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Religion and the State in Post-War Syria

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Syrian officials and clerics at the Church of the Cross in Damascus, Syria, February 2013 © EPA



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Throughout the twentieth century, religion acted as a primary source of political conflict in Syria. Indeed, with the exception of the liberal period (1946-1958) and the period of unification with Egypt (1958-1961), religion has remained a dominant element in Syria's internal political strife. During the colonial era, when the Syrian state had barely been established, the manipulation of various sects was used to entrench French rule,¹ accomplished through discrimination in the structure of the emerging military (the Special Forces of the Levant) – composed primarily of religious and ethnic minorities – as well as through the partition of the state into three small sectarian entities: an Alawite state, a Druze state, and third for remaining residents. With the takeover by Ba'athist officers, led by the predominantly Alawite Military Committee in the decade from 1961-1970, religion further provided the basis for control of the army, with large-scale dismissals utilized to strengthen Alawite influence in the armed forces. In the era of Hafez al-Assad, an “Alawification” of power (or political Alawification) took root, as sectarian bonds of the minority Alawite population were used to solidify Assad's rule by systematically seizing the levers of state control and pursuing general discriminatory policies supporting this aim. Such measures occurred despite the fact that the 1950 Syrian Constitution was secular and non-discriminatory, with the exception of two articles, one stating, “[t]he religion of the President of the Republic is Islam” and the other, “Islamic jurisprudence is the primary source of legislation.” On the contrary, the constitutional framework did not prevent discriminatory policies from becoming an element of the struggle for power, as privileges were granted to members of one sect at the expense of other demographic communities in order to help maintain the reins of power.

The Reinforcement of Sectarianism under the Assads

To consolidate his power, Hafez al-Assad sought constitutional amendments in 1973 aimed at gathering most of the state decision-making apparatus under his direct control. He faced two obstacles in this effort. First was the problem of legitimacy. On one hand, he had come to power as the result of a military coup; on the other, he was a member of a religious minority viewed by Muslims (both Sunni and Shia) to be a splinter sect constituting a separate faith. The constitutional article specifying Islam as the faith of the president was thus a clear obstacle to his legitimacy. Assad removed this article from his proposed draft constitution,



causing the Muslim Brotherhood to object to his legitimacy and sparking years of sectarian violence – culminating in the massacre at Hama in 1982. The challenge to his legitimacy allowed Assad, in the process of solidifying his rule, to pursue policies aimed at asserting control over religious institutions and raising walls between sects by encouraging them to fear one another – in particular the Sunni majority. This consecrated the idea that Assad’s rule was a guarantee of the survival of minority sects.

Though Bashar al-Assad inherited a relatively stable situation in terms of contestation between religious sects, gaining power through inheritance provoked a significant crisis of compromised legitimacy. Fearing that embarking on reforms to forge a new sense of legitimacy would lead to the collapse of his rule, he undertook measures not previously seen in Syria. These involved the linking of public policies, especially those related to religion, to the exigencies of foreign policy.² This major shift in policy prioritization explains many of the sudden changes in government policy during the first few years of his rule.

The revolution broke out a decade later, and though it is still difficult to foresee a clear end to the crisis, the pre-revolution relationship between religion and the state will undoubtedly change in any post-war scenario. Even if Assad is able to resolve the crisis in his favour, new political roles for sects and minorities will emerge, possibly reducing the secularity of the state (which was only formal). Additionally, the entry of a new sectarian player – the Shia, represented by Iranian influence – will have a prominent role in state policies. This may even extend to re-defining the state political system, with the Iraqi model during the Maliki era being the closest example.

Revolution and Reconstruction: How to Un-Stoke the Sectarian Fire?

The 2011 revolution broke out amid tight security measures and increasing state control over religious institutions, and in this sense the revolution became a rebellion partly against the religious institutions under state control. As it developed, state influence over these institutions did not waver. Given that the spaces available to gather were the universities and mosques, these developed as the most appropriate launch pads for public assemblies and demonstrations. Although this was a practical issue, based on the availability of public space but



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also the lack of connection to any prior ideology, the use of mosques to launch protests was exploited systematically to incite the fears of religious minorities. Religion thus became an active factor in inflaming conflict and suppressing the revolution.

Throughout the first three years of the revolution, the Assad regime worked to mobilize sectarian tension as much as possible and to reinforce fear among minorities. This was an extension of the strategy pursued by his father in the 1980s, seeking to cast the revolution in a religious light. As an example, the regime forced prisoners and demonstrators to prostrate themselves before images of Bashar al-Assad. Likewise, the release of hundreds of Salafi jihadists from prisons, the bolstering of sectarian rhetoric and fears through systematic massacres aimed at sectarian cleansing (most of them carried out with non-firearm weapons such as knives), and the strengthening of the role of Iran and foreign Shia militias in suppressing the uprising all contributed to the religious overtones of the revolution.

The events and developments of the Syrian revolution have brought to the fore three interrelated issues central to any discussion of the country's future or an eventual political transition. First is the question of the protection of minorities, including the existential protection of minorities by the state against any acts of revenge or attempts to subjugate minorities as second-class citizens. Most religious minorities have sided with the Assad regime³ due to a number of factors, primarily the regime's control over their religious institutions and the minorities' fear of an uncertain fate if they were to join a revolution against a regime with no mercy toward its opponents. The Alawite sect has sided with the regime both to defend its privileges and out of fear of revenge following Alawi roles in the regime repression of the 1980s. Alawis have thus become stuck in the quagmire of the war, and the regime has relied upon their involvement to carry out monstrous sectarian massacres, such as the al-Houla massacre on 25 May 2012, and the al-Qubeir massacre on 6 June 2012.⁴ Alawis have been left with no choice but to defend the regime and bunker down behind it. Yet the reality is that, except for the Alawites, there are no real grounds for fear of the future of minorities at the hands of the opposition. The genuine concerns pertain only to the Alawite minority, as it is likely to face large-scale popular retaliation for collaboration, which will be curbed



only through a comprehensive transitional justice.

Second is the guaranteeing of state neutrality toward all citizens and religions. This includes ensuring that minorities can participate in state administration and access all related positions without discrimination, and implies not imposing the majority religion and its doctrines on religious minorities, even through parliament or the legislative assemblies. The contribution of Islamist movements – which have spread extensively during the revolution by promoting a discourse of sacrifice and steadfastness in confronting the violence of the regime – has raised questions about their future positions on minority rights and the possible imposition of sharia law.

Third is the question of religious freedoms and minorities' right to openly express their beliefs and practice their rituals without restrictions. The phenomenon of Islamization throughout the war – as Sunni Arabs were left struggling and suffering alone in confronting the unprecedented crimes carried out by the Assad regime – may represent the excessive and unhealthy expression of Sunni identity. This has the potential to transform into discrimination that indirectly intimidates religious minority expression.

Roadblocks to a Supra-Constitutional Consensus

Despite the existence of discriminatory constitutional articles specifying the religion of the president of the state in the 1950 Constitution – approved during the liberal phase of Syria's history – government policies remained non-discriminatory and generally consistent with constitutional articles. This allowed Christian figures such as Fares al-Khoury to become prime minister without any impediments, occupying a position which was at the time more important in a practical sense than the presidency. However, the more radical regimes which arrived as a result of the Ba'athist coups after 1963, while radically secular in rhetoric, practiced highly discriminatory policies, which led to domestic violence and power struggles, and became a major factor behind the 2011 revolution. What must be noted here is that the policies which *should* represent the application of constitutional articles can be divorced from their constitutional objectives through excessive legal formality as a means to pursue an alternative and discriminatory policy. Indeed, this endeavour distinguished the Assad regime from any previous



regime in the history of Syria.⁵

What has become clear is that the Constitution is not a sufficient guarantee of non-discrimination. It is possible to manipulate both constitutional articles and public policies in several ways, such as by relying upon the literal text and loopholes that provide an opportunity to circumvent the spirit of the constitution and provide privileges to one community over another. Attention must thus be placed on public policies and ensure they remain tied to the original aims of the constitutional framework. While public policies should remain within the limits of the constitutional framework, they must nonetheless be linked to the interests of all citizens and to the supra-constitutional principles and values that governed the formation of the Constitution.

Manipulation of the spirit of the Constitution in public policies requires the existence of an enabling regime; however, the presence of a Supreme Constitutional Court and a parliament which truly represent all constituents could impede such policies. In this case, the regime would need to suspend the role of the Constitutional Court and transform it into a nominal institution, and the parliament would have to lack any real representative power and instead provide rubber-stamp approval to whatever the president desires. This is the case in all Syrian state institutions at present, where exceptional legislation facilitated the perpetration of atrocities in prisons. As such, it would not be possible to hold executive institutions to account for pursuing discriminatory policies under a regime which fully prohibits any accountability.

Given the role of religion as a primary element of political struggle in Syria, it is imperative to treat it and its relationship with the state cautiously and positively. Religion will not die out, regardless of its nature, and that there is no single formula for such a relationship in the modern state. Benefiting from the lessons of the historical relationship between religion and the state in Syria should result in the establishment of a harmonious cohabitation, where religion is neutralized as a tool of conflict. This requires a new approach under the auspices of the state in order to guarantee the interests of all religions and sects. Continuing to use religion in political conflict will inevitably result in a lack of hope for stability, encouraging an atmosphere conducive to the return of dictatorship.



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A supra-constitutional consensus is needed to establish a new formula for a Constitution and corresponding non-discriminatory policies. Only on this basis will it be possible to achieve the interests of all constituent groups of the Syrian people, to gain the trust of the various parties, and to achieve social interactions that secure long-term stability. If the Geneva process does produce a negotiated political solution, it will be based both on negotiators who are not truly representative of the Syrian people and pressure from the international community – particularly those invested in the conflict – to move toward specific agreements. Such agreements may not necessarily achieve the aspirations of Syrians and may not take into consideration the history of the relationship between religion and the state in Syria.

If the solution is not negotiated, circumstances will be entirely different and the situation will be even more complex. The Assad regime, which has become captive to the policies of Tehran, will most likely replicate the Iraqi Maliki model favoured by Tehran. This could lead to formal changes to the Constitution, but public policies would likely take on a severely discriminatory character – threatening dire consequences by heightening the turmoil in Syria and providing an atmosphere for ever more violent and extreme movements

Recommendations

These recommendations are put forward with a view to reaching a basis for a realistic formula aimed at achieving long-term stability backed by social consensus and interaction between the various communities of Syrian citizens, both ethnic and religious. They proceed from a principle of “non-establishment”⁶ in the legislation and the administration of the country, based on religion (purely religious motives) and a guarantee of “religious freedoms” and the ability of communities to openly express themselves. This requires a localized approach to form the basis of a new relationship between religion and the state in Syria, built on historic experience and allowing a firm foundation for a new society after the war.

- **Focus on supra-constitutional political consensus rather than on constitutional articles:** Such a consensus would create a framework for the constitutional articles, but it will not be available if Assad and his allies



resolve the conflict militarily in their favour. The ideal situation for achieving such a consensus can be achieved by winning over various parties and ensuring social interaction that secures long-term stability. The main obstacle is that consensus must be achieved within a political agreement carried out by *parties* that were produced by the revolution's need for political representation rather than the *people's* need. International parties are also intervening in this process in an attempt to ensure that their interests are achieved. In such a situation, to ensure that this consensus meets the aspirations of all constituents of the Syrian people in the absence of a Constitution, it must remain within a temporal and general framework, based on the principle of non-discrimination on any religious basis.

- **Ensure public policies comply with the Constitution:** Despite the importance of the Constitution and constitutional articles in developing a framework for public policies, the Syrian experience shows that major attention must be given to ensuring that public policies are kept in line with constitutional provisions. Merely focusing on phrasing rather than on actual formulation mechanisms and concepts in the framework of the Constitution will perpetuate conflict and sectarian tensions. Rather than focusing on specific terms, the focus should be on ensuring their intent. For example, if the consensus fails to define the state system as “democratic” then ensuring the concept of democracy in the articles of the Constitution will be more important than insisting on the term alone. Not all democratic states include the term “democracy” in their constitutional definitions.
- **Move from “religion of the president of the state” to “religion of the state” in the Constitution:** This principle does not appear to be comfortable for radical secularists, but can be understood within the context of established European democracies, which adopt a positive formula in the relationship between the state and religion (e.g. in the constitutions of the Scandinavian countries) as well as in the context of a political transition that ensures long-term stability in post-war countries.

This principle is not in conflict with non-discrimination and is based on the idea that ensuring the rights of minorities proceeds from the peace of mind and



stability of majorities. This principle means it will be possible to overcome a number of other sensitive articles pertaining to religion in the Constitution and the administration of the state.

The push to stipulate the “secularity of the state” in any future Constitution by foreign parties involved in the current conflict in Syria will have negative consequences.⁷ It will not be possible to attain consensus for such a provision, and forcing it through with the power of the international community will produce adverse results. It is important that no constitutional articles or formal texts are introduced without consensus and negotiations between the constituents of the Syrian people, as this would enable religion to return as an element of conflict once more.



Endnotes

1. Zein al-Abidin Surour, *The Army and Politics in Syria 1918-2000: A Critical Study*, London: Dar al-Jabiyah, 2008, pp. 15-51.
2. When Bashar al-Assad felt that the interests of his regime required his participation in the “war on terror,” he did not hesitate to move toward a strict security policy against Islamist groups. Conversely, when he felt that the regime was in danger during the Iraq invasion, he resorted to bolstering the influence of these groups and encouraging them to volunteer and fight in Iraq. Sensing that the regime as a whole had become directly threatened by the United States, he allowed manifestations of religiosity to surface to raise fears of a fundamentalist alternative, which he suggested was inevitable. After the occupation of Iraq and the death of al-Hariri, when Tehran was a necessary lifeline, Assad strengthened the security grip over the Islamist groups while promoting unfair privileges for the Shi’ite minorities (both Syrians and refugees). For more, see Abdulrahman Alhaj, *State and Community: The Political Aspirations of Religious Groups in Syria 2000-2010*, London: Strategic Research and Communication Centre, 2011, p. 62.
3. While there are some individual exceptions, and notably Ismailis, Christians, and Druze, they were themselves minorities within their sects. Nonetheless, this does not reduce the value of their presence, which was extremely important in solidifying the national character of the revolution, insofar as it describes a general reality.
4. See “By the Knife: Massacres Committed by the Assad Regime with Non-Firearms”, *The National Coalition of Syrian Revolutionary and Opposition Forces*, no. 39, 2013.
5. This observation was pointed out by Patrick Seale in his book *Asad [sic]: The Struggle for the Middle East*, Berkeley: University of California Press, 1989.
6. Michael J. Perry, *Religion in Politics: Constitutional and Moral Perspectives*, Oxford: Oxford University Press, 1999. Arabic translation by the Arab Network for Research Publishing, 2014, p. 23.
7. Russia has repeatedly attempted – and failed - to introduce this formula into international resolutions, particularly Resolution 2253 of 2013, issued by the Security Council. In the end, it formulated a draft constitution on its own and proposed it to the various parties in Syria, specifically containing an article on the secularity of the state. Interestingly, the constitution of Russia itself does not stipulate the secularity of the state.



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