The Constitution Between the "Civil" and the State: A Study of the Egyptian Case

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ABSTRACT

The term "civil state" is relatively recent and has no origin in classical political theory. It emerged in political debates primarily as a counter to the idea of a religious state. As such, it is best understood as a product of contested circumstances and a hybrid construct of multiple notions, rather than as an inherently established concept.

This paper aims to illustrate the concept of the "civil" in relation to the state. It argues that this concept should not be examined solely in opposition to the religious or military domains, but also through the delineation of its limits. These limits distinguish it, on the one hand, from forms of social barbarism or societal incivility, and, on the other, from acts of sovereignty and states of exception in which ruling powers constrain, erode, or suspend the civil sphere. The analysis then turns to the constitution and its relationship to religion in Egypt, beginning with the 1923 Constitution. It examines the historical and intellectual contexts that led to the incorporation of Islam or sharia as a constitutional reference and sheds light on both the legal doctrine and the cultural milieu that shaped the first half of the twentieth century. The paper subsequently considers the post-1952 revolutionary period and successive constitutional frameworks, analysing initiatives to codify sharia from the era of President Gamal Abdel Nasser through the presidencies of Anwar Sadat and Hosni Mubarak. In so doing, it traces the ebb and flow of these efforts in relation to the dynamics of the public sphere and its debates. Finally, the paper examines the post–Arab Spring landscape and the perceptions of the civil and the constitution within a context of political instability. It analyses how the Constitutions of 2012 and 2014, as well as the 2019 Amendments, articulated the relationship between religion and the state, and between the military and the civil sphere —particularly amid the decline of public debate on democracy and identity compared with the cultural dynamism that characterised twentieth-century Egypt. The paper concludes that both official and intellectual Islamic discourses have largely incorporated the concept of the civil into their frameworks, whereas other currents have made limited contributions to its development. It further finds that Islamic political movements have remained comparatively weaker, both in constitutional debates and in sustaining efforts to codify sharia, which have extended for over a century.

Keywords: *Concept of the "civil," Egyptian Constitution, codification of sharia, military.*

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Introduction

The concept of the "civil state" has been widely used to describe a desired democratic system of governance with a secular character —one that respects rights and freedoms, is subject to the constitution, features an active civil society, and upholds human rights. Within this framework, religion is relegated to the private sphere, while freedom of belief and religious practice are guaranteed. However, the concept of the civil state does not appear in classical political theory or thought. Rather, it is a notion that was formulated within the Arab world to counter both the idea of an "Islamic state" on the one hand and military regimes on the other. It emerged from political and ideological debates over identity in the 1970s, and its use expanded during the democratic transitions of the 1980s. Over time, it became normalised in Arab political discourse as though it were a formal classificatory term for regimes —though, in fact, it is not. This paper contends that the concept is inherently problematic, insofar as the state cannot be genuinely civil in its structure, organisation, administration, legitimacy, or sovereignty.

Accordingly, this paper begins with a critical examination of the concept of the civil state and the debates surrounding it. It then proceeds to explore the nature of the civil and clarify the fundamental ideas underlying the "state." This approach does not prioritise theory over reality; rather, it lays the groundwork for analysing the trajectory of Egypt's constitutional evolution, highlighting the persistent tension between the civil and political spheres and sovereign authority. It also traces recurring patterns in this complex relationship as reflected in successive constitutional texts.

I. The Civil, the State, and the Space Between: Conceptual Challenges

Researchers note that the concept of the civil is intertwined with a range of other concepts, leading to overlapping meanings. This may be traced to the emphasis on the social dimension in studies of societal aspects of the civil, the legal dimension in discussions of state-related civil matters, or the association of the civil with secularism in analyses of contemporary ideologies and discourses. In such a context, where meanings can become blurred, it is necessary to map the concept of the civil, its dimensions, and its relation to closely related notions that share the same linguistic root —such as city, civil sphere, civic virtues, civil society, and so forth. For instance, in theories of civilisation, debates emerge around the "civilising mission," followed by discussions of the civil as the capacity of individuals and groups to engage in the public sphere in sociology, and the study of civic education and its connection to fostering citizenship awareness in political science. A notable ambiguity arises from the differing historical evolution of the concept across languages, which Arab scholars writing on the topic must take into account.[1]

[1] Mahmoud Mohsen Ahmed Ali, *Mafhum al-Madaniyya fi al-Khitabayn al-Gharbi wal-Islami: Dirasa fi Nusus Mukhtara* [The Concept of the Civil in Western and Islamic Discourses: A Study of Selected Texts], unpublished master's thesis, Faculty of Economics and Political Science, Cairo University, 2015, 63–67;
Hiba Raouf Ezzat, *Al-Muwatana: Dirasa li-Tatawwur al-Mafhum fi al-Fikr al-Librali al-Anglo-Amriki* [Citizenship: A Study of the Concept's Development in Anglo-American Liberal Thought], unpublished PhD diss., Faculty of Economics and Political Science, Cairo University, 2009.

It can be argued that the lack of full consensus on what constitutes the civil and its position in relation to other 'states' or domains —such as the religious or military— has sparked a persistent debate over whether the civil should be understood as a normative value (within a particular framework) or as a legal and institutional one. In constructing the concept from a political theory perspective, we propose a more nuanced classification for testing and interpreting political events and contexts, allowing for insights that may inform future developments.

Perhaps the difficulty in addressing new developments and concepts intersecting with the civil lies in the fact that, for decades, the "nation-state" remained the primary unit of analysis in political science, and consequently in studies of the civil (and citizenship). The nation-state served as the central focus of political thought and theorisation, providing the foundation for conceptions of civil society and citizenship, and their relationship to the state (as shaped by the constitution) at its various levels. Individuals and society were rarely conceptualised or methodologically assessed independently of the state; rather, the state underpinned all studies during that stage, even if it was sometimes not explicitly mentioned. [2]

The 1960s saw the emergence of the concept of civic culture in development and political culture studies,[3] followed by the rise of "civil society" in the context of democratic transition studies, which dominated scholarly attention from the mid-1980s through the 1990s. During that same period, the notion of a general philosophy of society (as opposed to "public order" in constitutional law) emerged, emphasising the connection between governing values and forms of the civil (particularly liberal ones), while political theory increasingly focused on examining civic virtues. [4]

However, this did not signify a shift in political theory from focusing on the state to focusing on society, or from sovereignty to the civil. The concept of civil society continued to be studied primarily in relation to the state and the mechanisms of negotiation between them, as well as within the frameworks of political legitimacy under what was termed democratic transition in the Middle East and Eastern Europe. This represented an expansion of perspectives rather than a methodological change. [5]

In the 1990s, political theory returned its focus to the concept of the state.[6] Yet, the latter half of the decade saw a wave of innovation that challenged old analytical frameworks, which no longer adequately explained reality. Some scholars drew on the concept of the civil to rethink and construct a new theory of political action —one that relies less on modernity, is more receptive to broader social theory, and is more accepting of diversity, both in the types of political groups and the values they reflect, as well as in the methods used to study them. [7]

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2 John Peter Nettl, "The State as a Conceptual Variable," *World Politics* 20, no. 4 (July 1968): 559–592.

3 Gabriel A. Almond and Sidney Verba, *The Civic Culture: Political Attitudes and Democracy in Five Nations* (Princeton, NJ: Princeton University Press, 1963).

4 Richard Dagger, *Civic Virtues: Rights, Citizenship, and Republican Liberalism* (Oxford: Oxford University Press, 1997); Michael Sandel, *Public Philosophy: Essays on Morality and Politics* (Cambridge, MA: Harvard University Press, 2005).

5 John Keane, *Despotism & Democracy: The Origins & Development to the Distinction between Civil Society & the State 1750-1850* (London: Verso Publications, 1988), 35–63; Gabriel A. Almond, "The Return to the State," *The American Political Science Review* 82, no. 3 (September 1988): 853–899; Theda Skocpol, Peter B. Evans, and Dietrich Rueschemeyer, eds., *Bringing the State Back In* (Cambridge: Cambridge University Press, 1985).

6 Almond, "The Return to the State," 853–899; Skocpol, Evans, and Rueschemeyer, *Bringing the State Back In*, 85.

7 Darrow Schechter, *Beyond Hegemony: Towards a New Philosophy of Political Legitimacy* (Manchester: Manchester University Press, 2005), 44–83; Keith Topper, *The Disorder of Political Inquiry* (Cambridge, MA: Harvard University Press, 2005), 67–83, 181–216.

This was followed by an abundance of studies on the expansion of political violence as the antithesis of the civil. These studies examined the role of civil society components in generating violence —for example, research on terrorism— and also analysed the increasing prevalence of urban violence arising from marginalisation and alienation.[8] The concept of the civil, therefore, has been approached in multiple ways. Like all social and political concepts, it is essentially contested, as noted by Gallie in the early 1950s. Such concepts are difficult to define and inherently controversial for several reasons. They embody historical achievements and incorporate values and ideals, such as the social contract and civic citizenship; they further possess a highly complex structure that can be organised in various ways, giving rise to diverse definitions and applications. Their development is inherently unpredictable, projecting an open horizon for the future, and they are closely tied to real-world contexts, with practical applications that may be either aggressive or defensive. Although these concepts are rooted in a shared historical origin, different groups often seek to demonstrate their superior fidelity to a particular origin. [9]

In his analysis of political concepts as open concepts, Weitz pointed out that definitions of concepts cannot be neutral. Rather, in many political concepts, including the civil, the definition serves a persuasive function, expresses real interests, and directs political action in a particular "direction." Concepts are tools for the clash and interaction of visions and interests through political language. The meanings of political concepts are also emotional, carrying negative or positive connotations, and thus cannot be fully controlled or subjected to normativity; their definitions are largely shaped by their practical use. [10]

Thus, it is difficult to separate social and political concepts from ideology, as they are not merely political ideas, but fundamentally conceptual frameworks closely linked to values. Freeden sought to deepen the discussion of the problem of values in political theory by connecting the study of implicit values within concepts with the study of ideology, observing its transformations, and examining the impact of ideological conflict on the evolution and development of concepts. This is because ideological conceptual frameworks are inherently in conflict and clash in reality, thereby dialectically altering the meaning of a concept both in theory and in practice.[11] In the case of constitutional transformations specifically, the work of two authors —among the most prominent in conceptual analysis within political theory, namely Terence Ball and Guy Pocock—represents a central reference for understanding these transformations.[12] We will follow this approach in examining the concept of civil society in light of the role of religion in Egyptian constitutions over the past century, observing the transformations of the civil resulting from evolving political and cultural debates.

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8 Célestin Monga, *Uncivil Societies: A Theory of Sociopolitical Change*, World Bank Policy Research Working Paper No. 4942 (1 May 2009), 32, posted 20 April 2016, World Bank; Nicholas Fyfe, Jon Bannister, and Ade Kearns, "(In)civility and the City," *Urban Studies* 43, no. 5/6 (May 2006): 853–861.

9 Walter Bryce Gallie, "Essentially Contested Concepts," *Proceedings of the Aristotelian Society*, no. 56 (1955–56): 169, 171–172, 180.

10 Morris Weitz, *The Opening Mind: A Philosophical Study of Humanistic Concepts* (Chicago: University of Chicago Press, 1977).

11 Michael Freeden, *Ideologies and Political Theory: A Conceptual Approach* (Oxford: Clarendon Press, 1998), 1–7, 17–18, 117–136.

12 Terence Ball and John G. A. Pocock, *Conceptual Change and the Constitutions* (Lawrence, KS: University Press of Kansas, 1988).

Evidently, debates on the civil cannot be separated from the broader civilisational domain. The term appears across languages such as English and French, yet its usage—rooted in Latin— remains closely tied to the idea of citizenship and the system of rights and duties. Whether derived from *civilis* (civil) or *civicus* (civic), its meaning is shaped by context: it may refer to legal frameworks, as in civil law; to political contexts, as in the civil or public sphere and civil rights; or to contentious contexts, such as civil disobedience and even civil war.

A comprehensive understanding of the meanings of "civil" concepts also requires engagement with the concept of civility. The term "civil," whether referring to the civil sphere, to rights and duties, or to forms of civic engagement and responsibility, presupposes an underlying system of regulating values. Thus, civility extends beyond mere norms of polite interpersonal conduct to encompass broader civic values and the institutional and social frameworks that sustain and reinforce them. In this sense, it may also be traced in Arabic to the notion of *umran* (urbanism) in the Khaldunian sense, capturing the organised and value-laden nature of social life.

Britta Baumgarten and her colleagues suggest that the civil, understood in this way, has four analytic dimensions: human rights, political rights, social rights, and basic norms of everyday interaction. She further emphasises that the civil is a normative concept shaped by historical contexts and therefore requires a flexible understanding. From this perspective, non-Western societies can adapt and expand the Western conception of the civil, contributing to a broader discourse.[13]

While this perspective is theoretically significant in tracing the development of the concept in the West, it tends to position other societies as mere recipients that add local variations, rather than fostering an expanded, dialogical Western perspective —grounded in humanism— that engages with and learns from diverse civilisational experiences as part of a shared human history.

Dieter Rucht, who co-authored the earlier work with Baumgarten, argues in his study of the civil and civil society in the twentieth century that activating the value-based dimensions of civic virtues in public behaviour is essential to bridging the gap between the two. These virtues include commitment, self-restraint, tolerance, justice, and respect for others.[14] Similarly, Edward Shils defines the civil as the conduct that supports the common good despite differences in interests and orientations.[15] This perspective is echoed by Teresa Bejan in her analysis of political polarisation in the United States, where she seeks a minimal consensus to manage the civil.[16] Further elaboration on these conceptual dimensions is provided in the following section.

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13 On the development of the concept of civility, its history, and the importance of including it in debates concerning everything that is urban and civic, see: Britta Baumgarten et al., "Civility: Introductory Notes on the History and Systematic Analysis of a Concept," *European Review of History* 18, no. 3 (2001): 289–312.

14 Dieter Rucht, "Civil Society and Civility in Twentieth-Century Theorizing," *European Review of History* 18, no. 3 (2001): 387–407.

15 Edward Shils, "Observations on Some Tribulations of Civility," *Government and Opposition* 15, no. 3/4 (Summer–Autumn 1980): 528–545.

16 Teresa M. Bejan, *Mere Civility: Disagreement and the Limits of Toleration* (New Jersey: Harvard University Press, 2017).

Turning to the concept in Arabic, classical lexicons such as *al-Muajam al-Waseet* define *madina* (city) as a settled and organised urban centre, with its plural forms *mada'in* and *mudun*. The terms *tamaddana* and *tamdin* refer to adopting the way of life of urban populations and embracing the conditions of civilisation, while *madaniyya* denotes the civil and the expansion of *'umran* (urbanism). Historically, the term *al-Madina* came to be predominantly associated with the city of the Prophet.[17]

Scholars differ, however, on the linguistic root of *madaniyya*. Some trace it to *madana*, meaning to reside or settle in a place, while others link it to *dana*, the root of *din*, connoting obedience and submission. The term *madina* has also been used to denote a fortified settlement.[18]

Regardless of its etymology, the early use of the term in the Islamic context was closely associated with the formation of the state and intertwined with the concept of *din*, encompassing meanings such as obedience, authority, governance, and political order.

The Prophet Mohammed referred to Yathrib as *al-Madina* and reportedly avoided using its former name, marking a significant departure from the place's traditional designation. From the moment of the Hijra, the City (*al-Madina*) came to signify more than a geographic location: it embodied a new social and political order grounded in the legitimacy of prophethood and a form of social contract that accommodated tribal structures and religious diversity. This transformation represented a qualitative shift in belief, social organisation, governance, and politics. It also introduced new forms of social relations—most notably brotherhood (*mu'akhah*) —distinguishing it from the prevailing patterns of nomadic and rural settlement of the time.[19]

In the writings of Ibn Khaldun, the concept of *hadara* (often translated as civilisation) refers specifically to the stage of urbanisation and the emergence of cities within the lifecycle of the state. His usage does not correspond to the modern notion of "civilisation" as a comprehensive linguistic and Quranic construct, but rather to the derivative meaning from *hadara*, referring to the way of life characteristic of urban populations and settled civilisation. In his view, this stage represents the peak of political power and authority, from which a phase of luxury emerges, followed ultimately by decline.[20]

Earlier, al-Farabi, in *The Opinions of the Inhabitants of the Virtuous City*, employed the term "city" in a manner analogous to modern notions of the civil. He used it to describe the public sphere in urban settings, the presence —or absence— of civic virtues, and the ethical foundations necessary for Islamic urban life.

17 Kitab al-Muajam al-Waseet [The Concise Dictionary].

18 Mohammed ibn Mukarram ibn Ali Abu al-Fadl Jamal al-Din Ibn Manzur, *Lisan al-Arab* [The Language of the Arabs], vol. 14 (Beirut: Dar Sader, 2003).

19 Nasr Arif, *Al-Hadara – Al-Thaqafa – Al-Madaniyya: Dirasa li-Sirat al-Mustalah wa Dalalat al-Mafhum* [Civilization–Culture–Civility: A Study of the Term's History and the Concept's Significance], 2nd ed. (Amman: The International Institute of Islamic Thought, 1994), 51–55.

20 Abd al-Rahman Ibn Khaldun, *The Muqaddimah*. Edited by Ali Abd al-Wahed Wafi. Cairo: Dar Nahdat Misr, 1981. 578-585.

These values, in his view, are essential for achieving human happiness as the ultimate aim of social organization —both in this world and in the hereafter— and are guided by wisdom derived first from prophecy and then from philosophy.[21]

Across the works of al-Farabi, al-Ghazali, and Ibn Khaldun, among other scholars, there is a consistent emphasis on politics as a "civil science." In their understanding, politics encompassed governance, economic management, and the organisation of human society in both its social and urban dimensions. Ibn Khaldun, in particular, built on the ideas of his predecessors by developing a comprehensive conception of *umran*, integrating historical, philosophical, economic, social, and political dimensions.[22]

In the nineteenth and early twentieth centuries, the concept of the civil was often used interchangeably with "civilisation." From the writings of Rifaa al-Tahtawi to the debates between Ernest Renan and Jamal al-Din al-Afghani, and in the works of Mohammed Abduh, Qasim Amin, and Mohammed Farid Wajdi, the concept emerged as part of a broader intellectual effort to defend Islam against claims of Western superiority and to demonstrate the compatibility of religion and science.[23]

In the twentieth century, the term was also employed in the writings of Abdel Razzaq al-Sanhuri. His private notes, drafted during his doctoral studies in France and later examined by Mohammed Imara, reveal his awareness that constitutional and legal frameworks are inseparable from their civilisational context. For al-Sanhuri, the civil was grounded in the Islamic bond founded upon sharia. He argued that, within the modern state, sharia should be incorporated into the processes of constitutional and legal formulation. At the same time, he maintained that the civil embraces cultural diversity and the contributions of non-Muslims. In this sense, the Islamic civilisational framework he envisioned did not preclude *ijtihad* (independent reasoning): the caliphate system could evolve into a form akin to a league of Eastern nations, capable of adapting to the transformations of the nation-state, while sharia could inform modern constitutional and legal systems.

Al-Sanhuri further held that systems of governance should be grounded in the ruling logic of Islam, namely *shura* (consultation), which led him to favour a parliamentary model within the civil framework.[24] This perspective links the civil to a broader matrix of social, cultural, and ethical values, subsequently institutionalised through constitutional structures. This same line of thought was further elaborated by his son-in-law Tawfiq al-Shawi, particularly in his work *The Jurisprudence of Shura and Consultation (Fiqh al-Shura wal-Istishara)*, where *shura* is articulated as both a sharia obligation and a defining feature of the civil sphere in its ethical and political dimensions.[25]

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21 Abu Nasr Al-Farabi, *Ara' Ahl al-Madina al-Fadila wa Mudaddatuha* [The Opinions of the Inhabitants of the Virtuous City], Beirut: Dar al-Hilal Library, 1995.

22 Abd al-Rahman Ibn Khaldun, *Al-Muqaddimah*, edited by Abd al-Salam al-Shaddadi (Casablanca: Khizanat Ibn Khaldun–Bayt al-Funun wa al-Ulum wa al-Adab, 2005).

23 See: Ali, *The Concept of Civility in Western and Islamic Discourses*, 106–130.

24 For a detailed discussion of al-Sanhuri's views on Islamic civility, see: Mohammed Imarah, *D. Abd al-Razzaq al-Sanhuri: Islamiyyat al-Dawla wa al-Madaniyya wa al-Qanun* [Dr. Abd al-Razzaq al-Sanhuri: The Islamic Nature of the State, Civility, and Law] (Cairo: Dar al-Salam, 2009).

25 Tawfiq al-Shawi, *Fiqh al-Shura wa al-Istishara* [The Jurisprudence of Shura and Consultation] (Mansoura: Dar al-Wafa, 1992).

With the beginning of the new millennium, numerous writings emerged that elaborated on linking the Islamic concept of the civil to contemporary meanings from a *maqasid*-based perspective. This took place amid the momentum of the Arab Spring, which we will address—along with its contexts—in the third section below. Nevertheless, the concept of the civil—whether in its Islamic or Western formulations—continues to face two principal challenges in practice.

A. The First Challenge: Barbarism

Since the time of ancient Greek philosophy, what lay outside the city-state was often regarded as "barbaric," with the term even used to describe enemies, even if they had different forms of the civil. Later on, social contract theorists emphasised the distinction between the state of nature and the civil condition. The state of nature was associated with disorder and barbarism, while the political community emerged through contract and covenant, giving rise to the civil condition. The transition from the state of nature to the civil condition gave rise, in the thought of John Locke, to the notion of civil liberties; in Thomas Hobbes, to the idea of a sovereign authority guaranteeing the social contract—even under absolutist rule; and in Jean-Jacques Rousseau, to the concept of the general will.

For Rousseau in particular, the civil condition (rather than the "civil state") marks the transition of the individual from natural freedom, driven by instinct, to civil freedom grounded in adherence to law and the social contract that establishes political sovereignty. This entails submission to the general will and respect for the limits of private property.[26]

Ibn Khaldun noted that human history cycles through states of "barbarism, urbanisation, group solidarities, and various forms of domination of humans over one another," with the civil emerging as a defining feature of settled society.[27] This observation is significant because the linear, progressive assumptions of modernity often overlook the possibility of regression into barbarism. Traditionally, understandings of "barbarism" have been confined to criminology or war studies, while theorising about civil war or the erosion of the civil within societies has remained marginal. Political and social studies have tended to focus more on how the civil is rebuilt after political conflict than on how it collapses and gives rise to such conflict.[28] Giorgio Agamben highlighted this dynamic in his work *Civil War as a Political Paradigm*.[29] More recent works have sought to examine in depth how the civil erodes within a society and the factors driving internal collapse.[30]

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26 Jean-Jacques Rousseau, *The Social Contract* (New York: Carlton House, n.d.), bk. 1, chaps. 8–9, 14–17.

27 Ibn Khaldun, *The Muqaddimah*, 328.

28 See, for example, Mary Kaldor's attempt to define civicness along the axes of public order and public rights within the framework of citizenship –such as the right to public services (i.e., the policy dimension) – and the dimension of civility in practice, which lies at the heart of fostering participation and engagement as part of the citizen's responsibilities. Kaldor examines how these two aspects of civility –at the level of the political system and at the level of the citizen– relate to policies that undermine civility, such as sectarianism and political corruption.

29 Giorgio Agamben, *The Civil War as a Political Paradigm*, translated into Arabic by Ubaydah Amer (Cairo: Madarat for Research and Publishing, 2015).

30 See for example: Barbara F. Walter, *How Civil Wars Start: and How to Stop Them* (New York: Crown Publications, 2022), 194–226.

The rise of populism in any society can foster cohesion and unity around a shared identity, yet it can also accelerate the erosion of the civil, potentially culminating in civil strife.[31] A notable challenge in periods of political transition is distinguishing between genuinely popular movements and populist strategies: whether in mobilising crowds during political events, in opposition tactics, or in social movements seeking to expand democratic participation for ideological —religious or secular— ends. Degrees of populism are also observable in partisan discourse, where populist appeals are strategically exploited to advance political agendas, either to garner electoral support or to exert pressure in negotiations between political forces, with potential implications for the erosion or reinforcement of the civil.

B. The Second Challenge: Sovereignty and the State of Exception

As noted earlier, discussing the civil state should not be limited to contrasting it with religious or military forms of government. Rather, the discussion must begin by examining the state itself to understand the limits of its role in the civil.

Historical sociology helps us understand the specific nature of the state's initially unlimited authority, both in its origins and its subsequent development. Thomas Hobbes, in *Leviathan*, conceptualised the emergence of the contractual state with absolute power over territory and citizens. This idea is rendered more starkly and violently in the work of Charles Tilly, who described the moment of state formation as rooted in war and organised crime, only later acquiring legitimacy.[32] Carl Schmitt further developed the concept of the state of exception, in which the state has the authority to suspend constitutional norms, impose emergency measures for reasons of national security at its discretion, and even dissolve parliament, with profound implications for the civil sphere.[33]

In turn, Michael Mann discusses the concept of the degree of state autonomy, examining its origins, mechanisms, and implications through a critical analysis of contemporary theories of the state, particularly those he considers reductionist —whether emphasising total sovereignty or the imposition of a state of exception, as proposed by Carl Schmitt.

Mann highlights both the foundational dimensions and operational dynamics of state power, with particular attention to its independence from the civil. His analysis casts the idea of the civil state in a critical light, showing that, according to his view, the state possesses a distinctive autonomous authority derived from its capacity to centralise sovereignty over territory, monopolise the creation of formal rules, and confer legitimacy and status that enable elites to exercise decision-making power. In this sovereign context, Mann distinguishes between coercive power —the ability to enforce measures unilaterally— and structural power—the capacity to implement decisions effectively. Structural power allows the state to penetrate the civil and carry out its decisions efficiently,

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31 See for further detail: Azmi Beshara, *Fi al-Ijaba 'an Su'al: Ma al-Sha'bawiyya* [What is Populism] (Doha: Arab Center for Research and Policy Studies, 2019).

32 Charles Tilly, "War Making and State Making as Organised Crime," in *Bringing the State Back In*, edited by Theda Skocpol, Peter B. Evans, and Dietrich Rueschemeyer (Cambridge: Cambridge University Press, 1985), 169–187.

33 Carl Schmitt, *Political Theology: Four Chapters on the Concept of Sovereignty*, translated by George Schwab (Chicago: University of Chicago Press, 1985), 5–15; Carl Schmitt, *The Nomos of the Earth in the International Law of the Jus Publicum Europaeum*, translated and annotated by G. L. Ulmen (New York: Telos Press Publishing, 2006).

and it has expanded significantly in modern societies, enhancing the logistical control of the state. Historical examples, he argues, reveal differences in despotic authority across societies, with some states exercising near-absolute autocratic power. [34]

Along these lines, it can be argued that the civil encompasses a space of various intersections, including all key players—state authority among them. As noted earlier, the term "civil state," despite its prevalence in political discourse, is not precise. A more accurate understanding recognises that the state acts within the civil, with its primary role being to preserve the civil —its values, networks, and functions— a topic we will address shortly.

The civil can thus be conceptualised as a complex semantic map composed of multiple elements: the general will, public order, the public/civil sphere, the common good and public opinion, civic virtues and civil rights, public property, shared spaces, and, finally, civil knowledge, including the humanities, social sciences, and the law. The state's role is to safeguard all these components without overstepping through sovereign power that would undermine them; in other words, sovereignty should operate within limits that do not encroach upon the civil in any of its dimensions.

Here, the civil can be understood in the context of the constitution as a characteristic of the social contract or the public order expressed in the constitutional text. This underscores the importance of predicating the constitution and the law on the "general will," which requires examining how this "public" is constructed. In the contemporary context, the public primarily conveys notions of the populace or the citizenry—meanings often reflected in the preamble of constitutions, which speak in the name of the people or the nation to articulate the identity under which commitment to the constitution is secured (we will explore this further in the final section).

In order to build a conceptual map of the civil in relation to constitutions and the state, it is necessary to include terms such as the common good, public welfare, the public sphere, and public deliberation. A constitution cannot be truly civil without these elements; otherwise, it risks becoming a declaration of authority by the ruling power —essentially a military-style directive over the political and social space— rather than an expression of consensus or genuine civility.[35] This perspective aligns with the view of constitutional scholars who argued that the post-2011 period in Egypt should have been framed as the construction of a "second republic," rather than merely temporary amendments followed by debates over a new constitution. [36]

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[34] Michael Mann, "The Autonomous Power of the State: Its Origins, Mechanisms and Results," *European Journal of Sociology* 25, no. 2 (1984): 185–213.

[35] See Abu Yaarub al-Marzouqi, "The Public Sphere," in *Kitab Magharib*, no. 1 (Rabat: Magharib Center for Studies, 2018), 13–24, on the importance of addressing the idea of universality and its existential and temporal dimensions before engaging in a debate on the communicative, spatial, and political public sphere as presented by Habermas –that is, a normative, historical reconstruction that begins with an idealised philosophical concept and then traces its actualisation and subsequent decline.

[36] See also: Mahmoud Sharif Basiuni and Mohammed Hilal, *Al-Jumhuriya al-Thaniya fi Misr* [The Second Republic in Egypt] (Cairo: Dar al-Shuruq, 2012).

It is important to emphasise that understanding the position of religion is not merely a question of inserting a specific constitutional article here or there; rather, it permeates all dimensions of the constitution and represents an essential aspect of its fabric. Tareq al-Bishri, in his work on the historical and cultural context of codifying sharia, observes that the political debate over the matter was far more intense than the purely jurisprudential or legal debate. He further argues that grasping the complexity of this issue requires an understanding of political transformations and key turning points in nineteenth-century economic history, beginning with the *Tanzimat* reforms in the Ottoman Empire and parallel developments in Egypt—particularly during the reign of Khedive Ismail, whose openness to the West and entanglement in cycles of debt led to significant institutional changes. These included the decline of sharia-based courts, the establishment of new legal systems, the expansion of foreign privileges, transformations in judicial structures, reforms in education, and reshaped social elites. This also unfolded in a process of modernisation within a tense relationship with the Western model, oscillating between a simulation of Western social and economic systems and resistance in pursuit of independence from foreign domination.

Accordingly, Tareq al-Bishri argues that understanding these complexities must begin with recognising that the codification of sharia is not merely a matter of constitutional texts or legal provisions. Rather, it forms part of a broader civilisational and cultural landscape that transcends political boundaries, aiming towards a more integrated legal and judicial order within that wider sphere.[37]

II. The Egyptian Constitution: Beginnings and Extended Trajectories

Between 1805 and 1882, Egypt experienced a protracted struggle to establish a national constitution that would serve as the foundational framework for governance, define powers, guarantee rights and duties, and limit the authority of the ruler. These endeavours coincided with a wave of intellectual writings that sparked the discourse of the *Nahda*, alongside the dispatch of educational missions and the broader intellectual movement that ensued. The process culminated in the first draft of an Egyptian constitution in 1879; however, it did not receive the approval of Khedive Ismail due to the circumstances surrounding his removal from power, and thus never came into effect as a formal constitutional document.[38]

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[37] See: Tariq al-Bishri, *Al-Siyaq al-Tarikhi wa al-Thaqafi li-Taqnin al-Sharia al-Islamiyya* [The Historical and Cultural Context of Codifying Islamic Sharia] (Cairo: Maktabat al-Shuruq al-Dawliyya, 2011). It should be noted that Tariq al-Bishri focused on documentation and writing following the controversy over constitutional amendments and the intense politicization of the civic domain by Islamic currents. He dedicated his efforts to authorship, whereas the Muslim Brotherhood and Salafists appear to have gained little from his work, as political calculations dominated the constitutional debate—a point that will be revisited later in the discussion of post-revolution constitutions.

[38] Regarding this period, see: Elias al-Ayyubi, *Tarikh Misr fi Ahd al-Khedive Ismail Basha 1863–1879* [History of Egypt under Khedive Ismail Pasha, 1863–1879] (Cairo: Dar al-Kutub al-Misriyya, 1923).

Under his successor, Khedive Tawfiq, the national movement succeeded in 1882 in promulgating the first formal constitutional document, known as the Basic Law, which emerged in the context of the Urabi Revolt. However, it was soon annulled by the British occupation authorities.[39] Popular resistance to colonial rule continued, culminating in the 1919 Revolution. Three years later, on 28 February 1922, Britain declared the end of its protectorate over Egypt, while retaining certain privileges.[40] Egypt was subsequently proclaimed a monarchy, prompting the government to seek the establishment of a constitution consistent with its new political status.

The government called upon existing Egyptian political parties to participate in drafting the constitution. However, the national movement demanded that it be drafted by an elected constituent assembly rather than an appointed body. Despite this, the government formed a committee of thirty members composed of legal officials, leaders of the Liberal Constitutional Party, and prominent public figures, including Sheikh Mohammed Bakhit al-Mutii, Sheikh Mohammed Najib, Sheikh Mohammed Khayrat Radi Bey, Anba Yuannis, and others.

The 1923 Constitution enshrined several key principles: Article 12 guaranteed absolute freedom of belief, while Article 13 affirmed the freedom to practise religious rites "in accordance with established customs in Egypt," provided that this did not contravene public order or morality. In the section on general provisions, Article 149 declared Islam as the religion of the state and Arabic as its official language. Under this constitution, Egypt's first parliament convened on 15 March 1924.[41]

The 1923 Constitution remained in force until the promulgation of a new constitution on 22 October 1930. Along with the freedom of belief, the designation of Islam as the religion of the state, and Arabic as its official language, the 1930 Constitution retained provisions similar to those of the 1923 Constitution. However, the 1930 Constitution was suspended on 30 November 1934, after which the 1923 Constitution was reinstated on 12 December 1935. It remained in effect until it was abolished on 10 December 1952, through the first constitutional declaration issued by the Revolutionary Command Council following the 23 July 1952 Revolution.[42]

It is important here to consider the parallel cultural and intellectual landscape between 1923 and 1952, which was marked by significant debates on key issues related to identity, public order, women's rights, and the status of Copts. This period witnessed early discussions on systems of governance following the abolition of the Islamic Caliphate, including the well-known controversy surrounding Ali Abdel Raziq and his work *Islam and the Foundations of Governance*. It also saw debates on the role of the scientific method as a framework for thought, the evolution of the Arabic language, literary movements, and other related issues.[43]

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[39] Mohammed Abd al-Rahim Mustafa, *Tarikh Misr al-Hadith* [Modern History of Egypt] (Cairo: Al-Matabie al-Amiriyya, 1951), 248–252.

[40] Marwa Samir, "Thawrat 1919 wa Atharuha 'ala al-Hayat al-Dusturiyya fi Misr" [The 1919 Revolution and Its Impact on Constitutional Life in Egypt], *Hadara Center website, Civilisation Center for Studies and Research*, April 2019.

[41] Mohammed Nour Farhat and Umar Farhat, *Al-Tarikh al-Dusturi al-Misri* [The Egyptian Constitutional History] (Beirut: Al-Dar al-Arabiyya lil-Ulum – Publishers, 2011), chap. 3.

[42] Ali al-Din Hilal, *Tatawwur al-Nizam al-Siyasi al-Misri 1803–1999* [The Development of the Egyptian Political System, 1803–1999] (Cairo: Center for Political Research and Studies, Cairo University, 2002), 73–90.

[43] For a detailed discussion of those intellectual and literary debates, see: Anwar al-Jundi, *Al-Maarik al-Adabiyya fi Misr 1914–1939* [Literary Battles in Egypt, 1914–1939] (Cairo: Al-Anglo Library, 1983).

Understanding this period and its discourses is essential for tracing the transformation of the concept of the civil within the cultural sphere, particularly its movement toward secular orientations. While this did not fundamentally alter the practical role of sharia as a reference, it did contribute to the emergence of intellectual, cultural, literary, and even judicial currents that were increasingly distanced from the traditional religious sphere.

At the same time, this did not amount to a systematic shift toward secularism comparable to the Turkish experience. Indeed, the same period witnessed the founding of the Muslim Brotherhood and the active participation of Al-Azhar scholars in these debates. Many of these discussions would reemerge in the 1990s and after 2011, albeit in different contexts shaped by globalisation and a noticeable decline in the depth of public cultural debate, as will be discussed later.

Following the July 1952 Revolution, the 1923 Constitution was suspended. In September 1952, the Muslim Brotherhood took the initiative to draft a constitutional proposal, prior to the formation of the 50-member Committee by the Revolutionary Command Council. The draft, published in *al-Daawa* magazine, declared in its first chapter on sovereignty that "Egypt is an Islamic state with a representative government." In the chapter on the distribution of state functions, Articles 44 and 45 stipulated that legislation should not contradict Islam. Article 97 affirmed that "Islam is the religion of the state and Arabic its official language," while Article 102 provided that all existing legislation inconsistent with the constitution's provisions and spirit should be repealed and replaced with laws aligned with Islamic principles and teachings. The draft opened with a theoretical preamble authored by Taha Badawi, a constitutional jurist and professor of political theory at Alexandria University. He outlined the guiding principles and philosophical foundations of the proposed constitution, grounding them in the Quran, the Prophetic tradition, and the governance practices of the Rightly Guided Caliphs. At the same time, the draft incorporated elements from contemporary constitutional systems, including the presidential model of the United States and the assembly-based systems found in European constitutions such as those of Austria (1920), Turkey (1924), and Switzerland. [44]

This draft, however, was not adopted. After assuming power, the Free Officers abolished the monarchy and dissolved political parties.[45] Subsequently, on 13 January 1953, a new committee of fifty members, drawn from prominent political, cultural, judicial, and military figures, was formed under Prime Minister Ali Maher to draft a new constitution for the country.

Abdel Razzaq al-Sanhuri was among the most prominent members of this committee. He had earlier drafted the Egyptian Civil Code of 1948. Al-Sanhuri emphasised the necessity of adopting modern legal drafting techniques while maintaining that the constitution should not contradict Islamic law. He had written his second doctoral dissertation in France on the concept of the Islamic caliphate and its possible transformation into a league of nations and contributed writings on civility and Islam.

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[44] For the full text of the constitution, see: Ibrahim Zahmul, *Al-Ikhwan al-Muslimun: Awraq Tarikhiyya* [The Muslim Brotherhood: Historical Papers] (France: n.p., n.d.) This complete version of the constitution is rare, and the book exists in limited copies in several university libraries. An earlier version was available on ikhwanwiki.com, which is no longer online.

[45] For a detailed review, see: Ahmed Zakariya Shalaq, *Thawrat Yulyu wa al-Hayat al-Hizbiyya: al-Nizam wa Ihtiwa´ al-Jamahir* [The July Revolution and Party Life: The Regime and the Containment of the Masses] (Cairo: Dar al-Shuruq, 2010).

The committee also included Abdel Qader Awdah, a leading legal scholar associated with the Muslim Brotherhood and author of *Islamic Criminal Law*, as well as Saleh Ashmawi and Hassan al-Ashmawi (also affiliated with the Brotherhood). It further comprised prominent religious figures such as Al-Azhar Sheikh Abdel Rahman Taj, Sheikh Hassan Maamoun, president of the Supreme Sharia Court, and Sheikh Mohammed al-Oudn, alongside notable political and public figures from various parties. Notably, the committee did not include any members of the Revolutionary Command Council[46] —unlike later constitutional processes, such as those following the 2011 revolution, which featured direct representation from the military establishment.

With regard to identity and religion, the 1953 draft constitution stipulated in Article 11 that "freedom of belief is absolute, and the state guarantees the freedom to practise religious rites according to established customs in Egypt, provided that this does not violate public order or morality." Article 195 further affirmed that "Islam is the religion of the state and Arabic its official language."

The work of this committee was ultimately set aside, and a constitutional declaration was swiftly issued in February 1953 by the Commander-in-Chief of the Armed Forces and leader of the revolution at the time, Major General Mohamed Naguib. The declaration opened with "In the name of the people," and stipulated: "With a desire to establish the foundations of governance during the transitional period, to organise the rights and duties of all citizens, and to enable the country to enjoy comprehensive stability that allows productive output and elevates it to the level we all hope for."

To better understand the contextual framework of the constitution and civility, three provisions are particularly relevant. Article 1 stipulates that all powers derive from the nation; Article 4 affirms that freedom of belief is absolute and guarantees the practice of religious rites in accordance with established customs, provided that this does not violate public order or morality; and Article 8 assigns the exercise of supreme sovereign authority to the leader of the revolution through the Revolutionary Command Council. Notably, the proclamation does not reference sharia as a legal source or designate a state religion, likely due to its limited number of articles, while granting the military supreme sovereign authority during this period. [47]

Evidently, the notion of "acts of sovereignty" constituted a precise reference to the doctrine of sovereign acts. At its core, the purpose of the state is the establishment of law, a function it carries out through its recognised legal powers: the legislative, judicial, and executive functions. According to the principle of the rule of law, all authorities are subject to the provisions of the constitution. However, the doctrine of sovereign acts represents a pragmatic doctrine stemming from the judicial policy of the French Conseil d'État, which grants the executive power broad discretionary authority.

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[46] Mohammed Jaber al-Zuhayri, "Thawrat 23 Yulyu 1952 wa Mashru' Dustur 1954 (Dustur Lajnat al-Khamsin)" [The July 23, 1952 Revolution and the 1954 Draft Constitution (The Fifty-Member Committee Constitution)], *Majallat Buhuth al-Sharq al-Awsat* 4, no. 39, serial no. 2 (September 2016): 467–488.

[47] Manshurat Qanuniyah (Digital Archive), *Constitutional Declaration by the Commander-in-Chief of the Armed Forces, Leader of the Revolution, and Head of the Army*, 10 February 1953.

Legal scholars in France, as in other jurisdictions, have sought to circumscribe this doctrine by establishing limits and safeguards governing its application. [48]

A comparison can be drawn with later developments, particularly the 2019 constitutional amendments in Egypt, where the military similarly asserted its position as the supreme authority, adhering to the same underlying doctrine, albeit through different mechanisms shaped by a distinct political context.

A striking point is that when the 50-member Committee finalised its 1954 draft constitution, its efforts were dismissed. Abdel Rahman Badawi notes that although the committee built on the 1923 constitution, completing the draft took almost a year and a half, finishing in August 1954.[49] Delays were largely due to prolonged debates among committee members and the need to adjust to rapidly changing circumstances. With the committee favouring a parliamentary system, and internal and regional events unfolding swiftly, the Revolutionary Command Council issued the 1953 Constitutional Declaration.

The draft disappeared, surviving only in scattered articles and press reports that referenced some of its provisions. It was eventually discovered in a neglected box in a corridor of the Higher Institute for Arab Studies in Cairo — affiliated with the League of Arab States and co-founded by al-Sanhuri— when the writer and historian Salah Issa was searching for books and references in the basement. The draft was finally published in 2001.[50]

The 1953 Constitutional Declaration remained in force until 16 January 1956, when a new constitution was approved by referendum and Gamal Abdel Nasser was elected President of the Republic, having previously served as head of the Revolutionary Command Council.

The 1956 Constitution declared Egypt an independent, sovereign Arab state and a democratic republic, recognising the Egyptian people as part of the Arab nation. Article 2 established that sovereignty rests with the nation and must be exercised as prescribed in the constitution. Article 3 designated Islam as the state religion and Arabic as the official language. Article 30 guaranteed equality before the law regardless of gender, origin, language, religion, or creed, and Article 43 affirmed absolute freedom of belief. [51]

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48 Abd al-Fattah Sayer, *Nazariyat A'mal al-Siyada: Dirasa Muqarana fi al-Qanunayn al-Misri wa al-Faransi* [The Theory of Acts of Sovereignty: A Comparative Study in Egyptian and French Law] (Cairo: Cairo University Press, 1955). Hamdi Ali Umar, *Al-Ittijahat al-Haditha fi al-Qada' fi al-Raqaba 'ala A'mal al-Siyada* [Modern Trends in Judicial Oversight of Acts of Sovereignty] (Cairo: Dar al-Nahda al-Arabiyya, 2016).

49 Abd al-Rahman al-Rafii, *Thawrat 23 Yulyu 1952: Tarikhuna al-Qawmi fi Sab' Sanawat 1952–1959* [The 23 July 1952 Revolution: Our National History in Seven Years, 1952–1959], 2nd ed. (Cairo: Dar al-Maarif, 1989), 87.

50 Salah Issa, *Dustur fi Sunduq al-Qimama: Qissat Dustur 1954* [A Constitution in the Rubbish Bin: The Story of the 1954 Constitution], foreword by Judge Awad al-Mur (Cairo: Cairo Institute for Human Rights Studies, 2001).

51 Manshurat Qanuniyah (Digital Archive), *Al-Waqae Al-Masriyah* (Official Gazette): The Constitution of the Egyptian Republic, 1956.

During the Nasser era, there was little debate over the religious versus civil dimension. Egyptian nationalism and Arab unity dominated political discourse, with official religious institutions experiencing two confrontations with the Muslim Brotherhood in 1954 and 1965. Socialism was the prevailing ideological and political framework, widely regarded as compatible with Islamic principles of social justice. The concept of "civil" was largely absent, with attention instead focused on social justice and national independence, particularly amid the conflict with Israel.

In 1958, following the formation of the United Arab Republic—the political union of Egypt and Syria—the constitution made no reference to Islam. After the dissolution of the union, President Nasser issued the 1962 Constitutional Declaration, which likewise omitted religion. Egypt continued to be known as the United Arab Republic until 1971.

During Gamal Abdel Nasser's rule, Islam was not explicitly enshrined as a constitutional matter. Instead, efforts to codify Islamic law began under his leadership, beginning with Law No. 103 of 1961 concerning the reorganisation of al-Azhar and its affiliated bodies.[52] Article 2 of this law stipulated that its aim was to "provide the Islamic world and the Arab nation with specialists and authorities in matters related to Islamic law, Arabic and religious culture, and the language of the Quran." Under Article 15, the Islamic Research Academy (Majmaa al-Buḥuth al-Islamiyya) was established, with an organisational structure comprising several committees: the Quran and Sunnah Committee, the Jurisprudential Research Committee, the Islamic Heritage Revival Committee, and the Social Studies Committee.[53]

The Islamic Research Academy held its first conference in 1964, during which a resolution was passed to establish a committee tasked with codifying Islamic law. This committee commenced its work in March 1967 and, in 1972, published its inaugural study on the Book of Transactions (*Kitab Al-Buyu*), addressing sharia-related economic and commercial dimensions, in collaboration with religious scholars and legal experts.

In the introduction to the works of the Preparatory Committee for the Codification of Islamic Law, published by the Islamic Research Academy in 1972, Mohammed Abd al-Rahman Bissar notes that these works are the product of a collaborative effort between Al-Azhar scholars and legal experts. He emphasises that the codification is not final but remains open to public discussion and additions, and that it is intended for Muslim societies to implement the provisions of their constitutions stipulating that islamic law serves as a primary source of legislation.[54]

In the recommendations of the eighth conference of the Islamic Research Academy, held in Cairo in October 1977, Al-Azhar and the Academy were specifically called upon to draft an Islamic constitution. Dr Abdel Halim Mahmoud, then Sheikh of Al-Azhar and head of the Academy, formed a supreme committee alongside the members of the Academy's Constitutional Research Committee, composed of a select group of senior figures in Islamic jurisprudence and constitutional law to undertake this task.

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52 Manshurat Qanuniyah (Digital Archive), Law No. 103 of 1961 on the re-organization of Al-Azhar and its bodies.

53 Mohammed Abd al-Rahman Bisar, *Al-Muqaddima, Mashru' Taqnin al-Shari'a al-Islamiyya* [Introduction, Project for the Codification of Islamic Sharia], 4 vols., Report of the Preparatory Committee for the Codification of Islamic Sharia (Cairo: Islamic Research Academy, 1972).

54 Report of the Preparatory Committee for the Codification of Islamic Sharia, 4 vols. (Cairo: Islamic Research Academy, 1972), 5–11.

Al-Azhar subsequently issued a proposed draft of an Islamic constitution in 1978;[55] however, the draft lacked the refined legal formulation mastered by constitutional scholars such as al-Sanhuri, and it did not receive any significant debate. Sheikh Abdel Halim Mahmoud, a strong supporter of the draft who held considerable standing with both the state and the scholarly community, passed away shortly after its completion. Subsequently, a series of domestic events unfolded, including the signing of the peace treaty with Israel, President Sadat's clash with the national forces, and ultimately his assassination during what became known as the "Autumn of Fury" in October 1981.[56]

It appears from the foregoing that the codification of Islamic law after the 1952 Revolution —and the continuation of what al-Sanhuri had begun with the drafting of a civil code consistent with sharia in 1948—[57] actually began under Gamal Abdel Nasser, not under Anwar Sadat as some scholars have suggested. Sadat later leveraged religious legitimacy in his political rhetoric and permitted the Islamic movement to re-enter the political arena.

When the 1971 Constitution declared that "the principles of Islamic sharia are the primary source of legislation" (Article 2),[58] several legal committees initiated a review of the relevant literature to guide the practical implementation of this provision—a process that continued over several years.

In 1978, under the leadership of Dr Sofi Abu Talib, the People's Assembly established a committee to codify sharia. The committee completed its work, submitted it to the Assembly, and published its findings in 1983, at the outset of President Mubarak's rule. Dr Sofi subsequently resigned as Speaker of the Assembly to return to teaching at the Faculty of Law, continuing to educate students on the relationship between sharia and law and the practical avenues for its application in Arab countries, systematically refuting claims of its rigidity or incapacity to address contemporary developments or to safeguard minority rights.[59] As with the proposed 1954 Constitution, which was not made fully available until 1999, the codification report was not published for public debate after 1983, but was instead issued by the People's Assembly in 2012.[60]

The issue of codifying Islamic law remained central, and sharia became the main source of legislation in the 1980 constitutional amendment, which changed the phrasing from "a primary source" to "the primary source" through the addition of the definite article "al" in Arabic).[61]

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55 See the draft text in: Mohammed Sayyed Ahmad al-Masir, *Nahw Dustur Islami: Mashru' Wada' Mawadihi al-Azhar al-Sharif* [Toward an Islamic Constitution: A Project Whose Articles Were Drafted by Al-Azhar al-Sharif] (Cairo: Dar al-Tibaa al-Muhammadiyya, 1995). An electronic version of the draft articles is also available on the IslamWay website.

56 See: Mohamed Hassanein Heikal, *Kharif al-Ghadab* [Autumn of Fury] (Beirut: Al-Matbuaat for Distribution and Publishing, 1986).

57 On al-Sanhuri's codification efforts see : Enid Hill, "Al-Sanhuri and Islamic Law: The Place and Significance of Islamic Law in the Life and Work of ʿAbd al-Razzaq Ahmad al-Sanhuri, Egyptian Jurist and Scholar, 1895–1971," *Arab Law Quarterly* 3, no. 1 (1988): 182.

58 See the text of the 1971 Constitution in: Manshurat Qanuniyah (Digital Archive).

59 Among the most important works of Abu Talib: Sufi Hasan Abu Talib, *Tatbiq al-Shari'a al-Islamiyya fi al-Bilad al-'Arabiyya* [The Application of Islamic Sharia in the Arab Countries] (Cairo: Cairo University Press, 1989).

60 Arab Republic of Egypt, People's Assembly, Press and Publication Department, "Codification of Islamic Sharia in the People's Assembly" (1983), in *Complete Works: Codification of Islamic Sharia in the People's Assembly, Volume One*, ed. Tariq al-Bishri and Ibrahim al-Bayumi Ghanim (Cairo: Maktabat al-Shuruq al-Dawliyya, 2012).

61 Manshurat Qanuniyah (Digital Archive), Amendment to the Constitution of the Arab Republic of Egypt, 1980.

The codification of sharia continued to feature prominently in election slogans, and debates over it persisted in the People's Assembly in 1984 and 1987. However, following Sadat's assassination and President Mubarak's concerns about the potential rise of Islamists—particularly in the wake of the Iranian Revolution and Islamist governance in Sudan—calls within the Assembly pushed for a gradual approach on one hand, and for purifying the existing body of law on the other.

The 1987 Assembly was dissolved due to legal issues, and in the 1990 and 1995 sessions, Islamist representation was limited to a few individual voices. Consequently, progress on implementing sharia slowed in the absence of political will. In the 2000 Assembly, Islamist deputies focused largely on urgent social issues and restrictions on civil liberties, while the ruling National Democratic Party emphasised sharia in its election campaigns, both to undercut Islamist political influence and to attract votes.

The Muslim Brotherhood gained 88 seats in the People's Assembly in the 2005 elections, presenting a potential opportunity to revive the issue of sharia codification. However, political instability and urgent public demands took precedence, while Brotherhood leaders faced military trials, directing their focus toward rights and civil liberties. During this period, political alliances emerged aimed at preventing the hereditary transfer of power, amid confrontations between the authorities and the judiciary, among other events. Five years later, the 2010 elections were rigged, leaving the Islamist current without any seats, which contributed to the outbreak of the January 2011 events.[62]

In the context of this study, it is noteworthy that during the late 1980s and throughout the 1990s, as debates over sharia receded in the People's Assembly, discussions on civility and secularism intensified in the public sphere. Just as cultural and intellectual life under the 1923 Constitution—up to the July 1952 Revolution—was marked by debates over identity and rights, these issues resurfaced during this later period, now engaging a broader public audience. Prominent debates emerged between leading Islamic figures and secular intellectuals, with the latter arguing that secularism offered viable solutions in response to the slogans of "Islam is the solution." Among the most notable were the exchanges between Sheikh Mohammed al-Ghazali and Dr. Farag Foda, as well as the debates involving Sheikh Mohammed al-Ghazali and Dr. Yusuf al-Qaradawi with Dr. Fouad Zakaria. [63]

[62] For a detailed account of the extended debates in the People's Assembly, which draws on session minutes and the positions of the legislative, executive, and judicial authorities, see: Hazim Ali Mahir, *Tatbiq al-Sharia al-Islamiyya wa al-Nusus al-Dusturiyya* [The Application of Islamic Sharia and Constitutional Texts], foreword by Tariq al-Bishri (Cairo: Dar al-Nahda al-Arabiyya, 2018), 230–438.

[63] Mohammed Amarah, *Tatbiq al-Shari'a al-Islamiyya wa al-Nusus al-Dusturiyya* [Egypt between the Civil and Religious State: The Most Famous Debates of the Twentieth Century] (Cairo: Maktabat Wahba, 2011).

III. The Egyptian Constitution and the Post-2022 Transformations

Following Mubarak's resignation, political and revolutionary forces fragmented over the question of the constitution, marking the onset of deep divisions after three decades of fragile alliances and extended dialogue. Secular currents were alarmed by the rapid rise of Islamist movements and their ability to mobilize broad popular support, exerting strong influence over the political landscape—whether through the Muslim Brotherhood or the Salafi current. Additionally, groups previously associated with jihadist Salafism entered the political arena, forming parties and competing in elections.

The secular current—both right and left—viewed this situation with apprehension and sought to leverage the popular momentum to push for constitutional amendments aimed at consolidating civil liberties. Although critiques of Article 2, which declares Islamic law the principal source of legislation, were limited due to its broad popular acceptance, the broader objective was to strengthen the anticipated constitution with provisions safeguarding civil rights, freedoms, and creativity. These measures aimed to ensure social justice in the context of Islamists' tendencies towards free-market policies, while constraining the military's role—a balance that Islamic currents themselves were generally keen to maintain.

Once the constitutional amendments of March 2011 were finalised and ratified, political parties began preparing for the forthcoming parliamentary elections. The leftist current, led by major platforms such as the Tagammu and Nasserist parties, along with Al-Ghad and Al-Karama, mobilised their efforts, while the Popular Forces Front coalesced from smaller socialist parties.

Meanwhile, the liberal camp—divided between the old Wafd Party and emerging parties such as the Justice Party, the Free Egyptians, and the Egyptian Social Democratic Party—struggled to gain the trust of a state that tended to favour street-mobilising forces. As a result, liberals failed to secure sufficient parliamentary seats to exert meaningful political or legislative influence.[64]

Amid this spectrum —from left to right, and including the broader currents of the Muslim Brotherhood and Salafists— parties such as the Strong Egypt Party and the Egyptian Current Party emerged, alongside the Wasat Party, which had split from the Brotherhood in the 1990s.

Under Dr. Essam Sharaf, the first Prime Minister following the January 25 Revolution, the Supreme Council of the Armed Forces and the Cabinet convened the National Accord Conference on 21 May 2011. Its aim was to present a comprehensive national vision for the draft constitution, taking into account Egypt's constitutional heritage, comparative constitutions, the two post-revolutionary constitutional declarations of 13 February and 30 March 2011 —which regulated state powers during the transitional period— and the objectives of the January 25 Revolution.

[64] See: Tarek Osman, *Al-Hala al-Liberaliyya fi Misr* [The Liberal Condition in Egypt] (Cairo: Arab Center for Human Studies, 2012). Hala Mustafa, *Azmat al-Liberaliyya al-'Arabiyya: Namudhaj Misr* [The Crisis of Arab Liberalism: The Case of Egypt] (Cairo: Markaz al-Mahrusa, 2011).

An advisory committee was formed, comprising public figures, independent personalities, and selected party leaders, to provide guidance to the Supreme Council of the Armed Forces.

In his historical account of these efforts, Dr. Ali Al-Selmi notes that the advisory committee was purely consultative, submitting its proposals for consideration by the Constituent Assembly, which was to be formed at a later stage. Selmi asserted that efforts to formulate what were termed "supra-constitutional principles" were aimed at building a national consensus. He further explained that the document he presented and published in 2012, which ultimately failed to secure broad agreement, explicitly affirmed, for instance, that Islamic law would be the principal source of legislation. This occurred despite the criticism he faced and accusations of bypassing the popular will, coming from both liberal and Islamist national figures who had participated in the Supreme Council of the Armed Forces advisory board as well as in the National Accord Conference meetings.[65]

The document, commonly referred to as the "Selmi Document," was officially titled *Declaration of the Fundamental Principles for the New Egyptian State and Criteria for the Formation of the Constituent Assembly to Develop a New Constitution for the Country*. It contained a clear statement: "Islam is the religion of the state, and the Arabic language is the official language of the state. Islamic jurisprudence (sharia) is the principal source of legislation. For non-Muslims, personal status and other religious matters are to be determined according to their own rules." Both the Freedom and Justice Party and the Wafd Party approved it during a National Accord Conference meeting, but the Muslim Brotherhood rejected granting it binding authority. Selmi notes in the introduction to the text he published for historical record that several figures who had initially regarded the document as an opportunity for consensus later turned against it.[66]

Conversely, some key political figures did not oppose the idea of codifying sharia. For example, Hamdeen Sabahi, leader of the Karama Party (a Nasserist party), stated that it was incorrect to claim that political polarisation implied that non-Islamic forces were opposed to codifying sharia.[67] Thus, after the January 25 Revolution, the implementation of sharia itself was not the primary source of contention among political forces; rather, the disputes centred on the shape of the republic, the distribution of powers, the role of the military institution, the envisaged economic programme, civil liberties, and other critical issues.

An examination of the various National Dialogue sessions convened under the auspices of the National Association for Change reveals the absence of four fundamental elements necessary for establishing a consensual, binding, and stable social contract. First, there was a lack of clear party representation; it was repeatedly emphasised that participants did not formally represent their political parties. Second, the participating forces failed to abide by the outcomes of negotiations,

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65 See: Ali Selmi Document, which calls for a modern, democratic civil state and includes documentation of some meetings among national forces after the revolution: Ali Selmi, *The Document… The Question of the Constitution and Democracy* (2012), 1–30.

66 Ibid., 31–38

67 Hamoud Saad Eddin, "National Consensus of Political Forces Forms a Committee to Activate Article Two of the Constitution," Al-Youm Al-Sabea Newspaper, August 3, 2011.

as participation was framed primarily as an expression of goodwill rather than a binding commitment, thereby undermining the foundation of political trust. Third, there was an absence of a documented output that could serve as a definitive national or historical reference; arguably, the only extant draft was that recorded by Dr. Ali Selmi. Fourth, and most importantly, there was an absence of neutral key players capable of mediating and guaranteeing the process. In practice, the Supreme Council of the Armed Forces assumed this role, a function that runs counter to the principle of the "civil" consensus the dialogue ostensibly sought to achieve.[68]

The struggle over the street, parliament, and the constitution appeared deeply intertwined. Yet, alongside political forces, civil society voices —particularly from intellectual circles— sought a pathway to safeguard the civil character of the state in the face of Islamist influence. In this context, groups coalesced and identified Al-Azhar as a potential ally, embodying both moderation and official Islam while enjoying broad popular legitimacy.

Al-Azhar assumed this role and began playing an active part in counterbalancing the more assertive Islamist voices, issuing several key documents. The foremost among these was the *Future of Egypt* document, which stipulated: "Supporting the establishment of a national, constitutional, democratic and modern state founded on a constitution approved by the nation, which maintains the separation of the state's authorities and its governing legal institutions. Such a constitution should guarantee the rights and the duties of all citizens equally [...]." Furthermore, the Al-Azhar document identifies the parliament as the sole legislative body and addresses fundamental freedoms, adherence to international covenants, and other critical points.[69]

The currents identifying as part of the "civil" movement, particularly regarding rights, received this document seriously, engaging in discussions on civil liberties with the adviser to the Grand Sheikh of Al-Azhar, with the hope that Al-Azhar's authority would bolster the protection of civil rights, freedoms, and the democratic trajectory.[70]

Because Al-Azhar's legitimacy was widely recognised and stable, it continued to support the civil character of the political scene from an Islamic perspective, representing moderate religious principles. Consequently, the Grand Sheikh of Al-Azhar issued the *Al-Azhar Document on Fundamental Freedoms*[71] on 8 January 2012, which was announced in the presence of representatives from most political forces and prominent figures. On 31 January 2013, Al-Azhar also issued the *Document on the Rejection of Violence*.[72] Through these documents, Al-Azhar established a clear civil discourse, whose terminology became widely circulated within Al-Azhar itself and among its representatives in national bodies and the 50-member Committee of 2014.

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68 See for further details: Aly El Raggal and Heba Raouf Ezzat, "Can a Revolution Be Negotiated?" in *Arab Spring: Negotiating in the Shadow of Intifadat*, ed. William Zartman (Athens, GA: University of Georgia Press, 2015), 80–115.

69 *The Future of Egypt Document*, Shaykh al-Azhar, Imam al-Ṭayyib, 10 June 2011.

70 Salon Ibn Rushd, "Wathiqat al-Azhar bayn al-Dawla al-Diniyya wa al-Madaniyya" [Al-Azhar Document between the Religious State and the Civil State] (Cairo: Cairo Institute for Human Rights Studies, 19 July 2011).

71 See the text of the document.

72 See the text of the document.

In light of the constitutional developments during this period, following the 25 January 2011 Revolution and the resignation of President Hosni Mubarak on 11 February 2011, authority was transferred to the Supreme Council of the Armed Forces, which assumed responsibility for administering the country's affairs. The Supreme Council of the Armed Forces issued a series of constitutional declarations to govern the transitional period. The first constitutional declaration was issued on 13 February 2011 —just two days after Mubarak's resignation. The declaration affirmed that the military would not retain power and would commit to transferring authority to a civil government elected within six months, or until parliamentary and presidential elections could be conducted.

The declaration also suspended the elected People's Assembly and Shura Council of 2010 and put the 1971 Constitution on hold. It further amended the powers of the Supreme Council of the Armed Forces and curtailed certain powers of both parliament and the presidency, such as removing the president's authority to dissolve parliament and limiting the parliament's power to withdraw confidence from the government.

The second constitutional declaration was issued on 30 March 2011, following the constitutional amendments referendum held on 19 March 2011. This meant that the Supreme Council of the Armed Forces introduced additional amendments after the referendum had concluded and its results had been announced. Political forces, however, chose not to challenge the Supreme Council, and the matter passed without opposition. Subsequently, the Supreme Council made two further amendments to the 30 March declaration: the first, on 25 September 2011, adjusted the ratio of individual and party-list seats in the elections for the People's Assembly and Shura Council; the second, on 19 November 2011, allowed Egyptians abroad to vote under the supervision of ambassadors and consuls rather than judges.

Prior to the 2012 presidential elections, the Supreme Council of the Armed Forces issued another constitutional declaration on Sunday, 17 June 2012, following the second round of voting. This declaration granted immunity from dismissal to members of the Supreme Council until the adoption of the new constitution. It also vested the Council with legislative authority and the power to approve the state budget until a new People's Assembly was elected. Furthermore, it allowed the Council —should the Constituent Assembly (for the Constitution) be unable to function— to form a new assembly and to veto one or more proposed constitutional provisions.

However, this time, after the revolution had gained significant momentum both domestically and internationally, the declaration was met with popular rejection. Mohammed Morsi, Mohammed ElBaradei, and Abdel Moneim Aboul Fotouh denounced it as a measure that shackled the authority of the incoming elected president, and scattered protests erupted in response.

The situation escalated further on 2 November 2012, when Mohamed Morsi issued a supplementary constitutional declaration, which he stated was intended to protect "revolutionary decisions." The declaration introduced several measures: it ordered the reopening of investigations and trials for those accused of killing, injuring, or terrorising protesters during the revolution; it made all presidential decisions final and not subject to challenge by any authority

—including the Supreme Constitutional Court— from the time Morsi assumed office until a new constitution was adopted and a new People's Assembly elected; it dismissed the Attorney General; extended the work of the Constituent Assembly by two months to complete drafting the constitution; and protected both the Shura Council and the Constituent Assembly from being dissolved in the same manner as the People's Assembly.

Morsi's supplementary constitutional declaration triggered widespread unrest and condemnation from opposition and independent forces, ultimately compelling him to retract it. Subsequently, work on the reconstituted Constituent Assembly resumed. Following objections from opposition forces to the second composition, the president added a group of ten public and legal figures —including the author of this paper— for an advisory role. Amid ongoing clashes with the Supreme Constitutional Court, the drafting process was expedited, and 59 amendments proposed by the advisory group were disregarded, prompting its members to withdraw from the process.

The 2012 Constitution was subsequently voted on and ratified. With respect to Article 2 on the principles of sharia, it included an additional provision (Article 3) safeguarding freedom of belief and recognising the right of non-Muslims to rely on their religion in matters of personal status. Article 4 defined the role of Al-Azhar, while Article 219—introduced under pressure from the Salafi current— stated that "The principles of Islamic sharia include general evidence, foundational rules, rules of jurisprudence, and credible sources accepted in Sunni doctrines and by the wider community."

Prior to the ratification of the 2012 Constitution in mid-December, significant unrest had erupted in early December around the Ittihadiya Palace and other locations between supporters of the Muslim Brotherhood and opposition forces. Street violence intensified, resulting in casualties. These events were preceded by earlier confrontations, including those in Abbasia involving Salafi-jihadi groups, which also led to deaths.

Taken together, these episodes illustrate that the political transformations of this period cannot be fully understood without accounting for the recurring street clashes, which reflected a deepening erosion of national consensus and the growing mobilisation of various forces—initially against the Muslim Brotherhood and later against Mohamed Morsi.

In April 2013, this broad opposition crystallised into the Tamarod movement, which organised a signature campaign calling for early presidential elections and helped unify disparate opposition currents. Earlier, the opposition had expanded and intensified, leading to attacks on offices of the Freedom and Justice Party and a major assault on the Muslim Brotherhood's headquarters in Mokattam, Cairo, in March 2013. It became evident that the political landscape was moving towards major confrontations, culminating in the mass protests of 30 June 2013. Subsequently, on 3 July 2013, the Supreme Council of the Armed Forces suspended the constitution with broad support from various forces, bringing that chapter of political life to an end.

A new phase began when Adly Mansour, head of the Supreme Constitutional Court of Egypt, assumed the presidency on an interim basis pending new elections following the removal of Mohamed Morsi from office.

The resulting 2014 Constitution retained Article 2, made freedom of belief "absolute" in Article 3, amended the provisions concerning Al-Azhar, and repealed Article 219. In the mid-2014 presidential elections, Abdel Fattah el-Sisi was elected president. During his tenure, Egypt underwent extensive political and legal transformations aimed at consolidating state authority over its institutions and powers, a process too extensive to detail fully here.

The 2019 constitutional amendments maintained the provisions on sharia and Al-Azhar but introduced two key articles reflecting the continued dominance of state authority over constitutional and legal norms, as noted earlier in this study. Under President el-Sisi, Article 140 was amended to extend the presidential term from four to six years, with the possibility of renewal for two terms, effectively allowing him to remain in office until 2030 (with ongoing discussions regarding further extension). The most significant amendment was to Article 200, which reinforces the army's role in national protection.

Instead of the explicit ban in the previous text limiting the presidency to two terms, the amendment of Article 140 was reworded to allow two consecutive terms. Article 200, concerning the armed forces, was expanded to include – in addition to the duty of protecting the country and preserving its security and territorial integrity – the duty to "maintain the Constitution, democracy, the foundations of a civil state, as well as the people's gains, rights and freedoms."

This amendment framed the military as both guarantor of the Constitution and defender of its civil character. While the wording may satisfy a constitutional scholar, in political-theoretical terms it returns us to the starting point regarding the definition of civility, the limits of sovereignty, and the nature of civil–military relations.

In conclusion, political conflicts have cast long shadows over Egypt's legal and constitutional landscape following the Arab Spring. Rather than serving as a tool to construct a new social contract and foster national consensus on a reimagined form of regime,[73] constitution-making became a domain of domination and contestation.

Conclusion

Both before and after 1952, the state has consistently intervened in balancing the management of politics with the exercise of sovereignty, whether under the monarchy or the republic. Egypt witnessed continuous negotiations between ruling authorities and political forces, alongside modifications to the formulas of political representation: from multiparty pluralism under colonial rule, to a single-party system after independence, and later to a restricted form of pluralism. Constitutional documents were periodically issued, only to be followed by constitutional declarations through which the ruling executive consolidated dominance and imposed its own rules.

[73] Stephen Gardbaum, "Revolutionary Constitutionalism," *International Journal of Constitutional Law* 15, no. 1 (2017): 173–200.

At the same time, under the pressure of external and internal constraints, as well as various social, political, and economic balances, the state was often compelled to build forms of consensus for pragmatic considerations. In doing so, it remained keen to formalise its actions legally to avoid future accountability. At the very least, it adhered to formalities, even when the substance ran counter to the purposes of the law and, perhaps, to its established traditions. It also mobilised mass support and resorted to propaganda mechanisms to provide legitimacy for constitutional amendments or to secure public endorsement for frameworks shaped under sovereign control.

The post–July 1952 regime, in particular, consistently navigated a balance between law and security, while remaining in continuous contestation with various elites in an effort to subordinate or reshape them —most notably the judicial elite. As noted by Amro al-Shalqany, the judiciary experienced a decline in its cultural and political influence compared with the pre-1952 period. Across different phases, the regime largely succeeded in either coercing or co-opting judicial actors, even as calls for judicial independence persisted without interruption. [74]

Of note, the codification of sharia is not merely a matter of political or historical social choice; it also requires deep knowledge of Islamic jurisprudence, legal expertise, and mastery of the craft and conventions of legal drafting. The accumulated body of knowledge possessed by scholars and sharia judges—concerning legal rulings, social realities, and methods of application—evolved over decades and necessitates periodic renewal. Such renewal, particularly in the context of civilisational gaps and periods of societal stagnation, inevitably takes time.

Indeed, alongside the transformations of the nineteenth and twentieth centuries, significant reformist efforts emerged. However, the question of legislation and codification —especially with the rise of the modern state in the Islamic world following the collapse of the Ottoman Empire— prompted scholars to engage in codification in collaboration with constitutional jurists and legal experts.

In practice, the infrastructure for producing cadres capable of codifying sharia has remained robust. Al-Azhar, for instance, houses the Faculty of Sharia and Law, whose graduates often enter the Council of State alongside graduates of secular law faculties. Both the Supreme Council for Islamic Affairs, affiliated with the Ministry of Endowments, and the Al-Azhar Islamic Research Academy maintain, among their core mandates, the dissemination and promotion of Islamic doctrine and law. Moreover, all law faculties in Egypt include departments of sharia, with sharia courses taught throughout the first to fourth years of the Bachelor's degree, in addition to specialised diplomas in sharia required for the Master's degree in legal studies.

There are also prominent constitutional jurists whose rulings struck down certain laws for contravening sharia, such as Awad al-Murr during his tenure as President of the Supreme Constitutional Court.[75] In this light,

[74] Amro al-Shalqani, *Izdihar wa Inhiyar al-Nukhba al-Qanuniyya al-Misriyya, 1805–2005* [The Rise and Fall of the Egyptian Legal Elite, 1805–2005] (Cairo: Dar al-Shuruq, 2013), 317–327.

[75] See also the rulings of Judge Awad al-Murhin, President of the Supreme Constitutional Court, which serve as an important reference for legal professionals and law students: https://www.hewarat.org/index.php/laws/item/509-2023-10-12-12-24-04.

Noah Feldman's conclusion regarding the fragmentation of the legal tradition within law faculties, and the purported decline in the study of sharia during stages of legal and judicial training, appears inaccurate. While the subordination of the judiciary to political authority through various legislative and procedural mechanisms is evident, this does not negate the continued existence of judicial cadres capable of engaging effectively with both the general principles and the detailed rulings of Islamic jurisprudence, as well as with the *maqasid* of sharia.[76]

Notably, during this period, the official religious sphere witnessed a growing civil role for Al-Azhar, while intellectual efforts emerged seeking to articulate a discourse that repeatedly grounded the concept of civility, drawing on the classical heritage outlined in the theoretical introduction. These efforts aimed to reinterpret that legacy within the framework of the modern state and to formulate a vision of an "Islamic civil state." Meanwhile, the dominant Islamist currents remained largely preoccupied with struggles over power.

This indicates that the public discussions prevalent in the first half of the twentieth century, as well as the debates of the 1990s that continued into the early years of the new millennium, had largely subsided due to polarisation. However, the intellectual endeavour concerning independent reasoning (ijtihad) to articulate the civil nature of the Islamic state stemmed from independent Islamic intellectual circles, rather than from within the core of Islamic political movements. The latter confined themselves to reassuring statements or drafting party programmes in moderate language, without producing foundational documents defining the meaning of the desired republic or outlining the features of the civil model they sought.

Among such works are Mohammed al-Abd al-Karim's book on civil reform, Jasser Awdah's book on the civil state, Misfar al-Qahtani's book on civil reform from both traditional and contemporary perspectives, and Abdullah al-Qaisi's book on the civil state from an Islamic viewpoint. None of these books received wide discussion, yet they demonstrate a serious effort to reclaim the meanings of "civility" from the Islamic intellectual tradition and to formulate a vision of reality through it.[77] Meanwhile, the Islamist activist and organisational current continued to suffer from a pronounced intellectual deficit, largely recycling its foundational writings.

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[76] Noah Feldman, *The Fall and Rise of the Islamic State* (Princeton, NJ: Princeton University Press, 2008).

[77] These efforts may be traced back to an early and significant publication that has not received the attention, circulation, or critical discussion its value warrants, particularly given that it appeared amid intense debates between Islamic movements and some secular figures: Al-Shawi, *The Jurisprudence of Shura and Consultation*, 45. Also see: Mohammed al-Abd al-Karim, *Al-Ihtisab al-Madani: Dirasa fi al-Bina al-Maqasidi lil-Ihtisab* [Civil Accountability: A Study in the Maqasid-Based Construction of Accountability] (Beirut: Arab Research and Publishing Network, 2011); Jaser Awdah, *Al-Dawla al-Madaniyya: Nahwa Tajawuz al-Istibdad wa Tahqiq Maqasid al-Shar'* [The Civil State: Toward Overcoming Authoritarianism and Realising the Objectives of Islamic Law] (Beirut: Arab Research and Publishing Network, 2015); Misfar al-Qahtani, *Su'al al-Tadbir: Ru'ya Maqasidiyya fi al-Islah al-Madani* [The Question of Governance: A Maqasid-Based Perspective on Civil Reform] (Beirut: Arab Research and Publishing Network, 2015); Abdallah al-Qaysi, *Al-Dawla al-Madaniyya min Manzur Islami: Ru'ya Tawfiqiyya bayn al-Tayarat al-Islamiyya wa al-Almaniyya* [The Civil State from an Islamic Perspective: A Reconciliatory Vision Between Islamic and Secular Currents] (Istanbul: Al-Safwa Center for Civilisational Studies, 2025).

Finally, the crowded and expansive language found in constitutional preambles points to a latent struggle over defining national identity. The preamble has shifted from a brief introduction expressing the general philosophy of the regime —whether monarchical or republican, socialist or liberal— into a lengthy text attempting to assert particular ideas and negate others concerning the definition of the nation and the political system.

This reflects a crisis in the public sphere, which today has become too constrained to accommodate the kind of intellectual debates that Egypt witnessed from the early twentieth century up until 2011.

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