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# 1. Introduction

The former United Nations (UN)-Arab League Joint Special Representative for Syria, Lakhdar Brahimi, has called the conflict in Syria “without any doubt the biggest threat to peace and security in the world today.”<sup>1</sup> On the ground, the civil war is more intractable than ever, with Assad and his security infrastructure clinging vociferously to power while the chaotic array of rebel factions manage to keep him from reclaiming large portions of the country. In the wider region, all of Syria’s neighbors are involved in the conflict, providing financial and military assistance to different parties involved in the conflict. Similarly, at an international level the world powers are using Syria as a battleground to promote their own interests. The aggressive rise of ISIS in the region has recently shifted international focus away from finding diplomatic solutions to the Syrian civil war at a time when, as this paper argues, peace in Syria is needed most to defeat ISIS and re-stabilize the region. With the conflict taking place simultaneously at a local, national, regional and international level, and with no end in sight to the suffering being endured by the Syrian people, an urgent question that needs to be asked is what measures can be taken to de-escalate the conflict and bring a semblance of stability and peace to the country.

This paper will explore the viability of power-sharing as a political and practical way to ameliorate the situation in Syria, ultimately concluding that power-sharing is an appropriate tool at present to end the conflict. Further, it will suggest that by adapting the models used to end previous conflicts, and adjusting their application to fit with Syria’s particular needs, power-sharing can also be used as a mechanism through which the state of Syria can be rebuilt in a sustainable manner. All wars must inevitably end, and it is a matter of finding the most appropriate way to end it so that the post-war society can have the best possible chance for sustained peace. While previously the conditions of the conflict were not conducive to peace talks, this paper believes that recent regional developments and the rise of ISIS have reopened the possibility of, and indeed the necessity for, political negotiations.

While skepticism as to the applicability of such a model abounds, it should be remembered that of the total of thirty-eight civil wars ended by negotiated settlement between 1945 and 1998, only one did not include provisions for power-sharing.<sup>2</sup> Also, power-sharing was the method of conflict-resolution that was proposed in the early years of the political violence that tore through Lebanon and Northern Ireland in the 1970’s and 1980’s, and Bosnia in the 1990’s. In all three cases, in a similar pattern to that which is happening in Syria today, there was not enough domestic and international support for the proposed power-sharing arrangements to succeed, yet in all three cases the conflict was ended through the establishment or re-establishment of power-sharing arrangements.<sup>3</sup>

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1 ‘UN interview with former UN-Arab League Joint Special Representative for Syria, Lakhdar Brahimi’, *UN Notes to Correspondents*, 22 August 2013, transcript available at <http://www.un.org/sg/offthecuff/index.asp?nid=2939> (note: all online resources referenced have been last accessed on 14 July 2014, unless otherwise stated).

2 Hartzell & Hoddie, 2003, 318.

3 Kerr, Michael, ‘Syria: Why Power-Sharing is the Best-Case Scenario’, *International Business Times*, 17 September 2013, available at <http://www.ibtimes.co.uk/syria-bashar-al-assad-power-sharing-barack-506691>.

## 2. Aspects of Syria's Socio-Economic Climate

This paper argues that sustainable peace cannot be reached in Syria without first understanding both the pre-war conditions of the country and the main characteristics of the conflict, including but not confined to the sectarian element of the war. Only once the causes of and main elements to the conflict are outlined there will a power-sharing model be proposed and its potential application in the specific context of the Syrian civil war be explored.

### 2.1 Sectarianism in a secular society

Within a few months of the first protests in Dera'a city in March 2011, the Syrian conflict took on a decidedly sectarian profile. Sunni calls for the removal of the minority Alawites in power were accompanied by the systematic targeting of specific groups and communities by both the government and opposition groups.<sup>4</sup> While sectarianism has now become the primary characteristic of the war, it is important to avoid viewing the heightened tensions of the present situation as representative of the long-term Syrian narrative.

Syria was, at least until the flow of refugees from Iraq began in 2003, primarily a secular state while under the control of the Assad's. While some Syrians support the implementation of Islamic law in the country, a portion of Syrian society, particularly its Christian, Druze and Alawite populations, see Baath secularism as a bulwark against Islamic fundamentalism and reject any movements away from secularism. This existential threat felt by minority groups has been exploited and exacerbated by the regime throughout the conflict,<sup>5</sup> which has emphasized the Islamic character of the opposition and refers to any anti-Assad forces as Islamic terrorists.<sup>6</sup>

The fear felt by minority groups is in part caused by the demographic predominance of Sunni Muslims in the country. As Chart 1 shows, the Sunni Muslim sect is the majority religion in Syria with nearly seventy percent of the population belonging to it.<sup>7</sup> The minority Alawite (Shia) sect is that to which Assad and his family belongs, while the other minority religions include Christian and Druze populations, among other small religious communities. Chart 2 illustrates the vast majority of the population who are ethnic Arabs, while a Kurdish minority of roughly nine percent live mainly in the northern regions of the country. Other smaller ethnic minorities, who make up no more than two percent of the population, are scattered throughout the country.<sup>8</sup> While the concept of Syria being a 'divided society' has been viewed

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4 See Starr, 2013, 34; see also United Nations General Assembly, 'Report of the independent international commission of inquiry on the Syrian Arab Republic', A/HRC/25/65, *Human Rights Council*, 12 February 2014, paras. 20-33 for targeted attacks by regime and opposition forces.

5 Berti & Paris, 2014, 25.

6 An example of this rhetoric can be seen in Assad's interview with Agence France Presse in January 2014, the full transcript of which is available at <http://www.globalresearch.ca/bashar-al-assad-interview-the-fight-against-terrorists-in-syria/5365613>.

7 Izady, Michael, 'Maps and Statistical Collection', *The Gulf2000 Project*, available at <http://gulf2000.columbia.edu/maps.shtml>; 'The World Fact book: Syria', *Central Intelligence Agency*, last updated 20 June 2014, available at <https://www.cia.gov/library/publications/the-world-factbook/geos/sy.html>.

8 Idem.

by some as the central cause of the unrest, this division has not always been so pronounced. When the Syrian state took shape, it inherited a tolerant social tradition from its time under Ottoman rule. During this era, each ethnic or religious group appointed or elected their own officials who divided the taxes they owed to the empire, ran their own schools, and provided such health facilities and social welfare as they thought proper or could afford. This system was spelled out in the Quran and the Traditions (*Hadiths*) of the Prophet, in which respecting the way of life of others was legally obligatory for Muslims.<sup>9</sup>

## 2.2 Socio-economic considerations

While ethnic and religious cleavages now lie at the heart of the conflict, other factors played a greater role in causing the first waves of unrest. The economy of Syria was in decline for years before the outbreak of unrest, with the consequences of this playing a significant role in the March 2011 protests.

An *Economist* article, published just months before the conflict exploded, commented that oil revenue – one of the biggest contributors to gross domestic profit – had suffered a dip, while the population, which had doubled to twenty-two million since the mid-1980s, continued to soar.<sup>10</sup> Significantly, between 2006 and 2011, a five-and-a-half year drought crippled sixty percent of agricultural land and up to eighty-five percent of livestock in some regions, resulting in food shortages and price hikes.<sup>11</sup> While this contraction affected all strata's of society, its effect on the poorer classes was catastrophic. The drought caused a wave of unemployment – an estimated eight hundred thousand rural agricultural workers lost their jobs, inducing mass migration from rural to urban areas.<sup>12</sup> The high unemployment rate and migration, as well as the resulting housing crisis and the spread of urban slums, became what Goulden called a “ticking time bomb”<sup>13</sup> that threatened national security and stability. The divide between the *rif* (the urban poor and the rural populations) and the urban elite became more obvious when the migrating rural workers, long separated from cosmopolitan city life, saw the rich beneficiaries of new policies – what one report calls “nepotistic economic policies”<sup>14</sup> – which had served to triple Syria's GDP in the past ten years.

The rich beneficiaries within Syria's business elite have long been important contributors and consolidators of the regimes power. One Syrian, who describes himself as coming from a Sunni elite family, believes that:

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9 Polk, William, ‘Understanding Syria: From Pre-Civil War to Post-Assad’, *The Atlantic*, 10 Dec 2013, available at <http://www.the-atlantic.com/international/archive/2013/12/understanding-syria-from-pre-civil-war-to-post-assad/281989/>.

10 *Economist*, ‘Hard Choices for the Government: Will President Bashar Assad Hold his Nerve?’, *The Economist*, 20 January 2011, available at <http://www.economist.com/node/17963303>.

11 Kapstein, Ethan & Mayoral, Amanda, ‘The Economics of the Syrian Crisis’, *US Institute of Peace*, 26 February 2014, available at <http://inec.usip.org/blog/2014/feb/26/economics-syrian-crisis>.

12 Idem.

13 Goulden, 2011, p201.

14 Kilkullen & Rosenblatt, 2014, 3.

“...the business elite is the regime. It is an elite 40 years in the making – a complex web [of] military officers, business people, merchants, industrialists, landowners, and others cutting across all sectarian and geographical lines.”<sup>15</sup>

While this can perhaps be viewed as hyperbole its point is a valid one. In relation to the current civil war, the Syrian business community has been seen as the key to the survival of Bashar al-Assad,<sup>16</sup> with the core of its elite reported to consist of a close-knit group of around two hundred individuals who have been hand-picked by the regime.<sup>17</sup> Importantly, these pro-Assad elites cross-cut Syria's religious and sectarian landscapes, though the wealthiest among them are Alawites.<sup>18</sup>

From a theoretical viewpoint, a paper written by Büchs of GIGA Institute before the conflict began, described this multi-ethnic business class and elite in terms of a common underlying principle which can be conceptualized as a “tacit pact.”<sup>19</sup> The paper argued that the several forms of power the Assad regime possesses all rely on the realization of obedience through this pact. With regard to “material” forms of power, the pact is a political agreement in which political voice is traded for economic rewards, that is, in which the weaker party is economically included but politically excluded. The tacit pact is between unequal parties, and the weaker party is under constant threat of exclusion and/or violence in the case of noncompliance.<sup>20</sup> This argument, in combination with Assad’s well used refrain *ma fi gheiru* (‘there is nobody else’)<sup>21</sup> remains forceful, particularly when it appears that despite his brutality and widely perceived loss of legitimacy, Assad still has the support of a substantial part of the Syrian business community.

### 2.3 The intersectional approach to Syria’s multiple divides

Despite many portrayals to the contrary, each ethnic and religious group in Syria is not homogenous in its desires and priorities.<sup>22</sup> Research gathered by Charney Research in late 2013 offers qualitative data to support this. Forty-six interviews were conducted among a diverse group of Syrians, including Sunnis, Shia, Alawites, and Christians; regime supporters and opponents; internally displaced persons and refugees. During these, one Alawite woman describes the regime as “... a fetid, parasitic government. It is fed from others’ efforts, a bloody government that drinks from Syrians’ blood”,<sup>23</sup> while one pro-regime Sunni man lamented the

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15 Landis, Joshua, ‘Syria’s Business Elite – Will it Defect?’, *SyriaComment*, 30 June 2013, available at <http://www.joshualandis.com/blog/syrias-business-elite-will-it-defect/>.

16 Slim, Randa, ‘Where’s Syria’s Business Community?’, *Foreign Policy*, 5 August 2011, available at [http://mideast-africa.foreignpolicy.com/posts/2011/08/05/wheres\\_syrias\\_business\\_community](http://mideast-africa.foreignpolicy.com/posts/2011/08/05/wheres_syrias_business_community).

17 Moukheiber, Zina, ‘President Assad and The Syrian Business Elite’, *Forbes*, 30 March 2011, available at <http://www.forbes.com/sites/zinamoukheiber/2011/03/30/president-assad-and-the-syrian-business-elite/>.

18 Slim, Randa, ‘Where’s Syria’s Business Community?’, *Foreign Policy*, 5 August 2011, available at [http://mideast-africa.foreignpolicy.com/posts/2011/08/05/wheres\\_syrias\\_business\\_community](http://mideast-africa.foreignpolicy.com/posts/2011/08/05/wheres_syrias_business_community).

19 Büchs, Annette, ‘The Resilience of Authoritarian Rule in Syria under Hafez and Bashar Al-Asad’, *IMES*, GIGA Working Papers No. 97: Hamburg, March 2009, available at [http://www.giga-hamburg.de/de/system/files/publications/wp97\\_buechs.pdf](http://www.giga-hamburg.de/de/system/files/publications/wp97_buechs.pdf).

20 Ibid, p8.

21 Shmuel Bar accredits this to Prof. Eyal Zisser from University of Tel Aviv in Bar, 2006, 360.

22 Rosiny, 2013, 20.

23 Charney, Craig & Quirk, Christine, ‘He Who Did Wrong Should be Accountable; Syrian Perspectives on Transitional Justice’ in *Transitional Justice Research Series*, *Syria Justice and Accountability Centre*, p46, January 2014, no. 1, available at [http://syriaaccountability.org/wp-content/uploads/SJAC\\_Syrian\\_Perceptions\\_2014\\_EN.pdf](http://syriaaccountability.org/wp-content/uploads/SJAC_Syrian_Perceptions_2014_EN.pdf).



attacks on Assad, arguing that “... there are many sects in Syria. Assad combined all these sects. People were living together. We never heard that this is Alawite, this is Kurdish, this is Arab, and this is Christian, and all these sectarian terms. If President Assad leaves, there would be a state of chaos.”<sup>24</sup> Academics also refer to many Alawites, especially among intellectuals and villagers, who resent how their community has been taken hostage by the regime.<sup>25</sup> The existence of such opinions, combined with the presence of cross-cutting ethnicities and religions in the business elite and opposing *rif* classes, serve not as exceptions that prove the rule, but rather as signs that there is more to the underlying unrest than a mere sectarian split. And while minority groups in Syria are viewed as the primary collaborators with the Assad regime, in reality every community – including the Sunni majority – has been co-opted to one degree or another in the ‘tacit pact’ of collaboration.<sup>26</sup>

Using the analytical tool of intersectionality proves useful in understanding and dealing with the complex multi-dimensional cleavage – or the multiple cleavages simultaneously interacting – in Syria today. Proponents of this theory argue that the real problem of identity politics is that it elides intra-group differences. This is a problem that intersectionality purports to solve by exposing differences within broad categories, and serving as a force for “mediating the tension between assertions of multiple identities and the ongoing necessity of group politics”.<sup>27</sup> For example, the demands and priorities of a poor Sunni woman living in rural Syria are potentially very different to those of a rich Sunni man living in the capital city. The intersectional approach allows a combined cross-section of these different identity markers to give a three dimensional view of society, and indeed conflict, that goes beyond the traditional and simplistic sectarian model.

The above has striven to show that the conflict in Syria is a lot more complex than a mere sectarian divide, and therefore needs a conflict resolution process that can address the myriad of different issues happening concurrently. A *de jure* partition, which some have identified as the ‘best’ solution to the conflict<sup>28</sup>, is believed by this paper to be an inadequate and simplistic solution. Partition would make polarization along sectarian lines a permanent fixture, regardless of the necessity for such an action or the views on the ground concerning such a massive geographical and social upheaval.<sup>29</sup> The following section will elucidate on why a power-sharing model is believed by this paper to be capable of achieving what other conflict resolution processes cannot.

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24 Charney & Quirk, 2014, 15.

25 Peter Harling & Sarah Birke, ‘Beyond the Fall of the Syrian Regime’, *Middle East Research and Information Project*, 24 February 2012, available at <http://www.merip.org/mero/mero022412>.

26 Semerdjian, Elyse, ‘Enduring Myths of Sectarianism in Syria’, *The Armenian Weekly*, 22 January 2014, available at <http://www.armenianweekly.com/2014/01/22/enduring-myths-of-sectarianism-in-syria/>.

27 Crenshaw, 1991, 1296.

28 O’Hanlon, Michael, ‘Solving Syria, Is there a Realistic Way for America to Help Stop the Civil War?’, *Brookings Institute*, 27 September 2013, available at <http://www.brookings.edu/research/opinions/2013/09/27-syria-civil-war-ohanlon>.

29 Kerr, Michael, ‘Syria: Why Power-Sharing is the Best-Case Scenario’, *International Business Times*, 17 September 2013, available at <http://www.ibtimes.co.uk/syria-bashar-al-assad-power-sharing-barack-506691>

### 3 A Power-Sharing Model for Syria

There have been attempts, orchestrated mainly by the UN and various international players, to reach a negotiated settlement to end the Syrian war. The Geneva II Conference on Syria was held at the beginning of 2014 with the aim of bringing together the Syrian government and the main political opposition, the SNC, to find a diplomatic solution to the conflict. The core undertaking of this conference, under the guidance of Lakhdar Brahimi, then the UN Special Envoy to Syria, was to form a transitional government. This was a follow-up to, and based upon, the Final Communiqué of the 2012 Geneva I Conference, which detailed an agreed list of criteria that any political settlement of the conflict should deliver.

According to the Communiqué, the key steps in the transition should include, among others, the establishment of a transitional governing body with full executive powers that could include members of the government and opposition, and which should be formed on the basis of mutual consent.<sup>30</sup> This is a proposal for a power-sharing solution between the regime and the opposition forces – a diplomatic tool which has been commonly used in other conflicts as a way of halting intrastate violence.

Following the previous sections analysis on the main causes of the initial unrest, this section will investigate the possible application of a power-sharing agreement in this context. Michael Kerr, director of the Centre for the Study of Divided Societies in King's College London, believes that a power-sharing structure is the 'best case scenario' to end the war in Syria.<sup>31</sup> Rosiny's proposed power-sharing model, which incorporates elements of both consociationalism and centripetalism into a three-stage plan that transitions from war to a short-term 'negative peace', and then to a more permanent 'positive peace' in Syria, is considered feasible for this purpose. Justification for why a power-sharing model is believed to be the most appropriate conflict-resolution tool in the Syrian context will be included, as well as an expansion on Rosiny's model and recommendations for some adaptations in light of the recent developments in the country and region.

It should be borne in mind that the Geneva II Conference on Syria ultimately amounted to nothing, Assad has rejected the 2012 Communiqué as irrelevant<sup>32</sup> and UN Special Envoy to Syria Lakhdar Brahimi has resigned from his "mission impossible"<sup>33</sup>, the second UN Special Envoy to do so. There is little interest at present from any party involved in the war to reach a political settlement, and the majority of states at an international and regional level are extremely reluctant to have anything to do with Assad. This section will attempt to stay in line with the practical realities of the Syrian crisis, and maintain awareness of the difficulties of a power-sharing agreement ever reaching fruition in the complex geopolitical setting of Syria and the region.

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30 A/66/865-S/2012/522, 6 July 2012, Annex 1.

31 Kerr, Michael, 'Syria: Why Power-Sharing is the Best-Case Scenario', *International Business Times*, 17 September 2013, available at <http://www.ibtimes.co.uk/syria-bashar-al-assad-power-sharing-barack-506691>.

32 *Middle East Monitor*, 'Assad Says He is Ready to Reconstruct Syria', *Middle East Monitor*, 12 June 2014, available at <https://www.middleeastmonitor.com/news/middle-east/12062-assad-says-he-is-ready-to-reconstruct-syria->.

33 *Middle East Eye*, 'Lakhdar Brahimi Resigns as UN Envoy to Syria', *Middle East Eye*, 13 May 2014, available at <http://www.middleeasteye.net/news/lakhdar-brahimi-resigns-un-envoy-syria-1462725732>

Rosiny offers a model for a potential Syrian power-sharing settlement. It addresses the issue of divided societies being multi-dimensional and implicitly acknowledges the necessity of periods of both negative and positive peace in a post conflict situation. The cycle of his transitory model involves:

- creating immediate guarantees of proportional, parity-based or negotiated political representations;
- followed by the setting up of centripetal institutions with incentives for interethnic cooperation;
- followed by creating, in the long run, a unitary state of institutions that guarantee civil rights irrespective of ethnic or other identities and affiliation.<sup>34</sup>

With this model Rosiny would first implement a consociational power-sharing arrangement to ensure the creation of a negative peace in Syria. Once stable, there would be a movement towards the integrative centripetalism structure with the aim of achieving a more sustainable positive peace. Ultimately, and ideally, a functional democracy would be established, with Syria becoming a unitary society with equal rights for all.

This paper argues that Rosiny's model is a viable one to move Syria's prolonged conflict towards peace. It acknowledges and attempts to address the working problems of power-sharing agreements that have been highlighted by critics and/or that have materialised in other cases, such as Lebanon's 'Taif' agreement. Such working problems include the need for credible commitment, the inclusion of all cooperating parties and the avoidance or minimisation of entrenched sectarian polarisation. It strives to address, in the mid- to long-term, the myriad social and economic cleavages that also plague the country. This paper would emphasise, however, that this model should be seen as a flexible and porous one; it is possible to have elements of centripetalism and democracy in some institutions and mechanisms even at the 'negative peace' stage, though consociationalism is the main model being utilised. Allowing such flexibility would be beneficial both in the short- and long-term, as it would allow for an organic and more natural movement towards an integrative system.

While Rosiny's model will serve as the basis of this paper's proposal, some elaborations on the model are seen as vital in light of the situation at present in Syria. These will attempt to address such issues regarding the nature of Syria's divides and will also identify characteristics of the conflict that might jeopardise a negotiated settlement, suggesting ways in which these could be circumvented. These recommendations are, namely: the inclusion of a pre-arranged 'sunset date' in order to ensure the end of the 'negative peace' and the temporary consociational model; the need for elucidation with regards to which groups should take part in negotiations and what incentives could be offered to them to do so; and the proposal of a central, but temporary, role for international players in the negotiations.

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34 Rosiny, 2013, 24.

### 3.1 A ‘sunset date’

A problem recurring in many power-sharing models applied in the past is the lack of specificity regarding the time allotted for each phase of the peace plan. Practical challenges do exist when specific deadlines are given; for example, how can a deadline of transition be included when it is difficult to anticipate the pace at which the developments will take place? The alternative to no specificity, however, might be a static long-term consociational agreement along ethnic confessional lines.<sup>35</sup> In the case of the Lebanon ‘Taif’ there was no clearly defined timetable for a transition from consociationalism to centripetalism, though this had at first been the plan. Instead, the provisional distribution of power based on religious affiliation became a structural barrier to political reform that still exists today.<sup>36</sup> As this is seen as one of the most serious failures of the Lebanon ‘Taif’ agreement, it would seem prudent to have an agreed timetable or outer limit of movement from phase to phase in a similar Syrian agreement, rather than the danger of inertia in the liminal negative peace phase.

Perhaps a good precedent providing a useful path which a Syrian agreement may follow is the 1993 Interim Constitution Pact of South Africa. A ‘sunset date’ in the Pact allowed for the expiration after five years of the power-sharing agreement between the African National Council (ANC), which was garnering the support of the majority of the electorate, and the outgoing white minority regime. The ANC saw this as a strategic move to prevent a counter revolutionary threat to the new political order,<sup>37</sup> while the agreement obviously suited the smaller parties as it was a way to limit a simple majority rule and for them to have some influence over the direction of policy. Sisk and Stefes believe that the temporary nature of the agreement allowed the ANC to make concessions to such potential ‘spoilers’ as the Freedom Front and the Inkatha Freedom Party, averting a bloody showdown at the moment of regime change following the elections of April 1994.<sup>38</sup>

With the next round of presidential elections in Syria scheduled to take place in seven years, perhaps this allows an adequate space of time to transition from the temporary to a more sustainable inclusive system. Further, the existence of such a limit on ceasefire bargains could be an important way to incentivise all sides in the Syrian conflict in order to find a point of mutual consensus. This will be elaborated upon in the sections below.

### 3.2 Participants in the negotiations: spoilers and incentives

The Geneva Communiqué, as well as Rosiny’s thesis, lack any reference to *who* should take part in a power-sharing agreement; that is, they do not specify who ‘the opposition’ actually is or who should take part in the process. This is problematic in a situation where there are multiple well-funded and well-armed groups with different ideologies and motivations. Stedman

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35 Rosiny, 2013, 23.

36 Idem.

37 Slovo, Joe, ‘Negotiations: What room for Compromise?’ *African Communist*, third quarter 1992, speech available at <http://www.sacp.org.za/people/slovo/negotiations.html>.

38 ‘Sisk, Timothy & Stefes, Christopher, ‘Power-sharing as an Interim Step in Peace Building: Lesson from South Africa’, in *Sustainable Peace: Power and Democracy after Civil Wars*, edited by Donald Rothchild and Philip G. Roeder, 293-295, (pp. 293-317) Ithaca: Cornell University, 2005.

maintains that the greatest source of risk to peace settlements comes from spoilers-leaders and parties who believe that peace emerging from negotiations threatens their power, worldview and interests,<sup>39</sup> while Sriram and Zahar accurately state that disenfranchised groups may take up arms if they see agreements progressing that appear to exclude them.<sup>40</sup> It is folly not to include a group which enjoys significant local support and/or foreign backing when to do so threatens the success of the peace agreement. At the same time those who are included must be offered guarantees, given that by signing a peace agreement, leaders put themselves at risk from adversaries who may take advantage of the settlement, be they disgruntled followers who see peace as a betrayal of key values, or excluded parties who seek either to alter the process or to destroy it.<sup>41</sup>

While an internationalised civil war to a large extent needs an internationalised solution, there must still be compromise and pragmatism in the face of the reality on the ground. Therefore this paper argues that in a potential power-sharing agreement, all groups, be they small and locally-oriented or well-funded and internationally supported, should be given the opportunity of involvement in the transition as long as they are willing to compromise. Not only does this decrease the chance of intransigence on the side of each involved party, but it also strengthens the unified resistance against any potential spoilers, like ISIS.

That said, this paper identifies two characteristics particular to the Syrian conflict that could lead to the prolonged intransigence of core players in the conflict, and the realisation of a power-sharing agreement being rendered impossible. They are:

- the continued preservation of Bashar al-Assad in his position as president of Syria;
- the call by a substantial number of opposition groups for *Shari'a* law to be implemented in Syria.

While these could be considered significant obstacles to a negotiated power-sharing agreement, this paper posits that there are methods by which they can be mitigated, and even potentially transformed into incentives for the parties invested in the conflict.

### 3.2.1. Preservation of Assad

Early in the conflict, previous US Secretary of State Hillary Clinton declared that Assad could never be allowed to remain in power.<sup>42</sup> This has been reiterated time and again by the present U.S. Secretary of State John Kerry, who maintains "there is no way, no way possible, that a man who has led a brutal response to his own people can regain legitimacy to govern".<sup>43</sup> The perceived (or real) moral wrongdoing of Assad, or even his symbolic representation as a figure of authoritarian and repressive rule, could be justification enough for objecting to him remaining in power. However, there are also practical consequences of his presence that

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39 Stedman, Stephan, 'Spoiler Problems in Peace Processes', *International Security*, vol.22, no.2, 1997, p5.

40 Sriram and Zahar, 2009, 23.

41 Idem.

42 *BBC World News*, 'UN Envoy calls for Transitional Government in Syria', *BBC News*, 30 June 2012, available at <http://www.bbc.com/news/world-middle-east-18650775>.

43 *BBC World News*, 'Geneva II Talks Highlight Gulf over Assad', *BBC News*, 22 Jan 2014, available at <http://www.bbc.com/news/world-middle-east-25853175> Syria.

would make a negotiated agreement problematic. The regime today is a culmination of four decades of entrenched and consolidated power. The web of contacts, contracts, obligations and loyalties that the Assad family has gathered in that time is substantial. If Assad were to remain in power, therefore, it is unlikely that any real changes would be implemented in the state system. So, while a power-sharing agreement might exist on paper, if Assad does not relinquish some control such an agreement could be rendered meaningless and ultimately fail in the long run. With the currently strong position of Assad, the only foreseeable way for him to cooperate in a power-sharing agreement is if his external backers were to exert pressure on him to do so. If regional stability and a strong offensive against ISIS were prioritised by Russia and Iran over of the preservation of Assad, such a thing might still be possible.

That said, modern Syria has no history of democracy and no experience with a competitive political system. While the SNC could be considered to consist of professional politicians who would presumably have the capacity to function well within a state system, this is not the case for many of the other opposition groups. As Sriram and Zahar state, incorporating a military opposition into a government can be extremely challenging, with former-rebels-turned-politicians sometimes needing training in the most basic functions, such as their role as parliamentarians or the fundamentals of the legislative process.<sup>44</sup> With such a low level of group institutionalisation and a lack of previous experience with governance, these opposition groups would find it difficult to function within the complex maze of rules and institutions that make up a government, particularly in a power-sharing arrangement.<sup>45</sup> Therefore it is advantageous to keep some of the state mechanisms already in place in order to ease the transition and stabilisation, while the existence of proportionate representation should eliminate the possibility of the under-representation (or exploitation) of politically less experienced groups.

Such mechanisms can of course operate without Assad, and many observers and invested parties would be happy if such an outcome occurred. While a small possibility remains that Iran or Russia may pull their support from Assad, his presence in any negotiated settlement at this time remains almost a given. Some experts are pragmatic about this state of affairs. Rosiny suggests that there are far more extreme elements than Assad within the regime, and that Assad actually serves as an important moderating influence on them. He argues that it is no solution to have Assad's removal as a precondition to the agreement when the first stage of transition would probably not work without him.<sup>46</sup> Vartan Oskanian, member of Armenia's National Assembly, agrees, saying that negotiating over whether Assad stays or goes, as the Geneva talks have shown, will lead nowhere. The Syrian conflict and its possible resolution need to be framed differently and need to transcend Assad's person.<sup>47</sup>

A pragmatic alternative to dismissing him as president, therefore, is the dilution of the functional power of his office, while other institutions such as prime minister could become more significant.<sup>48</sup> This has been done in Lebanon and Iraq, where the principle of power-sharing is

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44 Sriram and Zahar, 2009, 19.

45 Idem.

46 Interview with Stephan Rosiny, Research Fellow at IMES, GIGA, Hamburg, 30 June 2014.

47 Oskanian, Vartan, 'Syria's vote and the will of neighbouring countries', *Al Jazeera*, 4 June 2014, available at <http://www.aljazeera.com/indepth/opinion/2014/06/syria-vote-will-neighbouring-coun-2014628543235818.html>.

48 Ibid.

politically enshrined at the highest level.<sup>49</sup> In Lebanon the strong pre-war position of president and weak role of prime minister were adjusted in the ‘Taif’ to become more balanced, while in Iraq the creation of the Presidency Council and Ministerial Board allowed for the diffusion of power.<sup>50</sup> While the long-term success of both the Lebanon and Iraq conflict-resolution agreements are certainly questionable due, in large part, to the long-term preservation of their consociational elements, in the short-term at least, each power-sharing agreement achieved an important window of peace in which the states could begin to re-stabilise.

While such a dilution of power might allow room for the simultaneous preservation of Assad *and* the proper functioning of a power-sharing agreement, the reception of such an agreement among the opposition and Syrians is another matter. The opposition groups have almost unanimously called for the dismissal of Assad, refusing to compromise on the matter. Also, despite the impressive number of pro-Assad ballots in the 2014 election, this is not a reliable reflection of feelings towards Assad on the ground. Owing to the particular symbolism and significance people have attached to Assad himself, clear communication with the Syrian people about his position within a power-sharing agreement is vital regardless of his level of power. Opposition groups should realise that an agreement without Assad may not be practical or, as some argue,<sup>51</sup> even desirable. Set within the right parameters, these groups could still ‘deliver’ what they have promised to their followers while, at least in the short term, Assad remains in government. With the inclusion of the fixed ‘sunset date’ on the consociational part of the agreement, there could exist a scheduled end to the preservation of Assad’s position so that, at a later more stable stage, Assad would be vulnerable to dismissal, and potentially called to account for crimes committed during the war. This might act as an important incentive to opposition groups who presently refuse to come to a negotiating table at which Assad is seated, while also guaranteeing, for the regime and its supporters, the inclusion of Assad in the initial agreement.

### 3.2.2 The call for *Shari’a* law in Syria

The apparent incompatibility between secular and Islam-oriented political groups remains a significant obstacle to peace in Syria, while there is also a lack of clarity over how the majority of Muslim Syrians would in fact prefer to be governed. Some Islamist opposition groups are loud in their calls for *Shari’a* – the Islamic code of behavior and law – to be implemented, but they neither speak for the whole Muslim population nor put forward a universally agreed upon notion of *Shari’a* law. Sunni and Shia communities (including Alawites) are sub-divided into a whole spectrum of schools of thought, ranging from moderate/liberal to extreme/conservative in their interpretation of *Shari’a* law.

In September 2012, over a year into the conflict, Elizabeth O’Bagy, an analyst at the Institute for the Study of War, maintained that in relation to Syria:

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49 Wright, Robin, ‘In the Shadow of Lebanon’, *New York Times*, 29 June 2014, available at [http://www.nytimes.com/2014/06/30/opinion/in-the-shadow-of-lebanon.html?\\_r=0](http://www.nytimes.com/2014/06/30/opinion/in-the-shadow-of-lebanon.html?_r=0).

50 Interview with Stephan Rosiny, Research Fellow at IMES, GIGA, Hamburg, 30 June 2014.

51 *Idem*.

*"Most of the opposition is Sunni Muslims and they are democratically minded, but they want a government based on some kind of Islamic law or that follows Islamic guidelines."<sup>52</sup>*

A survey done by the International Republican Institute in the same month found support among the majority of Syrians for a government that "respectfully acknowledges religion" and treats all religions equally while remaining secular. A close second, however, was for a constitution based on Islam.<sup>53</sup> With the rise of radical groups such as Jabhat al-Nusra and ISIS, and the presence of less extreme groups like the Islamic Front which still retains Salafi elements, it is difficult to know what kind of law the majority of Sunni Muslims now want in Syria. It is worth exploring whether *Shari'a* law could be recognized by the state within the central legal system, albeit in a subsidiary form under the aspect of 'group autonomy'. This would be particularly worthwhile if its inclusion would incentivize particular rebel groups to engage in peace talks, and if such inclusion would result in a more sustainable movement towards peace. It should be noted that this is a small study that merely skims the surface of a large and growing debate regarding dual legal systems and the viability of *Shari'a*, traditional or customary law operating within a national legal system.

### **3.2.3 *Shari'a* law in theory and practice**

*Shari'a* can refer to many things, from a pious way of life to a system of corporal and capital punishment laid down in Islamic law but practiced in only a few places. It can also refer to the ideas underpinning Islamic finance (which eschews interest) and, most significantly for public policy, to a form of family law.<sup>54</sup> What is not realized by many Western states is that *Shari'a* does not connote a concrete set of rules established to govern civil society. Instead, it proscribes a manner of personal conduct that prevents Muslims from straying from Islam, hence the translation of *Shari'a* as "the way/path to follow."<sup>55</sup> This means that *Shari'a* can be – and is – interpreted and instituted in various different ways. Thus, extreme interpretations, like that applied by ISIS in its controlled areas in Iraq and Syria, exist alongside moderate ones, such as the *ijtihad* (scholarly interpretation of original sources of Islamic law) of the European Council for Fatwa and Research. This Council answers questions from and issues fatwa (legal opinion) for Muslims attempting to follow their faith outside of a Muslim state.<sup>56</sup>

Following from this differentiation comes the need for clarity on the perception that *Shari'a* is incompatible with human rights, and should therefore not have a place in the legal framework of a democratic country.<sup>57</sup> Some point out that *Shari'a* itself does not grant or forbid funda-

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52 'Dorell, Oren, 'Syrian Rebels Said to Seek Islamic Democracy', *USA Today*, 24 Sept 2012, available at <http://usa-today30.usatoday.com/news/world/story/2012/09/24/syrian-rebels-said-to-seek-islamic-democracy/57826584/1>.

53 'Syrian Opposition Survey: Democratic Models', *International Republican Institute*, June 1 – July 2, 2012, available at <http://www.iri.org/sites/default/files/2012%20September%2021%20Survey%20of%20Syrian%20Opposition%20%20Democratic%20Models%20Slides%2C%20June%201-July%202%2C%202012.pdf>.

54 *Economist*, 'Islamist Law and Democracy; Sense about Shari'a', *Economist*, 14 October 2010, available at <http://www.economist.com/node/17251830>.

55 'Islamic Law; Europe's Shari'a Debate', *Euro-Islam.info*, 12 March 2009, available at <http://www.euro-islam.info/key-issues/islamic-law/>.

56 'First Collection of Fatwas.', *European Council for Fatwa and Research*, Anas Osama Altakriti (trs.). Dublin, Ireland, available at [www.e-cfr.org/data/cat30072008113814.doc](http://www.e-cfr.org/data/cat30072008113814.doc).

57 *Ibid.*



mental human rights, but rather the onus of interpretation is on the individual *mufti* (expert in religious law).<sup>58</sup> Anne Mayer, author of *Islam and Human Rights*, argues that:

*“Muslims have espoused a wide range of opinions on rights – from the assertion that international human rights are fully compatible with Islam to the claim that international human rights are products of alien Western culture and represent values that are repugnant to Islam.”*<sup>59</sup>

This argument suggests there is a great amount of flexibility open to the interpretation of *Shari’a*, which has the potential to alleviate the concerns of non-Muslim confessions within Syria or Western players without, if a more moderate form of *Shari’a* law were to be implemented. That said, the issuance of *fatwas* which do not align with international human rights standards, particularly in relation to women’s rights and corporal punishment is a common occurrence, regardless of the state and/or larger legal system within which they are issued.<sup>60</sup> Therefore the lack of alignment with democracy, of which human rights are core values, might pose a serious problem to the inclusion of *Shari’a* law in a power-sharing agreement, particularly when the second and third step of Rosiny’s model attempt to move towards an inclusive democratic system of governance.

On the other hand, while viewed by the West in a generally negative and sometimes hysterical manner,<sup>61</sup> *Shari’a* law has in fact been operating successfully in Europe for decades. Taking the U.K. as an example, *Shari’a*-compliant banks have grown exponentially since the recent economic crisis, while *Shari’a* courts, known as the Muslim Arbitration Tribunal and recognized as legally binding, have existed officially since 2007.<sup>62</sup> Significantly, when these courts met with public criticism, Church of Scotland Reverend Ian Galloway defended them, commenting that:

*“What is being brought to us is not some kind of parallel jurisdiction that replaces our legal system; rather it is a space, within a given community, for disputes to be resolved.”*<sup>63</sup>

Furthermore, the Lord Chancellor, Jack Straw, pointed out that at present religious councils, including those of the Church of England and the British Jewish community, are legal as long as their decisions do not contradict the criminal law of the U.K.<sup>64</sup> Thus, it should be feasible for Islamic councils to have the same semi-legal status within the larger national legal framework. In relation to aspects of *Shari’a*, and following a model sketched by Ayelet Shachar, the Archbishop of Canterbury, Dr. Rowan Williams, has posited that:

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58 David, Rene & Brierley, John, *Major Legal Systems in the World Today*, London: Stevens and Sons, 1985, p455.

59 Mayer, Anne, *Islam and Human Rights*, Colorado, Westview Press, 1999, p2.

60 An example can be found at Bingham, John, ‘Shari’a law in U.K.: calls for Parliamentary inquiry’, *The Telegraph*, 23 March 2014, available at <http://www.telegraph.co.U.K./news/religion/10717575/Shari’a-law-in-U.K.-calls-for-Parliamentary-inquiry.html>.

61 Gambill, Gary, ‘Partitioning Syria’, *Foreign Policy Research Institute*, October 2013, available at <http://www.fpri.org/articles/2013/10/partitioning-syria>.

62 Taher, Abul, ‘Revealed: U.K.’s First Official Shari’a Courts’, *Sunday Times*, 14 Sept 2008, available at <http://www.ctwilcox.com/articles/U.K.Shari’acourts.pdf>.

63 ‘Church of Scotland backs Islamic Shari’a law courts,’ *The Scotsman*, 9 Oct 2008, available at <http://news.scotsman.com/scotland/Church-of-Scotland-backs-Islamic.4578904.jp>.

64 Rozenburg, Joshua, ‘English law reigns supreme over Shari’a, says Straw,’ *The Telegraph*, 30 Oct 2008, available at <http://www.telegraph.co.U.K./news/newstopping/lawreports/joshuarozenberg/3286766/English-law-reigns-supreme-over-Shari’a-says-Straw.html>.

*“It might be possible to think in terms of what Shachar calls ‘transformative accommodation’: a scheme in which individuals retain the liberty to choose the jurisdiction under which they will seek to resolve certain carefully specified matters.”*<sup>65</sup>

He suggests that this could include aspects of marital law, the regulation of financial transactions and authorized structures of mediation and internal conflict-resolution. Many majority-Muslim countries have this system, in which the government is secular but Muslims can choose to bring familial and financial disputes to *Shari’a* courts. Examples can be seen in Nigeria and Kenya, which have *Shari’a* courts that rule on family law for Muslims.<sup>66</sup> A variation exists in Tanzania, where civil courts apply *Shari’a* or secular law according to the religious background of the defendants. Several countries, including Lebanon and Indonesia, have mixed jurisdiction courts based on residual colonial legal systems and supplemented with *Shari’a*.<sup>67</sup> These country models could serve as an example for Syria if it were to shape its own dual legal system.

### 3.2.4 The application of *Shari’a* law in Syria: advantages and problems

In light of the above examples of *Shari’a*, applied in both secular and non-secular states, a ‘dual system’ should not be discounted as unfeasible. This is particularly the case in a country like Syria where the majority of the population is Muslim.

Legitimate concerns of course exist; some academics argue that Syria is *too* secular for a dual system to work, while there is also a fear that the application of *Shari’a* law in some communities might force other non-Muslim groups to abide by these laws.<sup>68</sup> The latter is a fair concern, given that in some areas, like the Aceh province in Indonesia, Islamic law is based on the principle of territoriality rather than the principle of individuality, meaning that everyone in Aceh, regardless of religion, has to follow Islamic law.<sup>69</sup> In the model proposed by this paper, however, the inclusion of religious law would be provided for in the form of group autonomy rather than territorial autonomy.<sup>70</sup> Justification for this is given with the reasoning that a weak federal system in Syria may encourage the normalization of cleavages and cause massive upheaval in Syria and the wider region. While it can be argued that non-territorial group autonomy may result in the same, this paper posits that the protection of confessional groups at a group level would serve as a better protection of their interests than territorial autonomy, given the demographic reality in Syria. That said, the possibility of exceptions in such cases as the Kurdish region in the north should not be discounted. Under this model,

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65 Lecture of Archbishop of Canterbury Dr. Rowan Williams entitled ‘Civil and Religious Law in England: a religious perspective’, Temple Festival series at the Royal Courts of Justice, 7 February 2008, transcript available at <http://rowanwilliams.archbishopofcanterbury.org/articles.php/1137/archbishops-lecture-civil-and-religious-law-in-england-a-religious-perspective#Lecture>.

66 Johnson, Toni & Vriends, Lauren, ‘Islam; Governing Under Shari’a’, *Council on Foreign Relations*, 9 Jan 2013, available at <http://www.cfr.org/religion/islam-governing-under-Shari’a/p8034>.

67 Idem.

68 Interview with Stephan Rosiny, Research Fellow at IMES, GIGA, Hamburg, 30 June 2014.

69 Simanjuntak, Hotli and Parlina, Ina, ‘Aceh Fully Enforces Shari’a’, *Jakarta Post*, 7 Feb 2014, available at <http://www.thejakartapost.com/news/2014/02/07/aceh-fully-enforces-Shari’a.html>.

70 In the case of the Kurds located in the northern regions, the possibility of some territorial autonomy regarding self-rule should not be discounted.

while Muslims in all areas could have the option of access (or refusal to access) to *Shari'a* courts for particular issues, it would not infringe upon the lives of non-Muslims.

A more pressing question is whether the prevalence of a permanent dual court system might entrench the sectarianism that the Rosiny model strives to avoid. In a country trying to reconcile itself with the memory of a vastly destructive conflict in which many crimes were committed along sectarian lines, there is a chance that such a system would only serve to heighten tensions and reduce social coherence within communities, while also potentially undermining the rule of law and legal equality.<sup>71</sup> Similarly, in the case of future internal conflicts there are fears that the state would lose its role as guarantor of individual rights and freedoms since Muslims may be forced to adhere to rules imposed by *Shari'a* law.<sup>72</sup> The central system should always be clearly defined as the primary source of law, and any group arbitration within that country should adhere to the core tenets of its central system. If any conflict between them were to occur the national law should automatically overrule the local system. What must be expressly avoided in the case of Syria are ISIS-like enclaves where their version of *Shari'a* law is enforced on all who fall within their unilaterally marked territorial boundaries.

This paper is not positing that *Shari'a* law should be formalized in any peace agreement in Syria; the viability of such is dependent on the local groups and their ability to reach a mutually satisfactory agreement based on compromise. However, this paper argues that the possibility of a dual legal system existing in Syria has not been given enough attention in the discourse surrounding the Syrian war, and should not be discounted without further consideration. The application of *Shari'a* law is one of the core requirements of many of the opposition groups. Also, according to Aron Lund of Carnegie Endowment's *Syria in Crisis*, religious arbitration has existed informally in Syria for a considerable amount of time. Positing that several legal systems *have* to coexist in Syria if the country is going to remain unified, he remarked that:

*“Syria has long had religion-based family law, i.e. Muslims used a Shari’a based system to settle disputes over inheritance or marriage and such, while Christians judged family matters according to some sort of church law, etc.”*<sup>73</sup>

Therefore, the formalization of such practice is not such a great leap to make, and if it means the guaranteed cooperation of a number of opposition groups in a peace agreement it should not be ruled out as a potential ‘bargaining tool’.

### **3.3 The role of external forces**

The role of regional and international parties is a key feature of this war. Further, this paper has posited that as the situation stands, without some pressure exerted on Assad from his ex-

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71 Wu, Mimi, ‘Clash of Civilisations: *Shari'a* Law in the International Legal Space’, *Yale Undergraduate Law Review*, 17 August 2011, available at <http://yulr.org/clash-of-civilizations-Shari'a-law-in-the-international-legal-sphere/#refmark-12>.

72 Mcgoldrick, Dominic, ‘Accommodating Muslims in Europe: From Adopting *Shari'a* Law to Religiously Based Opt Outs from Generally Applicable Laws,’ *Human Rights Law Review*, vol.9, no.4, November 2009, pp.603-645.

73 Email from Aron Lund, author and former editor of *Syria in Crisis*, Carnegie Endowment for International Peace, 2 July 2014.

ternal backers, namely Russia and Iran, the likelihood is that he will refuse to negotiate with the opposition groups.

The rise of ISIS has had a significant impact on how the Syrian conflict, and the international community's response to it, has developed in recent months. Their entrenchment in a number of Iraqi and Syrian cities has blurred the fault-lines of the proxy war, causing, for example, the U.S. and Iran to discuss ways to coordinate an effort to push back the ISIS militants in Iraq.<sup>74</sup> This paper believes that as long as the civil war in Syria goes on ISIS cannot be defeated, and would argue that the unrest in Syria is what caused the incredibly rapid rise and entrenchment of ISIS to begin with. It had been hoped in mid-2014 that these developments would shift the priorities of the international players invested in the Syrian war away from finding unilateral advantages and towards seeking a diplomatic solution to the conflict in recognition of the fact that stability in Syria was in the interest of all parties. This re-stabilization and cooperation would prove much more effective in pushing back ISIS and reclaiming the 35% of the country, and its natural resources, that ISIS claims as its own.<sup>75</sup>

The U.S. has decided not to co-operate with the regime of Bashar Assad, however. Instead it has pledged to build up 'moderate' rebels to the point where, with U.S. help, they can take on both ISIS and, eventually, Assad's forces.<sup>76</sup> They are engaging in air strikes against ISIS ground forces in Syria, and are flying in Syrian airspace without the permission of the Syrian government. Five Sunni Arab states have joined the air campaign, though Western allies have declined to assist.<sup>77</sup>

The long term aim of the US appears the same; the overthrow of Assad, which is now combined with the defeat of ISIS. This continued rejection of a political solution in favor of a military campaign and aggressive overthrow of the regime is considered by this paper to be short-sighted, and will not adequately address the numerous issues related to both the Syrian conflict and the war on ISIS. This will be further discussed below.

Regarding the Syrian conflict, the interference of the international community is at once a curse and a blessing. The involvement of international players is significant, and to properly resolve the conflict these external actors must inevitably be taken into account. As Estrin argues, there can be no resolution without the involvement of the relevant international parties in what she calls "a conflict with a particularly noxious brew of external supporters and their proxies".<sup>78</sup>

That said, while the above danger of external interference creating instability is certainly a present issue in Syria, outside involvement is generally considered vital in the transition of

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74 Black Ian, 'Iran and US Face Common Foe in Effort to Stop Isis Fighters in Iraq', *Guardian*, 15 June 2014, available at <http://www.theguardian.com/world/2014/jun/15/iran-iraq-us-isis-fighters-sunni-jihadi>.

75 Cockburn, Patrick, 'The impossible war: Isis 'cannot be beaten' as long as there is civil war in Syria', *The Independent*, 11 September 2014, available at <http://www.independent.co.uk/news/world/middle-east/the-impossible-war-isis-cannot-be-beaten-as-long-as-there-is-civil-war-in-syria-9727847.html>

76 Economist, 'The War Against Islamic State: Unintended Consequences', 4 October 2014, available at <http://www.Economist.com/news/middle-east-and-africa/21621863-are-american-led-air-strikes-creating-sunni-backlash-unintended-consequences>.

77 Ibid.

78 Estrin, Miriam, 'The Proxy War Problem in Syria', *Foreign Policy*, 4 Feb 2014, available at [http://mideast-africa.foreignpolicy.com/posts/2014/02/04/the\\_proxy\\_war\\_problem\\_in\\_syria](http://mideast-africa.foreignpolicy.com/posts/2014/02/04/the_proxy_war_problem_in_syria).

civil conflicts from war to peace. For instance, when an outside third party steps in to observe disarmament and the demobilization process, it is believed that conflicting parties commit to peace more easily.<sup>79</sup> In the absence of an external third party, some believe that the warring parties face a commitment problem. Barbara Walter argues that:

*“At a time when no legitimate government and no legal institutions exist to enforce a contract, the [combatants] are asked to demobilize, disarm, and disengage their military forces and prepare for peace. But once they lay down their weapons and begin to integrate their separate assets into a new united state, it becomes almost impossible to either enforce future cooperation or survive attack. In the end, negotiations fail because civil war adversaries cannot credibly promise to abide by such dangerous terms. Only when an outside enforcer steps in to guarantee the terms do commitments to disarm and share political power become believable. Only then does cooperation become possible.”<sup>80</sup>*

Hence, the presence of a third party is a boundary for potential spoilers of the peace process, because the costs for continuing the conflict increase and lead to a stronger belief in the commitment of all sides to the peace process.

In the case of a proxy war like in Syria, if the players at a macro-level were intent on finding a political solution, the players at a meso-level would have little choice but to follow their wishes. Whether external involvement should be ‘allowed’ in Syria’s conflict-resolution is a moot point; aside from the conflict being very much an internationalized civil war, the economic situation of the country is dire,<sup>81</sup> and any future re-stabilization of the country will demand major outside assistance.

Moving ownership away from the nationals themselves is not, however, a sustainable or desirable direction. It has been suggested that any negotiations should be orchestrated by the factions involved within the country, as occurred in Lebanon where the opposition leaders themselves organized the talks which led to the power-sharing agreement. While not dismissing the necessity of external involvement, to offset the ‘proxy problem’ of too much interference he suggests a double power-sharing model, where the external powers also agree to some restraints put on their level of influence. A veto, for example, is one potential tool that could be used.<sup>82</sup> With the potential ineffectiveness of a veto system being demonstrated by the SC regarding Syria at the moment, this paper would hesitate to promote such a solution. Such action would further complicate an already highly politicized process, and lead to potential stalemates which could destabilize the agreements. This paper believes that the inclusion of the external players is the only realistic way to bring their proxies to a negotiating table. Particularly with the present strength of the regime, it believes that they could only be induced to take part in a peace agreement if Russia and Iran were to exert pressure on them. While the groups remain intransigent, meaningful negotiations cannot take place, which may result in the civil war dragging on for years to come.

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79 Ranft, Florian, 2014, 14.

80 Barbara Walter, ‘The critical barrier to civil war settlement’, *International Organisation*, vol.51, no.3, 1997, p335.

81 See Lund, Aron, ‘Cold Winter Coming’, *Syria in Crisis*, 13 October 2014, available at <http://carnegieendowment.org/syriaincrisis/?fa=56917>. See also ‘Syria; Squandering Humanity; Socioeconomic Monitoring Report on Syria; Combined third and fourth quarter report (July – December 2013)’, *United Nations Relief and Works Agency for Palestine Refugees* (UNRWA), May 2014, available at [http://www.unrwa.org/sites/default/files/scpr\\_report\\_q3-q4\\_2013\\_270514final\\_3.pdf](http://www.unrwa.org/sites/default/files/scpr_report_q3-q4_2013_270514final_3.pdf).

82 Interview with Stephan Rosiny, Research Fellow at IMES, GIGA, Hamburg, 30 June 2014.

That said, while vital at the primary stage of peace negotiations, the active involvement of external powers should not exist in the long-term. Post-conflict societies are usually neither democratic nor prosperous, and whatever meagre resources that exist tend to be concentrated in the state. In the post-war era, the state is expected to become the privileged channel for international funds for peace building and post-conflict reconstruction.<sup>83</sup> When there is substantial and prolonged support (practical, political or otherwise) for particular factions from outside the national arena, this adds another dimension to the post-conflict environment. If a political group must fulfil the wishes of external players rather than putting its energy into meeting the needs of the electorate, the long term stability and functioning of the country is clearly in jeopardy. Sririam and Zahar argue that in some instances, external actors may actively seek to undermine long-term negotiated arrangements, or, through their own instability, passively undermine them.<sup>84</sup> The involvement of third-parties in internationalised civil wars does not stop with the signing of a peace agreement. Indeed, in many contexts it will be the interaction of these factors that create serious challenges to the sustainability of a peace agreement.<sup>85</sup>

In the power-sharing model proposed here, therefore, a clause in the ‘sunset date’ to phase out the active involvement of external powers in the governing of the country is suggested. Whilst of course the interference of these parties cannot be expected to diminish entirely, and support from such international organisations as the UN will no doubt be needed to continue rebuilding the country, a provision should exist for the Syrian people to ‘reclaim’ their state once a more stable peace has been established.

#### 4. Concluding Remarks

The former UN-Arab League Joint Special Representative for Syria, Lakhdar Brahimi, has stated that the main problem regarding the Syrian crisis is how to bring the Syrian sides, and those who support them, to accept the very principle of a political solution.<sup>86</sup> With the conflict nearing its fourth anniversary, all invested parties should realise that a negotiated settlement now is by far preferable to the continued misery of further escalation. The sectarian cleavages which are causing region-wide unrest and are allowing the alarming rise of jihadist groups such as ISIS, have given a level of unpredictability to the conflict, which decreases the control of the main national and international players.

Nearly four years into the Syrian civil war, the fighting is showing no signs of abating. At present there is a sense of diplomatic inertia at an international level and a sense of hopelessness pervading those on the ground and those reporting on the conflict. While in the past the intractable conditions of the conflict had resulted in the attempted mediated negotiations be-

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83 Zahar, 2001, 3.

84 Sriram and Zahar, 2009, 20.

85 Idem.

86 ‘UN Interview with former UN-Arab League Joint Special Representative for Syria, Lakhdar Brahimi’, *UN Department of Political Affairs*, July 2013, transcript available at <http://www.un.org/wcm/content/site/undpa/main/enews-letter/pid/24721>.

ing referred to as ‘mission impossible’, this paper has attempted to show that recent developments in the regional and national arena have resulted in a negotiated agreement becoming a more attainable goal. The interests of international and regional parties are aligned more closely because of the strengthening of ISIS and the increasing instability of the area. The time is ripe for the reactivation of the stagnant political peace talks and the inclusion of all parties willing to cooperate in the process.

International and regional players should realize that by exerting pressure on the parties on the ground to engage in negotiations, they will encourage re-stabilization, not only in Syria, but in its increasingly jittery neighborhood. To continue with inaction is to ensure that the conflict escalates and that the already unacceptable death toll creeps higher.

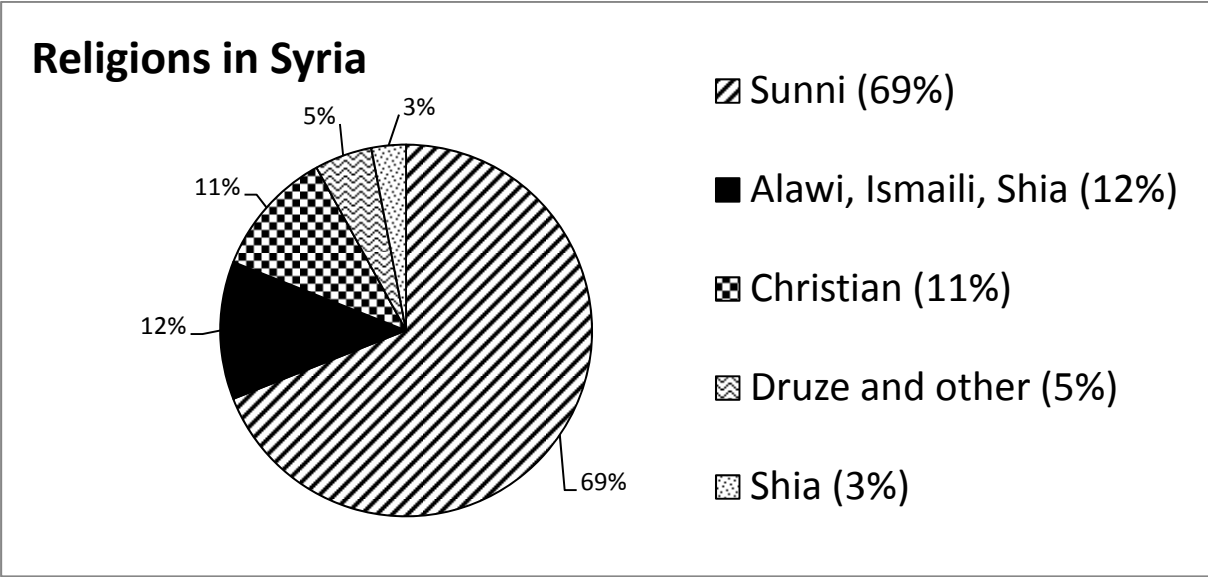
A power-sharing model is considered by this work to be the most viable conflict-resolution tool in the Syrian context. It supports the three-step model of Rosiny, along with some suggested alterations including incentives, such as a possible ‘dual legal system’, and/or the preservation and dilution of Assad’s role in government, to encourage the approach and adherence to the agreement.

If negotiations were to take place they should be shaped primarily by the regime and opposition groups, with input from external invested parties to ensure the commitment of the parties to the agreement. The presence of a neutral mediator agreed on by the national groups would be a good anchor for credible commitment, while this paper would recommend a ‘sunset date’ of 2021 (that is, in seven years when the next election is scheduled to take place) for the primary consociational phase of the agreement to end. This would allow time for the primary state building, reconstruction, the repatriation of refugees, post-conflict rehabilitation, and for the various groups to begin to come to terms with what occurred during the war in a national reconciliation process.

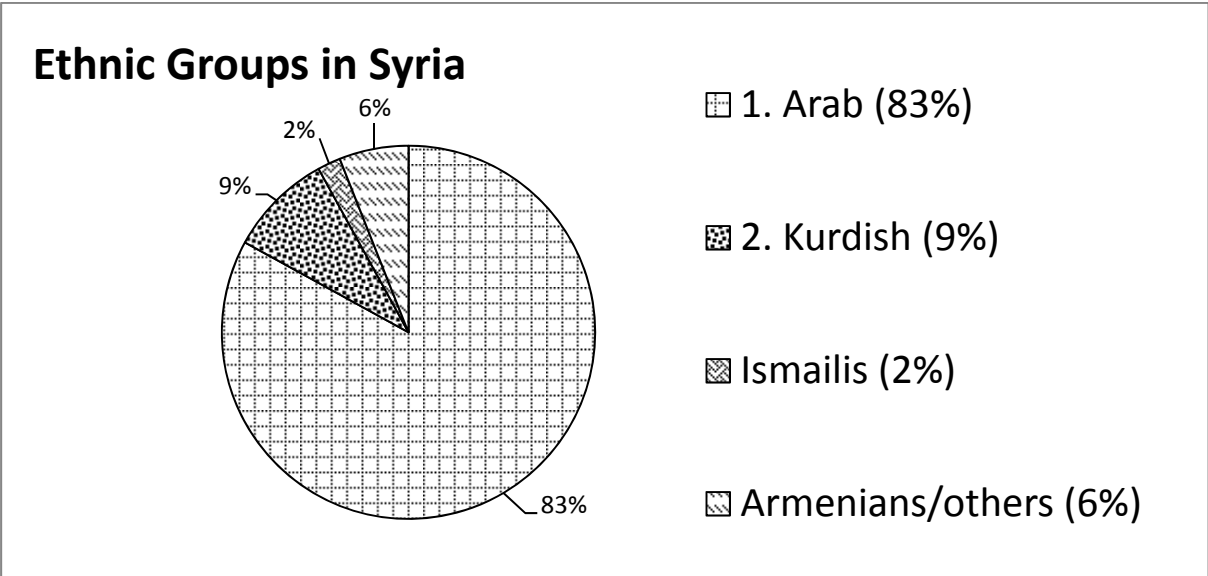
At the arrival of this ‘sunset date’, any incentive-oriented clauses, such as Assad’s preserved position in government, and significant international involvement in the state-building should be phased out. This paper stresses that any resolution to the conflict should be formed to the mutual satisfaction of the national parties and the Syrian people. They are the main benefactors of, and should therefore be the primary actors involved in, a long-term peace settlement and movement towards the rebuilding of war-torn Syria.

**Annex**

**Chart 1**



**Chart 2**





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