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“Mission impossible”: exploring the viability of power-sharing as a conflict-resolution tool in Syria

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Abstract

Purpose – This paper aims to show the viability of consociational power-sharing as a conflict-resolution tool in Syria. It further argues that a subsequent movement from consociational to centripetal power-sharing is vital to ensure sustainable peace.

Design/methodology/approach – A theoretical overview of power-sharing as a conflict-resolution tool provides the basis for this paper, supported by empirical evidence and qualitative research analysis for its proposed application in Syria. Perceived obstacles to a negotiated settlement are outlined, with suggestions made as to how these issues can be transformed into incentives for invested parties. Such obstacles include Bashar al-Assad remaining in power, and calls for the implementation of Shari’a law by some opposition groups.

Findings – While previously the conditions of the conflict were not conducive to peace talks, this paper finds that regional developments, including the rise of the Islamic State of Iraq and Syria, have re-opened the possibility of, and indeed the necessity for, political negotiations. Detailing the complexity of a conflict that goes far beyond a mere sectarian divide, the findings of this paper dispel the notion that a sectarian partition is a viable model for Syria. The paper highlights the multiple cleavages occurring simultaneously, and shows how a power-sharing model is best suited to deal with them.

Originality/value – The paper analyses the ongoing inertia of political negotiations to peacefully resolve the conflict. It offers an approach to conflict-resolution in Syria that has, thus far, not been adequately considered in academic – or political – spheres.

Keywords Syria, ISIS, Assad, Conflict-resolution, Power-sharing, Shari’a law

Paper type Research paper

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” (*UN Notes to Correspondents, 2013*). On the ground, the civil war is as intractable as ever, with Bashar al-Assad and his security infrastructure clinging vociferously to power while the chaotic array of rebel factions are still managing to keep him from reclaiming large portions of the country. In the wider region, all of Syria’s neighbours are involved in the conflict, providing financial and military assistance to different groups on the ground. Similarly, at an international level, the world powers are using Syria as a battleground to promote their own interests. The aggressive rise of the Islamic State of Iraq and Syria (ISIS, otherwise known as

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Islamic State or Islamic State of Iraq and the Levant) in the region has 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 to 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 degree of stability and peace to the country.

This paper will explore the viability of a two-phase power-sharing model as a political and practical way to ameliorate the situation in Syria, ultimately concluding that consociational power-sharing is the most appropriate tool at present to end the conflict. It will further suggest that by adopting the models used to end previous conflicts and adjusting their application to fit with Syria's particular needs, centripetal power-sharing can 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 them 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 argues that recent national and regional developments, including the rise of ISIS, have re-opened the possibility of, and indeed the necessity for, political negotiations.

While scepticism as to the applicability of such a model abounds, it should be remembered that of the total of 38 civil wars ended by negotiated settlement between 1945 and 1998, only one did not include provisions for power-sharing (Hartzell and Hoddie, 2003, p. 318). Also, power-sharing was the method of conflict-resolution proposed in the early years of the political violence that tore through Lebanon and Northern Ireland in the 1970s and 1980s, and Bosnia in the 1990s. In all three cases, in a similar pattern to that which is happening in Syria today, there was not enough domestic or international support to enable the success of the proposed power-sharing arrangements; yet, in all three cases, the conflict was ended through the establishment or re-establishment of power-sharing arrangements (Kerr, 2013).

2. Aspects of Syria's socioeconomic climate

A model for sustainable peace cannot be proposed for 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. As former Secretary-General of the UN, Kofi Annan, has stated:

We must learn to eschew one-size-fits-all formulas and the importation of foreign models, and, instead, base our support on national assessments, national participation and national needs and aspirations (S/2004/616, 2004, par. 2).

Only once the causes of and main elements to the conflict are outlined, therefore, 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 developed a decidedly sectarian profile. Sunni calls for the removal of the minority Alawites in power were accompanied by the systematic targeting of specific religious communities by both the government and opposition groups (Starr, 2012, p. 34; UNGA,

A/HRC/25/65, 2014, paras. 20-33). While sectarianism has now become the primary characteristic of the war, it is important to avoid viewing the heightened ethnic tensions as representative of the long-term Syrian narrative, or indeed even the main cause of the unrest.

Syria was primarily a secular state while under the control of the Assads, at least until the flow of refugees from Iraq began in 2003. 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 this secularism. The existential threat felt by minority groups has been exploited and exacerbated by the regime throughout the conflict (Berti and Paris, 2014, p. 25), which has emphasized the Islamic character of the opposition and refers to any anti-Assad forces as Islamic terrorists (Assad, 2014).

The fear felt by minority groups is in part caused by the demographic predominance of Sunni Muslims in the country. As Figure 1 shows the Sunni Muslim sect is the majority religion in Syria, with nearly 70 per cent of the population belonging to it. 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. Figure 2 illustrates the vast majority of the population who are ethnic Arabs, while a Kurdish minority of roughly nine per cent live mainly in the northern regions of the country. Other smaller ethnic minorities, who make up no more than two per cent of the population, are scattered throughout the country (Izady, 2015; Central Intelligence Agency, 2015).

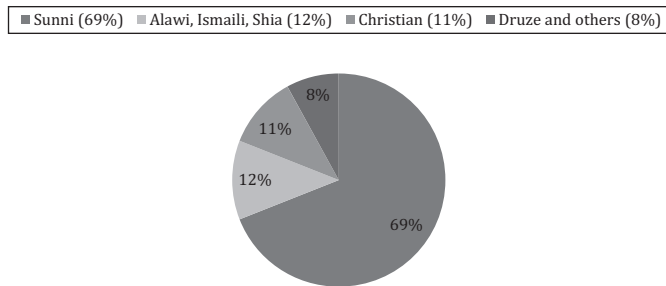


Figure 1.
Religions in Syria

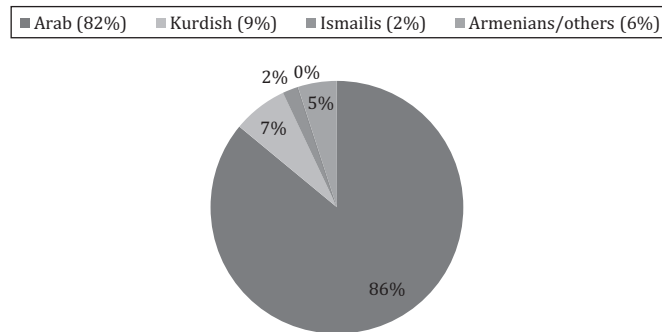


Figure 2.
Ethnic groups in Syria

While in the past some tensions did exist between the different communities, the sense of Syrian national identity still prevailed (Khatib, 2015). Culturally, the constellation of religious and ethnic groups had created within Syria an incredible wealth of diversity, tolerance and beauty. In the words of Starr, “these groups have brought with them languages, dancing styles, different foods, histories, clothing and experiences that embody humanity itself” (Starr, 2012, p. 54). 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 (Polk, 2013).

2.2 Socioeconomic considerations

It is important to keep in mind that 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 an important role in the March 2011 protests.

Prior to the conflict, oil revenue – one of the biggest contributors to Syria’s gross domestic profit – suffered a dip, while the population, which had doubled to 22 million since the mid-1980s, continued to soar (BP, 2013, p. 5). Significantly, between 2006 and 2011, a five-and-a-half-year drought crippled 60 per cent of agricultural land and up to 85 per cent of livestock in some regions, resulting in food shortages and price hikes (Kapstein and Mayoral, 2014). While this contraction affected all strata of society, its effect on the poorer classes was catastrophic. The drought caused a wave of unemployment – an estimated 800,000 rural agricultural workers lost their jobs, inducing mass migration from rural to urban areas (*idem*). 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” (Goulden, 2011, p. 201) that threatened national security and stability. The divide between the *rif* (the urban poor and 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 the younger Assad’s new policies – what some have called “nepotistic economic policies” – that had served to triple Syria’s GDP in the past 10 years (Kilkullen and Rosenblatt, 2014, p. 3).

These beneficiaries within Syria’s business elite have long been important contributors and consolidators of the regime’s power. One Syrian, who describes himself as coming from a Sunni elite family, insists that:

[...] 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 (Landis, 2013).

In relation to the civil war, the Syrian business elite has been seen as the key to the survival of Bashar al-Assad, with its core reported to consist of a close-knit group of around 200 individuals who have been handpicked by the Assad family (De Juan and Bank, 2013). Importantly, these elites cross-cut Syria’s religious and sectarian landscapes, though the wealthiest among them are Alawites (De Juan and Bank, 2013).

From a theoretical viewpoint, a paper written by Büchs of the German Institute for Global and Area Studies (GIGA) before the conflict began described this multi-ethnic business class and elite in terms of a common underlying principle, conceptualized as a “tacit pact” (Büchs, 2009). With regard to material forms of power, this pact is a political agreement in which political voice is traded for economic rewards, wherein 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 non-compliance (Büchs, 2009). This argument remains relevant in the current situation, particularly when it appears that despite his brutality and widely perceived loss of legitimacy, Assad still has the support of his core business elite.

The elite itself still relies on the state structure to ensure its continued existence, despite controlling the vast majority of business interests in Syria (Abboud, 2013). There is a system of corruption and *wasta* (contacts and influence) that the modern business-class is as much responsible for today as the authorities are (Starr, 2012, p. 21). Corruption has always been a major problem in Syria under the Assad regime, though from 2003 onwards, it is estimated to have almost doubled, as measured by the Corruption Perceptions Index (Kapstein and Mayoral, 2014). While Bashar al-Assad spearheaded a highly publicized – and highly ineffective – anti-corruption campaign from the early days of his reign, in 2009, former Vice-President Abdul Halim Khaddam remarked that corruption had been transformed into an institution under Bashar’s rule (Porat, 2010). Khaddam maintained, prophetically, that corruption, suppression of dissent and economic hardship were pushing Syrians, regardless of their religion, over the edge (Porat, 2010).

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 (Rosiny, 2013a, 2013b, p. 20). Academics refer to many Alawites, especially among intellectuals and villagers, who resent how their community has been taken hostage by the regime (Harling and Birke, 2012). Similarly, the elite echelons of the Syrian business community – which have remained for the most part in support of Assad – cross-cut religious and sectarian landscapes (Abboud, 2013). While minority groups in Syria are viewed as the primary collaborators with the Assad regime, and Sunnis its staunch adversaries, in reality every community – including the Sunni majority – has been co-opted to one degree or another in the “tacit pact” of collaboration.

The analytical tool of intersectionality provides a useful platform on which to understand and address the complex multi-dimensional cleavage – or the multiple cleavages simultaneously interacting – in Syria today. This theory suggests that the real problem of identity politics is that it omits intra-group differences. To address this issue, intersectionality proposes to expose the differences within broad categories, to “mediate the tension between assertions of multiple identity and the on-going necessity of group politics” (Crenshaw, 1991, p. 1296). For example, the needs and priorities of an impoverished Sunni woman living in rural Syria are potentially very different to those of a rich Sunni businessman 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 forms the foundation of this paper's argument; that the conflict in Syria is far more complex than a mere sectarian divide, and therefore needs a conflict-resolution process that can address the myriad of different issues happening concurrently. This paper argues that a *de jure* partition, which some have identified as the "best" solution to the conflict (O'Hanlon, 2013), is 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 among Syrians concerning such a massive geographical and social upheaval. The following section will elucidate on this paper's argument, that a two-phase power-sharing model – unlike partition or other conflict-resolution methods – is capable of achieving a space in which the sectarian cleavage is addressed while the other elements of the conflict are also taken into account.

3. Power-sharing as a conflict-resolution tool

There is a vast and growing body of work critiquing, detailing and advocating for the theory of power-sharing. Even confining the theory to the specific area of conflict-resolution, many definitions of power-sharing can be found, perhaps due to the fact that the cause and nature of conflicts themselves differ. One definition that is appropriate to the Syrian conflict comes from Roeder and Rothchild's "The dilemma of Power-sharing after Civil Wars", in which they state:

In war to peace transitions, power-sharing refers to a set of institutions that aim to address the problem of credible commitment by ensuring inclusive decision-making, partitioned decision-making, predetermined decisions, or some combination of these (Roeder and Rothchild, 2005).

Zahar elaborates on how inclusive decision-making can ensure the credible commitment of opposing parties, stating that:

Inclusive decision-making addresses the fear of marginalization or exclusion that parties to a peace settlement often experience in the early stages of war-to-peace transitions. This requires not only ethnic representation in government but also decision rules that ensure the voice of minorities is heard (Zahar, 2001, p. 5).

3.1 Consociationalism and centripetalism

The most widely recognized power-sharing model is Lijphart's consociationalism. Lijphart argues that the claims of ethnic and other parts of society could be integrated into institutional arrangements, resulting in a meaningful participation in political power, thus causing a prevention or reduction in conflict between these communities (Mehler, 2008, p. 10). The main elements of consociational power-sharing can be summarized in the following:

- *Broad-based grand coalition*: A coalition in which political parties not needed to form a majority would be included.
- *Minority veto*: Minorities in existential danger could veto important decisions leading to new negotiations on the consensus mode.
- *Proportional representation*: Providing for all major political and administrative positions and in the distribution of public means.
- *Group autonomy*: All decisions of superior national interest are taken on the central level by the grand coalition. Issues concerning specific geographic regions

of the state, or specific interest groups, could be dealt with by these relevant sub-national groups (Lijphart, 2004, p. 97). Geographical autonomy would be implemented best in a federal system (Mehler 2008, p. 11; Sisk, 2003).

A second power-sharing model proposing a different approach is Horowitz's centripetalism. If the consociational model relies on adversarial community leaders brokering deals with one another, the centripetal one requires them to appeal to members of the other group to win votes (Moor, 2013). Known also as the "integrative approach", centripetal power-sharing eschews ethnic or other group identities as the building blocks of a common society and instead features options that purposefully seek to integrate society along the lines of division (Sisk, 2003). Proponents of centripetalism maintain that the best way to manage democracy in divided societies is not to replicate existing ethnic divisions in the legislature and other representative organs but, rather, to depoliticize ethnicity by putting in place institutional incentives for cross-ethnic behaviour, to encourage patterns of accommodation between rival groups. The elements of an integrative approach include:

- electoral systems that encourage pre-election pacts across ethnic lines (for example through a system of alternative vote or single transferable vote);
- non-ethnic federalism that diffuses points of power; and
- public policies that promote political allegiances that transcend groups (Reilly, 2011, p. 60).

While these consociational and centripetal models ostensibly appear mutually exclusive, there are advantages of using both in the aftermath of a conflict, using Galtung's negative peace and positive peace as two "stages" of the post-conflict situation. Negative peace refers to the absence of violence. When, for example, a ceasefire is enacted, a negative peace will ensue. It is negative because something undesirable stopped happening (e.g. the violence stopped or the oppression ended). Positive peace is filled with positive content such as a restoration of relationships, the creation of social systems that serve the needs of the whole population and the constructive resolution of conflict (Galtung, 1969, p. 168). It is argued that other than as transitional remedies, consociational power-sharing agreements are unworkable in post-war settings (Sriram and Zahar, 2009, pp. 20-21; Spears, 2002, pp. 123-136). They are designed to achieve a set of immediate security demands in the short-term. The goal is that of negative peace, halting current fighting and limiting the risks of its return before implementing other measures more suited to a long-lasting and sustainable peace (idem). Most scholars perceive consociational power-sharing as a constraint on democracy, and as suitable only in the war to peace transition where democratic elections and majoritarian rule are not feasible (Lederach, 2003). It is often too rigid a system to allow for the social and political changes necessary for addressing the underlying causes of conflict that give rise to war. Indeed, contemporary examples such as Iraq and Lebanon support this argument. Long-term, this paper holds that the best outcome for Syria is a development from consociational power-sharing in the transitional phase of the conflict (Phase 1), to the more integrative centripetal power-sharing as the country moves to a more positive peace, so as to allow for the creation of flexible coalitions that bridge the ethnic divide (Phase 2).

3.2 *A power-sharing model in Syria*

The proposal of a power-sharing agreement to end the Syrian conflict is not new. 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 Syrian National Coalition (SNC), to find a diplomatic solution to the conflict. The core undertaking of this conference, under the guidance of Lakhdar Brahimi, the then UN Special Envoy to Syria, was to form a transitional government. This was a follow-up to, and based on, 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. This included 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 (A/66/865-S/2012/522, 2012, Appendix 1). This is a proposal for a power-sharing solution between the regime and the opposition forces, though it does not specify who or what constitutes the “opposition”.

It should be borne in mind, however, that the Geneva II Conference on Syria ultimately amounted to nothing, Assad has rejected the 2012 Communiqué as irrelevant (Lund, 2015a) and UN Special Envoy to Syria Lakhdar Brahimi resigned from his “mission impossible” (UN News Centre, 2014), the second UN Special Envoy to do so. There is little interest at present from any party involved in the war to reach a meaningful political settlement, and the majority of states at an international and regional level are extremely reluctant to have anything to do with Assad (Russia and Iran being notable exceptions).

In the academic sphere, Rosiny of GIGA Institute is the only researcher this author is aware of who has explored the potential of power-sharing as a conflict-resolution tool in the Syrian context (Rosiny, 2013a, 2013b). While agreeing generally with the approach Rosiny takes in acknowledging the lessons learned from the Lebanon “Taif” and the necessity for both the consociational and centripetal approaches to a long-term sustainable resolution, this paper is proposing more contextually based recommendations for a power-sharing model for Syria. These include directly addressing issues relating to the nature of Syria’s divides as well as identifying characteristics of the conflict that might jeopardize a negotiated settlement, and suggesting ways in which these could be circumvented. These recommendations are, namely:

- the inclusion of a pre-arranged “sunset date” to ensure the end of the “negative peace” and the temporary consociational model;
- the need for elucidation with regards to which groups should/would be open to taking part in negotiations and what realistic incentives could be offered to them to do so; and
- the proposal of a central, but temporary, role for international players in the negotiations.

4. A context-specific power-sharing model for Syria

4.1 *A sunset date*

A problem recurring in many power-sharing models implemented 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 lines (Lederach, 2003). In the case of the Lebanon “Taif”, there was no clearly defined timetable for a transition from the consociational to centripetal phase, though this had at first been included in the plan. Instead, the provisional distribution of power based on religious affiliation became a structural barrier to political reform that still exists today. As this is seen as one of the most serious failures of the Lebanon “Taif” agreement (Rosiny, 2013a, 2013b, p. 23), it would seem prudent to have an agreed timetable or outer limit of movement from phase-to-phase in a Syrian agreement, rather than the danger of inertia in the liminal negative peace phase.

Perhaps the 1993 Interim Constitution Pact of South Africa holds a solution to this problem. A “sunset date” in this 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 (Slovo, 1992), 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 (Sisk and Stefes, 2005, pp. 293-295).

With the next round of presidential elections in Syria scheduled to take place in 2021, this perhaps allows an adequate space of time before an obligatory transition from a temporary consociational to a more sustainable inclusive system. Further, the existence of such a limit on ceasefire bargains could be an important way to incentivize all sides in the Syrian conflict to find a point of mutual consensus. This will be elaborated upon in the sections below.

4.2 Participants in the negotiations: spoilers and incentives

The Geneva Communiqué, as well as Rosiny’s thesis, lack any reference as to *who* should take part in a power-sharing agreement; that is, they do not specify whom “the opposition” actually are 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 operating in different parts of the country. Table I gives an overview of the most significant anti-regime groups involved in the conflict, while Cafarella and Casagrande offer a more detailed list of all opposition groups and ‘Operations Rooms’ active at both a national and local level (Cafarella and Casagrande, 2015).

Sriram and Zahar accurately state that disenfranchised groups may take up arms if they see agreements progressing that appear to exclude them (Sriram and Zahar, 2009, p. 23). It is folly not to include a group that 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 agreeing to compromise they make themselves vulnerable to adversaries who may take advantage

Group	Goal(s)	External state support	Interaction with other groups	Willingness to compromise
ISIS	Establish a worldwide Islamic caliphate	No explicit external state support	Poor relations with all other opposition groups	Very low
Syrian National Coalition (SNC)/ Free Syrian Army	Overthrow Assad and build a democratic secular state	Recognized as the sole legitimate representative of the Syrian people by over 20 countries, including the USA, France, UK, Turkey, also the Arab League and the EU	Good relations with some more moderate opposition groups, though generally felt by other groups to be a puppet of Western states with no powerbase "on the ground" in Syria	High
Islamic Front	Overthrow Assad and impose Shari'a law in Syria	Funding and support from Saudi Arabia and Qatar	Considered to be a "swing voter" between extreme and Western backed factions. An umbrella organization encompassing such groups as Ahr ar al-Sham, Tawhid Brigade and Army of Islam	Medium
Jabhat al-Nusra	Currently the strongest branch of al Qaeda. While showing more flexibility than ISIS, their overall aim is still to establish a worldwide Islamic caliphate	No explicit external support (though unconfirmed reports of Qatar funding)	Good relations with some other groups due to close family ties, community links and/or similar ideologies. Collaboration includes fighting alongside members of the Islamic Front against regime forces	Low
Kurdish Movement	Attain element of autonomy in Kurdish majority areas	Some support from Western countries in their fight against ISIS	Respected for fierce resistance to ISIS but not close to any Islamic-oriented groups	High, if their calls for autonomy are considered

Table I.
Most significant non-regime groups active in Syria

of the settlement and exploit the ceasefire (*idem*). It must be recognized that some parties have clear incentives for the continuation of violent conflict or contesting the nature of peace.

In the Syrian context, the group most fitting this description is ISIS. 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 (Stedman, 1997, p. 5), and who actively seek to hinder, delay or undermine conflict settlement through a variety of means (Newman and Richmond, 2006, p. 1). This author does not consider ISIS to be a member of “the opposition”, but rather views it as an uncompromising spoiler who seeks unilateral goals. Similarly, while in early 2015, Jabhat al-Nusra hinted at loosening its ties with al Qaeda, as of mid-2015, it has not done so, nor has it moderated its conservative stance in relation to establishing an Islamic caliphate. Unless it is willing to commit to such compromises, this author also considers al-Nusra a spoiler to any negotiated settlement.

While an internationalized civil war to a large extent needs an internationalized solution, there must still be compromise and pragmatism in the face of the reality on the ground. This paper supports the argument that a peace process should not be imposed upon an unwilling or disengaged public; it must as far as possible be able to accommodate the legitimate concerns of all parties (Newman and Richmond, 2006, p. 1). Therefore, this paper proposes that in a potential power-sharing agreement, all opposition 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. Political and territorial power-sharing have the potential to institutionalize “voice”, and the more of it rebel organizations receive, the more likely it is that the agreement will last (Ranft, 2014, p. 12). Not only does this decrease the chance of intransigence on the side of each involved party, but it also strengthens the unified resistance against 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 realization of a power-sharing agreement being rendered impossible. They are:

- (1) the continued preservation of Bashar al-Assad in his position as president of Syria; and
- (2) 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 argues that there are methods by which they can be mitigated, and even potentially transformed into incentives for the parties invested in the conflict.

4.3 Preservation of Assad

In the first stages of the conflict, former US Secretary of State Hillary Clinton declared that Assad could never be allowed to remain in power, given the blood on his hands (Baynetna, 2012). This has been reiterated time and again by the present US 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” (Moses, 2014, pp. 64-65). The perceived (or real) moral wrongdoing of Assad, his non-adherence to international human rights standards or even his symbolic representation as a figure of

authoritarian and repressive rule, could be justification enough for objecting to him remaining in power in Syria. However, there are also practical consequences of his presence that 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 his control, such an agreement could be rendered meaningless and ultimately fail in the long run. With the currently intransigent position of Assad, the only foreseeable way to force his expulsion is if his external backers were to drop their support for him. If regional stability and a strong offensive against ISIS were prioritized by Russia and Iran over the preservation of Assad for example, or if the current global falling oil prices were to cause enough financial strain for these two backers to pull their support from the regime, such a thing might still be possible. This will be discussed in more detail below.

But would the expulsion of Assad really improve Syria's chances for a sustained peace? 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, such as the Islamic Front. 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 (Sriram and Zahar, 2009, p. 19). With such a low level of group institutionalization 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 (*idem*). Therefore, it is advantageous to preserve some of the state mechanisms already in place to ease the transition and stabilization, 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 possibility remains that Iran or Russia may reduce their support for Assad, his presence in any negotiated settlement is at this time almost a given. Some are pragmatic about this state of affairs. Vartan Oskanian, former Armenian foreign minister, says 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 (Oskanian, 2014). Indeed there are potentially far more extreme elements than Assad within the regime, and he may actually serve as an important moderating influence on them. As Lund put it in mid-2015:

Only rarely will the Assad regime be described as what it most likely is: a decomposing rump state plodding through a confused civil war toward an uncertain future, with no one quite sure anymore what "victory" would even look like In the hypothetical event of Assad's death or withdrawal from Damascus, his armed forces would not cease to exist. Some would flee and

some would die, but what remained would melt into a new ecology of militias and mayhem – and the war would go on (Lund, 2015b).

A pragmatic alternative to Assad's outright dismissal, therefore, is the dilution of the functional power of his office, while other institutions such as the position of prime minister are rendered more significant. This has been done in Lebanon and Iraq, where the principle of power-sharing is politically enshrined at the highest level. 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. While the long-term success of both the Lebanon and Iraq conflict-resolution agreements is certainly questionable, in large part due to the long-term entrenchment of their consociational elements, in the short-term, each power-sharing agreement achieved an important window of peace in which the states could attempt to re-stabilize.

While such a dilution of power might allow room for the simultaneous preservation of Assad *and* the 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 realize that an agreement without Assad may not be practical or, as some commentators argue, even desirable. Set within the right parameters, the opposition groups could still deliver what they had promised to their followers while, at least during the negative peace period, 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 more stable stage, Assad would be vulnerable to dismissal. This structure 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 the inclusion of Assad in the initial agreement, which the regime and its supporters insist upon.

4.4 *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 behaviour 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 to extreme in their interpretation of *Shari'a* law.

With the rise of radical Islamist 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 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.

What is not realized by many is that *Shari'a* does not connote a concrete set of rules established to govern 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” (euro-Islam Info, 2009). 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.

While viewed by the West in a generally negative and sometimes hysterical manner (Gambill, 2013), *Shari'a* law has in fact been operating successfully in Europe for decades. Taking the UK as an example, *Shari'a* courts, known as the Muslim Arbitration Tribunal and recognized as legally binding, have existed officially since 2007 (Arbitration Act of England, Wales and Northern Ireland, 1996). Many majority-Muslim countries have a dual legal 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 (Johnson and Vriends, 2014). 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* (*idem*). These country models could offer examples – and lessons learned – for Syria if it were to shape its own dual legal system.

A relevant concern is whether the prevalence of a permanent dual court system might entrench the sectarianism that a power-sharing agreement should strive 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 (Wu, 2011). Similarly, in the case of future internal conflicts, there are risks that the state would lose its role as guarantor of individual rights and freedoms, as Muslims may be forced to adhere to rules imposed by a version of *Shari'a* law (McGoldrick, 2009). 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 insisting that *Shari'a* law 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, it does argue that the possibility of a dual legal system existing in Syria has been severely neglected in the academic and political discourse surrounding the Syrian war, and should not be further

discounted without consideration. The application of *Shari'a* law is one of the core requirements of many of the opposition groups, including the Islamic Front. Also, according to Aron Lund of Carnegie Endowment's *Syria in Crisis*, religious arbitration has already existed informally in Syria for a considerable period. Positing that several legal systems *have* to coexist in Syria if the country is going to remain unified, he remarks 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. (Lund, 2014b, email).

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.

5. The role of external forces

Interference from the international community in the Syrian conflict 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" (Estrin, 2014). At the same time, while the danger of external interference creating greater instability is an ongoing issue in Syria, outside involvement is generally considered vital in the transition of 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 (Ranft, 2014, p. 14). In the absence of an external third party, 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 (Walter, 1997, p. 335).

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 a future post-conflict setting in Syria, other forms of external intervention will also be vital. The economic situation of the country is dire (UNRWA, 2014; Lund, 2014a), and any future re-stabilization of the country will demand major outside assistance, preferably in the form of support from the UN or other public international organizations rather than as bi-lateral aid. This will be elaborated on in Section 5.2 below.

5.1 *The proxy war in Syria*

In the case of a proxy war like that 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. This author believes that the inclusion of external players at the transitional phase is the only realistic way to bring their proxies to a negotiating table.

The role of regional and international parties is a key feature of this war. In relation to the regime, the support Assad has received from Russia and Iran has been steadfast throughout the conflict. Indeed, without pressure exerted on Assad from Russia and Iran, the likelihood is that Assad will refuse to negotiate with the opposition groups. Russia experienced a loss of influence *vis-à-vis* the Western military interventions in Afghanistan, Iraq and Libya. Russia vetoing all UN Security Council resolutions concerning Syria could simply be an attempt to prevent another externally induced and Western-led regime change in the region. Aside from this, Russia is concerned about its economic and military interests, like the naval base at the Syrian city of Tartus, as well as the strengthening of Sunni extremism, which is well-connected to radical groups in the Caucasus (Rosiny, 2013a, 2013b, p. 12). The latter concern will have been heightened by the rise of ISIS, and the call of its leader for Muslims globally to move to Iraq and Syria to help build an Islamic state. As well as Russia, the support of Iran has ensured the continued military success of Assad, with its closely linked Hezbollah supporting the regime on the ground in Syria. At its most basic level, some have described the conflict in Syria as an extension of the regional cold war between Iran and Saudi Arabia (Berti and Paris, 2014, p. 25).

Maintaining the regime currently suits Russia's purposes and those of Iran, while the USA, Britain and their Gulf allies, eschewing direct military intervention against Assad, lack the means to force him out. While presently advantageous for Assad, this also means that his position is precarious, in that he relies on the current geopolitical situation for his preservation rather than reliable internal or external support. Fawaz Gaerges of London School of Economics and Political Science, argues, for example, that for Iran and Hezbollah, Assad is expendable and his fate negotiable as long as the political settlement preserves the regime infrastructure and support for the Hezbollah resistance axis (Dagher, 2015).

The rise of ISIS has also had a significant impact on how the Syrian conflict, and the international community's response to it, has developed in recent months. Its entrenchment in a number of Iraqi and Syrian cities has blurred the fault-lines of the proxy war, causing, for example, the USA and Iran to discuss ways to coordinate an effort to push back the ISIS militants in Iraq (USA Policy, 2014). This paper argues that as long as the civil war in Syria continues, ISIS cannot be defeated, and that the unrest in Syria was the main cause of 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. This re-stabilization and cooperation would prove much more effective in pushing back ISIS and reclaiming the vast quantity of land and natural resources that this group has declared as its own (Agathocle, 2014).

The USA has, at least publicly, continued its boycott of Assad, however. It has pledged to build up "moderate" rebels to the point where, with US help, they can take on both ISIS and Assad's forces (The White House Office of the Vice-president, 2014). This

continued rejection of a political solution in favour 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. Peace in Syria will not become a reality until the external players – on all sides – acknowledge the necessity of a political solution.

5.2 Phasing out the involvement of external players

In a potential peace agreement, the active involvement of the invested external powers is vital at the primary stage of the negotiations. This involvement should not exist in the long-term, however. Moving ownership away from the nationals themselves is not a sustainable or desirable course of action. Also, post-conflict societies are usually neither democratic nor prosperous, and meagre resources that exist tend to be concentrated in the hands of the state and its actors. In the post-war era, the Syrian state will be expected to become the privileged conduit through which international funds for peace building and post-conflict reconstruction are channelled (Zahar, 2001, p. 3). When there is substantial and prolonged support (practical, political or otherwise) for particular factions from outside the national arena, another dimension would be added 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 (Sririam and Zahar, 2009, p. 20).

The reality is, however, that the involvement of third parties in internationalized 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 for the sustainability of a peace agreement (idem). 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 realistically the interference of these parties cannot be guaranteed to diminish entirely, and support from such international organizations as the UN will be needed to continue rebuilding the country, a provision should still exist for the Syrian people to “reclaim” their state once a more stable peace has been established.

6. 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 (UN Department of Political Affairs, 2013). With the conflict now in its fourth year, all invested parties should realize 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 which are allowing the alarming rise of jihadist groups such as ISIS, have given a level of unpredictability to the conflict, decreasing the control held by the main national and international players.

This prolonged 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. While in the past the intractable conditions of the conflict had resulted in

the attempted mediated negotiations being referred to as a “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 gains of neither the regime nor the opposition groups outweigh their losses significantly enough to justify continued intransigence. The time is ripe for the reactivation of the stagnant political peace talks and the inclusion of all parties willing to take part in the process. Rather than continuing the pursuit of unilateral gains, 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 also in its increasingly jittery neighbourhood. To continue with inaction is to ensure that the conflict escalates and that the already unacceptable death toll creeps higher.

A power-sharing model incorporating consociational and centripetal elements into a two-phase plan is considered by this work to be the most viable conflict-resolution tool in the Syrian context. Specific recommendations proposed by this paper include the presence of a “sunset date” to move from the first to second phase. A “sunset date” of perhaps 2021 (i.e. when the next presidential election is scheduled to take place) for the consociational phase of the agreement to end would allow time for the primary state rebuilding, reconstruction, the repatriation of refugees, post-conflict rehabilitation and for the various groups to at least begin to come to terms with what occurred in a national reconciliation process. To encourage the approach and adherence to the agreement, the possible inclusion of incentives such as the preservation and dilution of Assad’s role in government and/or a possible “dual legal system” needs to be explored. If negotiations do take place, the regime and opposition groups should shape them, with input from external invested parties to ensure the commitment of the parties to the agreement. The presence of a neutral mediator, for example one of the “Elders” or representatives from neutral states agreed upon by the national groups, would be a good anchor for credible commitment.

At the arrival of the “sunset date”, any incentive-oriented clauses, such as Assad’s preserved position in government, and significant international involvement in the state reconstruction, should be phased out. This paper emphasizes 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.

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