

## Constitutional Arab Identity Referring To National Unity: The Cases of Lebanon, Syria, and Jordan

### Ulusal Birliğe Atıfla Anayasal Arap Kimliğinin Kullanımı: Lübnan, Suriye ve Ürdün Örnekleri

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#### ÖZ

*Bu makale Lübnan, Suriye ve Ürdün'de hazırlanan anayasalarda Arap kimliğinin devletler üstü bir Arap birliğine mensubiyeti belirtmek için nasıl kullanıldığına odaklanmaktadır. Anayasacılık hareketleri incelendiğinde, vatandaşlık bağının kurulması için doğrudan ya da dolaylı olarak siyasi kimliğin ön plana çıkarıldığı görülmektedir. Arap ülkelerinde hazırlanan anayasaların çoğunda ise Arap kimliği devletler üstü bir yapıya aidiyeti vurgulamak için kullanılmıştır. Lübnan, Suriye ve Ürdün ile sınırlı olan bu çalışma, bölgede hazırlanan anayasalarda ve anayasal belgelerde bu aidiyetin nasıl vurgulandığını ortaya koyma amacı taşımaktadır. Anayasalarda kullanılan Arap Devletleri, halkın Arap ulusunun bir parçası olduğu ve diğer Arap ülkelerinin halklarına kolay vatandaşlık gibi ifadeler detaylı bir şekilde incelenmiştir. Levant Bölgesi'ndeki üç ülkede hazırlanan anayasalarda yer alan ilgili maddeler, İslam hukuk literatüründeki vatandaşlık teorisi ve Arap milliyetçiliğinin tarihi ile ilişkili olarak incelenmiştir.*

**Anahtar Kelimeler:** Arap Milliyetçiliği, Arap Anayasalarında Vatandaşlık Kavramı, Lübnan Anayasası, Suriye Anayasası, Ürdün Anayasası

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## ABSTRACT

*This article focuses on how Arab identity is used to indicate membership in a supra-state Arab union in the Constitutions drafted in Lebanon, Syria and Jordan. When the constitutionalism movements are examined, it is seen that political identity is directly or indirectly brought to the fore to establish the bond of citizenship. In most constitutions prepared in Arab countries, Arab identity was used to emphasise belonging to a supra-state structure. This study, limited to Lebanon, Syria and Jordan, reveals how this belonging is emphasised in the constitutions and constitutional documents drafted in the region. The expressions used in the constitutions, such as the Arab States, the people are a part of the Arab nation and easy citizenship to the peoples of other Arab countries, have been examined in detail. The relevant articles in the constitutions prepared in the three countries of the Levant Region were examined in connection with the theory of citizenship in the Islamic legal literature and the history of Arab nationalism.*

**Keywords:** *Arab Nationalism, Citizenship in Arab Constitutions, Lebanese Constitution, Syrian Constitution, Jordanian Constitution*

## 1 Introduction

Citizenship is one of the fundamental subjects of constitutional law, considered a relatively young branch of law.<sup>1</sup> It is generally accepted that the emergence of the modern concept of citizenship is a result of the American War of Independence (1776) and the constitutionalist movements following the French Revolution (1789). Moreover the modern theory of citizenship has been systematised with the emergence of nation-states. So, a systematic theory of citizenship has only recently emerged.<sup>2</sup>

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<sup>1</sup> Tarık Zafer Tunaya, *Siyasal Kurumlar ve Anayasa Hukuku* (Araştırma Eğitim Ekin Yayınları, 1982), 27.

<sup>2</sup> Levent Korkut, 'Türkiye'de ve Dünya Devletlerinde Anayasal Vatandaşlık Tanımları', *İstanbul Medipol Üniversitesi Hukuk Fakültesi Dergisi* 1(2) (2014): 5-7.

Along with the formation of nation-states, citizenship has been mainly regulated in constitutions concerning political identity. Citizenship in political identity can be defined as allegiance to a state through a nation, ethnicity, or racial affiliation.<sup>3</sup>

While political identity is emphasised as a bond of citizenship, it can also emphasise belonging to a supra-state community. Although relatively rare, this is the case in most of the past and present constitutions of Arab countries. In line with this approach, it is determined that Arab identity is used in two different ways in the constitutions. The first is to indicate in the preambles or the initial parts of the constitutions that the state is an Arab State or that the citizens are Arab people and belong to an Arab nation. The second is the constitutional provision that facilitates granting citizenship to citizens of other Arab nationalities.

Focusing on Lebanon, Syria, and Jordan, our study will examine how Arab identity is enshrined in their constitutions, how it has transformed over time, and the reasons for such transformations. In this way, it is aimed to identify the developments of the constitutionalisation of Arab identity in the Arab countries in the Levant region following the end of Ottoman rule and the rationales for such results. In the first part, I will examine the emphasis on Arab identity in the constitutions of Lebanon, Syria, and Jordan, respectively, either in terms of belonging to a supra-state Arab community or for national unity. All constitutions drafted in these three countries following the Ottoman retreat from the region will be analysed in detail. Due to Lebanon's unique characteristics, constitutional documents of importance in terms of public law are also included in the scope of the study. In the next chapter, I will emphasise the relevant aspects of the citizenship approach in the Islamic law literature, which has partially influenced these regulations, to highlight similarities. The other chapter will examine the development of the goal of establishing an Arab State in the Levant region, which became widespread and systematised during the last period of the Ottoman Empire and its effects. The focus will be on

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<sup>3</sup> Korkut, *ibid.*, 9.

examining the impact of historical events on the constitutionalisation of Arab identity, such as the establishment of the Arab League, the rise of Ba'athism, and the foundation of the United Arab Republic between Egypt and Syria.

## 2 Constitutions and Constitutional Documents

### 2.1 Lebanon

Lebanon has historically been closely linked to Syria and is essential as a starting point for the development of Arab nationalism. Lebanon is significant for its history and, therefore, for our discussion because it was the place where the Nahda movement began to flourish<sup>4</sup>, where first aspirations to establish an independent Arab state arose among Lebanese Christians, and where many communities were founded in the following years that included secession from the Ottoman Empire in their political agenda.

World War I ended, the Ottomans withdrew from the region, and Lebanon, which had not been able to self-organize as a sovereign state for centuries, entered the international arena with the claim to be an independent political entity. However, European states' fragmentation of the region, lack of political experience, influence of various intellectual and political trends, and Lebanon's unique demographic distribution would delay Lebanon's independence. Indeed, under the mandate established in the region, the French high commissioner was granted the right to veto laws, dissolve the parliament, and suspend the constitution.<sup>5</sup> Due to this situation, Lebanon would only gain independence in the 1940s.

The constitution of Lebanon, which will be analysed in detail below, was adopted in 1926, and is still in force with essentially the same provisions.<sup>6</sup> This constitution was only amended in the years following

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<sup>4</sup> Adil Baktiaya, 19. *Yuzyıl Suriye'sinde Nahda'yı Hazırlayan Sosyoekonomik Koşullar ve Nahda İçinde Beliren Siyasi Eğilimler*, PhD Thesis, Istanbul University, Istanbul, 2002, 205.

<sup>5</sup> Ş. Tufan Buzpınar, 'Lübnan', *Türkiye Diyanet Vakfı İslam Ansiklopedisi* (27) (2003): 248, 251.

<sup>6</sup> *al-Dustur al-Lubnani* (2002), 1.

the declaration of independence after the French mandate and the political crises during the Civil War, as no consensus could be reached on a new constitution given the demographic distribution. This frequently amended constitution was initially suspended due to presidential election disputes and independence rebellions, but its provisions were reinstated in the following years.<sup>7</sup> In addition to the constitution, Lebanon's organisational structure is shaped by traditions and consensus, either verbal agreement or constitutional documents codifying these traditions, which I will further elaborate on below.<sup>8</sup> Given the recent developments in Lebanon, it can be said that their impact is even more significant than the constitution. Lebanon is mainly governed by tradition and consensus. For example, while the 1926 Constitution had initially not established a political system based on sects, a sectarian<sup>9</sup> structure was later formed through verbal and written agreements between the communities.<sup>10</sup> According to one opinion the 1926 constitution temporarily established a sectarian structure only for the executive. Still, this exception was later spread to other bodies.<sup>11</sup> However, as will be seen below, the constitution envisaged a gradual transition away from this structure. Despite the explicit provision in the constitution, the sectarian system continues in Lebanon today, driven by tradition and consensus.

The Lebanese constitution resembles the French constitution in some of its provisions.<sup>12</sup> The 1926 Lebanese Constitution is considerably shorter, possibly due to the influence of the prevailing approach in

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<sup>7</sup> Yıldızhan Yayla, 'Çağdaş İslam Ülkeleri Anayasaları', *Türkiye Diyanet Vakfı İslam Ansiklopedisi* (3) (1991): 164, 177.

<sup>8</sup> Bassam Ibrahim Hamoud, 'al-Azmah al-Lubnaniyah Kiyaniyah em Siyasiyah', *Majallat al-Adab wal-Ulum al-Insaniyah* 4(21) (2022): 256-259.

<sup>9</sup> This order is referred to as the "confessional system" in recent studies. See Yasin Athloğlu, *Modern Lübnan'da Maruniler ve Çatışma*, PhD Thesis, Marmara University, Istanbul, 2011, 81.

<sup>10</sup> Babikian Khachik, 'Dustur Jadid Lil Lubnan al-Jadid', *Majallat al-Adab* 7(25) (1977): 10-12.

<sup>11</sup> Mohsen Khalil, "al-Ta'ifiyyah wal-Nizam al-Dusturi fi Lubnan" *Majallat al-Shariah wal-Qanun* 4 (1990): 15-36.

<sup>12</sup> Athloğlu, *supra* note 9 at 88.

French public law. Therefore, it is clearly stated that the matters not regulated in the constitution will be held by future laws. For example, according to Article 6, which does not define citizenship, the conditions for acquiring, maintaining, and losing Lebanese citizenship are left to legislative regulations. Concerning our study, the preamble of the current Lebanese Constitution<sup>13</sup> states in paragraph "b" that Lebanon is a state with an Arab identity and a founding member of the Arab League. Lebanon's Arab identity was also emphasised in the Taif Agreement<sup>14</sup> between the Lebanese people following the Civil War. In the section of the Taif Agreement regulating the relations between Syria and Lebanon, Lebanon's Arab identity was first emphasised. Then, it was stated that Lebanon is bound to all other Arab States by sincere ties. In addition, due to Lebanon's common roots, shared history, and cooperation with Syria, its neighbour and the most essential power in the region, it was expressed that the two states would refrain from actions that undermine or threaten each other's security or independence.<sup>15</sup>

The constitution and the Taif agreement implicitly refer to Arab identity to emphasise ties with other Arab nations. Yet, despite this reference, the constitution does not mention Arab identity to define citizenship. The reason for the failure to emphasise a shared Arab identity could be Lebanon's political crises due to the separating sectarian approach. The sectarian approach, which has become more prevalent under the influence of the constitutional documents discussed below, ensures ethnically and religiously different groups' representation in the public body and guarantees their role in state governance.

Indeed, in the following years, it was seen that Arab identity could not be brought to the fore as a unifying factor. Instead, the

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<sup>13</sup> *al-Dustur al-Lubnani* (2002), 1.

<sup>14</sup> This agreement, which ended the civil war in Lebanon, was negotiated in Ta'if, Saudi Arabia, in September 1989 and approved by the Lebanese parliament on 4 November 1989. [https://www.un.int/lebanon/sites/www.un.int/files/Lebanon/the\\_taif\\_agreement\\_arabic\\_version\\_.pdf](https://www.un.int/lebanon/sites/www.un.int/files/Lebanon/the_taif_agreement_arabic_version_.pdf) accessed 12 December 2023.

<sup>15</sup> Wathiqat Al-Wifaq al-Watani al-Lubnani (2021), 15-16.

sectarian-oriented separating system strengthened. For instance, a substantial verbal agreement in 1943 determined that the head of state would be a Maronite, as it was considered the representative of Christians, the prime minister Sunni, and the parliamentary speaker Shiite. This verbal agreement provision does not appear in the constitution or the Taif agreement, and both texts even state that this practice will be abolished. Yet, sectarian practice is still in force today. Again, in the 1943 national pact, it was agreed that the number of Christian deputies would outnumber the number of Muslim deputies. In the following years, after the 1989 Taif agreement that ended the fifteen-year civil war, the Lebanese Constitution was amended in 1990. These reforms introduced new constitutional provisions regarding the political order.<sup>16</sup> Article 24 of the constitution, for instance, establishes that the House of Representatives will be equally divided between Muslims and Christians. Since parliamentary distribution was frequently raised during the Civil War years, the equal distribution principle for the parliament was accepted in the Taif agreement. The new regulation increased the total number of deputies to 108. This regulation allowed Muslims to increase their presence in the parliament without requiring Christian members to hand over their seats to new Muslim members.<sup>17</sup>

It is stated in the constitution and subsequent constitutional documents agreed by communities that the political structure preventing the construction of Arab identity as a common political affiliation within the country will be abolished in the following years by implementing a plan. For instance, the elimination of this order was clearly emphasised as a goal in the constitution's preamble, in paragraph "h" and in Article 95, but this could not be realised. The relevant article suggests that the assembly, composed of Muslim and Christian members based on equality, would gradually abolish political sectarianism. In addition, it is stated that a commission will be established under the auspices of the presidency. The Commission's

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<sup>16</sup> Hamoud, *supra* note 8 at 259.

<sup>17</sup> Baraa Darwich, *Lebanon and Syria, Sovereign Yet Interlinked Nations: The Lebanese-Syrian Relations 1971-2018*, Master's Thesis, Atılım University, Ankara, 2019, 28.

mandate is to conduct the necessary investigations and submit reports to parliament and ministers to eradicate sectarianism. The establishment of this commission under Article 95 of the constitution has been on the public agenda, including recently.

The same objective is reflected in another constitutional document as well. The Taif Agreement drafted in the aftermath of Lebanon's Civil war and political crises and formed the basis for the constitutional amendments of the following year, also addressed the elimination of community representation within the state administration. In summary, the sectarian-based governance model<sup>18</sup>, thought to have been in practice in the region since the Ottoman period, especially due to the Maronite-Druze conflicts<sup>19</sup>, was not explicitly recognised in the 1926 Constitution. A provisional arrangement has been made only for the executive branch. Nevertheless, it has maintained its influence to this day and has become even stronger with the protocols and agreements signed later on.<sup>20</sup>

In conclusion, a definition of citizenship based on Arab identity has not been possible to date, as the distribution of authority in the public sphere requires belonging to different religions. As mentioned above, since 1943 it has been decided that the head of state will be Maronite, recognised as the representative of Christians, the prime minister will be Sunni and the speaker of parliament will be Shiite. The current system is contrary to the practice that can unite all citizens, regardless of their religious beliefs.<sup>21</sup> The constitution does not define citizenship based on Arab identity, but Arab identity is used, although implicitly, to emphasise belonging to the nation. Yet, I should note that the Lebanese Constitution is far behind compared to other constitutions analysed below in terms of emphasising ties with other Arab nations.

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<sup>18</sup> Khalil, *supra* note 11 at 20.

<sup>19</sup> Buzpinar, *supra* note 5 at 250.

<sup>20</sup> Kemal A. Faruki, 'The National Covenant of Lebanon: Its Genesis', *Pakistan Horizon* 27(3) (1974): 19-22.

<sup>21</sup> Ussama Makdisi, *The Culture of Sectarianism: Community, History, and Violence in Nineteenth-Century Ottoman Lebanon* (Orlando: University of California Press 2000), 166.



Indeed, there is no explicit emphasis on national unity.<sup>22</sup> The Constitution only states that Lebanon is an Arab State and a founding member of the Arab League. I think that these statements are used to indicate Arab identity as a means of national belonging implicitly.

## 2.2 Syria

Although the World War I end of the war marked the end of Ottoman influence in the region, Arab intellectuals were still far from their objectives. The idea of a Greater Syria was unrealisable, especially since there were British and French troops on the shoreline. The mandate decision issued for Syria at the San Remo Conference in 1920<sup>23</sup> also prevented the idea of establishing an Arab Union, which had been voiced loudly among Arab intellectuals during the late period of the Ottoman Empire. In the following years, the French gradually increased their regional influence. Indeed, the constituent commission established by Faisal's declaration drafted a constitution. It was agreed in principle and awaited final reading for ratification. But the crisis with the French had put constitutional negotiations on hold for some time.<sup>24</sup>

In this crisis setting, the constitution, completed belatedly in 1920, consists of 147 articles. This constitution<sup>25</sup> regulates individual rights in general terms, the king's power, legislative and judicial bodies, and central and regional governments. The 1920 Syrian Constitution underlines the Arab identity of the state in its first article. This arrangement can be interpreted in connection with the influence of the dream of forming a great Arab State during the preparation process of the constitution.<sup>26</sup> It was further stated in Article 9 that every inhabitant of Syria, an Arab country, would be called a Syrian. Thus, in the first Syrian constitution, citizenship was defined on the basis of political

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<sup>22</sup> George Jabbour, *al-Urubah wal-Islam fil desatir al-Arabiyah* (2010): 55.

<sup>23</sup> Majid Khadduri, 'Constitutional Development in Syria: With Emphasis on the Constitution of 1950', *Middle East Journal* 5(2) (1951): 139.

<sup>24</sup> Khadduri, *ibid.*, 137-139.

<sup>25</sup> <https://sl-center.org/?p=2046> accessed 12 December 2023.

<sup>26</sup> Mohammed Jamal Barout, 'al-Mu'tamar al-Suri al-Aam 1919-1920', *Majallah Tubayyin lil-Dirasat al-Fikriyyah wa al-Thaqafiyah* 1(3) (2013): 23-36.

identity. In the same article, it is stated that the Act on Citizenship will determine legal measures on citizenship. Following this short-lived constitution, armed uprisings occasionally broke out, demanding the end of the mandate, the declaration of independence, and the adoption of a new constitution. After many years of struggle, consensus was reached in 1928, and Syrian politicians drafted a new constitution.<sup>27</sup> The first article of this draft emphasised that Syria is an independent and sovereign state, whereas the second article proclaimed the separation of Syria from the Ottoman Empire and asserted its indivisible political structure. The draft constitution does not explicitly address Arab identity, relations with other Arab States, or citizenship. It is only declared that the official language of the state is Arabic. This draft was not approved because it contained articles contrary to French authority.<sup>28</sup> The Syrian Constitution, drafted by the French, did not consider the demands of the Arab nationalists entered into force *ex officio* in 1930.<sup>29</sup> The Constitution<sup>30</sup>, which was drafted and put into practice in 1930 after a detailed analysis<sup>31</sup> of the constitutions of Lebanon, Egypt, Iraq, Iran, France, Belgium, and the Ottoman Empire, did not emphasise citizenship or the Arab identity of the state, as in the 1928 draft. Article 5 states that the acquisition and loss of citizenship will be regulated by law, as in the 1926 Lebanese and 1920 Syrian constitutions. Another article in which the term "Syrian" appears is Article 6, where it is expressed that all Syrian people are equal before the law and that there will be no discrimination based on religion, belief, race, or language. This constitution remained in force until World War II, although it was periodically suspended. With the withdrawal of the French forces from the region, the need and opportunity to draft a new

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<sup>27</sup> <https://sl-center.org/?p=2300> accessed 12 December 2023.

<sup>28</sup> Salih Tuğ, *İslam Ülkelerinde Anayasa Hareketleri* (İstanbul: İrfan Yayınevi, 1969), 286 *et seq.*

<sup>29</sup> Tuğ, *ibid.*, 287.

<sup>30</sup> Khadduri, *supra* note 23 at 141.

<sup>31</sup> <https://sl-center.org/?p=2303> accessed 12 December 2023.

constitution arose. Finally, Syria's first national constitution was adopted in 1950.<sup>32</sup>

Since it is the first constitution of independent Syria with detailed regulations, and because it replaced the constitution that the French had put into force ex officio during the years of occupation<sup>33</sup>, the 1950 Syrian constitution is regarded as a highly significant text in terms of the history of constitutional law in the Middle East.

In addition, with this Constitution, for the first time in one of the Arab constitutions, the principle that the people are members of the Arab nation was codified.<sup>34</sup> In other parts, as can be seen below, belonging to the Arab nation is emphasised more intensely due to factors including problems with Israel, the formation of the Arab League, and rising Arab nationalism. As a matter of fact, unlike the mandate constitution of 1930, the preamble, which is considered an integral part of the constitution, clearly states that the Syrian people are part of the Arab nation, that the day when the Arabs will unite under the roof of a single state is eagerly anticipated and that they will work towards that day. In this respect, the preamble of the Constitution is a manifesto. Article 1 repeats the preamble, reiterating that the Syrian people are part of the Arab nation.

Additionally, other articles in the 1950 Constitution refer to Arab identity. For example, it is stated that Arabic is the official language, and Article 31 on the acquisition of citizenship mentions that the acquisition of Syrian citizenship will be facilitated for the sons of other Arab countries. The oaths of deputies and presidents, which are regulated within the scope of the constitution, are also noteworthy. Articles 46 and 75, containing the texts of the oaths, respectively, state that striving for

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<sup>32</sup> <https://sl-center.org/?p=2104> accessed 12 December 2023.

<sup>33</sup> Tuğ, *supra* note 28 at 290.

<sup>34</sup> Carl Rober Frost, *The United Arab Republic, 1958-1961: A Study In Arab Nationalism and Unity*, PhD Thesis, Graduate School of International Studies, University of Denver, Denver, 1966, 113-114. Elieh Podeh, *The Decline of Arab Unity: The Rise and Fall of The United Arab Republic*, (Eastbourne: Sussex Academic Press, 1999), 25.

the unity of Arab countries is a duty for both the deputies and the president.

The 1950 Constitution does not define citizenship. Instead, Arab identity was emphasised in various constitutional articles to highlight belonging to the Arab nation. Thus, with the 1950 constitution, for the first time in Syria, Arab identity as a political concept and belonging to the unity of the Arab nation, which is desired to be founded, was emphasised. Following the foregrounding of this belonging, an article was also adopted on legal citizenship linked to the Arab identity. The relevant regulation referred to above stipulates that members of other Arab countries will be facilitated to acquire Syrian citizenship.

The 1950 Constitution was national text. However, French influences were still present within the administrative system. Due to administrative failures coupled with Syria's revolutionary context, a new constitution was drafted in 1953.<sup>35</sup> The new constitution partially departed from the French model and envisioned a system similar to the presidential system. 1953 Constitution featured provisions expanding the president's powers. For example, article 66 authorises the president to propose laws. The rest was mainly similar to the 1950 Constitution.

In the 1953 Constitution's preamble and several articles, there are expressions indicating Arab identity. For instance, the preamble asserts that the Syrian people are working to ensure the freedom of the Arab nation beyond its borders and to help it achieve its rightful dignity. The first article states that Syria is an Arab Republic and that the Syrian people are part of the Arab nation; therefore, the state will fight for the unity of the Arab nation under the republican system. Besides, similar to the 1950 Constitution, Article 4 stipulates that Arabic is the official language of the state and Article 7 states that the conditions of acquiring Syrian citizenship shall be regulated by law. The same article adds that the acquisition of Syrian citizenship will be facilitated for the sons of other Arab countries. In contrast, Article 21 on the right to education aims to raise a generation proud of its Arab heritage and will work for the common Arab interests. Finally, the texts of the oaths in Articles 50

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<sup>35</sup> <https://sl-center.org/?p=2296> accessed 12 December 2023.

and 81, respectively state that it is the duty of both the deputies and the president to work for the unity of Arab countries.

Since the provisions of the 1950 and 1953 Constitutions within our study's scope are essentially the same, the remarks regarding the 1950 Constitution are also valid for the 1953 Constitution. An examination of Syria's constitutional history indicates that 1950 Constitution is very significant document. Even though it was suspended for a short period due to some political crises and its content has been disputed, it recognized for the first time that the Syrian people belong to a nation beyond Syria. A statement was included in the preamble and the article regulating the oaths texts of deputies and the president that they would work towards forming a unified Arab state. Although it was in force for a very short time, the 1953 Constitution had similar provisions, making it a constitutional duty to work to form an unified Arab State. Therefore, the Syrian Arab Republic shared common values with other states, identifying themselves and their societies as Arab. I think merging with Egypt, which had given greater prominence to the Arab identity and the unity of the Arab nation in the political arena with the arrival of Gamal Abdel Nasser, was in line with the spirit of the Syrian constitution. Following the formation of the United Arab Republic in 1958, the constitution was drafted and entered into force in the same year.<sup>36</sup> The Constitution acknowledged that the two Arab states were united. Still, this political structure did not yet fulfil the goal of uniting the other Arabs into a single state. Under the 1958 Constitution's first article, the peoples of this union were part of the Arab nation. The regulations regarding the acquisition and loss of citizenship were regulated in Article 2. The relevant article stated that the regulations regarding the citizenship of the United Arab Republic would be determined by law and that Syrian and Egyptian citizens would be recognised as citizens of the United Arab Republic. Apart from this, there is no clear definition of citizenship.

Syria stayed under this political structure for only a few years. In 1961, Syria left the union. After leaving this political structure, the

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<sup>36</sup> <https://sl-center.org/?p=2294> accessed 12 December 2023.

Provisional Constitution of 1961, consisting of eight articles, came into force. It stipulated that the provisions of the 1950 Constitution would apply in Syria until a new constitution was drafted.<sup>37</sup> The first article of this constitution clearly emphasised that Syria was part of the Arab mainland. The other articles contain regulations related to the transitional period. Interestingly, even the provisional constitution referred to the unity of the Arab nation.

Shortly after, the 1962 Constitution was drafted and put into force.<sup>38</sup> Its provisions are mainly similar to those of the 1950 and 1953 constitutions. In the preamble, it is stated that the Syrian people are part of the Arab nation with its present and future, that the day when the Arabs will be united under the umbrella of a single state is eagerly awaited and that they will work for this day in the light of freedom and independence. The first two articles emphasise the sovereignty and indivisibility of Syria and then state that the Syrian people are part of the Arab nation. Furthermore, Article 4 stipulates that Arabic is the official language, Article 28 on the right to education and training sets out the main objective of raising a generation of Arabs proud of their Arab heritage, and Article 31 provides that the children of other Arab countries will be facilitated in acquiring citizenship. Articles 46 and 75 stipulate that the oath of deputies and presidents must declare their commitment to work for the unity of Arab countries. Given the similar provisions, to avoid repetition, I limit myself here to referring to our evaluations of the 1950 Constitution.

The 1964 Provisional Constitution<sup>39</sup> of the Syrian Arab Republic contains regulations similar to those of previous constitutions. For example, in the first article, it is stated that Syria is a part of the Arab nations, and the following article adds that the Syrian people hope for the unity of the Arab nations and will work towards this goal. Similar to recent constitutions in Syria, it is stated that the official language is Arabic, and the article regulating the right to education emphasises the

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<sup>37</sup> <https://sl-center.org/?p=2292> accessed 12 December 2023.

<sup>38</sup> <https://sl-center.org/?p=2290> accessed 12 December 2023.

<sup>39</sup> [https://constitutionnet.org/sites/default/files/constitution\\_of\\_1964-arabic.pdf](https://constitutionnet.org/sites/default/files/constitution_of_1964-arabic.pdf) accessed 12 December 2023.

aim of raising a generation proud of its Arab identity and heritage. Differently, it is noteworthy that Article 53 of the constitution stipulates that the Presidential Council has the right to declare mobilisation in the event of an attack on Syria or another Arab country. The Constitution does not define citizenship and continues a similar trend to previous constitutions regarding the emphasis on political affiliation. The decree issued after the military coup d'état in 1966, which I personally recognise as a constitutional document, includes regulations on issues such as the appointment of Hafez al-Assad as the leading authority and the suspension of constitutional work. However, I did not encounter any relevant regulation in our study. Following the coup, a new constitution could only be drafted in 1969 as a provisional constitution concerning the 1966 decree issued by the new order.<sup>40</sup>

The preamble of the 1969 Provisional Constitution<sup>41</sup> is very important. According to the preamble, the function of the constitutions drafted in response to the will of the people as a consequence of the fragmentation of the Arab nation is to respond to the desires of the Arab peoples, to concretise their goals and to draw a path for the formation of the unity. As seen, constitutions are also considered to be temporary documents. Therefore, the 1969 constitution was drafted as a provisional document regulating the transition until unity was achieved. Again, in the preamble, it was emphasised that the founding a unified Arab state is a necessity of the Arab character and is necessary to increase Arab influence in the international arena. According to another provision in the preamble, the drafted text represents an effort to direct the struggles of the masses of the people and unite them under a single roof.

According to another paragraph in the preamble of the 1969 Provisional Constitution, the revolution in Syria and subsequent developments were necessary for the Arab nation to achieve its goals of unity, freedom and socialism. The following paragraph states that the gains towards freedom and development in any Arab state would be

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<sup>40</sup> <https://sl-center.org/?p=2288> accessed 12 December 2023.

<sup>41</sup> <https://sl-center.org/?p=2288> accessed 12 December 2023.

subject to deterioration and that such developments would only be meaningful with the unification of the Arab States.

The first article of the mentioned constitution begins with an emphasis on Syria's sovereignty, in line with previous Syrian constitutions, and is followed by an emphasis on Syria's belonging to the Arab world. The following article recognises that the people residing in Syria are part of the Arab nation. Article 4 declares that Arabic is the official language. Article 12 emphasises that one of the principles the state embraces in economics is ensuring economic harmony in the Arab homeland. Article 17 stipulates that creating a generation of hardworking Arabs who are proud of their Arab heritage is one of the guiding principles of education and culture. Article 21 points out that sons and daughters of other Arab countries will be granted special citizenship facilities. The division that was present in previous constitutions continued. According to the Constitution, people were divided into Syrians, Arabs and foreigners.<sup>42</sup> I have mentioned above that the 1950, 1953 and 1962 Constitutions included in the oaths of deputies and the president that they would work to achieve Arab unity. Although Article 51 of the 1969 Provisional Constitution did not explicitly include the same provision for the oath of deputies, it included a text stating that they would work towards achieving the objectives of the Arab world. Article 59, regulating the president's oath, likewise included a text on striving for the Arab nation. This provisional constitution maintains the approaches of the previous constitutions in Syria.

The 1971 Constitution, drafted in Syria in the following period, was again provisional. In the preamble of this constitution<sup>43</sup>, the purpose of this constitution and new constitutions, in general, was stated in a similar but more detailed way compared to the 1969 Provisional Constitution. According to the first provision in the preamble, for political structures, the constitution is a guide that ensures that the people move forward steadily into the future, and it regulates the

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<sup>42</sup> Gianluca P. Parolin, *Citizenship In the Arab World* (Amsterdam: Amsterdam University Press, 2009), 88.

<sup>43</sup> <https://sl-center.org/?p=2285> accessed 12 December 2023.



relationship between the bodies of the state. As a result of the realities of the fragmentation of the Arab world, any constitution drafted in countries in the Arab world had to be provisional documents regulating the period until the unification. These provisional documents should concretise the goals of the Arab masses, enlighten their path and empower the nation to achieve the unity of the Arab nation. Apart from these emphases, the references to Arab identity and nationhood in the preamble and other provisions of the 1971 Constitution are almost identical to the preamble of the 1969 Constitution. As can be seen, I think that the use of Arab political identity to refer to a supra-state nature continues.

The need for a more detailed constitution reappeared due to the political crisis in Syria, the takeover of power by Hafez al-Assad, and the negotiations<sup>44</sup> to draft a joint constitution in connection with the attempts to establish a new union between Egypt, Libya, and Syria called the Union of Arab Republics. Following these developments, a new constitution, which was not provisional and is referred to in the preamble of constitution as the "eternal constitution" or "permanent constitution", came into force in 1973.<sup>45</sup>

The first paragraph of the introduction refers to the desired Arab State, declaring that the Arab nation played a role in civilisation building when it was a united nation and was colonised when this unity dissolved and national ties weakened. Again, in the introduction, it is stated that the coup d'état and the regime's takeover of power during the political instability in Syria in the 1960s was a part of the Arab revolution that will take place in the future. In the first article of the Constitution, after emphasising that Syria is a socialist state and its territory is indivisible, it is declared that Syria is a member of the Union of Arab Republics. The second article states that Syria belongs to the Arab world, and the following article emphasises that the Syrian people are part of the Arab nation and that efforts will be made to achieve the

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<sup>44</sup> Nawavi Bin Haji Ahmad, *Arab Unity and Disunity*, Master's Thesis, University of Glasgow, Glasgow, 1976, 148.

<sup>45</sup> <http://parliament.gov.sy/arabic/index.php?node=5518&cat=413&> accessed 12 December 2023.

unity of this nation. Apart from these, the provisions on the official language, economic principles, educational principles, and the facilitated citizenship-acquiring procedure for members of other Arab countries are very similar to the regulations of the 1969 and 1971 provisional constitutions, so I do not see the need to repeat them. The 1973 Constitution, which remained in force in Syria for many years, also did not define citizenship. In line with the Syrian constitutionalist tradition, belonging to the Arab nation and the goal of forming this unity was repeated through the constitutionalisation of Arab identity.

The 2012 Constitution<sup>46</sup>, which replaced the 1973 Constitution, declares in its preamble that Syria is an inseparable part of the Arab nation and is an honour to work towards achieving this unity. Article 1 emphasises the indivisibility of the Syrian Arab Republic and its belonging to the Arab world, while Article 2 emphasises that the Syrian people are part of the Arab nation. Apart from this, it was observed that the 2012 constitution was partially similar to the 1969 and 1971 provisional constitutions and the 1973 Constitution in terms of emphasising Arab identity, but also different since there is no reference to policies that emphasise Arab belonging. For example, the constitution does not include provisions on the citizens of other Arab countries, such as granting easy citizenship, nor does it explicitly reference Arab identity in policies such as education.

In conclusion, the history of Syrian constitutionalism, which differs from that of Lebanon, analysed in the previous chapter, has been more eventful. Except for the 1920 Constitution, which had almost no practical effect, Syrian constitutions, like the Lebanese constitution, did not explicitly define citizenship based on Arab identity. Instead, national belonging and the goal of unity were repeated in the constitutions. It is observed that all constitutions, including the provisional ones drafted after the 1930 Constitution, which was prepared under the influence of the French and contained almost no references to Arab identity, refer to Arab identity on various occasions. In this study, I analysed by

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<sup>46</sup> <http://www.parliament.gov.sy/arabic/index.php?node=5518&cat=423>  
accessed 12 December 2023.

mentioning relevant articles' statements such as the state having an Arab identity, the people being of Arab nationalities, the easier process of granting citizenship to the people of other Arab nationalities and political goals concerning Arab identity.

### 2.3 Jordan

In Jordan, another country of the Levant, the 1928 and 1947 constitutions are very similar in their provisions.<sup>47</sup> Neither of these two constitutions contains any reference to the Arab identity of the state or the belonging of the people to the Arab nations. The 1952 Constitution, drafted following the unification of the two regions of Jordan<sup>48</sup>, has been amended several times but is still in force. Compared to the constitutions drafted in Syria, this constitution<sup>49</sup>, drafted in the years following the recognition of Jordan as an independent country, the establishment of the Arab League and the rising Arab nationalist movements, makes relatively fewer references to Arab identity and ties with Arab nations. The initial articles of the constitution emphasise that Jordan is an Arab State and the Jordanian people are part of the Arab nation. Apart from these two provisions, the constitution does not refer to Arab identity or the ideal of a establishing an Arab State. There is also no definition of citizenship within the constitution. The relationship between the Jordanian State and its people is not based on a political identity. The legal procedure of acquiring citizenship is left to legislation under Article 5 of the Constitution. This legislation has a regulation similar to the one in some constitutions issued in Syria, which states that citizens of other Arab countries will be facilitated in acquiring citizenship.

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<sup>47</sup> Ayhan Ceylan, 'Ürdün'de Anayasal Gelişim', *Erzincan Hukuk Dergisi* 6(1-4) (2002): 49.

<sup>48</sup> Ceylan, *ibid.*, 33-60.

<sup>49</sup> <https://www.lob.gov.jo/?v=2&lang=ar#!/LegislationDetails?LegislationID=24&LegislationType=1&isMod=false> accessed 12 December 2023.

The Citizenship Law<sup>50</sup>, enacted two years after the adoption of the constitution, stipulated certain conditions and circumstances for acquiring Jordanian citizenship. Firstly, it was stated that those who acquired Jordanian citizenship by the 1928 law would be considered Jordanians. In addition, non-Jewish Palestinian citizens in Jordan between 1948 and 1954 were also recognised as Jordanian citizens. Persons born to Jordanian fathers, persons born in Jordanian territory whose mother is a Jordanian citizen, and persons whose citizenship is unknown or cannot be determined are also considered Jordanian citizens. Finally, Bedouins, one of the indigenous people of Jordan, will also be recognised as Jordanian citizens under this law if they meet certain conditions. Although there is no explicit provision in the constitution to facilitate citizenship for members of other Arab countries, as is the case in some constitutions drafted in Syria, Article 4 of the same law stipulates that all Arabs may become Jordanian citizens upon the decision of the Council of Ministers if they have resided in Jordan for a period of not less than fifteen years.

In conclusion, there have been fewer developments in Jordan than in Syria's constitutionalist movements. In the constitutional history of Jordan, only three constitutions have been drafted. Unlike Syria, the fact that the political structure in Jordan did not change and the same family remained in power<sup>51</sup> should be the main factor here. In addition, similar constitutional documents to those in Lebanon are not found in Jordan either. It was mentioned in the relevant chapter that the agreements, such as the 1943 National Pact and the Taif, were the result of Lebanon's unique demographic distribution. In Jordan, the population comprises natives and Palestinians; the difference between these groups is minimal.

Although the 1928 and 1947 Constitutions do not contain any such provisions, the 1952 Constitution of Jordan is similar to almost all of the constitutions drafted in Lebanon and Syria regarding the use of political identity. First of all, it should be noted that there is no definition

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<sup>50</sup> <https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=5ffdc40c4> accessed 12 December 2023.

<sup>51</sup> Ceylan, *ibid.*, 50.

of citizenship based on political identity. Secondly, the initial articles of the 1952 Jordanian Constitution emphasise belonging to the Arab identity and that the Jordanian people are of the Arab nation. In the relevant articles, Arab identity refers to supra-state national unity. National belonging is again at the forefront. Thirdly, although not as explicit as the constitutions drafted in Syria, it is noted that Jordanian citizenship can be acquired by members of other Arab nations, subject to certain conditions. This arrangement shows another aspect of the supra-state use of political identity.

### **3 The Reasons for Using Arab Identity in Constitutions Referring to Arab Nation**

#### **3.1 Concept of Citizenship in Islamic Legal Literature**

In Islamic legal literature, there is no equivalent to the modern concept of citizenship in which race, ancestry or ethnic identity is at the forefront or implicitly referred to. Islamic law has a citizenship approach that claims universality by considering religious belief above all differences. For the state, people's legal status is directly linked to their religious beliefs.<sup>52</sup> To be recognised as a citizen of a political entity, it is sufficient to be a Muslim and to come to the territory of the Islamic State, regardless of race, nationality or place of birth. This territory is referred to by medieval muslim scholars as "Dar al-Islam", in contrast to "Dar al-Harb", which relates to territory outside the Islamic State.<sup>53</sup> This distinction has significant practical implications.

First, it should be noted that citizenship is the only legal status that can be acquired for Muslims. On the other hand, the legal status of non-Muslims within the scope of Islamic Law literature varies. For non-Muslims to be entitled to the same rights as others who are bound to the state by the bonds of Islam, they need to be under protection. With the protection granted by the state, it was accepted that non-Muslims could have rights like other individuals. Having this right, non-Muslims

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<sup>52</sup> Mohammad H. Kamali, 'Citizenship: An Islamic Perspective', *Journal of Islamic Law and Culture* 11(2) (2009): 121-153.

<sup>53</sup> Ismail Eris, *The Dar Al-Islam and The Dar Al-Harb: A Discourse on the Crafting of a Muslim State*, Master Thesis, The University of Texas at Austin, 2000, 3.

needed to be protected against external threats. Non-Muslims, who were protected like Muslims in terms of legal rights in general, were also subject to specific regulations on their beliefs. This right includes the freedom of belief and worship. These persons, who are under permanent protection, are called *dhimmi*<sup>54</sup>. Temporary foreigners in Islamic lands were called *musta'man*<sup>55</sup>.

The critical aspect of our study is that, according to Islamic scholars, the citizenship status is based on religion and is not dependent on criteria such as race, place of birth or place of residence. For this reason, it is easier to acquire citizenship status. This acceptance in Islamic legal literature seems to be more inclusive than the modern understanding of citizenship, as it does not emphasise characteristics such as tribe or nation in terms of attachment and allows people of the same religion people in other countries to become citizens. This inclusive understanding of citizenship stems from the recognition that the Islamic State represents all Muslims and Islamic unity.

Contemporary muslim scholars agree that the terms are not literally used in the Qur'an.<sup>56</sup> It should be noted that although there is no evidence pointing to this distinction in the fundamental sources of Islamic law and its early practice, this distinction, which was probably developed or supported for political purposes during the Abbasid period, is dominant in the literature. Today, due to international agreements and the fact that there are nearly fifty independent Islamic states, this distinction has lost its practical relevance, and modern Muslims do not have to be bound by it.<sup>57</sup> For this reason, it was not possible to maintain the distinction in the classical literature in the constitutions drafted in the Arab countries. Most of the constitutions I have mentioned directly or indirectly adopted a nation framework similar to the distinction in Islamic legal literature, but including only

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<sup>54</sup> Ahmet Özel, 'Zimmi', *Türkiye Diyanet Vakfı İslam Ansiklopedisi* (44) (2013): 434-435.

<sup>55</sup> Ahmet Özel, 'Müte'men', *Türkiye Diyanet Vakfı İslam Ansiklopedisi* (32) (2006): 139-140.

<sup>56</sup> Eris, *ibid.*, 3.

<sup>57</sup> Kamali, *supra* note 52 at 151.

Arabs. This framework, which can be called the unity of Arab nations or the unity of Arab States, is included in the constitutions, although it does not exist politically.

In my opinion, the distinction in the literature has been modified due to practical needs and necessities. Theoretically, it was impossible to abandon the perception of citizenship in the Islamic legal literature directly. For this reason, a choice was made that resembled both Islamic law and modern constitutional developments. This is because many Syrian and Jordanian constitutions cited above refer to Islam and Islamic law on various occasions. For example, Article 2 of the 1930 Constitution, which was drafted under the mandate administration in Syria, explicitly states that the religion of the president is Islam, and Articles 3 of the 1953 and 1962 Constitutions emphasise that the religion of the president and the primary source of legislation is Islam. Hafez al-Assad's 1973 constitution also emphasises in its third article that the religion of the president is Islam, and the source of legislation is Islamic law. Almost all of the constitutions in Syria since 1950, including the 2012 constitution, have emphasised that the primary source of the law is Islam. Article 2 of the Jordanian constitution, the provisions of which are quoted above, explicitly emphasises that Islam is the religion of the state. The constituent texts in Lebanon, on the other hand, do not make such a statement.

In addition, in some of the constitutions analysed, it is seen that the people of other Arab countries will be facilitated in the acquisition of citizenship in a manner resembling the acquisition of citizenship in the Islamic legal literature. Some constitutions drafted in Syria and the Jordanian citizenship law contain such provisions.

In conclusion, the relevant provisions in the constitutions exhibit a narrower view of the concept of citizenship in the Islamic legal literature, limited to nationality. As a distinction, the Arab-non-Arab division is preferred instead of the Muslim-non-Muslim division. This was done both through the constitutionalisation of Arab identity and through the declaration of the ease of granting citizenship to the peoples of other Arab countries.

### 3.2 The Influence of Arab Nationalism

In addition to the concept of citizenship in the Islamic legal literature, the development of Arab nationalism is also significant in interpreting the articles in the constitutions discussed throughout this study.

Although there are different estimates about the time of the emergence of Arab nationalism, it is known that it emerged pretty late compared to other nationalist movements.<sup>58</sup> It is likely that this movement first emerged systematically in the mid-19th century among the intellectuals who were influenced by the missionary activities in the Syria-Lebanon region. Like the nationalist movements seen in Europe, the first seeds of this movement also appeared in literature.<sup>59</sup> For example, Butros al-Bustanî, an essential figure in the history of Arab nationalism, was the founding leader of two societies that emerged as literary movements in the 1840s and 1850s.<sup>60</sup> For the first members of the movement called Nahda, Arab culture was at the forefront. While the Christian members of the societies founded in the following years to this movement emphasised common Arab culture and belonging, the Muslim members pioneered Arab nationalism with an emphasis on Islamic solidarity.<sup>61</sup> In short, in the second half of the 19th century, the region spanning Lebanon, Palestine, Jordan and present-day Syria became the birthplace of Arab nationalism.<sup>62</sup>

At first glance, it may seem possible to trace its beginnings back further by broadening the scope of Arab nationalism. For example, although resistance movements in Syria, the Wahhabi movements and

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<sup>58</sup> Davut Hut, 'Osmanlı Arap Vilayetleri, Arabizm ve Arap Milliyetçiliği', *Vakanüvis - Uluslararası Tarih Araştırmaları Dergisi* 1 (2016): 105-150.

<sup>59</sup> Zabyah M. A. Shawwaf, *The Arab League: A Study in Arab Unity*, Master's Thesis, American University of Beirut, Beirut, 1955, 7.

<sup>60</sup> Baktiaya, *supra* note 4 at 206-207.

<sup>61</sup> Patrizia Manduchi, 'Arab Nationalism(s): Rise and Decline of an Ideology', *Oriente Moderno* 97(1) (2017): 4-35.

<sup>62</sup> Shawwaf, *supra* note 59 at 7.



the revolt of Mehmet Ali<sup>63</sup> were necessary for the fate of the Arab peoples, they essentially represented personal ambitions and gains. As a matter of fact, according to one author who has compiled an independent study on this subject, Arab nationalism had its first traces in Beirut in the mid-19th century.<sup>64</sup> The manifestation of serious political goals was only possible in the following years. Indeed, it is estimated that the emergence of the first political program encouraging the Arabs to awaken and aiming for a Syria-Lebanon union dates back to the 1880s.<sup>65</sup> Yet, the idea of an independent Arab state was still not widely articulated. Under the influence of Islamic law and centuries of practice, religious concerns prevailed over nationalist ideas for most of the 19th century.<sup>66</sup>

In fact, from the early period period forward, it is seen that establishing a new political structure was aimed at rebellion against the existing regime. For example, the two works published by Abd al-Rahman al-Kawakibi, who belonged to a well-known Syrian Muslim family, are essential in rebellion against the existing order and the flourishing of founding a state with an Arab caliph.<sup>67</sup> It is seen in al-Kawaqibi's works that instead of an independent Arab state, a political structure in which the Arab nation is at the forefront is envisioned. For example, his first work, *Umm al-Qura*, contains the negotiations and resolutions of scholars from different Islamic communities who came to Mecca during the Hajj period. This work includes the circumstances of the Islamic communities, their reasons for staying behind, their goals for the future and the resolutions.<sup>68</sup> Clearly, this work desires the formation of a new political structure. The decisions taken were also decisions

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<sup>63</sup> According to the author, the reason why Mehmet Ali was not successful about Syria was that there was no Arab nationalistic consciousness yet. George Antonius, *The Arab Awakening* (1939), 31.

<sup>64</sup> Antonius, *ibid.*, 13.

<sup>65</sup> Antonius, *ibid.*, 83-4.

<sup>66</sup> Edgar E. Boyd, *The Struggle For Arab Unity*, Master's Thesis, Department of History, American University of Beirut, Beirut, 1959.

<sup>67</sup> Baktiaya, *supra* note 4 at 288.

<sup>68</sup> Ş. Tufan Buzpınar, 'Kevakibi', *Türkiye Diyanet Vakfı İslam Ansiklopedisi* (25) (2002): 338-339.

taken for the latest political structure.<sup>69</sup> In fact, twenty-six of these resolutions refer to the Arab caliphate and the Arab State.<sup>70</sup>

Kawakibi's second work, *Tabā'ī'u al-istibdād*, directly targets the Abdul Hamid regime.<sup>71</sup> In general, in his works and writings, al-Kawakibi's views differed from those of a previous generation of writers, such as Jamal al-Din al-Afghani. For example, whereas Afghani desired the establishment of an order for the entire Islamic community regardless of the nationality of the caliph, al-Kawakibi suggested that the caliph of the new political structure to be founded over the whole of Islamic community should be an Arab from the Quraysh tribe. Although there is no explicit emphasis on an Arab state in al-Kawakibi's works, a line is drawn between Arabs and non-Arabs.<sup>72</sup> In contrast to al-Kawakibi's dreams of a caliphate regime, because he was a Muslim, Naguib Azoury, a Christian Arab who founded a society in Paris during the same period, was propagandising for the liberation of Syria and Iraq. Azoury's new political structure had to be based on Arab identity.<sup>73</sup> The union he founded with the manifesto "Arab Lands belong to the Arabs" was mobilised in almost all the regions where the Arab population was in the majority.<sup>74</sup> It is understood that Azoury envisioned an Arab State centred on Hejaz and covering the Middle East.<sup>75</sup> For example, he excluded North Africa and especially Egypt, saying that the people there were not Arabs.<sup>76</sup>

Widespread popularisation of establishing an independent Arab state among the Muslim Arabs happened only after the declaration of the Second Constitutional Era.<sup>77</sup> In this period, some of the societies

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<sup>69</sup> Antonius, *supra* note 63 at 96.

<sup>70</sup> Bakhtaya, *supra* note 4 at 301-3.

<sup>71</sup> Buzpinar, *supra* note 68 at 338.

<sup>72</sup> Antonius, *supra* note 63 at 97.

<sup>73</sup> Antonius, *supra* note 63 at 98.

<sup>74</sup> Bakhtaya, *supra* note 4 at 218.

<sup>75</sup> Sylvia G. Haim, *Arab Nationalism An Anthology* (Berkeley: University of California Press, 1962), 82.

<sup>76</sup> Bakhtaya, *supra* note 4 at 221.

<sup>77</sup> Shawwaf, *supra* note 59 at 9. Boyd, *supra* note 55 at 65-66.

founded were of great importance. According to one author, no organisation was as influential in the development of Arab nationalism as the al-Fatah organisation, which was founded in 1911 and whose founders were all Muslims. This organisation demanded Arab independence and believed a new Arab State should be established.<sup>78</sup> In the following years, as a reaction to the policies of the Committee of Union and Progress, many organisations were founded in Syria and Lebanon to establish an Arab State. Overall, after the 1910s, there was widespread acceptance among the Arab elites of the idea of a single Arab state<sup>79</sup>, at least for the Levant region, which is the focus of this study.

In theory, this development of the Arab nationalist movement was interrupted by the signing of the Sykes-Picot agreement in 1916, which included the distribution of the Middle East territories by the signatory sides. According to the agreement, artificial barriers were set up between the Arab lands belonging to a shared cultural heritage. Since the agreement envisaged a mandate for the most developed areas in this region, independent states could only be established in the relatively less developed inner areas.<sup>80</sup> In my view, this period of Arab nationalism was characterised by uncertainty due to various other political crises, such as the Balfour Declaration.

After the war ended, the United Kingdom, France and the Zionists stood as obstacles to the unification of the Arab states that had separated from the Ottoman Empire.<sup>81</sup> Some of the Christian Arabs who proposed the idea of establishing an Arab State preferred the rule of the French instead of uniting with the Muslim Arabs. The reason was that establishing an Arab State based on Islam and the Islamic legal system was on the agenda. In such a possibility, their position could only be that of dhimmi.<sup>82</sup>

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<sup>78</sup> Antonius, *supra* note 63 at 111.

<sup>79</sup> Antonius, *supra* note 63 at 248-49.

<sup>80</sup> Antonius, *supra* note 63 at 248-49. Manduchi, *supra* note 61 at 15.

<sup>81</sup> Antonius, *supra* note 63 at 278.

<sup>82</sup> Manduchi, *supra* note 61 at 13-15.

Therefore, the late 1910s and 1920s were a period of struggle for Arab nationalists against external factors and among themselves<sup>83</sup>. It can be said that establishing an independent political entity where Arabs are the central pillar first emerged among Christian Arabs. This idea later spread among Arab Muslims, especially during the years of the World War I. This goal became impossible after the separation from the Ottoman Empire due to the mandate administrations' continued existence and influence for some time. The period following the year of 1930 was very productive for Arab nationalism. It is known that during this period, agreements for cooperation were made between various Arab states.<sup>84</sup> In 1931, the Pan-Arab conference was convened<sup>85</sup>; King Abdullah proposed the idea of uniting Syria, Lebanon, Palestine and Jordan under a political structure with Damascus as its centre<sup>86</sup>, and Iraqi leader Nuri Said presented a thesis on the unification of the Arab states in the Levant in 1942<sup>87</sup>. Yet, the first concrete steps towards establishing an independent Arab state would only be taken in the years following the World War II, when nationalism was rising.<sup>88</sup>

Since the idea of establishing an Arab State, which emerged in line with Arab nationalism, was not possible in the post-Ottoman period due to the competition of European states to get control over the area, the common aspiration to establish a supra-state political structure following the everlasting dream of Arab nationalism was later recognised. All three Arab states whose constitutions are analysed in this study signed a memorandum of understanding on establishing the

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<sup>83</sup> Boyd, *supra* note 66 at 145.

<sup>84</sup> Boyd, *supra* note 66 at 144-45.

<sup>85</sup> Mohamed Abd Alaziz, 'The Origin and Birth of The Arab League', *al-Majallah al-Misriyyah Lil-Qanun al-Dawli* 11 (1955): 43.

<sup>86</sup> Shawwaf, *supra* note 59 at 28.

<sup>87</sup> Khalil A. Ghalayini, *A Plan For The Organization of An Arab Federation*, PhD Thesis, The American University, Washington DC, 1956, 57-59.

<sup>88</sup> Hut, *supra* note 58 at 15. Another article written in 1954 drew attention to this shift. See Abdul M. Rifa'i, 'The Arab Commonwealth', *The Annals of the American Academy of Political and Social Science* 294 (1954): 147-50.

Arab League in 1944. The third article of the Alexandria Protocol<sup>89</sup> expressed pleasure in taking this step and the desire to consolidate this step in the future by forming institutions that would ensure closer relations.<sup>90</sup>

In 1945, foreign ministers and experts met and formally established this union with an agreement<sup>91,92</sup>. The text, drafted in the first months of the same year, is recognised as the founding text of the Arab League.<sup>93</sup> The Arab League emphasised the shared values that bind Arabs together but promoted and strengthened these values by respecting the independence and sovereignty of the member states. This arrangement showed that the Arab League was a regional organisation, not a union of nations. Regardless, Arab identity had become internationally present.<sup>94</sup>

Establishing the Arab League was the first concrete fulfilment of a long-held dream of unification under a single roof. With the establishment of this organisation, the member states aimed to revive the Arab world, which had long been weakened under the control of the Ottoman Empire and European states.<sup>95</sup> According to some scholars, the Arab League had to be strengthened to benefit the Arabs in the face of the realities of globalisation.<sup>96</sup> As a matter of fact, public opinion

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<sup>89</sup> On the significance of the 1944 Alexandria Protocol, see Shawwaf, *supra* note 59 at 35.

<sup>90</sup> [http://www.leagueofarabstates.net/ar/legalnetwork/Pages/agreements\\_treaties.aspx](http://www.leagueofarabstates.net/ar/legalnetwork/Pages/agreements_treaties.aspx) accessed 12 December 2023.

<sup>91</sup> [http://www.leagueofarabstates.net/ar/legalnetwork/Pages/agreements\\_treaties.aspx](http://www.leagueofarabstates.net/ar/legalnetwork/Pages/agreements_treaties.aspx) accessed 12 December 2023.

<sup>92</sup> Ekmeleddin İhsanoğlu, 'Arap Birliği', *Türkiye Diyanet Vakfı İslam Ansiklopedisi* (3) (1991): 325.

<sup>93</sup> Robert W. Macdonald, *The League of Arab States: A Study In The Dynamics Of Regional Organization* (Princeton: Princeton University Press, 1965), 41.

<sup>94</sup> Aaded Dawisha, *Arab Nationalism In The Twentieth Century* (Princeton: Princeton University Press, 2003), 123 *et seq.*

<sup>95</sup> Stefanie Wichhart, 'The Formation of the Arab League and The United Nations', *Journal of Contemporary History* 54(2) (2019): 328-346.

<sup>96</sup> Abdulwahid Nazim al-Jasoor, 'Awlamah wal-Dawlah al-Wataniyyah al-Qawmiyyah al-Arabiyyah', *al-Majalah al-Thaqafiyah* 50 (2000): 18,22.

suggested that countries that gained independence but were organised separately from each other would not be beneficial for the Arab nation, and that only unity would be beneficial.<sup>97</sup> The support and guidance of Britain must also have accelerated the establishment of this union.<sup>98</sup>

In practice, since a supra-state structure was established with the establishment of the Arab League, establishing an Arab State should no longer have been on the agenda, at least for a short period. However, things went in the opposite direction. This means that the establishment of the Arab League did not satisfy the Arab nationalists.<sup>99</sup> When the structure of the Arab League is analysed, it is seen that it is not a union at all but a structure that maintains regional order by ensuring cooperation on various matters.<sup>100</sup> Indeed, the guarantee of the sovereignty of the member states in the founding text of 1945 shows how far the Arab League was from the aspirations of Arab nationalists. Moreover, Arabs might have thought that the goal of unity had been achieved.<sup>101</sup> Therefore, some have often asserted that establishing the Arab League should not preclude the formation of the Arab League as a state.<sup>102</sup> The Ba'ath Party opposed this union because it meant the affirmation of the separation of Arab countries since the sovereignty of the members was protected, and advocated Pan-Arabism.<sup>103</sup> Founded in 1947 with a large number of participants, this movement, which would be very influential in Syrian political life in the following years, clearly emphasised at the very beginning of its founding charter that Arabs

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<sup>97</sup> Wichhart, *supra* note 95 at 333.

<sup>98</sup> Abd Alaziz, *supra* note 72 at 39. Yehoshua Porath, *In Search of Arab Unity 1930-1945* (New York: Routledge, 1986). 257. Omar A. Khadra, *Arab Unity Trends and International Implications*, PhD Thesis, Princeton University, Princeton, 1949, 162-63.

<sup>99</sup> Hashim A. Dabbas, *Arab Unity: Prospects and Problems*, PhD Thesis, University of Missouri, Columbia, 1964, 328.

<sup>100</sup> Fayez A. Sayegh, *Arab Unity: Hope and Fulfillment* (Devin-Adair Publishing Company, 1958), 98 et seq. Boyd, *supra* note 66 at 188.

<sup>101</sup> Shawwaf, *supra* note 59 at 41.

<sup>102</sup> Macdonald, *supra* note 93 at 53.

<sup>103</sup> Doğan Şentürk, *Suriye Baas Partisi ve Birleşik Arap Cumhuriyeti*, Master's Thesis, Istanbul University, Istanbul, 2002, 69.

came from a single nation; therefore the necessity of living together and the impossibility of the Arab States to exist separately from each other.<sup>104</sup> This arrangement shows that the Arab League was recognised as a structure far from achieving the targeted unity of nations. For Ba'ath theorists, the unity of Arab nations was the most important thing. Because other goals could only be achieved with such unity.<sup>105</sup> This policy became the official policy of Syria in the following years.

Practical developments were not limited to the formation of the Arab League. The appearance of Gamal Abdel Nasser claimed as an Arab hero, the unification of Syria and Egypt under the roof of the United Arab Republic, which lasted for more than two years, and the attempt in the same years to unite Jordan and Iraq under a federation<sup>106</sup> factually demonstrate that the goal of establishing a single Arab state, which Arab nationalists had been dreaming of for half a century, still existed. In particular, the United Arab Republic, which existed for nearly three years, stands out compared to other structures that remained in the attempt stage or became ineffective at the end.<sup>107</sup> Moreover, the aim of these movements was not only political rapprochement between the two countries, it was to unify the Arab States by including other Arab States in this union in the following years. For example, in the preliminary declaration of the United Arab Republic, which was regarded as a result of Arab nationalism, it was emphasised that the unification of Syria and Egypt was only the first step towards achieving Arab unity and that the door of this union was open to other Arab States.<sup>108</sup> As mentioned above, in the constitution, the goal of the unity of the Arab nation was also emphasised. The term Arab in the constitution referred not only to the peoples of Syria and Egypt but also to Arab

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<sup>104</sup> Haim, *supra* note 75 at 233.

<sup>105</sup> Şentürk, *supra* note 103 at 69-70.

<sup>106</sup> Juan Romero, 'Arab Nationalism and the Arab Union of 1958', *British Journal of Middle Eastern Studies* 42(2) (2015): 179-199.

<sup>107</sup> Ramazan Özdemir, *Syrian Baath Party and Arab Unity*, Master's Thesis, Marmara University, Istanbul, 2011, 48.

<sup>108</sup> Arab Information Center (AIC), *Basic Documents of the Arab Unifications* (New York: 1958), 5 et seq.

nations other than these countries.<sup>109</sup> The declaration of the unity of Jordan and Iraq stated that the two Hashemite states had formed a federation following the aims of the leaders of the Arab heroic movements and that this union was open to all Arab States.<sup>110</sup> The constitution's first article stated that any Arab state could join this unity of nations.<sup>111</sup> It is known that other Arab countries also made contact with these bodies for various reasons. Lebanon, for example, was more closely aligned with the Jordan-Iraq alliance. Lebanon's approach caused multiple reactions from public opinion. Khouri stated that the primary purpose of Arab nationalism was the fight against colonialism. Therefore, the idea that Arab states should end their existence by uniting under a single structure was flawed. According to the same author, nationalism does not mean the unification of all people of the same nationality under the roof of a single state; thus, Lebanon should continue to exist as a state with an Arab identity.<sup>112</sup>

While the idea of Arab nationalism and unification under a single authority was theoretically asserted in the Arab geography under the Ottoman Empire's rule in the empire's last years, it was an ideal that could never be realised in practice for many years. Due to reasons related to the division of the Arab States among the Western States, the unique characteristics of each state, such as Lebanon, which has a sizeable Christian population, and Arab States' lack of political experience, no step could be taken to achieve this ideal in practice for a long time. The first successful attempts towards this objective were made in 1940 and the following years. The formation of Arab unity, the rise of Ba'athist ideology in Syria, the rise of Arab nationalism discourses in the political arena with the coup d'état of Gamal Abdel Nasser in Egypt after Mohamed,<sup>113</sup> and the unification of Arab states are

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<sup>109</sup> Sayegh, *supra* note 100 at 183.

<sup>110</sup> AIC, *supra* note 108 at 7.

<sup>111</sup> AIC, *supra* note 108 at 26.

<sup>112</sup> Raif George Khouri, 'Lübnan and al-Taghyeer al-Jadari', *Majallat al-Adab* 6(9-10) (1958): 13 et seq.

<sup>113</sup> According to Bernard Lewis, Pan-Arabism was regarded as a sacred principle for a long time. Some countries even included articles accordingly



important political events in this period. When these events, which are very significant in terms of the history of Arab nationalism, are evaluated together with the theory of citizenship in the Islamic legal literature mentioned in the previous section, they explain the regulations regarding Arab identity and belonging to the Arab nation in the constitutions issued after the 1950s. Indeed, the fact that the relevant regulations were designed to encompass the Arab nation was in line with the imaginary structure desired for decades.

#### **4 Conclusion**

First of all, it is clear that the constitutions of Lebanon and Syria in the years following 1950 and Jordan in 1952 clearly emphasised the Arab identity of the state. This is the simplest way of referring to the Arab nation. A more explicit emphasis on belonging to the Arab nation was made by highlighting that the country's people are members of the Arab nation. The focus on the people's belonging to a supra-state Arab nation was first encountered in the Syrian Constitution of 1950. Subsequently, the Jordanian Constitution and most Syrian and Jordanian Constitutions contain a similar statement. The Lebanese Constitution, on the other hand, omits such an article.

Another explicit reference to belonging to the Arab nation is found in the relevant constitutional provisions stating that efforts will be devoted to achieving the unity of the Arab nation. Such provisions are encountered only in constitutions drafted in Syria after the 1950 Constitution. The relevant provisions state that the Arab nation should be united under the roof of a single state, that efforts will be made towards this goal, and that policies will be developed in various fields to achieve this goal. It was mentioned above that in the constitutions of 1950, 1953 and 1962 in Syria; there were statements in the oaths of deputies and presidents that they would work for the unity of the Arab nation. Similar statements are also found in the declarations and constitutions of the United Arab Republic established between Syria and Egypt and the unity of Jordan and Iraq.

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in their constitutions. Bernard Lewis, *The Multiple Identities of the Middle East* (New York: Schocken, 1998), 140.

In addition, it was noted that some Syrian constitutions and Jordanian legislation had facilitated the citizenship-acquiring procedure for citizens of other Arab countries. This is especially the case in most Syrian constitutions. The emphasis on Syria's Arab identity, the declaration of Syria's belonging to the Arab peoples, and the insistent declaration of the goal of unification under the umbrella of an Arab State demanded regulation in this direction. Following the 1950 Syrian Constitution, the accelerated wave of constitutionalising the Arab identity necessitated regulation.

Another conclusion reached within the scope of the study is that none of the constitutions, except the Syrian Constitution of 1920, which remained in practice for a short time, has a definition of citizenship. Citizenship was defined in almost none of Lebanon's, Syria's, or Jordan's constitutions. Instead, Arab identity was used as a political identity to refer to the desired and envisioned nation-state. Using the Arab identity in the constitutions must have discouraged the conceptualisation of a separate citizenship. This was because the ultimate goal was the unification of the Arab countries. The definition of citizenship in the constitutions of Arab countries could have created sub-nations such as Syrian, Lebanese or Jordanian instead of the Arab nation.

In our opinion, there are two main reasons for the prioritisation of Arab identity as an umbrella affiliation in constitutions that should be evaluated jointly. First, the perception of citizenship in the Islamic legal literature impacted this transformation. Instead of Muslims, it is more narrowly accepted that all Arabs belong to the nation. Secondly, the history of Arab nationalism and the triggering events in this process were addressed. The idea of unification under the roof of a single Arab state, which I think became widespread in the 1910s, could not be realised in practice in the following years due to mandate administrations, occupation and lack of political experience. The first practical step in this regard could only be establishing the Arab League. The Arab League was an inadequate organisation for ensuring national unity. For this reason, the constitution drafted in Syria following the formation of the League highlighted for the first time that the Syrian people belong to the Arab community, they will work towards

establishing a single Arab State, and they will facilitate the Syrian citizenship acquisition for the peoples of other Arab States. Again, the constitution drafted in Jordan after the establishment of the Arab League stipulated the Arab nature of the state and the Arab identity of its people. The politicisation of pan-Arabism in the following years and the unions established among various Arab countries show that the dream of uniting continued. The establishment of the Arab League, without any claim of national unity, further triggered the dream of national unification.

## ZUSAMMENFASSUNG

*Dieser Artikel analysiert im Detail die Verfassungen und verfassungsrechtlichen Dokumente, die im Libanon, Syrien und Jordanien verfasst wurden. Die Verfassungen und verfassungsrechtlichen Dokumente werden im Rahmen der vergleichenden Rechtsgeschichte analysiert. Im Allgemeinen wird festgestellt, dass bei der Analyse von konstitutionellen Bewegungen die politische Identität direkt oder indirekt betont wird, um die Bindung der Staatsbürgerschaft zu etablieren. Im Gegensatz zu dieser allgemeinen Regel wurde in den meisten Verfassungen, die in arabischen Ländern verfasst wurden, die arabische Identität verwendet, um die Zugehörigkeit zu einer überstaatlichen Struktur zu betonen. Mit anderen Worten, es wird auf einen Ausdruck verwiesen, der Gemeinschaften außerhalb des Staatsgebiets einschließt. Diese Studie, die sich auf den Libanon, Syrien und Jordanien beschränkt, zielt darauf ab, aufzuzeigen, wie diese Zugehörigkeit in den Verfassungen und verfassungsrechtlichen Dokumenten betont wird, die in der Region verfasst wurden.*

*Aufgrund dieses Ansatzes, der in den Verfassungen und verfassungsrechtlichen Dokumenten des Libanon, Syriens und Jordaniens bevorzugt wird, scheint es nicht möglich zu sein zu sagen, dass das Konzept des Bürgers in diesen Ländern auf die gleiche Weise wie in der westlichen Literatur geformt ist. Tatsächlich sucht die Studie eine Antwort auf die Frage, warum in Libanon, Jordanien und Syrien kein gemeinsames Bürgerkonzept entstanden ist. Zum Beispiel ist nicht klar, wer ein Libanese ist. In der Verfassung und anderen Gründungsdokumenten gibt es keine Erklärung. In den Dokumenten, die in Syrien und Jordanien herausgegeben wurden, wird die arabische Identität der Menschen betont. In gewisser Weise tritt die Bezugnahme auf die höhere arabische Identität in den Vordergrund.*

*Im Verlauf meiner Studie analysierte ich die libanesische Verfassung und andere konstitutive verfassungsrechtliche Dokumente, sowohl mündlich als auch schriftlich. Im Gegensatz zum Libanon wurden in Syrien viele Verfassungen nach politisch turbulenten Prozessen erstellt. Ich analysierte jede dieser Verfassungen. Die in Jordanien erstellte Verfassung wurde ebenfalls in die Studie einbezogen.*

*Die in den Verfassungen verwendeten Ausdrücke bezüglich der arabischen Staaten, dass das Volk Teil der arabischen Nation ist und dass den Menschen anderer arabischer Länder eine leichte Staatsbürgerschaft gewährt wird, wurden eingehend analysiert. Die relevanten Artikel in den Verfassungen der drei Länder im Levant wurden im Zusammenhang mit der Theorie der Staatsbürgerschaft in der islamischen Rechtsliteratur und der Geschichte des arabischen Nationalismus analysiert. Denn meiner Meinung nach haben sowohl die islamische Rechtsliteratur als auch der arabische Nationalismus Einfluss auf diese interessante Situation.*

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