

INTERROGATING THE CONSTRUCTIONS OF “MASCULINIST PROTECTION” AND MILITARISM IN THE SYRIAN CONSTITUTION (1973) AND SYRIAN LAWS

Abstract

This is a revisionist study of Syrian Ba'athism. At its heart is an examination of ingrained masculinist bias. I argue that there is a reciprocal relationship between militarism and masculinity, achieved through gratifying **protection** for both the nation and women. While most feminist scholarship dealing with states formation in the Arab context attribute its gendered nature to dictatorship, patriarchy and religion there is no debate about the development of states, and their relation to militarism and masculinism. This construction of militarized masculinity in Ba'ath ideology ensures the preservation of gendered laws that perceive women as less equal. While teasing out this aspect, I seek to explore the status of women in the Syrian Constitution (1973) and laws by investigating the role of the state as a male protector in which women's rights become challenged by the state's paternalistic perceptions.

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Introduction

Amidst the violence that has spread across Syria since 2011, questions about how women were constructed in the Constitution and Syrian laws prior to the uprising have subsided. This paper aims to contextualize the origin of militarism and masculinism prior to the current war to highlight how masculinized national ideology, coupled with centralized militarism, has maintained and reinforced women's subordination since the 1970s. I will use Iris Young's model of "the logic of masculinist protection" as being associated with "ideas of chivalry" (2003: 4). Central to the logic of masculinist protection is the subordinate status of those perceived as in need of protection. By constructing and perpetuating an image of the man as courageous, dominating and active, women are positioned as secondary in a vertical spectrum. I argue that the perpetuation and gratification of the chivalric male model in the

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Ba'ath ideology and depending on militarism in the early formation of the Syrian state correspond to the subordinate status of women in Syrian laws (Nationality Act and Penal Code).

Within this context, investigating the subordinate status of women in both state and society takes into consideration that Syrian national identity is being formalized and established by a state that is officially secular. In this context, there is a need to stress that scholarship about constitutions and legislation in Middle Eastern societies has discussed gender bias from various perspectives, mostly in relation to religious patriarchy, tribalism and tradition or in relation to women's changing social and legal status (Sha'aban, 1991; Hill, 1997; Maktabi, 2010). More particularly, in the Syrian context, studies conducted on the gender gap have attributed the subordinate position of women to the repressive political climate created by the authoritarian Ba'ath regime (Manea, 2011; Meininghaus, 2016) or to the patriarchal values invested in society (van Eijk, 2016). However, such attempts to connect tradition and religion to women's subordination in the Constitution and laws disregard the role of national ideologies in promoting and maintaining gender inequality in those legal texts.

More importantly, contextualizing the historical and political background of legislation in Syria, some scholars argue that current laws were enacted under the French Mandate and are still in force (van Eijk, 2016: 30). The problem with this kind of argument is that, like other feminist studies (van Eijk, 2016; Maktabi, 2010; Manea, 2011), it too disregards the intimate link between Syria's turbulent history (featuring multiple military *coups d'état* from 1949 until that of Hafez al-Assad in 1970) and the perpetuation of masculinism in the Constitution and laws. In this paper, I argue that the continuation of the colonial legacy seen in Syrian laws should be attributed to the consolidation of Ba'athist political ideology and a militaristic regime, in which the idealization of the male warrior delineates models of Syrian citizenship. I therefore take a different approach: I argue that masculinism is not an element of explanation but rather one of interpretation—a tool of what is called ideology critique (Harvey, 1983).

At the heart of this intellectual interrogation is the conceptualization of the nation as an extension of the family, which perpetuates hierarchies based on gender (see Baron, 2005: 6). When the nation is “envisioned as a family, the concept of family honor could be easily appropriated as the basis of national honor” (Baron, 2005: 7). Such configuration of the nation as a woman is often closely linked with the emphasis on the role of the man as a *masculine*

protector, defending both women and the nation. This connotation between *'ird* (honor) and *'ārd* (land/nation) combines notions of militarism and masculinity. However, this conceptualization of the nation as feminine condensed by the authority of not only the man as a masculine protector but also the state, which is prevalent in Syrian legislation. In other words, this feminization is juxtaposed with nationalizing women's sexuality, and imposing the state's authority on their bodies by controlling women's fertility and legalizing violence against them in the name of *protecting* honor (women's purity). Nonetheless, this imposition of the logic of *masculine protection* in Ba'ath ideology has planted hierarchy in the legal narratives by perceiving women as in need of male guardians. Moreover, this authority of *patriarchal protection* enhances the subordination of women and determines their relationship to the state. This is reflected in Syrian nationality law, under which women are prevented from passing their citizenship to their children.

I have become convinced that there is a need for a deeper, more sustained and explicitly gendered exploration of the multilayered conceptualizations of militarism and masculinism. Using Young's conception, this paper looks at the masculine assumptions underpinning the nationalized models propagated in the early emergence of Ba'ath ideology, and at how the early formation of the Syrian nation-state centralizes the logic of protection by epitomizing the role of the army in consolidating the newly emerged state. Without understanding the subtle gendering of the 1973 Constitution¹ and Syrian laws, we cannot make adequate sense of the persistence of a culture that legitimizes the dominance of violence and militarism today. Although this paper tackles notions of militarism and masculinism before the Syrian war, this investigation of the saliency of martial values since the early emergence of Ba'ath ideology in the second half of the 20th century follows the construction of hierarchal gendered identity – making man the ideal citizen.

Implicit in the focus of this investigation is the assumption that Ba'athism in Syria has developed as a necessary component of the establishment and consolidation of the nation-state. As an ideology based on the logic of masculine protection, Young argues that the logic of masculinist protection “includes the image of the selfish aggressor who wishes to invade the lord's property and sexually conquer his women” (2003: 4). This logic is based on dominative masculinity that defines protective masculinity as its other. Such conceptualization of masculine men as protectors therefore entails gratification of fighting and sacrificing for the sake of women and the nation (ibid.). This will be reflected in Ba'athism, which plays a role in inventing national solidarity and in identifying gender roles. Consequently, this paper has two parts. In the first, I will explore the theory of *masculinist protection* and the role of the state as a *male*

protector. I will then provide an overview of Ba'ath ideology and situate it historically by identifying the origins of its basic characteristics through looking into its emergence in the writings of the three Ba'ath ideologues between the 1920s and 1960s: Sati al-Husri, Michael Aflaq and Zaki al-Arsuzi. Related to the Ba'ath ideology, a section on the early formation of the Ba'ath state and its relation to militarism and masculinism aims to provide context for the

historical background of the Syrian Constitution and laws. In so doing, the paper moves into the practical establishment of the Ba'athist state since Hafez al-Assad came to power. Such exploration of the early formation of nation-state under the Ba'ath regime contextualizes the construction of gendered constitution and laws in relation to the dominant ideology of the Ba'ath, and how it has impacted women's status in the Syrian context. Part II focuses on the 1973 Constitution and Syrian laws, exploring the construction of political identities in the former's Preamble. I then address the masculinist making of Syrian laws in relation to women, focusing on nationality and penal law to investigate the reflection of militarism and logic of *masculinist protection*.

Positionality

As a young woman growing up in Syria, I was initially drawn to the subject of masculinism by its importance in reinforcing the cult of Ba'athism during my primary and secondary education. An example rich in perpetuating masculinist belonging is the compulsory conscription to two Ba'ath-affiliated organizations: the Syrian National Organization for Childhood (*tala'e'e*) during the primary stage and the Revolutionary Youth Union (*al-shabibah*) in high school. These two organizations mobilized children through enforced training and membership of paramilitary groups that perpetuated ideals of masculinist militarism, conceptualizing them as expressions of nationhood. More related to the cult of subjugation was a weekly compulsory session dedicated to teaching pupils how to become an active Ba'athist through using a Kalashnikov, and how to show their love for both the nation and the leader, particularly through celebrating a physically strong body.

Moreover, during enforced mass marches to celebrate the "great leader" (Hafez al-Assad during my childhood) and his achievements, we learned by heart the slogan: "with blood and soul, we sacrifice ourselves for you, Hafez",² another example of how expressions of nationhood were identified with masculinist achievements. In fact, these incidents used to affect my sense of belonging and identity, as if my existence was blurred by the idealization of physical strength, prowess and patriarchal authority. This interplay between loving and belonging to the nation, measured by the readiness to sacrifice and die, constructed an image of the heroic man as the ideal citizen. Moreover, the dominating image of the heroic soldier perpetuates masculinity as the accepted norm in Syrian society.

Following Haraway's conception that knowledge is situated, and admitting that the knowledge produced in this research is opposed to the point of view of the unmarked (the omnipresent positioning) and reflects and is affected by my own specific positioning (Haraway,

1988: 586), I cannot deny the influence of my own personal background in this research, as a woman and a Syrian and, more importantly, as someone who has lived under this despotic and militaristic regime. The experience of living in such environments has led me to undertake this investigation.

Part I

Theorizing Masculinism and Citizenship

Before analyzing the construction of masculinism as a *protector* tool in Ba'ath ideology, the following subsection aims to set the stage for discussion and provide a common language for reading this paper. I provide some working definitions of the most-used terms and how they are associated with a perpetuated national ideology in a system of interplaying power relations.

- Masculinity as a nationalized protector

Due to its wide variety and the fact that there has been no consensus on what constitutes being masculine because its meaning varies in relation to class, race and national setting, scholars have agreed that masculinity is about an identifiable characteristic that sets the ideals and norms for male demeanor (Bederman, 1995; Connell, 1995). At the same time, Jeffords describes masculinity as a “set of images, values, interests, and activities held important to the successful achievement of male adulthood” (1989: xiii). “Masculinity” is the appropriation of certain sets of modes and practices that incite hierarchy and domination of one sex over the other. The use of the concept of “masculinity” in this paper aims to encompass several dimensions, and will broaden “masculinity” as a corporeal domino for protection, military and chivalry.

My starting point for the relationship between gender bias and Ba'athism is Young's conception of the logic of masculinist protection. First, Young investigated the subordinate position of women by questioning the idealization of the male warrior, and how it has been projected onto the behavior of the state. Dominant theorizations on masculinity and masculinism identify the masculine male type in which the male is perceived as adamant to conquer women sexually in the private sphere. Very little research, however, has linked masculinity with the readiness to protect as another form of perpetuating hierarchy and male domination. According to Young, this model of masculinism is inherent in the militaristic nature of the state, which contributes to a vision where heroic men struggle to protect the nation and women. Enloe captures this intersection,

arguing that “when a nationalist movement becomes militarized ... male privilege in the community usually becomes more entrenched” (1990: 56). Hooper has examined the relationship between militarism and masculinism, when demonstrating that military combat is a clear example of how the state propagates the ideal image of man (2001: 81). Hooper further affirms that it is a “popular myth that military service is the fullest expression of masculinity” (2001: 81).

More importantly, the contextualization of the relationship between militarism and masculinity is defined by the use of Young’s conception, which implies that there is a homogeneous set of characteristics measured by the readiness to die for the nation (2003: 6). As Stiehm puts it:

The protector cannot achieve status simply through his accomplishment, then. Because he has dependents he is as socially connected as one who is dependent. He is expected to provide for others. Often a protector tries to get help from and also control the lives of those he protects—in order to “better protect” them. (Stiehm, 1982: 372)

Such nationalized masculinity elevates militarism, sacrifice and heroism, which are consistent with gender hierarchy, domination and exclusion. This propagation of “masculinist protection” that signifies the state’s mobilization of the notion of war is “associated with the position of male head of household as a protector of the family, and, by extension, with masculine leaders and risk takers as protectors of a population” (Young, 2003: 3). In the Arab-Syrian context, the logic of masculine protection emanates from the dominating role that masculinity perpetuates, and in turn this dominating masculine model of the male acts to control women’s sexuality under the pretext of logicalizing protection (as will be explored in Syrian laws).

Relating Young’s conception of masculine protection to Ba’athism reveals the correlation between masculinism and militarism. This espousal sets the identification of the ideals of the citizen-warrior and Ba’athi militant, which in turn underlies the juxtaposition between citizenship and Ba’athism on the one hand and physical power, strength and manliness on the other. Ahlbäck illustrates the definitions of the concepts of manhood and manliness, stating that manhood becomes normalized by soldiering, while “manliness became associated with discipline, heroism, death and sacrifice in battle” (2016: 9). At the same time, these models also shape the boundaries of citizenship, as will be explored in my analysis of the Constitution, which centers on a version of the heroic Ba’athi warrior who becomes a citizen only if he conforms to the ethos of militarism.

- Patriarchal protection

This propagation of gendered logic of protection is not only incarnated by gratifying the role of the army in the state, but is also further measured by women's relationship to the state. This leads us to the second theoretical category identified by masculinity: citizenship. While copious feminist analyses demonstrate that the state "is in almost all cases male dominated, and is in different ways a masculinist construct" (Pettman, 1996: 5), defining citizenship is correlated with understanding the role of the state as a masculine protector. Syria as a sovereign state monopolizes the conceptions of how women are politically defined and constituted. Belonging to such a Ba'athist state requires affiliation with military and masculinist values (Author, 2015; 2016). Adopting Pettman's conception of women's relationship to citizenship, she states that citizenship is about "politics of exclusion, where belonging for some is marked apart from and depends on others' not belonging" (1996: 16). This conception of citizenship premised on exclusion leads us to look at Pettman's question of "what makes it so hard for women to become full citizens?" (1996: 19). This is not to argue that Syrian women are not *de jure* citizens, but the question is how women's citizenship is defined by controlling their bodies and sexuality, and even legitimizing violence in the name of protection. Hence, in this paper citizenship is analyzed by evaluating women's relationship to the state and measuring its masculinist construct as a male protector.

This brings us to other modes of subjugation that masculinity reinforces in women's relationship to the state – *patriarchy*. Despite this coming in a variety of forms that can prevail in the public and private spheres (see Walby, 1990), for the purpose of this study the use of the notion of patriarchy is confined to the familial domain that symbolizes the "father rule" (Bradley, 1989: 55). On the relationship between patriarchy and citizenship, Walby argues that citizenship is about "a transition from private to public patriarchy" in which women become trapped by deeply rooted patriarchized notions of what defines their relationship to the state (Walby, 1994: 379). In this paper, patriarchy coupled with masculine protection will form the basis of defining who becomes a citizen. Becoming a "citizen" means that members of the state share common characteristics of fairness and equality; making citizenship a "unifying symbol, and an intellectual understanding of social integration" (ibid). In this paper, *patriarchal protection* will be manifested in the state's paternalistic control of women, and will therefore be explored in the analysis of Syrian laws, particularly matters related to penal law, honor killing and nationality.

• Ba'ath Ideology (1920s–1950s): Theoretical Overview

While there is a plethora of studies centered on the politics of the Ba'ath Party (see Devlin, 1976; Drysdale, 1981: 3–30; Jabbur, 1978; Abu Jaber, 1966), they leave other important topics such as masculinism in Ba'ath ideology underdeveloped. In reviewing the scholarly debates on the idea of Ba'athism, this section revisits the conceptions and ideas of the Ba'ath in its early formation as an ideology in the works of its three founding fathers: al-Husri, Aflaq and al-Arsuzi.

While belonging to different racial backgrounds and religious denominations, al-Husri, Aflaq and al-Arsuzi have been depicted as ideologues of secular nationalism. I begin with al-Husri, as he has been widely considered one of the “better known exponents” (Karpas, 1968: 28) of secular nationalism, and his nationalist legacy appealed to Aflaq and al-Arsuzi as Ba'athist ideologues. The influence of his writings cannot be underestimated in terms of the ideological construction of the Ba'ath Party (Tibi, 1997: 203; Khadduri, 1970: 205). More specifically, Adib-Moghaddam argues that al-Husri's nationalist thought not only influenced Aflaq and al-Arsuzi, but was later “institutionalised” in the Ba'ath party in Syria (2006: 18; see also Salem, 1994: 49).

In this paper, the construction of masculinism in the writings of Ba'ath ideologues will be examined by investigating how these thinkers have reinforced militarism and logicalized masculine protection in their national theorizations. For if the works that form the basis of Syrian national thought continue to reflect, maintain and reinforce the unequal position of women, I must investigate how their conceptions are inherently connected with the idea that women are not equal to men and how such perceptions are reflected in the Syrian Constitution and laws.

Sati al-Husri

Al-Husri is the father of secular nationalism and extensively debated the origin of the idea of nation and nationalism in his works (1959: 31; 1964: 15–16; 1985a: 15-16). His nationalist theory constitutes the basis of the Ba'ath ideology in Syria. An overview of his works will reveal his normalization of militarism which forms the basic identification of the Ba'ath ideology later endorsed by Ba'ath founders (Aflaq and al-Arsuzi) and Hafez al-Assad (Hinnebusch, 2001). In this section, I analyze al-Husri's nationalist ideas with particular reference to the role of the army and men in defining national belonging and identity.

The masculinization of al-Husri's national ideology can be explicitly traced in his use of masculine terms to refer to his audience. While it could be argued that this was common

practice among nationalists in the 1950s, this gender specification accepts gender hierarchy and exclusion. In the introduction to his book *Ṣafahāt min al-Māḍī al-Qarīb* (*Pages of the Recent Past*), al-Husri indicates that its republication is “of great benefit to young men [*shabāb*]³ of the ‘present’ and to the mature men [*rijāl*]⁴ of the ‘recent future’” (1948: 7). These words reflect al-Husri’s intention to instill a sense of collectivity through the use of masculine terms. Using masculinized terminology in relation to the past and the future generates bias against women in nationalist discourse. Al-Husri proceeds in this book to call for a revival of the past by creating a glorious present. The problem is that his concept of a glorious present and future is identified with empowering men and urging them to generate the “spirit of sacrifice and victory” while urging them not to spread the “spirit of discontent, despair and surrender” (1948: 70). Within this context, al-Husri vigorously urges “young men” and “mature men” to join martial forces. He viewed such groups as determined by military power and physical strength essential to regain the glory of the nation (1948: 61–2); becoming a real man was measured by being ready to die for the nation and being equipped with martial force (1948: 63).

What follows in this book is an exaltation of death and sacrifice associated with the great deeds carried out by men. In his conclusion, al-Husri defines life as synonymous with courageous death, which reasserts manhood and challenges potency: “I must say without any hesitation that life is a struggle [*nidal*] and a fight [*qital*], in every sense of the word: this requires death and annihilation for a lot of things” (1948: 112). This celebration of men’s sacrifices attempts to measure national belonging by physical strength. This in turn exposes al-Husri’s construction of national ideology as intimately linked with constructing the ideal man of the nation. It becomes very clear that al-Husri conceptualizes the nation’s realization of glory with man’s own achievement of manhood and masculinity (1985a: 27).

Central to al-Husri’s conception of national belonging is men’s ability to protect the nation’s glory (*majd*), which in turn masculinizes the sense of national belonging. Such masculinist construct is evidenced as al-Husri declares that preserving the nation’s glory is directed by maternal love (1985a: 27–9). This portrayal of national love reflects the patriarchization of the man–woman relationship that is based on subordination and coercion. According to al-Husri, it is this nationalistic and patriotic love that will awaken sentiments in people to struggle and sacrifice for national glory and unity:

We must remember that the nationalist idea enjoys a self-motivating power; it is a driving impulse to action and struggle. When it enters the mind and dominates the soul, it is one of the forces that awakens the people [*al-sha’b*] and inspires them to sacrifice. (1951: 238–9)

From these words, we can derive a picture of an overwhelmingly masculinist representation that conceptualizes readiness to fight as a main characteristic that defines national belonging through further idealizing physical sacrifice. It is related to the question of who are the “people” (*al-sha'b*) who may be connoted with the characteristics of “action” and “struggle”. Moreover, it must be recognized that al-Husri’s use of the term *shubbān* (young men) is an affirmation of the superiority of men as the only believers in the nation. Hence, this juxtaposition between the assertion of nationalistic faith and the ability to sacrifice for the national struggle subsequently defines the concept of belonging (1985b: 40).

Another important feature in al-Husri’s theorization is his emphasis on the role of the army in instilling national identity. He argued that militarism should be part of the education system (1985a: 450). On one level, al-Husri’s perception sustains an exclusionary narrative of how girls should be educated. Militarism effectively becomes a means of defining and maintaining group identity and affiliation: the army, representing the nation, structures the politics of inclusion and exclusion in the national community. This belonging and membership is best understood in the readiness to die for the nation, fostering a commitment to “militarised and continuously politicised conception of life, a conception that is entirely masculinist” (Kateb, 2006: 8). Moreover, the glory of the nation, like the glory of a man, is measured in terms of heroism and militarism. Women therefore become part of this national discourse that their status is conditioned by the state’s imposed national ideology, and (sometimes) their image is propagated as naturally passive while men are conceived as active participants in the national struggle.

Michel Aflaq

Michel Aflaq (1910–1989) was a Syrian philosopher, sociologist and nationalist thinker, perceived to be the political founder of Ba'athist thought. He published various books during his lifetime; the most notable collection of his nationalist ideology is found in the five-volume work *Fī Sabīl al-Ba'ath (On the Way of Resurrection)*.¹(please use endnotes as per JMEWS guidelines) Born into a middle-class family in Damascus, he studied at the Sorbonne, where he was exposed to European philosophers and Germanic and French nationalist traditions. He returned to Syria in 1932 equipped with his political ideas on the future. His influential role in constructing Syrian national thought can be traced back to 1947, when the first congress of the Ba'ath Party was held in Damascus (Rabinovich, 1972: 228),

¹ This work includes most of Aflaq’s lectures, articles, speeches and conferences roughly between the 1930s and the 1970s. Full access to this work can be found online at <http://albaath.online.fr/>. Any reference to Aflaq’s work will be from this website, unless noted that it is from the printed version.

with him positioned as the “leader” of the party (Moubayed, 2006: 131). The basis of his nationalist ideology sprung from al-Husri’s conception of nationalism and the two European schools of nationalist thought.

The political philosophy of Michel Aflaq has long been studied as the theory that contributes most to the establishment of the political system in Syria (see El-Attrache, 1976).⁵ Aflaq’s militant conception of Ba’athism is best examined by deconstructing the national concepts and language in his iconic work *Fī Sabīl al-Ba’ath (Towards the Resurrection)*. This subsection provides an analysis of Aflaq’s emphasis on the construction of national identity as measured by constructing the ideal image of the Ba’athist man. Contextualizing his conception of Ba’athism, Aflaq’s speeches propose the image of manhood as the only representative of the ideal human being. In a more explicit encouragement of “young men” (*shabāb*) to join the Ba’ath, Aflaq distinguishes between “revolutionary men” and men who are still outside the party. This distinction not only refers to the basic Ba’athist ideology as “a movement from dark to light” (which is exclusively defined by men’s participation in the Ba’ath), but it is also a masculinist call for a particular type of men: those who show readiness for sacrifice and the protection of the nation. As the title, *Tharwat al-Ḥayāt* (Treasure of Life), makes clear, this 1936

speech is addressed to men as the only ones who give life its meaning through their participation in the national struggle. In a separate article, Aflaq states that “between our nation and our men, there is chemistry, appointment, and a meeting” (1955). In a more transparent articulation of his sentiments, he states that men’s activism and impulsion is what the nation needs: “They are the rescuers” (ibid).

Aflaq’s politics of Ba’athism entail submission to the scheme of a solidarist life. He emphasizes the image of the nation as a community born out of solidarity between patriots; the nation is composed only of those who embody the “national idea” (1944). The related question is: how does the nation preserve its identity? Aflaq encourages a sense of belonging among those who internalize the national cause in their souls and are therefore committed to sacrifice themselves and die for the nation; those “who are aware of themselves and their individuality, and not that distorted, abnormal minority who are in denial of their national role” (1950). In fact, Aflaq specifies the membership of this imagined majority to be exclusively male patriots. This implementation of struggle, sacrifice and suffering as national themes, which are equated with manhood and hegemonic masculinity, is central to Aflaq’s definition of national belonging. Even in the 1940s, by which time al-Ba’ath was established as a political party, Aflaq states that the value of having “faith in the Ba’ath” has been confined to our “Arab men” (*al-shabāb al-‘arabī*). Moreover, this faith is conceptualized as a means to “transcend partition through pain ... and struggle” (1943).

There is a need to illuminate how Aflaq understood the Ba’ath message, which is defined in his speech “*hawla al-risālah al-‘Arabīyah*” (About the Arab Message) (1946) as,

“a belief before anything else ... it precedes any practical knowledge ... It is the nation ... and it is the right of all individuals [*‘afrād*] to aspire to chivalry [*al-murū‘a*] and heroism [*al-butūla*] ... However, it should be noted that, although it is required that each one should aspire to heroism, not all people are heroic [*al-‘biāl*].” (1946)

While Aflaq’s narrative appears to be inclusive in his reference to “all individuals” (*‘afrād*) rather than *shabāb* (men), the correlation between accomplishing one’s individuality and one’s national role can still only be achieved through heroism and chivalry and their juxtaposition with the construction of masculinity. As *al-murū‘a* (chivalry) stands for “perfect manhood”, it further reinforces an essentialist correlation between manliness and the construction of ideal national identity. The construction of this coupling manifested in the two words “heroism” and “chivalry” denotes a presumption of a masculinist national conception.

Another example that highlights his preoccupation with the construction of an ideal

Ba'athist identity is a speech delivered in 1975 titled "*al-Ba'athi hwa al-surah al-haqiqiyah li*

lūmmah” (Al-Ba’athi is the Living Image of the Nation). He stressed the reformulation of the Ba’athist national identity as the “only reflection of the New Arab” still based on the “activity” of its “militants/fighters” (*monadilīn*). In his definition of the “character of the Ba’athi”, he identifies ideal manhood through “sacrifice and patriotism.” In his words: “the living image of the Ba’ath and the nation can only be embodied by the militant Ba’athi ... *he* is the living image of past and future ... of heritage, authenticity, progress and creativity” (1975, emphasis added). According to Aflaq, what determines the identity of an ideal Ba’athi is being a male active fighter ready to die to protect the nation.

Zaki al-Arsuzi

Zaki al-Arsuzi was born to an Alawite family, marginalised during the reign of the Ottoman Empire. His father’s political activism against the Ottomans shaped al-Arsuzi’s political passion in nationalist ideologies (Watenpaugh, 1996: 365). During his stay in France between 1927 and 1930, he was exposed to both French culture and European philosophy (Choueiri, 2001: 144). This attraction to French ideals might be attributed to his excellence in speaking French and to studying at the Sorbonne. He returned to Syria in 1930 very influenced by the French Revolution and its principles. However, this later caused him trouble with the French authorities for teaching the principles of the French Revolution to his students in Syria. Al-Arsuzi, like other nationalists at that time, therefore developed a nationalist ideology based on centralising the Arabic language as the primary principle for formulating the nation. Calling Aflaq a “thief” of his nationalist ideology, the “Ba’ath” (see Curtis, 1977), al-Arsuzi was less popular than Aflaq and al-Husri, perhaps because he lacked the conventional style of al-Husri’s nationalist narrative and Aflaq’s ardent voice in his speeches.

Following Aflaq and al-Husri, al-Arsuzi conceptualizes national belonging as preceding any philosophical or theoretical knowledge (1973: 341), which means that national love is unconditional and involuntary. He believed the nation is not only an extension of the family from “a spiritual perspective”, but the resemblance between the family and the nation also lies in the duties assigned to the “brothers” (*ikhwān*) of the nation (1973: 344). This suggests that, in both the family and the nation, men are considered sovereign, leaders and, therefore, superior. This patriarchization of nation and family creates a hierarchical order between men and women.

Al-Arsuzi argued that the family has a significant role in nation formation, and for this reason he considers it synonymous with “humanity”. However, the “evolution of the family towards superior humanity” (1973: 305) is based on controlling women’s choices of their future

husbands. In this context, al-Arsuzi considers controlling woman's sexuality as essential for formulating a nation of a superior race. Notwithstanding his claim that his doctrine is not based on race, when it comes to a woman's freedom to choose her partner al-Arsuzi adamantly justifies full control over her choices (1973: 305).

Given the hierarchical structure of al-Arsuzi's conception of family and the nation, it can be discerned that a woman's chastity is another masculinist construction used and justified to control women's choices. Using somewhat racist language, al-Arsuzi articulates his view that a child born to mixed-race marriages is a "disgusting" (*muqrif*) "half-caste" (*hajm*) (1973: 307). This proposal for the regulation of marriage and breeding reflects the priority of maintaining the purity of the race in constituting the natural boundaries of the nation.

In this argument, the woman is regarded solely as a means for breeding a superior race only if married to local men. In this sense, it is only logical to presume that al-Arsuzi's anti-

miscegenetic views are at the root of depriving Syrian women of the right to pass citizenship to their children if they marry non-Syrians (as will be explored later).

Al-Arsuzi's emphasis on the significance of painting the ideal "image of the Arab family" by constructing a hierarchical order within it (1973: 307) is coupled with conceiving that the family is natural; in other words, al-Arsuzi implies that its existence is pivotal for the satisfaction of the man. This is reflected in his argument that the man is naturally "superior to the woman" in the formation of the family (1973: 307). Interestingly, al-Arsuzi further attributes the superiority of the father in the family to the philological source of the term "'*ābb*" (father) and its similarity to the pronunciation of the English word "up", and therefore concludes that the word "father" in Arabic symbolizes "highness" (*i'tilā'*) and "eruption" (*haijān*) (1973: 308). Al-Arsuzi justifies this linguistic association with the superior role of the man in controlling the private sphere.

Formation of the Ba'ath state

Throughout its modern history, Syria has been subject to several military coups (*inqilabat*) that further epitomize the role of the army in the country's formation. Exploring Syria's turbulent history, most scholars have debated these military coups in relation to the country's future of democracy and freedom (Hinnebusch, 2001: 18). However, no research is concerned with asking what makes militarism so pivotal in the formulation of Syria as a modern nation-state. This brings us to the history of Syria following the fall of the Ottoman Empire and the need for self-determination that made the region aspire to victory through military power. Thus, to investigate how Ba'ath ideology and the early formation of the Ba'ath state have shaped women's relationship to citizenship in Syria, this section will explore important historical and political background to the drafting of first permanent Syrian Constitution and Syrian laws.

To understand the evolution of Ba'athism from its theoretical origin to its practical application, we need to understand the use of military power as a tool for consolidating the rule of Hafez al-Assad. The development of the Ba'ath Party throughout the 1960s into an increasingly militaristic establishment began after the re-establishment of the Ba'ath in 1962. The Military Committee toppled the *infisal* regime in a military coup on 8 March 1963, an act supported by even the civilian leadership of the party, displaying the increased tolerance of military methods. In 1966, Assad set out to strengthen his position in the government through key military appointments (Mann, 2006: 769). His success meant that, by 1969, through the appointment of confidants in the military, the radicals were reduced to "control of the party

apparatus”, with Assad maintaining a firm grip on the army (Galvani, 1974: 11). With the rivalry climaxing within the party during the Black September crisis of 1970, when the regime sent divisions to help the Palestine Liberation Organization (PLO), Assad launched the Corrective Movement on 30 October 1970, with loyalist troops arresting members of Jadid’s government, ousting the radical regime and installing his supporters in the Ba’ath Regional Command. Ultimately, the internal conflict within the Ba’ath Party from 1963 to 1970 showed that whoever controlled the military controlled the government, with Assad reigning supreme and rising to the presidency.

Drafting the permanent Syrian Constitution

Despite playing a central role in formulating the nation-state, the army alone was not enough for the modernization of Syria; rather, the early formation of the nation-state includes an institutionalization of constitutional legitimacy imposed from above (Hinnebusch, 2008). To borrow Hinnebusch’s words, the creation of Syria as a state is like “a ‘Bonapartist’ regime – a postrevolutionary authoritarian regime standing ‘above’ classes and presiding over the formation of a strong new state” (1989: 30). This stage (state formation) of Syrian history, the 1970s, marks the ascendance of the Ba’ath regime with its primary focus on the process of developing state institutions as the best way to modernize Syria (Trentin, 2009: 497; Kienle, 1995: 67). This interest by the Ba’ath regime in promoting state institutions “increased the degree to which citizens interacted and identified with their state” (Gilbert, 2013: 32). Thus, in an epoch concerned with strengthening the localization of Syria as inherently both legitimate and sovereign, the shift from the theoretical ideology of the Ba’ath to the politicization of the Ba’ath Party as the leading political party in Syria concentrated on militarizing the state. According to Hinnebusch, the consolidation of the Ba’ath state is a “product of a nationalist party and an army radicalised by the conflict with Israel, developed under Hafiz al-Asad [*sic*] into a huge national security apparatus designed to confront Israel” (2001:138).

More than 15 constitutions have been issued in Syria since its foundation as a modern state in 1920. The volatility of the constitution in the Syrian context stems from the frequent military coups that issued them as a tool of legitimacy. In this political context, this evolution of Ba’ath ideology resulted in the realization of Syria’s political sovereignty, through which the state strove to legitimize its existence by drafting the first permanent Constitution in 1973 under the strong guidance of Hafez al-Assad during a state of emergency.

The permanent Constitution enacted in 1973 is the most important because it marks a turning point in Syrian history as it was the first to institutionalize and legitimize the Ba’ath

ideology in Syria. This is evident in Article 8, which stipulates the Ba'ath Party as the sole “leading party in the society and the state”. Such imposed authority given to the Ba'ath Party not only legitimizes but also institutionalizes Ba'athist ideals and values. As discussed earlier, the Ba'ath ideology is based on perpetuating militarism and masculine protection as prerequisites for defining national belonging and identity. In this context, having explored the basic ethos and values of Ba'athism in its theoretical part, and contextualized the historical and political background to the formulation of both the Ba'ath state and the permanent Constitution, Part II looks at how Ba'ath ideology has been implemented and reinforced in the Constitution and laws. The analysis will look mainly at how militarism and masculinism maintain and reinforce a subordinate status in designating women's relationship to the state.⁶

Part II

Militarized Belonging in the Constitution's Preamble

The preamble of a constitution is often designed to frame the general spirit of the constitutional community by enacting the major principles that define membership of the state. Hence, it is necessary to start with the Preamble of the Syrian Constitution to understand how the major principles of national identity have been framed and structured. Thus, the Preamble reflects the dominance of propagated national elements, such as will and determination, struggle and sacrificial heroism (Author, 2016; 2017a; 2017b). The constitutional narrative is connoted with constructing the ideal image of the Ba'athi man. These elements are full of references to ideal masculinism and heroism that reinforce male privilege in both state and society.

As an “executive summary” of what the founding fathers were hoping to achieve through the Constitution (Irving, 2008: 15), the Preamble also acts as a preliminary statement of its general goals. This brings us to the imposed national narrative premised on heroism, manliness and struggle as the basis for constituting the Syrian national identity. Such primacy of idealizing manhood and struggle in the opening statement of the Constitution leads us to question how Syrian women are symbolically perceived within it. The early part of the Preamble reads:

With the close of the first half of this century, the Arab people's struggle has been expanding and assuming greater importance in various countries to achieve liberation from direct colonialism. The Arab masses did not regard independence as their goal and the end of their sacrifices, but as a means to consolidate their struggle, and as an advanced phase in their continuing battle against the forces of imperialism, Zionism, and exploitation under the

leadership of their patriotic and progressive forces in order to achieve the Arab nation's goals of unity, freedom, and socialism. (SC)

It can be deduced from this that the repeated use of the generic terms "people" and "masses" is by default exclusivist of women and continues to situate women outside the national realm (Rosenfeld, 2012: 757). In the Syrian context, the question of gender in the construction of constitutional identity combines textual sameness that is evidenced by using generic terms in substitution for the human being. Moreover, the construction of a distinctive macho identity based on perpetuating the narrative of struggle, heroism and sacrifice establishes a contrasting sense of selfhood derived from maleness. Identifying "sacrifice" for the nation with masculinist protection, the "self" in this narrative is conceived as the normalized manliness, while the "other" is the subservient female. Such hierarchical division of gender roles is substituted with the authorial invocation of "people", "masses" and "citizens" in the Constitution, which provokes questions of how these terms supposedly create an abstract homogeneous identity, and further reinforces the model of "masculinist protection" based on heroism and sacrifice.

This neutrality in the Preamble through the use of generic terms is further consolidated in the association between the notion of "struggle" and the "sacrifice" of the "people" and "masses".⁷ The first dominant notion in the Preamble is struggle, signifying the need for masculine protection, which will be used as a tool to delineate gender boundaries in the national imagination and further reinforces the masculinization of popular will. This raises the question of whether the invocation of popular struggle in the Preamble is a characterization only of men's heroic deeds. Moreover, as a popular construct it further questions whether the use of seemingly gender-neutral terms such as "citizens" and "people" includes women in the constitutional community. To answer these questions, we need to interrogate both the use of language in the Preamble and whether the notion of struggle is connoted with masculinist traits and ethos.

This identification of heroic sacrifice and struggle continues to maintain the idealist construction of masculinist protection and militarist values that have already been perpetuated in the Ba'ath ideology. What facilitates such provisions is the weight placed in the Preamble on the "party's militant struggle". This emphasis on militaristic values can be seen in the following words:

In the Syrian Arab region, *the masses [jamahīr] of our people [sha'ab] continued their struggle after independence. Through their progressive march they were able to achieve their big victory by setting off the revolution of 8 March 1963 under the leadership of the Socialist Arab Baath*

Party, which has made authority an instrument to serve the struggle for the construction of the

United Socialist Arab society. The Socialist Arab Baath Party is the first movement in the Arab homeland which gives Arab unity its sound *revolutionary meaning*, connects the nationalist with the socialist struggle, and represents the Arab *nation's will* and aspirations for a future that will bind the Arab nation *with its glorious past* and will enable it to carry out its role in achieving victory for the cause of *freedom of all the peoples*. (SC, emphasis added)

This wording highlights some of the fundamental values and main principles on which the Constitution is based. The politicized national element of Syrian national identity, such as will and determination, is clearly invoked. Thus, the invocation of the popular will of “the people” at the beginning of the Preamble expands the sovereignty of the Constitution. However, this reference to the popular will is based, rather, on the readiness to die for the nation, which is conceptualized in association with measures of masculine prowess. This in turn questions the precise definitions of who “the people” are. In turn, it must be said that the concept of “struggle” (*Kifah*) and “will” (*'iradat*), which were already perpetuated in Ba'ath ideology, are further institutionalized in the Preamble.

The Preamble reinforces a commitment to the construction of ideal heroism and virility, and propagates the conceptualization of history as a male construct. More importantly, while this quote from the Preamble expresses a transcendent authority by asserting that “the masses of our people” in Syria have authorized the leadership of the Socialist Arab Ba'ath Party, the irony of such a declaration is that the so-called “revolution” of March 1963 was a military coup, and so questions the genuine inclusion of women. In this sense, this wording binds the concept of “revolutionary” struggle with the renunciation of the glorious past. This amounts to an implicit symbolization of masculinist virility. Furthermore, it involves perpetuation of the logic of masculinist protection. Hence, history is given further legal and political authority through the invocations of masculinized heroic glory in Syria's first permanent constitution.

The Preamble further justifies the end means of militant struggle and claims that the party's militant struggle reflects popular demands and aspirations:

Through the party's militant struggle, the 16 Nov 1970 corrective movement responded to our *people's demands and aspirations*. This corrective movement was an important qualitative development and a faithful reflection of the party's spirit, principles, and objectives. (SC, emphasis added)

These words further highlight the espousal of militarism and logic of masculinist protection. The imposed authority given to the Ba'ath Party in its militaristic nature to exercise supreme

judicial, legislative and executive power in Syria denotes the absence of any plural and democratic system that can enhance women's political mobilization towards promoting equal

rights and representation. Furthermore, Article 23(3) emphasizes the association of the role of education with building a physically strong body, which subsequently emphasizes the construction of a male protector:

Physical education is a foundation for the building of society. The state encourages physical education to form a physically, mentally, and morally strong generation. (SC)

This notion of education is synonymous with glorifying militarism. The recognition of the vital role of youth in nation-building promotes the inculcation of patriotism, masculine protection and heroism. The primacy of forming a physically strong generation cannot but be attributed to Article 11, in which the role of defending the homeland is restricted to military forces. In the same vein, it must be noted that the word order is highly reflective of the privilege given to physical strength as superior to mental and moral strength. It is justifiable to ask why forming a physically strong generation is stressed, rather than referring to a healthy generation mentally, morally and physically. In fact, the choice of the adjective “strong” (*qawi*) is in line with the masculinist construction of the concept of citizenship based on readiness to protect the nation. One can say that the concept of citizenship reinforced in the Constitution relies heavily on physical strength; in turn, militarism is intimately linked with realizing the ideal image of Ba'athi man. In other words, this continuation of sanctifying physical strength to sharpen the image of the Syrian warrior becomes intertwined with national belonging.

Contextualizing “struggle”, “sacrifice” and “glorious past”, which are reinforced in the Preamble, constructs a constitutional identity associated with manhood and strives to create a continuing image of a militant identity. More importantly, this declaration of the militant struggle very early in the Constitution excludes women’s struggle against colonial and imperial domination. As Enloe declares, “militarisation puts a premium on communal unity in the name of national survival, a priority which can silence women critical of patriarchal practices and attitudes; in so doing, nationalist militarisation can privilege men” (1990: 57–8).

The ambiguity of how women are conceived in the Constitution can be detected in the major principles outlined in the Preamble. The Preamble declares that

4) Freedom is a sacred right and popular democracy is the ideal formulation which insures for the citizen the exercise of his freedom which makes him a dignified human being capable of giving and building, defending the homeland in which he lives, and making sacrifices for the sake of the nation to which he belongs. The homeland’s freedom can only be preserved by its free citizens. The citizen’s freedom can be completed only by his economic and social liberation. (SC)

As previously argued, the Preamble constitutes the general framework of the national identity subjected to the legalization of this Constitution. While these words virtually support freedom and democracy equally, the use of some apparently gender-neutral nouns still questions women's inclusion. This linguistically obscure use of the masculine reference is juxtaposed with the concept of sacredness. This is somewhat restricted to the association between sacrifice and belonging that incorporates the logic of masculinist protection and the militarization of society, which subsequently intensifies the existing notions of privileging masculinity and manhood. In other words, this "sacred" right of freedom is intimately linked with "defending the homeland", and within this context one might ask whether this call is at all gender-inclusive.

This leads us to Article 11 of the Constitution, which declares that only "[t]he armed forces and other defense organizations are responsible for the defense of the homeland's territory and for the protection of the revolution's objectives of unity, freedom, and socialism" (SC). Moreover, in Syria the military is a conscripted force; males serve two years upon reaching the age of 18. This glorification of manliness, intimately linked with citizenship and directly connected to both militarism and hegemony, is highlighted by Hooper:

The associations between military service, masculinity, and citizenship have been strong in the modern era. Soldiering is characterised as a manly activity requiring the "masculine" traits of physical strength, action, toughness [and] capacity for violence. (2001: 36-7)

This revelation further sustains the ambiguous status of women in respect of their right to freedom and democracy and whether they will ever realize their humanity and full citizenship. In the same vein, the conceptualization of freedom and humanity is discursively constructed by stressing sacrifice through socializing militarism. The relationship between freedom and the ability to protect the nation invites the question whether the term "citizen" at all entitles women to full national membership. It is important to make clear that the Preamble establishes a nexus between freedom and humanity, when it states that the "citizen" exercises "his freedom which makes him a dignified human being capable of ... defending the homeland ... and making sacrifices for the sake of the nation to which he belongs" (SC). This construction of a unified perception of citizenship consolidates the overlap between the ability to protect the homeland on the one hand and freedom, humanity and manhood on the other.

This overlap between constitutional membership, masculinist protection and militarism is further stressed in Article 40 in Part 4 (Freedom, Rights, Duties) of Chapter 1 (Basic Principles), which constitutes two sacred rights:

(1) *All citizens* have the sacred duty to defend the homeland's security, to respect its Constitution and socialist unionist system.

(2) *Military service* is compulsory and regulated by law.

(SC, emphasis added)

More remarkably, defining the defense of the homeland as a “sacred duty” for “all citizens” refers to the ambiguity of the choice of terms in specifying the gender of these citizens. Adding to the subtlety of this article, the second paragraph implicitly limits the presumed gender-inclusive duty of *all citizens* in defending the homeland to men in compulsory military service. This constitutes an overlap between the construction of masculinism and the perception of equality in constitutional membership between men and women. In this context, the contextualization of men’s privilege to defend the homeland with sacredness consecrates a symbolic hierarchy and domination of one gender over the other. Pettman points out that the exclusion of women in the state may be related to the “close associations of citizenship with bearing arms and being prepared to kill or die for the state” (1996: 17). Moreover, Elshtain refers to the “militarisation of citizenship” where women are depicted as “weeper[s] over the tragedies” of war, and men as protectors and guardians of the dependent and submissive women (1985: 42).

Given the foregoing, surveying the Preamble sets out the general national narrative of the Constitution, which has designated the concept of struggle, will and heroic sacrifice as the most definitive features of constitutional membership. Thus, the characterization of women perpetuates conceptions of their lack of suitability to become full citizens. The reinforcement of masculinized identity so early in the Constitution questions presumed gender-inclusive terms such as “people” and “masses” being juxtaposed with enforced military conscription. The problem lies not in conscription per se, but in the ambiguous use of “citizens” to refer to men in the military and to the conceptualization of defending the homeland as sacred and associated with human dignity. This link between military service, masculinist protection and citizenship constructs a hierarchical categorization in the Constitution that perpetuates gender boundaries in Syrian laws.

The State as a Male Protector

Patriarchal Protection: Defining Citizenship

The logic of masculine protection can be clearly traced to how national membership in Syria is still paternal. Further evidence of this subjugation of women is the failure to perceive them as legal citizens equal to men. Again, the Constitution fails in its commitment to see women as political persons endowed with rights guaranteed by the state. This is quite clear in Article 43,

which states: “The law regulates Syrian Arab citizenship and guarantees special facilities for the Syrian Arab expatriates and their children and for the citizens of the Arab countries”.

Under this provision, the law is responsible for regulating citizenship; this regulation acts against Syrian women. The Syrian Nationality Act entered into force in November 1969, just after the Ba'ath regime took power,⁸ demonstrates how the state discriminates against women. Syrian women cannot transfer their citizenship to their children or spouses if they marry a non-Syrian. The legislation enacting these regulations was issued in 1976, since then there have been no amendments. While the notion of masculinist protection in this context defined and mobilized by the state, in this instance masculinist protection becomes definer of who deserves to belong to the nation. Such discrimination stems from the perpetuation of the logic of masculinist protection symbolized by the state.

Patriarchal Protection: Control of Maternal Rights

Two gender-inclusive provisions in the 1973 Constitution that specifically address women should be highlighted: Articles 44 and 45, protecting women's rights, family and motherhood. These positive measures guarantee women's rights, yet the fact that they do not appear early in the Constitution still questions the seriousness of the state's commitment to women's equality. Indeed, this is somewhat contradicted by Articles 523 and 524 of the Penal Code, which respectively criminalize women for using contraceptive pills and vendors for selling or advertising them in public. This hegemonic control over a woman's right to control her reproductivity highlights a particular construct of the national narrative. More importantly, despite these regulations on women's choices, the Syrian Commission for Family Affairs – a government body enjoying the status of a legal and administrative entity – issued a new policy in 2008 that encourages limiting the number of children in the family (Syrian Commission for Family Affairs, 2008). This regulation of women's fertility contradicts the state's commitment to women's rights in childbearing. Moreover, it is surely contradictory to penalize the use and sale of contraception while encouraging birth control through official means.

The 2008 policy aims to regulate the high birth-rate in Syria. According to the First National Primary Policy Report on the State of Population in Syria (Syrian Commission for Family Affairs, 2008), the regulation of the increase in population in Syria depends on encouraging women to marry later and have fewer children. While this is important in order to enhance the development of women's education and to work on promoting their contribution

to decision-making in the public sphere, mobilizing women's right to bear children and considering it a government goal to decrease the rate of population growth in Syria contradicts Article 45 of the Constitution. The study goes on to suggest "direct policy intervention" to reduce the fertility rate of every woman (2008: 17).

This contradiction between the state's initiative to protect motherhood and to control women's right to bear children ultimately limits women's choice. Moreover, policing women's sexuality indicates the state's paternalism. In other words, these actions indicate the state's role as a masculine protector that subordinates women's choices. This contradiction between the Penal Code and the 2008 government project emphasizes how women's choices become primary targets of masculine hegemony through the control of contraception and childbearing (Dwyer, 2000: 33).

Patriarchal Protection: Legalizing Violence

The state's failure to take action over legalized violence against women under the logic of patriarchal and masculine protection is manifested in several penal laws discussed in what follows. It is important to note that the Syrian Penal Code was enacted in 1949, with French and Islamic laws as the major source. However, the fact that the Ba'ath state in Syria has failed to change this law begs the question as to what extent the Ba'ath ideology has, in its masculinist characteristics and naturalized promotion of militarism and soldiery, intensified and normalized the perception of women as less than equal to men. Moreover, the fact that these provisions were maintained despite the supposed secularity of the Ba'ath state demonstrates how the Syrian state has monopolized public understanding of women's political identity, and where the exclusive boundaries of politics are designated to legitimate masculine protection ethos.

Investigation of some provisions in the Penal Code shows that the law legitimizes marriage based on coercion and violence.⁹ The logic of masculinist protection can be seen in Article 489, which stipulates that a rapist will be imprisoned for 21 years if the victim was under 15 years old and only five years she was older than 15. More related to the legitimization of violence based on gender are Articles 490–508, which deal with the crimes of kidnap, rape, violent attack and sexual manipulation of females (less and more than 15 years old). Despite these articles indicating that the sentence upon conviction ranges from five to 15 years, under Article 508 a rapist can escape punishment if he marries his victim. This perpetuates a form of

masculinist protection which reflects the absolute disregard for women's rights and a stigmatization of women.

Further evidence of how women's relationship to the state is measured by masculinist protection can be found in the Penal Code's failure to outlaw physical violence against women committed in the family. Recent studies evaluating the Penal Code and violence in Syrian society have shown that domestic violence is common throughout the country (Kelly & Breslin, 2010: 461). More importantly, this domestic abuse is not specifically outlawed; for example, spousal rape is excluded as a punishable offence under the legal definition of rape. Article 489 of the Penal Code stipulates that:

- 1) The man who violently threatened a woman other than his wife to have intercourse with him will be punished for 15 years with hard labor.
- 2) The punishment will be not less than 21 years if the victim was less than 15 years old.

By omitting any reference to rape within the marital relationship, this article clearly licenses violence against women in the family sphere and shows the dominance of patriarchy in state practices.

Similarly, the law dealing with adultery legalizes violence against women. While the Constitution confirms that citizens are equal before the law in their rights and duties (Article 25(3)), the Penal Code discriminates against women in matters related to adultery. Under Article 473, the woman faces a sentence ranging from three months to two years on her conviction, while the man faces one month to one year (but only if he is married). Article 474 stipulates that the convicted husband will receive a sentence of one month to one year if he commits adultery in his spousal home. This discrimination against women is not restricted to sentencing, but it shows how adultery is viewed differently by men and by women. Under Articles 473(3) and 475, men and women receive different treatment for gender-based violence. The man can present any kind of evidence before the judge to prove his case, whereas the woman must present written evidence only, such as a written confession by the husband.

Despite both Articles 28 and 29 of the Constitution stipulating that citizens are equal before the law in duties and obligations, some of the Penal Code's provisions discriminate against women. This can be seen explicitly in Article 548, which stipulates that men can be exempted from punishment if they hurt or kill their spouse, sister or any of their descendants in cases where they unexpectedly discover any of these committing adultery or extramarital sexual relations with another man. This act of honor killing is justified by the law and

considered permissible on the pretext that the crime was committed in extreme anger or excitement or without premeditation. Article 548(2) gives the man the right to kill or hurt his

spouse, sister or any of his descendants if he catches them in a “suspicious situation”. The use of “suspicious” (*mashkūk*) is very vague and gives the man unlimited grounds for attack.

Suffice to say that Article 548 justified violence against women in the private sphere from 1949 until 2009, when it was amended to increase the punishment of a man who kills or hurts his spouse or any of his descendants to (only) two years’ imprisonment (Khaizaran, 2009). This article was amended due to the rise in the number of honor killings in Syria (533 in 2007). However, two years’ imprisonment does not stand up to scrutiny as a punishment for killing a woman but, rather, normalizes a culture of gender-based violence.

As I have explored in the previous sections, the perpetuation of militarism in the Ba’ath ideology has maintained a subordinate status of women in the Syrian laws. This has been achieved through idealizing protection of both the nation and women by the Syrian state.

Commented [ra3]: added

Conclusion

This paper seeks to unify three different areas of inquiry – masculinist protection, militarism and Ba’athism – to arrive at a deeper understanding of how gender bias, national identity and belonging have been constituted in Syria since the early 20th century. Given the geopolitical context of the Syrian case, the paper has answered an important question as to what Ba’athism is and how it is used to perpetuate masculinism. The example of Syria thus presents an opportunity to explore how dominant national ideology generates and endorses masculinist ethos and values. Although the paper is not, strictly speaking, comparative, its findings and insights should have relevance for other countries in the Middle East.

This paper has engaged with the logic of masculinist protection intensified by militarism that dominates both the Constitution and Syrian law. Because so much of Syrian politics has, since the beginning of the 20th century, revolved around defense and militarism, this militant construction of national identity and belonging has elevated men to much more central roles – while women have remained marginal to the national discourse. Militarism has also been central in defining membership of the constitutional community. In other words, the concept of male sacrifice for the nation in the Ba’ath ideology symbolizes a system based on privileging men and disempowering women. In addition, the state’s control over women’s sexuality imposes a complicated perception of the rights of motherhood. In the same vein, understanding the intricate nature of the link between Ba’athism and the logic of masculinist protection and militarism that prevails in the Preamble of the Constitution reflects the hegemonic patriarchy in the state-formation stage. Such a construction of virile manliness

explains why Ba'athism has failed, despite its nominal secularism, to break with tradition when it comes to women's rights.

Consequently, it must be said that the birth of the nation-state in Syria has been marked by a dominant nationalist narrative that homogenizes a definitive construction of masculinist protection. The subordination of political authority to militarism at the start of the Constitution structurally burdens women in terms of their incomplete political personhood. Using this approach, this paper reveals how investigating Ba'ath ideology and contextualizing the militaristic background to the early formation of the Ba'ath state explains women's subordinate status in Syrian laws. Because much legal analysis is based on particular conceptions of tradition, religion and patriarchy, interrogating the perpetuation of masculinist protection in national ideologies can change how the Constitution and laws are interpreted and applied.

¹The English-language version of the 1973 Syrian Constitution referenced in this thesis is retrieved from the website of the Carnegie Middle East Center: <http://carnegie-mec.org/diwan/50255?lang=en>. References to extracts from this version are cited as "(SC)". As a native speaker, I find that the content and spirit of the Arabic version of the Constitution are maintained in this version.

²This slogan was drummed into us in all the mass marches.

³This word is often used in Arabic to refer to young men, presumably from the age of 18 to their mid-thirties.

⁴This word is used to refer to mature men, between 35 and 55.

⁵A thorough study of Aflaq's political philosophy finds that it is almost the only study to dedicate so much attention to his national concepts, although it does not address the question of women.

⁶It is important to note that the Ba'ath regime drafted a new constitution in 2012 after the outbreak of the Syrian Uprising; but, given the atrocities and massacres perpetrated by the Syrian regime, analysis of this constitution is considered to be out of context and less important.

⁷Although the use of neutral terms is a worldwide practice, feminist theorists have emphasized that such generic use deems women invisible in the Constitution.

⁸Online version of the Syrian Nationality Act (in Arabic) can be found at: <http://www.cdf-sy.org/low/mrsom%20276.htm>

⁹Online version of the Penal Code (in Arabic) can be found at: http://www.wipo.int/wipolex/en/text.jsp?file_id=243237

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