

relating to the detention of aliens at Guantanamo: . . . have the constitutional privilege of habeas corpus, a to be withdrawn except in conformance with the Sus- se [of the U. S. Constitution]. We hold these petitioners tabeas corpus privilege. Congress has enacted a sta- nee Treatment Act of 2005 . . . that provides certain pro- view of the detainees' status. We hold that those e not an adequate and effective substitute for habeas fore . . . the Military Commissions Act of 2006 . . . oper- institutional suspension of the writ [of habeas corpus]. . . . n does not undermine the Executive's powers as Com- nief. On the contrary, the exercise of those powers is ot eroded, when confirmed by the Judicial Branch. onstitution's separation-of-powers structure, few exer- al power are as legitimate or as necessary as the respon- ar challenges to the authority of the Executive to rson. Some of these petitioners have been in custody ith no definitive judicial determination as to the legal- tention. Their access to the writ is a necessity to deter- fulness of their status, even if, in the end, they do not ief they seek.

r Nation's past military conflicts have been of limited as been possible to leave the outer boundaries of war ined. If, as some fear, terrorism continues to pose dan- s to us for years to come, the Court might not have this sult is not inevitable, however. The political branches, ith their independent obligations to interpret and nstitution, can engage in a genuine debate about how ve constitutional values while protecting the Nation n. . . .

arged with daily operational responsibility for our consider a judicial discourse on the history of the is Act of 1679 and like matters to be far removed from resent, urgent concerns. Established legal doctrine,

however, must be consulted for its teaching. Remote in time it may be; irrelevant to the present it is not. Security depends upon a sophis- ticated intelligence apparatus and the ability of our Armed Forces to act and to interdict. There are further considerations, however. Secu- rity subsists, too, in fidelity to freedom's first principles. Chief among these are freedom from arbitrary and unlawful restraint and the per- sonal liberty that is secured by adherence to the separation of powers. It is from these principles that the judicial authority to consider peti- tions for habeas corpus relief derives.

We hold that petitioners may invoke the fundamental procedural protections of habeas corpus. The laws and Constitution are designed to survive, and remain in force, in extraordinary times. Liberty and security can be reconciled; and in our system they are recon- ciled within the framework of the law. The Framers decided that habeas corpus, a right of first importance, must be a part of that framework, a part of that law.

### Questions

1. How does Kennedy respond to the government's claim that a state of war allows it to ignore parts of the Constitution?
2. Why does Kennedy believe that devotion to freedom is as important a source of national strength as military might?

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## 196. Barack Obama, Speech on the Middle East (2011)

Source: *The White House*.

On taking office in 2009, President Obama moved to repair American rela- tions with the world's one billion Muslims, severely damaged by the

American invasion of Iraq. In June of that year, Obama traveled to Egypt to deliver a speech that promised to respect Islamic traditions and values while reminding his audience of the importance of principles like democracy and equal opportunity for women, widely denied by Islamic governments in the Middle East. In the wake of the Arab Spring of 2011, an uprising against tyrannical governments in Tunisia, Egypt, Bahrain, and other countries in the Arab world, the United States found itself caught between its traditional alliances with the region's dictators and the principles of democracy and human rights. In May 2011, in a speech at the State Department in Washington, Obama announced what he called "a new chapter in American diplomacy" and sought to link the spring uprisings with the tradition of protest in the United States.

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THE STATE DEPARTMENT is a fitting venue to mark a new chapter in American diplomacy. For six months, we have witnessed an extraordinary change taking place in the Middle East and North Africa. Square by square, town by town, country by country, the people have risen up to demand their basic human rights. Two leaders have stepped aside. More may follow. And though these countries may be a great distance from our shores, we know that our own future is bound to this region by the forces of economics and security, by history and by faith.

Today, I want to talk about this change—the forces that are driving it and how we can respond in a way that advances our values and strengthens our security....

There are times in the course of history when the actions of ordinary citizens spark movements for change because they speak to a longing for freedom that has been building up for years. In America, think of the defiance of those patriots in Boston who refused to pay taxes to a King, or the dignity of Rosa Parks as she sat courageously in her seat. So it was in Tunisia.... Hundreds of protesters took to the streets, then thousands. And in the face of batons and sometimes bullets, they refused to go home—day after day, week

after week—until a dictator of more than two decades finally left power.

The story of this revolution, and the ones that followed, should not have come as a surprise. The nations of the Middle East and North Africa won their independence long ago, but in too many places their people did not. In too many countries, power has been concentrated in the hands of a few....

And this lack of self-determination—the chance to make your life what you will—has applied to the region's economy as well. Yes, some nations are blessed with wealth in oil and gas, and that has led to pockets of prosperity. But in a global economy based on knowledge, based on innovation, no development strategy can be based solely upon what comes out of the ground. Nor can people reach their potential when you cannot start a business without paying a bribe....

But the events of the past six months show us that strategies of repression and strategies of diversion will not work anymore. Satellite television and the Internet provide a window into the wider world—a world of astonishing progress in places like India and Indonesia and Brazil. Cell phones and social networks allow young people to connect and organize like never before. And so a new generation has emerged. And their voices tell us that change cannot be denied....

Failure to speak to the broader aspirations of ordinary people will only feed the suspicion that has festered for years that the United States pursues our interests at their expense. Given that this mistrust runs both ways—as Americans have been seared by hostage-taking and violent rhetoric and terrorist attacks that have killed thousands of our citizens—a failure to change our approach threatens a deepening spiral of division between the United States and the Arab world....

The United States opposes the use of violence and repression against the people of the region. [Applause.]

The United States supports a set of universal rights. And these rights include free speech, the freedom of peaceful assembly, the

freedom of religion, equality for men and women under the rule of law, and the right to choose your own leaders—whether you live in Baghdad or Damascus, Sanaa or Tehran.

And we support political and economic reform in the Middle East and North Africa that can meet the legitimate aspirations of ordinary people throughout the region.

Our support for these principles is not a secondary interest. Today I want to make it clear that it is a top priority that must be translated into concrete actions, and supported by all of the diplomatic, economic and strategic tools at our disposal....

For the American people, the scenes of upheaval in the region may be unsettling, but the forces driving it are not unfamiliar. Our own nation was founded through a rebellion against an empire. Our people fought a painful Civil War that extended freedom and dignity to those who were enslaved. And I would not be standing here today unless past generations turned to the moral force of nonviolence as a way to perfect our union—organizing, marching, protesting peacefully together to make real those words that declared our nation: “We hold these truths to be self-evident, that all men are created equal.”

## Questions

1. How does President Obama hope to change American diplomacy in the Middle East?
2. What aspects of American history does he believe are most relevant to the struggle for freedom in the Arab world?