

Emotion, Values, and Religion: The Struggle for Legitimacy in Post-Conflict Arab Spring States

I. Introduction

When the Tunisian street vendor Mohamed Bouazizi immolated himself at the end of 2010, it unleashed a chain of events that would come to significantly alter governance structures across the Arab world.¹ As those events unfolded on television and computer screens, many observers—both within the Arab world and without—found hope. Some of those observers represented a broad group that has long awaited change in the region: secularists. Secularists—who seek for human advancement through “reason, science...social organization” and religious tolerance and plurality²—have strived to create structural shifts within a region so closely tied to a history of theocracy and religious zeal.³ Because of this, in the Arab world, the term “secularist” has a particularly refined meaning: a rejection of governance styles that excessively infuse Islam into political and social life.⁴ And, while many pre-Arab Spring regimes had secular objectives, the means these regimes used often involved suppression of political opponents—which was viewed by many secularist observers as a violation of human rights.⁵ To these observers—both inside and outside the Arab world, true political reforms were necessary—ones that espoused human rights.⁶

So it was that for many observers of the Arab Spring, the events that followed Bouazizi’s death were likely viewed as not just a miracle but also an opportunity. After watching decades of failed attempts at reform, a homegrown movement was finally effecting positive results as the protestors were

¹ Rania Abouzeid, *Bouazizi: The Man Who Set Himself and Tunisia on Fire*, Time, Jan. 21, 2011, available at <http://www.time.com/time/magazine/article/0,9171,2044723,00.html>.

² Mahmood Monshipouri, Islamism, Secularism, and Human Rights in the Middle East, 10, 1998.

³ Bingbing Wu, *Secularism and Secularization in the Arab World*, 1 Journal of Middle Eastern and Islamic Studies, 57 (2007).

⁴ *Id.* at 57-58.

⁵ Dean Carroll, *Hope Shines on for the Arab Spring—IMF*, Public Service Europe, Dec. 7, 2011, available at <http://www.publicserviceeurope.com/article/1218/hope-shines-on-for-the-arab-spring-imf>.

⁶ Fred H. Lawson, *Demystifying Syria*, 120-23 (2009).

demanding political freedoms and the regimes seemed to be acquiescing in many instances.⁷ For some secularists and human rights observers, it may have been temptingly easy to view this as an organic and legitimate call for “universal” human rights within the Arab world.⁸ After all, the starting point of the movement, Tunisia, appeared to be fertile ground for such reforms; it was a country that already boasted a relatively healthy economy and strong acceptance of secularism.⁹ This, combined with the protesters’ call for greater freedom from authoritarianism, appeared to signal to secularists and human rights reformers the advent of their long-awaited transformation of the Arab world.¹⁰ Tunisia was to mark the beginning of this region’s evolution towards eventual acceptance of human rights and rule of law. In anticipation of this, and, as soon as was possible, the United Nations Development Program (UNDP) sent advisors to assist Tunisia in this transition towards democracy and broader acceptance of human rights.¹¹ With broad international support, secularists seemed poised for success.

But the secularists and human rights advocates were not the only group to have patiently awaited change in the Arab world. Through decades, political Islamism suffered repression and violence at the hands of authoritative, Arab-nationalist regimes.¹² So, when several of those regimes began to sequentially topple during the Arab Spring, Islamists similarly saw an opportunity for change in the region—one that would return the Arab world to its political and theological roots.¹³ And, two years into the transformation, signs have emerged that indicate a growing tension between those that seek to infuse internationally-accepted “universal” human rights and those that seek to move the region to a more

⁷ Rania Abouzeid, *Bouazizi: The Man Who Set Himself and Tunisia on Fire*, Time, Jan. 21, 2011, available at <http://www.time.com/time/magazine/article/0,9171,2044723,00.html>.

⁸ Dean Carroll, *Hope Shines on for the Arab Spring—IMF*, Public Service Europe, Dec. 7, 2011, available at <http://www.publicserviceeurope.com/article/1218/hope-shines-on-for-the-arab-spring-imf>.

⁹ Tunisia, CIA World Factbook, <https://www.cia.gov/library/publications/the-world-factbook/geos/ts.html> (last visited Mar. 3, 2013).

¹⁰ Dean Carroll, *Hope Shines on for the Arab Spring—IMF*, Public Service Europe, Dec. 7, 2011, available at <http://www.publicserviceeurope.com/article/1218/hope-shines-on-for-the-arab-spring-imf>.

¹¹ Sir Mark Lyall Grantat, *The UN’s Evolving Response to the Arab Spring and the Evolving Role of the Security Council*, Address to UN APPG, 2 May 2012, available at <http://www.una.org.uk/sites/default/files/Address%20to%20the%20UN%20APPG%20by%20Sir%20Mark%20Lyall%20Grant,%202%20May%202012.pdf>.

¹² Lawson at 125-26; See also: *Tunisia Profile*, BBC, 14 Aug 2012 <http://www.bbc.co.uk/news/world-africa-14107720>, (last visited Mar. 25 2013).

¹³ Noman Benotman, and Emad Naseraldin, The Quilliam Foundation, *The Jihadist Network in the Syrian Revolution: A Strategic Briefing* (Jan. 2013), <http://www.quilliamfoundation.org/wp/wpcontent/uploads/publications/free/the-jihadist-network-in-the-syrian-revolution.pdf>

Islamist-influenced society. Even Tunisia, which was seen as the international community's brightest hope in the region, currently finds itself embroiled in this tension.¹⁴ Suddenly, the international community's shining beacon of progress has morphed into a story inescapably imbued with the undertones of Islamic fundamentalism. When given the chance for choice, Tunisians opted for politics that do not entirely idealize the principles that many secularists and human rights advocates had hoped would emerge in the Arab Spring,¹⁵ and political Islamists have gained a strong hold in the battle over legitimacy in this post-conflict nation.¹⁶

Yet, perhaps, this should have been a clear possibility from the outset. After all, the story of Mohamed Bouazizi was not one of a secularist ideologue who yearned to move his nation toward compliance with the Universal Declaration of Human Rights. He was simply a street vendor—one who was frustrated by his local government's oppressive meddling with his already-challenging efforts to earn a living.¹⁷ And his was a story that thousands of young men across the Arab world could recognize as similar their own.¹⁸ These were young men who longed to earn a respectable living yet felt constrained from so doing. As they saw Mohamed's story unfold, they took to the streets to demand action from or removal of their governments.¹⁹ It was this that was the catalyst in the Arab Spring—not an outright movement for “universal human rights” but rather a hungering for something more nuanced. While these protesters desired a more legitimate government, legitimacy for them was measured initially by more basic needs. They sought the rights to earn a living and to be free from poverty,²⁰ and these became the foundational elements in their quest for a more legitimate government. Whether a secular party or a

¹⁴ Monica Marks and Kareem Fahim, *Tunisia Moves to Contain Fallout After Opposition Figure Is Assassinated*, N.Y. TIMES, Feb. 7, 2013, available at http://www.nytimes.com/2013/02/07/world/africa/chokri-belaïd-tunisian-opposition-figure-is-killed.html?pagewanted=1&_r=0.

¹⁵ *Tunisia*, CIA World Factbook, <https://www.cia.gov/library/publications/the-world-factbook/geos/ts.html> (last visited Mar. 3, 2013).

¹⁶ Rob Prince, *Tunisia at Crossroads*, Foreign Policy in Focus (Feb. 21 2012), http://www.fpif.org/articles/tunisia_at_a_crossroads.

¹⁷ Rania Abouzeid, *Bouazizi: The Man Who Set Himself and Tunisia on Fire*, TIME, Jan. 21, 2011, available at <http://www.time.com/time/magazine/article/0,9171,2044723,00.html>.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

religious party could provide these basic necessities was, perhaps, initially inapposite to these protestors. The search for legitimacy was originally more rudimentary—they simply needed their basic needs met.

Not surprisingly, as these revolutions have matured, and spread from Tunisia, the theme of the struggle over legitimacy between Islamists and human rights-based parties has continually resurfaced.²¹ And, in an effort to better understand the post-conflict setting in Arab Spring states, it is this evolution of the battle for legitimacy that this paper will address. This will be shown by initially examining the principle of legitimacy and analyzing how the various facets of legitimacy have affected the situations in two case studies: Tunisia and Syria. These countries mark the initiation and, to this point in the spring of 2013, the terminus of the Arab Spring movement. Through these analyses, several important lessons on legitimacy will be extracted. First, the role of providing for basic necessities—ranging from sustenance and utilities to security—will be discussed. Then, the degree to which legitimacy depends upon a shared sense of values and religion between voters and political movements will be analyzed. In examining these themes, it will be shown how Islamists and secularists or human rights advocates have gained or lost ground on legitimacy in these Arab Spring countries. Finally, recommendations for future efforts at advancing a political end-state in a post-conflict society will be made.

II. Legitimacy

If the concept of “legitimacy” seems amorphous or difficult to define, it is not without cause. Legitimacy can take many shapes and assume several roles in a post-conflict society. It can be tied to both substantive and procedural aspects of a new government, and it can grow or fail for a variety of reasons.²² The German philosopher, Max Weber, attempted to establish the sources of legitimacy in his work, *Economy and Society*. In doing so, he identified two categories through which a society develops a sense of legitimacy in its government: subjective and compulsive.²³ The compulsive element hinges on whether a person expects certain negative societal or legal repercussions for failing to support a

²¹ Rob Prince, *Tunisia at Crossroads*, Foreign Policy in Focus (Feb. 21 2012), http://www.fpif.org/articles/tunisia_at_a_crossroads.

²² Philipp Dann and Zaid Al-Ali, *The Internationalized Pouvoir Constituant: Constitution-Making under Influence in Iraq, Sudan and East Timor*, 10 Max Planck Yearbook of U.N. Law, 455 (2007).

²³ Weber at 33-37.

government's legal order.²⁴ This element would appear to have a strong salience in authoritarian states where a person fears repercussions for failures to obey. Yet, while this may explain the longevity of the pre-Arab Spring regimes, it is the subjective element that becomes much more salient in the context the Arab Spring and its ensuing battles for legitimacy. Citizens in post-conflict Arab Spring states are encountering the different aspects of these various levels of legitimacy, and, for many, grappling for the first time with the issues of voluntarily surrendering one's allegiances to a government.²⁵ This subjective offering of legitimacy has proven to be a complicated issue in the post-Arab Spring states, and Weber's writings perhaps explain why. He described subjective legitimacy as being grounded in one of three differing sources: affectual (emotional), value rationale, and religion.²⁶ Each offers a different reason for why one would voluntarily offer legitimacy to her own government.

To begin, the "emotional" source for guaranteeing legitimacy to a government is rooted in whether the citizens will choose to emotionally surrender their compliance to the state.²⁷ This paper will argue that emotional legitimacy becomes the initial building-block for governance in a society emerging from conflict. To demonstrate this, the term "emotional legitimacy" will be interpreted as whether a society feels that its government is meeting its basic needs. Drawing on the concepts of Maslow's Hierarchy of Needs, the paper will focus on the more foundational human needs such as food, employment, and security as being sources for emotional legitimacy.²⁸ In this sense, emotional legitimacy is intricately tied to the origins of the Arab Spring. The protests that sparked the movement were largely visceral reactions spawned by decades of human suffering at the hands of authoritarian regimes. These revolutionaries—whether through acts of civil disobedience or mass protests—sought for the basics of human necessity. They desired the essentials of life: access to employment opportunities, freedom from poverty, and the need for better security.²⁹ The systemic problems of high unemployment

²⁴ *Id.*

²⁵ *Id.* at 34.

²⁶ *Id.*

²⁷ *Id.*

²⁸ Maslow at 370; 386.

²⁹ Rania Abouzeid, *Bouazizi: The Man Who Set Himself and Tunisia on Fire*, Time, Jan. 21, 2011, available at

(especially among young males) and poor living conditions played significant roles in fueling intense, emotional frustrations with the regimes of the Arab world and led protestors to demand better.³⁰ Again, this paper will view these basic needs as being transitive with the concept of emotional legitimacy and will examine how Islamist and secularist parties have sought to make political gains by addressing these basic needs and, thus, gaining legitimacy in the eyes of Arab voters.

Values- and religious-based sources for legitimacy, however, are concepts that appeal to more advanced human needs.³¹ As conflict fades, emotional legitimacy becomes less salient, and citizens begin to look to more nuanced sources of legitimacy as those citizens determine which theories of governance they will ultimately adopt. Values-based legitimacy is rooted in the question of whether a legal order is tied to a universally accepted principle, ethic, or value. Religious-based sources hinge on whether citizens view salvation as being tethered to compliance with a legal order.³² This paper will examine the interplay between these two sources—values-based and religious-based—and the role that this interplay has held in creating or resolving the tension over legitimacy between Islamists parties and secularists. As the situation transitions from conflict to post-conflict, the relationship between these two sources of legitimacy becomes increasingly relevant. For example, the international community and secularists have supported attempts at reform that recognize the validity of “universal” human rights. These efforts are couched in the perception that these rights are absolute—required to be enacted by governments in order to preserve legitimacy. To the extent that citizens in post-Arab Spring states come to believe this, the secularists will have a greater chance of gaining legitimacy. On the other hand, some Islamists are seeking political agendas that would facially violate these human rights in areas ranging from women’s rights to freedom of expression. Proponents of this version of Islamic values view their legitimacy as stemming from a religious angle. To the extent that they convince citizens of a religious duty to enact

<http://www.time.com/time/magazine/article/0,9171,2044723,00.html>.

³⁰ Dean Carroll, *Hope Shines on for the Arab Spring—IMF*, Public Service Europe, Dec. 7, 2011, available at <http://www.publicserviceeurope.com/article/1218/hope-shines-on-for-the-arab-spring-imf>.

³¹ Maslow at 379; Weber at 33-37.

³² Weber at 33-37.

change in accordance with their political-religious principles, these proponents increase in legitimacy and grow in power.

To be sure, the term “values,” in a lay sense, is perhaps synonymous with religious mores; for this paper, however, the term “values” will refer to ethical, not necessarily religious, principles that are esteemed as “universal.” These are drawn principally from international customs and treaties that have gained near universal consensus as *jus cogens*. This paper will focus primarily on “values” such as gender equality, the rights of religious minorities, and political freedoms—all of which have firm roots in foundational documents of the international community such as the Universal Declaration of Human Rights³³ and the International Covenant on Civil and Political Rights.³⁴ For the context of religious-based sources of legitimacy, this paper will refer to interpretations of Islamic law by Islamists in post-conflict Arab Spring nations that may differ from these “universal values.” For example, while Islam promotes protections of religious liberties for certain religious minorities, many Islamic jurists believe that Muslims are limited in their religious liberties; to these jurists, once one enters the faith, his political freedom to leave it becomes lost.³⁵ Still, other actors in these post-conflict settings hold to a more extreme view of Islam. They argue for greater restrictions on non-Muslim religious minorities in those nations.³⁶ These fundamentalists have gained some footholds in the wake of the Arab Spring, and they view with contempt those that stray from their strict religious principles—both Muslim and non-Muslim.³⁷ To this group of political Islamists, religious liberties for Muslims and religious minorities in Arab nations are virtually nonexistent. Strict adherence to Islam is viewed as a legal requirement. Lastly, some political Islamists have a nuanced view of gender equality—one that holds that women are subservient to men and are

³³ Article 2, Universal Declaration of Human Rights.

³⁴ Articles 3, 18, 23, 25, and 27, International Covenant on Civil and Political Rights.

³⁵ Mahmoud Ayoub, Religious Freedom and the Law of Apostasy in Islam, 20, *Islamiyat Masihiyat*, 75-95 (1994). See also: Sahih al-Bukhari vol. 9, Book 84, No. 57; Sahih al-Bukhari vol., Book 89, No. 271; Sahih Muslim, Book 16, No. 4152.

³⁶ Raymond Ibrahim, *The Al-Qaeda Reader* Doubleday, 19-20, (2007). See also: Karen J. Greenberg, Ed., *Al Qaeda Now: Understanding Today's Terrorists*, 14, (2005).

³⁷ *Id.*

required to adhere to certain standards of dress and behavior.³⁸ While these religious perspectives violate several “universal values” held by the UN, they are considered to be necessary from a religious (and thus legal) perspective by many in the post-conflict Arab Spring states and are therefore viewed as a valid source for legitimate governance.

Having explained the relevant terms, this paper will now turn to how Islamists and secularists have interacted with these sources of legitimacy in Tunisia and Syria. Through these case studies, important lessons will be drawn on the ability of parties to meet the emotional demands of the protesters as well as the role that ideologies—universal values or religion—have played in the post-conflict struggle for legitimacy. It will be shown how political movements or parties can jockey for better emotional legitimacy during the critical conflict phase. Then, lessons will be extracted from how political parties strive to gain values-based or religious-based legitimacy as the conflict phase ends (Tunisia) or matures (Syria), and it will be shown how the potential for a reversion to conflict exists during this stage. Finally, the two case studies will be compared and contrasted to glean possible recommendations for those who seek to advance political movements in post-conflict nations affected by the Arab Spring.

III. Tunisia

Background

Tunisia has a history of being at the crossroads of cultures. As it is the site of an accessible and strategic port, the area became the home to the ancient city of Carthage—a base of power for the Phoenician city-states that dominated Mediterranean civilization until the rise of the Roman Empire.³⁹ Following the Punic War in third and second centuries, B.C., the Romans established a colony in the area and began to exert their influence, culture, and religion over the region.⁴⁰ This influence—and the eventual Christianization of the area—continued until the gradual decline of the Empire and the eventual rise of Arabian Muslim expansion. In the seventh century, A.D., the area fell under Arab control, despite

³⁸ Leila Ahmed, *Women and Gender in Islam*, 129, (1992).

³⁹ *Tunisia*, Encyclopedia Britannica Online, <http://www.britannica.com/EBchecked/topic/609229/Tunisia> (last visited Mar. 27, 2013).

⁴⁰ *Id.*

vigorous physical opposition by the endemic Berber population.⁴¹ Eventually the Berbers succumbed and converted to Islam.⁴² It was here, under Arab control, that the region gained the roots of its Muslim identity—one that has continued through to present times. Yet, following this initial conversion, ties to the Arabian-based Caliphate eventually waned, and the ethnic Berbers established an independent Islamic Caliphate, under the Hafsid dynasty.⁴³ This was a significant moment in the region's history: the Dynasty restored organic ethnic control yet retained the Arabian-introduced religion of Islam. Also significantly, the Maliki school of Islamic jurisprudence developed under this dynasty, and the capital was established in the city of Tunis.⁴⁴ By the sixteenth century, the region fell under the control of the Turkish Ottoman Empire, although it still retained significant comparative autonomy.⁴⁵ By the onset of the nineteenth century, this autonomy, coupled with the moribund trajectory of the Ottoman Empire, effectively dissolved the governance relationship between the two entities.⁴⁶

In 1835, however, this status of autonomy came under threat.⁴⁷ The Ottomans—seeking to regain strength for their dwindling empire—reasserted authority in neighboring Libya to the east and gave intimations that they had designs to do the same with Tunisia. Meanwhile the French, who had recently invaded Algeria, to the west of Tunisia, were sending signals that they intended to invade Tunisia as well.⁴⁸ It was during this time of tension that Tunisia developed a governing strategy that would mark over a century of the country's coming history: placation and modernization. Ahmad Bey, the ruler over Tunisia, carefully navigated the international tensions by appeasing both the French and the Ottomans while seeking to modernize Tunisia from within.⁴⁹ The nation underwent a series of political modernization attempts, including adopting a civil rights pact and the Arab world's first written

⁴¹ *Berber*, Encyclopedia Britannica Online, <http://www.britannica.com/EBchecked/topic/61465/Berber> (last visited Mar. 27 2013).

⁴² *Id.*

⁴³ *Hafsid Dynasty*, Encyclopedia Britannica Online, <http://www.britannica.com/EBchecked/topic/251439/Hafsid-dynasty> (last visited Mar. 27, 2013).

⁴⁴ *Id.*

⁴⁵ *Tunisia*, Encyclopedia Britannica Online, <http://www.britannica.com/EBchecked/topic/609229/Tunisia> (last visited Mar. 27, 2013).

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ *Id.*

constitution (the Destour), but Tunisia struggled to keep the increasingly interested European powers at bay as it incurred significant debt at their hands during its efforts to modernize.⁵⁰ Perhaps foreshadowing future struggles for the nation, the placating and modernization policies—which had led to high taxes and tepid economic growth—infuriated peasants across the countryside, and, in the 1860s, the peasants arose in rebellion. The rebellion was subdued only through the use of brutal measures by the government,⁵¹ and Tunisia’s nineteenth-century dalliances with autonomy came to an end when its domestic turmoil was finally matched with a European consensus on the future of nation: in 1878, Britain conceded to French control over the area.⁵² In 1881, the French used a pretext of Tunisian encroachment into Algerian territory to invade Tunisia, and the once-independent North African nation transitioned into becoming a French protectorate.⁵³ The country was forced to adopt policies in an array of areas—from financial to administrative—that were recommended by the French. Yet, perhaps as a minor victory for Tunisians, this occurred through treaty—not total conquest. Tunisia preserved some semblance of autonomy in the arrangement, allowing Tunisians to preserve cultural and religious identity.⁵⁴

Over decades, a nationalist movement began to develop.⁵⁵ The process was slow as French reactions were swift when the movement appeared to move too far towards efforts at independence, but key figures began to gain experience in leading the movement. One of those leaders was Habib Bourguiba, a lawyer.⁵⁶ In the 1930’s, he broke with the primary nationalist movement to form the Neo-Destour Party (NDP), which used a greater degree of propaganda to advocate for independence.⁵⁷ As tensions in Europe rose in the latter end of the 1930’s with World War II, French authorities cracked down and arrested Bourguiba and other NDP leaders. These leaders, however, were ultimately released when Axis powers gained control over France, and the nationalists returned emboldened to Tunisia and

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² *Id.*

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ *Tunisia Profile*, BBC, 14 Aug 2012, <http://www.bbc.co.uk/news/world-africa-14107720> (last visited Mar. 25, 2013).

⁵⁷ *Tunisia*, Encyclopedia Britannica Online, <http://www.britannica.com/EBchecked/topic/609229/Tunisia> (last visited 25 Mar. 2013)

were given positions in the government.⁵⁸ When the war ended, the French sought to reassert control, and they abolished the Tunisian governing authority, the Bey.⁵⁹ Yet the NDP continued to gain grassroots prominence as leaders, such as Bourguiba who was once again in exile, were seen as national heroes. Soon, guerrilla movements and terrorism were plaguing the country, and, by the 1950's, the French recognized the need for concessions to the nationalists.⁶⁰ In 1954, the French met with a Tunisian delegation, which was supervised by Bourguiba, and agreed to broaden the areas of Tunisian autonomy. Two years later, Tunisia was granted full independence, and Bourguiba became the president in 1957.⁶¹

The decades that followed for Tunisia were filled with dichotomous outcomes. On one hand, the government sought for liberalized economic and social reforms. Women were granted equality with men, and impoverished economic areas were given particular focus for revitalization efforts.⁶² On the other hand, economic progress was slow, and political freedoms were limited.⁶³ President Bourguiba was declared president-for-life, and political opposition to his party (now known as the RCD) was severely limited.⁶⁴ Internal efforts at political liberalization were slow. Dissidents were imprisoned, and, when reforms were instituted, they were largely inconsequential. For example, in 1981, the then-ailing President Bourguiba allowed a multi-party election and granted amnesty to many political prisoners. But the results were less-than-encouraging—the RCD retained every seat in parliament.⁶⁵

Skepticism over transparency and fairness grew within the country, and the first signs of an Islamist backlash emerged. Political Islamists, sensing an opportunity with the allowance of multi-party elections, formed the Islamic Tendency Movement (later known as Ennahda) in 1984.⁶⁶ The party's primary goals were to nonviolently seek an increase in the religiosity of daily life for Tunisians and to

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² *Id.*

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ *Nahdah*, Encyclopedia Britannica Online, <http://www.britannica.com/EBchecked/topic/1285953/Nahdah-Party> (last visited Mar. 25, 2013).

more evenly distribute economic resources.⁶⁷ Yet the party was often forced to operate clandestinely; it never gained official recognition and would remain an illegal party for nearly three more decades. In fact, the Tunisian regime regularly accused Ennahda of supporting violence and disruption in the country and initiated military campaigns against the party.⁶⁸

By the mid-1980's, Bourguiba's health and mental fitness were clearly deteriorating, so Tunisia finally witnessed, in 1986, its first transition of power following French Independence in 1956.⁶⁹ It was without violence. But it was also without a vote. Ben Ali, who had been appointed as Prime Minister a month before Bourguiba was declared unfit, appointed himself to the presidency.⁷⁰ Ben Ali promised democratic reforms, and he initially appeared willing to deliver on these promises. He legalized opposition parties, with the exception of Ennahda, and he sought to bring the parties together in discourse.⁷¹ He also released many political prisoners and eased restrictions on the press.⁷² Still, when faced with his first reelection, he barred opposition parties from competing. Winning 99 percent of the vote in 1989, he retained the presidency, and his party held onto every seat in parliament.⁷³ Local elections the following year, which allowed multiparty competition, achieved the same result as the opposition parties boycotted the elections. Ennahda, the still-illegal Islamist party, faced renewed crackdowns as Islamists gained political power in neighboring Algeria following that country's elections in 1990.⁷⁴ With Ennahda facing overwhelming odds and the remaining opposition parties unable to gain presence on the ballot, Ben Ali and his party continued to dominate elections in Tunisia. From 1994 to 2009, he faced reelection four times, winning by over 90 percent in each instance.⁷⁵ Slowly, the easing of restrictions on daily life for Tunisians that Ben Ali initially granted—ranging from media and political to economic freedom—faded.

⁶⁷ *Id.*

⁶⁸ *Tunisia*, Encyclopedia Britannica Online, <http://www.britannica.com/EBchecked/topic/609229/Tunisia> (last visited Mar. 27, 2013).

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² *Id.*

⁷³ *Id.*

⁷⁴ *Id.*

⁷⁵ *Id.*

So it was that Tunisia had gained an often contradictory character. While still maintaining a significant Islamic population, religiosity was not encouraged by the government. In fact, political manifestation of religion was severely discouraged.⁷⁶ Social reforms—such as equality for women or allowance of political discourse—were facially encouraged. But full participation in politics for those that disagreed with the regime was barred. Economic efforts at liberalization had produced a stable economy with a modernized facet to it. But poverty and unemployment continued to plague much of the country. And, perhaps most importantly for the political conflicts that soon awaited it, Tunisia had developed both innately secular and Islamist facets to its culture. Both saw successes and setbacks. While secularists Tunisians struggled for more human rights, the regime did afford them some rights that were commensurate with those supported by the international community. For example, the rights of religious minorities and women were held as absolute values for many Tunisians.⁷⁷ Yet the nation had also preserved a distinctly Islamic nature. While political Islamists suffered at the hands of the regime, Islam, by far, remained the dominant religion. And a desire to return to a more religious and more traditional way of life had been brewing through the decades of political oppression.⁷⁸ Ben Ali's Tunisia was complicated, and, just over half a century following its independence, it was in flux. Facially, it appeared stable, but segments within the societal fabric were growing weary of the oppression they had been suffering for decades.

On December 17, 2010, this undercurrent of repression manifested itself. Mohamed Bouazizi—a food vendor who supported his family and one who had experienced frustrations in the past over fines levied against him—reached a point of exasperation when a police officer assaulted him and fined him once more for selling his vegetables.⁷⁹ After unsuccessfully seeking administrative redress, the man lit

⁷⁶ Ebony King, *The Future of Tunisian Islam: The Case of Ennahda*, 5 *Crossroads Journal*, 4-12, available at <http://www.uq.edu.au/crossroads/Archives/Vol%206/Issue%201%202012/Vol6Iss112%20-%203.King%20> (2012).

⁷⁷ *Tunisia*, Encyclopedia Britannica Online, <http://www.britannica.com/EBchecked/topic/609229/Tunisia> (last visited Mar. 27, 2013).

⁷⁸ King at 4.

⁷⁹ Rania Abouzeid, *Bouazizi: The Man Who Set Himself and Tunisia on Fire*, *Time*, Jan. 21, 2011, available at <http://www.time.com/time/magazine/article/0,9171,2044723,00.html>.

himself aflame in front of the provisional headquarters of Sidi Bouzid.⁸⁰ The story instantly caught attention, and protests occurred in Sidi Bouzid. Over the next several days, as the man slowly died from his injuries, a series of protests spread across the nation.⁸¹ Tunisian authorities attempted to crackdown on the protests, but the attempts involved violence and torture against the protesters which only strengthened the movement. Within two weeks, the protests spread to the capital, and their objectives clarified.⁸² The protests, initially dominated by young men demanding jobs and political freedoms, soon involved professional classes such as lawyers throughout the country who were demanding the removal of the regime.⁸³ On January 13, 2011, President Ben Ali publicly agreed to not seek reelection; he fled the country the next day.⁸⁴ The Constitutional Court ruled that, per the constitution, already-appointed officials, including Mohammed Ghannouchi, were to assume governance of the country.⁸⁵ The protesters rejected this ruling and intensified their demonstrations, believing that the country required a clean break from Ben Ali's RCD. On January 17, Ghannouchi announced a new government with an increased number of opposition political leaders filling seats. The protesters, however, voiced anger that RCD members continued to hold any positions.⁸⁶ Mohammed Ghannouchi and the other RCD members of the new cabinet resigned from the Party, yet this still was not enough. Protesters continued to demand a complete purge.⁸⁷ In late February, Mohammed Ghannouchi resigned from his post as prime minister, and, in March, the RCD was dissolved by court order. Elections were scheduled for October of 2011, and the protests finally subsided.⁸⁸ Within a matter of weeks, Tunisia moved from an authoritarian regime to a country that was preparing to hold free and fair elections where the former regime's party no longer legally existed. The purpose of those elections was to form the Constituent Assembly, charged with

⁸⁰ *Id.*

⁸¹ Ryan Rifai, *Timeline: Tunisia Uprising*, AL JAZEERA, Mar. 27, 2013, <http://www.aljazeera.com/indepth/spotlight/tunisia/2011/01/201114142223827361.html>.

⁸² *Id.*

⁸³ *Id.*

⁸⁴ *Id.*

⁸⁵ *Id.*

⁸⁶ *Id.*

⁸⁷ *Id.*

⁸⁸ *Tunisia Profile*, BBC, 14 Aug 2012 <http://www.bbc.co.uk/news/world-africa-14107720>, (last visited Mar. 25 2013).

interim governing and writing a new constitution.⁸⁹ In such a short period of time, Tunisia passed through the conflict phase and seemed prepared to move towards legitimate electoral and constitutional processes.

Emotional Legitimacy

One of the fascinating aspects of the Tunisian protests was the diversity of their involvement. What began as a group of frustrated male youth in Sidi Bouzid spread to include most segments of Tunisian society. Members of the professional class, secular-minded individuals, women, and the religiously devout quickly joined and took to the streets throughout the country.⁹⁰ And their frustrations were clear: an authoritative regime had infringed upon their political and economic rights for too long.⁹¹ They wanted change. They wanted a voice in politics. They wanted better economic opportunities. It was, perhaps, the latter that became the primary catalyst for sparking the rapid loss of emotional legitimacy in Ben Ali's regime. Unemployment had been stubbornly high in Tunisia—16 percent for the general population and 23% among young adults.⁹² While the country was continuing to experience healthy economic growth,⁹³ it was clear from the frustrations of the protestors that this growth was not being felt by the much of society.⁹⁴ Amidst excessive regulations and high unemployment, too many Tunisians saw the corruption of the regime as the cause of their economic difficulty.⁹⁵ Absent an ability to earn a living, these Tunisians developed growing feelings of emotional disconnect from their government—their basic foundational human needs for employment was not being met.⁹⁶ When Mohamed Bouazizi lit himself aflame, he also lit aflame an underlying feeling of emotional separateness

⁸⁹ Daphne McCurdy, *A Guide to the Tunisian Elections*, Project on Middle East Democracy, Oct. 2, 2011, at 2, available at <http://pomed.org/wordpress/wp-content/uploads/2011/10/tunisian-election-guide-2011.pdf>.

⁹⁰ Kim Willsher, *Tunisian Prime Minister Mohamed Ghannouchi Resigns amid Unrest*, THE GUARDIAN, Feb. 27, 2011, available at <http://www.guardian.co.uk/world/2011/feb/27/tunisian-prime-minister-ghannouchi-resigns>.

⁹¹ *Id.*

⁹² Daphne McCurdy, *A Guide to the Tunisian Elections*, Project on Middle East Democracy, Oct. 2, 2011, at 2, available at <http://pomed.org/wordpress/wp-content/uploads/2011/10/tunisian-election-guide-2011.pdf>.

⁹³ *Tunisia: Year in Review 2010*, Encyclopedia Britannica Online, <http://www.britannica.com/EBchecked/topic/1735771/Tunisia-Year-In-Review-2010?anchor=ref1099774> (last visited Mar. 27, 2013).

⁹⁴ Rania Abouzeid, *Bouazizi: The Man Who Set Himself and Tunisia on Fire*, Time, Jan. 21, 2011, available at <http://www.time.com/time/magazine/article/0,9171,2044723,00.html>.

⁹⁵ *Id.*

⁹⁶ Malsow at 370.

that Tunisians held toward their government. The reaction was visceral and swift. There was nothing that the regime could do short of entirely removing itself from existence that could satisfy the demands of these protesters. The regime had failed to provide an essential basic necessity: economic security. This combined with the high levels of corruption and infringements on political rights to eviscerate any confidence left in that regime.

Yet there was a fascinating occurrence in the Tunisian case of lost legitimacy. It happened so quickly and so uniformly—Tunisians from diverse backgrounds came together in protests against the RCD—that the movement did not develop comprehensive arguments for what a Tunisian government should look like. Tunisians were united during this time period, and their message was broad: less authoritarianism and better economic opportunities. But the specifics were lacking. To the extent that these had been the cause of the loss of emotional legitimacy in the Ben Ali regime, it was perceived that merely breaking from the past and allowing Tunisians to have full political voice would alleviate the protestor's need for emotional connection to a government.⁹⁷

Once this break with the old regime occurred, however, the debate over the future of Tunisia became more diverse.⁹⁸ And, perhaps surprisingly, that debate did not center on the need for economic improvement. While that issue had been central to the loss of emotional legitimacy in Ben Ali's regime, it was not the only issue facing this nation that, for decades, had seen its political discourse stymied. While economic progress provided a unifying emotional issue for the protestors, there were deep, underlying divisions between the various elements of Tunisian society that had never been allowed to play out. Once the former regime was entirely removed, Tunisians seemed to have realized this truth: their political issues were much more diverse and divisive than the unifying goal of economic improvement. In the eight months between Mohamed Ghannouchi's resignation and the Constituent

⁹⁷ Kim Willsher, *Tunisian Prime Minister Mohamed Ghannouchi Resigns amid Unrest*, THE GUARDIAN, Feb. 27, 2011, <http://www.guardian.co.uk/world/2011/feb/27/tunisian-prime-minister-ghannouchi-resigns>.

⁹⁸ Daphne McCurdy, *A Guide to the Tunisian Elections*, Project on Middle East Democracy, Oct. 2, 2011, at 8, available at <http://pomed.org/wordpress/wp-content/uploads/2011/10/tunisian-election-guide-2011.pdf>.

Assembly elections, these divisions began to emerge and dominate the political discourse.⁹⁹ In fact, of the five main parties to participate in the October 2011 Constituent Assembly elections, only one placed economic issues at the center of its platform: Ettakatol. And the results were telling. While Ettakatol made the economy its central focus, the party ultimately finished fourth in the October elections, gaining only 20 of the 217 seats in the Assembly.¹⁰⁰ Ennahda, the party many felt would perform the best in the elections, offered an economic agenda that many viewed as underdeveloped and unclearly defined, yet it finished first in the balloting.¹⁰¹

This change in unity was dramatic. Emotional legitimacy was extremely important during the conflict phase for Tunisia as it united the nation in an effort to oust a regime that Tunisians felt failed to meet the nation's basic needs of economic security. Yet, once a complete break with that regime occurred, political discourse diversified and economic opportunity faded as the primary issue facing the country. A country that had been suspending its political dialogue for decades quickly came to realize that it had deep cultural divides that needed to be addressed. These divides centered on a rift that had formed over centuries in Tunisia. Much of Tunisia's society had come to believe that modern values, those espoused by the secularists and human rights advocates, were indispensable for the new government.¹⁰² These Tunisians might look to values-based forms of legitimacy. Still, other Tunisians believed that the source of governance authority was found elsewhere—in religious-based authorities of Islamic law.¹⁰³ While many aspects of these moral theories were reconcilable, there remained areas of significant debate between the two sides. And the elections of 2011 offered Tunisians their first chance to have such a debate in an open, public setting.

Values- and Religious-based Legitimacy

⁹⁹ *Id.*

¹⁰⁰ *Id.*

¹⁰¹ Rob Prince, *Tunisia at Crossroads*, Foreign Policy in Focus, Feb. 21, 2012, http://www.fpiif.org/articles/tunisia_at_a_crossroads.

¹⁰² Daphne McCurdy, *A Guide to the Tunisian Elections*, Project on Middle East Democracy, Oct. 2, 2011, at 8, available at <http://pomed.org/wordpress/wp-content/uploads/2011/10/tunisian-election-guide-2011.pdf>.

¹⁰³ *Id.*

As the country's first free and fair elections neared, it became clear that, Ennahda, the moderate Islamist party, would fare well.¹⁰⁴ Several factors—including Ennahda being the primary Islamic party and having been banned for longer than the other historic opposition parties—provided both a natural base and a sense of historical significance to the party's campaign for control of the Constituent Assembly.¹⁰⁵ Still, it remained to be seen where Ennahda's focus for governance would be if it were to assume power. The campaign finally helped fill in the details.

An obscure movie, one that had previously played to little fanfare in Tunisian theaters, suddenly became the center of the campaign just one week prior to the election.¹⁰⁶ While the two main parties involved in the election—Ennahda and the secular, left leaning Congress for the Republic (CPR)—had debated the role of Islam in Tunisia, this movie brought the issue forcefully to the front of the debate as the election neared. *Persepolis*, an animated film adaptation of Marjane Satrapi's novel, attempted to personify Allah.¹⁰⁷ Several leaders within Ennahda drew significant attention to the movie's screening, and, with just days before the election, cultural protests erupted across the nation.¹⁰⁸ The protestors were no longer the same diversified body with a broadly-themed message that had swept Ben Ali's regime out of Tunisia. Instead, these protestors were distinctly Islamic, and they were demanding that Islam be treated with respect and dignity. Some saw this move by Ennahda to focus on the movie as a calculated effort to create grassroots anger and increase its own share of the vote.¹⁰⁹ Perhaps this was true, perhaps it was not. But, while the party was expected to perform well in the election, it exceeded some expectations and captured 41 percent of the vote following the October 2011 elections.¹¹⁰ And, while still shy of a majority, this allowed Ennahda to have significant influence over the drafting of Tunisia's constitution and the governance of the country during its time of transition. Perhaps more importantly,

¹⁰⁴ *Id.*

¹⁰⁵ *Id.*

¹⁰⁶ Rob Prince, *Tunisia at Crossroads*, Foreign Policy in Focus, Feb. 21, 2012, http://www.fpif.org/articles/tunisia_at_a_crossroads.

¹⁰⁷ *Id.*

¹⁰⁸ *Id.*

¹⁰⁹ *Id.*

¹¹⁰ *Id.*

the party now had an Islamic base that was enraged over what it perceived to be cultural offenses to its religion.

To be sure, Ennahda had generally been viewed as a moderate Islamist party. Its platform for 2011 included the preservation of gender equality, multiparty political participation, and tolerance for religious minorities.¹¹¹ And, in December 2011, it was a human rights activist, Moncef Marzouki, who was elected president by the Constituent Assembly where Ennahda held a plurality of votes.¹¹² Additionally, Ennahda formed its governing coalition with two left-of-center political parties.¹¹³ But moderation and openness to plurality were only some of the elements of Ennahda's rise to power. The party also relied heavily on the support of cultural Islamists to gain grassroots support at the polls, and the furor over *Persepolis* highlighted this. Following Ennahda's electoral victory, some have accused party officials of seeking to make overly broad overtures to their base. As evidence of this, the skeptics try to point to "double-speak" by Ennahda leaders on their views on human rights and Islamic values. These critics point to comments made by Ennahda's leader that seemed to indicate that, as Muslims, the party's ultimate objective is the establishment of a Caliphate.¹¹⁴ The fear of these critics is that ulterior motives are behind Ennahda's moderate political talk. Regardless of the accuracy of those claims, the reality is that Ennahda finds itself in a difficult position as it works to foment mainstream legitimacy for itself.

Following the elections, the Party has continued to struggle to stake out its image and positions. On some issues, it appears to remain beholden to the pressures of its base—the hardline, conservative Salafists.¹¹⁵ While the party leaders speak moderately on the issues, the base and grassroots leaders take a

¹¹¹ Daphne McCurdy, *A Guide to the Tunisian Elections*, Project on Middle East Democracy, Oct. 2, 2011, at 4-5, available at <http://pomed.org/wordpress/wp-content/uploads/2011/10/tunisian-election-guide-2011.pdf>.

¹¹² *Tunisia Profile*, BBC, 14 Aug 2012, <http://www.bbc.co.uk/news/world-africa-14107720> (last visited Mar. 25, 2013).

¹¹³ Monica Marks and Kareem Fahim, *Tunisia Moves to Contain Fallout After Opposition Figure Is Assassinated*, N.Y. Times, Feb. 7, 2013, available at http://www.nytimes.com/2013/02/07/world/africa/chokri-belaïd-tunisian-opposition-figure-is-killed.html?pagewanted=1&_r=0.

¹¹⁴ Daphne McCurdy, *A Guide to the Tunisian Elections*, Project on Middle East Democracy, Oct. 2, 2011, at 4-5, available at <http://pomed.org/wordpress/wp-content/uploads/2011/10/tunisian-election-guide-2011.pdf>.

¹¹⁵ *Id.*

more extreme approach, arguing for restrictions on how women dress and act.¹¹⁶ While Ennahda has strived to walk the balancing act between moderation and placating its base, at times the will of the base manifests itself on the national scale. A draft provision of the Tunisian constitution sought to undo the equal status between men and women and assign women a role of being “complimentary” to men in the household.¹¹⁷ Many viewed the word “complimentary” as being commensurate to the word “subservient,” and these skeptics took to the streets to protest.¹¹⁸ Events such as this have caused fears to rise among Tunisia’s secularists over the growing possibility of a right-of-center Islamist-based government—one that might not respect “universal” human rights.¹¹⁹

But the values-based secularists have struggled to present a clear alternative. The leaders of the CPR, the main secular party in post-Ben Ali Tunisia, have been slow to turn these fears into political capital. Unlike Ennahda, the CPR was not banned through the entirety of Ben Ali’s reign, so it did not require decades of grassroots organization and work to remain alive.¹²⁰ Ironically, it is therefore a weaker political organization. Also, the CPR has competition among its base of secular voters while Ennahda is the only viable Islamist Party. So it was that the secularist in Tunisia were perhaps unprepared for the political offensive that Islamists were able to mount in post-conflict Tunisia. Perhaps in response to Ennahda’s culturally-focused campaign, CPR also eschewed making economic opportunity and progress as the primary focus of its campaign in 2011. Instead, it focused on preservation of human and civil rights.¹²¹ Yet, with nascent organizational competencies and with a fragmented base who had not yet coalesced around the human rights message,¹²² the CPR was unable to mount the necessary level of

¹¹⁶ Rob Prince, *Tunisia at Crossroads*, Foreign Policy in Focus, Feb. 21, 2012, http://www.fpif.org/articles/tunisia_at_a_crossroads.

¹¹⁷ *Tunisian Women Protest to Demand Equality*, BBC, 14 Aug 2012, <http://www.bbc.co.uk/news/world-africa-19253289>.

¹¹⁸ *Id.*

¹¹⁹ *Id.*

¹²⁰ Rob Prince, *Tunisia at Crossroads*, Foreign Policy in Focus, Feb. 21, 2012, http://www.fpif.org/articles/tunisia_at_a_crossroads.

¹²¹ Daphne McCurdy, *A Guide to the Tunisian Elections*, Project on Middle East Democracy, Oct. 2, 2011, at 4-5, available at <http://pomed.org/wordpress/wp-content/uploads/2011/10/tunisian-election-guide-2011.pdf>.

¹²² Rob Prince, *Tunisia at Crossroads*, Foreign Policy in Focus, Feb. 21, 2012, http://www.fpif.org/articles/tunisia_at_a_crossroads.

support to more fully temper Ennahda. This splintered effort has continued to manifest itself in the constitutional process as Ennahda seems to control the dialogue.¹²³

Still, the fact remains that Ennahda is beholden to the political realities of Tunisia. While the party has a powerful base of right-of-center Islamists, the country is a majoritarian secular nation. Ennahda gained 41 percent of the vote, but the vast majority of the remaining vote was divided among secularist parties.¹²⁴ Any tendencies by Ennahda that are perceived as too extreme are tempered by the fact that a majority of the country would not view Ennahda's governance as legitimate if that governance fails to comply with "universal values" that the majority of Tunisians support. Still, Ennahda struggles to reconcile this with the fact that its powerful base demands a right-of-center Islamic governance theory—one that potentially flies in the face of "universal" human rights.

This reality became clear for Ennahda in February 2013 when a primary voice for Tunisian secularists, Chokri Belaid, was assassinated. Many laid the blame at the hands of the Salafists, creating a governing crisis for Ennahda. The Party quickly sought to distance itself from the assassination,¹²⁵ but the damage appears to be enduring. Increased calls for Ennahda to have a clean break from hardline conservatives have been occurring.¹²⁶ In an attempt to help ease the tension, the Prime Minister, Hamadi Jebali from Ennahda, attempted to appoint technocrats to manage transitional governance, but his party's base rebelled—forcing him to resign.¹²⁷

Tunisia and Ennahda are struggling amidst a debate that was long-delayed under the previous regimes. While much of Tunisian society is secular, a sizeable portion is not, and these two segments have divergent views of what a legitimate government should look like. For the secularists, that government must be rooted in the rule of law based on "universal values" of human and civil rights. For the latter, a strict adherence to a religiously-driven governance theory is the only viable source of

¹²³ *Id.*

¹²⁴ *Id.*

¹²⁵ *Id.*

¹²⁶ *Id.*

¹²⁷ *Tunisia Profile*, BBC, 14 Aug 2012, <http://www.bbc.co.uk/news/world-africa-14107720> (last accessed Mar. 25, 2013).

legitimacy. While lack of economic security was the great unifier in causing Tunisians to lose emotional legitimacy in the Ben Ali regime, these underlying issues soon surfaced and began to dominate political discourse. And it is along this fault line that Tunisia finds itself struggling, and, perhaps, facing a reversion into conflict.¹²⁸ Due to the deep divisions, a compromise will have to result, but that compromise inexorably must tilt toward the majority view. And, in Tunisia, secularists who adhere to “universal values” such as gender and religious equality hold that majority view. So, until the government can mirror this while offering meaningful concessions to the Islamist base of Ennahda, it is unlikely that progress towards legitimate post-conflict governance will occur.

III. Syria

Background

Like Tunisia, Syria has also long been a crossroads of civilizations. The country’s modern day borders sit within the regional confines historically known as the Levant—an area from which civilizations including the Canaanites, Phoenicians, and Israelites arose.¹²⁹ Situated within the “Cradle of Civilization,” Syria’s history became imbued with the influences of the disparate civilizations that interacted there.¹³⁰

And this cross of cultures did not end with Old Testament civilizations. As Mediterranean cultures expanded—from Greeks to the Romans—Syria found itself coming under the cultural and religious influences of those civilizations as well.¹³¹ The Greeks and the Romans brought a more westernized style of governance. And, ultimately with the Romans, Christianity took a foothold as well.¹³² By the fourth century, Syria was being governed by the Eastern Roman Empire, and it became a

¹²⁸ Rob Prince, *Tunisia at Crossroads*, Foreign Policy in Focus, Feb. 21, 2012, http://www.fpip.org/articles/tunisia_at_a_crossroads.

¹²⁹ *The Ancient Levant*, UCL Institute of Archeology, University College London, Apr. 5, 2013 http://www.ucl.ac.uk/archaeology/research/directory/levant_wright.

¹³⁰ *Id.*

¹³¹ *Id.*

¹³² *Syria*, Encyclopedia Britannica Online, <http://www.britannica.com/EBchecked/topic/578856/Syria> (last visited Mar. 27, 2013).

base for that Empire's frequent clashes with the Persians.¹³³ The conflict gave opportunity for the rise of yet another civilization to make its mark on Syria, and, during the seventh century, Syria was absorbed into the rising Arab Caliphate.¹³⁴ Interestingly, conversion was not initially an objective of the Caliphate. Syria's Christians and Jews were permitted to retain their religion on the condition that they paid the poll tax (*jizya*).¹³⁵ At first, due to its location, Syria played a major role in the Caliphate's enterprises and military campaigns against the Eastern Roman Empire, and Syrians of all backgrounds gained influence in this new order.¹³⁶ But, as power shifted from the ruling Umayyad to the Abbasid Caliphate, this began to change. Mesopotamia, not the Levant, became the more influential region for the Caliphate, and, as a result, Syrians were given with less deference over governance matters.¹³⁷ At this point, legislation against Christians began to increase, and conversion to Islam became more common—if not coerced—and Arabic—no longer Aramaic or Greek—became the dominant language of the region.¹³⁸

Eventually, Syria grew more distant from the Baghdad-based caliphs, and this gave way to a period of deep cultural enriching during the twelfth and thirteenth centuries. Syrian authors, poets, and philosophers became prominent in the Muslim world, and social debates blossomed.¹³⁹ It was during this time of prolific public discourse that Shi'a Islam arrived in Syria. What followed was an apogee of political and religious debate between Sunni and Shi'a Muslims with the Shi'a having the support of the newly-based Cairo Caliphate (the Fatamids) who shared the Shi'a faith and helped the Shi'a to gain a stronger foothold in Syria.¹⁴⁰ Through the first two Crusades, Shi'a Islam continued to play a major role in Syria as the region cycled through periods of Christian and Islamic control. The strong Shi'a influence lasted until Saladin reasserted control over the region and aligned its political allegiances with the Sunni

¹³³ *Id.*

¹³⁴ *Id.*

¹³⁵ *Id.*

¹³⁶ *Id.*

¹³⁷ *Id.*

¹³⁸ *Id.*

¹³⁹ *Id.*

¹⁴⁰ *Id.*

Caliphate in Baghdad.¹⁴¹ Gradually, the influence of Shi'a Muslims was relegated to the mountainous regions of Syria, and Sunnis began to again dominate the political and scholastic facets of life in the Levant.¹⁴² Life harshened even more for the Shi'a as the Crusades continued into the thirteenth century, and they, along with other minority religions in the area, were often treated with skepticism due to fear that they would cooperate with the Crusaders.¹⁴³

By the fifteenth century, Baghdad and Cairo's influence over Syria began to wane as the Ottoman Empire expanded. This restored some stability to Syria and its diverse population.¹⁴⁴ Beginning early in the fifteenth century and for the four hundred years that followed, Syria both served as an integral component of the Ottoman Empire while retaining a high degree of autonomy. Governance control was dispersed to provincial areas, and, as long as each group within Syria's population paid its taxes to the Ottoman Empire, that group—to include Shi'a minorities such as the Alawites—remained generally free from interference.¹⁴⁵ Minorities like Christians and the Alawites once again grew in stability and influence during this period.¹⁴⁶ But, as the Ottoman Empire's strength fell in the seventeenth and eighteenth centuries, Syria became weaker and susceptible to aggression by its neighbors. In 1931, Muhammad 'Ali of Egypt conquered Syria and ruled it for ten years—moving governance control away from the provincial areas and centering it back in Damascus.¹⁴⁷ But his control was short, and, with the influence of European powers, Ottoman control was restored. It was at this point—in the first half of the nineteenth century—that Europe began to take a stronger interest in Syria.¹⁴⁸ Power was restored to the provincial level where the Ottoman's maintained significant governance influence, but the markets of these provinces—specifically Aleppo and Damascus—became increasingly influenced by European powers. Western social customs, clothing, and education burgeoned in the urban areas. For a time, this

¹⁴¹ *Id.*

¹⁴² *Id.*

¹⁴³ *Id.*

¹⁴⁴ *Id.*

¹⁴⁵ *Id.*

¹⁴⁶ *Id.*

¹⁴⁷ *Id.*

¹⁴⁸ *Id.*

occurred harmoniously with the Muslim-dominated population who still felt a sense of inclusion due to the Islamic values and governance that the Ottomans offered.¹⁴⁹

But this internal harmony between Syrian Muslims and their Ottoman rulers was not to last. At the onset of the twentieth century, Syrian Muslims were increasingly influenced by Arab nationalism. Despite religious similarities between these Muslims and the Ottomans, the ethnic distinctions became a flashpoint as Syrians of differing religions and sects grew more politically united under the banner of ethnic nationalism.¹⁵⁰ In the aftermath of World War I, these nationalists found a temporary ally in the United Kingdom who had defeated that German-aligned Ottomans. The UK established a military administrator over Damascus and the region's interior, and the British and assured the Syrians that they would soon have independence.¹⁵¹ The Syrians elected a king, King Faysal, in 1920.¹⁵² But this soon became a point of contention with the once allied-European powers. France (who had received a mandate over Lebanon) declared that it also had received a mandate over Syria, and, two months following Faysal's elections, the French occupied Damascus and expelled Faysal.¹⁵³ Feeling that the Syrians were not yet capable of self-governance, the League of Nations approved this action.¹⁵⁴ And, putatively in preparation for an eventual return of power to the Syrians, France divided the nation into several states—covering the Alawite mountainous region, the Druze Jabal al-Duruz region, and the Damascus and Aleppo regions.¹⁵⁵ Economic progress occurred, but the French remained hesitant to return power to the Muslim-majority population due to concerns for the Levant's Christian minorities. In the wake of the French vacillation, outbursts of violence resulted that caused the French to enact a measured devolution of control to the Syrians.¹⁵⁶ Eventually, the Syrian nationalists succeeded in negotiating with France to receive most of their goals. A treaty was signed which would allow for the historical boundaries of

¹⁴⁹ *Id.*

¹⁵⁰ *Id.*

¹⁵¹ *Id.*

¹⁵² *Syria Profile*, BBC, 14 Aug 2012, <http://www.bbc.co.uk/news/world-middle-east-14703995> (last visited Mar. 25, 2013).

¹⁵³ *Id.*

¹⁵⁴ *Id.*

¹⁵⁵ *Syria*, Encyclopedia Britannica Online, <http://www.britannica.com/EBchecked/topic/578856/Syria> last visited Mar. 27, 2013).

¹⁵⁶ *Id.*

Syria—with the exception of Lebanon—to be returned to control of the Syrians.¹⁵⁷ But the French reneged on their promises, refusing to ratify the treaty.¹⁵⁸ The ambiguity and political restlessness continued through World War II until, in 1946, the British successfully negotiated with the Syrian nationalists and French to arrive at a compromise. French control ended, and withdrawal was complete by April of that year.¹⁵⁹

By 1948, the newly-independent Syria was faced with a crisis—how to deal with the establishment of a Jewish homeland in the Levant.¹⁶⁰ Syria, along with several of its sister Arab countries, opted for military intervention. It was a failure—one that highlighted the religious and ethnic divisions within Syria itself.¹⁶¹ This new, predominately Arab and Muslim country, had discrete religious and ethnic human boundaries within its territory. While the Arab Sunnis held control, a complex amalgamation of Alawites, Druze, Christians, peasants, urban-dwellers, and nomads comprised the population,¹⁶² and some of these Syrians from differing backgrounds saw the failed military endeavor against Israel as misguided. This, along with economic difficulties and other political divisions, soon caused unrest.¹⁶³ While political officials looked to solve regional Arab disputes, many Syrians—especially those in the rising generation—quickly grew disaffected. And divisiveness spread within the ruling class as well. The Arab Nationalist movement became fractured as some found allegiance with Saudi Arabia and others with Iraq.¹⁶⁴ It was in this fracturing and political discontent that the new socialist and Arab Nationalist Ba’ath Party found fertile recruiting grounds among the disillusioned young within minorities such as the Alawites.¹⁶⁵

¹⁵⁷ *Id.*

¹⁵⁸ *Id.*

¹⁵⁹ *Id.*

¹⁶⁰ *Id.*

¹⁶¹ *Syria Profile*, BBC, 14 Aug 2012, <http://www.bbc.co.uk/news/world-middle-east-14703995> (last visited Mar. 25, 2013).

¹⁶² *Syria*, Encyclopedia Britannica Online, <http://www.britannica.com/EBchecked/topic/578856/Syria>, (last visited Mar. 27, 2013).

¹⁶³ *Id.*

¹⁶⁴ *Id.*

¹⁶⁵ *Id.*

Through a series of military coups from 1949 to 1963, the Ba'athist deftly navigated the political landscape at the domestic and regional level, reducing the strength of their domestic rivals and gaining governance control of Syria based, in part, on strong support of young Alawites.¹⁶⁶ They did this by forging a policy of Syrian independence within the Pan-Arab nationalist movement—free from the potentially-subordinating influence of Cairo or Baghdad.¹⁶⁷ Within the Syrian Army, this policy provided political fodder for those finding their way in the young country. By the mid-1960's, the Ba'athists had gained complete control of Syria, and their fervent-supporters—the Alawites—had found their way to the top; the minority Shi'a once again found themselves with the power in Syria.¹⁶⁸

But Syrians were not necessarily confederate with the regime. The population remained diverse, and domestic opposition was present. In response, the Alawite military officers tightened controls and created a police state.¹⁶⁹ The remainder of the 1960's saw the military wing of the Ba'ath, with its authoritarian tactics, rise in strength and challenge the civilian, political wing.¹⁷⁰ In 1970, this resulted in another coup, and the military wing, led by General Hafiz al-Assad, gained control of the Party and the country.¹⁷¹

What followed were three decades of oppressive control by Assad. His policies sought to advance economic stability and military strength for the country, but opposition—especially among Sunnis—was tightly controlled by the Alawite-dominated Ba'ath officers.¹⁷² And, as so commonly occurred in other Arab nationalist states, the Muslim Brotherhood was outlawed in Syria.¹⁷³ For Syrian Brotherhood members, the penalty of membership was death.¹⁷⁴ This intolerance for the Brotherhood was manifested in one attempt at insurrection in 1982 where Assad's regime killed thousands of

¹⁶⁶ *Id.*

¹⁶⁷ *Id.*

¹⁶⁸ *Id.*

¹⁶⁹ *Id.*

¹⁷⁰ *Id.*

¹⁷¹ *Id.*

¹⁷² *Syria Profile*, BBC, 14 Aug 2012, <http://www.bbc.co.uk/news/world-middle-east-14703995> (last visited Mar. 25, 2013).

¹⁷³ Lawson at 125.

¹⁷⁴ *Id.*

supporters of the Brotherhood in the city of Hama.¹⁷⁵ To the extent that political opposition did exist in Syria, it was never meaningful. Assad was reelected four times without any formal opposition during his lifetime.¹⁷⁶ Still, Assad afforded some Western-based rights to Syrians. The country, which had experienced over a century of Western influence in its culture and education, allowed for equal rights to women—especially in the area of access to education—and he sought to strengthen the principles of secularism in his country by promoting pluralism in nation’s religious composition.¹⁷⁷

Syria went on for decades in this manner—tightly walking a domestic line where supporters of the regime enjoyed political and economic prosperity,¹⁷⁸ and opponents were brutally oppressed. Notably, not all Sunnis fell into the latter group. Those Sunnis that supported secularism and had found a place in the Ba’ath Party maintained affable relations with the Alawite regime.¹⁷⁹ But those that held more religious views were clearly oppressed for most of Assad’s rule. To be sure, when political expediency required it, Assad found ways to cooperate with the Islamists.¹⁸⁰ But, generally, his rule was not one characterized by fervent religiosity or grand concessions to Islamists.

General Assad’s rule was not to be curtailed by lost elections or political opposition. Indeed, only death cut it short, and, when this occurred, his son Bashar rose to power. Bashar had not always been the intended successor—that titled belonged to his brother.¹⁸¹ But when his brother was killed in a car accident, the Western-educated Bashar, became the likely successor.¹⁸² Due to his background—he was training in London to become an ophthalmologist—it was perceived that Bashar would deviate from the iron-fisted approach his father had displayed. In fact, Bashar was commonly referred to as “The Hope.”¹⁸³ When his rule began with a speech that called for “creative thinking” and “constructive”

¹⁷⁵ Nikki R. Keddie, *Women in the Middle East: Past and Present*, Princeton, 137, (2007).

¹⁷⁶ *Syria*, Encyclopedia Britannica Online, <http://www.britannica.com/EBchecked/topic/578856/Syria>, (last visited Mar. 27, 2013).

¹⁷⁷ *Id.*

¹⁷⁸ Lawson at 14..

¹⁷⁹ *Id.*

¹⁸⁰ Keddie at 137.

¹⁸¹ David W. Lesch, *Syria: The Fall of the House of Assad*, 1-2 (2012).

¹⁸² *Id.*

¹⁸³ *Id.* at 2.

criticism, there was hope—both internationally and domestically—that Syria was headed for reform.¹⁸⁴

Especially when Bashar followed this speech with the release of hundreds of political prisoners and the closure of the Mazzah jail—a penitentiary for political prisoners that was considered a symbol of the former regime’s brutality against Islamists.¹⁸⁵ The positive reaction was swift within the country.

Intellectuals felt free and began a voracious debate—heralded as the Damascus Spring—about reform and the future of the country, and, within six months of his father’s death, Bashar was witnessing the formation of a powerful segment of civil society that sought to enact change.¹⁸⁶

Yet, despite the fact that he arguably—albeit unintentionally—was instigator of the Damascus Spring, Bashar and his regime felt threatened by the unintended swiftness and breadth of these consequences.¹⁸⁷ The regime’s hardline supporters began to publicly attack many of the leaders of the Damascus Spring, and soon political imprisonment returned as the preferred method of dealing with Syrian political opposition.¹⁸⁸ And, while much of the Damascus Spring was led by upper-class secularists, the crackdown did not spare the Islamists. Once again they began to find swift consequences from the regime for any actions that appeared to resemble Islamist-motivated political organization or activity.¹⁸⁹ And it was not merely in the form of police action that opposition to Islamists occurred. The regime also passed laws targeted directly at Islamists, including a 2010 ban on the full veil for school teachers.¹⁹⁰ To the extent that Assad ever did make overtures to Islamists, they, like his fathers’, were a result of temporary political expediency. For the most part, the calculated hostility that Bashar’s father, Hafiz, fostered towards Islamists was apparently passing through to his son.¹⁹¹ In just a decade of rule, Islamists—like all opposition in Syria—were finding an iron fist in Bashar al-Assad.

¹⁸⁴ Lawson at 120.

¹⁸⁵ *Id.* at 120-21.

¹⁸⁶ *Id.*

¹⁸⁷ *Id.*

¹⁸⁸ *Id.* at 121.

¹⁸⁹ Lawson at 126.

¹⁹⁰ *Syria Civil War*, Encyclopedia Britannica Online, <http://www.britannica.com/EBchecked/topic/1781371/Syrian-Civil-War> (last visited Mar. 27, 2013).

¹⁹¹ Lawson at 126.

This was the setting in which Syrians found themselves when events in Tunisia and Egypt engulfed those nations in a revolutionist fervor. By February of 2011, several protests had occurred within Syria—putting the regime on notice of the potential for Syria to face similar circumstances as those that were toppling regimes elsewhere in the Arab world.¹⁹² Then, in March, several youth were arrested in the city of Daraa for having painted a wall with graffiti that contained anti-government slogans.¹⁹³ When it was later discovered that the boys had been tortured by the government over the graffiti incident, large scale protests were quickly organized and held in several cities on the “Day of Rage.”¹⁹⁴ At this early stage, the protestors were demanding greater political freedoms, not the removal of Assad.¹⁹⁵ Still, the regime was not tolerant. It responded with brutal force, and several protestors were killed.¹⁹⁶ This only served to enrage more Syrians who took to the streets in greater numbers and locations and who now began to target their demands at personnel changes in the Syrian regime.¹⁹⁷

By April 2011, Assad recognized the need to appear more conciliatory. He fired and then replaced his cabinet and—as his father had occasionally done—recognized that political exigencies required some overtures to the Islamists.¹⁹⁸ But these concessions were small—such as the repeal of the full veil ban for school teachers—and, emboldened by events in other countries, the protestors demanded more.¹⁹⁹ This only hardened the regime. By mid-April, it became clear that political rapprochement and reform were not truly the regime’s end-goals—survival was. Government forces began a targeted assault with heavy military weaponry against protesting and combative Syrians in the towns of Baniyas and Homs.²⁰⁰ The situation was showing signs of quickly devolving into full-scale military conflict.

¹⁹² *Syria Civil War*, Encyclopedia Britannica Online, <http://www.britannica.com/EBchecked/topic/1781371/Syrian-Civil-War> (last visited Mar. 27, 2013).

¹⁹³ *Conflict Timeline*, Syria Deeply, <http://beta.syriadeeply.org/conflict-timeline/> (last visited Apr. 16, 2013).

¹⁹⁴ *Syria Crisis Explained*, HUFFINGTON POST, Mar. 15, 2012, http://www.huffingtonpost.com/2012/03/14/syria-crisis-explained_n_1263647.html.

¹⁹⁵ *Id.*

¹⁹⁶ *Id.*

¹⁹⁷ *Conflict Timeline*, Syria Deeply, <http://beta.syriadeeply.org/conflict-timeline/> (last visited Apr. 16, 2013).

¹⁹⁸ *Syria Civil War*, Encyclopedia Britannica Online, <http://www.britannica.com/EBchecked/topic/1781371/Syrian-Civil-War> (last visited Mar. 27, 2013).

¹⁹⁹ *Id.*

²⁰⁰ *Id.*

Perhaps realizing the need to avoid too much international attention, Assad publically began to offer more concessions. Not more than a week following the initiation of military campaigns in Baniyas and Homs, Assad announced that the country—for the first time in decades—would no longer be under emergency law.²⁰¹ Also, perhaps aware of the attention that the organized violence against protestors was gaining, Assad sought a scapegoat, claiming that the violence was being waged by foreign terrorists and not by his regime.²⁰² It was a line that the international community did not buy. As spring ended, the EU and the US imposed sanctions on Syria.²⁰³ The protests continued—as did the governments’ military campaign against those protestors.²⁰⁴ Syria seemed caught in a cycle: the government would respond to the protests with violence, which led to anger and more protests, which, in turn, led to more government-led violence used to quell the protests. Meanwhile, the Assad regime continued to offer nominal political concessions—such as the ability to form opposition parties (under the discretion of Assad) while continuing to blame the violence against civilians on foreign agents.²⁰⁵

On July 29, 2011, the cycle finally shifted. The Free Syrian Army—a collection of volunteers and regime defectors—announced its organization which, essentially, militarized the opposition and morphed the uprising into what better resembled a rebellion²⁰⁶ A week later, the UN condemned Assad’s regime for violence against its own civilians.²⁰⁷ Over the ensuing months, the Free Syrian Army began to take control of strategic areas within the country—including the city of Homs.²⁰⁸ Members of the international community—from the UN to the EU and the US—also became more emboldened in their calls for the Syrian regime to halt the violence; some even demanded that Assad step down and others

²⁰¹ *Id.*

²⁰² *Syria Crisis Explained*, HUFFINGTON POST, Mar. 15, 2012, http://www.huffingtonpost.com/2012/03/14/syria-crisis-explained_n_1263647.html.

²⁰³ *Syria Civil War*, Encyclopedia Britannica Online, <http://www.britannica.com/EBchecked/topic/1781371/Syrian-Civil-War> (last visited Mar. 27, 2013).

²⁰⁴ *Syria Crisis Explained*, HUFFINGTON POST, Mar. 15, 2012, http://www.huffingtonpost.com/2012/03/14/syria-crisis-explained_n_1263647.html.

²⁰⁵ *Syria Civil War*, Encyclopedia Britannica Online, <http://www.britannica.com/EBchecked/topic/1781371/Syrian-Civil-War> (last visited Mar. 27, 2013).

²⁰⁶ *Id.*

²⁰⁷ *Id.*

²⁰⁸ *Id.*

removed their ambassadors from Syria.²⁰⁹ These moves, however, never mounted into meaningful support for the Free Syrian Army.²¹⁰ In fact, the Army's primary political support came from domestic opposition. In August and September, Syrian dissidents formed the Syrian National Council,²¹¹ which began to seek a path towards transitional governance. It also—albeit unsuccessfully—sought to gain international military support for the Free Syrian Army.²¹² But the Syrian National Council, which in 2012 would unite with other opposition groups to form the Syrian National Coalition,²¹³ seemed in line with the goals of international actors; it listed “human rights, judicial independence, press freedom, democracy and political pluralism as its guiding principles.”²¹⁴ Still international help did not meaningfully arrive.

In early 2012, the violence reached a new stage of intensity as the government sought to regain control over the city of Homs. For weeks, the city was under bombardment from heavy weaponry, and many civilians were killed.²¹⁵ These events were taking place against a backdrop that has become the hallmark of the Assad response Syrian conflict: minor yet highly-publicized concessions that occur nearly simultaneously to government-led violence. In one such instance, the Assad regime announced and held a constitutional referendum that the opposition claimed was illegitimate and meaningless while international organizations and diplomats—such as Kofi Annan—ineffectively tried to bring peace to the situation.²¹⁶ In an embarrassing show of the difficulty of the situation, Annan announced that the Syrian regime had reached a cease-fire agreement to begin on April 12, 2012. But, just days later, reports of violence continued, and the UN was obliged to announce a monitoring mission to Syria.²¹⁷ By the time

²⁰⁹ *Id.*

²¹⁰ *Id.*

²¹¹ *Conflict Timeline*, Syria Deeply, <http://beta.syriadeeply.org/conflict-timeline/> (last visited Apr. 16, 2013).

²¹² *Syria Civil War*, Encyclopedia Britannica Online, <http://www.britannica.com/EBchecked/topic/1781371/Syrian-Civil-War> (last visited Mar. 27, 2013).

²¹³ *Id.*

²¹⁴ *Q&A: Syrian Opposition Alliance*, BBC, Nov. 16, 2011 <http://www.bbc.co.uk/news/world-middle-east-15155804>.

²¹⁵ *Syria Crisis Explained*, Huffington Post, Mar. 15, 2012, http://www.huffingtonpost.com/2012/03/14/syria-crisis-explained_n_1263647.html.

²¹⁶ *Syria Civil War*, Encyclopedia Britannica Online, <http://www.britannica.com/EBchecked/topic/1781371/Syrian-Civil-War> (last visited Mar. 27, 2013).

²¹⁷ *Id.*

the monitoring mission concluded, it—like a similar monitoring mission by the Arab League—was viewed as a failed effort to curb the government’s use of violence against civilians.²¹⁸

The year that would follow for Syria was, essentially, a continuation of the same cycle. From the spring of 2012 to the spring of 2013, the only element that seemed to change was the death toll. The opposition continued to make efforts at gaining strategic ground, but these efforts were quickly met by intense and protracted military assaults from the regime.²¹⁹ The question of the military stalemate has not seriously been affected by the international community’s response. When many in the international community strongly condemned the reported use of chemical weapons by the Assad regime—with some powers calling it a “red line”—hopes arose that the international community would enter the conflict.²²⁰ Instead, the momentum for that movement appeared to stall as the debate raged over the authenticity of that report.²²¹ With the international community absent from the military conflict, the regime seemed endlessly pitted against a resilient yet unorganized and inferiorly-supplied opposition. It was in this apparent quagmire that a perpetual foe of the Assad family saw an opening for gaining legitimacy and ending the conflict: hardline Islamists.

Emotional Legitimacy

As the protests and conflict slipped into weeks and the weeks became months, Syrians began realizing they were facing a prolonged security crisis. The Assad regime, already accused of brutalities, was unleashing a strategic campaign against its own people in an attempt to retain governance control. While many of those targeted were armed rebels, civilians regularly became casualties as well.²²² Although the regime remained short on supporters, and, hence, limited in possible soldiers, the rebels

²¹⁸ *Id.*

²¹⁹ Albert Aji and Bassem Mroue, *Syrian Troops Retake Key Neighborhood in Homs*, ASSOCIATED PRESS, Mar. 26, 2013, available at http://www.huffingtonpost.com/2013/03/26/syria-war-regime-baba-amr_n_2955157.html.

²²⁰ Joshua Hersh, *Syria Chemical Attack Reports Leave Open Question of Who Did It*, HUFFINGTON POST, Mar. 22, 2013, http://www.huffingtonpost.com/2013/03/21/syria-chemical-attack_n_2927903.html.

²²¹ *Id.*

²²² *Syria Profile*, BBC, 14 Aug 2012, <http://www.bbc.co.uk/news/world-middle-east-14703995> (last visited Mar. 25, 2013).

were poorly equipped.²²³ With the international community's hesitation to intervene militarily, the shortages on both sides signaled a measured, protracted struggle. It was in this situation that Syrians from all backgrounds found themselves without reliable assurances of physical security. And few needs create a greater emotional reaction than the need for safety from physical harm.²²⁴ The Assad regime, long-built through reliance on compulsory legitimacy, remained incapable of providing that a sense of security for Syrians without losing control of its power. What little emotional legitimacy it may have had with many Syrians prior to the onset of its military campaign it has since likely lost.

But, unlike the conflict in Tunisia, the conflict in Syria has become protracted. Hence, the reliance on emotional needs for a legitimate government has persisted. Syrians are experiencing a fear of physical harm. Any party that could viably assuage that fear of harm would experience a boon in legitimacy gained. Assad, arguably, is causing much of the security fears among Syrians, but the Free Syrian Army has been unable to remedy this and end the conflict, and the international community has vacillated for months on whether to become involved militarily in the country.²²⁵ It was in this vacuum of security that another candidate for post-conflict governance arrived: militant Islamists.

One year following the start of Syria's offensive, Al-Qaeda joined in the militarized opposition to the Assad regime.²²⁶ The organization's Iraq branch (AQI) had been monitoring the protests for months. When it felt the time was appropriate, the organization quietly moved into the conflict with techniques, experience, and safe houses gained from its regional effort in the Iraq conflict. In doing so, Al-Qaeda fighters quickly and adeptly began to influence the security situation by gaining ground against the Syrian military.²²⁷ Jabhat al-Nusra, the name Al-Qaeda gave to its Syrian offensive, rapidly became Al-Qaeda's

²²³ *In Battered Aleppo, Rebels Dig in for War of Attrition*, Lebanon Now, 25 Aug 2012, https://now.mmedia.me/lb/en/newsyrialatestnews/in_battered_aleppo_rebels_dig_in_for_war_of_attrition (last visited Mar. 25, 2013).

²²⁴ Maslow at 370; 386.

²²⁵ *In Battered Aleppo, Rebels Dig in for War of Attrition*, LEBANON NOW, Aug. 25, 2012, https://now.mmedia.me/lb/en/newsyrialatestnews/in_battered_aleppo_rebels_dig_in_for_war_of_attrition.

²²⁶ Brue Riedel, *Al Nusra: Al Qaeda's Syria Offensive*, THE DAILY BEAST, Feb. 23, 2013, <http://www.thedailybeast.com/articles/2013/02/23/al-nusra-al-qaeda-s-syria-offensive.html>.

²²⁷ *Id.*

fastest-growing offensive in the world.²²⁸ Months following its arrival to the Syrian battlefield, Al Qaeda's Amir Ayman al-Zawahiri demanded that "every Muslim and every free and honest person in Turkey, Iraq, Jordan, and Lebanon [rise] and help their brothers in Syria with everything they have and can do."²²⁹ As of early 2013, some estimates claim that Al-Nursa comprised nearly one quarter of the armed opposition in Syria, especially in the northern regions around Aleppo.²³⁰ And, while this is just a minority of the fighters in the opposition, these Al-Nursa fighters are widely considered the most skilled and aggressive involved in the conflict—willing to and capable of using large scale attacks such as coordinated bombings of government infrastructure.²³¹

The leadership of the Free Syrian Army has condemned the emergence of jihadi groups in the ranks of its efforts to depose of the Assad regime.²³² But there is a growing sense of appreciation at the grassroots level. Field commanders recognize the difficulty of their task in removing Assad, and they see the hesitation of the international community to provide meaningful support. To these commanders and to the rebels on the ground, the jihadists are indispensable. As one FSA coordinator stated, ""The rest of the world isn't helping us, they are."²³³ In the absence of physical security, al-Nursa has helped to make a viable effort to defeat Assad and restore security to Syria. In this sense, it is potentially meeting Syrians' security needs—a basic element of emotional legitimacy.

To be sure, al-Nursa has broader objectives in Syria that do not mesh well with the objectives of the Free Syrian Army or many Syrians. Those objectives include the establishment of an Islamic state in the Levant.²³⁴ And, if the rebellion proves successful, there will likely be conflict between these groups. But, for now, jihadists share the same goal as the Free Syrian Army rebels: remove Bashar al-Assad and

²²⁸ *Id.*

²²⁹ *Id.*

²³⁰ *Id.*

²³¹ *Id.*

²³² *Syria Revolt Attracts Motley Foreign Jihadi Corps*, LEBANON NOW, Aug. 8, 2012

https://now.mmedia.me/lb/en/latestnews/syria_revolt_attracts_motley_foreign_jihadi_corps1.

²³³ *Id.*

²³⁴ Noman Benotman and Emad Naseraldin, *The Jihadist Network in the Syrian Revolution: A Strategic Briefing*, The Quilliam Foundation, January 2013, <http://www.quilliamfoundation.org/wp/wp-content/uploads/publications/free/the-jihadist-network-in-the-syrian-revolution.pdf>.

his regime from power.²³⁵ And, given the jihadists comparative effectiveness among Syrian rebels, al-Nursa is gaining grassroots support by showing its ability to confront Assad and potentially end the regime's violence. Of all the actors in the Syrian conflict, al-Nursa is arguably in the lead in the race for gaining emotional legitimacy. The extent to which this translates into legitimacy for al-Nursa's broader objectives remains to be seen and will largely depend on the group's ability to move from emotional to values- or religious-based legitimacy—a difficult task for such an extreme group.

Values- and Religious-based Legitimacy

Much like in Tunisia, the opposition in Syria has never been allowed to fully debate their internal differences. Prior to the conflict in Syria, the Syrian opposition cycled between periods of unity and splintering—all with the Assad family acting as a puppet master. One of the hallmarks of the Assad regime's authoritarian control of the opposition was the regime's deftness at causing splintering within that opposition.²³⁶ The regime's crackdown on political opposition parties did not obliterate those parties; rather it served to force those groups in clandestine operations which led to fracturing.²³⁷ Indeed, the most visible signs of political opposition prior to the conflict were manifested through dissidents in the media and academia—not through any one leader or group.²³⁸

But this continual splintering was also accented by brief periods of surprising unity among the Syrian opposition. This opposition, while hailing from a variety of different ethnic and religious backgrounds, has experienced several periods of powerful unity. During the Damascus Spring—in the first few months of Assad's presidency—the opposition came together to form a strikingly effective voice against the government.²³⁹ The Damascus Spring opposition was comprised of Syrians from “all persuasions” who were emboldened and united by the regime's offering of an apparent olive branch of political freedom.²⁴⁰ To be sure, it became so emboldened and so effective that the Damascus Spring

²³⁵ *Id.*

²³⁶ Lawson at 124.

²³⁷ *Id.*

²³⁸ *Id.* at 124-5.

²³⁹ Lesch, at 8-9.

²⁴⁰ *Id.*

slipped into becoming the Damascus Winter as Assad cracked down on the opposition and splintering once again occurred.²⁴¹ Just a few years later, however, the regime found itself under intense international pressure for reform following the assassination of former Lebanese Prime Minister Rafiq Hariri in which it was widely believed that Syria had played a role.²⁴² During this time period, opposition forces—to include sympathizers with the Muslim Brotherhood as well as secularists—came together to unveil the Damascus Declaration. This 2005 document established a unified platform for change based on “pluralism, non-violence, oppositional unity, and democratic change.”²⁴³ Through avoiding many of the issues that had formed the fissures of their division, Islamists and secularists were able to put their differences aside in a combined effort to effect change.²⁴⁴ Soon, however, the regime was once again using a strong arm—both through arrests and public discrediting of the opposition—and, by 2006, Assad had again stymied and fractured the opposition.²⁴⁵

And there is a reason Assad has been effective at waging a public offensive against a united opposition—Syria is not a homogenous society. With deep religious, political, and ethnic differences, Assad has effectively learned how to find and flare up flashpoints in an effort to quell the opposition’s momentum.²⁴⁶ And, perhaps, no other flashpoint is as explosive as the question of theology and politics. Syria’s history and composition is truly one of diversity. Arabs form a large majority—90 percent—of the country, but Kurds play a significant role as well.²⁴⁷ Similarly, Sunni Islam is the dominant religious sect—over 70 percent of the population—but the Alawite and Druze sects form over 15 percent of the country, and Christians and Jews comprise most of the remainder.²⁴⁸ It is due to this diversity and Syria’s complex history involving European, Arab, and Ottoman influences that secularists have a strong foothold in Syria. These are also the reasons that Assad, with relative ease, was able to implement

²⁴¹ Lawson at 121.

²⁴² *Id.* at 128.

²⁴³ *Id.* at 129-130.

²⁴⁴ *Id.* at 130.

²⁴⁵ *Id.* at 130-136.

²⁴⁶ *Id.* at 130.

²⁴⁷ *Syria*, CIA World Factbook, <https://www.cia.gov/library/publications/the-world-factbook/geos/sy.html> (last visited Apr. 18, 2013).

²⁴⁸ *Id.*

secularist policies such as religious plurality and women's rights.²⁴⁹ In this sense, the country's secularist roots were not brutally infused by authoritarian rule; instead, those roots represent an innate part of Syrian history and composition that are cherished by most Syrians.²⁵⁰

Undeniably, however, there is another side of Syrian culture—one the Assad family has tried to brutally suppress. While part of Syrian culture is secular, part—for centuries—has been unyieldingly Islamic. Despite the efforts of strongmen rulers, Islamists remain committed to their identity and their historical political goals. And, as much of Syrian history was tied to the Ottoman Empire as well as Baghdad-based caliphates, that Islamic identity is predominately Sunni.²⁵¹ Indeed, for most of its history, the majority Sunni Arabs made up the ruling class of Syria, and they generally did so based on the precepts of Sunni Islam.²⁵² So it is that the Assad family's rule—with its Shi'a Alawite foundations—has been characterized by suppression of those with Sunni Islamist political tendencies. This has arguably resulted from perceived political expediency rather than true sectarian envy or disagreement.²⁵³ But this suppression has, it seems, led to unintended consequences. First, suppression appears to have created a religious awakening for many Syrians—manifested in personal choices such as the decision to wear the veil or have a beard.²⁵⁴ Secondly, it appears the suppression has taught the Islamists how to survive politically while clandestinely maintaining their theologically-driven political beliefs.

It now appears that these consequences are manifesting themselves as the conflict and opposition movement matures. If the long history of the Syrian opposition is a tale of cycling through periods of fragmentation and periods of unity, it appears that the current conflict is merely another chapter in that story. Initially united during the first months of the conflict, signs of fissure are beginning to manifest themselves as various groups within the opposition realize the need to posture themselves for potential

²⁴⁹ *Syria*, Encyclopedia Britannica Online, <http://www.britannica.com/EBchecked/topic/578856/Syria>, (last visited Mar. 27, 2013).

²⁵⁰ Lawson at 125.

²⁵¹ *Syria*, Encyclopedia Britannica Online, <http://www.britannica.com/EBchecked/topic/578856/Syria>, (last visited Mar. 27, 2013).

²⁵² *Id.*

²⁵³ Lesch at 90.

²⁵⁴ Lawson at 125.

future governance. While these groups are currently united against a common foe, there is a possibility that the foe will one day no longer be present. As this reality sinks in, distrust and discord have begun to affect the opposition. Many secularists believe the political Islamists—largely represented by the Muslim Brotherhood—are doing what they learned to do under Assad: survive by masking their intentions.²⁵⁵ Concerns over al-Nursa aside, some secularists feel that the Muslim Brotherhood representatives involved in the current opposition efforts are merely disguising themselves as moderates to gain legitimacy for the time being.²⁵⁶ Perhaps this is true, perhaps it is not. But it does appear that Brotherhood members involved in the opposition have begun to posture themselves in a way that would make themselves more viable in the moderate political terrain of Syria.²⁵⁷ With a long history of clandestine opposition in Syria, the Brotherhood is using its grassroots support and organization to quickly mobilize and jockey for primacy in the Syrian opposition.²⁵⁸ Some even claim it is the lead actor in the political wing of the opposition, exerting control over the Syrian National Coalition.²⁵⁹ If true, the road ahead will be difficult for the Brotherhood. To maintain such a status as the leader of the opposition will require particular political dexterity. Syria is a moderate, Islamic nation—one that has long supported the principles of secularism while still maintaining its Muslim identity. To the extent that the Muslim Brotherhood can match these seemingly contradictory values, it will have a viable opportunity to claim legitimacy in a post-conflict Syria. But this will require a conflation of values- and religious-based legitimacy.

To the extent that the secularists would like to subvert the Brotherhood's rush to the middle for legitimacy, they have so far struggled to do so. The secularist opposition in Syria has always been divided—spread out among human rights supporters, civil society members, and nationalists.²⁶⁰ The Syrian National Council is founded upon the pursuit of secularist principles, to include human rights,

²⁵⁵ Lesch at 111-12.

²⁵⁶ *Id.*

²⁵⁷ *Id.*

²⁵⁸ *Muslim Brotherhood Denies Extremist Control in Syria*, Al-Arabiya, Apr. 15, 2013, english.alarabiya.net/en/News/middle-east/2013/04/15/Syria-s-Muslim-Brotherhood-denies-extremist-control-in-Syria-.html.

²⁵⁹ *Id.*

²⁶⁰ Lawson at 120-25.

press freedom, and pluralism.²⁶¹ But that group quickly manifested its weaknesses due, in part, to the fractured nature of Syria's secularist opposition.²⁶² The subsequent Syrian National Coalition has also struggled with its fragmented composition as infighting broke out over whether its leaders legitimately have the opposition's support.²⁶³ In fine, no clear secularist leader has yet emerged that seems to have the ability to counter a potential claim for legitimacy by the increasingly important Muslim Brotherhood.

And there is another angle to the secularist-Islamists tension for legitimacy in Syria. While the Muslim Brotherhood is posturing for the ability to hold claim to values- and religious based legitimacy, the rise of the militant al-Nusra may threaten this. Al-Nusra has been developing a sense of emotional, needs-based legitimacy among some Syrians by introducing a highly-skilled military campaign with the objective of providing security to those that oppose the Assad regime. And, as an audacious indication of its growing confidence in its own legitimacy, the group announced in early April 2013 that it was officially merging with al-Qaeda's Iraq branch to become the Islamic State in Iraq and the Levant.²⁶⁴ This serves as a clear sign that al-Nusra is beginning to look beyond the conflict and toward the impending fight between religious- and values-based legitimacy in Syria. The group's official unification with AQI led the United States and others to commit greater political support to the Syrian National Coalition in an attempt to build legitimacy for that group, one that the US perceives to be far more moderate than the militant Islamist group.²⁶⁵ It is unclear what effect this increased political support will have, still the AQI-al-Nusra merger is a bold signal of al-Nusra's governance intentions in a post-Assad Syria. For one, it more publically aligns the group with al-Qaeda's strict interpretation of Islamic law.²⁶⁶ Secondly, it clearly manifests a non-nationalistic agenda for al-Nusra, indicating that al-Nusra would seek

²⁶¹ Q&A: *Syrian Opposition Alliance*, BBC, Nov. 16, 2011, <http://www.bbc.co.uk/news/world-middle-east-15155804>.

²⁶² Lesch 230.

²⁶³ Ben Hubbard, *Ghassan Hitto, Syrian National Coalition PM, Rejected by Free Syrian Army Leader*, ASSOCIATED PRESS, Mar. 24, 2013, available at http://www.huffingtonpost.com/2013/03/24/ghassan-hitto-syrian-national-coalition-pm-free-syrian-army_n_2944373.html.

²⁶⁴ Ryan Lucas, *Jabhat Al Nusra, Syrian Islamic Rebel Group, Merges With Al Qaeda In Iraq*, ASSOCIATED PRESS, 9 Apr 2013, available at http://www.huffingtonpost.com/2013/04/09/jabhat-al-nusra-merger-al-qaeda-iraq_n_3044020.html.

²⁶⁵ *Id.*

²⁶⁶ *Id.*

the establishment of a regional Islamic state (not one confined to the current borders of Syria).²⁶⁷ Both of these—the fundamentalist and regional aspirations of al-Nursa—depart from the moderate, nationalist approach the Muslim Brotherhood has been taking.

This potentially endangers the Muslim Brotherhood's strategy for legitimacy. While al-Nursa may have influence now, once the conflict ends and Syrians look past their security needs and towards their values and religious needs for legitimacy, al-Nursa will likely find that its objectives do not mesh with those of most Syrians. The danger for the Brotherhood is becoming viewed as aligned with militants such as al-Nursa. There has long been a fear that the Brotherhood secretly seeks the same objective as groups such as al-Qaeda.²⁶⁸ For example, during the period before and after the Damascus Declaration, there was hesitancy on the part of some secularists to make allowances for the inclusion of the Muslim Brotherhood. They feared that doing so would eventually lead to the Brotherhood's dominance in Syria and herald a time of strict-implementation of fundamentalist Islamic principles and endanger the status of minorities such as the Druze and Christians.²⁶⁹ These lessons are not lost on leaders from the Muslim Brotherhood who have sought to distance themselves from this new wave of militant Islamists.²⁷⁰

Still, if history is an indicator, the Muslim Brotherhood might struggle in doing this. One of the Assad family's preferred and most effective tactics has been to argue that the Brotherhood is aligned with Islamic extremists. This argument seemed to delegitimize the group for moderate Syrians—even those opposed to Assad.²⁷¹ Surely, secular moderates in the opposition will also attempt to use this argument against the Brotherhood. And when they do, it will represent a public-perception hurdle that the Brotherhood must finally cross in its efforts to show the Syrian people that it has a claim to both values- and religious-based principles of legitimacy in a post-conflict Syria.

²⁶⁷ *Id.*

²⁶⁸ Lesch at 92.

²⁶⁹ *Id.*

²⁷⁰ *Muslim Brotherhood Denies Extremist Control in Syria*, AL-ARABIYA, Apr. 15, 2013, available at <english.al-arabiya.net/en/News/middle-east/2013/04/15/Syria-s-Muslim-Brotherhood-denies-extremist-control-in-Syria-.html>.

²⁷¹ *Id.*

In conclusion, Syria is at a critical time in its opposition. As the conflict wears on, the divisions in the opposition become clearer. This opposition is united in its efforts to remove Assad from power, but it is divided in its makeup—Islamists (both moderate and extremists), nationalists, human rights activists, and members of civil society. Each will seek to lay claim to legitimacy in a post-conflict Syria. For some, there is a fear that a fundamentalist Islamic group will emerge as the victor. But this fear neglects the reality that Syria is secular. Roughly one-third of the country is Christian, Alawite, or Kurdish.²⁷² In addition, many of the upper-middle class urbanites—who represent the base of Sunni Arab political power—are secular.²⁷³ This plurality, if not a majority, would create significant headwinds for a future regime that rejects the principles of secularism. To be sure, Islamists have significant ground in the fight for legitimacy, and the politically savvy Islamists have already moved toward the political center. Once, and if, the conflict ends, Syrians will begin the process they have long been denied: comparing the values of each political party to their own. It is difficult to envisage a situation in which extremists Islamists would effectively amass sufficient religious-based legitimacy to warrant outright governance control of a country so ethnically and religiously diverse as Syria. Still, Islamists—mostly moderates—do form a significant segment of the population, and any future government will have to determine what policy concessions that segment deserves. To deny these Islamists a seat at the bargaining table or a space on a future ballot would be potentially ruinous for the hopes of peace in a post-conflict setting. A reversion to conflict would certainly be possible in such a situation. So it is that legitimacy in Syria will ultimately have to reflect this fact: a majority of Syrians hold human rights and secularism as values, but they also respect the role that religion plays in their government. Only a party that can reflect this will have a viable claim for legitimacy.

IV. Comparative Analysis

The Arab Spring stories of Syria and Tunisia share a common origin and themes, but they differ greatly in the progression of their narratives. For Tunisia, conflict was swift and minimal. While

²⁷² Lawson at 125.

²⁷³ *Id.*

government-caused violence occurred, this emboldened the protestors in a way that caused the government to retreat rather than intensify in its efforts to quell the movement. In Syria, the opposite occurred, and progress has been slower. While Syria's conflict was rooted in the wave that followed Tunisia's revolution, the Syrian protestors' success has not been commensurate with their Tunisian counterparts'. The grip of the Assad regime's hand has proven to be tighter and more ruthless than Ben Ali's. And this fact created important distinctions for the concept of emotional legitimacy in the two nations.

In Tunisia, protestors had lost complete faith in the regime. The country seemed to uniformly recognize the need for greater economic progress and distribution of resources and economic opportunity. The protestors saw the Ben Ali regime and its corruption and restrictions on the political process as the causes of this economic difficulty, and, in just a short time span, the regime's legitimacy crumbled. The case of Tunisia demonstrated how quickly and uniformly a regime can lose legitimacy when it fails to meet a basic human necessity—in this case, economic security. Once this occurs, a regime runs the risk of a swift loss of the emotional connection it has with its citizens.

In Syria, the initial erosion in emotional legitimacy in Assad's regime was similar to that of Tunisia's: protestors wanted less authoritarianism and better economic opportunity. But, unlike Ben Ali, when Assad was pushed against the wall, he opted for a total defense through the use of compulsive violence. In other words, through the use of compulsion—another form of legitimacy or obedience as described by Weber—the Syrian regime has been able to prolong its rule.²⁷⁴ This highlights another possible outcome when regimes lose emotional legitimacy. Rather than crumble, some regimes may turn to compulsive means in an effort to create legitimacy. But this comes with a price. And that price is clear in Syria where Assad's brutal crackdown has only intensified Syrian's views on the perceived failures of the regime and hardened the now-militarized opposition. Now, Syrians not only face a lack of economic security, but they also experience threats from a lack of physical security. This has created an opening for outside actors to provide for this basic security need and bolster their own chances at gaining legitimacy.

²⁷⁴ Weber at 33.

Up to this point, the most ambitious and effective actor to have done so is al-Nursa—the Syrian Al-Qaeda affiliate. This provides an indelible lesson to advisors wishing to assist in a post-conflict society in the Arab Spring: when the emotional need for physical security is not being fulfilled, caution should be given as to which actors are permitted to fulfill that need.

As unending as the Syrian conflict seems, the reality is that all conflicts eventually do end. And when those ends occur, post-conflict actors inevitably begin to look towards picking up the pieces and gaining legitimacy based on the values- and religious-based needs of their society. Syria and Tunisia provide important commonalities and distinctions in understanding how this process may occur. For one, both countries have a history of secularism and Islamism. While Islamic extremists exist and operate within each country, the political center-mass of both Tunisia and Syria appears to reside outside the principles of fundamentalism. Islamists in both countries appear to be viable candidates for post-conflict legitimacy only to the degree to which they can moderate their positions. In both countries, however, this has proven a difficult tightrope act for these centrist Islamists. In Tunisia, the Islamist Party Ennahda relied heavily on grassroots Islamist support to win a large plurality in national elections. But this grassroots support is more fundamentalist in its nature, and Ennahda has struggled to distance itself from the policy objectives of extremists in the party while still not losing their support. Somewhat similarly in Syria, Muslim Brotherhood opposition leaders have struggled to publically distance themselves from militant extremists such as al-Nursa while still relying on those extremists to provide military support in the campaign against Assad. It may turn out to be the case that moderate Islamists in Syria will find themselves in an even more difficult quagmire than their counterparts in Tunisia if the militant extremists in Syria become the key to a total military victory against Assad. If this becomes the case, the Brotherhood will have a difficult time distancing itself from those extremists who will have likely become even more emboldened than their Tunisian grassroots counterparts.

Another similarity between Tunisia and Syria in the quest for post-conflict legitimacy has been the role of the secularists. In both countries, secularists have been badly divided, giving an opening for the politically unified Islamists (Tunisia's Ennahda and Syria's Muslim Brotherhood) to consolidate

political support. In Tunisia, it was not until a post-election setting that secularists seemed to have realized how much power they ceded to Islamists as a result of internal divisions. In Syria, it remains to be seen how effectively or not and at what stage the secularists will consolidate themselves.

Lastly, an important distinction exists between the two countries in the question of how actors achieve values- or religious-based legitimacy. And this distinction centers on the length of the conflict. A clear trend seems to run in both countries: unity occurs in the height of opposition and then devolves once that opposition matures. For Tunisia this dissolution did not occur until after Ben Ali's regime had been replaced and after elections were slated to occur. It was quickly and in their unity that Tunisians ousted their dictator, and it was through elections that internal divisions finally manifested themselves and, after public debate, a clear successor was chosen. The same cannot be said for Syrians who are beginning to count their conflict in years—not weeks. As the Syrian conflict has drawn out, Syrian opposition has matured and begun to fragment politically. Unlike Tunisia, however, this has occurred without the vote of the people. In Tunisia, political parties gained a clear mandate on how their platforms did or did not mesh with Tunisian values and religious needs. Subsequent protests in response to governance decisions by those new officials have helped as well. These processes have allowed the parties to determine their actual claims for legitimacy. In Syria, however, this process has been occurring in conferences amongst party elites, often in exile.²⁷⁵ Syrians have not yet had a vote on the platforms of the different parties. And this is significant—whatever results from the power brokering among the Syrian opposition, it will not necessarily reflect the will of the Syrian people or their views of values and religion. These two core sources of post-conflict legitimacy will still need to be determined by the Syrian people before any of the current segments of the opposition can gain legitimacy.

V. Conclusion

In Max Weber's *Economy and Society*, he posited that there exist various sources of legitimacy that can create the stability of a governing institution. This paper has examined three of those forms:

²⁷⁵ Ben Hubbard, *Ghassan Hitto, Syrian National Coalition PM, Rejected by Free Syrian Army Leader*, Mar. 24, 2013, available at http://www.huffingtonpost.com/2013/03/24/ghassan-hitto-syrian-national-coalition-pm-free-syrian-army_n_2944373.html.

emotional, values-based, and religious-based. Yet there was another source that Weber discussed: “positive enactment.” Positive enactment rests more on the validity of the procedures by which laws are created and less on the substance of those laws.²⁷⁶ In this sense, it is arguably a more advanced form of legitimacy as citizens begin to lend greater trust to the institution itself and focus less on substantive sources of laws. Although Weber did not explain it as such, there is, perhaps, a chronological order to these sources of legitimacy. States must first pass the test of meeting the basic human needs of their citizens (emotional legitimacy). When these needs are not met, absent coercion, a regime can topple. If the needs are met, states must then adopt a governance theory that mirrors what the citizens view as the correct substantive justification for governing (values- or religious-based legitimacy). At this stage, the risk of a reversion to conflict is high, especially in post-Arab Spring nations where there exists a near parity between citizens who hold to secular views and citizens who hold to religious perspectives on governance. If a state can navigate this stage, however, it will enter the stage of positive enactment legitimacy. Once governing institutions become established, legitimacy is then maintained by continuing to follow the legitimately established procedural requirements for law-making (positive enactment). If those procedures are followed, then the substance of the resulting laws will likely be viewed as legitimate. Those wishing to effect a desired outcome in the post-conflict nations of the Arab Spring would be well-served to understand this order and how it is that legitimacy can be won or lost for governments and actors at each stage.

Many Arab Spring states find themselves struggling between the first and second stages of this process of legitimacy. But this is not without cause. These societies have not experienced legitimately-created regimes for decades. So, during periods of authoritarian control—such as the Ben Ali era in Tunisia or the Assad era in Syria—deeply divisive political issues within those countries were suppressed and no legitimate outlet for debate existed. Under the rule of strongmen, the countries endured, being part secular and part religious without ever having the necessary debates that attend those issues. The suppression was extreme, and this seems to require significant conflict to overcome—months in Tunisia

²⁷⁶ Weber at 37

and years in Syria. Still, in both countries, the diverse opposition had to unite and put aside their differences. But, as the conflict ended or matured, politically divisive issues of Islamism and secularism have finally come to the forefront. And, for the first time in Tunisia and perhaps soon in Syria, it is the vote of the people that decides those questions.

This is significant. When Islamists were rejected through decades of authoritarianism, they clandestinely united and became emboldened. To now deny them a seat at the table in a post-conflict setting and to tell them that their views violate “universal principles” will ring with the same effect as the authoritarian control of the previous regimes and likely result in continued conflict. But if their ideas are fully vetted by society and voted upon, then the rejection or acceptance of those ideas, in whole or in part, will have occurred through a legitimate means (a means those Islamists helped bring about). This will then carry the fairness of the rule of law. The final stage of legitimacy—positive enactment—will have been met. It will be by popular will, not the control of a strongman, that their views are integrated into or rejected by society. It is at this point that Islamists will finally be allowed to realize the degree to which their values can mesh with society. This learning process will allow them to better negotiate and compromise and find their way in the post-conflict setting. Until this occurs, conflict will always be a risk in post-Arab Spring states.