within* those borders in a variety of ways. The Kurdistan Regional Government in Iraq has attained the highest degree of independence under a federal arrangement in place since 2005, while the Kurdish community of northeastern Syria has more recently declared itself an autonomous region in the course of that country's civil war.<sup>171</sup> The Kurdish community in Turkey has, at different times, pursued autonomy through an armed insurgency and through a political process of decentralization.<sup>172</sup> Yet whenever the pursuit of autonomy has drawn existing borders into question, the result has been armed conflict—producing horrific, largely Kurdish, casualties—and the preservation of existing borders, often with international support.<sup>173</sup>

Beyond Kurdistan, the new maps are far more disconnected from events on the ground, serving instead as projections of future geographies based in the current demographic makeup of the region. The fantastical nature of the maps is conceded by these cartographers who recognize, at times with regret, that current world powers have evinced no desire to see borders rearranged. Even in the Kurdish case,

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171. See generally Michael J. Kelly, *The Kurdish Regional Constitution within the Framework of the Iraqi Federal Constitution: A Struggle for Sovereignty, Oil, Ethnic Identity and the Prospects for a Reverse Supremacy Clause*, 114 PENN ST. L. REV. 707 (2010) (discussing the Kurdish Regional Government in Iraq and its constitutional status); Si Sheppard, *What the Syrian Kurds Have Wrought*, ATLANTIC (Oct. 25, 2016) <https://www.theatlantic.com/international/archive/2016/10/kurds-rojava-syria-isis-iraq-assad/505037/> [<https://perma.cc/S87P-LBVA>] (archived Nov. 10, 2019); *Syrian Kurds declare new federation in bid for recognition*, MIDDLE E. EYE (Mar. 17, 2016), <https://www.middleeasteye.net/news/syrian-kurds-declare-new-federation-bid-recognition> [<https://perma.cc/H83W-GCXP>] (archived Nov. 10, 2019) (discussing the autonomy of the Kurdish Syrian region of Rojava).

172. See generally Michael M. Gunter, *The Turkish-Kurdish Peace Process*, 14 GEO. J. INT'L AFF. 101 (2013) (a concise discussion of these efforts).

173. Casualties of the armed conflict between the Turkish military and the Kurdish insurgency are estimated to be over 40,000. See Berkay Mandiraci, *Turkey's PKK Conflict: The Death Toll*, INT'L CRISIS GROUP (July 20, 2016), <https://www.crisisgroup.org/europe-central-asia/western-europemediterranean/turkey/turkey-s-pkk-conflict-death-toll> [<https://perma.cc/F7X2-Y6AS>] (archived Nov. 10, 2019) (describing various casualty estimates ranging from 30,000 to 45,000 for the period from 1984 to the 2010s); see also Tal Axelrod, *Syrian Democratic Forces official warns of 'humanitarian catastrophe' ahead of expected Turkish operation*, THE HILL (Oct. 8, 2019), <https://thehill.com/policy/international/middle-east-north-africa/464950-syrian-democratic-forces-official-warns-of> [<https://perma.cc/54BW-UF48>] (archived Nov. 10, 2019) (the Syrian Kurdish enclave of Rojava is embattled on all sides, facing the real prospect of a Turkish onslaught as well as the risk of repression from Damascus); Loveday Morris, *How the Kurdish independence referendum backfired spectacularly*, WASH. POST (Oct. 20, 2017), [https://www.washingtonpost.com/world/how-the-kurdish-independence-referendum-backfired-/2017/10/20/3010c820-b371-11e7-9b93-b97043e57a22\\_story.html](https://www.washingtonpost.com/world/how-the-kurdish-independence-referendum-backfired-/2017/10/20/3010c820-b371-11e7-9b93-b97043e57a22_story.html) [<https://perma.cc/4ZJB-KYCK>] (archived Nov. 10, 2019) (noting the independence referendum in Iraqi Kurdistan in 2017 resulted in the Iraqi army engaging in a military action against the Kurdistan Regional Government leading the latter to lose control of the major city of Kirkuk).

the United States and other major world powers formally oppose the creation of an independent Kurdistan with new borders.<sup>174</sup> The emergence of *de facto* autonomous enclaves in Iraqi Kurdistan or Syrian Rojava have not been discouraged, but the proposition of translating these developments into *de jure* border shifts enjoys neither regional nor international support.<sup>175</sup> Kurdish communities appreciate the challenges of seeking independence when each of the countries in which a majority of Kurds reside treats secession as a *casus belli*.<sup>176</sup> As a result, Kurdish leaders in each of these states have pursued a range of strategies to gain a greater measure of independence from within existing borders.<sup>177</sup> Indeed, there may be

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174. Mohammad Zargham, *U.S. 'strongly opposes' Iraqi Kurdish independence vote: State Department*, REUTERS, Sept. 20, 2017, <https://www.reuters.com/article/us-mideast-crisis-kurds-usa/u-s-strongly-opposes-iraqi-kurdish-independence-vote-state-department-idUSKCN1BV32I> [<https://perma.cc/LP9F-8T89>] (archived Nov. 10, 2019); *UK opposed referendum on independence of Iraqi Kurdistan*, FRONT NEWS INT'L (Sept. 17, 2017), <http://frontnews.eu/news/en/13436/UK-opposed-referendum-on-independence-of-Iraqi-Kurdistan> [<https://perma.cc/GN86-VYW3>] (archived Nov. 10, 2019).

175. There is certainly indigenous Kurdish support for an autonomous Kurdistan. While sometimes expressed in secessionist terms, however, the Kurdish community has been an especially creative source of alternative arrangements—short of shifting borders—for realizing autonomy without territorial independence. In particular, there have been many experiments among the Kurdish communities of Syria, Iraq and Turkey with federal or decentralized arrangements. *See, e.g.*, Anne Barnard, *Syrian Kurds Hope to Establish a Federal Region in Country's North*, N.Y. TIMES (Mar. 16, 2016), <https://www.nytimes.com/2016/03/17/world/middleeast/syria-kurds.html> [<https://perma.cc/3APL-DDYQ>] (archived Nov. 10, 2019); Viola Gienger, *Iraqi Unity Will Require Federalism, Cooperation, Kurdish Leaders Say*, U.S. INST. FOR PEACE (Sept. 19, 2014), <https://www.usip.org/publications/2014/09/iraqi-unity-will-require-federalism-cooperation-kurdish-leaders-say> [<https://perma.cc/Q6SD-FY4V>] (archived Nov. 10, 2019) (citing comments by the chief of staff to Masoud Barzani, president of the Iraq's Kurdistan region, and the regional government's minister of foreign relations); *PKK leader reiterates Kurdish confederation a 'stateless solution'*, HÜRRİYET DAILY NEWS (Apr. 8, 2013), <http://www.hurriyetdailynews.com/pkk-leader-reiterates-kurdish-confederation-as-stateless-solution--44479> [<https://perma.cc/UU4K-3RT5>] (archived Nov. 10, 2019).

176. *See, e.g.*, Morris, *supra* note 173 (noting that “Turkey, Iran and Syria were deeply concerned that the [independence referendum] vote [in Iraqi Kurdistan] would fan secessionist sentiment among their own Kurdish populations. Along with Baghdad, they have the power to completely besiege the landlocked region economically.”). But if conditions in Iraq produced *de facto* independence for Kurdistan, the other regional powers might adapt to that scenario, so long as they could secure their own territories against secession. For a discussion of possible scenarios for Kurdish independence and threat perceptions in the region, *see generally* ALIREZA NADER, LARRY HANAUER, BRENNALLEN, & ALI G. SCOTTEN, REGIONAL IMPLICATIONS OF AN INDEPENDENT KURDISTAN 5 (2016).

177. *See, e.g.*, Joost Jongerden, *Governing Kurdistan: Self-Administration in the Kurdistan Regional Government in Iraq and the Democratic Federation of Northern Syria*, 18 ETHNOPOLITICS 61 (2018) (discussing the non-state governmental system created by the Syrian Kurdish community); Guney Yildiz, *Kurdistan: A State or a State of Mind?*, CAIRO REV. (2019), <https://www.thecairoreview.com/essays/kurdistan-a-state-or-a-state-of-mind/> [<https://perma.cc/AG3C-BDML>] (archived Nov. 10, 2019); Michiel

few communities in the world where average citizens have a greater appreciation for theories of devolution and decentralization than the Kurds of Turkey, Syria, and Iraq.<sup>178</sup> Decentralization is, no doubt, understood as a second-best means of achieving autonomy for Kurdish communities that wish to reunify territory divided across three post-Ottoman states, but their current political projects reflect the view that even a second-best option remains preferable to war.

If the new maps are intended as thought experiments concerning what might have been or what might yet come rather than real world policy proposals, it is tempting to dismiss their significance. Yet, the importance of these maps lies in what they reveal about prevailing arguments and preferences in American and international policy circles. The maps are a guide to what these analysts view as the best means to resolve the conflicts currently raging in the Arab world and produce a more stable basis for regional order. Given the outsized role that the United States has played in the fate of Iraq over the last quarter century,<sup>179</sup> and the impact the 2003 war in Iraq has had on setting in motion the destabilization of the region,<sup>180</sup> American policy debates about the implications of the resulting sectarian conflicts matter. The equation of identity with geography has potentially far-reaching consequences if it settles into conventional wisdom. When each new development in the ongoing Iraqi transition occasions hand wringing about the viability of existing borders, the idea of altering borders risks being normalized.<sup>181</sup> Although the United States may be seeking to reduce its profile in the Middle East,<sup>182</sup> it remains one of the

Leezenberg, *The ambiguities of democratic autonomy: the Kurdish movement in Turkey and Rojava*, 16 J. SE. EUR. & BLACK SEA STUD. 671 (2016) (discussing theories of autonomy through democratic decentralization developed by Kurdish political actors as a means of realizing autonomy within existing borders in Syria and Turkey).

178. See, e.g., Jongerden, *supra* note 177; Leezenberg, *supra* note 177, at 671–90; Sheppard, *supra* note 171.

179. For a summary of the more than twenty-five years of U.S. intervention in Iraq, see Emma Sky, *Reflecting on 25 Years of US Policy Towards Iraq*, JUST SEC. (Jan. 26, 2016), <https://www.justsecurity.org/28974/reflecting-25-years-policy-iraq/> [https://perma.cc/AF6Z-TPEE] (archived Nov. 10, 2019).

180. For an assessment of the destabilizing consequences of the Iraq war prepared for the U.S. Air Force by the RAND Corporation, see, e.g., FREDERIC WEHREY ET. AL., *THE IRAQ EFFECT: THE MIDDLE EAST AFTER THE IRAQ WAR* (RAND Project Air Force, 2010), [https://www.rand.org/content/dam/rand/pubs/monographs/2010/RAND\\_MG892.pdf](https://www.rand.org/content/dam/rand/pubs/monographs/2010/RAND_MG892.pdf) [https://perma.cc/Y7U3-YWQQ] (archived Nov. 10, 2019).

181. See, e.g., Tim Arango, *With Iraq Mired in Turmoil, Some Call for Partitioning the Country*, N.Y. TIMES (Apr. 28, 2016), <https://www.nytimes.com/2016/04/29/world/middleeast/with-iraq-mired-in-turmoil-some-call-for-partitioning-the-country.html> [https://perma.cc/MJ26-U9R3] (archived Nov. 10, 2019).

182. See, e.g., Marc Lynch, *Obama and the Middle East: Rightsizing the U.S. Role*, FOREIGN AFF. (Sept. 2015), <https://www.foreignaffairs.com/articles/middle-east/obama-and-middle-east> [https://perma.cc/66TK-D54F] (archived Nov. 10, 2019); Eileen

most powerful external interveners in the region from Yemen to Libya to Syria and Iraq.<sup>183</sup> The commentary that informs American policymakers' judgments about the relative merits of partitions or the normative desirability of ratifying the effects of ethno-sectarian cleansing are of some consequence.

#### IV. DERIVING CARTOGRAPHY FROM DEMOGRAPHY

Jeffrey Goldberg's remarks in 2014 on the remapping he had envisioned seven years earlier provide an explicit link between latter-day cartography and critiques of Sykes-Picot. In contemplating where earlier mapmaking had gone wrong, Goldberg argues that Sykes-Picot had been "too progressive" for the Middle East, which just "isn't the sort of place" where "modern multicultural and multiconfessional states" can be established.<sup>184</sup> The states produced by the Sykes-Picot maps were not merely artificial, by his account.<sup>185</sup> They were the products of a modern sensibility transcending ethnicity and sect to produce political communities made up of a cross section of the underlying communal identities of the region.<sup>186</sup> But such modern states were not sustainable, he suggests, in a region where loyalties remained tribal, ethnic, and religious.<sup>187</sup> On this argument, the peoples brought together by European lines on the map were never able to cohere into communities that would serve as loyal citizens of their new states. To echo a scholar of *uti possidetis* writing in another context, preserving such borders might amount to a kind of "cosmopolitan diktat," forcing diverse peoples to live together.<sup>188</sup> Implicit in Goldberg's observations are three interrelated arguments that are common to the imagined cartographies described in the earlier section and to the many other "remappings" of the Middle East that have proliferated in the last decade. First, the states produced by European agreements in the post-Ottoman Arab world were artificial. Second, these artificial states were inherently unstable because of the

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Sullivan, *Defending Syria Withdrawal, Trump Says U.S. Should Not Be 'Policeman of the Middle East'*, N.Y. TIMES (Dec. 20, 2018), <https://www.nytimes.com/2018/12/20/us/politics/trump-syria-withdrawal.html> [https://perma.cc/959J-AAL9] (archived Mar. 19, 2020).

183. For an overview of US military involvement in these countries, see Anthony Cordesman, *U.S. Wars in Iraq, Syria, Libya and Yemen: What Are the Endstates?*, CTR. FOR STRATEGIC INT'L STUD. (Aug. 15, 2016), <https://www.csis.org/analysis/us-wars-iraq-syria-libya-and-yemen-what-are-endstates> [https://perma.cc/GQL4-AW2F] (archived Nov. 10, 2019).

184. Goldberg, *The New Map of the Middle East*, *supra* note 136.

185. *Id.*

186. *Id.*

187. *Id.*

188. Stephen R. Ratner, *Drawing a Better Line: Uti Possidetis and the Borders of New States*, 90 AM. J. INT'L L. 590, 617 (1996).

combustible combination of ethnic and sectarian identities they internalized. And third, better, more stable borders were possible a century ago and may yet emerge out of the conflicts that now characterize the region.

### A. Artificial “Quasi-States”

The political scientist Robert Jackson coined the phrase “quasi-states” to signify states that were accorded juridical sovereignty through decolonization without having the attributes of positive sovereignty—notably the ability to protect borders, foster human rights, promote socioeconomic welfare, and provide citizens with political goods.<sup>189</sup> More recently, Greg Gause, an expert in the comparative politics of the Middle East, has suggested that the Arab world is increasingly made up of quasi-states.<sup>190</sup> Jackson argued that reifying colonial borders produced an unjust distribution of sovereign rights to arbitrary (artificial) units, rather than communities that already enjoyed a common identity.<sup>191</sup> Like Goldberg, then, Jackson takes the view that nonhomogenous, multiethnic, and tribal territories would not lend themselves to becoming successful states capable of exercising positive sovereignty.<sup>192</sup> Further, he noted that in the course of decolonization liberation for some produced enclosures for others.<sup>193</sup> The insight here is that colonial divisions dissected the land of cohesive communities into multiple states, leaving such communities as minorities to be dominated by the principal ethno-sectarian group. The denial of self-determination to peoples whose identity did not correspond to colonial lines was a recipe for persecution on Jackson’s telling.<sup>194</sup> This latter insight echoes Woodrow Wilson’s approach to self-determination,<sup>195</sup> returning us to the debates of the post-World

189. JACKSON, *supra* note 39, at 21.

190. See Gause III, *supra* note 39 (citing JACKSON, *supra* note 39).

191. See JACKSON, *supra* note 39, at 40–47 (describing decolonization as conferring statehood to territories “which usually contain different peoples but are not peoples themselves” thus uniting disparate communities within a single territorial configuration).

192. See *id.* at 149–51 (arguing that these states “were often dominated by particular ethnic groups with the frequent result of inflaming rather than dampening the built-in conflicts of divided societies.”).

193. See *id.* at 41–42 (discussing the plight of Baluchis, Kurds, Sikhs and Tamils, among others).

194. See *id.* at 151–54 (noting that turning ex-colonial borders into the basis for independence has left ethnonational minorities under statesmen who are “abusive and coercive in their domestic conduct which not infrequently is provocative of internal disorder and violence”).

195. See generally ADOM GETACHEW, *WORLDMAKING AFTER EMPIRE: THE RISE AND FALL OF SELF-DETERMINATION* (2019). Getachew argues that Wilson’s conception of self-

War I period over whether the Kurds, as the most obvious example, ought to have been accorded their own state.

Despite the prevailing narratives about Sykes-Picot, however, historical evidence of the artificiality of the postwar Arab state system is thin.<sup>196</sup> As several historians of Iraq have shown, for instance, the origins of the Iraq-as-artificial-state thesis are colonial.<sup>197</sup> The argument did not emerge as an indigenous critique of new boundaries but as a British assertion that “Iraq was not yet coherent enough to govern itself, contrary to the claims of Iraqi nationalists.”<sup>198</sup> In other words, the putative artificiality of Iraq was invoked to justify the colonial administration of the territory.<sup>199</sup> Further, the artificiality thesis served to obscure the history of the 1920 Iraqi revolt, a nationalist resistance movement pursuing independence *within* the post-Ottoman boundaries of Iraq.<sup>200</sup> The adoption of the banner of an independent Iraq by its inhabitants was replaced with a narrative that Iraq was an ungovernable territory in need of tutelage to create a

determination that would map demographically defined communities onto new borders lies at the heart of the conflation of demography and cartography. *Id.* This way of defining self-determination had the effect of precluding other political imaginaries for a post-colonial order from taking shape. *Id.* A recent exploration of the forms of subaltern cosmopolitanism that proposed alternative visions to a post-colonial order of nation-states vividly demonstrates the radical potential for regional solidarities that went largely unrealized as a consequence of the narrow definition of self-determination. *Id.* Kurdish conceptions of nationalism that sat alongside a vision of themselves as members of a multi-national Ottoman state—and possible members of an alliance with a post-Ottoman Turkish state—are one example of such a foreclosed alternative model of self-determination. *Id.* See generally Janet Klein, *Kurdish Nationalists and Non-Nationalist Kurds: Rethinking Minority Nationalism and the Dissolution of the Ottoman Empire, 1908-1909*, 13 *NATIONS & NATIONALISM* 135 (2007) (discussing the multiplicity of conceptions of Kurdish nationalism in the early twentieth century).

196. Even as an equally strong historical case existed in the early twentieth century for an independent Kurdistan within boundaries that also would not have been arbitrary or artificial.

197. See generally TRIPP, *supra* note 94. Tripp establishes that the lands of Mesopotamia had been designated *al-'Iraq* since the eighth century by Arab geographers, were incorporated as an administrative unit in the Ottoman empire during the sixteenth and seventeenth centuries, and were governed for administrative, taxation and military purposes together under the Ottoman imperial order. *Id.* He also argues that the common effects of nineteenth century Ottoman reforms, particularly in the area of land, further integrated the three provinces into a cohesive unit with a multiethnic, multi-confessional population. *Id.*; REIDAR VISSER & GARETH STANSFIELD, *IRAQ OF ITS REGIONS* (2007) (bringing together historians assessing regionalism and federalism in Iraq while acknowledging the development of Iraqi identity prior to and under Ottoman rule).

198. Pursley, *supra* note 13.

199. The contrast with the African experience, where indigenous populations explicitly marked postcolonial borders as artificial, is striking. On the contrasting African experience, see Makau W. Mutua, *Why Redraw the Map of Africa: A Moral and Legal Inquiry*, 16 *MICH. J. INT'L L.* 1113, 1115 (1995).

200. See TRIPP, *supra* note 94, at 36–45 (discussing the 1920 Iraqi revolt); see also PURSLEY, *supra* note 98, at 37–41.

cohesive nation.<sup>201</sup> The artificiality argument was later invoked for similar purposes in the aftermath of the 1991 and 2003 wars against Iraq.<sup>202</sup> The imposition of a no-fly zone over northern Iraq in 1991 resulted in the soft partition of Kurdistan from the rest of Iraq.<sup>203</sup> Following the 2003 Iraq War, more ambitious plans of federation or formal partition were contemplated in then-Senator Joe Biden's 2006 proposal for a trifurcation of Iraq.<sup>204</sup>

As discussed above, European powers set the post-Ottoman boundaries of Iraq through a process largely controlled by the British and the French but impacted by local actors and national resistance movements.<sup>205</sup> The claim that these processes produced artificial borders is inconsistent with the historical record. Ottoman maps from the eighteenth and nineteenth centuries clearly designated the three administrative provinces of Basra, Baghdad, and Mosul together as *al-'Iraq al-'Arabi*.<sup>206</sup> Indeed, the Sykes-Picot map itself shows the transliterated Ottoman administrative designations including the phrase "*Irak Arabi*" over the territory of these three provinces.<sup>207</sup> Far from being artificial, the geographical nomenclature adopted by the mandate powers was simply a continuation of the Ottoman designations, themselves adaptations from earlier Arab dynasties dating back to the eighth century.<sup>208</sup> Sykes-Picot produced lines

201. See Pursley, *supra* note 13, at part 1 (noting that the idea of Iraq as an "artificial state" was a response to the 1920 revolt, "a colonial narrative, invoked to argue that Iraq was not yet coherent enough to govern itself, contrary to the claims of Iraqi nationalists").

202. See, e.g., Martha Stutchbury, *The Artificial Construction of Iraq*, RETROSPECT JOURNAL (Jan. 28, 2019), <https://retrospectjournal.com/2019/01/28/the-artificial-construction-of-iraq/> [<https://perma.cc/VQA8-BZMD>] (archived Mar. 4, 2020) (arguing that the "dysfunctional composition" of the state is related to "increased levels of the divided sectarianism that first presented itself in 1921, and remains a dominant feature of Iraqi politics today"). For examples of more political invocations of Iraq's allegedly "artificial borders" to make latter-day arguments concerning its political trajectory, see Arango, *supra* note 181; see also Ali Khedery, *Iraq in Pieces: Breaking Up to Stay Together*, FOREIGN AFF. MAG. (Nov.–Dec. 2015), <https://www.foreignaffairs.com/articles/iraq/2015-09-22/iraq-pieces> [<https://perma.cc/N4NH-RN9Y>] (archived Mar. 4, 2020).

203. See Michael M. Gunter, *A de facto Kurdish State in Northern Iraq*, 14 THIRD WORLD Q. 295, 295 (1993) (discussing the de facto autonomy accorded the Kurds following the 1991 Gulf War and the imposition of a no-fly zone).

204. See Joseph R. Biden Jr. & Leslie H. Gelb, *Unity Through Autonomy in Iraq*, N.Y. TIMES (May 1, 2016), <https://www.nytimes.com/2006/05/01/opinion/01biden.html> [<https://perma.cc/6XPV-327D>] (archived Nov. 10, 2019).

205. See *id.*

206. See BERDINE, *supra* note 54, at 106 (2018).

207. See Ruthven, *supra* note 7 (emphasis added) (reproducing the images distributed by ISIS).

208. See TRIPP, *supra* note 94, at 8 (noting that "the term *al-'Iraq* (meaning the shore of a great river along its length, as well as the grazing land surrounding it) had



grafted onto an Ottoman map and subsequent British rule retained much of the Ottoman administrative structure, grounding the post-independence territorial iterations of Iraq in Ottoman historical antecedents.<sup>209</sup> Iraqi nationalists resisting British rule were demanding independence within borders that largely coincided not only with the contours of mandate Iraq but with their own sense of their political geography.<sup>210</sup>

A similar history may be provided for post-Ottoman Syria, the borders of which were set around the provinces of Aleppo and Damascus. The Ottoman designation “greater Syria” encompassed a much larger territory, stretching across most of the Levant from Aleppo to Gaza, including contemporary Lebanon, Palestine, and Jordan.<sup>211</sup> From this wider area, the French had already come to terms with the Ottomans in the nineteenth century to carve out a separate governance arrangement for Mount Lebanon to protect Christian communities.<sup>212</sup> Under the mandate, the French transformed this earlier Ottoman administrative boundary into state borders for an independent Lebanon.<sup>213</sup> The more controversial line-drawing exercises were those that carved Jordan and Palestine out of greater Syria. In 1919, the American King-Crane Commission traveled across Palestine, Lebanon, and Syria, interviewing and polling local elites and receiving petitions along the way.<sup>214</sup> Their findings established widespread support across the post-Ottoman Levant for a united and

been used since at least the eighth century by Arab geographers to refer to the great alluvial plain of the Tigris and the Euphrates rivers”).

209. *See id.* at 45 (noting that the institutional definition of the Iraqi state under the British demonstrated that “the old Sunni-dominated order of Ottoman times was being re-established”).

210. *See id.* at 37. Tripp cites a survey by the British concerning the preferences of notables in the three provinces in 1919, which revealed “agreement, outside of the Kurdish areas, that the state should comprise all three of the Ottoman provinces under an Arab government.” *Id.* He suggests that once Iraq gained independence, some of the Kurdish community developed a conception of Iraq as a nation of Arabs and Kurds. *Id.* This included adopting a “progressive nationalist agenda” of pursuing autonomy for Kurdistan within the borders of a democratic Iraq. *Id.*; *see also* Inga Rogg & Hans Rimscha, *The Kurds as Parties to and Victims of Conflicts in Iraq*, 89 INT’L REV. RED CROSS 823, 826 (2007) (discussing the Kurdish Democratic Party of Iraq, and its slogan “Autonomy for Kurdistan, Democracy for Iraq”).

211. CLEVELAND & BUNTON, *supra* note 58, at 211.

212. *See* STANFORD J. SHAW & EZEL KURAL SHAW, REFORM, REVOLUTION, AND REPUBLIC: THE RISE OF MODERN TURKEY, 1808-1975, at 142-44 (1977) (explaining that the “Règlement Organique,” negotiated from 1860-64 created the Mount Lebanon Mutasarrifate, and the terms of this agreement granted Lebanon a semi-autonomous status that separated it from the remainder of greater Syria half a century before World War I).

213. *See* ROGAN, *supra* note 1, at 405.

214. *See id.* at 401.

independent greater Syria.<sup>215</sup> There was little to no local support for according independence to smaller units based on communal identities.<sup>216</sup>

The separation of Palestine from the rest of Syria became irreversible as a consequence of British commitments in the Balfour Declaration.<sup>217</sup> The later decision finalized at the 1921 Cairo Conference to further carve Transjordan out of the Palestine mandate was without precedent.<sup>218</sup> The territory designated “Transjordan” by the British had been “a southerly extension of the province of Syria,”<sup>219</sup> with no prior existence as a defined territory for Ottoman administrative purposes. This was perhaps the only example of a wholly “artificial” state produced under the Anglo–French mandates. The purpose of these new borders was to weaken continuing nationalist resistance to French rule in Syria.<sup>220</sup> By installing a Hashemite ruler in Jordan, the British diverted Arabian military and political support

215. See *The King-Crane Commission Report*, WIKIPEDIA (Aug. 28, 1919), [http://www.lib.byu.edu/index.php/The\\_King-Crane\\_Report](http://www.lib.byu.edu/index.php/The_King-Crane_Report) [<https://perma.cc/X4MN-RFUJ>] (archived Nov. 12, 2019) [hereinafter *King-Crane Report*]; see also Nick Danforth, *The Middle East That Might Have Been*, ATLANTIC (Feb. 13, 2015), <https://www.theatlantic.com/international/archive/2015/02/the-middle-east-that-might-have-been/385410/> [<https://perma.cc/NS6J-EWUQ>] (archived Nov. 12, 2019) (describing the King-Crane Commission and its findings, noting that “the commissioners traveled from city to city accepting petitions and taking testimony, compiling a rare record of Arab popular opinion . . . Some 80 percent of those interviewed favored the establishment of a ‘United Syria.’”).

216. See *King-Crane Commission Report*, *supra* note 215. The Commission reported a rate of 10.9% support for an independent Lebanon and 0.32% support for a separate Palestinian territory carved out of greater Syria. *Id.* Again, here, it is worth noting that the Kurdish community was distinctive in its desire to see Aleppo remain united with other Ottoman Kurdish territories in line with the *misak-i milli* (National Pact) understanding of the Turkish independence struggle. *Id.*; see also MICHAEL PROVENCE, *THE LAST OTTOMAN GENERATION AND THE MAKING OF THE MODERN MIDDLE EAST* 149–51 (2017) (discussing the bitterness provoked by Turkish agreement to borders in Lausanne that were limited to Anatolia); Irfan Aktan, *Mehmet Bayrak: Afrin’e Kurtdaglıların Mutalebatı’ndan bakalım* [Let’s Consider Afrin from the Perspective of its Earlier Kurdish Inhabitants’ Demands], GAZETE DUVAR (Feb. 2, 2018) [<https://perma.cc/C7ES-7HJE>] (archived Nov. 1, 2019) (discussing the Kurdish sense of betrayal over the loss of Aleppo and quoting a well-respected historian of Kurdistan on the demands of Syrian Kurds in Afrin a century earlier, accusing Mustafa Kemal of betraying the National Pact by allowing their lands to be divided from the rest of the Ottoman Kurdistan territories).

217. See ROGAN, *supra* note 1, at 401–02 (discussing the catalysts of the end of the Ottoman empire and the various stages of change in the Middle East).

218. See FROMKIN, *supra* note 2, at 503–06.

219. M.E. YAPP, *THE NEAR EAST SINCE THE FIRST WORLD WAR* 140 (1996).

220. See *id.* at 139–42 (explaining that by offering to install Abdullah, Sharif Hussein’s son, as king of the newly separated Transjordan, the British were compensating for their failure to honor the terms of the Hussein-McMahon correspondence concerning Syria and the subsequent overthrow of Faisal by the French).

for the independence movement in Syria.<sup>221</sup> While it is difficult to imagine a more arbitrary exercise in line-drawing, champions of the “artificial state” thesis have not turned their sights on Jordan. To the contrary, all of the new mappings of the Middle East retain the Jordanian state or expand its territories.<sup>222</sup> That few question the long-term stability of Jordan, even as they attribute instability elsewhere in the region to artificial borders, is a telling inconsistency.

As for the rest of post-Ottoman Syria, the demands of local nationalists in the 1920s were for a united and independent Syria, encompassing as much of the territory of Ottoman greater Syria as possible.<sup>223</sup> Local Arab elites who rejected the creation of smaller communal statelets continued to identify with the Ottoman configuration of Syria.<sup>224</sup> Some scholars argue that the very nationalism of the population of greater Syria led the French to adopt a divide and rule strategy.<sup>225</sup> On this account, the French decision to administratively divide Syria was designed to limit territory-wide political mobilizations of Syrian nationalists.<sup>226</sup> In addition to the carving out of an autonomous Lebanon, four other autonomous statelets were created.<sup>227</sup> Two of these reflected the principal Ottoman provinces of Damascus and Aleppo. The other two were carved out as enclaves for the Alawite and Druze communities.<sup>228</sup> In the end, however, these particular artificial lines did not survive the end of French indirect rule.<sup>229</sup> The historical continuities that defined Syria and Iraq as geographic designations under the Ottomans (and before) survived the Anglo–French carve up of the region. The historical record shows that the states of Syria and Iraq were understood by a majority of their inhabitants as corresponding to preexisting and meaningful identities, even if the precise boundaries between them had shifted as a result of colonial cartography.<sup>230</sup>

The trouble with the artificiality thesis, then, is twofold. First, the states that are deemed most precarious in the post-Ottoman region today—Syria and Iraq—have historical antecedents that long predate

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221. See MARIAN KENT, *MOGULS AND MANDARINS: OIL, IMPERIALISM AND THE MIDDLE EAST IN BRITISH FOREIGN POLICY, 1900-1940* 25 (1993).

222. See, e.g., Goldberg, *After Iraq*, *supra* note 136; Peters, *supra* note 26; Wright, *supra* note 151.

223. See CLEVELAND & BUNTON, *supra* note 58, at 210.

224. See *id.*

225. See Fildis, *supra* note 90, at 134.

226. See NEEP, *supra* note 91, at 31.

227. See *id.*

228. See CLEVELAND & BUNTON, *supra* note 58, at 208–09.

229. See *id.* at 30.

230. See Derek Davison, *Sykes-Picot Still Confounds*, ATTWIW (Nov. 14, 2014), <https://attwiw.com/2014/11/14/getting-sykes-picot-sort-of-right-but-also-kind-of-wrong/> [<https://perma.cc/Y2D4-DPEN>] (archived Nov. 15, 2019) (providing that, as one commentator has argued, “whatever the provenance or desirability of the current Syria-Iraq border might be, there’s no question that ‘Syria’ and ‘Iraq’ have been distinct political, cultural, and later national entities for at least a couple of millennia now”).

Sykes-Picot and other Anglo–French agreements that partially defined their modern borders. Moreover, these geographic designations were sources of identity for the populations living on the territories, as is made plain by the history of nationalist mobilizations they engendered beginning in the 1920s.<sup>231</sup> The example of Jordan also suggests that the absence of historical antecedents or the arbitrary setting of boundaries is not actually dispositive, from the perspective of modern mapmakers, of the legitimacy or stability of states and borders.

### B. *Imagined Communities*

The “artificial state” thesis is not well supported by the historical record of Syria and Iraq. But there may be another sense in which the new cartographers discern artificiality in these particular Arab states. Perhaps what is “artificial” is not the presence or absence of historical antecedents but the fact that the boundaries of Syria and Iraq joined disparate ethnic and religious communities into a single polity. In this sense, it might be argued, the relative homogeneity of the communities that were assembled in newly designated Jordan made for a more sustainable state than the multiethnic, multiconfessional, and diverse tribal communities inhabiting Iraqi and Syrian territories. Setting aside for the moment the identity-based divisions that characterize Jordan,<sup>232</sup> is the artificiality thesis more plausible as a matter of demography rather than geography?

Using underlying demographic divisions such as ethnicity, sect, or tribe as the basis for geographic designations is a foreign approach to state building in a region characterized by millennia of multiethnic,

231. Of course, it should be noted that while the geographic designations of Iraq and Syria were not artificial, nor were they the only or inevitable territorial designations that might have been accorded significance in establishing a post-Ottoman division of the region. As we have seen, historical antecedents and a communal sense of national identification were also present in Ottoman Kurdistan. See generally HAKAN ÖZOĞLU, *KURDISH NOTABLES AND THE OTTOMAN STATE: EVOLVING IDENTITIES, COMPETING LOYALTIES, AND SHIFTING BOUNDARIES* (2004) (discussing the evolution of Kurdish nationalism); KAMAL SOLEIMANI, *ISLAM AND COMPETING NATIONALISMS IN THE MIDDLE EAST 1876–1926* (2016) (discussing the evolution of Kurdish nationalism); Sabri Ateş, *In the Name of the Caliph and the Nation: The Sheikh Ubeidullah Rebellion of 1880–81*, 47 *IRANIAN STUD.* 735 (2014) (discussing the evolution of Kurdish nationalism).

232. See *A Kingdom of Two Halves*, *ECONOMIST* (May 13, 2014), <https://www.economist.com/middle-east-and-africa/2014/05/13/a-kingdom-of-two-halves> [<https://perma.cc/ELK9-HZ3Q>] (archived Nov. 13, 2019) (explaining that, in fact, Jordan is sometimes described as non-homogenous by comparison to countries like Egypt and Tunisia as a consequence of the persistent distinctions between the East Bank Bedouins and the Palestinian refugees that make up the bulk of the population).

multiconfessional political order.<sup>233</sup> The Ottomans ruled for centuries over a multinational empire,<sup>234</sup> where political order was based on loyalty to dynastic rule rather than shared ethnic, religious, or tribal identity.<sup>235</sup> Indeed, from the establishment of Islamic rule in the seventh century under the Umayyads, the Levant, Mesopotamia, and Arabia maintained an astonishing array of ethnically and religiously diverse communities governed by a succession of dynasties without a history of sectarian or ethnic secessions.<sup>236</sup>

There have only been three historical examples of efforts to map territorial boundaries to social identity categories in the region's modern history. The first was the short-lived Treaty of Sèvres.<sup>237</sup> The

233. See Reidar Visser, *Other People's Maps*, 31 WILSON Q. 64, 65 (2007) (observing, as a historian of Iraq, that "what history shows is that using sects as the bases for political entities is among the most marginal and least tested approaches to state building in the land between the Tigris and the Euphrates").

234. The language of "multiculturalism" would be misplaced and anachronistic in describing an imperial order that dated back to the fifteenth century. Still, the basis for political order in the empire was no less "multicultural" to borrow Goldberg's characterization, than corresponding European empires and states of the era. See Goldberg, *After Iraq*, *supra* note 136. Long after nationalist mobilizations produced wrenching wars in Europe, the Middle East remained characterized by communal identities and, by the nineteenth century, nationalisms organized around Arab, Kurdish, Turkish, Armenian and Jewish identities (among others), that were imagined as potentially compatible with Ottoman citizenship by their adherents. See generally BEDROSS DER MATOSSIAN, *SHATTERED DREAMS OF REVOLUTION: FROM LIBERTY TO VIOLENCE IN THE LATE OTTOMAN EMPIRE* (2014) (discussing the efforts of these communities to form a multivocal "Ottomanist" constitutionalism in the nineteenth century to accommodate proto-nationalisms within the frame of imperial citizenship). There is no need to embrace Ottoman nostalgia (and the suspect latter-day geopolitical projects it serves) to acknowledge that the empire's communities sustained alternative political imaginaries to Wilsonian self-determination and the European conception of nation-states. On the other hand, Der Matossian also shows how these alternative visions were ultimately repressed in the twentieth century as senior Ottoman officials themselves embraced a version of Turkish ethno-nationalism that could no longer accommodate a pluralist conception of citizenship. See *id.*

235. See Hooshang Amirahmadi, *Dark Geopolitics of the Middle East*, 18 CAIRO REV. 86, 88 (2015) (describing the political logic of the Ottoman Empire as a "multiethnic state based on loyalty to the ruling dynasty, not on a shared national identity."). As an example, one history of Kurdish notables under the Ottomans notes that while "the Kurds were actively involved in promoting Kurdish identity and culture, they were still Ottomanist" in the nineteenth and early twentieth century. See ÖZÖĞLU, *supra* note 231, at 80–81. Similarly, when the League of Nations sent a fact-finding commission to Mosul to determine the national preferences of the population, they were frustrated by the non-correspondence of ethnic identity with political choices. Their effort "to define affiliations based on a European taxonomy that emphasized ethnicity and nation clashed with Mosul's older Ottoman-style affiliations." Sarah Shields, *Mosul, the Ottoman Legacy and the League of Nations*, 3 INT'L J. CONTEMP. IRAQI STUD. 217, 217 (2009).

236. See generally VERNON O. EGGER, *A HISTORY OF THE MUSLIM WORLD TO 1750: THE MAKING OF A CIVILIZATION* (2017) (providing an overview of dynastic rule in the Middle East from the Umayyads to the 18th century).

237. See generally HEATHER LEHR WAGNER, *THE DIVISION OF THE MIDDLE EAST: THE TREATY OF SÈVRES* (2004) (providing a detailed discussion of the division of Ottoman territories contemplated in the Treaty of Sèvres); see also MCDOWALL, *supra* note 104, at 131–50.

second was the French administrative subdivision of Syria.<sup>238</sup> The third, the division of mandate Palestine by the Partition Plan imposed by the United Nations,<sup>239</sup> has been sustained through external support for more than three-quarters of a century. Rather than a source of stability, that partition has resulted in ongoing regional conflict with the successful creation of “two states” now an increasingly unlikely prospect.<sup>240</sup> By contrast to the externally backed partition of Palestine, the other two attempts at identitarian borders proved unsustainable.

Under the terms of the Sèvres Treaty, Kurdistan and Armenia were to be carved out of Ottoman lands and Anatolia was divided into European spheres of influence, with Greece establishing protectorates in Izmir/Smyrna and Edirne/Adrianopolis partly for the benefit of the Greek Orthodox communities.<sup>241</sup> The partition contemplated by the treaty came closer to an ethnic and sectarian partition, in line with Wilsonian criteria of self-determination, than any of the earlier or subsequent agreements dividing the post-Ottoman territories.<sup>242</sup> The treaty was never implemented and was ultimately overridden by the Turkish war of independence—the aftermath of Sèvres serves as an example of borders being imposed on the European powers rather than being made by them. Indeed, suspicious of the motivations of European occupiers, Kurdish forces fought alongside Turkish nationalists despite Sèvres’ promise of an autonomous Kurdistan.<sup>243</sup> This may in part have been a fight of coreligionists against Christian powers, but it was equally a reflection of a version of Kurdish nationalism still compatible with imagining a shared political future with Turkish communities in a post-Ottoman configuration.<sup>244</sup> The Turkish leadership ultimately

238. See NEEP, *supra* note 91, at 30–32.

239. See Richard Wilner, *Nationalist Movements and the Middle East Process: Exercises in Self-Determination*, 1 U.C. DAVIS J. INT’L L. & POL’Y 297 (1995).

240. See, e.g., NOURA ERAKAT, *JUSTICE FOR SOME: LAW AND THE QUESTION OF PALESTINE* (2019) (providing an overview of the international law dimensions of the Israeli-Palestinian conflict from the Partition through to the Oslo Peace Process and the dismantling of the foundations for a two-state solution).

241. See CLEVELAND & BUNTON, *supra* note 58, at 153–54.

242. See *id.* at 153.

243. See Othman Ali, *The Career of Ozdemir: a Turkish Bid for Northern Iraq, 1921-23*, 53 MIDDLE E. STUD. 966, 970–71 (2017) (discussing the relationship between Turkish and Kurdish military aims in the struggle against the British following the 1920 Sèvres treaty and describing how Turkish military leaders exploited resentment of the British among Kurdish tribes to launch a Kurdish revolt against the British as part of the broader independence struggle).

244. See BILL PARK, *TURKEY’S POLICY TOWARD NORTHERN IRAQ* 14 (2005) (providing an account of the potential motivations of Kurdish chiefs that fought in the Turkish war of independence); see also FEROUZ AHMED, *THE MAKING OF MODERN TURKEY* 48–49 (1993) (noting that the “[Turkish] nationalists understood the value of Islamic discourse as a means of providing maximum unity among a mixed population of Circassians, Lazes, Arabs, Kurds and Turks” in mobilizing them against European occupation).

betrayed any hope of such a multiethnic state by imposing a project of ethno-nationalist state building following the war.<sup>245</sup> Whatever the motivations, however, the fate of Sèvres demonstrates that an early effort to divide the region along ethnic lines resulted in reversal by military defeat.

The second failed example of an attempted mapping of identity onto geography was the French administrative division of Syria (already excluding Lebanon) into four statelets during the mandate.<sup>246</sup> As discussed above, the French divided Syria between separate administrations in Damascus and Aleppo and then further subdivided the country by establishing additional administrative units for the Jabal al-Druze region and for an Alawite territory in the mountains behind Latakia.<sup>247</sup> Yet even for their own administrative purposes, the French were unable to maintain these designations.<sup>248</sup> Under nationalist pressure, the administrations of Damascus and Aleppo were eventually combined.<sup>249</sup> Then, by the end of the mandate, the Alawite and Druze areas were also incorporated into the larger Syrian state under a single administrative structure.<sup>250</sup> While the confessional statelets that the French produced for the Alawites and the Druze were not viable even with French support, decades of segregated rule left a legacy of exacerbated communal divisions.<sup>251</sup>

The experiences of Sèvres and the Syrian mandate subdivisions represented foreign efforts to impose borders that would establish political units with homogenous ethnic or sectarian identities. The post-Ottoman region proved inhospitable to such ethno-sectarian line drawing. Far from being artificial, multiethnic, and multiconfessional societies had characterized Mesopotamia and the Levant for

245. See CLEVELAND & BUNTON, *supra* note 58, at 166–68.

246. See Fildis, *supra* note 90, at 134. Nor would it be correct to cite Lebanon itself as an earlier example of mapping identity onto geography. Rather than producing a state for Christians, under the French mandate Lebanon was managed as a state encompassing Sunni, Shi'i and Christian communities and one increasingly marked by sectarian divisions. See, e.g., Max Weiss, *Practicing Sectarianism in Mandate Lebanon*, 43 J. SOC. HIST. 707, 708–09 (2010) (noting that “over the course of the Mandate period, the cultural political of difference in Lebanon was refracted through the sectarian prism.”).

247. See NEEP, *supra* note 91, at 31.

248. See, e.g., JOHN MCHUGO, SYRIA: A HISTORY OF THE LAST HUNDRED YEARS (2015) (discussing revolts against subdivisions and rise of Syrian nationalism under the French mandate); see also Seda Altuğ, *Suriye Arap Milliyetçiliğinde Vatan ve Suriyelilik (1919–1939)* [*Homeland and Syrianness in Syrian Arab Nationalism (1919–1939)*], 39 I.Ü. SIYASAL BİLGİLER FAKULTESİ DERGİSİ 71 (2008) (Turk.) (discussing the role of the mandate in shaping Syrian nationalism).

249. See NEEP, *supra* note 91, at 31–32.

250. See Fildis, *supra* note 90, at 135.

251. See *id.*

centuries.<sup>252</sup> By contrast, European-style states with political boundaries engineered to correspond to ethnonational or religious identities had no corollaries in the Middle East a century ago. Contemporary efforts to discern “natural” lines in the region that form around ethno-sectarian divisions remain projections of the history of European state formation on to the complex political and demographic makeup of the Arab world.<sup>253</sup>

More generally, the notion that century-old borders are artificial because they failed to account for the particular social cleavages that underlie latter-day conflicts suggests “a supposed transhistorical dominance of religious and ethnic identities over any other identity” that is deeply ahistorical.<sup>254</sup> There have been many different

252. Reidar Visser, the prominent historian of Iraq, has written tirelessly to dispute accounts of Iraqi politics as necessarily sectarian or driven historically by confessional conflicts. See, e.g., Reidar Visser, *Ethnicity, Federalism and the Idea of Sectarian Citizenship in Iraq: A Critique*, 89 INT'L REV. RED CROSS 809 (2007); Reidar Visser, *Historical Myths of a Divided Iraq*, 50 SURVIVAL 95 (2008).

253. A striking example of the contemporary repudiation of ethnonational state formation in the region provides a counterpoint to the new mappings. As we have seen, the Kurdish communities of the region were divided by existing maps. The enclosure of the descendants of the Ottoman Kurdish community in the contemporary nation-states of Iraq, Syria and Turkey is a clear example of how the interwar boundaries excluded an alternative division of post-Ottoman lands that might have produced an autonomous Kurdistan. Of all the redrawn lines imagined by latter-day cartographers, only those related to Kurdistan correspond to clear demands of local communities on the ground. Yet, over the last decade, Abdullah Öcalan, leader of the longstanding Kurdish nationalist movement in Turkey, has shifted his position on Kurdish territorial independence. He has abandoned calls for secession and embraced, instead, a strategy of increased autonomy and cultural rights within Turkey's modern borders. See *Kurdish Leader Öcalan Seeks End to Turkey Armed Struggle*, BRIT. BROAD. CORP. (Feb. 28, 2015), <http://www.bbc.com/news/world-europe-31673830> [<https://perma.cc/MS3P-R8V4>] (archived Nov. 15, 2015). In explaining this evolution in his political thinking, Öcalan reported that he was deeply influenced by reading Benedict Anderson's IMAGINED COMMUNITIES in prison. See Eyüp Can, *Öcalan'dan nasıl kurtuldum itiraftı*, RADIKAL (Feb. 2, 2013) [<https://perma.cc/VUC3-28JL>] (archived Nov. 15, 2019) (translated by Nick Danforth in *An Imprisoned Nationalist Reads Benedict Anderson*, DISSENT (Mar. 7, 2013), <https://www.dissentmagazine.org/blog/an-imprisoned-nationalist-reads-benedict-anderson> [<https://perma.cc/J5F4-UEF3>] (archived Nov. 15, 2019)). Applying Anderson's argument to the Kurdish experience, he drew the conclusion “that national structures can have many different models . . . as I understood that the nation-state model was an iron cage for societies, I realized that freedom and community were more important concepts.” *Id.* Thus even as the new mappings of the Middle East produced a variety of proposed Kurdistans in the pages of prominent American publications, the leader of Turkey's Kurdish community was arguing for the pursuit of devolution rather than a redrawing of borders. See generally Michael M. Gunter, *Prison Writings: the PKK and the Kurdish Question in the 21st Century*, 13 MIDDLE E. POLICY (2011) (book review), <https://www.mepc.org/prison-writings-pkk-and-kurdish-question-21st-century> [<https://perma.cc/X4CV-KZ75>] (archived Nov. 15, 2019) (discussing Öcalan's political writings).

254. Toby Dodge, *The Danger of Analogical Myths: Explaining the Power and Consequences of the Sykes-Picot Delusion*, 110 AM. J. INT'L L. UNBOUND 132, 135 (2016).



ideological fault lines across the Middle East in the last century, with competition between national and pan-Arab loyalties and later pan-Islamic commitments characterizing the first half century after independence for many Arab countries.<sup>255</sup> Today there is no doubt that real grievances in Iraq or Syria have been channeled into ethnic or religious conflict. Yet to suppose that these identities have always been the primary sources of meaning and affiliation for the communities of the Middle East is to adopt a static and primordial view of a complex region.<sup>256</sup>

### C. Drawing "Better Borders"

All of the new mapping projects for the region begin from the premise that "better," or at least more stable, borders can be discerned in the ruins of collapsing Arab states like Iraq and Syria. Most of the authors identify ethnicity and sect as the guiding principle for their new boundaries. All three of the maps canvassed in the third Part of this Article propose new boundaries that map political geography onto demography. In the case of Iraq, every new mapping disaggregates the country into three separate subunits for Kurds, Sunni Arabs, and Shiite Arabs. Similarly, in Syria, a Sunni-majority territory is carved out of the country as well as an autonomous region for Kurds, with the remaining collection of minorities (Alawites, Druze, Armenians) and urban elites accorded a rump territory in the southwestern parts of the country. In drawing these new territorial boundaries, the authors emphasize the ways in which such borders would reorder underlying societies along the lines of their social divisions, effectively separating communities as a conflict resolution strategy.

What is rarely acknowledged is that, despite years of conflict in both Iraq and Syria, the millennia old plurality in both countries persists in urban centers and their provinces.<sup>257</sup> Dividing this plurality into homogenous component units would require ratifying current

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255. See generally MALCOLM KERR, *THE ARAB COLD WAR: GAMAL 'ABD AL-NASIR AND HIS RIVALS, 1958–1970* (1971) (discussing ideological divisions defining the first decades of the post-colonial Middle East).

256. See Reidar Visser, *The Western Imposition of Sectarianism on Iraqi Politics*, 15/16 *ARAB STUD. J.* 83, 95 (2008).

257. Iraqi politician Ayad Allawi remarked in an interview for the *Wall Street Journal* on the resilient nationalism and commitment to a united, if federated, Iraq despite the violence and privations that have characterized the country for the quarter century since the 1991 Gulf war. See Yaroslav Trofimov, *Would New Borders Mean Less Conflict in the Middle East?*, *WALL ST. J.* (Apr. 10, 2015), <https://www.wsj.com/articles/would-new-borders-mean-less-conflict-in-the-middle-east-1428680793> [<https://perma.cc/R2VB-KB2X>] (archived Nov. 15, 2019) ("Indeed, even in battered and tattered Iraq and Syria, nationalist feelings remain very much alive. 'If any country passed through what Iraq passed through in the last 12 years, it would have been dismembered by now.' Said Ayad Allawi, Iraq's vice president and a former prime minister. 'What kept the country alive was the will of the people.'").

paroxysms of ethnic cleansing in some parts of these countries while inviting extensive additional displacement and communal violence to complete an ethno-sectarian territorial division elsewhere. The implicit<sup>258</sup> cleansing logic of these new mappings may explain why the boundaries traced by Western experts on the maps of the region bear a striking resemblance to ISIS' vision of a homogenous Sunnistan. Among Arab Sunnis other than ISIS, however, there is no local constituency for new, exclusively Sunni boundaries.<sup>259</sup> Like the Sykes-Picot borders, these are quintessentially Western projections. In the case of the new mappings, the guiding principle is not imperial territorial acquisition, but the application of the European logic of nation-state homogenization onto the ethnic and religious multiplicity of the Arab world.

Clearly, ethnic cleansing-based social engineering projects are inconsistent with an international order that embraces basic norms of human rights. The fact that new borders would require further displacement of the peoples of the region is not a point on which the new cartographers dwell. Instead, new borders are presented as the natural extension of developments already underway. The fact that depictions of a more peaceful and stable future with new borders offer an implicit argument to Western policymakers in favor of processes of cleansing goes unacknowledged.<sup>260</sup> Indeed, advocates of new borders.

258. In fact, Ralph Peters is alone among the new cartographers in explicitly acknowledging that his imagined map could only be accomplished through ethnic cleansing. Addressing the matter succinctly, Peters remarks: "Ethnic cleansing works." Peters, *supra* note 26.

259. See Ben Connable, *Partitioning Iraq: Make a Detailed Case or Cease and Desist*, WAR ON THE ROCKS (May 2016), <https://warontherocks.com/2016/05/partitioning-iraq-make-a-detailed-case-or-cease-and-desist/> [<https://perma.cc/9QZM-2XXW>] (archived Nov. 15, 2019) (stating that "Sunnis do not want to secede and do not wish to form their own state separate from Baghdad. Based on my conversations with Sunni leaders from December 2013 through mid-June 2015, analysis of Arabic-language Sunni speeches and writings, and a comparative analysis of two months of recent social media posts from the Sunni Anbar province there is almost no evidence of secessionist language"); see also Munqith al-Dagher & Karl Kaltenthaler, *A striking positive shift in Sunni opinion in Iraq is underway. Here's what it means*, WASH. POST (Sept. 14, 2017), [https://www.washingtonpost.com/news/monkey-cage/wp/2017/09/14/iraqi-sunnis-are-impressed-by-the-defeat-of-isis-heres-what-that-could-mean/?utm\\_term=.56ae024ff71f](https://www.washingtonpost.com/news/monkey-cage/wp/2017/09/14/iraqi-sunnis-are-impressed-by-the-defeat-of-isis-heres-what-that-could-mean/?utm_term=.56ae024ff71f) [<https://perma.cc/KN54-9L92>] (archived Nov. 15, 2019); Scott Peterson, *How Sunnis' post-ISIS crisis is leading some to a new Iraqi nationalism*, CHRISTIAN SCI. MONITOR (Dec. 27, 2017), <https://www.csmonitor.com/World/Middle-East/2017/1227/How-Sunnis-post-ISIS-crisis-is-leading-some-to-a-new-Iraqi-nationalism> [<https://perma.cc/5G28-U9BE>] (archived Nov. 15, 2019).

260. For a discussion of partition as the product of the imperial imagination of the first half of the twentieth century that depends on the privileging of ethnic nationalism but obscures this by presenting partition as a "natural" solution to the problem of pluralism, see ARIE M. DUBNOV & LAURA ROBSON, PARTITIONS: A TRANSNATIONAL

clearly believe that self-determination for the ethnic and sectarian communities of the region would both reduce conflict and improve rights protections.<sup>261</sup> Even setting aside the troubling question of the human rights consequences of the violence that would be required to produce these new nations, why should we expect such homogenized states, once established, to perform “better” by virtue of their new borders? States with pronounced ethno-sectarian majorities are unlikely to improve the region’s record in minority rights protections. Moreover, small states devised to coincide with ethno-sectarian identity would likely invite intervention from larger neighbors, whether in the form of Turkish pressure on Kurdistan or Iranian influence over the widely envisioned Arab Shia state.<sup>262</sup>

The recent record of newly partitioned states provides little reason to expect improved governance. If social divisions—whether tribal, ethnic, or religious—were to correspond to spatial divisions drawn on a map, the effect would be to entrench the equation of identity with geography, leaving questions of governance open. As one regional analyst has noted, “[y]ou could split these countries into two or three or four and you’d have the same practice of power in each of those units. . . . The problem is the divisive and autocratic and corrupt way power is practiced, not the borders.”<sup>263</sup> The focus on remappings of the region diverts attention from this underlying governance crisis.

Recent events in the region suggest that alternative borders resulting from the partition of existing states are no better and often

HISTORY OF TWENTIETH-CENTURY TERRITORIAL SEPARATISM 27 (Stanford Univ. Press 2019) (surveying the history of partitions in Ireland, India/Pakistan, and Israel/Palestine).

261. For example, Jeffrey Goldberg describes his conception of a new map as being designed, among other things, to “help right some historic wrongs” suffered by the Kurdish people by addressing their status as “perennially oppressed.” Viewing their presence within Iraq as “one source of instability,” new borders in Iraq are conceived by Goldberg as both a conflict-resolution and rights-enhancing mechanism. Goldberg, *After Iraq*, *supra* note 136.

262. See Nick Danforth, *Stop Blaming Colonial Borders for the Middle East’s Problems*, ATLANTIC (Sept. 11, 2013), <https://www.theatlantic.com/international/archive/2013/09/stop-blaming-colonial-borders-for-the-middle-east-problems/279561/> [https://perma.cc/2H72-B64V] (archived Nov. 15, 2019) (noting that a “predominantly Kurdish state built around the old Ottoman province of Mosul would almost inevitably have become ensnared in the ongoing conflict between the Republic of Turkey and its own Kurdish minority” and that “Shiite Iran would have had religious grounds to try to incorporate a small Shiite state based around Basra”).

263. Robert F. Worth, *Redrawn Lines Seen as No Cure in Iraq Conflict*, N.Y. TIMES (June 26, 2014), <https://www.nytimes.com/2014/06/27/world/middleeast/redrawn-lines-seen-as-no-cure-in-iraq-conflict.html> [https://perma.cc/AU4H-XUR5] (archived Nov. 15, 2019) (quoting a statement by Peter Harling, senior Middle East and North Africa adviser for the International Crisis Group).

considerably worse for peace and regional stability.<sup>264</sup> Indeed, there are no positive examples of cases in which a heterogeneous state has been successfully partitioned along ethnic or sectarian lines to produce politically stable and economically viable new states able to survive without massive external security support. Kosovo continues to depend on external support even as it has devolved into a corrupt and often repressive state.<sup>265</sup> The fragmentation of Syria became a wellspring for myriad new conflicts.<sup>266</sup> In Sudan, the division of the country in two did little to quell violence<sup>267</sup> or improve governance.<sup>268</sup> One analysis suggests that where state partition has been applied as a “solution” to intractable conflicts, the strategy has “generated enduring interstate rivalries, chronic state fragility and reproduced the same ethnic inequalities that led to partitioning in the first place.”<sup>269</sup> Another study draws a similar conclusion in contemplating the likely consequences of ethno-sectarian division in Iraq.<sup>270</sup> In Libya, the bifurcation of the state into two separate governments (and the trifurcation of the territory into three functionally autonomous regions) has led to the deaths of thousands of civilians and the displacement of hundreds of

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264. The violent legacies of the earlier partitions of the post-colonial state formation era, notably the partition of India and Pakistan, also speak eloquently to the limited potential of partition as a means of conflict-resolution. See generally YASMIN KHAN, *THE GREAT PARTITION: THE MAKING OF INDIA AND PAKISTAN* (2017).

265. ANDREA LORENZO CAPUSSELA, *STATE-BUILDING IN KOSOVO: DEMOCRACY, CORRUPTION AND THE EU IN THE BALKANS* (2015).

266. For an assessment of the ongoing fragmentation of Syria even as the regime consolidated its position beginning in 2017, see Alexander Bick, *Syria is Sliding Towards Partition*, *WAR ON THE ROCKS* (Nov. 2, 2017), <https://warontherocks.com/2017/11/syria-is-sliding-towards-partition/> [<https://perma.cc/62DF-BKNL>] (archived Mar. 14, 2020).

267. See ‘Senseless cycle of violence’ in South Sudan must end—UN humanitarian chief, UNITED NATIONS NEWS CTR. (July 25, 2015), <https://www.un.org/africarenewal/news/senseless-cycle-violence-south-sudan-must-end-%E2%80%93-un-humanitarian-chief> [<https://perma.cc/AJ5W-D8BV>] (archived Nov. 15, 2019) (noting the existence of a “rapidly spiraling humanitarian crisis” resulting from “ongoing violence and deprivation” on the fourth anniversary of South Sudan’s independence).

268. See Mario Silva, *After Partition: The Perils of South Sudan*, 3 *U. BALT. L.J.* 63, 68 (2015).

269. Goitom Gebreluel & Kjetil Tronvoll, *South Sudan’s Post-Secession Crisis in Comparative Perspective*, *YALE JOURNAL OF INT’L AFFAIRS* (Mar. 12, 2014), [http://yalejournal.org/article\\_post/south-sudans-post-secession-crisis-in-a-comparative-perspective/](http://yalejournal.org/article_post/south-sudans-post-secession-crisis-in-a-comparative-perspective/) [<https://perma.cc/KG4V-SM2H>] (archived Nov. 15, 2019) (surveying the post-partition trajectories of South Sudan, Eritrea, and Somaliland).

270. See Paul R. Williams & Matthew T. Simpson, *Rethinking the Political Future: An Alternative to the Ethno-Sectarian Division of Iraq*, 24 *AM. U. INT’L L. REV.* 191, 214–15 (2008); see also Mark Perry, *Why Partitions Don’t Work*, *POLITICO* (Feb. 2, 2015), <https://www.politico.com/magazine/story/2015/02/partitions-dont-work-114529> [<https://perma.cc/7J6S-REPC>] (archived Nov. 15, 2019).

thousands.<sup>271</sup> Violence, political polarization, and the rise of jihadi extremism have attended the division of the country, prompting international efforts to piece it back together through a UN-brokered unity government, which is imperiled by renewed conflict between the country's regions.<sup>272</sup>

Far from tamping down communal violence, recent examples of partition in the region suggest that such new borders foment violence and exacerbate the underlying conflicts they were meant to address. There is every reason to expect that smaller statelets elsewhere in the region would fare no better, facing, at a minimum, challenges in defending their external borders and securing sources of political and economic viability internally. Despite the widespread consensus that Kurdistan should be on the short list of new borders in the region, an autonomous Kurdish state enjoys little international support at present precisely because it would require extensive external assistance to withstand the pressures that would undoubtedly be exerted against it by hostile neighbors. While an independent Kurdistan would stand in the way of another Anfal campaign<sup>273</sup>—that is, it would not commit genocidal acts against its own population on ethnic grounds—it might nonetheless struggle to protect its population from external attack. On the other hand, arrangements of decentralization rather than full territorial independence have enabled the Kurdistan Regional Government in Iraq to be remarkably successful at protecting its population, even from the ravages of

271. See WORLD REPORT 2019: LIBYA, HUMAN RIGHTS WATCH, <https://www.hrw.org/world-report/2019/country-chapters/libya> [<https://perma.cc/5B6G-6HU4>] (archived Nov. 15, 2019) [hereinafter HUMAN RIGHTS WATCH] (discussing the ravages of the division of Libya and the displacement of civilians); see also WHO: *More than 1,000 killed in battle for Libya's Tripoli*, AL JAZEERA (July 9, 2019), <https://www.aljazeera.com/news/2019/07/1000-killed-battle-libya-tripoli-190708191029535.html> [<https://perma.cc/XRW3-HV4C>] (archived Nov. 15, 2019) (discussing the civilian casualties in Libya's civil war in 2019).

272. See, e.g., Hafed al-Ghwell & Karim Mezran, *A way forward in Libya*, THE HILL (June 1, 2019), <https://thehill.com/opinion/international/446455-a-way-forward-in-libya> [<https://perma.cc/Q4E3-UJ8N>] (archived Nov. 15, 2019); Ian Black, *Libya's descent into violence*, GUARDIAN (Feb. 16, 2015), <https://www.theguardian.com/world/2015/feb/16/libyas-armed-politics-the-guardian-briefing> [<https://perma.cc/8N3T-GNQK>] (archived Nov. 15, 2019); Kareem Fahim & Suliman Ali Zway, *Libya's Rival Factions Sign Deal for Unity Government*, N.Y. TIMES (Dec. 17, 2015), <https://www.nytimes.com/2015/12/18/world/africa/libya-unity-government.html> [<https://perma.cc/G842-JLR8>] (archived Nov. 15, 2019); *Libya has lurched from one emergency to another, high-level UN official tells Security Council*, UNITED NATIONS NEWS (Sept. 5, 2018), <https://news.un.org/en/story/2018/09/1018511> [<https://perma.cc/Y586-6AWU>] (archived Nov. 15, 2019).

273. See *Genocide in Iraq: The Anfal Campaign*, HUMAN RIGHTS WATCH (1993), <https://www.hrw.org/reports/1993/iraqanfal/ANFALINT.htm> [<https://perma.cc/82HX-W46Y>] (archived Nov. 15, 2019) (discussing the use of chemical weapons against Iraqi Kurdish communities by the regime of Saddam Hussein in what is known as the "Anfal campaign").

ISIS.<sup>274</sup> Indeed, avoiding the bloodshed that might attend new borders has been one of the principal reasons that Kurdish communities across Iraq, Turkey, and Syria have undertaken political experiments in decentralization and devolution from within existing borders. In this sense, the logic of *uti possidetis* remains pertinent to the region.

In the end, the “artificial states” thesis that connects Sykes-Picot to the new mappings of the region is flawed because it exaggerates the arbitrariness of existing borders while radically understating the costs that would be attendant to any attempt to change the boundaries. By insisting that the alleged noncorrespondence between the political geography of the region and its ethno-sectarian divisions is the source of Arab state fragility, these arguments also divert attention from the role played by external intervention in precipitating the collapse of states in Iraq and Libya.<sup>275</sup> In so doing, arguments in favor of new borders run the risk of inviting further interventions to “correct” for colonial borders.

Jackson’s “quasi-states” concept offers little insight into the destabilization of Arab states when wedded to arguments about the historical or demographic artificiality of their borders. On the other hand, the quasi-state thesis might be read to stand for a different set of propositions. If the argument, instead, were that decolonization produced relations of dependency between the appointed governing elites of the newly sovereign states of the region and external patrons, then an alternative explanation for destabilization in the Arab world would emerge grounded in geopolitics rather than geography. Here attention would turn to internal crises of governance and state (klepto-) capitalism rather than identity. Such an inquiry might also examine the role of external interventions in reordering regional security increasingly along sectarian lines. But such an alternative explanation would require solutions based not in new borders but in new forms of governance less beholden to repression and the support of external patrons.

274. See Kosar Nawzad, *Kurdish security chief, US diplomat discuss anti-ISIS campaign*, KURDISTAN 24 (Apr. 23, 2019), <https://www.kurdistan24.net/en/news/51cac659-4810-43d7-a901-160852304674> [<https://perma.cc/C85M-BXKK>] (archived Nov. 15, 2019).

275. See Alan J. Kuperman, *Obama’s Libya Debacle*, FOREIGN AFF. (Mar.–Apr. 2015), <https://www.foreignaffairs.com/articles/libya/2019-02-18/obamas-libya-debacle> [<https://perma.cc/6M5K-G9AG>] (archived Nov. 15, 2019) (discussing the role of external intervention in the collapse of Libya). There is an extensive literature by respected political scientists, journalists, diplomats and historians on the role of the U.S. invasion of Iraq in precipitating that state’s collapse. See, e.g., PATRICK COCKBURN, *THE OCCUPATION: WAR AND RESISTANCE IN IRAQ* (2007); RICK FAWN & RAYMOND HINNEBUSCH, *THE IRAQ WAR: CAUSES AND CONSEQUENCES* (2006); PETER W. GALBRAITH, *UNINTENDED CONSEQUENCES: HOW WAR IN IRAQ STRENGTHENED AMERICA’S ENEMIES* (2009); Toby Dodge, *The Causes of US Failure in Iraq*, 49 SURVIVAL 85 (2007).

## V. CONCLUSION

One of the greatest drawbacks of the “artificial” state thesis may be that it states a truism. All borders are necessarily arbitrary in that political lines drawn on a map rarely coincide with an organic topography. Social identities do not produce natural boundaries that shift with changing demography. Nor are identities stable categories that congeal over time into discernible lines to be analyzed by disinterested expert cartographers. National consciousness and mobilization may arise around shared ties of ethnicity or sect, or equally be informed by shared historical experience or cultural legacies or linguistic heritage or political ideology or other contingent factors. In Europe, centuries of war produced processes of state formation that converged around dominant ethnonational identities. Transposing this version of the European nation-state model to the diversity of cultures and identities in the Middle East is a recipe for violence rather than a more stable regional ordering.

Sykes-Picot remains a source of resentment in the region not because of the particular borders it contemplated but because it was a pact that divided Ottoman lands without regard for—and often in direct tension with—the preferences of the indigenous population and its leaders. Moreover, Sykes-Picot represented the presumption of continued (indirect) imperial rule. Here the problem was the governance arrangement made explicit by the Sykes-Picot map, with external powers, sometimes in conjunction with chosen local interlocutors, deciding not only on the territories awarded to different communities but also who would govern those lands.<sup>276</sup> Contemporary remappings of the region echo, perhaps inadvertently, these problems. Carving ethnonational enclaves out of existing borders bears an uncomfortable resemblance to the French strategy of rule in mandate Syria. Moreover, the smaller states produced by the partitions reflected on these new maps would likely require decades of international administration to become viable. Alternatively, they would suffer the fate of other recent partitions, producing more conflict, not less.

The new borders drawn on the maps by Peters, Goldberg, and Wright have proven more likely to provoke outrage than earn support among the populations now residing in the affected territories. Yet

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276. Despite claims that the League of Nations mandate system was designed to offer a form of tutelage that would enable territories to eventually become self-governing, in fact the British used their mandate to impose their preferred form of government—monarchy—on as many of the post-Ottoman territories as possible. See James Dawson, *Why Britain created monarchies in the Middle East*, NEW STATESMAN (Aug. 15, 2014), <https://www.newstatesman.com/politics/2014/08/why-britain-created-monarchies-middle-east> [<https://perma.cc/7RZ4-YYH8>] (archived Nov. 15, 2019) (providing an approving discussion of the British rationale); see also MICHAEL PROVENCE, *THE LAST OTTOMAN GENERATION AND THE MAKING OF THE MODERN MIDDLE EAST* 25 (Cambridge Univ. Press 2017).

unlike Sykes-Picot, these latter-day cartographers are not proposing a strictly self-interested territorial division but instead seek to discern borders that correspond to the identities of the underlying population. The lines they choose are extrapolated from the fact of sectarian, ethnic, and tribal conflict in Iraq, Syria, Libya, and beyond. This reading of regional conflicts as essentially identitarian misses the broader context in which they are occurring and thus offers the wrong prescription for conflict resolution.

Viewing these conflicts in terms of sectarianism or the imminent collapse of borders confuses cause and effect. The drivers of these conflicts do have important ties to the context of Sykes-Picot. Imperial intervention a century ago and ongoing external interventions in the region in the decades since have bequeathed a legacy of brittle states led by kleptocratic elites. What is at issue is not the artificiality of the borders but the quality of institutions that make up the states of a region whose energy resources remain a source of geostrategic competition, with great power patrons cultivating and supporting local clients from the Gulf to North Africa. Authoritarian rulers capable of astonishing paroxysms of violence against their own citizens—as with the Hama massacre in Syria and the Anfal campaign in Iraq<sup>277</sup>—long enjoyed unconditional external support. The last decade of instability has witnessed a further crisis of authoritarian governance as shifts in the political economy of the region have compromised the long-standing pact between rulers and their publics.<sup>278</sup> That pact depended on provision of public services—including health, education, and social welfare—and the promise of improving standards of living for growing populations despite the lack of meaningful civil and political rights.<sup>279</sup> As analysts of the Arab uprisings have shown, predatory privatization across the region in the 1980s and 1990s produced astronomical income inequality while structural adjustment ended guarantees of full employment through the public sector, and a population explosion produced a bulge of undereducated and unemployed youth.<sup>280</sup> Where

277. See HUMAN RIGHTS WATCH, *supra* note 271 (providing a description of the Anfal campaign); see also RAPHAEL LEFEVRE, *ASHES OF HAMA: THE MUSLIM BROTHERHOOD IN SYRIA* (2013) (discussing the Hama massacre).

278. See Marwan Muasher, *The Next Arab Uprising*, FOREIGN AFF. (Nov.–Dec. 2018), <https://www.foreignaffairs.com/articles/middle-east/2018-10-15/next-arab-uprising> [<https://perma.cc/4796-LCA9>] (archived Nov. 15, 2019) (discussing the collapse of the long-standing “social contracts binding Middle East governments and their citizens”).

279. See generally MARWAN MUASHER, *THE SECOND ARAB AWAKENING AND THE BATTLE FOR PLURALISM* (2014) (discussing the unraveling of this prior socio-political pact between governments and citizens in the Arab world and what might succeed it).

280. See, e.g., MELANI CAMMETT & ISHAC DIWAN, *THE POLITICAL ECONOMY OF THE ARAB UPRISINGS* (2013); Yezid Sayigh, *The Crisis of the Arab Nation-State*, CARNEGIE



these conditions intersect with privileged access to state resources or social welfare based on communal identities, broader social justice-based uprisings in the region have been channeled into ethnic or sectarian strife.

There is no question that the governments of existing states in the region bear the lion's share of responsibility for the ethno-sectarian conflicts that have emerged out of these conditions. In this context, it is politically and ethically problematic to demand of minority communities within these territories that they forego aspirations for independence in the name of maintaining regional peace while their governments continue to deny them cultural, political, and economic rights. The responsibility for resurrecting older antecedents of transethnic, trans-sectarian solidarities in the region cannot lie with minority populations that have been subjected to internal colonialism and marginalization within century-old borders. Instead, the onus for reforms that afford greater autonomy to the region's diverse populations must be on those whose rule by coercion has produced the current impasse. Whether it is possible to resurrect earlier conceptions of political community distinct from ethno-sectarian identity or forge new ones after a century of Turkish and Arab nationalisms is, of course, highly contested. Exploring this question requires meaningful engagement with the lived experiences of communities in the region and their nascent experiments with alternative models of authority. In short, such an inquiry would be far more demanding—and constructive—than abstract exercises in map making from thousands of miles away.

The problem in the Arab world is neither sectarianism nor the purported collapse of borders but governments whose rule within existing borders is centralized, authoritarian, corrupt, incompetent, discriminatory, brutal, and often dependent on external patrons. Solutions to what is a profound crisis of political legitimacy require the formation, bottom-up, of a new social compact. No single formula or line drawn on a map can offer a panacea that will resolve this crisis across the region. But a better starting point than new borders or ethno-sectarian mappings would look to strategies of decentralization and devolution, political liberalization, and economic redistribution.<sup>281</sup>

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MIDDLE E. CTR. (Nov. 19, 2015), <http://carnegie-mec.org/2015/11/19/crisis-of-arab-nation-state/imq0> [<https://perma.cc/LD6C-2HQC>] (archived Nov. 15, 2019).

281. I examine in greater depth the feasibility and efficacy of decentralization as a vehicle for improving governance and addressing identity conflict in the region from within the boundaries of existing states in a forthcoming, co-edited volume. ASLI BALI & OMAR DAJANI, *FROM REVOLUTION TO DEVOLUTION: FEDERALISM AND DECENTRALIZATION IN THE MODERN MIDDLE EAST* (forthcoming 2021).