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Between religious diversity and national unity: The role of family law in Syria's transitional justice journey

0 comments

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While Syria enters a new phase, what role can the legal system play in ensuring unity and the diversity of law in the country? In this blog, Lena-Maria Möller takes a closer look at family law.



The fall of the Assad regime will not just mark the end of an authoritarian era—it will usher in a transformative chapter in Syria’s history, one defined by the possibility of justice, reconciliation, and **inclusive governance**. This profound political shift offers a unique opportunity to rebuild the country on a foundation of unity across its diverse social fabric. Among the many challenges facing a post-Assad Syria, legal reforms will take centre stage, with the **drafting of a new constitution** as the cornerstone of this process. While much attention will focus on broad constitutional and institutional reforms, family law—a more specialised and seemingly less urgent area—deserves careful consideration in the context of Syria’s recovery and rebuilding.

Family law may not immediately appear as a priority in a post-war society, where issues like governance, security, and economic recovery dominate the agenda. However, in a country as religiously and ethnically diverse as Syria, family law plays a pivotal role in shaping communal interactions and managing confessional tensions. As Syria embarks on its transitional justice journey, family law will serve as a key test of the new government’s ability to balance religious diversity with the imperative of national cohesion.

The current framework of family law in Syria

Syria's family law landscape is shaped by a complex blend of state laws and *de facto* legal systems that emerged as a result of the country's political fragmentation during the nearly one and a half-decade-long civil war. On the state law side, **Syrian family law** operates under a pluralistic system, governed by a range of state-enacted, religiously-inspired laws that cater to different communities. The cornerstone of the state's family law is the Syrian Code of Personal Status of 1953, which applies uniformly to the Muslim majority population, regardless of sectarian affiliation. The law has been in place for decades, but extensive reforms were introduced in 2019.

The Druze community occupies a distinctive legal position within Syria's family law system. Article 307 of the Syrian Code of Personal Status specifically exempts the Druze from provisions that contradict their religious beliefs, such as those related to polygamy. Furthermore, the Druze have their own personal status law, issued in 1948, and a dedicated **denominational court in Suwayda**.

Similarly, Syria's Christian communities are governed by their respective personal status laws, most of which were enacted in the early 2000s. Article 308 of the Syrian Code of Personal Status acknowledges the existence of multiple legal regimes, permitting these communities to operate their own family law systems. Each Christian denomination—Orthodox, Catholic, and Protestant—has its own set of laws, and denominational courts are presided over by religious judges.

As Syria's civil war led to the geographic and political disintegration of the country, family law further fragmented, particularly in the Kurdish provinces in the north. With these Kurdish regions *de facto* autonomous, their civil administration quickly enacted sweeping reforms to the family

law system that had previously prevailed under the central government. In an effort to reduce the influence of religion over family matters, Kurdish authorities **began recognising civil marriages** as early as 2013. What began as a localised practice in the north eastern town of Qamishli has since spread across Syria's Kurdish-majority provinces. This development represents a significant shift, bypassing the traditional religious family law systems and offering a secular alternative that aligns with the Kurdish desire for greater autonomy.

This multi-layered and fragmented legal landscape reflects the broader political and social disintegration that Syria has experienced over the past decade and a half. While the official legal system theoretically provides a uniform structure, the reality on the ground is far more complex, with different legal systems asserting influence and authority over family matters.

Family law as a tool for managing Syria's religious and ethnic diversity

What does the future hold for family law in Syria's transitional journey? In a post-war Syria striving for inclusion and national unity, family law will play a crucial role. However, the idea of implementing a single, unified family law across the country is far from realistic and would constitute a dramatic rupture from established legal frameworks in the region. Instead, a more feasible approach may lie in a diverse family law landscape that grants each major community a certain degree of autonomy, while still ensuring a cohesive legal structure. Such an approach would align with the stated goals of Syria's transition government **to respect minorities and integrate all social factions**. The idea of unity in diversity is not unfamiliar in the region. Jordan and Palestine, for example, offer examples where multiple family law regimes coexist while national unity and a shared national identity prevail.

The Kurdish issue will be particularly relevant in shaping Syria's future family law landscape. Kurdish demands for autonomy are likely to persist, and the new government will need to address these calls with a legal framework that respects Kurdish aspirations while maintaining national cohesion. Kurdish-majority provinces in Syria, having gained de facto autonomy during the civil war, have already taken steps toward self-determination in family law by introducing civil marriage. Iraq's semi-autonomous Kurdish region provides a possible model, where a **distinct family law system** has allowed for Kurdish political autonomy while ensuring the country's overall unity under a federal system.

A key issue will be the future of the Syrian Code of Personal Status of 1953. This trans-sectarian code applies uniformly to all Muslims and represents a potential unifying force for Syria's Muslim population. However, as Iraq's ongoing debates over **sectarian family law codes** show, the question of whether Syria should retain a unified approach or allow separate sectarian laws will be crucial in ensuring social harmony. Sectarian fragmentation in family law could fuel tensions and unrest, as seen in Iraq. Therefore, maintaining a unified family law for Muslims could help avoid similar pitfalls in Syria.

Finally, it is essential that all family laws remain state-enacted, avoiding the delegation of legislative authority to non-state actors such as religious authorities or community leaders. Non-state-enacted family laws, particularly those governing Christian communities in the Middle East, are often overlooked in terms of compliance with international standards, such as CEDAW (the Convention on the Elimination of All Forms of Discrimination Against Women). These non-state laws tend to escape scrutiny, which could undermine Syria's efforts to align with international human rights obligations.

Family law in Syria's post-war reconstruction

In the aftermath of the Assad regime's fall, Syria will face numerous challenges in rebuilding its social fabric, and family law can play a central role in this process. As the country embarks on its journey of reconstruction, certain aspects of the family law system will be crucial in addressing the unique circumstances created by the prolonged civil war.

One of the most pressing issues will be the recognition and registration of unofficial and undocumented marriages. During the civil war, many Syrians—both inside the country and abroad—married without involving state authorities. Obtaining the necessary documents for marriage became increasingly difficult, especially for those residing in opposition-controlled areas or those who had fled abroad. Under the pre-2019 Syrian Code of Personal Status, military personnel and everyone of military service age needed special permission to marry, and according to a 1969 decree, marriage to a non-Arab foreigner required approval from the Ministry of Interior. These rules, which were enforced with penalties, effectively prohibited many Syrians from marrying foreign nationals or proved particularly problematic for those in conflict zones or in the diaspora.

As a result, many Syrians entered into religiously valid, yet unregistered marriages, or they married abroad without obtaining the required permission. The new Syrian government should adopt a pragmatic approach to address this reality, allowing for the registration of these marriages without fear of legal repercussions. This process would provide much-needed legal recognition for those who have lived through years of war and displacement, ensuring that their unions and families are officially acknowledged as they return to Syria.

Another area of significant concern is the lack of a legal framework for children without permanent caretakers. Unlike **many countries in the region**, Syria does not yet have a comprehensive system for fostering or adopting children, leaving orphaned children in precarious legal positions. In the aftermath of the civil war, the number of children who have lost one or both parents has surged, highlighting the urgent need for legal structures that safeguard their rights. Developing a system of foster care and adoption, for those religious communities that recognise the latter concept, is essential for providing orphans with greater legal security. This system would help protect vulnerable children, offer them a path to a stable family environment, and contribute to their long-term well-being in a post-war society.

In conclusion, addressing Syria's religious and ethnic diversity in its transitional justice journey will require family law reforms that uphold communal autonomy while promoting national cohesion. Tackling practical challenges alongside broader structural reforms will be essential to rebuilding a legal system that both reflects Syria's pluralistic society and supports its post-war reconstruction.

*Photo by **Mahmoud Sulaiman***

Note: This article gives the views of the author, not the position of LSE Religion and Global Society nor the London School of Economics and Political Science.

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Lena-Maria Möller is a Research Assistant Professor at Qatar University, College of Law. She holds an M.A. in Middle East Studies and a Ph.D. in Law, both from the University of Hamburg, Germany.

Using comparative law methods and theories, her scholarly work investigates the intricate interplay of legal regimes—including state, religious, and international law—in pluri-legal contexts. Her research particularly focuses on this dynamic through the lens of legislative developments and judicial practices in Muslim family law.

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