Introduction to the Special Issue on "The Concept of the Civic State in the Middle East and North Africa: Between Constitutional Text and Practice"

Few concepts in contemporary Arab political life have been invoked as widely, or defined as differently, as *al-dawla al-madaniyya* —the civic or civil state.1 Islamist movements, secular parties, transitional governments, constitution drafting bodies, and street protesters have all claimed it, frequently without agreement on what it means. It serves simultaneously as a revolutionary slogan, a constitutional principle, and an ideological battleground. That it can hold all of these functions at once is not a sign of conceptual poverty. Rather, it reflects the term's particular semantic structure: expansive enough to gather coalitions, indeterminate enough to sustain disagreements, and politically charged enough to matter in any context where questions of sovereignty, religion, and legitimate authority remain unresolved.

This special issue of the *Journal of Constitutional Law in the Middle East and North Africa* (*JCL-MENA*) takes this concept as its central object of inquiry, under the title "**The Concept of the Civic State in the Middle East and North Africa: Between Constitutional Text and Practice**." The issue is a product of collaboration between *JCL-MENA* —a double-blind peer-reviewed bilingual journal managed by the Arab Association of Constitutional Law (AACL)— and the "Civicness and Legitimacy in the Arab World" research project at the London School of Economics and Political Science (LSE), and it builds on a regional workshop held in Madrid in February 2025.

The central premise of the issue is that the "civic state" should not be read as a fixed constitutional model that some states have achieved and others are still approaching. Rather, it is a contested and context-dependent term that has different meanings depending on the political orientation, institutional environment, and the historical context. As the papers of this special issue demonstrate, the concept functions simultaneously as an ideal-type analytical construct (in the Weberian sense) and as a site of ongoing normative and political debate. The contributors engage with the concept across three interrelated aspects: its intellectual genealogy, its mobilisation by political and social actors, and its translation, or distortion, within constitutional and political practice.

Conceptual and theoretical foundations

The issue opens with three thematic studies that establish the conceptual terrain.

1 The terms "civic" and "civil" are used here and throughout the issue interchangeably.

Housamedden Darwish opens with a foundational study titled **"The 'Civil State' in Arab Thought: A Conceptual and Historical Approach**." Drawing on conceptual history, conceptual analysis, and a deconstructive reading after Derrida, he traces the shifting meanings of "state," "civil," and "civil state" in modern Arab thought. His argument begins with the concept of the state itself —a move that much Arab debate has neglected by focusing almost entirely on the adjective. Arab intellectual discourse, dominated for much of the twentieth century by the supranational frameworks of Arabism, Islamism, or socialist ideology, was slow to theorise the state as such. Only in the 1980s did a sustained reckoning begin, with figures such as Laroui, Ghalioun, and Bishara calling for a scientific theory of the state as a precondition for theorising democracy.

Darwish shows that *madaniyya* carries multiple and not always compatible meanings in modern Arabic: both what might now be called secular (institutions without religious foundation) and what might be called civilised (associated with progress and freedom from coercion). The contrasts between the civil and the religious, the civil and the military, and the civil and the communal (*ahliyya*) all operate in Arabic usage, and none fully overlaps with the others. The concept is simultaneously normatively positive and semantically unstable. Darwish argues it should be understood as a "thick," inherently "contested" normative concept; not one that is reducible to a single definition, while not being void of content either. What makes the concept analytically useful is rigorous mapping of its internal tensions, understood as historically produced rather than accidental.

Azzam Al Kassir examines how Islamist movements have engaged with the concept of civil state in **"Islamist Perspectives on the Concept of the Civic State in the Arab World."** His starting observation is a practical one: Islamist actors have not developed a coherent or theoretically grounded position on the concept. Their engagement tends to be pragmatic, context-dependent, and shaped by political strategy rather than principled ideological commitment. Some reformist currents —including movements that repositioned themselves as Muslim democratic parties in the wake of the Arab Spring — have attempted to reconcile civic governance with an Islamic frame of reference (*marja'iyya*), arguing that the civic state is compatible with Islam because all human institutions are, by definition, civil in character: the question is not their civic nature but the source of their authority. Others reject the concept as a Western import incompatible with divine sovereignty.

The most unsettling dimension of Al Kassir's analysis is his examination of Hay'at Tahrir al-Sham (HTS) in Syria — a case that crystallises a broader risk: the appropriation of civic language as a tool of authoritarian legitimation. Since the collapse of the Assad regime in December 2024, HTS has adopted the administrative and institutional vocabulary of civic governance — civilian administration, rule of law, institutional frameworks — while retaining concentrated control in its security and religious bodies. The formal language of the civic state coexists with centralised, unaccountable power. This case makes visible a possibility that runs through several contributions to this issue: the discourse of the civil state can be strategically deployed not to constrain power but to legitimise it, producing what Al Kassir describes as a new and more sophisticated form of authoritarian rule under civic terminology.

Shaimaa Magued situates the civil state within the political economy of Arab authoritarianism in "**Social Protest Movements and Civil Society in the Arab World: Attitudes Towards the Civil State**." She develops a structural argument, contending that the Arab Spring uprisings expressed demands aligned with the principles of a civil state, encompassing political rights, public freedoms, social justice, and accountability. Yet these demands ran into the well-entrenched political and material hurdles: military institutions whose legitimacy rested on claims of historic revolutionary nationalism, rent-based economies that tied elite survival to external dependency, and a history of elite formation in which ruling classes consolidated power in ways that barred genuine civilian governance. Drawing on cases from Egypt, Tunisia, Syria, Libya, and the Gulf, she argues that the civil state is not absent from the Arab world because the concept is unclear. It is absent because the conditions for its existence have been systematically disallowed to form.

Country case studies

The issue turns from these thematic foundations to six country case studies, each of which traces how the tension between civil state aspiration and political reality has unfolded in a specific constitutional and historical context.

Wissam Lahham opens with a counterintuitive argument in "**The Civil State in Lebanon: An Inevitable Outcome of Sectarian Pluralism**." Against the dominant assumption that Lebanon's confessional system is by definition a departure from civic order, Lahham argues that Lebanon is, in its constitutional architecture, already a civil state. Sovereignty formally resides in the people, legislation is secular in origin, and no religious authority holds a constitutional veto over lawmaking. Within this framework, sectarian recognition functions primarily as an administrative mechanism rather than a foundational constitutional principle. The persistence of sectarian politics, therefore, does not stem from constitutional failure but from political practice and obstruction, which distort and constrain the implementation of civil constitutional guarantees. The Lebanese case thus complicates dominant narratives by distinguishing between a civil constitutional form and a non-civil political reality, highlighting the gap between formal institutional design and lived political practice.

Ibrahim Daraji and Reem Turkmani take a long historical view in "**The Civil State in Syria: Early Origins of Restrictions on Civil Society (1918–1958)**." They trace the structural roots of civil society's weakness in Syria to the founding decades of the modern Syrian state, examining how legal, administrative, and political mechanisms combined, across very different regimes, to hollow out the civic public sphere.

Their study pinpoints three main mechanisms through which the Syrian state regularly attempted to restrict organised civic action. First, the repeated general dissolution of all political parties and organisations —a practice that was enacted four times between 1925 and 1958, under the French Mandate, and later under successive military regimes. Second, the systematic draining of human resources from civic life, through broad and often absolute prohibitions on political activity for civil servants and students —groups that historically constituted civil society's organisational base.

Third, the legal codification of executive discretion through legislation that granted the political authorities far-reaching powers to license, supervise, dissolve, and punish associational activities. The state consistently treated civil organisation as an object to be managed, co-opted, or suppressed, rather than as a partner in public life. Contemporary Syrian civil society's fragility is therefore not a recent development. It is the culmination of a century-long process.

Kaouthar Debbeche reads Tunisia as a long-term civil state project with a contested trajectory in "**The Civil State in Tunisia's Constitutional Trajectories: Between the Explicit and the Implicit**." The project began before any constitution: the *Ahd al-Aman* of 1857 established equality among subjects regardless of religion. The 1959 Constitution offered what Debbeche calls a silent endorsement, embedding civic principles implicitly rather than prescribing them. Under that framework, Tunisian legislation made real progress: the Personal Status Code criminalised polygamy and established judicial divorce; property law was progressively freed from the *waqf* system; the judiciary was unified in 1957. The 2014 Constitution then made the civil state explicit, defeating Ennahda's attempt to introduce sharia as a source of legislation. The 2022 Constitution marked a rupture. Its introduction of *maqasid al-sharia* transforms interpretive authority over the constitutional order, creating conditions under which the civil state's normative foundations can be contested from within the text itself.

Mohamed Tozy examines the paradoxical effects of Morocco's 2011 constitutional reforms in "**The Stakes of Secularising the Political Sphere in Morocco**." The 2011 Constitution formally strengthened constitutional supremacy and subjected royal decrees to judicial review. But it simultaneously entrenched the religious foundations of monarchical authority. The king's role as "Commander of the Faithful" became, under Article 41, the only power he exercises independently of other constitutional institutions. Constitutional reform strengthened the monarch's religious monopoly rather than diluting it. Tozy's account of the bureaucratisation of religion under Mohammed VI is among the most original contributions to this issue: a rationalised administrative project equipping the state with public management techniques, performance metrics, and reformed training structures for religious scholars, transforming independent religious authority into a state function. The vivid exchange between Morocco's Minister of Endowments and the former PJD Prime Minister over whether Morocco is secular, with the minister coining "secularism" in English to avoid the negative Arabic *al-'ilmaniyya*, encapsulates the conceptual instability Morocco's constitutional arrangements produce rather than resolve.

Heba Raouf Ezzat approaches the Egyptian case with broad conceptual scope in "**The Constitution between the 'Civil' and the State: A Study of the Egyptian Case**." Rather than treating the civil state as a settled category to be located or not in constitutional texts, she begins by questioning whether the state itself can be civil in any meaningful sense, since sovereignty by definition involves the capacity to declare exceptions and exercise coercive power exceeding the civil sphere. The civil is better understood as a complex space, encompassing civic virtues, civil rights, the public sphere, and common goods, within which the state operates and which it has a duty to protect rather than consume.

Against this theoretical background, Ezzat shows that the codification of Islamic law, often attributed to Sadat's political use of religious legitimacy in the 1970s, actually began under Nasser: the Islamic Research Academy's codification committee was established in 1967, and Al-Azhar proposed a full Islamic constitution in 1978. The trajectory is longer and more complex than the standard periodisation suggests. She concludes that Egyptian constitutional identity is essentially hybrid: civil and religious categories are not in stable opposition but are continuously renegotiated within broader struggles over state authority.

Sami Abdelhalim Saeed examines Sudan's transitional period (2019-2021) in "**The Concept of the Civil State in the Constitution and Political Charters of Sudan**." The case of Sudan is particularly interesting because the civil state appeared not as inherited constitutional furniture but as a revolutionary demand. An explicit aspiration from a movement that had overthrown a thirty-year regime grounded in the ideology of political Islam. Yet the transitional documents were constitutionally underspecified on precisely these points. The 2019 Constitutional Charter omitted explicit reference to the civil state and failed to establish meaningful civilian oversight of military institutions. The Juba Peace Agreement of 2020 included provisions for separation of religious and state institutions, without specifying enforcement mechanisms. The Declaration of Principles of 2021 went furthest, explicitly prohibiting an official state religion. Saeed traces a clear pattern: as civilian forces gained more leverage in negotiations, civil state provisions in constitutional texts became more explicit. Where military actors retained effective power, those provisions remained dead letters.

Comparative threads

Three comparative threads run across the case studies. First, the civil state appears consistently as a floating normative reference whose content is produced contextually rather than given in advance. Tunisia's swaying between implicit civic constitutionalism and religious reinterpretation, Sudan's revolutionary but institutionally ungrounded civic demands, Lebanon's constitutional civicness coexisting with sectarian political practice, Syria's founding suppression of the very civic activity a civil state requires. Each of these cases illustrates what Darwish theorises as the concept's character as a simultaneously "thick," "floating," and "empty" signifier.

Second, the relationship between constitutional text and political reality is, in every case, uneven and historically produced and analytically irreducible to a single logic. Morocco shows that constitutional reform can deepen rather than diminish religious embeddedness. Lebanon shows that a formally civil constitution can coexist with the permanent subordination of civil guarantees to sectarian practice. Egypt shows that rights provisions and structural conditions preventing their realisation can occupy the same constitutional moment. Syria shows how a permissive legal framework can be hollowed out through administrative accumulation over decades.

Third, several contributions document actors invoking civic language precisely to evade civic accountability. HTS deploys the vocabulary of institutional governance while monopolising power. Moroccan monarchical authority presents itself through the framework of constitutional legitimacy while concentrating religious authority beyond institutional check. Sudan's military leadership signed transitional documents affirming the civil state while preventing its realisation.

The civil state is not always opposed; it is sometimes appropriated, absorbed into the legitimation strategies of the very actors whose power it was supposed to constrain.

Nimer Sultany's concluding reflections on the Madrid workshop, which are echoed in several contributions to this issue, underscore a point that the case studies collectively demonstrate: constitutional design operates within a field of competing political interests, social inequalities, and institutional constraints. Divergent interpretations of civicness generate markedly different constitutional trajectories not because the concept is too vague to do any work, but because it does its work in a terrain shaped by power.

The contributions in this special issue suggest that the civil state in the Arab world operates at three interconnected levels: as an inherently indeterminate and relational concept at the analytical level, as theorised by Darwish; as a frequently instrumentalised language of legitimacy at the discursive level, deployed by state elites, Islamist movements, and transitional actors alike; and as a structurally constrained project at the institutional level, shaped by historically embedded patterns of state formation, elite reproduction, and constitutional design.

An Ongoing Process of Contestation

The contributions in this special issue do not resolve the question of the civil state. Instead, they make a different case: that the concept continues to function as a site of struggle between competing conceptions of sovereignty, between secular and religious normative orders, between constitutional aspiration and political reality, and between civic language and the power relations that language may serve or subvert. It is not a settled model but an ongoing process of negotiation among law, power, and society.

What emerges from all the papers is a regional picture of profound conceptual productivity and structural blockage. The structural settings that would enable its fulfilment remain deeply contested and subject to reversal. The cases of Tunisia in 2014 and Sudan in 2019 showed that constitutional moments could produce explicit civic commitments. But also, Tunisia in 2022 and Sudan after October 2021 showed, however, that those commitments could be dismantled or overtaken by force.

By incorporating views and experiences from across the region, this issue advances an empirically based (and therefore "grounded") understanding of Arab constitutionalism. One that incorporates both the intellectual complexity of the concept of civil state and the structural conditions and realities that expand or bar its possibilities. And one that does not fall into the trap of reading those conditions as static, as predetermined by culture, or as immune to the kind of political and constitutional contestation that the history surveyed in these papers so richly records.

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