



# HUMAN RIGHTS ACROSS CULTURAL DIALOGUE

# Human Rights Across Cultural Dialogue

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## 1. Abbreviations

ARD	Arbeitsgemeinschaft der öffentlich-rechtlichen Rundfunkanstalten der Bundesrepublik Deutschland (Broadcaster)
BBC	British Broadcasting Company
CEDAW	Convention for the Elimination of All Forms of Discrimination Against Women
CIHRS	Cairo Institute for Human Rights Studies
CNN	Cable News Network
DEDI	The Danish-Egyptian Dialogue Institute
DIHR	The Danish Institute for Human Rights
DM	The Danish Association of Masters and PhDs
DR	Danish Broadcasting Company
EU	European Union
EUROMED	Euro-Mediterranean Human Rights Network
MB	The Muslim Brotherhood
MENA	The Middle East and North Africa
MEP	Member of Parliament
NGO	Non-Governmental Organisation
NOKS	Northern Women's Cooperation
OIC	The Organization of Islamic Conference
SOAS	School of African and Oriental Studies, London University
UDHR	Universal Declaration of Human Rights
UK	United Kingdom
UN	United Nations
UNDP	United Nations Development Programme

## **2. Preface** **by Rasmus Boserup**

In the summer of 2008, the Danish-Egyptian Dialogue Institute decided that the promotion of a human rights culture in Egypt and in Denmark would be one of four strategic aims. The decision reflected the institute's will to engage actively in what we believed to be an important area for societal development and concern in both countries. In Denmark, the fallout of the so-called "cartoons crisis" continued to accentuate the debate about how small-scale European countries could or should integrate religious minorities – and in particular Muslim minorities. In Egypt, the controversial activism of the Muslim Brotherhood, and not least the group's publication of the first draft of a political party platform, contributed to stirring up heated debates about religious minorities' rights and obligations in Egypt.

In that context, the institute welcomed the initiative taken by one of the strongest Egyptian human rights organizations, the Cairo Institute for Human Rights Studies, to develop a format for an international conference on the topic, aiming to produce fruitful dialogue between human rights defenders, experts, researchers, and decision-makers from Egypt and Denmark. And so, under the title "Bridging the Cultural Divide", DEDI provided a platform through which the Cairo Institute for Human Rights Studies in collaboration with one of its strongest Danish counterparts, the Danish Institute for Human Rights, could develop the idea into a project. In 2009 the institute funded the proposal and in December 2010 the conference was held in Copenhagen, Denmark.

As director of the Danish-Egyptian Dialogue Institute during the period from February 2008 to January 2011, I had the opportunity to closely follow the work of the Egyptian-Danish project team as they conceptualized, developed, and consolidated the project. Like the conference, the present publication is the fruit of their ideas, discussions, and decisions. I wholeheartedly thank them for sharing their dedication and insights not only with us at DEDI, and with their peers, colleagues and fellow practitioners who were invited to attend or speak at the conference, but also with a broader public in- and outside the Arab world in the form of the present book.

The upheavals that have altered power balances and hastened societal transformation in the Arab world starting in the spring of 2011 have but further accentuated the need to address the topic raised in the conference only a few months earlier. In parallel with the opening of several Arab political systems, and with Egypt at the absolute forefront of this development, the challenge of how to bridge between the universality of human rights and the particularity of cultural and religious traditions and practices has perhaps never been more urgent.

Rasmus Alenius Boserup

PhD, director of DEDI from February 2008 to January 2011

## **3. Introduction** **by Bahey El Din and Lis Dhundale**

The universality and indivisibility of human rights has been questioned by various cultures, individuals and groups across societies. It is with growing concern that we have witnessed such tendencies, and with the conference Human Rights and Cultural Dialogue we wished to contribute to addressing, exploring and shedding light on the diversity of fundamental views and debates surrounding the nexus between human rights, cultural dialogues and religion politics in both Danish and Egyptian, western and Arab/Muslim communities.

The two-day conference was held 15-16 December 2010 in the Danish capital of Copenhagen, co-organized by the Cairo Institute for Human Rights Studies and the Danish Institute for Human Rights in order to address these concerns. The point of departure for the conference was the international human rights instruments. The ambition was to explore contemporary thoughts, view points and experiences on the subject of human rights and religious and cultural divides, assess practices, and through the key themes of women's rights, religious minorities, and freedom of expression, try to find an explanation of a given state of human rights. Are the challenges we face caused by religion or political will? What are the main obstacles that might prevent the entrenchment of the values and principles of respecting human rights in a specific society? Is it based on the cultural traditions and prevailing religious principles in the society, or does it result from the lack of or availability of political will?

For several years these questions have grasped the attention and stirred the interest of the Cairo Institute for Human Rights Studies, which has engaged in studying issues that link Islam, the majority religion in Arab societies, to human rights and democracy, which are deteriorating and being violated in those same societies. The Cairo Institute has also contributed through various activities to posing a number of questions which, answered sufficiently, we thought, would help answer that central question: Does the problem of human rights in Arab societies stem from the Islamic constituent of the prevailing culture in the Arab world, or is it the result of an absence of political will on the part of the ruling regimes?

The Cairo Institute for Human Rights Studies has made a number of studies and publications and organized several conferences addressing the relationship between Islam and democracy, and also studied ways for the Arab non-democratic states to benefit from the experiences of non-Arab Muslim democratic states. In addition to workshops and exchange programs exploring the causes of tension between the Arab and Muslim worlds and the West relating to freedom of expression and differences in understanding it, one of the institute's most prominent initiatives is its program on freedom of opinion and expression across cultures launched for a one year period following the well-known Danish cartoons crisis.

The Danish Institute for Human Rights has also been engaged in these topics over a long period. Research has been carried out examining countries in the transitional process of striking towards democracy, while other research initiatives have compared the relations between the main world religions and human rights. In international partnership programs the Danish Institute for Human Rights has provide assistance to governments and civil societies in countries with diverse cultural and religious traditions to implement certain human rights.

An opportunity arose for cooperation between the Cairo Institute for Human Rights Studies and the Danish Institute for Human Rights to organize a unique conference that did not restrict itself to posing its central questions to Arab societies but also to Danish society, where respect for human rights and democracy is well entrenched. The conference became tantamount to an intellectual debate between some of the finest minds discussing the women's rights crises, the suffering of minorities and what prevents them from assimilating into their societies, the suppression or respect for freedom of expression, and why the assumptions put forward by the protagonists of the renewal of religious discourse are present or absent in our different societies.

The conference presented a number of distinguished papers, which you will find in the book in your hands. The papers seriously and profoundly address the questions that continued to elude adequate answers up to the advent of the Arab Spring in the beginning of 2011, a few weeks after our conference.

Nonetheless, the publication does not impose on the reader a specific viewpoint, for the papers and the discussions during the conference were characterized by the presentation of varied visions and differing critical viewpoints, in a manner permitting the reader and researcher, student or activist alike to think and to reach his or her own answers.

The conference was attended by representatives from human rights organizations, human rights defenders, students, researchers, journalists, and others who have specific interest, engagement or knowledge in the topic.

The contributions of the experts, scholars and activists represented diversity in terms of both background and institutions or organizations represented. The conference allowed each to speak with their own personal voice and express ideological biases freely and clearly in terms of how they perceive cultural and/or political conditions as influencing the current human rights crises that they see fit to draw attention to through their analyses or personal experience.

In this context it was decided to structure the conference through panel sessions comprising of several presenters and commentators. The themes of the three main sessions were:

*Culture, Politics and Human Rights in Egypt and the Arab World – Challenges and Opportunities*

*Culture, Politics and Human Rights in Denmark and Europe – Challenges and Opportunities*

*Young Muslims in Europe – Inclusion and Exclusion: Young Muslims Present Personal Experiences of Issues Facing Them in Today's Societies*

However, as organizers we thought it would be generally appreciated if we opened the conference with an introductory session by inviting two specialist scholars to present their views on the position of human rights in theological, historical, cultural and political writings. The two scholars would direct their presentations by taking their respective prevailing traditions in mainstream Islam and Christianity as starting points to provide the participants with background knowledge of how human rights was and is perceived in the two cultures, and demonstrate approaches and theses aiming to bridge the gap between the universality of human rights and cultural and religious particularities.

**Eva Maria Lassen** presented the background paper on human rights in the Christian setting under the title *Religious Voices and State Reactions*. She occupies the position of research director at the Danish Institute for Human Rights and holds a PhD in history from the University of Odense.

**Moataz El Fegriy** provided the background paper relating to the Islamic context under the title *Islamic Sharia and the Universality of Human Rights: Muslim Scholars' Schools and Approaches*. He is the former executive director of the Cairo Institute. Currently he is finalizing a MA in international and comparative legal studies at the School of Oriental and African Studies (SOAS), University of London.

The two commentators of the introductory session were **Mohamed Younis**, an Egyptian researcher in philosophy, and **Amr Elshobaki**, director of the Arab-European Studies Unit at Al-Ahram Center for Political and Strategic Studies.

The second session of the conference was entitled *Culture, Politics and Human Rights in Egypt and the Arab World – Challenges and Opportunities*.

**Helmy Salem** made the first presentation about freedom of expression and artistic creativity under the weight of the alliance of political and religious despotisms. Salem is a poet as well as an editor in chief of the *Adab we Naqd Magazine*, which is published in Cairo.

**Adel Gendi** followed by presenting a paper about the status of religious freedom and the rights of minorities in Egypt. He is an Egyptian author and a specialist in Coptic minority affairs.

**Mozn Hassan** concluded the core contributions by discussing the status of women's rights in Egypt in political, religious and cultural discourses. She is the director of Nazra for Feminist Studies in Egypt.

The three commentators on the core papers and contributions in this session were **Jakob Skovgaard Petersen**, professor at the department of cross-cultural and regional studies,

University of Copenhagen, **Sune Haugbølle**, assistant professor in modern Islam and Middle East studies, University of Copenhagen, and **Marc Schade-Poulsen**, executive director of the Euro-Mediterranean Human Rights Network.

The third session of the conference *Culture, Politics and Human Rights in Denmark and Europe – Challenges and Opportunities* focused on the European and Danish context.

The first presenter of this session was **Bashy Quraishy** and his presentation dealt with the status of religious minorities in Denmark. He is a member of a number of commissions, committees and boards involved with human rights, ethnic/religious equality issues, anti-racism, anti-discrimination, Islamophobia, and anti-Semitism, both in Denmark and internationally.

**Anders Jerichow** contributed a presentation about freedom of expression that examined representations of minorities in the media from a Danish perspective. He is the president of Danish PEN and he is the chief editor of foreign news and columnist of the Danish daily Politiken.

**Ingrid Stage** presented her paper *Women's rights in Denmark: Challenges and opportunities* about the status of women in Denmark. She is the president of Dansk Magisterforening and is a board member of the Women's Council in Denmark.

The two session commentators were **Albager Alafif**, director of Al-Khatim Adlan Center for Enlightenment & Human Development in Sudan, and **Magdi Abdulhamid**, director of the Egyptian Association for Community Participation Enhancement.

The concluding session of the conference was titled *Young Muslims in Europe – Inclusion and Exclusion: Young Muslims Give Personal Accounts of Issues Facing Them in Today's Societies*. The three young presenters made oral presentations drawing on their personal experiences, backgrounds and viewpoints. Their presentations cannot be found in the publication.

**Aziz Fall** titled his contribution *Human Engagement in the 21<sup>st</sup> Century*. He is an external lecturer, columnist and communications adviser in Denmark.

In her contribution *Personal Reflections on Religious Freedom*, **Maryam Alkhawaja** spoke about her life as a Muslim in Denmark and in Bahrain. She is the head of Foreign Relations for the Bahrain Center for Human Rights.

*Inclusion – Making a Change* was the title of **Senay Arikian's** contribution. She holds a master's degree in political philosophy.

The commentator on the contributions in this session was **Amr Elshobaki**, director of the Arab-European Studies Unit at the Center for Political and Strategic Studies in Egypt's Al-Ahram Foundation.

## 4. Attempts to Bridge the Gap between the Universality of Human Rights and Religious and Cultural Particularities

### Arab Perspective: Islamic Sharia and the universality of human rights: Muslim scholars' schools and approaches

by Moataz El Fegiery

*"It is difficult to determine a particular causal relationship between Islamic legal traditions and the status of human rights in any country or society. Nevertheless, this relationship is important enough for most Muslims that their motivation to uphold human rights norms will be probably diminish if they perceive those norms to be inconsistent with Islamic principles."*

Abullahi Ahmed An Na'im

### Introduction

Muslims and Muslim states have been actively engaged in the debate on universal human rights since the emergence of the global human rights movement in the wake of the Second World War. The majority of Muslim states are now part of a series of international and regional human rights instruments which acknowledge the principle of universality of human rights. However, the tension between human rights as a universal conception and Islamic law has continued. This tension has been demonstrated in Muslim states' political and legal behaviors at the international human rights mechanisms, or in the national constitutions and legislations of many Muslim states, which conflict with some universal human rights norms on the basis of Islamic law. Moreover, the emergence of political Islamic movements has also intensified the debate on the applicability of human rights, democracy and secularism in the Islamic context.

It has been widely believed that Islamic law is not inherently inimical to universal human rights. The political and intellectual developments in the Muslim world throughout history suggest that the understanding of Islamic law is not monolithic but clearly demonstrated diverse methods of human reflection and interpretation. This paper accordingly aims at reviewing this debate from the perspective of a group of prominent Muslim scholars who have made remarkable contributions to this debate. The paper shows that among Muslim scholars who advocate a harmonistic approach between Islamic law and human rights, we can classify two main trends. While the first trend endeavors to solve the tensions through a pragmatic compromise approach within the realm of traditional methods of Islamic law, the other trend defends drastically reforming classical traditional Islamic jurisprudence through embracing a socio-historical reading of the sources of Islamic law (Quran and Sunna). The paper argues that while the first trend is viable, realistic and could be appealing for the public, it is not sustainable and still undermines full compliance with international human rights treaties, particularly in terms of

religious freedom, equality between men and women, the application of corporal penalties and the rights of religious minorities. On the other hand, the second trend challenges the premises of the dominant Islamic legal theory in Muslim states. Its conclusions are more sustainable and congruent with international human rights norms. However, it is not likely to be embraced by Muslims in the short run; the supporters of this trend are still marginalized due to the fact that the public sphere in most Muslim states is controlled by conservative jurists and traditional religious institutions. The success of this trend in the Muslim world requires the support of enlightened political ruling elites and the guarantees of intellectual pluralism and freedom of expression.

The paper will start by showing the significance of the issue of Islam and human rights in academic and political life. Then it will present the three responses that have been shown by Muslim scholars to define the relation between Islam and human rights: the conservative, secular and harmonistic. Then it will focus on Muslims' intellectual efforts to harmonize between Islamic law and human rights through reviewing the work of a group of Muslim scholars who are classified either as pragmatic or liberal. A special focus will be given to the Sudanese scholar Abdullahi Ahmed An Na'im since he has written intensively over the last two decades on the issue of Islam and human rights.

### **The universality of human rights**

Intellectual debate whether human rights is universal or cultural relativistic is a global debate, and it doesn't concern only one specific region or religion. Numerous scholars, proponents and opponents of the concept of universal human rights, have come up with diverse arguments relevant to their cultural and religious backgrounds.<sup>1</sup> The Universal Declaration of Human Rights (UDHR) assumes that human rights are universal and must be enjoyed by all human beings regardless of religious, sexual, national, and linguistic backgrounds. Moreover, this universal conception of human rights has been frequently confirmed in the preamble of international and regional human rights treaties. The world conference on human rights held in Vienna in 1993 asserted that the universality of human rights is beyond question. However, a common position among states and scholars on the universal nature of human rights is yet to be achieved.

Human rights as we know them today – as entitlements enjoyed by all human beings – was originally manifested in the wake of special socio-political conditions in Europe and North America during the 18<sup>th</sup> century. This modern conception later informed the international legal developments in the field since 1945. However, the idea of human dignity as a key component of the modern articulation of human rights was embraced by the major cultures and religions in the world. Jack Donnelly asserted that certain notions of human dignity had existed in

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1 See M. A. Glendon, 'A World Made New' in H. J. Steiner and others, *International Human Rights In Context* (Oxford, 2007), p.139.

Islam, traditional African societies, Confucian China, and Hindu India. Modern human rights have been a means to realize human dignity. However, Donnelly concludes that the emphasis on individualism was a unique feature of the modern conception of human rights, which was not embodied in non-western cultures. According to him, this difference between the old and modern notions of human rights does not undermine their universal validity as "an approach particularly suited to contemporary social, political, and economic conditions."<sup>2</sup>

In the same direction, Heiner Bielefeldt illustrated that although the modern concept of human rights was developed in the western context, it does not mean that human rights is only applicable to western societies.<sup>3</sup> Human rights are a viable tool to manage differences and realize political justice in any society. He noted that "[human rights] are historically connected with the experience of radical pluralism that today has become an inescapable reality in many societies all over the world . . . the idea of human rights seems to offer an opportunity for accomplishing a basic normative consensus across ethnic, cultural and religious boundaries."<sup>4</sup> On the global level, the concept of human dignity can gather diverse cultures and societies around universal normative framework.

### **Why does Islamic law matter?**

Today, Islam is the second largest religion in the world and it is growing very fast. Muslims have become a large community in western states. They represent 23% of the world's population. Muslims represent the majority in 46 states. 15 of those recognize Islam in their constitutions as the religion of the state and five states are considered Islamic republics.<sup>5</sup> Muslim states have substantially engaged in the formulation of international human rights law.<sup>6</sup> Most have ratified many basic international human rights treaties. However, many of these states have voiced reservations about some articles in these treaties by referring directly or indirectly to their incompatibility with Islamic law. The Organization of Islamic Conference (OIC) and Islamic states in general are active participants in international human rights political bodies such as the UN's Human Rights Council.<sup>7</sup> The behavior of many Islamic states in the UN human rights bodies has revealed their cultural relativist arguments in relation to women's rights, family rights and duties, criminal punishments and religious freedom. However, Mashood Baderin has indicated

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2 J. Donnelly, 'Human Rights and Human Dignity: An Analytic Critique of the Non-Western Conception of Human Rights', *Human Rights Quarterly* 76 (2) (1982), pp. 303-313, at p. 303.

3 H. Bielefeldt, 'Muslim Voices in the Human Rights Debate', *Human Rights Quarterly*, 17 (1995), pp.587- 617, at pp. 593.

4 Ibid.at p. 594.

5 M. Baderin, 'A Macroscopic Analysis of the Practice of Muslim State Parties to International Human Rights Treaties: Conflict or Congruent?', in M. Baderin (ed.), *International Law and Islamic Law* (Ashgate, 2008), p. 626.

6 See Susan Waltz, 'Universal Human Rights, the Contribution of Muslim States', *Human Rights Quarterly* 26, No 4 (2004), pp. 799-844.

7 See Cairo Institute for Human Rights Studies (CIHRS), *From Exporting Terrorism to Exporting Repression: Human Rights in the Arab World* (CIHRS, 2008), pp.158-174.

that there have now been some attempts from many Muslim states to narrow the gap between international human rights and Islamic law<sup>8</sup>.

For the majority of Muslims all over the world, the adherence to Islamic law is a matter of faith and for other contemporary Muslims it is a criteria to evaluate the validity of any political or social regime. Since the 1970s the wave of constitutional Islamization has increased in the Islamic world, with many governments and parliaments becoming constitutionally accountable to enforce Islamic law. Demanding the application of Islamic law, meanwhile, has become a persistent slogan for the different waves of Islamic political movements active in the Muslim world.

Moreover, Muslim states are the only states in the world to have developed a regional human rights declaration that exclusively derives its principles from religion. The Cairo Declaration of Human Rights in Islam is a human rights document released by the OIC in 1990. It was widely perceived as a serious threat to the basic rights endorsed by international human rights treaties. The Cairo Declaration reflected the deep tension between universal human rights and the traditional interpretation of Islamic law. It is also noted that there was a direct and an indirect reference to Islamic law in the Arab Charter on Human Rights adopted by the League of Arab States in 2004. The aforementioned factors indicate the significance of the issue of Islam and human rights, which occupies a large space in the public sphere of Muslim societies and the whole world.

Furthermore, Islamic law is relevant to human rights activism. Human rights defenders usually face serious challenges when they struggle against human rights violations in the context of certain applications of Islamic law. One of the challenges is that victims and violators are likely convinced that the adherence to these legal norms is part of their religious conviction, and sometimes Muslims themselves strongly demand the enforcement of Islamic rules.<sup>9</sup> Another challenge is that the state may not be the obvious or sole abuser of human rights in Muslim states. Although a state codifies laws on the basis of Islamic law, the interpretation of this law by judges is highly affected by their educational and religious backgrounds.<sup>10</sup> Modirzadeh observed that "Islamic law blurs the lines between victim and violator and between state and subject."<sup>11</sup> In such a context, traditional human rights advocacy may not be the appropriate way to realize international human rights. Moreover, human rights defenders and particularly international organizations cannot simply disassociate themselves from the debate on Islamic law and human rights. As elaborated by Modirzadeh, the pretended neutral position constantly demonstrated

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8 M. Baderin, note 5 above, at p. 661.

9 N. Modirzadeh, 'Taking Islamic Law Seriously: INGOs and the Battle for Muslim Minds and Hearts', *Harvard Human Rights Journal* 19 (2006), pp. 191-243, at p. 201.

10 *Ibid.*, at p. 202.

11 *Ibid.*

by international human rights organizations towards Islamic law is confusing. This position might imply that these organizations either deny any relation between Islamic law and certain human rights violations, or entirely

associate human rights violations with Islamic law.<sup>12</sup> Consequently, international human rights organizations should pursue proper and constructive strategies in approaching Islamic law.

Academic literature that has addressed the tensions between Islamic law and human rights asserts that Islamic law should not be seen as the striking factor behind human rights violations in Muslim states. The poor records of human rights and governance in these states have variant political and social explanations; even Islamic law itself has been manipulated to legitimize authoritarian rule in some Muslim states. However, the application of some aspects of traditional versions of Islamic law in many Muslim states discords with international human rights norms as enshrined in international treaties, particularly in the areas of equality between men and women, religious freedom, religious minorities and the application of Islamic criminal law.

### **The nature of Islamic law**

The rules of Islamic law originated from two main sources, the Quran and Sunna. Muslims believe that the Quran was divinely revealed gradually to the Prophet Mohamed over a period of 23 years. It includes more than 6000 verses dealing with all aspects of Muslim lives. The boundary between the legal verses and the moral verses usually blurs. Therefore, jurists and scholars have taken different positions concerning the exact number of its legal verses. While some claim that the Quran includes between 350 and 500 verses of a legal nature, other scholars ascertain that that it has far fewer.<sup>13</sup> The second source is the sayings and deeds of the Prophet Mohamed: the Sunna. According to jurists, the Sunna "plays corroborative, elaborative and supplementary roles to the Quran."<sup>14</sup> The authenticity of the Sunna has been determined on the basis of certain criteria developed by the science of Hadith.

Traditionally, two methods were pursued by jurists to find answers for legal matters not covered in either the Quran or the Sunna. The first method is *Ijma* (consensus) and the second is *Qiyas* (reasoning by analogy). However, the level of dependency on these methods was different from one legal school to another. In order to ensure the logical application of law in theory and practice, jurists established various principles of Islamic law such as the principle of necessity (*Darura*), the principle of welfare (*Maslaha*), the principle of *Istihsan* (juristic preference), the *Urf* (custom), and the principle of *Takhayyur* (eclectic choice). These principles were used by traditional jurists to varying degrees either as tools for interpreting sources or methodological

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12 *Ibid.*, at pp. 203-205.

13 M. Baderin, 'Understanding Islamic Law in Theory and Practice', *Legal Information Management*, 9 (2009), pp. 186-190, at p. 187.

14 *Ibid.*

tools. In fact, these principles, particularly the principle of welfare, have been intensively utilized by some Muslim reformers and Muslim states in the modern era to reform Islamic law.<sup>15</sup>

Literal interpretation of the two sources of Islamic law characterized pre-modern legal theory. The dominant hermeneutics during this period provided that “the rationales of rules in the revealed texts were to be sought solely in the inner structures of these texts.”<sup>16</sup> Jurists became committed to the authoritative, substantive doctrines developed within the main traditional legal schools. Legal theories that challenged these substantive doctrines were entirely marginalized throughout the pre-modern era.<sup>17</sup> It was only in modern times that Muslims realized that traditional Islamic legal theory was no longer sufficient to accommodate Muslim communities’ new challenges.

### **Muslim scholars’ responses to the universality of human rights**

The debate on Islam and human rights is very old and intense. Before the formulation of the modern conception of human rights as illustrated in the UDHR, and since the 19<sup>th</sup> century, Muslim intellectuals have reacted variously to western modernity and enlightenment. One group of Muslim intellectuals called upon their societies to renew and reform the heritage in order to accommodate the achievements of modernity without losing their Islamic identity. Other Muslim scholars denounced western modernity and adhered to the historical experience of the Muslim nation during the time of the Prophet Mohamed and the well-guided caliphs. Finally, a group of Muslim intellectuals entirely refused that heritage and expressed high motivation to imitate western modernity in all aspects of life.<sup>18</sup>

The modern age brought several socio-political and economic challenges for Muslim states, and traditional Islamic law was not capable of addressing these challenges appropriately. The method of eclectic selection (Takhayyur) was used by the Ottoman Empire and Arab states in the phase of modern codification of laws. For instance, this method was applied in order to adopt the Ottoman family rights law in 1917. New forms of legal reasoning were also practiced by some states, such as Tunisia in 1956 when it modernized its personal status law in order to provide advanced rights for women. However, Hallaq believed that these modern practices had not developed a solid legal methodology.<sup>19</sup>

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15 Ibid., at pp.188-189.

16 W. Hallaq, *A History of Islamic Legal Theories: An Introduction to Sunni usul al-fiqh* (Cambridge,2007), p. 207.

17 For instance, the Hanbalite jurist Al Tufi argued that public interest (Maslaha) has a superior status within the sources of Islamic law and the Malikite jurist Qarafi developed a new contextual method to determine the legal authority of the Sunna, see Ibid., pp. 148-153.

18 See J. Cooper, R. Nettler and M. Mahmoud (eds), *Islam and Modernity: Muslim Intellectuals Respond* (I.B. Tauris, 1998).

19 W. Hallaq, Note 16 above, p. 211.

A significant attempt to reform Islamic law was made by Mohamed Abdou in the second half of the 19<sup>th</sup> century when he revived the rational traditions of Islamic theological and philosophical heritage. Based on the rational legacy of the Mutazala, he articulated the idea that Islamic sources should be understood in a way that harmonizes between reason and revelation, which should not be in conflict with each other.<sup>20</sup> The work of Abdou was a landmark in the field of Islamic law reform. It inspired both Muslim conservatives and liberals throughout the 20<sup>th</sup> century.<sup>21</sup>

Having been influenced by the intellectual legacy of Abdou, Rashid Rida pioneered utilitarian Islamic legal theory, which had a far-reaching effect on contemporary Muslim states and scholars. He believed that Islamic law was left aside by modern Muslim states as a consequence of the problems associated with the application of the traditional body of Islamic law in modern times. He advocated the principle of interests (Maslaha), and the objectives of Sharia (Maqasid al-sharia), instead of Qiyas. He realized that the frequent use of reasoning by analogy (Qiyas) would not enable Islamic law to respond to the challenge of modernity. He believed that the only authority should be given to the Quran, the Sunna and the consensus of the Prophet’s companions. In legal matters which don’t contravene specific Quranic verses or Hadith, new rules should be assessed according to their compatibility with the general objectives of Sharia.<sup>22</sup>

As mentioned above, the rational legacy of Abdou also stimulated liberal Muslim scholars who defended a radical shift from the traditional Islamic jurisprudence. Rida’s utilitarian approach was perceived by them as narrow, subjective and inefficient. Liberal Muslim scholars renounced the literalist interpretation of Islamic holy sources “as neither faithful to religion nor capable of adopting law to ever-changing situations.”<sup>23</sup> They called, instead, for an interpretation based on the intention and spirit of the holy texts and prophetic sayings.<sup>24</sup>

In the second half of the 20<sup>th</sup> century and after the emergence of the global human rights system, the debate in the Islamic world on Islam and human rights has been revisited, but this time it has become more sophisticated. Muslim scholars have demonstrated three intellectual approaches to universal human rights; the conservative approach, the secular approach, and the reconciliatory approach. The first two approaches have adopted an adversarial perspective between human rights and Islam and strongly believe that the two systems of values are at odds with each other. Each approach argues of its superiority over the other one. Contrary to that, the reconciliatory approach struggles to harmonize between international human rights and Islam by applying different methods of interpreting the sources of Islamic law. It is unfortunate that

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20 Ibid., p. 212.

21 Ibid., p. 212.

22 Ibid., pp. 218-219.

23 Ibid., p. 231.

24 Ibid., p. 231.

the reconciliatory approach has not been widely supported in the public sphere in the Muslim world today.

The conservative approach is manifested in the writing of Pakistani scholar Abou A'la Mawdudi. In his book *Human Rights in Islam*, he severely criticized the modern conception of human rights and defended another concept of human rights derived from his conservative understanding of Islamic Sharia.<sup>25</sup> This conservative approach to international human rights was the driving force in drafting the Cairo Declaration of Human Rights in Islam, which enormously and vaguely limited international human rights by the provisions of Islamic law.

Scholars who have advocated reconciliation between Islam and human rights have applied several methods to reach this conclusion. The main argument under this approach is that Muslims are not obliged to apply the body of traditional jurisprudence and that juristic reasoning (Ijtihad) should be allowed. A group of these scholars suggested drastically reforming the legal methods invented by traditional jurists in order to develop Islamic public law and solve the contemporary tensions between it and universal human rights principles. They propagate a contextual interpretation of the Quran and Sunna in light of time and place. These methods have been followed by Abdullahi Ahmed An Na'im, Nasr Hamid Abu Zaid, Mohamed Arkoun, Fazlur Rahman, Riffat Hassan, Mohamed Talbi and Khaled Abou El Fadl.<sup>26</sup> Other scholars under this approach advocated more pragmatic reconciliation between Islam and human rights without calling for a drastic reform of the classical methods of Islamic jurisprudence. This trend believes that the methods applied by liberal scholars are not practical and not appealing for Muslims. Finally, the secular approach calls for the enforcement of international human rights law regardless of the possible tensions with Islamic Sharia. While this approach upholds the universal nature of human rights, it has failed to develop a cultural legitimacy for human rights in popular traditions and beliefs. This approach is not appealing for the Muslim public. It is also perceived as impractical by both liberal Muslims and western scholars who believe human rights advocates should take Islamic law seriously.

### **The pragmatic compromise within the traditional methods of Islamic law**

As mentioned above, some Muslim scholars advocated pragmatic solutions to the tensions between Islamic law and human rights within traditional Islamic legal theory. Within this category, scholars embrace a combination of liberal and conservative attitudes. As illustrated by Bielefeldt, many Muslim scholars believe that "some reconciliation between the traditional Sharia and the modern idea of human rights conceivably could be accomplished in accordance with this well established Islamic pragmatism."<sup>27</sup>

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25 H. Bielefeldt, Note 3 above, at p. 349.

26 See J. Cooper and others, Note 17 above.

27 H. Bielefeldt, Note 3 above, at p. 610.

In his book *Islamic Law and International Human Rights*, Baderin acknowledged that while there are some divergences between Islamic law and international human rights law, this does not prevent a possible reconciliation between them.<sup>28</sup> To reach this end, "a paradigm shift is sought from traditional hard line interpretation of the Sharia and also from exclusionist interpretations of international human rights law."<sup>29</sup> Baderin emphasized the Islamic doctrine of Maslaha (welfare) to enable Muslims to go for more progressive interpretation of Sharia, and he also suggested the adoption of the margin of appreciation doctrine. This latter has been used through the European Human Rights Court to enable international human rights organs to tolerate certain specific traditions of Muslims.<sup>30</sup> The application of the two doctrines can enable Muslims and international human rights law to share common ground. However, the method Baderin developed has been harshly criticized by Ann Elizabeth Mayer, who argued that it provides Muslim states with excuses to escape their international human rights obligations, and will undermine the adoption of universal rights in the Islamic world in the name of accommodation and reconciliation.<sup>31</sup>

Although this trend could bring significant results for the cause of harmonization between human rights and Islamic law, it could also be used to justify human rights violations. As noted by Bielefeldt, the pragmatic approach can lead to superficial harmonization between Islam and human rights, whereby the emancipatory and cosmopolitan claims of human rights get unilaterally amalgamated with the existing Sharia tradition. In order to overcome such misunderstandings, the relationship between Sharia and human rights needs to be further clarified. In any case, one should not underestimate the potential for Islam to cope with new challenges and demands in a pragmatic way. In conformity with the humane flexibility that has largely marked Sharia, some of the conflicts between different normative requirements might be settled.<sup>32</sup>

### **The drastic reform of traditional methods of Islamic law**

The scholars who belong to this trend have challenged the traditional literal interpretation of the sources of Islamic law. They have advocated alternative methods of Islamic legal theory based on the general ethical and moral principles of Islam and the emphasis on reason and human rationality in order to accommodate the changing political and social milieu of contemporary Muslims. As noted by Bielefeldt "liberal Muslim reformers advocated for an emancipated understanding of the Sharia, stressing its original meaning as a "path" or guide, rather than a detailed legal code."<sup>33</sup>

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28 See M. Baderin, *International Human Rights and Islamic Law* (Oxford University Press, 2003).

29 Ibid., at p. 6.

30 Ibid., at pp. 219-231.

31 A. E. Mayer, 'International Human Rights Law and Islamic Law by Mashood Baderin', *American Journal of International Law* 99 (2005), pp. 302-306, at p. 302.

32 H. Bielefeldt, Note 3 above, at p. 614.

33 Ibid., at p 607.

### **Ashmawi: The distinction between religion and religious thought**

The Egyptian judge and scholar Muhamad Said Ashmawi actively contributed to the debate on Islamic law through a liberal progressive perspective. He underlined the role of human agency in elaborating legal rules from the holy sources. In this regard, he differentiated between religion and religious thought. The latter is the product of human understanding while the former represents the pure religious message. He then illustrated a set of general principles of Islamic Sharia supported by either the Quran or the historical circumstances of revelation. Firstly, the application of Sharia prerequisites certain ideal features of Muslim society, which should be constituted on love, generosity and a deep desire to adhere to the rulings of Sharia. Secondly, he claimed that the conception of the Quran as an eternal text, which was common in the classical periods of Islamic thought, had led jurists to deal with the Islamic text as a closed system transcending the human and social milieu. According to Ashmawi, this contravenes the reality that the Quran is “a living creature which dynamically interacts with daily existence and the social fabric throughout the Prophet’s lifetime. It is the basis not of abstract formulations but rather of human conduct in actual reality.”<sup>34</sup> Thirdly, the historical context of revelation and the abrogation of one verse by another indicate that Sharia basically aims at serving Muslim interests in certain conditions. Fourthly, Ashmawi underlined the connection between the Sharia and the socio-political conditions of pre-Islamic society. This connection is necessary to understand the legal philosophy embraced in the Quran and Sunna, and how they maintained some legal practices common before Islam. This principle leads to his final conclusion that Sharia is implemented through the association between its content and changing human and social conditions.<sup>35</sup> The elaboration of these principles would enable Muslims states to adopt “a positive legal system whose function is to deal in an effective manner with the actual realities of society and the constant changes that occur within it.”<sup>36</sup>

### **Fazlur Rahman: The double movement theory**

Another seminal contribution, presented by the Pakistani reformer Fazlur Rahman, argued that Muslims should first comprehend thoroughly the early socio-economic and political context of the Muslim society that received the revelation in order to extract the general principles from the revealed sources. These general principles are the logic behind the rules. Secondly, and before contemporary Muslims apply these general principles, they should understand the present conditions. Muslims can consequently adopt what is worthy and reject what is irrelevant.

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34 W. Hallaq, Note 16 above, p. 233.

35 Ibid., pp. 232-235.

36 Ibid., p. 236.

### **Shahrur and the theory of limits**

The Syrian scholar Muhammad Shahrur defended a wide margin of discretion for Muslims when applying Islamic law within the boundaries of God’s prescriptions. Like other Muslim liberal scholars, he stressed that the Quran is the property of all generations and each generation can develop appropriate interpretative methods of it and the Sunna in light of the changing realities of social life. He developed the so-called “theory of limits” which held that God provided Muslims with legal parameters containing upper and lower limits for the substance of laws applied in different cases. According to this theory, the Islamic criminal punishments prescribed in the Quran represent the maximum limit, which can be mitigated according to changing societal contexts. This excludes the punishment for adultery, where the upper and lower limits come together. As it was shown in the divine emphasis on the application of penalty without pity (Q24:2). However, according to Shahrur the limits in this penalty are achieved through the hard evidence required to impose it. The theory can also ensure equality between man and women in issues related to inheritance and marriage.<sup>37</sup>

### **Abu Zaid: A new conception of the Quran**

A sophisticated analysis of the nature of the Quran and the role of human understanding is manifested in the intellectual project of Egyptian scholar Nasr Hamid Abu Zaid. The decisive element of his theory is the refusal of the classical, common conviction that the Quran is eternal. For Abu Zaid, the eternity of the Quran means that “the idea of interpretation within new situations becomes anathema. There is no difference between the letter and the spirit of the divine law and only theologians are entitled to the prime role in its maintenance and guardianship.”<sup>38</sup> However, Abu Zaid asserted that if Muslims believe the Quran is “created in a certain context, and the message it contains has to be understood in that context . . . this view leaves room for the reinterpretation of religious law, because God’s word has to be understood according to the spirit, not according to the letter.”<sup>39</sup> Whereas the authenticity of the Quran as a revealed text is beyond doubt, the text itself is a historical phenomenon and cultural product requiring a socio-historical understanding through the application of modern linguistic methodology.

### **Abou El Fadl and the challenge of authoritarianism in Islamic legal theory**

The pluralism of legal and theological schools in Islam throughout the classical history of the Muslim community is a key element in understanding the theoretical framework proposed by Khaled Abou El Fadl. He asserted that the existence of authoritarian interpretations of Islamic

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37 Ibid., pp. 246-252.

38 N. A. Zaid, ‘Divine Attributes in the Quran: Some Poetic Aspects’ in J. Cooper and others, Note 17 above, p. 198.

39 Ibid., p.198.

sources infringes the spirit of the Islamic message and the jurisprudential and theological traditions. Abou El Fadl defended his theory using logical and theological evidence and the historical characteristics of Islamic legal theory itself. He argued that the Quran is an open text and its understanding based on a balanced relation between the text, the reader and the author.<sup>40</sup> One interpretive community cannot pretend an authoritative reading of the will of the author, as “the displacement of God’s authority with that of the reader is an act of despotism and a corruption of the logic of Islamic law.”<sup>41</sup> The outcome of any interpretive community is based on four assumptions which may differ from one jurist to another. These are value-based, reason-based, methodology-based and faith-based assumptions.<sup>42</sup> Differences in assumptions explain why jurists can take various positions in one case. The problem arises when a jurist “dogmatically . . . considers such assumptions to be indisputable or immutable, this is likely to lead to the corruption of the process and to authoritarianism.”<sup>43</sup> In his work, Abou El Fadl interestingly challenges the controversial roles of religious institutions in Muslim societies. Many of these institutions adopt exclusive, authoritarian hermeneutics that undermine the development of Islamic law to cope with the modern challenges.

### Islamic feminism: Towards new interpretive methods

Muslim feminist scholars have argued that the dominant reading of the Quran and Sunna throughout the history of Islamic law was masculine and tended to endorse gender inequality in a clear violation of the principles of authentic Islam.<sup>44</sup> Amina Wadud criticized the traditional Quranic interpretive method, which “analyzed the text of the Quran in a linear manner . . . failing to take into account the structure and thematic coherence of the Quran. This results in insufficient analysis and is traditionally utilized by men to the disadvantage of women.”<sup>45</sup> She then advocated a holistic and contextual reading of the Quran whereby verses are interpreted in their contexts and in relation to other similar verses and the Quranic worldview in general. Niaz Shah proposes another interpretive method, based on understanding the historical and social contexts of the early Muslim community and the Quranic context.<sup>46</sup> According to Shah, the application of this reading reveals that:

The overall approach or intention of the Quran was to uplift the status of women, not to relegate them to social and legal subordination as is practiced in much of the Islamic world today. To achieve gender equality, this Quranic spirit and intention must be

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40 Ibid., K. A. El Fadl, *Speaking in God’s Name: Islamic Law, Authority and Women* (One World, 2003), pp. 145-150.

41 Ibid., p. 265.

42 Ibid., pp. 145-155.

43 Ibid., p. 267.

44 N. A. Shah, ‘Women’s Human Rights in the Koran: An Interpretive Approach’, in M. Baderin, Note 5 above, p. 475.

45 Ibid.

46 Ibid., pp. 475-476.

recaptured through re-analysis of pertinent verses of the Quran in the proper context.<sup>47</sup>

### Gamal Al-Banna: A new Islamic jurisprudence

The Egyptian scholar Gamal Al-Banna believes that contemporary Muslims’ commitment to the traditional Islamic jurisprudence (Taqlid) represents a root cause for the deterioration of politics, societies and scientific reasoning in the Muslim world. In his three volumes entitled *Towards a New Jurisprudence*, Al-Banna defended a new articulation of Islamic jurisprudence where reason enjoys a superior status in understanding the revealed text. He refuses the assumption that juristic reasoning is only limited to cases which arise outside the clear texts in either the Quran or Sunna. According to him, human reasoning may suspend or freeze the application of Quranic texts when there are no exigencies to apply them anymore.<sup>48</sup> Al-Banna applied strict methods to assess the validity of the prophetic sayings (Hadith), under which the Quran is the main parameter to judge their integrity. This method actually excludes many sayings that imply discrimination against women and restriction on religious freedom.<sup>49</sup>

### Abdullahi Ahmed An Na’im: Two messages of Islam

The main argument of An Na’im is that as long as Muslims adhere to the traditional methods of Islamic jurisprudence the tension between Islam and human rights will not be adequately solved. The majority of reform endeavors since the 19<sup>th</sup> century have failed to overcome this limitation. For An Na’im, re-opening the gate of Ijtihad is extremely necessary to find solutions for the different aspects of Muslims’ lives. However, Ijtihad has not brought about any genuine results as long as it has been practiced within the traditional framework of Islamic jurisprudence.<sup>50</sup> According to An Na’im, it is not enough to defend the idea of the secular state in the Islamic context, it is also necessary to develop an adequate reform methodology for traditional Islamic law. He praised intellectual reform efforts in the second half of the 19<sup>th</sup> century and the first half of the 21<sup>st</sup> century that defended the idea that Islam did not strike for a certain kind of political structure and that “there was no Islamic authority for the concept of caliphate in the classical and historical sense.”<sup>51</sup> However, he stated that this reform position did not explain that Muslims should not apply certain rules in the Quran and Sunna that contravene basic citizenship and human rights, particularly in terms of non-Muslims and the status of women.<sup>52</sup>

Since the 19<sup>th</sup> century many Muslim states have adopted western legal systems in the fields of criminal, commercial, civil and constitutional law, and limited the application of Islamic law to

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47 Ibid., p. 476.

48 G. al-Banna, *Nahwa Fiqh Jadid: Part 3* (Cairo, Dal Al Fikre Al Islami, 1999), p. 197.

49 G. al-Banna, *Nahwa Fiqh Jadid: Part 2* (Cairo, Dal Al Fikre Al Islami, 1996), pp. 232-266.

50 Ibid., p. 27.

51 Ibid., p. 43.

52 Ibid., p. 43.

family law. This happened after a process of reform through multiple techniques that enabled governments to select the appropriate rules from different juristic schools. However, An Na'im thinks that this reform did not bring about significant reforms to the whole traditional body of Islamic jurisprudence. According to him "the temporary and insufficient relief that is introduced though these devices are subject to loss when there is a forceful reassertion of Sharia."<sup>53</sup>

AnNa'im, like many other Muslim reformers, stressed the fact that the new paradigm of juristic reasoning should dismiss the traditional rule that forbids the human Ijtihad on scriptural texts with clear meaning. This vision attempts to liberate juristic reasoning from the absolute authority of the texts that, according to traditional Islamic scholars, transcend time and space. According to An Na'im, Ijtihad is allowable on any texts deal with human and social interactions as long as the general objectives of Sharia and the essential message of Islam are maintained. This approach strongly calls upon Islamic scholars to endorse a contextual analysis of the Quranic verses and Sunna to maintain their accommodation of accelerating social, political and economic variables. Historically, and before the establishment of the body of traditional Islamic jurisprudence, the clear and definite texts of the Quran and Sunna did not prevent Muslims practicing juristic reasoning. For instance, Omar IbnAl Khattab, the second Caliph of Islam, suspended the application of two rules derived from definite and clear texts of the Quran when he believed that suspension would better serve the interests of the Muslim community.<sup>54</sup>

In defining his reform approach, An Na'im explained his understanding of the three elements of reform and renewal common to Islamic scholars' responses to modernity. These three elements, as suggested by John Voll, are "the strict application of the Quran and Sunna, the exercise of Ijtihad, and reaffirmation of Islamic authenticity."<sup>55</sup> As for the strict application of the Quran and Sunna, An Na'im stressed the human understanding of the texts, as supported by Quranic verse 29:49, which says that "this Quran is a revelation that is clear to the hearts of those endowed with knowledge." This meaning was also supported by Ali, the fourth Caliph of Islam, when he said that "the Quran doesn't speak but that men speak for the Quran."<sup>56</sup> The second element of Islamic reform and renewal is the practice of juristic reasoning (Ijtihad). AnNa'im believes that Ijtihad will be meaningless in the reform process if it is applied according to the traditional methods of Islamic jurisprudence. Most of the controversial Islamic rules pertaining to criminal law, human rights, international law and constitutional law are derived from unambiguous and definite texts of the Quran and Sunna. Consequently, An Na'im insisted on developing entirely new methods of Ijtihad that are not restricted by the clear and definite texts.<sup>57</sup>

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53 Ibid., p. 46.

54 Ibid., p. 28.

55 Ibid., p. 48.

56 Ibid., p. 48.

57 Ibid., pp. 49-50.

As for the authenticity of Islam, An Nai'm believes that the decisive criteria to examine the authentic Islamic character of any norm or rule is its consistency with the total message of Islam. However, some rules in the Quran and Sunna are not consistent with each other. To solve this problem, the founding jurists developed through the so-called Naskh (abrogation of specific texts in the Quran and Sunna) a coherent and consistent system of Sharia. AnNa'im elaborated on that as follows:

To justify compulsion as opposed to freedom of choice in religion and to give legal efficacy to verses sanctioning the use of force against non Muslims and renegade Muslims, the founding jurists deemed that the verses enjoining freedom of choice and peaceful persuasion were abrogated or repealed by the verses authorizing compulsion and use of force. It is my thesis that since the technique of Naskh has been employed by the past to develop Sharia which has hitherto been accepted as the authentic and genuine Islamic model, the same technique may be employed today to produce an authentic and genuine modern Islamic law.<sup>58</sup>

In developing his method in understanding the rules of the Quran and Sunna, An Na'im was inspired by the evolutionary approach of his teacher Ustadh Mahmoud Mohamed Taha, who explained the remarkable distinction between the Quran and Sunna in Mecca and Medina. The message in Mecca was universal, considered the full equality of human beings and promoted the individual free choice, but the message in Medina came up with a set of rules to regulate the emerging Muslim community in Medina. These rules of Medina have been analyzed by Taha and An Na'im according to the political, cultural and social circumstances of Muslims at that time. All rules which concern women, non-Muslims and penal law were developed at this stage. According to An Na'im, contemporary Muslims can appeal now to the Islamic message of Mecca to develop Islamic public law and make it consistent with current circumstances.<sup>59</sup>

In his book *Islam and the Secular State* An Na'im argued against the notion of the Islamic state.<sup>60</sup> Defending the secular state was a common concern for most Muslim liberal scholars, but An Na'im efficiently promoted the idea through religious justification and rational reasoning. An Na'im explained that Islamic Sharia speaks to Muslims' consciences and its application is a private matter. There is no clear reference in the Quran or Sunna to a certain set of political institutions that need to be established to sanction people in case they violate Sharia. However, Islamic practice after the death of the Prophet and traditional jurisprudence assigned – to different degrees – to a central political authority the observation of the application of Sharia in the Muslim community. Moreover, divergent views and schools regarding Sharia rulings create

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58 Ibid., p. 49.

59 Ibid., pp. 52-53.

60 See A. An Na'im, *Islam and the Secular State: Negotiating the Futrue of Shari'a* (Harvard University Press, 2010), pp.1-43.

practical hardships in a nation state where a certain institution or a group of persons is tasked to rule according to Sharia. The outcome will be the enforcement of their interpretation of Sharia, which may differ from the interpretations of other Muslims in the same state.

An Na'im defended the secular state as a viable means to ensure state neutrality towards different religions in a given society. He suggested a model of a secular state and constitutionalism, which can be applied in the Islamic world instead of the Islamic state model. In his secular model, religion is not separated from the public sphere, and it affects the articulation of public policy and legislation but through a process of civic reason in which "reasons can be publicly debated and contested by any citizen, individually or in community with others, in accordance to the norms of civility and mutual respect."<sup>61</sup> The purpose of civic reason is to limit the exclusive imposition of one religious vision or opinion so all citizens, whether Muslim or non-Muslim, are able to take part in the public debate. This virtue of civic reason does not exist in the Islamic state model, where "the proponents of a so-called Islamic state would not permit each other the freedom to disagree on what such a state means in practice."<sup>62</sup> An Na'im believes that his secular state model will even allow Muslims who want to apply Islamic law to take part in civic reasoning but not allow them to impose their views on others without their consent. In this model any group of persons through collective civic association can also voluntarily comply with their convictions as long as this compliance does not affect the public outside the civic reason accessible to everyone.<sup>63</sup>

## Conclusion

There have been different intellectual responses to the issue of Islam and human rights. Some have denied the possibility of harmonization between them while other scholars, who believed in the universality of human rights, advocated reconciliation through the application of various methods. Some scholars proposed pragmatic solutions to solve the tensions from within the traditional methods of Islamic law, and other scholars defended a more drastic shift from traditional Islamic legal theory. Each trend has its own advantages and defects.

As a strategic goal to encourage these well-meaning efforts that aim to reconcile human rights and Islamic law, it is imperative to prioritize the issue of freedom of expression and academic freedom in the Islamic region so that reformers can produce knowledge and disseminate their ideas without being intimidated. Human rights groups in the region have been struggling to achieve this goal. This paper is not biased for any reform methods but it has shown that contemporary Muslims are in dire need to freely deliberate different ideas about their religion. The final choice will be the people's on condition that they are provided with a free public sphere

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61 Ibid., p.85.

62 Ibid., p.95.

63 Ibid.

accessible to any doctrine or belief. The realization of religious reform is a long and accumulative process and Muslims should be empowered to actively engage in the process.

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## European Perspective: Religious voices and state reactions

by Eva Maria Lassen

This paper focuses on the relationship between human rights and religion in Europe. In the first part, focus is on Christianity, the majority religion of Europe. The second part of the paper zooms in on the interaction in Europe between the state and religious communities, Christian as well as non-Christian.<sup>64</sup>

One way to get a picture of Christian approaches to human rights is to explore Christian views on the role of Christianity in the historical development of human rights. The history of human rights can be viewed in a number of ways. One traditional construction of this history – which has often been used in introductory chapters of human rights textbooks – is to see the history of human rights as part of a specifically Western history, and hence also largely a history of Europe:

### A traditional history of human rights: Timeline

1000 BCE	Biblical Israel
300 BCE	The Athenian Democracy. Stoic natural law
100 CE	Judaism & Christianity      Classical Roman law
	
400	The Christian Roman Empire
1215	Magna Carta
1700	The Enlightenment
	<i>First generation of human rights: Civil and political rights</i>
1776	The American Declaration of Independence
1789	The French Declaration of the Rights of Man and Citizen
1800	European democratic constitutions
	<i>The second generation of human rights: Economic and social rights</i>
1919	The League of Nations
1948	The Universal Declaration of Human Rights
1950	The European Convention of Human Rights

If we take a closer look at this traditional way of constructing the history of human rights, we see that the Enlightenment plays a central role in the emergence of modern human rights. A crucial

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<sup>64</sup> For a further development of the argument of this paper, see S. Lagoutte and E.M. Lassen, 'Meeting the challenge: Redefining Europe's Classical Model for State Intervention in Religious Practices', *Netherlands Quarterly of Human Rights*, Vol 24, 1, March 2006, pp. 33-59.

question, as far as Christianity is concerned, is whether the Enlightenment constituted a break away from Christianity, in which case human rights too represented a breach with Christianity. Or should the Enlightenment be seen as an organic development of the history of Europe with no radical break away from Christianity, in which case human rights can still be seen as having roots in biblical and Christian traditions?

There exists a great diversity of opinions on how to view this history and the relationship between Christianity and the Enlightenment. Generally speaking, however, when we look at Christian views across the world, the most dominant view is that there is a flow from Christianity through the Enlightenment to the modern day, in which the Enlightenment was a turning point but not a deadly blow to the Christian religion. Christianity and the notion of human rights are therefore not at loggerheads *per se*.

### **Making sense of human rights**

As we have seen above, history is one way of making sense of the relationship between Christianity and human rights. Another is theology. The attitude of religious institutions to the human rights agenda has evolved over several stages. In the period between 1948 and the 1970s, religious communities in Europe and elsewhere were concerned with finding their feet in relation to human rights.

One example is the Roman Catholic Church. In the course of the Second Vatican Council, which took place between 1962 and 1965, the Roman Catholic Church incorporated a support for human rights into its teachings. This meant, for instance, that the church came to support the notion of religious freedom for all. In the decades that followed, the Catholic Church came to support a number of human rights as these rights are interpreted in Europe. To take an example, the Pope took a stand against the practice of the death penalty in the 1980s.

Other churches too developed a theologically based support of the basic principles of human rights. Particularly from the 1980s and the 1990s, representatives of the different religions began to take an interest in what the world religions could do *collectively* and in dialogue to promote human rights. This approach is linked to a more general tendency to engage in religious dialogue, which has developed rapidly over the last 50 years; human rights are, in fact, one of the areas within which different denominations and religions are likely to meet in ecumenical and inter-faith dialogue.<sup>65</sup>

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65 The “global ethics” project is an example of this. In ‘A Declaration towards a Global Ethic’, authored by the Parliament of the World Religions in 1993, the hope is expressed that such an ethics deepen and confirm the principles of the Universal Declaration of Human Rights.

### **Intense theological research**

Theological positions on human rights as well as the inter-faith human rights dialogues have been supported by an intense research into the relationship between Christianity and human rights. In trying to make sense of human rights, Christian theologians and religious historians are helped not only by the scholarship carried out by human rights lawyers and scholars, but also by historians, scholars of religion, and theologians not concerned *explicitly* with human rights. Common themes of interest are, for instance, the position of children and women in society, the position of vulnerable groups of individuals, slavery, freedom, and poverty.

Because of the intense research carried out on these and related topics, religious conservatives as well as reformists, Christian supporters of human rights as well as opponents, have ample opportunity to find substance for their arguments in modern research.

### **Parallel consensus**

Numerous views of the relationship between Christianity and human rights exist. However, adherents as well as representatives of a majority of Christian denominations offer a widespread – although far from undisputed – support of basic ideas underlying human rights as well as of specific human rights. At a theological level, hermeneutic reinterpretations of sacred texts have made this support possible.

The normative harmony between human rights and Christian norms may be called a ‘parallel consensus’, a notion which has been articulated by the political philosopher John Rawls. Thus it may, for instance, be argued that the notion of dignity is central to both Christian theology and human rights. In this way, Christian voices are to a large extent human rights voices.

However, in relation to the rapport between Christian norms and human rights, a particular dimension of the notion of overlapping consensus has to be strongly emphasized, namely the recognition of areas where such consensus does *not* exist. This dimension is important to keep in mind when we discuss another characteristic of Christian churches, many of which claim, in some sense, *ownership* of human rights. This is, for instance, the case with the Roman Catholic Church, which often expresses this view. Thus, to give an example, in 1988 the Pope addressed the European Court and Commission of Human Rights in the following way:

... the human rights of which we are speaking draw their vigour and their effectiveness from a framework of values, the roots of which lie deep within the Christian heritage which has contributed so much to European culture.<sup>66</sup>

The fact that Christian churches have to a large extent taken ownership of human rights can have

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66 John Paul II: Address to the European Court and Commission of Human Rights, October 1988.

a very positive effect on the promotion of European and international human rights standards, namely when these standards are supported by the churches. It can also have the reverse effect. This is obviously the case when religiously founded interpretations of human rights are not in conformity with European and international human rights standards. An interesting situation emerges when human rights themselves are developing, in which case the religious denominations have the opportunity to play a role in the advancement – or the opposite – of a particular understanding of human rights. An example concerns the notion of divorce, which so far has not been seen as firmly belonging to the catalogue of human rights. Many human rights lawyers as well as non-lawyers argue, however, that divorce should be seen as a human right. The Catholic Church is taking an active part in this debate, arguing that divorce can never be a part of the human rights catalogue, as family and marriage are the foundation of a healthy society.

### **The dynamics of religion**

Today we witness a dynamic development of the interaction between Christianity and other religions, a dynamic development of human rights, and a dynamic development of the influence of religious norms on these rights. An increased mass of scholarly contributions to the relationship between human rights and religion have helped to create greater clarity on concrete conflicts between religious practices and human rights standards. This has paved the way for more complex discussions about the relationship between human rights and religion, including Christianity.

What do these dynamics mean for the role of Christianity, and of religions more generally, in the evolvement and practice of human rights in modern Europe? To illuminate this question, we shall look at one of the most pressing challenges in the relationship between state and religion in Europe in the following, that is the question of state interference in religious matters.

### **State intervention in religious matters**

Although numerous representatives of the major religions in Europe, including Christianity and Islam, speak the human rights language eloquently, a number of fundamental discrepancies exist between, on the one hand, European and international human rights standards, and, on the other hand, religious norms and practices. These discrepancies appear in areas such as gender, family and children, freedom of speech within religious communities, community structure and ecclesiology, and employees' rights.

Traditionally, there existed what can be called the 'classical European model for state intervention.' According to this model, freedom of religion allows an individual or a community to endorse religious norms and practices that are not in compliance with human rights norms, as long as they do not constitute a criminal offence as prescribed by the law of the state. The

classical model is based on two fundamental characteristics of religion in Europe, namely freedom of religion as well as a strict separation of religion and state law. In the classical model for state interference, the state limits its intervention in religious matters to what is absolutely necessary. The identification of what is "absolutely necessary" is not seen as static; the state may criminalize previously lawful practices, if for instance medical research proves them to be harmful to the individual.

Today there is an increasing tendency that European politicians consider limiting religious autonomy by means of extending state interference in certain religious practices in order to establish increased harmony between human rights and religions. The tendency can for instance be seen in the area of women's position within the religious community or in the areas of religious divorce. This undoubtedly has to do with the fact that a human rights culture suffuses modern European states and societies. Europeans have become increasingly aware of their human rights. Accompanying this greater awareness is a new discourse, according to which human rights norms should be reflected in the religious practices that exist in Europe, with a view to bringing these practices into compliance with human rights standards.

The new discourse in Europe focuses to a very large extent on Muslims, a notable example being the debate about headscarves in public places. But attempts at targeting certain Muslim practices by means of increased State intervention have consequences for other religious minorities as well as for the majority Christian Churches, whose norms and practices may also be questioned. In this way, the demand for State intervention in religious affairs may have potentially momentous effects on religious life in Europe.

Although increased legal intervention is indeed possible, it is only an obligation in a few cases, precisely because of the strict separation between secular and religious law. In this connection it should be noted that legal pluralism is not an option in Europe. It is, for instance, not an option with religious courts existing side by side with the secular courts and with equal legal force. In other words, religious practices have no legally binding consequences for the individual if these practices collide with the law of the State.

Furthermore, it can be argued that legal intervention of the State in religious affairs is not always helpful. Indeed, in many cases, legal intervention would be futile as the State is not competent to interfere in religious matters, in the sense that the secular State has no authority to change religious law (for instance canon law of the Catholic Church). In some cases, legal intervention would be directly counterproductive, because it limits the freedom of religion as well as it may harm the relationship between State and religion.

## The relationship between the State and religions in Europe: the future

Instead of discontinuing the Classical model for State intervention in religious affairs, it seems a fruitful endeavour to maintain the principle of limited State intervention. This includes that the State acknowledges the desirability of reducing discrepancies between religious and human rights norms, and aims at diminishing such differences by non-legal means. One such means is increased information on the part of the State, informing individuals about their legal rights and obligations. An example could be that future spouses are informed about their equal access to civil divorce and remarriage. In addition, the State may engage in systematic dialogues with the religious communities, making use of the overlapping consensus on central human rights notions and principles.

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## 5. Culture, Politics and Human Rights in the Arab World

### Women's right in Egypt in the context of the political, religious and cultural discourse.

By Mozn Hassan

Human rights and their universality are among the issues that have most preoccupied societies and political actors since the beginning of the 20<sup>th</sup> century. In the Arab world, many groups were formed calling for the necessity of affirming human rights inside those societies. With the crystallization of the issues of those groups, discourses emerged concerning the universality of human rights and the imperative of affirming those rights in all societies, coupled with the necessity of affirming them as stipulated in the international conventions of the United Nations. There were also calls referring to the importance of cultural specificities upon applying those rights. Indeed, a discourse evolved affirming a belief in the universalism of human rights but with the caveat that the tools utilized to apply those rights could differ from one society to another.

Women's rights are one of the thorniest issues in this discourse. Not talking about women's empowerment is justified on grounds of cultural particularity and by claiming that those rights advocated on a global scale are "alien" issues that are not suited for "oriental" societies and religions, particularly Islamic (Sharia) law; moreover, that women's rights as provided for in international conventions such as the Convention for the Elimination of all forms of Discrimination Against Woman (CEDAW) are products of the West and are incompatible with the values of women in societies that have customs and traditions differing from those prevailing in the West.

Issues related to women's rights in Egypt are considered among the most complex issues discussed on political, religious and cultural levels, for they remain thorny, and advocating and presenting them generates controversy and diverse opinions. Many see the Egyptian women's rights movement as pioneering in the region, and as marking the start of the emergence and continuity of numerous movements through to the present. Indeed, the Egyptian feminist movement has dealt with numerous issues in the course of its various stages and used various mechanisms to achieve its aims, and as a result, the Egyptian state adopted some of those issues.

In this context, this paper attempts to treat the problematics of the political, religious, and cultural discourses related to women's rights in Egypt, their impact on the evolution of woman's issues, and their diversity in Egypt.

Political discourse: Since 1952, the Egyptian state has adopted a discourse embodying apparent support for women's rights at the level of political participation. For example, the government gave women the right to be candidates and to elect members of the House of Representatives in the 1956 Constitution. This actually preceded what many countries of the world did in this regard. Law Number 21 of 1979 introduced a quota system that increased the number of women

in the Egyptian parliament. The women's quota system reappeared in the 2010 parliamentary election. The state appointed a woman as a judge in the High Constitutional Court in 2002, and in 2005 it amended the nationality law to give any Egyptian woman married to a (non-Palestinian) foreigner the right to bestow Egyptian nationality on their offspring. Numerous personal status laws were amended as part of a series of developments undertaken by the Egyptian government since 1979 to give women more rights. One such law was Law Number 1 of 2000, a prominent article of which affirmed the right of women to initiate divorce (that is, to take recourse to the courts of law and obtain divorce in exchange for the husband recovering what he paid in dowry). This law was called the Jihan Law (after the wife of former president Anwar Sadat). Although the law was soon deemed unconstitutional for technical reasons, the Egyptian government continued to adopt a discourse regarding giving rights to women. In 1985, the Personal Status Law was amended, and in 2008 the Egyptian Child Law enacted, which contains articles that raise the age of marriage, criminalize the act of female circumcision, and prohibit human trafficking.

Egypt signed CEDAW in 1980 and ratified it in 1981, while expressing reservations on several articles (2, 9 (paragraph 2), 16, and 29 (paragraph 2)). It rescinded its reservations on Article 9 after amending the nationality law in 2005. The reservations, in general, were based on the principle that the Egyptian government accepts the convention as long as it does not conflict with Islamic Sharia. The Egyptian government, since ratifying the convention, has submitted regular reports to the relevant committee at the United Nations, and it is the National Woman's Council that performs this task.

The Egyptian government established the National Woman's Council in 2000, a specialized council formed by virtue of a presidential decision to support women's causes. The council has adopted many of the aforementioned issues and others related to woman's rights, and has been presented as an advocate of Egyptian women's rights. The council was chaired by the wife of the president.

The National Woman's Council presents a discourse on Egypt's adoption of women's rights insofar as they are harmonious with the Constitution and the law, while rejecting foreign interference in the affairs of women in Egypt.<sup>67</sup>

### **The predicament of the Egyptian feminist movement**

Within this framework the problem for the Egyptian feminist movement emerges: feminists and independent advocates of woman's rights find themselves having to support the discourse of the state, which deals with woman's rights from quite a conservative perspective. That is, it affirms rights that steer clear of thorny issues, such as violence against woman, marital rape,

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67 A statement by the secretary general of the National Woman's Council, Farkhandah Hassan, Al-Jumhuriyah newspaper, February 2010, <http://www.coptreal.com/WShowSubject.aspx?SID=30528>.

and abortion, which are issues that are important to women's rights advocates. This state discourse is in general anchored in the full separation of women's rights from other issues of human rights and democracy in Egypt, and does not have a deep approach to issues of women's empowerment.<sup>68</sup>

The Egyptian feminist movement is in a predicament regarding who supports it, with whom it allies itself, and how to achieve empowerment for women in Egypt. These issues preoccupy feminists when they create strategies with which to fight for their causes, and they continually fear that their issues or rights will be ignored within the morass of the bigger battles. This fear has been compounded by women's and feminists' weak political participation, and by the withdrawal of many women who were active politically, due to a desire to focus on woman's issues and reject the general political framework.

Against the backdrop of this marginalization, numerous women's and feminist currents chose to isolate women's issues from the political arena, and to present them instead through a developmental perspective or the methods of civil society, adopting the mechanisms of numerical empowerment for women. The Egyptian state perceived in this strategy what could suit its interests and accordingly gave support to initiatives advocating women's rights from this perspective and no other, which is something that the women's movement encouraged, indicating to the local and international public that women's issues are the concern of the state rather than of society.

This way of working has negatively affected all the issues relating to the empowerment of women, the independence of the feminist movement, and the role of the Egyptian state in supporting women. In terms of women's empowerment, whatever the Egyptian state espouses is the sole item present in the arena, and feminists have to undertake pressure campaigns and discussions with the Egyptian state and the National Woman's Council primarily regarding what is presented issue by issue rather than socially. Those mechanisms powerfully connected feminists and governmental institutions such as the National Woman's Council, which indicated to the public that there is no difference between the two. This led to the practical withdrawal of the feminist movement and its issues from the political arena, while helping the Egyptian government to improve its image and give the impression that it espouses women's issues and is able to empower them. This affected the strategies and mechanisms of the feminist movement, which increased its isolation from public and political issues, and enhanced its relations with the

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68 One of the most prominent examples of this is the Egyptian government's manipulation of the right of women to political participation, for it adopted prior to the parliamentary elections in November 2010 an amendment which gave women a number of parliamentary seats. The matter made it appear – especially to the West – as though the government supports human rights, while in reality it was guaranteeing a larger number of parliamentary seats for the ruling party. In fact, it led to its winning 57 seats as opposed to 4 for the opposition and independents. It would be useful to refer to: Muhammad Zare', The Experience of the Quota in Egyptian Elections (Ar.) (Arab Woman's League, December 2010).

ruling regime which adopts particular issues rather than others.

The difference between the two discourses appeared in one of the thorny issues that was adopted by numerous advocates of woman's rights and feminists during the past five years – the issue of violence against women. Al-Nadim Center for the Rehabilitation of Victims of Violence and the New Woman's Association espoused the ratification of a law criminalizing violence against woman in Egypt, and work started on a draft law through a declaration of principles paper specifying that violence against women continues to be a phenomenon in our society, and that despite the efforts of civil society organizations in the last two decades, certain voices continue to think that violence inside the family is a private matter that should not be disclosed. The declaration of principle rejected this inherited tradition and demanded that violence against women be considered a crime like all crimes against life, which are provided for in laws and constitutions; hence the necessity for a law prohibiting such violence and penalizing those who commit it. Its advocates highlighted that the law, though a deterrent, would not be sufficient in itself but must be accompanied by awareness raising and a resistance to all forms of violence against women.

This document was signed by 96 civil associations and societies. Work on the draft law has gone on for years, and combined reformist philosophy and penal philosophy. The reformist philosophy starts with what precedes the marriage contract, and the draft law requires – in its present draft – that those embarking on marriage attend a course on sound familial relationships and the effect of violence inside the family on women and children, and methods of communication and dialogue management between spouses, which should be based on mutual respect for each other's opinions.

Then it deals with the text of the marriage document, recommending that the document stipulate a number of basic rights and allow spouses to choose other terms. Among those "textual" terms is the right to divorce, the right to education, and the right to work. By providing for those human rights in the marriage contract two important conditions are met. Firstly, the woman is conscious of her rights, and she and her relatives understand that she has the right to divorce. Secondly, the husband becomes aware that the wife possesses rights that should not be infringed, and that she has the right to divorce, which in itself is a deterrent to those who practice violence.<sup>69</sup>

This initiative, by a group of women's rights advocates, affirmed a number of concepts and values concerning the prohibition of violence against women in Egypt, including the criminalization of marital rape. It should be mentioned that the law in Egypt currently does not prohibit violence against women.

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69 "Egypt: A draft law prohibiting violence against women inside the family and as portrayed by the media", Amman News Center, <http://www.amanjordan.org/a-news/wmview.php?ArtID=16910>.

The National Woman's Council did not adopt this project despite its activities in the field of violence against women. Indeed, the council, in cooperation with an international donor, adopted a project to oppose violence against woman that ignores marital rape, violence against unmarried women or prostitutes, and the rape of relatives, focusing instead on the physical violence practiced by a husband against his wife.

This orientation consecrates the traditional view of women's issues and the violence perpetrated against them, as if the marriage framework is the sole one that can be discussed and the sole one through which we can tackle issues of physical violence.

This project also adopted a reformist system for women's shelters – which are homes established in a number of Egyptian governorates by virtue of a Ministry of Social Welfare decision to host women subjected to violence. A number of private associations were entrusted with managing them. Within the framework of developing those shelters the project did not address issues relating to the civil society organizations law, which most non-governmental organizations suffer from, and which affects the work of these shelters and their bylaws.

The council did not adopt the independent associations' draft law, saying that it contains articles that are incompatible with the values and laws of Egyptian society, and asserting that the council is in the process of preparing a draft law that also prohibits violence against woman, but is more acceptable to society.<sup>70</sup>

Thus it becomes clear that the discourse on woman's rights adopted by the Egyptian government and those affiliated to it is eclectic, due to a consideration of what is socially acceptable.

### Religious discourse

Religious discourse issues from several quarters, most prominent of which are the official religious institutions. Al-Azhar is considered the largest religious institution in Egypt. Its work is regulated by a 1961 law that states that:

Al-Azhar is the foremost Islamic academic institution which safeguards, studies, elucidates and publicizes Islamic heritage, and it shoulders the responsibility of disseminating the Islamic message to all peoples, and endeavors to expound the reality of Islam and its impact in terms of human progress, and the advancement of civilization, while guaranteeing security and tranquility to all people in this world and in the hereafter. It is also concerned with the renaissance of Arab civilization and the scientific and intellectual heritage of the Arab nation, while highlighting the influence of the Arabs on the development and progress of humanity.

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70 An interview with Dr. Majeda Adli, director of Al-Nadim Center for the Rehabilitation of Victims of Violence.

and:

[Al-Azhar] supplies the Muslim world and the Arab homeland with specialists in issues relating to Islamic Sharia, religious and Arabic culture, and the language of the Quran, while graduating Muslim scholars who practice Islam.

Moreover, it is concerned with cementing cultural and academic ties to Islamic, Arab and foreign universities and institutions. Its headquarters are in Cairo, and is affiliated to the presidency, and the president appoints the minister for Al-Azhar affairs. Among its institutions is the Islamic Research Academy at Al-Azhar, the function of which is to purify Islamic materials, to extricate them from “accretions”, and to place them within a framework compatible with the message of Al-Azhar, which is characterized by moderation and factualness. The Islamic Research Academy is headed by the grand imam of Al-Azhar and its 50 members are scholars from Egypt and the Muslim world.<sup>71</sup> The Islamic Research Academy holds irregular conferences and highlights its important role in expressing religious opinions on matters facing the nation, while also inviting ordinary Muslims to familiarize themselves with the position of Islam on those matters.<sup>72</sup> There is also the Egyptian Dar Al-Ifta, the role of which is to issue fatwas (religious opinions) to the rank and file of Muslims, and offer consultation to judicial institutions in Egypt.<sup>73</sup>

Another religious discourse issues from religious preachers. The past ten years have seen numerous male and female Muslim preachers offer fatwas and opinions relating to “Islamic” issues using diverse methods of reaching an audience, such as satellite television channels, social forums on the internet, sports clubs and some mosques. Some define such preachers as those who were trained outside the official religious institution (Al-Azhar), yet whose education is somewhat official through certification from religious education institutes affiliated to the Ministry of Religious Affairs, while some may have been registered students at academies accredited with Al-Azhar.<sup>74</sup>

Muslim feminists’ discourses are also a type of religious discourse, and treat women’s issues from an Islamic perspective, while largely adopting interpretations that are more tolerant of women and more affirming of their rights. Margo Badran defines “Islamic feminism” as a “discourse that focuses on woman and gender, founded on religious texts, primarily Quranic verses, but it also relates to daily conduct and religious rituals defined by the Quran, and that are implicitly within

the purview of this debate.”<sup>75</sup>

There are also Islamic female preachers who concentrate on addressing women and calling on them to be virtuous within their societies.

One must distinguish between Islamic feminists, female preachers, and Islamic female political activists such as the female members of the Muslim Brotherhood, for often there is a confusion between the three groups due to the fact that they are all women who speak about woman’s issues and base their arguments on the Islamic Sharia. Each one has a distinct discourse, however, and opposes that of the others.

For example, we find Islamic female preachers giving religious lessons and being involved in social, educational and cultural activities for women in their neighborhood mosques, and we find that their discourse is rooted in the call to revive Islam in Egypt. And regardless of social, economic and cultural backgrounds, what brings together these women is a religious zeal that aims to achieve a higher degree of religiosity and self-improvement, while focusing on the archetypal image of the Muslim woman as an obedient and virtuous wife. They oppose the “western” calls to empower women and to imitate western women, and they believe that women’s empowerment is incompatible with Islam, and that the guardianship of man is a fundamental matter.<sup>76</sup>

The discourse of those women differs from the discourse of Muslim feminists, which is premised on equality between men and women while calling on certain interpretations of the Islamic Sharia to support those values. This is manifest in the work of numerous Muslim feminists in the world toward achieving justice and equality within the Muslim family, an endeavor made necessary by the fact that numerous personal status laws claiming to be inspired by Islam are not characterized by justice nor are suited to Muslim families or Muslims’ experiences. They claim that change is possible through the adoption of a framework of justice and equality consistent with the aims of Islam, the principles of human rights, constitutional guarantees, and the real conditions lived by both men and women in the present time.<sup>77</sup>

This differs from the discourse of Islamist women activists inside Islamic political movements, who offer a political discourse for women’s issues that is consonant with the priorities of their political movements, such as the International Islamic Committee for Woman and Child, which includes the female members of the Muslim Brotherhood in Egypt. The committee strives to

71 Law governing Al-Azhar, [http://ar.jurispedia.org/index.php/%D9%82%D8%A7%D9%86%D9%88%D9%86\\_%D8%AA%D9%86%D8%B8%D9%8A%D9%85\\_%D8%A7%D9%84%D8%A3%D8%B2%D9%87%D8%B1\\_%D8%A7%D9%84%D8%B4%D8%B1%D9%8A%D9%81\\_%28eg%29](http://ar.jurispedia.org/index.php/%D9%82%D8%A7%D9%86%D9%88%D9%86_%D8%AA%D9%86%D8%B8%D9%8A%D9%85_%D8%A7%D9%84%D8%A3%D8%B2%D9%87%D8%B1_%D8%A7%D9%84%D8%B4%D8%B1%D9%8A%D9%81_%28eg%29).

72 <http://www.olamaashareah.net/nawah.php?tid=1082>.

73 The Egyptian Dar Al-Ifta website: <http://www.dar-alifta.org/Module.aspx?Name=aboutdar&LangID=1>.

74 Wael Lutfi, The phenomenon of new preachers: A sociological analysis of the religious call, wealth and fame (Ar.) (Al-Ayn Publishing House, 2010).

75 M. Badran, ‘Islamic feminism: What’s in a name? Islamic feminism is on the whole more radical than Muslims’ secular feminisms, argues Margot Badran’ in Al-Ahram Weekly online, 17-23 January 2002, Issue no. 569: <http://weekly.ahram.org.eg/2002/569/cu1.htm> (last accessed 18 July 2011).

76 Sherine Hafez, The Terms of Empowerment: Islamic Women Activists in Egypt (The American University in Cairo Press, 2003).

77 Framework for creating an equality movement, <http://www.musawah.org/docs/framework/Musawah-Framework-AR.pdf>.

highlight the high standing of woman in the Islamic Sharia, and also to guide Islamic societies to revert to the “pure wellspring of Islam” which was fair to women and afforded women rights since the early dawn of the tolerant message of Islam. It also aims to highlight the role of Muslim woman in the global arena, and elucidate the Islamic vision of issues of family, woman, and child, and coordinate between Islamic organizations and associations concerned with these issues. The committee endeavors to oppose the paradigm of the United Nations in dealing with women’s issues, on the grounds that the United Nations aims to promote a single civilizational pattern, the “western” pattern, and attempts to impose it on all societies.<sup>78</sup>

It may be observed in this context that although these religious discourses address woman’s rights and deal with them from an Islamic perspective, orientation differs based on the background and aim of each discourse. It may be noted that Al-Azhar supports women’s issues from the perspective of what the Egyptian government espouses, as Al-Azhar is a governmental institution whose rector is appointed by the president. For instance, the issue of “female circumcision,” even though it was one of the most longstanding demands of the independent feminist movement in Egypt since the 1950s, was not on the agenda of the Egyptian state. In fact Sheikh Jad Al-Haq Ali Jad Al-Haq, then mufti of Egypt, issued a fatwa<sup>79</sup> in 1981 conferring religious legitimacy on the circumcision of females,<sup>80</sup> but this position changed when the state and its National Council for Motherhood and Childhood adopted an Egyptian child draft law criminalizing it. Another fatwa was issued by Al-Azhar saying that circumcision is not prescribed by Sharia and the Ministry of Religious Affairs (Waqf) distributed booklets on the harmful effects of circumcision, saying it is not sanctioned by Sharia.

This is at odds with the discourse of “preachers”, both male and female, whose social policies are mainly conservative in their view of women, confining a woman’s role to the traditional patterns, for example as wife and mother. This in turn differs from the demands of Islamist feminists, who rely in their discourse on interpretations of Sharia that are harmonious with human rights principles, and adopt the CEDAW as one of their frames of reference. Meanwhile the International Islamic Committee for Woman and Child, on the other hand, prepares shadow reports and formulates critical conceptualization vis-à-vis the United Nations discourse. Diversity in the sources and orientations of these religious discourses means that each produces something different. In most cases, researchers and those interested in the issues of woman’s rights in Egypt deal with Islamic women’s discourses in Egypt as a single discourse, and there is no differentiation between those discourses and their premises, role and impact. Moreover, this

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78 The website of the International Islamic Committee for Woman and Child, <http://www.iicwc.org>.

79 It stipulates that, «The fuqaha have concurred that circumcision for males and females is licit, but they disagreed on whether it is a Sunna (laudable) or mandatory. 2- Circumcision for males and females is instinctively desirable, which Islam has commended and demanded.»

80 Fatwa Number 709, Topic 1202, circumcision of females, dated 29/10/1981, Dar Al-Ifta Al-Misriyyah, <http://bit.ly/IgXXan>.

is used as a premise for not adopting more rights for women, empowering them, or enacting laws supporting them. This leads to a neglect of the multiple discourses that should influence public opinion and decision makers.

At the level of the enactment of laws inside Egypt, Article 2 of the Egyptian Constitution stipulates that the principles of Sharia are the sole source of legislation. Furthermore, the Higher Constitutional Court, in a decision regarding interpretative opinions, has inferred that:

interpretative judgments are not inherently compelling regarding those who do concur with them, and hence it is impermissible to consider them as an immutable law that is inviolable, otherwise the same would be a prohibition of reflecting on the religion of God Almighty, and denying the fact that error is possible in each interpretation. Indeed, some of the companions of the Prophet Mohamad were piously hesitant to issue fatwas. Accordingly, the position that the Ijtihad of a jurist does not merit being complied with more than that of another jurist is a sound position. And perhaps the weakest opinions in terms of sacerdotal documentation is the most appropriate for changing circumstances even though they may be incompatible with positions that have been applied for a long time. And while it is acceptable to say that independent interpretation (Ijtihad) in suppositional principles and linking them to the interests of people through sacerdotal sacred and rational bases is the entitlement of mujtahids, it is more of a priority for this right to be established for a rule to be appropriately utilized in every matter – by means of those well versed in public affairs, and in a manner negating and mitigating difference and dispute, it being understood that the interpretations of the predecessors ought not be a final source or a sole frame of reference for deriving and deducing practical principles.<sup>81</sup>

Perusing the decisions rendered by judicial institutions, it becomes evident that they are inclined towards more traditional and conservative interpretations, and that a discourse such as that of Muslim feminists does not have a presence in courts’ interpretations and decisions in personal status matters, or in issues concerning women and their rights.

Despite numerous academic studies affirming the role of preachers in forming surrounding and often hostile public opinion concerning woman’s rights and empowerment, some phenomena confirm that this discourse is limited to certain social classes, such as the middle class, and is of no influence when the political will is present to amend a related law. This was clearly in evidence in the enactment of the Egyptian child law, for when the National Council for Childhood and Motherhood and some private associations adopted the initiative to ratify a law protecting Egyptian children and affirming their rights (among its proposed articles was the criminalization of female circumcision and raising the marriage age for both genders, two issues that encountered

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81 The decision rendered by the Supreme Constitutional Court in appeal Number 5, judicial year 8, on 6 January 1996.

strong societal opposition and hostility), the committee for preparing the draft law convened with the Al-Azhar ulema, held discussions with them and obtained fatwas prohibiting female circumcision and ruling that raising the marriage age does not contradict the principles of Sharia. Thus clergymen were involved in the campaign to enact the law, and popular encounters with members of the People's Assembly

(parliament) took place to discuss it in the presence of clergymen affiliated to Al-Azhar, while other preachers were ignored and not addressed on the matter, and likewise ignored were the discourses of Islamist feminists.<sup>82</sup>

Religious discourse is not solely confined to Islamic discourse, for a Christian religious discourse has begun to present itself in recent years alongside the emergence of numerous lawsuits relating to the right of Christian women to divorce. In 1971, by virtue of a decision of Pope Shenoudah, patriarch of the Coptic Orthodox Church of Egypt, adultery had become the only grounds for divorce.

Some woman's rights institutions have sponsored the issues of Christian women and their right to divorce, and thus supported amending the law governing this and enacting a new personal status law for both Muslims and Christians. The Egyptian Woman's Issues Association has endeavored to promulgate a personal status law for both Muslims and Christians, utilizing legal mechanisms and the opinions of non-conservative Christian clergymen, while relying on interpretations advocating more rights for Christian women to help confront the conservative and extreme opinions that impede a radical solution to their suffering when seeking divorce or the right to a second marriage after obtaining a divorce in court.<sup>83</sup>

### Cultural discourse

The fact that women do not enjoy the same rights as men in Egypt due to the hegemony of an extremist religious discourse oblivious to the various interpretations of the text is cited both theoretically and in practice at societal and legal levels. Yet encounters with women and other actors indicate a contrary thesis.

We find in Egypt a cluster of laws than affirm more rights for women than many Middle Eastern countries do. Moreover, in Egypt a movement advocating women's rights is active, endeavoring to secure the application of those laws and amend and propose others, and to spread awareness among women and influential quarters to effectuate those laws. Indeed, the movement has adopted new mechanisms during recent years, including integrating clergymen into their activities. However, the necessity of reading the cultural context has become urgent

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<sup>82</sup> An interview with legal activist Hani Hilal, executive director of the Children's Rights Center and one of the members of the committee for ratifying the Egyptian child draft law.

<sup>83</sup> Interview with Azza Suleiman, director of the Egyptian Woman's Issues Center, 2005.

as sociological studies have shown that religious discourses in many instances are influenced by the prevalent cultural discourse. Indeed, sometimes it became evident that some of the religious interpretations presented are a function of a social tradition for those who undertake to interpret religious texts.

It also becomes evident from reading the discourses concomitant with the affirmation of woman's rights that here to there is a preponderance of respect for societal customs and traditions and cultural heritage over religious discourses. And in certain instances, individuals do not conduct themselves in a manner they perceive as consonant with Islamic values due to their not being suited to the values and traditions of society. This can be discerned from a number of meetings with women and men within the framework of talking about women's rights. The following are some observations relating to the impact of the cultural discourse on the situation of woman's rights in Egypt:

- Although the marriage contract in Egypt is contingent on the wife's right to specify a number of her rights, women's awareness of the nature of this contract is limited, and likewise they are incapable of demanding, activating and utilizing this right despite its presence in the law, while the marriage official is not careful to apprise women of it for fear of adverse social reaction if they use it. Example: Majeda Ahmad, 35, on 13 June, 2004: "The marriage official did not ask whether I wish to include conditions in the marriage contract. I was not sitting there, only my father was there."<sup>84</sup> And a marriage official said, "The number of those who include conditions is very small – perhaps the number is no more than one out of every hundred – given that there is fear of creating tension and endangering the marriage. And if I inform them of conditions I open the way for tension."<sup>85</sup>
- In the case of violence against woman, some findings reveal that women accept violence because they want to allow men to show them their manliness as compensation for social pressures. Religious interpretations are absent in explaining the acceptance of those practices, while clearly in evidence is the effect of the prevailing cultural and societal discourse.

Subject to this cultural pressure are all the active forces in the field of defending woman's rights. Hence, the National Woman's Council, in the discussions it conducts on women's issues, emphasizes that the negative prevalent culture towards women impedes them in many matters. Council members focus on the detrimental effect of the old traditions and the prevailing customs

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<sup>84</sup> Human Rights Watch, *Away from Justice: Depriving woman of an equal right to divorce in Egypt* (report), 30 November 2004 <http://www.hrw.org/ar/node/11889/section/4>.

<sup>85</sup> Ibid.

and culture that impede women's participation.<sup>86</sup> Nonetheless, the council continuously stresses that it is society that must demand women's rights within the framework of its cultural system, as exemplified in the words of Dr. Farkhinda Hassan, secretary general of the National Woman's Council: "civil societies should demand rights within the framework of those inherited traditions so as not to collide with society."<sup>87</sup>

This paper sought to discuss the issues of woman's rights in Egypt and their relation to the multiple political, religious and cultural discourses. It considered to what extent the various religious discourses affect the condition of women in Egypt, and how each of those discourses influences how women's rights in Egypt are adopted and reinforced.

## **A Tale of a Torrential Totalitarianism: The crises of freedom of belief and minorities' rights in Egyptian society.** by Adel Guindy

### **Introduction – The official 'negationism'**

Talking about 'freedom of belief' and 'minority rights' at a time when deadly attacks and death threats targeting non-Muslims abound sounds like an anachronistic luxury. Yet one should resist despair, try to keep some calm and see if there is a way to rationalize the mad reality!

The Egyptian political leadership, starting right from the president, adamantly insist that non-Muslims in Egypt *do* enjoy their full rights<sup>88</sup> including, naturally, freedom of belief. If there are minor problems here or there, junior officials are typically quick to say, these are being well taken care of.<sup>89</sup> As for Muslims' freedom of belief (if this was to mean the freedom to change belief), that is another issue.

President Hosni Mubarak remained conspicuously silent after a Christmas Eve attack (6 January, 2010) in Nag Hammady claimed the lives of six Coptic Christians and a Muslim bystander, finally acknowledging it 18 days later. He warned that he would be firm with whoever, from "either side," endangered the "national unity." He blamed the religious narration by both of Al-Azhar and the Coptic Church. He also called upon intellectuals and writers to take action – but never saying a word as to his own responsibilities and that of the rest of the political leadership.<sup>90</sup>

When it comes to minority rights, as far as Egypt is concerned this is a non-issue altogether – simply because there are 'no minorities' in the country. Try as you may, but the political class and the media would never accept to consider Copts as a minority. They are just 'part of the national tissue' (as if there were a contradiction between the two notions!).<sup>91</sup>

The situation reached a surreal level of absurdity when Egypt's delegate at the UN Human Rights Council chastised the US during the Country Review Session on 5 November, 2010, voicing "Egypt's concerns about certain human rights policies and practices in the US." He presented nine recommendations, including one on "abolishing all laws discriminating against American

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88 Mubarak declared, typically, that "Egypt never knew any discrimination on the basis of color, faith, creed or race."  
<http://www.ahram.org.eg/58/2010/01/26/12/4945/219.aspx>.

89 Refer, for example, to Egypt's review report, which was presented to the UN Human Rights Council (UNHRC) on 18 February 2010: [http://lib.ohchr.org/HRBodies/UPR/Documents/Session7/EG/A\\_HRC\\_WG6\\_7\\_EGY\\_1\\_E.pdf](http://lib.ohchr.org/HRBodies/UPR/Documents/Session7/EG/A_HRC_WG6_7_EGY_1_E.pdf).

90 <http://www.ndp.org.eg/ar/News/ViewNewsDetails.aspx?NewsID=63230>.

91 The idea is not to admit any 'minority rights'. However, the trick falls apart, since whenever someone evokes the flagrant discrimination against those citizens who happen to be Copts, some (preposterous) statistics are readily made available trying to prove that they are, after all, a tiny 'minority,' of between 4.5 and 6% of the population, and hence should respect the 'rule of the majority' and be thankful for the rights they have been granted. In fact, if anything, they are said to be getting more than what they should. See article by Tarek El-Bishry, a past senior magistrate in the State Council: <http://shorouknews.com/ContentData.aspx?id=319570&terms>.

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86 Statement of Farkhinda Hassan, October 2010, Al-Sharq Al-Awsat newspaper.

87 Statement of Farkhinda Hassan, May 2010, Al-Yawm Al-Sabi` newspaper.

Africans, Muslim Arabs and immigrants on racial or religious basis.”<sup>92</sup>

Such official **negationist** positions apart, the lack of ruling ‘political will’ can be easily put in evidence if we list the number of issues that a mere presidential decree or directive would resolve. From appointing Copts in certain posts, or in special agencies, to breaking the upper ceiling (typically below what we call the ‘impurity threshold’ of 2%) set on their entry into the military and police academies, the judiciary, the diplomatic corps, and state-owned media.<sup>93</sup> From agreeing to issue a law on building houses of worship, to abolishing the mention of religion from ID cards and application forms. From penalizing discrimination to reforming the electoral system in order to allow equitable presence for minorities. Indeed in all these cases, and others, a presidential intervention – sometimes by simply giving the good example – would help the cause of citizenship rights move forward. However, little, if anything, ever takes place despite numerous demands. Why is this lack of will? Is it due to personal prejudice? Political calculations? Moreover, is the will alone enough? What about the might? And who holds it?

As to the second possible cause of the crisis of rights; i.e. whether the problem was due to **religion**: This might invite a quick ‘yes’ – after all the Freedom House Religious Freedom Index<sup>94</sup> shows that Muslim countries (including Egypt) represent two-thirds of the 47 countries in the ‘Not Free’ category. The rest are mostly ‘Partly Free’ countries.<sup>95</sup>

But if religion is to blame, what exactly is the problem? Some will say ‘Islam is not a religion like the others,’ but how does that work out? Are we talking about popular piety (which is shared by most Egyptians)? Socio-religious conservatism? Seeking certitude regarding justice and (rich) compensation in the afterlife? Looking for refuge in a fast-changing world?

On the other hand, discussing religious tenets *per se* is a slippery topic, as it is usually quite easy to get dragged into a ground whose rules are set by men of religion and where sentiments and defensive attitudes prevail. It is hence decidedly out of this paper’s scope.

The rights crisis is a big and growing issue, but it cannot be understood simply in terms of any or all of the above, or even some socioeconomic factors, as these are all dimensions – rather facets – of a bigger problem. In fact the issue of **minority rights** in itself is only **part of the bigger impasse** engulfing Egypt.

This writer believes that the fundamental problem we face is that a broad **phenomenon of**

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92 <http://www.ahram.org.eg/342/2010/11/06/12/47197.aspx>.

93 <http://www.ahewar.org/debat/show.art.asp?aid=108819>.

94 <http://www.freedomhouse.org/template.cfm?page=546&year=2010>. Only two countries (Indonesia and Mali) were part of the club of 89 ‘Free’ countries.

95 Some ‘clemency’ appears to have been used by the evaluators, perhaps to avoid accusations of anti-Muslims bias: Pakistan ‘Partly Free and Indonesia ‘Free’. See: <http://www.freedomhouse.org/template.cfm?page=546&year=2010>.

**masses** is going on in Egypt. To analyze it, we will first have to understand such movements and their relationship with modern totalitarian movements in the world.

## 1. Totalitarian movements

Many people use the term ‘totalitarianism’ in the sense of dictatorship, tyranny and oppression. Yet one must be clear that if every totalitarian regime is authoritarian, the reverse is not true: not every authoritarian regime is totalitarian.

It is more than a matter of linguistic or intellectual sophistry. To examine the issue, we will rely on *The Origins of Totalitarianism*<sup>96</sup> by political theorist Hannah Arendt, which is considered to be *the* reference on this subject.

Arendt first observes that the world fell prey in the 20<sup>th</sup> century to three types of totalitarianism: Communism, a totalitarian based on working-class rule; Fascism (or ‘pan-movements’ in general), which relished the supremacy of the nation; and Nazism, whose ideological foundation was the supremacy of race. What is more striking is that all three models were brought about, or supported, by the masses – even though these have, in each case, later paid a heavy price.

Here are very brief highlights of Arendt’s findings:

1- Totalitarianism is a **phenomenon of masses** not related to class or socially synthetic structures. It does not arise merely from manipulations. Usually it is a result of some major social and political upheavals.

2- Masses can give up vital current interests for the sake of **absolutist ideas**, and can easily resort to hatred, death or suicide to achieve the **ultimate victory**.

3- Eventually, what attracts the masses most is the feel of **power and enjoyment of violence**. In the heart of the movement lies **nihilism, chaos and destruction**.

4- Totalitarian parties use **propaganda and intimidation**. They proclaim the existence of laws and **imperatives that no one could alter** that must be implemented and spread.

5- **Manipulation** of the ‘truth’ and the ‘real’ spreads. Ultimately, resort to myths, tales and fantasies in a **self-feeding collective mania**.

6- **‘Those who do not belong to us’** are rejected as outsiders.

7- The common **public domain becomes limited**, then vanishes. Opposition suppressed. Laws modified as needed. Suspected loyalty harshly dealt with.

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96 H. Arendt, *The Origins of Totalitarianism* (1951); 1985 print by Harcourt Books, p. 527.

8- Terror spreads, fundamental freedoms eliminated. **Interference in personal freedoms**, even to the smallest details, and ultimately their oppression.

9- **False rhetoric** that no one dares to get out of. Ultimately, death unites with life.

As we shall see, it is not difficult to demonstrate how these criteria of totalitarian movements fit perfectly the situation in Egypt – and beyond. We will refer to this phenomenon as **Islamism** or Islamo-fascism since other terms in circulation ('Islamic extremism,' 'Islamic fundamentalism,' 'political Islam,' or 'radical Islam' etc.) simply do not reflect what is meant.

Realizing this picture makes it easier to understand, for example, that violent jihadists are not 'a few misguided extremists;' they are nothing more than the military wing of a sweeping totalitarian movement of masses.

The particularly deadly danger of this brand of totalitarianism stems from several factors, the most important being:

First: If totalitarianisms had spread among European peoples that had reached an undeniable degree of progress; how would things be in the case of developing peoples?

Secondly: If the European totalitarianisms had prevailed despite being anti-religion, or at least counter to the key values of western civilization; how would things be in the case of a totalitarian movement which is **cloaked in religion** and finds in its heritage a wealth of material to feed upon, even if by misinterpretation?

Third: If European totalitarianisms had one Goebbels here or one Pravda there; how would things be in the case of a totalitarianism served by a backward and rote-based educational system, stuffed with hate material, and a huge network of manipulative media (mostly government-funded!)?

In sum: This totalitarian mass movement is, if anything, **more dangerous** than any in recent history. It is about time to wake up to the facts!

But, how did this come about in Egypt?

## 2. A historical bird's eye view

### 2.1. Brothers Are Born

In March 1924 the Grand National Assembly of Turkey, at the behest of Mustafa Kemal (Atatürk), abolished the Ottoman caliphate, putting an end to a theocratic system of governance that lasted almost 13 centuries.

Four years later, in March 1928, a young primary school teacher, Hassan Al-Banna, and six others from the lower classes of Egyptian society (a carpenter, a barber, a laundryman, a driver, a gardener and a bicycle repairman), met together in Ismailia, along the Suez Canal, to form the Muslim Brotherhood, aimed at "trying to help reestablish the glory of Islam and defend the good of Muslims".<sup>97</sup>

The title of their society was not exactly novel, as it had already been adopted for a couple of decades in Arabia by the Wahabis. These followers of the fundamentalist scholar Mohammed Ibn Abdul Wahab (d. 1793) were organized in armed groups who terrorized tribes to make them submit to their ally, Abdul Aziz Ibn Saud, in order to form 'one country, one faction.'

The fate of the entire region (indeed the world!) was to be strongly influenced by these two **Brotherhoods**.

The Wahabi 'Brothers' helped Ibn Saud create, in May 1927, the Kingdom of Hejaz and Nejd, which became, in 1932, the Kingdom of Saudi Arabia. The power sharing deal guaranteed the Wahabis the control of daawa (thought, education, proselytizing). Oil, discovered in 1938, helped it later finance the worldwide spread of the most fundamentalist and stern Islamic ideology in modern history.

The Egyptian 'Brothers,' on the other hand, eventually helped turn religious fundamentalism into a vast mass totalitarian movement in the proper sense of the term as described by Arendt. As early as 1945, the Muslim Brotherhood (MB) was dubbed a totalitarian, fascistic movement.<sup>98</sup>

A liberal, almost secular, governing system had somewhat flourished in Egypt, especially after its first formal constitution in 1923, which was an enlightened and liberal document. A highpoint was when Mustafa Al Nahhas, a Wafdist prime minister, insisted that King Farouk's coronation in 1937 be a strictly secular ceremony held at the parliament (not Al-Azhar mosque), and considered that the mere mention of God in a political program was a kind of charlatanism and jugglery. But by the middle of the 20<sup>th</sup> century, the weaknesses of the liberal system<sup>99</sup> coupled with a growing fascination with the European fascistic regimes have allowed the **MB** to establish a **grassroots** totalitarian movement to be reckoned with.

### 2.2. Nasser

In 1952 came the coup d'état (later called a revolution) whose leaders were mostly members of the MB or sympathizers of its (and other) fascistic ideas. After a quick clash of interests in 1954,

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<sup>97</sup> El-Sayed Youssef, *The Muslim Brotherhood and the Roots of Religious Extremism and Terrorism in Egypt* (Arabic) (1999), at p. 119.

<sup>98</sup> By John Kimche, then a Reuters correspondent, quoted by El-Sayed Youssef, at p. 246.

<sup>99</sup> In a somewhat a similar development to that faced by 19<sup>th</sup> century European liberalism.

the MB's totalitarian movement had to go underground, as the regime turned, under Nasser, into an autocracy. His charisma and the Pan-Arabism ideas he adopted, as well as a genuine development program (though flawed with pseudo-socialist and bureaucratic practices), helped him win broad popular support. The experiment however was short-lived as it quickly ended: practically with the June 1967 defeat to Israel, and definitively with Nasser's death in 1970.

### 2.3. Sadat and Mubarak

Taking over afterwards, Anwar Sadat revived in earnest the Islamist totalitarian movement and adopted its ideas those of his state. He moved in two complementary directions:

1- The Islamization of the state and the society. He promulgated in September 1971 a new constitution where, for the first time, principles of **Sharia** figured as 'a main source' of legislation. Rarely anybody pays attention to the fact that this came **eight years before Khomeini's** revolution. It was also a constitutional turning point in the region, to be followed later by most Arab countries. In June 1980, Sadat further modified the constitution to make principles of Sharia '*the* main source' of legislation.<sup>100</sup> All his public addresses were opened "in the name of God," and he proudly declared himself a "Muslim president of a Muslim state."

2- Targeting the Coptic minority. All along the 1970s, Islamic groups (**Jamaa Islameya** and its offspring) which were originally created by one of Sadat's close assistants,<sup>101</sup> were encouraged to terrorize Copts especially in Assyut, the rest of Upper Egypt and Alexandria, where they have a larger presence. (Muslim secularists and leftists were also targeted). In 1977 Sadat wanted to enact a law on ridda (apostasy), and was furious at Copts' negative reactions, as they feared a camouflaged way to forced conversions. In June 1980, a big massacre of Copts took place.<sup>102</sup> Sadat preposterously accused the Coptic Church of "fermenting sectarian strife," planning to have "their Coptic state" in parts of Upper Egypt. He **deposed the Coptic Pope**, and put him under house arrest in one of the desert monasteries – a move unprecedented in several centuries.

Hosni Mubarak took over in October 1981, after the assassination of Sadat at the very hands of the militants of the totalitarian movements he had adopted and encouraged. While Mubarak never made the kind of blunt pronouncements typical of Sadat, not only did he **carry out the same policies** of Sadat; he did so at a persistent and an ever more accelerated pace. Islamization advanced unabated. The effect of the **Wahabi** Brotherhood took a paramount role, especially

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100 By way of comparison, Article 1 of the French Constitution states: "France shall be an indivisible, secular, democratic and social republic. It shall ensure the equality of all citizens before the law, without distinction of origin, race or religion. It shall respect all beliefs". Note also that Egypt is the only multifaith country in the world whose constitution stipulates that a religious law (Sharia) be the main source of legislation.

101 Adopting MB's ideology, they were created in 1972 by Mohamed Othman Ismail, counselor to Sadat, then governor of Assyut (1973-82).

102 Al-Zawyah Al-Hamra, where security forces surrounded the area for three days, during which Islamist bands and inhabitants of the neighborhood attacked, looted and killed up to 81 Copts – under the watchful eyes of the police.

as it used its financial muscles to further advance its ideology and **penetrate** the religious establishment. As for Copts, and despite their pleadings, he left their Pope under house arrest for forty months (till January 1985). Afterwards he met him formally only once<sup>103</sup> and always made a point of keeping the **Copts** at an arm's length, delegating their '**dossier**' to the notorious **State Security** apparatus.

### 3. Torrential totalitarianism

The dark episode of the expanding and ever more dominating Islamist mass totalitarian movement has been going on, unabated, for four decades. In the following sections we will review a small selection of examples that highlight its various **characteristics**, according to Arendt's criteria, where we could often identify actions made in unison, whereby the masses and the political leadership, or the authorities at various levels, work in resonance, or symbiosis.

#### 3.1. A phenomenon of masses

- 3.1.1. Even the basic and familiar daily greetings, using expressions for which Egyptians were long renowned, were replaced with Islamic ones. The point is one of adopting certain codes in all aspects of life, which, furthermore, lead one to **distinguish** 'fellows' from 'outsiders.'
- 3.1.2. At government administration **offices**, it is common for employees to spend a good part of the workday performing ritual ablution and prayers. Office managers and senior directors often double as prayer leaders. It is indeed rare to find an office that is not adorned with religious artifacts, such as framed Quran verses and photos of Ka'aba.
- 3.1.3. A recent survey<sup>104</sup> by Pew Global Attitudes Project shows that 85% of Egyptian Muslims consider Islamic influence over political life to be a positive thing for the country. Regarding the application of Sharia's harsh punishment laws: 82% endorse the stoning of people who commit adultery and 84% are in favour of making it the laws to apply death penalty for those who leave Islam, while 77% are supportive of whippings and cutting off of hands for crimes like theft and robbery. A majority (54%) support making gender segregation the law in their country. Finally, no less than 20% have a positive view of al-Qaeda and Bin Laden, while 49% were supportive of Hamas.

#### 3.1.4. Concerted popular efforts to exclude 'outsiders':

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103 He received him for the first, and only, time on 8 July 2001 in the presidential palace of Alexandria.

104 Released 2 December 2010: <http://pewglobal.org/2010/12/02/muslims-around-the-world-divided-on-hamas-and-hezbollah/#prc-jump>.



to the Christian Love Association and several homes inhabited by Copts after **rumors** spread that they intended to turn the building into a church. The attackers chanted anti-Christian slogans and demonstrated against the presence of a church in the village. They began throwing stones, breaking into and vandalizing some of the homes. Security forces did not arrest any of those involved. No police report or complaint was filed. Security forces shut down the association's building.

- 3.3.2. On 28 July 2009, a Coptic man was ordered by State Security to stop working on a wood warehouse he was building in the village of Reida (Minya Governorate), because they believed he **intended** to turn it into a church. The directive came four days after attacks on Christians in a nearby village by Muslims opposed to the establishment of a church in that village. State Security demolished the sections of the warehouse that had been built.
- 3.3.3. On 20 October 2009, Faruk Henry, a 61-year-old Coptic man, was shot dead in Dayrut (Assyut Governorate) because **his son** had been accused of having a relationship with a Muslim girl. The four killers were arrested, but after the prosecutor ordered their cautionary investigative imprisonment for two weeks, some 2,000 Muslims rioted, breaking, burning and looting dozens of shops, pharmacies and other Coptic property, as well as two churches (Orthodox and Evangelical) and a charity clinic run by the Catholic Church. Security forces intervened several hours after the attacks began. Four people were tried by a criminal court on accusation of the killing but, on 22 February 2010, were discharged for lack of evidence.<sup>114</sup>
- 3.3.4. In Nag Hammadi (a town situated 80 kilometers north of Luxor), Copts leaving church following the midnight Christmas Mass (celebrated on 7 January 2010) were shot at. Seven people were **murdered**, including a Muslim who happened to be in the vicinity, in addition to several Copts being injured. During the following three days, Copts and Coptic property in Nag Hammadi and two neighboring villages were attacked. An estimated 3,000 Muslims reportedly **broke into, looted, and set fire** to Coptic-owned shops. Three persons accused of the initial shooting were identified and put to trial.<sup>115</sup>
- 3.3.5. Mobs of Islamists, totaling some 10,000, erupted (on 24 September) into wild demonstrations after Friday prayers in Alexandria. Targeting the Coptic

Church, the Pope, and Copts in general, it was one in a series of outbursts in 2010 (the thirteenth, and the latest, was on 5 November) to take place also in Cairo and other cities. Several **hate slogans**, normally punishable by law, were shouted, with no action taken by the authorities. Demands included the delivery to them of a priest's wife, who they insist had converted to Islam. Despite vehement affirmations that this rumor was baseless – including via a certified video recording by the woman in question – the mob's leaders declared they would continue demonstrations and use "other daring means," until the woman enters Islam's abode.

On 1 November, an Al-Qaeda affiliate in Iraq, after a massacre at a Catholic church in Baghdad that day claimed 56 lives and wounded scores, echoed the same demands, **word for word**, in an ultimatum to the Coptic Church.

### 3.4. Propaganda and Intimidation

- 3.4.1. Religious recordings have replaced popular music in most transport vehicles as well as in shops. It is not unusual to see metro (subway) cars turned into preaching (proselytizing) forums by feverish zealots. Moreover, owners of apartment buildings who have transformed part of their building's basement into a prayer hall (equipped with microphones) receive special local property **tax exemptions**.
- 3.4.2. There may be rare places in the world where publications such as Hitler's *Mein Kampf* can be abundantly found at popular booksellers, as in Cairo. The annual Cairo Book Fair has become a hugely popular event where well over 90 percent of the books are religious, and most of these belong to the virulent and obscurantist **Salafi** kind which are sold at a small fraction of printing costs – **subsidized** by a combination of the Wahabi and Egyptian Brotherhoods, under the benevolent eyes of the authorities.
- 3.4.3. The professional syndicates, organizations and lawyers' bar have been turned into forums for spreading an Islamist ideology rather than attending to members' needs. Elected boards are **free of any Coptic** representation, unlike the case until three decades ago.<sup>116</sup>
- 3.4.4. The national carrier, EgyptAir, which for years has banned serving alcohol on all flights, also recites at every take-off and landing the Islamic 'Invocation of Travel,' originally intended for desert trips on camelback. Amazingly, both

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114 This, and the previous two paragraphs, are based on an EIPR report: [http://eipr.org/sites/default/files/reports/pdf/FRBQ\\_Oct\\_Dec\\_09AR\\_online.pdf](http://eipr.org/sites/default/files/reports/pdf/FRBQ_Oct_Dec_09AR_online.pdf).

115 At the time of writing, the trial was still dragging on; the next court session being set for 18 December 2010.

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116 The percentage of Copts in some professional syndicates, such as doctors and pharmacists, is said to reach 25%.

measures were initially **imposed by some pilots**, then was generalized and expanded by management.

### 3.4.5. Islamic **indoctrination** using Arabic language texts:

Since the early 1980s, a gradual Islamization of the educational curricula took place, especially in the Arabic language.<sup>117</sup> There are several religious themes in Arabic language textbooks. One is an emphasis on the belief that Islam is the only source of virtue. Another is an insistence that Islam – rather than shared citizenship or humanistic values – is the basis of all societal relations. Accompanying this is an insistence that the Egyptian state's main role is to protect and spread Islam and ensure the unity of the Islamic – rather than the Egyptian – nation. A third theme is to compel all students, regardless of religion, to uphold 'obedience to God and His Messenger [Mohamed].' The texts also impose on Christian pupils Islamic beliefs and doctrines, such as an endorsement of fatalism or the Islamic notion of martyrdom. The curriculum also presents a sanitized historical narrative describing early Islamic invasions as noble. Lessons promote the idea that leadership positions should be held by believers only; that any ruler who disobeys God and His Prophet can be himself disobeyed; and that the believers should take a firm position against those who do not submit to the orders of God and His Messenger. There is little mention of the Constitution or the primacy of civil law. Needless to say, teachers play an enormous role in emphasizing such themes. With such profound **brain-washing**, no wonder that Muslim pupils will be apt to join the ranks of Islamist totalitarianism.

3.4.6. In the early 20<sup>th</sup> century, Egypt had five religious (**Quranic**) schools with about 3,000 students, some of whom would ultimately join Al-Azhar Mosque/ University to become imams. Today, the number of institutes has reached 7,000, with no less than 1.5 million students.<sup>118</sup> This huge expansion took place over the past few decades. Graduates can enter Al-Azhar University, but also many other higher education institutions. Most alarming is their admission, as of recent, into the **police and army academies**.<sup>119</sup>

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117 Adel Guindy, 'The Talibanization of Education in Egypt,' MERIA Journal, <http://www.gloria-center.org/meria/2009/06/guindy.html>.

118 Information based on a series of articles by Grand Mufti Sheikh Ali Goma'a in Al-Ahram newspaper, July and August 2005.

119 Starting the fall classes of 2004 and 2008, respectively. It is difficult to underestimate the effect of having officers who only know Copts as Dhimmis, that is, a non-Muslim subject of a state governed in accordance with Sharia (according to the curricula they studied).

Some 500,000 students in 70 faculties are enrolled in Al-Azhar University.<sup>120</sup> It is only open to 'believers,' even in its faculties which offer secular studies in engineering, medicine or commerce (albeit accompanied by a religious course). Incidentally, the university (supported by public funds) provides free education to Muslim students from over **60 countries**, who represent up to ten percent of the total enrolled.

### 3.5. Imperatives that no one could alter

3.5.1. The late Grand Sheikh of Al-Azhar, the highest religious authority in the country, wrote: "The belief of a Muslim would not be complete unless he fully believes that all what Islamic Sharia contains, as rules, manners, orders and prohibitions is **the Truth** that must be followed, implemented and lived in its light."<sup>121</sup>

Sharia harbors several objectionable stipulations according to current human rights standards (such as cruel punishments by stoning, amputation and flagellation; or the prohibition, through apostasy rules, on freedom of belief). Therefore, it was rather shocking to see Sheikh Tantawi, otherwise known for his moderate views, make such sweeping statements.<sup>122</sup> They simply imply such forms of punishment should be put back in the penal code, more than a century after having been removed.

3.5.2. Said Mohamed Habila wrote under 'The **Law of God**': "A new phenomenon started recently to spread, in contradiction with Sharia, by which a father with no male inheritor would, before his death, sell or donate (his wealth) to his daughter(s), with a view to deprive the uncle(s) from the inheritance. However Sharia gives the daughter(s) one-half of the inheritance; the rest should go to the uncle(s) or to the cousin(s) in the absence of an uncle. God Almighty knows that **women are weak** no matter what they pretend to be. That is why it is necessary for a woman to have a male inheritor to shield her from those who may abuse, assault or impose upon her out of greed. This is because man has the veneration and power, in mind and body. For God knows best His creation."<sup>123</sup>

3.5.3. Judges often **ignore** existing civil **laws** and rule according to Sharia, referring

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120 Same source as in above Note 116 on the mufti.

121 Al-Ahram newspaper (government-owned), 15 May 2006; article authored by Sheikh Sayed Tantawi, Grand Imam of Al-Azhar.

122 Other prominent Islamic scholars defend the full application of Sharia hudud as non-negotiable orders by God. See: <http://www.ahram.org.eg/209/2010/06/26/4/26607/219.aspx>.

123 <http://www.ahram.org.eg/311/2010/10/06/15/42279/219.aspx>.

directly to Article 2 of the Constitution. Example:

On 30 June 2009, the Administrative Court rejected a lawsuit (no. 4475/58) filed by Girgis Malak Wasif, a Copt, contesting the administration changing his religion to Islam after his Christian father had converted when he was seven years old. The plaintiff argued that, having reached the age of legal maturity, he had the right to choose his religion. The court explained its rejection by noting that “the principles and judgment of Islam . . . determine the right of the non-Muslim to embrace the revealed religion of his choice, and these same judgments prohibit a person who has entered Islam from leaving it.”

Citing “public order,” the court added that “conversion was only permissible if it followed “a certain order sanctioned by the Almighty God: A Jew is called on to embrace Christianity, and a Christian to embrace Islam, the seal of all religions. In all these cases, the **opposite is incorrect**, as evidenced by God’s ordering of the revelation of His religions, and in accordance with public order and morals”.<sup>124</sup> Note that the court, among other things, ignored the plaintiff’s main point that he *personally* never chose to convert . . .

3.5.4. The Disciplinary Court of the State Council cancelled a disciplinary action against a nurse who had refused to comply with a job order because her husband disapproved the assignment. The ruling stated that Sharia is the main source of legislation, and hence it is not reasonable to consider the nurse guilty as she was caught between two duties: to implement the work order as scheduled, or to obey her **husband**; the latter duty being obligatory.<sup>125</sup>

### 3.6. Manipulation and self-feeding collective mania

3.6.1. During a recent newspaper interview with Sorour, he said that “those who demand the amendment of Article 2 put the seeds of social ferment.” He added that “sedition is dormant; whoever awakens it may be **curse**d by God.”<sup>126</sup>

3.6.2. At the annual Quran studies (reciting and rote learning) celebrations, the president takes it upon himself to hand out in person awards to students and scholars, not only from Egypt but also from all over the world.<sup>127</sup> An international Islamic studies award carrying Mubarak’s name was created in

2004.<sup>128</sup> In addition, there is an annual **award** to the **governorate** in Egypt that ‘excels in the efforts to expand the centers of Quran learning to every village and hamlet.’ This occurs at a time when there are no competitive efforts across the nation addressing such areas as illiteracy, environment, road accidents, cleanliness, or unemployment.

3.6.3. Reviewing **readers’ comments** posted on the websites of Egyptian national (state-owned) newspapers reveals, to one’s horror, how most people ‘think.’ Examples from Al-Ahram:

3.6.3.1. Commenting on a news item regarding the aborted ‘explosive printers,’ shipped from Yemen to the US, most readers were sarcastic, or blamed someone other than Al-Qaida, reader Fathi Khalaf, Phd, wrote (in English): “Unfortunately there are a lot of muslims in USA work for the service intelligence of some countries. These people set up some other Muslims to do terrorist acts then they inform the other countries about the act before it happen as that one to get more credits and more money. The Muslim in all over the world has to be a ware and to know these facts [sic]”.<sup>129</sup>

3.6.3.2. Commenting on an article by Abdul Mo’ti Hegazi, titled ‘This is Enlightenment’,<sup>130</sup> reader Yahya Hegazi, enraged, writes (in Arabic): “(Constantinople) was conquered by the great courageous Ottoman, Mohamed the Conqueror, on Tuesday 20 jumada al-Awal of 857 Hijra year. It remains to **conquer Rome** and the return of the caliphate – for this is the good news foretold by our Prophet, may God pray upon him and give him peace.”

3.6.3.3. Commenting on a news item quoting Barak Obama during a visit to India (7 November 2010), that “Islam is a great religion,” reader Zaki al-Tabei wrote:<sup>131</sup> “Obama said that Islam is a great religion etc. These are all facts not just words. But Obama must know that for Allah, the religion is (only) Islam, and that whoever follows another religion, it will not be accepted from him . . .”

3.6.3.4. Commenting on another article by Hegazi, titled ‘Le Monde’s editorial’,<sup>132</sup> discussing the issue of Middle Eastern Christians following the 31 October

124 Reported by EIPR, [http://eipr.org/sites/default/files/reports/pdf/FRBQ\\_Oct\\_Dec\\_09AR\\_online.pdf](http://eipr.org/sites/default/files/reports/pdf/FRBQ_Oct_Dec_09AR_online.pdf).

125 <http://www.ahram.org.eg/190/2010/06/07/9/23780/219.aspx>.

126 Sorour in Al-Ahram’s salon, 24 August 2010, <http://www.ahram.org.eg/268/2010/08/24/12/35443/219.aspx>.

127 The latest such occasion: <http://www.ahram.org.eg/285/2010/09/10/10/38215/219.aspx>.

128 Valued at 200,000 Egyptian pounds (about US\$36,000); a huge sum by local standards.

129 <http://www.ahram.org.eg/336/2010/10/31/26/46074.aspx>.

130 <http://www.ahram.org.eg/325/2010/10/20/10/44389/219.aspx>.

131 <http://www.ahram.org.eg/344/2010/11/08/26/47462.aspx>.

132 <http://www.ahram.org.eg/347/2010/11/10/10/47733/219.aspx>.

2010 church massacre in Baghdad, reader Alradi-billah Mohamed wrote (In Arabic): “Muslims get massacred, yet nobody moves. But oh and then oh if a non-Muslim is touched. I wonder why the writers won’t have some zeal to write about what’s committed by the West’s war criminals, like Bush father and son, against Muslims, whether Arabs or non-Arabs. We see from them nothing but praise to (those criminals) . . . And then this French newspaper, Le Monde: for many years Muslims are being exterminated daily; morning and evening, in massacres and genocide. We never read or heard any objection against what is happening to them. Isn’t that the top of discrimination and racism?”

3.6.3.5. Commenting on a news item about the perishing of at least 340 persons in Cambodia after a stampede during the annual ‘water’ festival, reader Mahmud El-Sheity wrote “Polytheism: This is the end of every associator of Allah. I ask Allah to destroy polytheism and the polytheists, disbelief and unbelievers.” Another reader, Bassem, wrote: “Praise Allah for the blessing of Islam. Muslims die sometimes because of the stampede to throw stones (during pilgrimage), but this is a ritual of Allah, and whoever died for His sake is a martyr. But those who died for the festival, will a festival lead them to Paradise? Will it keep them from the torment of Hell?”<sup>133</sup>

### 3.7. ‘Those who do not belong to us’ are rejected as outsiders

3.7.1. Copts have been victims of hundreds of violent attacks since 1972, with an accelerated rate since 1980 and a marked shift towards ‘**mob violence**’ (rather than by armed groups) as of the 1990s.<sup>134</sup> Culprits are very rarely arrested or tried, and then almost never punished. But violence is just the tip of an iceberg, as they have been forced into a de-facto Dhimmi status. Out of existential necessity, Islamist totalitarians stereotype and despise the Copts for who they are.

3.7.2. The official website of the Supreme Council for Islamic Affairs, a body of the Ministry of Awqaf (endowment and Islamic affairs) posted an article<sup>135</sup> entitled ‘Islam versus Ahl al-Kitab:<sup>136</sup> Past and Present.’ The author tackles the question ‘how can we be certain that Islam is the only infallible truth?’ and emphatically concludes:

133 <http://www.ahram.org.eg/360/2010/11/23/26/49891.aspx>.

134 Including 51 attacks over the two-year period ending in January 2010, as documented by EIPR: ‘Two Years of Sectarian Violence: An Analytical Study of Jan 2008 - Jan 2010’, <http://eipr.org/en/report/2010/04/11/776>.

135 Article by Maryam Jameelah, at: [http://www.islamic-council.com/non-muslims\\_u/Chapter3.asp](http://www.islamic-council.com/non-muslims_u/Chapter3.asp).

136 “People of the Book”: Jews and Christians.

We must cease indulging in apologetics and present the Islamic message to the world honestly and forthrightly. Before we can hope to succeed with Tabligh (proselytizing) on a large scale, we must first convert the nominal Muslims into true believers. We must establish a full-blooded Islamic state where the world will witness our precepts translated into action. Finally, we must crush the conspiracies of Zionism, free-masonry, orientalism and foreign missions both with the pen and with the sword. We cannot afford peace and reconciliation with the Ahl al-Kitab **until we can humble them** and gain the upper hand.

3.7.3. Students at Al-Azhar Quranic schools are taught, as prominent thinker Laffif Lakhdar has noted<sup>137</sup> under the topic of the ‘Rules of Dhimmitude’, that “the meaning of the Dhimmitude contract is to accept that some infidels (kuffar) remain in their infidelity (kufr) on the **condition** that they pay the tribute (jizyah) in utter **humiliation**, according to the commands of the Highest (Allah) in the Quran.” In “Rules of Dhimmitude” Lakhdar further identifies examples of flagrant religious that orders Dhimmi “not [to] be buried in our tombs; they should not take a lead position in meetings; one should not stand up [to salute] them, nor be first to greet them or congratulate them or visit them when sick; they should not be allowed to ring their (church) bells; and should be forced to go through the narrowest of alleys.” No wonder, as Lakhdar concludes, that Mustafa Mash’hur, a (previous) MB leader, demanded that Copts not be allowed into the Army.

3.7.4. Leading Islamic figures recently unleashed **virulent televised attacks**<sup>138</sup> on the Copts, accusing them of “stocking arms and ammunitions [imported from Israel] in their churches and monasteries” and “preparing to wage war against Muslims.” Copts were further accused of “inciting sectarian strife and seeking to have their own separate state in Egypt.” These preposterous accusations could have been easily refuted by the usually intrusive Egyptian authorities, but they have chosen to remain silent. Such silence provides implicit approval, giving impetus to anti-Copt demonstrations (see 4.3 above). Inventing accusations against the hated ‘outsiders’ is a typical **totalitarian ruse** to justify violence.

137 Refer to article: [http://www.mettransparent.com/texts/alafif\\_hadatha.htm](http://www.mettransparent.com/texts/alafif_hadatha.htm).

138 Mohammed Selim El-A’awa, former secretary general of the International Union for Muslim Scholars, on Al-Jazeera: <http://www.aljazeera.net/NR/exeres/BE050DC8-80E1-4B69-A181-BE653246D110>.

3.7.5. In a country where the Bible is systematically ridiculed as **'falsified'**,<sup>139</sup> a passing remark on a Quranic verse regarding the crucifixion, made by a Coptic clergyman at an internal meeting on dogma, was denounced as blasphemous. A public apology had to be made in order to calm down passions. The Supreme Council of Islamic Affairs, a formal state body headed by the Grand Imam of Al-Azhar, strongly condemned<sup>140</sup> the remark. It took the opportunity to point out that "Egypt was, according to its Constitution, an Islamic State" and that "the citizenship rights of non-Muslims were **conditional** on their abiding by the Islamic identity of the state." Such thinly veiled menace further risks making Copts a religiously-sanctioned target of more persecution and violence.

3.7.6. Twenty truckloads of security forces stormed (24 November 2010) a building under construction by the Coptic church of Omraneyah, Giza, to impose the halt of construction. The authorities accused the church of trying to "convert the services building into a prayers place." Tear gas and rubber bullets were used, resulting in the killing of three Copts and wounding scores. (Some 13 persons from security were also wounded when the Copts responded to the attack by throwing stones). The security forces randomly arrested some 158 Copts accused of rioting. By December 20, there were still 42 in jail.<sup>141</sup>

### 3.8. Personal freedoms oppressed, and public space shrunk

3.8.1. Not only the hijab, but also the niqab has become widespread and a part of a national dress code of sorts for Egyptian women. Some 17% wear niqab.<sup>142</sup> This trend is usually defended, in **Orwellian** fashion, in the name of personal freedom. If Huda Sha'arawi and Qasim Amin, the visionary champions of the women's liberation movement of the early 20th century, were still alive, they would find the present scenes on the streets of Cairo utterly devastating. Furthermore, in a typical totalitarian mass movement, it is amazing that women appear to be often acting voluntarily. Women often find themselves

caught between wearing hijab or facing insults.

3.8.2. The Administrative Court ruled on 13 June 2009 in the case of the plaintiff Maher El-Gohary to refuse his eligibility to change his religion to Christianity in his official documents. The court said that the International **Convention** on Civil and Political Rights<sup>143</sup> was not binding because "the decree of the President of Arab Republic of Egypt # 536 for the year 1981 approving the agreement . . . stressed that the approval will be **subject** to the provisions of Islamic Sharia and to avoid conflict with it."<sup>144</sup>

3.8.3. In the case of a father of a Christian family converting to Islam, his minor children are forced to follow suit: the mother's legal custody rights are ignored, as children, according to typical court rulings,<sup>145</sup> are supposed to follow the 'more noble' of the two religions. Furthermore, if one partner in a Christian marriage changes to another **denomination** (say from Orthodox to Evangelical), the stipulations of Sharia apply in case of a marital dispute.

3.8.4. While alcohol is still not totally banned in the country, local authorities in the governorates have over the past several years gradually restricted its sale to tourist areas. During the fasting month of Ramadan, alcohol may be served in tourist locations outside fasting hours (i.e. between sunset and dawn), and only to foreigners. Ironically, an Egyptian non-Muslim will not be served a beer, whereas a foreigner Muslim will.

### 3.9. False rhetoric

3.9.1. Farkhanda Hassan, secretary-general of the National Woman's Council, stressed that "the UN Convention on the Elimination of All Forms of Discrimination against Women does not conflict in any way with the Egyptian Constitution, nor with the magnanimous Sharia." She added that Egypt had reservations on Article 16, regarding the rights of woman in marriage, "because it **deprives** (women) of the rights given by Sharia."<sup>146</sup> In fact, Article

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139 Refer, for example, to 'Scientific report on the falsification of the Torah and the Gospel,' by Mohamed Imar, member of the governmental Supreme Islamic Council, published as a supplement of the official Al-Azhar Magazine, November 2009 issue. It was later 'withdrawn' because of the explicit incitement to violence against Copts that it contains. The book is still available online. Also, refer to the interview on the government's Nile News TV on 20 November 2008, with Sheikh Ahmed El-Tayeb (then president of Al-Azhar University and later Grand Imam of Al-Azhar mosque) who said that "Christians have altered their Book", <http://www.coptreal.com/wShowSubject.aspx?SID=13276>.

140 Issued on 25 September: <http://www.youm7.com/News.asp?NewsID=282488>.

141 <http://www.coptreal.com/WShowSubject.aspx?SID=40554>.

142 <http://www.ahram.org.eg/241/2010/07/28/10/31416/219.aspx>.

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143 Adopted by the UN General Assembly on 16/12/1966, and signed by Egypt on 08/04/1967.

144 Commentator Mohamed El-Saadani wrote that 'the set of values that form the local culture may well contradict the international rights conventions, even if signed by the states.' <http://www.ahram.org.eg/359/2010/11/22/11/49619.aspx>.

145 On 18 May 2006, the Court of Appeals in Alexandria (case 679/43) ordered a Coptic mother to give up her twin children (aged 12) to their father who had converted to Islam, because "there is a danger, if left with their Christian mother, that their (Islamic) faith would be 'spoiled'." On March 30 2010, the Alexandria Administrative Court dismissed a lawsuit filed on behalf of the two boys seeking recognition of their self-identification as Christian. As a result, when they turned 16 in June 2010, they were only eligible to receive ID cards designating them as Muslim.

146 <http://www.ahram.org.eg/49/2010/01/17/27/3770/219.aspx>.

16 shows that the problem is precisely the opposite of what is claimed. Hassan dares not admit that one of Sharia **pillars** is “no equality between man and woman” (the other, just as important, pillar, is “no equality between a believer and a non-believer”).<sup>147</sup>

3.9.2. Sorour wrote:<sup>148</sup> “[. . .] If Sharia has an undoubted religious character, being the core of the Islamic religion, yet it is independent of the dogmatic character of the religion in being a legislative system. Thus it would be envisaged to apply Sharia in a non-Muslim society, or on non-Muslims living in Muslim society and on foreigners who live on its land. This is due to the civilizational nature of Sharia, its rationale and its social values, all without prejudice to the principle of freedom of belief”. Ironically, Sorour moved from a clear premise (Sharia’s undoubted religious character) to reach an **opposite conclusion** regarding its applicability. His reasons are presented as obvious facts while they are mere biased opinions, which are, moreover, easily refutable.

3.9.3. Sorour also wrote:<sup>149</sup> “Sharia is (superior) to the Roman law in that it has been founded on the basis of **equality** between individuals before the law [. . .] We recall among the Quranic verses which set the principle of equality the verse: Indeed, the most noble of you in the sight of Allah is the most righteous of you (49-13).” Yet the equality referred to in the verse is purely religion-based.

3.9.4. When the US ‘International Religious Freedom Report for 2010’<sup>150</sup> was issued (17 November), containing some very credible facts about the situation in Egypt, Al-Ahram’s chief editor (voicing the ‘presidency,’ as it is usually known) wrote an article titled ‘Satan Gives Lessons’ packed with virulent attacks against the US.<sup>151</sup> Al-Azhar also issued a forceful statement rejecting “the very logic on which the report is based, as it represents a unique point of view that does not take into consideration the cultural specificity of Islamic societies.” It also accused the report of “attempting to impose western values as universal.”<sup>152</sup> In what appears to be an abdication by the state of its responsibilities, the Supreme Council for Islamic Affairs, headed by the Grand

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147 To further highlight the state of mind of the judiciary regarding women: The State Council on 15 February 2010 voted 334 against (vs. 42 for) appointing women to judiciary positions. <http://www.ahram.org.eg/79/2010/02/16/25/7708.aspx>.

148 <http://www.ahram.org.eg/Archive/2009/5/21/OPIN1.HTM>.

149 Al-Ahaly, 8 July 2009.

150 <http://www.state.gov/g/drl/rls/irf/2010/148817.htm#>.

151 Note that the US has given Egypt some \$90 billion in direct aid over the past three decades. <http://www.ahram.org.eg/359/2010/11/22/10/49579.aspx>.

152 Coded words meaning that freedom of faith and equality are different in Islamic countries from the rest of the world.

Imam of Al-Azhar, was to issue a rebuttal of the American report.<sup>153</sup>

#### 4. What is the way out?

The Islamist totalitarian mass movement covers a **broad spectrum** of people from all social classes and societal segments, including intellectuals, illiterates, university professors, judges, farmers, government officials, teachers, preachers, police officers, doctors, administrative employees, media, mobs, political leaders, etc. Socio-economic issues, such as poverty, illiteracy or unemployment, often blamed by the ‘experts’ as being at the roots of Islamism, are actually irrelevant.

This totalitarianism has succeeded in **reversing** almost every advancement achieved in Egypt ever since Napoleon (1798) invaded and Mohamed Ali founded its modern state (1805 onwards). Women today are decidedly more backward than a century earlier. The slogan of the 1919 ‘Revolution’ that ‘Religion is for God and the homeland is for all (citizens)’ has all but vanished. Secularist ideas, fast spreading a century ago, have been abolished – leaving their place to a *de facto* semi-theocratic state.

Gaber Asfour once wrote: “The question that we ask of the state which we live in, adhere to, and defend as civil: How are you going to protect your civic identity, O state, and protect us, we the intellectuals who still believe in the civil state and defend it at all costs? How?! How?! How?!”<sup>154</sup> This passionate and disparate cry, however, misses the point that **Egypt is no more a civil state!**

##### 4.1. ‘Liberation’ of Egypt

The first step in fighting back this totalitarianism is to recognize the **nature of the struggle** and to learn from past experiences. When talked about in ambiguous terms, out of political correctness or for fear of ‘stigmatizing’ some people, its roots and the possible remedies are missed.

History clearly teaches that totalitarian movements don’t go away on their own. They must be **exposed, fought and defeated**. That is the only way to liberate Egypt. The term ‘liberate’ is not used lightly, as the issue amounts to that – no less.

Resolving the minority **rights issue** is the other side of the same coin: **progress on either side necessarily helps the other**.

The Islamist totalitarian movement will not be defeated unless its **narratives are defeated**. Chief among them is that Islam – and specifically Sharia – must dominate Egypt<sup>155</sup> and the world, based

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153 <http://www.ahram.org.eg/361/2010/11/24/25/50071.aspx>.

154 Asfour is one of Egypt’s few secularist intellectuals. <http://www.ahram.org.eg/239/2010/07/26/10/31042/219.aspx>.

155 Muslim Brotherhood spokesman Mohammed Morsy told TIME magazine (22-29 November, 2010) that the Islamists’ main goal is: “to have a Muslim state in Egypt.” <http://www.time.com/time/magazine/article/0,9171,2032260,00>.

upon a **supremacist and absolutist** ideological conviction that it is a divine imperative. Another, complementary, narrative is Islam as a victim<sup>156</sup> of conspiracies and injustices, and is locked in an inevitable cultural conflict with the West.

The goal of this totalitarianism is to impose major social engineering according to a **blue print developed centuries ago** and supposedly valid for every era and every place – albeit structurally and fundamentally anti-human rights.<sup>157</sup> Its means may oscillate between **violent jihad** and **‘soft’ (stealth) jihad**, but the **objective never changes**.

The way out is to modernize and **secularize** Egypt, not to Islamize modernity and secularism through false, counter-productive, sophistries.<sup>158</sup> This requires a massive **cultural revolution**, because in a secular society, it is fundamental to distinguish clearly between the common space, shared by all citizens, and the space where individuals can be different. There is also a shared acceptance that some things all citizens believe in and do together: **upholding certain values** like freedom, equality, democracy, rule of just law and respect for national institutions.

The current Constitution helps set religious texts as the incubator of Islamists’ ideological narrative. Ridding the Constitution of all religious references must be a first objective on the road of liberation.

The key responsibility for liberating Egypt falls on a **liberation front** that needs to be formed. International help is indispensable: this is particularly important because if Islamism could be defeated in Egypt, this would help bring its **demise in the rest of the world**.

#### 4.2. Key challenges:

1- How could the momentum for change materialize, if the advent of Egypt’s **Atatürk** to lead the hoped-for revolution (given the noted absence of ‘political will’) is not imminent?

2- How to battle the ideology behind that totalitarian movement without entering into a **religious war**? This is quite tricky, because the Islamists know only too well that once they are detached from Islam’s cloak, it’s the end for them.

3- How to defeat the Islamist totalitarianism by **peaceful** means (battle of ideas) given that such movements rarely accept defeat in gentlemanly way without resorting to virulent violence?

4- How to avoid resorting to **illiberal** practices when battling the enemies of liberty? Could

one, for example, call for banning the dissemination of the totalitarian ideology through public outlets? (Note: in some parts of Europe, one can’t sell a *Mein Kampf*, nor invite a neo-Nazi to talk shows!)

5- How to promote **‘free elections’** before establishing a secular system, as the outcome will only lead to the totalitarianism’s domination? (On the other hand, philosophically speaking; shouldn’t the people’s majority get what it wants—and **pay the price** of its choice?)

6- How to convince human rights organisms to stop treating the totalitarians as **victims** and deal with them for what they really are?

7- How to convince Western intellectuals and politicians to engage in fighting this (worldwide) totalitarianism **rationaly**, and not to leave the arena to the far right Islamophobes nor to the far left supporters of Islamism (as part of their own agenda)?

The situation in Egypt looks so bleak that the mere creation of a liberation front appears as a daunting task. Egypt indeed resembles France after its collapse under the Nazis, before De Gaulle’s famous 18 June 1940 declaration. Furthermore, some say that little could be done anyway, and that things will darken before they may brighten. In other words, Egypt will have to endure the **Iran scenario**; a dreaded horror scenario, with related decades of agony, bloodshed and destruction.

On the other hand, a few intellectuals and politicians realize the danger and dare to speak-up: a hapless cry, a candle in the dark or a sign of rebirth?

Only time will tell!

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156 Tony Blair, [http://online.wsj.com/article/SB10001424052702303362404575580700415413596.html?mod=WSJ\\_Opinion\\_LEFTTopOpinion](http://online.wsj.com/article/SB10001424052702303362404575580700415413596.html?mod=WSJ_Opinion_LEFTTopOpinion).

157 Sharia’s philosophy is based on upholding God’s [not humans’] rights and commands.

158 A perfect example is the “Cairo Declaration on Human Rights in Islam” of 5 August 1990, which is the ‘response’ to the UN Universal Declaration of Human Rights. See: <http://www.oic-oci.org/english/article/human.htm>.

## The alliance of political and religious despotisms

By Helmy Salem

Political despotism and tyranny in the name of religion (or religious extremism) both share the principles of a single theory: both require concession and acquiescence, unanimity, a collective mind or herd mentality; both refuse dialogue and debate, and both claim ownership of the only absolute truth.

For that reason, history has witnessed, and is still witnessing, an ongoing alliance between the two tyrannies. They support and back up one another, justify each other, and reciprocate services and benefits to have power over citizens and people. Ancient and modern history has often witnessed the integration of the two in a single figure. This happened in Ancient Greece and in Pharaonic Egypt, as God or the Lord was also ruler or king, having both powers: divine and earthly. The same happened in medieval Christian Europe, when the church acquired both religious and secular powers, and in certain periods of the Islamic state when some caliphs claimed they were “the shadow of God on earth.” Similarly, in some contemporary Islamic countries, the political power equals religious authority, such as in Saudi Arabia, Afghanistan, Iran and Sudan. Abdul Rahman Al Kawakibi summarized this alliance in his book *The Nature of Despotism*, by saying: “The king becomes stronger with religion, and religion remains with the king.”<sup>159</sup>

In this alliance, instilling the religious Salafi approach becomes a weapon of the despotic political power. When it promotes a Salafi religious principle, it says, “Islam cannot be anchored except upon concession,” thus, the political power is the beneficiary of this concession. In this alliance, the unanimity demanded by the Salafi religious ideology benefits the tyrannical political power, which conveys to the people that deviating from unanimity is deviation from religion. Political despotism on the one hand, and strict social hierarchy on the other, as well as the requirements of the patriarchal structure – which remained inherited – are factors equivalent to religious interpretation factors in inculcating the traditions of convention and establishing them at several levels in all areas of Arab culture.

In this context, the political power adopts the concepts propagated by the religious mentality, which enshrines class, social and cultural hierarchy. In the past, this concept was expressed by the Caliph Albarbahary, saying: “When a group of common people attain the manners of great kings, the accomplishments are nullified, pride sinks to the bottom, and heads become tails; what the blessed man said is accurate: People will continue to be well as long as they are different; they will perish if they become equal”.<sup>160</sup>

This class hierarchy, which contradicts the principle of equality, is a cause and a consequence of the patriarchal society, in the sense of stratified patriarchal superstructure hierarchy that is a main character of the Arab community. Hisham Sharabi says, “The patriarchal culture is similar to the patriarchal society, where it revolves around one axis and one origin; it is the father who holds all the strings, controls everything, and everybody refers to him being the one and only reference: in religion, it is the Imam, in politics, it is the leader”<sup>161</sup>, or as Anwar Sadat named himself, “Lord of the family.” Acting outside the frame of this sole reference – in thought or in culture – is an act of disobedience religiously and politically.

In this alliance, the political authorities do their part in punishing any divergence from religious unanimity. The Caliph Al Ma'moun oppressed Ibn Hanbal and the exponents of the doctrine that upholds the pre-eternity of the Quran; the Caliph Al-Mutawakkel oppressed the Mutazala; and the Sultan Salah El-Din oppressed the Shiites and Sufis, and killed the renowned Sufi Shahab El Din Al Suhrawardi.

### The old alliance

In his book *Critique of the Culture of Backwardness*,<sup>162</sup> Gaber Asfour puts forward a list of events of oppression by the Muslim rulers for the sake of Islamic Salafi movements (Islamic fundamentalism) and their political power: in the era of Al Mansour (second Hijri century), Abu Hanifa Al Nouman was imprisoned, Ibn Al Muqaffa'a was killed, and Sadeif, the poet, was killed. During the era of the Caliph Al Mahdi (second Hijri century), the poet Bashar Bin Bard was killed and Abu Al-Atahiya, the poet, was detained. In the era of the Caliph Al Rasheed (second Hijri century), Saleh Abdel Quddous, the poet, was killed and the great Mu'tazilah Bishr Bin Al Mu'tamed Al Hilali was detained. During the era of Al Ma'amoun (third Hijri century), the poet Ali Bin Jablah was detained and the Islamic jurist Al Faqih Ahmad Bin Hanbal was imprisoned. During the succession of Al Mu'tasim (third Hijri century) the poet Da'abal Al Khuzaie was killed. In the era of Al Watheq (third Hijri century), Thee Al Noun Al Misri was imprisoned and Ahmad Bin Haet Al Mu'tazili was tortured. In the reign of Al Mutawakkel (third Hijri century), Ali Bin Al Jahm and Mohammad Bin Saleh Al Alawi were imprisoned and the Mutazala were persecuted. When Al Muqtader was in power (fourth Hijri century), the renowned Sufi, Al Hussein Bin Mansour, was crucified and his corpse was mutilated. The murder of Al Hallaj was an early example of confluence of political power and religious authority to achieve a single interest: on the religion side, his Sufi philosophy was a form of advantage earned by scholars as a result of appointing themselves as brokers or agents between man and God. Politically, his sympathy with the rebellious social revolutions – such as Al Qaramita – was a threat to the political system. As far as his poetry goes, it was a deviation from the style of contemporary Arab poetry, portraying God

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159 Abdul Rahman Al Kawakibi, *The Nature of Despotism* (General Commission for Books, Cairo, 1993).

160 Gaber Asfour, *Critique of the Culture of Backwardness* (Al Usra library, General Commission for Books, Cairo, 2010).

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161 Ibid.

162 Ibid.

in the form of an earthly female, touched or perceived. This was rejected by traditional theists and considered blasphemous and heretical; an example of his poetry is:

Wind breeze tell the beautiful antelope  
Roses have only added to my thirst  
I have a lover, whose love lives in the center of my heart  
If my lover wishes to walk on my cheek, she can  
Her soul is mine; my soul is hers  
Her will is mine, and my will is hers<sup>163</sup>

All of this took place during the first four Hijri centuries, which Islamists call “the Islamic eras of prosperity.” This political authoritarian service provided in the interest of restoring both Salafi religious thought and the authoritarian state continued in most of the following eras.

The most significant stations before the modern era, in which the mutual interest alliance between political power and religious authority was demonstrated, are the eras of Ibn Rushd and Al Suhrawardi.

The first station: Ibn Rushd and the Caliph Al Mansour (eighth Hijri century). The ideology and thought of Ibn Rushd worried the religious Salafis, in terms of his rational trend that conciliated between “wisdom and Sharia”, advanced the value of mind over the value of replication, and respected the other cultures of the Greek and the westerners. In his book *Separation of Discourse within the Connection between Wisdom and Sharia*, Ibn Rushd underlined the fact that Sharia is not contradictory to wisdom (religion and philosophy). Both are right, “and right does not contradict right”; if the two rights are in disagreement, we have to continue to interpret the text – i.e. the Sharia – until it is consistent and in line with wisdom and the mind. This is done through “detaching the meaning of the word from its external literal meaning to the metaphoric (figurative) meaning.” Moreover, Ibn Rushd was against Arab arrogance and Islamic self-sufficiency, as well as the resulting closure and self-conceit, saying, “The best is invalidated by something that is better than the best; we have to accept this “better” regardless of its origin and its source.”<sup>164</sup>

It was these rational and enlightened ideas based on reason that posed a threat to the interests of religious Salafis, who wanted to control Muslims by the power of literal Sharia. Furthermore, they wanted to remain intermediaries between God and the people. Salafis implanted racial discrimination and were satisfied with Arab culture without all the other cultures. They believed that the Arabic tongue is the language of Paradise, beyond defect, and that Aristotle’s poetry

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163 Al Hallaj Poetry Collection, research by Abdo Wazen (Dar Al Jadeed, Beirut, 1998).

164 Al Waleed Bin Rushd, ‘Separation of discourse within the connection between wisdom and Sharia’, Literature and Critique journal (Cairo, 1992).

was “bubbles with no avail.”<sup>165</sup>

In addition, Ibn Rushd’s ideas were a threat to political power, which is against thinking and rationality and prefers to have the people flow around its authoritarian rule. In doing so, it promotes the words of Imam Al Aouzai: “stop, where people have stopped, say what they have said, and avoid doing what they have refrained from doing.”<sup>166</sup>

Therefore, religious and political interests came together against Ibn Rushd. His books were burnt and he was exiled. The caliph issued a circular warning people against philosophy, following the opinion (fatwa) of Ibn Al Salah Al Shahrzoury in the seventh century, saying, “Philosophy is the foundation of imprudence and degeneracy, cause of confusion and eccentricity, and a stimulus of aberration and profanation.”<sup>167</sup>

The hatred of the other has remained the driving principle of the political ruling elite and the religious domineering elite for most Arab eras up until our present time. This other can be a political movement opposing the political system that monopolizes the ruling of the country, religious diligence that does not conform with Salafism, which fully closed the door of Ijtihad (independent thinking), or creativity that frees the imagination of fixed iron boxes. Freedom of imagination endangers the ruling political power and the controlling religious authority alike, as both aim to capture the imagination of citizens and people.

Moreover, detesting philosophy remained the driving principle of the political ruling elite and the religious domineering elite for most Arab eras up to and including our own from the time when Abu Hamed Al Ghazali exhorted people to have contempt for philosophy in his book *The Incoherence of the Philosophers* in the 11<sup>th</sup> century. It started when the Caliph Al Mansour issued his anti-philosophy circular and when the anti-thinking (Ijtihad) replicating rule spread (those who resort to logic are those who become heretic) to our present time, in which several Muslim countries have banned the teaching of philosophy in schools, colleges and universities. Philosophy is the gateway to meditation, and meditation is the gateway to revolt: political, religious and aesthetic.

The second station: Salah El Din Al Ayyoubi (in the sixth Hijri century AH). This national leader had freed the Arab land from the invading crusaders. However, he was the Sunni ruler who eradicated the scourge of Shiites from Egypt, because the Shiite ideology, in the eyes of Sunnis, was erroneous, despite the fact that, in the end, it is Islamic thought. He also chased after Sufi Muslim thinkers, because Sufi thinking contradicts Sunni thought. The persecution of the Sufis escalated to the point of the execution of the great Islamic Sufi philosopher, the “Master

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165 Ibn al-Atheer, Al-Mathal al-Saair (Common Example), 13<sup>th</sup> century.

166 Asfour, Critique of the Culture of Backwardness, ibid.

167 Ibid.

of Illumination”, Shahab El Din Al Suhrawardi, because the illuminationist intuitive gnosis knowledge he followed was a threat to the replication of past knowledge pursued by the political and religious rulers alike.

### Destiny that caused us misery

That was the historical background for the alliance of political power and religious authority during the centuries prior to the modern era. With the beginnings and evolution of the modern era, features of civil states began to appear, so the overt alliance partially disappeared, especially after Egypt’s 1919 revolution shaped the great civil principle that religion is for God and the homeland is for all. After the fall of the Ottoman Empire in 1924, the attempt of King Fouad to restore the Islamic caliphate (Khilafa) failed. It was impaired by Ali Abdel Raziq’s book *Islam and Governance* (1925), in which he stressed that those who made the caliphate a pillar of Islam had built their judgment on a wrong understanding of Islam. The caliphate is neither a cornerstone nor a principle of Islam. Talking about the caliphate “is purely a political plan that has nothing to do with religion; we have to resort to the discretion of the mind, the experiences of nations and the rules of politics.”<sup>168</sup>

With this modern state, civil authority should have replaced the religious authority that prevailed in earlier eras. Nevertheless, this did not happen; the religious authority went on taking part in running citizens’ affairs together with the civil authority. From this point, society continued to be divided between the two authorities.

The religious authority went on because the political power needed religion as a weapon to ensure people’s obedience. Moreover, the national movement, which had been resisting the occupier, remained in need of religion as a weapon to invigorate national feelings to fight (Jihad), and the enlightened intellectual elite needed religion as a weapon in the mainstreaming of contemporariness and modernization on religious and cultural bases in order to make it acceptable to believers.

Thus the religious dimension continued to be an essential component, or an essential condition of the components of any national, political, intellectual or literary advancement and revival in the views of Al Tahtawi, Al Afghani, Al Kawakibi, Qasim Amin, Mohamed Abdou, Mahmoud Sami Al Baroudi, and Ahmed Shawky.

The enlightenment attempts in which religion was not a fundamental component, such as the ideology of Shibly Shmayyil and Farah Anton, who are renowned secular intellectuals, did not succeed in becoming a prominent enlightenment core. It remained a secondary mission;

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168 Ali Abdel Raziq, *Islam and Governance* (Al Usra Library, Cairo, 2008).

moreover, it was criticized and attacked by the other enlightenment followers who associated their enlightening thought with the bright rational side of religion. (An example was the argument between Sheikh Mohamed Abdou and Farah Anton, documented in Abdou’s book *Islam, the Religion of Science and Civilization*.)

The contemporary era – since the beginning of the 20<sup>th</sup> century until the early 21<sup>st</sup> century – can be divided into three periods, in connection with the alliance of political power and religious authority, or pertaining to the duplicity of civil and religious authorities:

The first period is from the 1919 revolution until the 1952 revolution. The nature of this period helped keep the alliance between political oppression and coercion in the name of religion fierce, implicit, and not plainly expressed. This is attributed to two things: the first is the urgency of the national cause, which inundated all the political and intellectual forces in the resistance against the British occupation under the slogan chanted by the people: “total expulsion or immediate death.” The second is the liberal attribute that characterized political life, exemplified by the multiparty system, the 1923 Constitution, and a strong parliament.

This is the period that Ibrahim Naji wrote about, saying:

Destiny that caused us misery	You did not wish for that nor did I
We could not meet	And bad luck stood between us
I almost disbelieved in love	Hadn’t I been a believer in you <sup>169</sup>

Without any Salafi Sheikh telling him “How do you believe in your lover and not God?” and then notifying the prosecution to request confiscation, repression, and punishment.

This is the period in which Ismail Adham wrote his daring study titled, “Why am I an atheist?” (1937). In his research, he explains the scientific and philosophical reasons that made him a nonbeliever in divine religions, without being punished for apostasy nor shot at by a fish vendor on a motorbike.<sup>170</sup> Instead, Mohamed Fared Wajdi, the Islamic thinker and editor of ‘Al-Azhar’ magazine, replied with an intellectual counter-study entitled “Why am I a believer?” In this study, he shows the scientific and philosophical reasons that made him believe in the true Islam. The dialogue between the two men went on smoothly, with respect, appreciation and the acceptance of the other.

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169 Ibrahim Naji, *Behind the Clouds* (Dar Al ma’aref, Cairo, 1945).

170 The assassins of Farag Fouda, members of the Islamic Jihad group, were on a motorbike when they shot him in 1992 in front of his office in Masr Al Gadidah. They were fish vendors.

During this period, the Lebanese poet Eliya Abu Madhi said:

I came, yet I do not know from where, but I came

My feet saw a path, so I walked.<sup>171</sup>

No one accused him of apostasy; none of the Salafis accused him of having doubts in the fundamentals of religion, which teaches us that we are here by the will of God and that we are going towards Apocalypse, where the good get paradise and the bad get hell. This poem was accused of these charges after many decades, in the 1980s, when Abdel Halim Hafez sang the lyrics. During that time, the religious authority had spread, predominated, and ruled!

However, this period, characterized by the involvement of the political forces in national independence and withdrawal of the occupiers as well as political and intellectual liberalism, had two major incidents in which religious extremism was the main player. This reflected a clear picture of the alliance between political power and religious authority.

The first incident was the confiscation of Al Raziq's book *Islam and Governance* after Salafi groups became enraged by it and attacked him. Al Raziq was dismissed from his work as a judge as well as from the Al-Azhar scholars. The intervention of King Fouad in this incident was obvious, because Al Raziq's book brought down Fouad's dreams of restoring the Islamic caliphate and of being the caliph of the Muslims. This incident took place in 1926, two years after the fall of the Ottoman Empire in Al Bab Al Ali, and three years after the issuance of the 1923 Constitution, which did not stipulate that the Islamic Sharia was the main source of legislation. However, it did state that "Islam is the religion of the state," a text justified by its supporters in the commission responsible for drafting the Constitution – which included several movements, Muslims and Christians – as being merely a salutation from the legislator to the religion of the majority, just an attempt to satisfy the sentiment of the majority, and in no way indicating the religious nature of the state. Nevertheless, several magnates of the democratic intellectuals – led by Taha Hussein – declared their fear that this text would impose upon the state religious duties, and would lead to the rejection of national duties if they conflicted with these religious obligations. Hussein stated in a famous article that this text "has divided the Egyptians and has established organized political religious power, as an organization that favors backwardness and draws Egypt down." This article was published two years after the emergence of the first Egyptian Communist Party and two years before the foundation of the Muslim Brotherhood.<sup>172</sup>

This contradictory history implies the blending of the civil and the religious, meaning that the contrast between the two has not been decided in favor of the civil side completely in any period in the history of modern Egypt.

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171 Eliya Abu Madhi, *Al Khamael* (Cairo, 1943).

172 'Gravity of a Text', *Rawaq Arabi* issue no. 22 (Cairo, 2001).

The second incident was the confiscation of Hussein's book *About Pre-Islamic Poetry* (1927). Salafis submitted a communication to the public prosecutor accusing the book and its author of turning away from the fundamentals of Islam. However, Deputy Attorney General Muhammad Nour dismissed the case, saying the book was merely scientific research that was not intended to offend, whether it was right or wrong. Yet it was confiscated and reprinted without the parts that sparked the fury among Salafis. An oddity of the contradiction between religious and civil authorities in the lawsuit against *About Pre-Islamic Poetry* is that Saad Zaghloul, the leader of the Wafd and Umma, opposed the book on the grounds that one must advance the country's freedom before advancing freedom of thought, whereas the two ministers Adly Yakan and Abdul Khalek Tharwat, capitalists, supported freedom of thought and of thinkers.

In both incidents (Al Raziq and Hussein), the parliament's position was against freedom of thought, despite the fact that Abbas Al Aqqad stood under its dome warning that the people were capable of destroying the highest authority in the country – insinuating the king. Al Aqqad was imprisoned for nine months because of what he said. It was the same parliament that Mustafa Al Nahhas insisted that King Fouad swear the oath of the throne in, rather than Al-Azhar. In doing so, he confirmed the civil state nature of Egypt.

In the two cases that opposed freedom of thought, the Egyptian parliament embodied the contradiction in the structure of the political system between the civil and religious authorities. It set precedents for successive Egyptian parliaments to abandon their role in stabilizing democracy and freedom of thought and intellectuals. This abandonment worsened in the 1970s, 1980s, 1990s and the first decade of the 21<sup>st</sup> century.

The second period is the period from the 1952 Revolution until the beginning of the 1970s, the endpoint marked by the death of president Gamal Abdel Nasser and the presidency of Sadat. During this period, the revolution brought about national and social achievements, led a national project to modernize and develop the social, educational and industrial structures, and led national mobilization in the wars against the tripartite aggression and then against Israel. This national modern Nasserist project (regardless of our reservations regarding its big mistakes) eased the impact of religious extremism.

In spite of these civil improvements, the Nasserist system transformed Al-Azhar from a mosque into a university. Thus, the division of education into Azhari education and civilian education was affirmed, sharing of mental vision, knowledge, and culture. Moreover, the system appointed the "Sheikh of Al-Azhar" rather than his being nominated, making Al-Azhar part of the executive branch as well as part of the political system. These two measures were major signs of the alliance between the political power and the religious authority.

In addition, Nasserist civil improvements did not prevent Al-Azhar from confiscating the novel *Children of our Quarter* by Naguib Mahfouz in 1959 – which won the Nobel Prize – through a

committee of scholars (namely, Sheikh Mohamed Al Ghazali, Sheikh Mohamed Abu Zahra and Sheikh Ahmad Hasan Al Baqouri). Nasser acquiesced to the request of the committee, halted the publication of the novel and banned printing it in Egypt, even though an official body, Al-Ahram newspaper, affiliated with the ruling political organization, was the one that had started publishing the novel.

In this context, Asfour, in *Critique of the Culture of Backwardness*, points out the deep organic relationship between military coups and the Salafi religious vision. There are several similarities between the militaristic tendency and the atavistic religious one. These are the vertical downward hierarchy from the highest to the lowest; the principle of consensus, which leads to rooting out outsiders and stigmatizing them with treason at the civil level and aberration that leads to hell religiously; the principle of certainty, which requires obedience to the views descending from top to bottom; the monopoly of absolute truth; and repression, which cuts off the opposite with violence.

The third period is from 1970 up to 2010, and includes the Sadat rule (1970-1981) and Hosni Mubarak's rule (1981-2010), during which the social and political system changed into distorted ferocious capitalism and into distorted ferocious liberalism. During this period, reconciliation with Israel took place, and a unifying/restraining national or social project was lacking (that unifies powers, wills and dreams; and restrains citizens' surrendering to eschatological religious solutions and falling prey to religious groups). In this period, the 1971 Constitution stipulated that "the Islamic Sharia is a source of legislation"; in the 1980 Constitution, it was amended to read "the Islamic Sharia is the main source of legislation" in a step to close a deal on passing an article stipulating that the term of the presidency of the republic is renewable for life. Moreover, it is the period in which Sadat declared that he was a "Muslim president of a Muslim state", and that Egypt is "a state of science and faith." These features spread and proliferated from the rule of Sadat until Mubarak's time.

In the first years of Sadat's rule, the early 1970s, in an effort to translate his slogan "Muslim President of an Muslim state" he allowed Islamic groups in the universities, media, press, and the community to stand up to the left wing, the Nasserist and nationalist movements that opposed his national, social and economic policies (that opposed the earlier policies of Nasser). Sadat sought help from some of the "pillars" of his regime, such as Muhammad Othman and Ismail and Sayyed Marei in agreement with Omar Al Talmasani – then the Muslim Brotherhood leader – to train and arm these groups and provide them with all kinds of support. This went on until the groups took control of the universities and banned cultural activities including theater, singing and other arts. They continued to agitate in the community as a whole until 'magic turned against the magician' and these same armed groups fired their bullets at the chest of the "believer president". He was killed by the demons he had set free from the bottle.

## Areas of common ground

We can monitor some – not all – areas that reflect the political power's support of Salafi religious thought – and itself – and reflect on the alliance, implicit and explicit, between the political power and Salafi domination in the name of religion against freedom of thought and creativity, focusing on the last four decades. We will divide these areas into the constitutional, legislative and legal; the institutional administrative; and the parliamentary.

The most important areas of the alliance, or mutual support, is the constitutional, legislative, and legal area. On the one hand, the second article of the Egyptian Constitution now stipulates that "the Islamic Sharia is the main source of legislation." The political power granted religious groups constitutional support in exchange for religious support. Consequently, any tightening imposed by the Salafi religious groups on thought and creativity became in application of the Constitution and implementation of Article 2. Although the Constitution guarantees, in Article 47, "freedom of opinion, expression and belief", Article 2 is a "governing" article, as it comes at the forefront of the Constitution and is involved in defining and shaping the main features of the state and its political system, while Article 47 is a non-governing article and comes late in the order of priorities. I believe that the second article of the Constitution is responsible for the constitutional support of religious extremist groups, and that the resulting religious climate is responsible for spreading the 'blasphemy fatwa' against intellectuals and creative people. This is reflected in the assassination of the intellectual Farag Fouda (1992), the attempted assassination of novelist Naguib Mahfouz (1994), and the ruling of apostasy against the thinker Nasr Hamid Abu Zaid, and the consequent annulment of his marriage (1995).

The three incidents revealed a different type of alliance, namely that between moderate religious thought and radical, extremist religious thought; or, to be more precise, it revealed that the distance between so-called moderate religious thought and so-called extremist religious thought has disappeared.

After Fouda was assassinated by the Islamic Jihad group following the issuance of a fatwa of blasphemy, Sheikh Mohamed Al Ghazali, who is considered one of the pillars of moderate religious thought, testified in the prosecution's investigation that Fouda was an apostate who deserved to be killed. He only objected to citizens implementing the punishment of the apostate with their own hands, because it is the responsibility of the rulers, i.e. the state. Sheikh Al Ghazali was one of the writers of the Al-Azhar report that condemned Mahfouz's novel *Children of our Quarter*. Fahmi Howeidi – also considered a pillar of rational, moderate Islamism – was one of the first to attack Abu Zaid's ideology, writing in Al-Ahram that he had denied the basics of religion and doubted the fundamentals of faith.

The second article of the Constitution is the main exhibit that the elders of extremism have based all their cases against thought and creativity on, and accordingly they won most of these cases

as a result of the force of the constitutional instrument. On the other hand, the articles of the Constitution guaranteeing freedom of opinion, expression, and belief always stipulated certain conditions for them to be in effect. Examples are: “within the limits of public decency”, “not conflicting with the fundamentals of the nation”, “without affecting the public morals” and “not avoiding the sacred issues”. These and other “conditions” have led, in the end, to voiding the contents of the articles guaranteeing freedoms – restricting them and even nullifying them as if they never existed.

Thirdly, the Egyptian authorities have ratified several international conventions guaranteeing human rights, stating among these rights those of citizens to freedom of opinion, expression, belief, and faith. However, it treats these agreements in the same way it does the laws explaining the articles on freedom of opinion and belief in the Constitution, meaning it binds the signature with a condition or a requirement, such as, “without prejudice to cultural specificity and the national constants”. This requirement becomes a pretext for the country to evade its obligation to ensure freedom of opinion, expression, and belief, which was guaranteed by the international conventions signed.

Fourthly, keeping political power based on the ‘accountability law’, is to keep a sword hanging over the necks of intellectuals and creative people. The accountability law in Sharia understanding means, “A Muslim should volunteer to intervene in the lives of others when they have committed a crime against God or against the right of human beings.” However, the nature and limits of the intervention is a controversial issue: is advice and guidance the correct nature of the intervention, or punishment, coercion, and violence?<sup>173</sup>

Ahmad Subhi Mansour, in his *Accountability: A Study on Historic Origins* (1995), says that politics and governance systems swerved during the course of implementing the accountability law from advice and guidance to repression, coercion and moral and physical persecution. Eventually, the accountability law became a tool to hunt intellectuals and imaginative people, who are considered outside the political and religious house of obedience.

During the proceedings of the Abu Zaid lawsuit and the accompanying call by intellectuals, thinkers, and human rights organizations to abolish this law in the mid-1990s, the crisis facing the Egyptian political power was a propellant that forced the state to modify the law slightly. The law entitled the prosecution alone to assess the seriousness of the crime (and then refer it to the judiciary or keep the case for lack of seriousness). But this amendment was not fulfilled and was not a silver bullet. On the contrary, it doubled the grip of both religious extremism and of political power. The state has kept the law as a sword hanging from its hand: at certain times, it manipulates the law politically for its own interests; and at other times, it allows religious groups to do so. Often the prosecution has found complaints submitted by Salafi

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173 “Ahmad Subhi Mansour, *Accountability: A Study on Historic Origins* (Al Mahrousa, Cairo, 1995).

religious groups against thought and creativity to be serious; so the religious viewpoint has been in agreement with the political viewpoint.

The political power, through the prosecution, held the option to refer the accountability complaint to the judiciary or not based on the ‘seriousness’ of the case for five reasons. Firstly, to kill the complaints politically opposing the authority or administrative bodies. Secondly, to keep this sword hanging over intellectuals and dissidents to silence them, bring about their dissimulation and hypocrisy, or gain their loyalty: it can be moved if necessary under the pretext of religious reasons if the intellectual transgresses politically. Thirdly, to stir up religious accountability complaints against intellectuals and creative people to throw them into the vicious circle of investigations and judicial decisions, and thus occupy them in defending themselves of charges of blasphemy or escaping prison or assassination. They stay in a circle of fear and pressure, which drains their time, effort, energy, and writings, and diverts their attention from political opposition to the ruling system; thus the poet Abdul Rahman Khamisi (1920-1987) said: “I spend my life defending my guitar, and not in playing my tunes.” Fourthly, keeping the rope of accountability in the hands of the prosecution, loosening and tightening it when it wants, allows the political power to seem democratic and an advocate of freedom of opinion and creativity. When it rejects a complaint submitted by extremist movements against an intellectual or creative person, refers it to the judiciary but stops it during the litigation, or even lets it go on until a ruling is issued but does not implemented it, the political power appears to be standing at the forefront of defending freedom of opinion and creativity.

The enormity of the accountability law is apparent once we know the intended tragic irony: the late Sadat canceled official censorship on books in the early 1970s, at the beginning of his rule. Writers started to send their books directly to printing presses. Officially, censorship was cancelled, but the accountability law made every citizen a censor. Any citizen can file a complaint with the prosecution or bring a lawsuit if he or she sees a still from a movie, a scene from a play, a line from a poem or a paragraph from a novel that he or she believes hurts the religion and accordingly offends him or her personally. There is no direct interest; yet this sweeping law gives the plaintiff this right on the basis that as long as the harm affected public interest it affected him or her. This was the verdict issued by the Administrative Court in 2008 to stop the issuance of *Creativity* magazine, which published a poem written by myself, ‘The Balcony of Layla Murad.’ The sheikhs’ complaint accused the poem of offending the divine entity; Al-Azhar’s Islamic Research Academy supported that.

Lastly, the second article of the Constitution and the general religious climate spread by religious groups – as well as some of the political, social, education, and information bodies of the ruling system, the division of the legal authority between the civil and religious, and the educational curricula that graduates the lawyers, prosecutors, and judges of the judiciary – has characterized the judiciary as originating from the same Salafi grounds as those religious Salafi sheikhs

and lawyers who file cases of religious accountability. Thus the judiciary was infiltrated by the ideology and scholars of religious movements. The judiciary, in many cases, became a weapon in the hands of religious extremism to suppress freedom of thought and creativity. Due to religious movements' infiltration of the judiciary, the dual civil and religious authorities establish court rulings, and they issued two contradictory rulings in the case of the confiscation of one of the great works of Arab heritage, *One Thousand and One Nights*.

The first sentence was issued in 1985 and ordered the confiscation of copies of this immortal work because it "contains words, phrases, and carved immoral images". The second sentence was issued in 1986, approving this literary work "for lack of criminal intent, and because it was an inspiration of many great art works. From this book, top littérateurs from around the world, as well as the Arab world, have drawn their masterpieces; thus, it negates the suspicion that it was intended to stir abhorring visions or as a erotic sign to his readers; except those who are sick, frivolous, and petty."<sup>174</sup>

Since the constitutions, legislation, and laws were set by the ruling and more powerful classes, as well as the ruling authorities themselves, it is normal that the abovementioned five aspects of the legislative structure are the shields by which the political power repels freedom of opinion, thought and creativity. It allows religious extremism movements to erode freedom of opinion, thought and creativity; it is the arsenal that protects the strong alliance between political despotism and religious tyranny in an exchange of interests, namely, to occupy the imagination of the people and suppress them.

The second administrative and institutional space in which this alliance is also manifest is that the Al-Azhar bodies, the Islamic Research Academy, Dar Al-Ifta, and the state council.

Al-Azhar and the Islamic Research Academy consider themselves Sunni and moderate Islamic bodies. However, Al-Azhar has continued to deviate from said moderation to the extent of becoming a strong supporter of extremist religious movements and extremist Islamist groups, though it has a softer discourse. Its spoken word varies but the logic is the same, to ban thought and creativity and negate the other, using as a point of departure the same old Salafi precept that fanatics have relied upon in all stages of Islamic history: Anything new is an innovation, any innovation is an error, and every error leads to hellfire.

The poet Ahmad Zaki Abu Shadi, founder of the Apollo poetic group, recognized in the 1920s what still exists in Al-Azhar in terms of stagnancy and fossilization: "Al-Azhar presently is characterized by being a nest of reaction, and reformers, complaints about it are rife, and its noble sheikhs are prepared to listen to any intrigue, and intellectual opposition by all means which Islam itself

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174 *One Thousand and One Nights*, Qusour Al Thaqafa Commission, 2010, Cairo.

condemns. This is a corrupt condition that is intolerable, and it almost strangulates freedom of opinion in Egypt."<sup>175</sup>

Meanwhile, this moderate institution continued to deviate from its moderation vis-à-vis political authority until it became the religious mouthpiece of authority, justifying the decisions of the political regime and conferring legitimacy on the decisions of 'the Sultan' (ruler). The innovation (bid'a) whose fate is hellfire is not only confined to literary and artistic innovation, but has become (for Al-Azhar) applicable to the political opposition: every transgression against the political regime is an innovation, every incidence of disobeying it is a bid'a, every form of disobedience is a bid'a, and all of these innovations lead to hellfire.

The Al-Azhar Regulatory Law of 1961 gave it the right to oversee religious printed materials and printed editions of the Holy Quran and the right to purify religious books of interpolations and Isra'iliyyat (the body of hadith originating from Judeo-Christian traditions rather than well-accepted sources that quote the Prophet), but Al-Azhar continued to expand within the state's sight and hearing, and with its encouragement in implementing these rights, to a point that it can ban intellectual books, novels, poetry, films and plays. What Al-Azhar recommends is immediately put into effect. This happened with the book *Al-fan al-Qassassi f'il Qur'an Al-Karim (The Art of Storytelling in the Holy Quran)*, written by Muhammad Ahmad Khalafallah in the late 1940s; the novel *Children of our Quarter* written by Mahfouz in the late 1950s; and the play *Al-Hussein Tha'iran wa Shahidan (Al-Hussein: Rebel and Martyr)* written by Abdel Rahman Al-Sharqawi in the late 1970s; the book *Muqaddima fi fiqh al-Lugha (An Introduction to the Jurisprudence of Language)* written by Louis Awad in the 1980s; the film *Al-Muhajir (The Immigrant)* by Youssef Shahin; the novel *Massafa fi Aql Rajul (A Distance in a Man's Mind)* by Ala'a Hamid in the 1990s; as well as in the first decade of the third millennium with Nawal Al-Sa'dawi, Sayyid Al-Qumni, Hassan Hanafi, Ahmad Al-Shahawi, Muhammd Abdel Salam Al-'Umari and others.

The annual Cairo Book Fair became a target for Azhari inspection campaigns. Al-Azhar bans what it wishes, and banned books are not circulated or distributed except by direct order of the president of the republic; that is, the law does not protect publications from the confiscation of Al-Azhar, or return them to distribution if Al-Azhar confiscates them! Al-Azhar's fierce campaigns increased after the state council granted it the right to judicial oversight of literary and artistic works in 1993. The person who made this decision was counselor Tariq Al-Bishri, whom some consider as one of the symbols of the moderate Islamic current!

The episode of banning the novel *A Banquet for Seaweed (Walimat li-a`shab al-bahr, 1983)* by the Syrian novelist Haydar Haydar in 2000, is a precise instance of alliance between the political authority, religious authority, legislative authority and executive authority to confront freedom

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175 Asfour, Critique of the Culture of Backwardness, op. cit.

of thought, innovation and literary production. It is known that the person who led the fierce campaign against the novel, its author and its publisher (Hay`at qusur al-Thaqafa) was Ahmad Umar Hashim, who was at the time chairman of the religious committee of the ruling party (political authority), chairman of the religious committee in parliament (legislative authority), a member of the Islamic Research Academy at Al-Azhar (religious authority), and rector of Al-Azhar University (religious and executive authority combined). Through these positions Hashim was able to ignite demonstrations by Al-Azhar students, to a point where there could have been a destructive religious disturbance, particularly after the students demonstrated in the Nasr City streets surrounding the university and distributed a fiery statement reading: "We the students of Al-Azhar University address a call to every male and female Muslim, that they join us in calling for the killing of the terrible Syrian writer Haydar Haydar, who published a book entitled *A Banquet for Seaweed*, in which he slanders God, and says that 'God Almighty has horns and descends from the heaven to meet his beloved.' So demand with us the release of our fellow students and keeping them from any harm, and the dismissal of Minister of Culture Farouk Hosni."

Here I would like to point out that the security bodies dealt with those demonstrations, as with all violence carried out by extremists, in an arbitrary manner: they detained the demonstrators and tortured them, and then released them after the storm had calmed. And instead of republishing the novel – given a report by major literary critics acquitting it of the unfair accusations – they confiscated it and detained the extremists. Confirming the intellectual logic by condemning the novel, while punishing that logic only if it imperils public security, represents a message. In essence, it conveys a theoretical and intellectual position that condemns arts, thought, and literature!

As for Dar Al-Ifta, it often issues fatwas in matters related to art and literature, and they are either fanatical, discriminatory and extremist fatwas (such as its fatwas concerning Christians, Shiites, and Baha'is) or blackly comic (such as the fatwa of a Dar Al-Ifta sheikh relating to drinking the urine of the noble Prophet). These extremist and absurd fatwas spread a climate of narrow horizons, blind literalism, and hostility to and exclusion of the other, which weighs heavily on arts and literature.

Dar Al-Ifta did not leave (sufficient) space for the arts. Chief among its grave fatwas was one described by Asfour in *Critique of the Culture of Backwardness*: 'Al-fatwa al-Sadima,' issued by the Mufti of Egypt Ali Goma'a in 2006, prohibits statues on the basis of the saying of the noble Prophet "that those who will get the severest punishment on the Day of Judgment are the creators of statues." This had a precedent in a 1989 fatwa issued by the Mufti of Egypt, Sheikh Jad Al-Haq Ali Jad Al-Haq, that considered placing statues in mosques or around them, or displaying dead human bodies, mummies, illicit. These fatwas were received positively by some officials (educational and administrative): the administrations of fine arts colleges prohibited placing statues in college courtyards, nude photography, and painting humans; moreover, in

2004 the mayor of Sheikh Zayed City in Cairo destroyed two abstract sculptures constructed at the city's entrance!

There is a huge, palpable distance between these fundamentalist fatwas and those of Sheikh Mohamed Abdou, mufti of Egypt towards the end of the 19<sup>th</sup> century and the beginnings of the 20<sup>th</sup>. He issued fatwas permitting statues, drawings and fine arts, which he saw as the register of human forms and conditions<sup>176</sup> considering, as the Ancient Greek poet Simonides said, that "sculpture as a type of silent poetry, and that poetry is a form of speaking image making." This fatwa was the enlightened basis that drove the Egyptian people, after the 1919 Revolution, to give a part of its moneys for a statue of Saad Zaghloul and a statue of Egypt's renaissance by the sculptor of the Egyptian national democratic revolution, Mahmoud Mukhtar.

Two events illustrate the responsiveness of the official educational institution to the opinions of religious extremism: the first is removal of the Nizar Qabbani poem entitled 'Khalf al-jidar' from the syllabus of the ninth grade in 1990 because extremists perceived it as touching the sense of shame. The Minister of Education then was Fathi Sorour, who subsequently became speaker of the parliament. The second event was the removal of parts of the autobiography of doyen of Arabic literature Taha Hussein (*Al-Ayyam*) in 2008 from secondary schools, as the Azharis saw it as a disparagement of its retrograde methods of education.

Similarly, Al-Azhar University's academic study is immersed in a traditional milieu that fosters the spreading of textual knowledge and the encirclement of reason, particularly in social studies and the humanities. This also applies to the Dar Al-'Ulum in the civil (non-Azhari) university, which is a college considered an annex to Al-Azhar University inside the campus, in terms of a conservative rote educational method rooted in narration rather than comprehension (viz. religious text not reason) and in a classical understanding of literature, which means the production of Arabic language teachers inclined to prohibition and expropriation rather than freedom and hedonism. And it also applies to the Ministry of Waqf, which graduates for the religious, social and cultural arena every year thousands of preachers and mosque caretakers who imbibe and produce a fossilized and atavistic culture, and support repression and prohibition.

And because the sheikh of Al-Azhar is appointed by political authority – not by election as was the case prior to the 1952 revolution – as is the grand mufti of Egypt, the Minister of Waqf, the president of Al-Azhar University, deans of colleges, Al-Azhar's Islamic Research Academy and Dar Al-Ifta, these institutions are an integral part of the political system and executive authority, are neither religiously nor politically independent, and serve by virtue of their traditional fundamentalist positions not just religious extremism but also political authority. It is a stark instance of the alliance between political despotism and despotism in the name of religion.

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176 Ahmed Youssef Ahmed, *Fine Arts Past and Present* (Cairo, 1922).

We now deal with the third area in which there is an alliance between political despotism and despotism in the name of religion: the parliamentary arena. Among the many paradoxes of the Egyptian political system is that the parliament has become a focal point of repression, prohibition and expropriation, thus undermining both the theoretical premise (to safeguard democracy) and the philosophical foundation (to safeguard pluralism and diversity) for its establishment, and contradicting the principal reason for its existence (defense of criticism and accountability).

During the past four decades, most of the campaigns of exclusion and expropriation against thought, literature, and the arts took place at parliament's behest. (For instance: *Al-Futuh al-Maqiyya (The Meccan Revelations)* by Muslim mystic Muhieddin Ibn Arabi; the banning of the play *Al-Hussein Tha'eran wa Shahidan (Hussein: Rebel and Martyr)* by Abdel Rahman Al-Sharqawi, and charges filed regarding the reproduction of Gustav Klimt's painting of Adam and Eve in *Ibda` Magazine*; the banning of Haydar's *A Banquet for Seaweed*, and of three novels – *Qabl wa Ba`ad (Before and After)*, *Haya Mu`ajjal (Postponed Life)*, and *Abna`a al-Khata` al-Rumansi (Children of the Romantic Mistake)* by Tawfiq Abdel, Rahman Mahmoud Hamed, and Yasser Sha`aban respectively; the banning of the film and novel *The Da Vinci Code*; and trying Minister of Culture Farouk Hosni due to his negative opinion of the hijab.)

The Egyptian parliament rebelling against its essential role, from protecting freedom to leading repression, is attributable to the fact that it in reality is a part of the executive authority, and is not an independent legislative authority. Although in theory the parliament should oversee and monitor the executive authority and the enactor of the legislation by which the political system abides, the continuous forgery of elections renders the members of the ruling party the majority of parliament.

This aberrant merging of the powers makes the parliament a weapon in the hands of the executive authority rather than independent of it, and thus instead of defending the people and overseeing the government it monitors the people and defends the government. And just as the roles of Al-Azhar and Dar Al-Ifta have become to confer religious legitimacy on the procedures of the political authority, the role of parliament has become to tailor laws which facilitate achieving the aims of the ruling regime in overcoming its adversaries.

The fact is that this upside-down situation of parliament is not exclusive to Egypt and is not novel. Some other Arab parliaments have witnessed the same transformation and become instruments for repressing political, social, and creative freedom. In the 1990s the Kuwaiti parliament led a campaign against Kuwaiti writer Leila Uthman due to what were characterized as religious, sexual, and ethical transgressions in her stories. Her books were confiscated and she was sentenced to one year's imprisonment or a fine. In the same period the Kuwaiti parliament led a campaign against women driving cars and being candidates for parliamentary seats. In 2005 the parliament of Bahrain led a campaign against a music and poetry event titled

'Majnun Leila', which was written by Bahraini poet Qassem Haddad and composed by Lebanese composer Marcel Khalifeh. It was said that the show could not take place on grounds of its being against decency and good morals. In the last decade the Jordanian parliament led two major campaigns against Jordanian poet Musa Hawamdeh and Jordanian writer Suheir Al-Tall respectively. The first was on grounds of slandering God Almighty, and the second for slandering the monarch. Court decisions sentenced them to imprisonment and banned their books. Notice the association between the divine being and the monarch, between the heavenly and earthly thrones – or between the two absolute authorities.

These parliaments are comprised of individuals from the political regime and from religious currents, who achieve a position whereby they legislate for the entire country, and in solidarity safeguard the monarch and the divine being.

The upside-down condition of the Egyptian parliament is not new or incidental, but rather old and entrenched. Prior to the 1952 revolution – that is, during the liberal phase – it confiscated Hussein's *About Pre-Islamic Poetry*. We previously stated that the amazing thing was that this campaign was led by Saad Zaghloul, then speaker of parliament and leader of the liberal Wafd Party and of the entire nation, embodying confluence between the political authority and religious fundamentalists. This could be attributable to the leader giving greater priority to the freedom of the homeland in facing occupation over intellectual freedom, to the obsequiousness of the political authority to religious currents in order to appear as a defender of religion and Muslim sentiments, or to a fear of being accused of tampering with religion at a time when the leader needs to bridge this lacuna, remove suspicious elements and negate elements leading to corruption.

The truth is that the principle of giving priority to the freedom of the homeland over the freedom of the citizen and intellectual freedom has been incontrovertible for most Egyptian rulers in old and modern history, and it has always led to despotism and the loss of the homeland, citizen, and intellectual freedom all at once. The Egyptian parliament has been, then, an instrument for suppressing freedom of opinion and expression in all three phases discussed, but the method of suppression was limited in the phase prior to the 1952 Revolution due to political liberalism and the unifying national cause, and in the Nasserist era because the parliament did not have any role in the political scene. However, it increased and prevailed in the post-Nasserist era from 1970 until the present – due to the absence of genuine liberalism and the presence of a formal theatrical liberalism and a “democracy held in abeyance” – to use the expression of Muhammad Al-Sayyid Said – in which Salafi religious currents thrive.

### **The effectuation of religious revival**

It is clear that the mutual support of the political and religious authorities, or to be precise the responsibility of the political system for entrenching Salafi religious thought, hinders intellectual

freedom and innovations, and thus the renewal of the religious discourse.

After every thunderous extremist incident or bloody terrorist incident, there is shouting for the necessity of renewing the religious discourse from all quarters: the cultural intellectual elite, the official religious bodies (classified as moderate), independent clergymen, and the political authority itself.

Many individuals ignore the fact that the problem does not lie in renewing the religious discourse but in putting into effect the religious renewals attempted across successive Islamic eras, and to install them in the mental outlook of society. Actually, the essential obstacle in the path of renewing the religious discourse is not only extremists opposing renewal, but the ruling political authorities, which would be affected substantially by the renewal of the religious discourse, more than inert Salafi currents.

The religious discourse has been renewed many times throughout Islamic history, until the present time, and I shall select from these numerous instances, that defy delimitation, a few representative cases, which are not by any means a comprehensive overview:

The religious discourse changed with the noble Prophet himself, when he asked a companion who accused a man of atheism: “Did you open his heart?” thereby enshrining the principle of not delving into people’s intentions, and also when he said, “You are more knowledgeable of the matters of your world,” thereby positing the principle of changing precepts according to the conditions of the age and place.

There was religious renewal when the caliph Umar Ibn Al Khattab suspended one of the punishments prescribed by the Sharia for theft, namely, hand amputation, in the year of drought and hunger, in the process laying down the principle that the circumstance takes precedence over the punishment, which means that the Sharia hudud were prescribed for a cause, so that if the cause is absent then the punishment shall be abrogated.

There was religious renewal with Ali Bin Abi Taleb when he said to his companions that the “Quran may be variously interpreted,” thus positing the principle that the interpretation of the sacred text is subject to the mentality, orientations and interest of the exegete, thereby innovating the principle of multiple interpretation of the text.

There was religious revival with the mystic (Sufi) philosophers who laid down – through their philosophy and conduct – the principle of eliminating intermediaries between a servant and his Lord, and the principle of an emotional relationship with God as the beloved, to a point where Al Hallaj said, referring to the relationship between him and God: “there is only God in the jubbah” and “we are two spirits dwelling in a body.”

There was religious renewal with the Mutazala who spoke of the humanity of the Arabic language and that the attributes of God are metaphorically understandable, thereby positing the principle that language is not a divine immutable attribute, but a human condition that is subject to the developments and people of an era, coupled with the necessity of a metaphorical reading of the texts, rather than a direct literal reading.

There was renewal with Ibn Rushd who reconciled philosophy with religion, postulating the principle that there is no conflict between reason and the religious Sharia, calling for adopting the mechanism of Ta`wil (interpretation) when there is an apparent contradiction between wisdom and Sharia, so as to affirm identity between the two. He also called for benefiting from the culture of the foreigner, thereby postulating the principle of accepting the other.

There was renewal with Imam Shafi`i when he said, “my view is correct which may be wrong, and the view of others is an error which could be actually true,” thereby enshrining the principle of not monopolizing truth, while affirming diversity and pluralism.

There was renewal with Imam Malek when he said, “if words issue from someone which could express atheism in a hundred facets, and could involve belief in a single facet, then it should be interrupted as faith and belief, and it is impermissible to interpret it as atheism,” thereby positing the principle of inordinate tolerance, the principle of rendering permissibility as superseding prohibition, making good intention supersede bad intention, and the principle of looking for an exit rather than looking for that which condemns and indicts.

There was renewal with Rifa`a Al-Tahtawi who translated the French Civil Code and the French national anthem, enshrining the principle of modernization of laws and entering the modern age.

There was renewal when Mohamed Abdou said that the Quran does not contain an explicit text on the system of government, and called for giving precedence to reason over the apparent denotation of the text if they conflict. He also issued a fatwa that statues are licit, thereby legitimizing the civil state, laying down the principles of rationalism and an enlightened interpretation that is not confined within a literalist hermeneutic, and that is positively disposed to the fine arts.

There was renewal with Nasr Hamid Abu Zaid who differentiated between religion and religious discourse, positing the principle that religion is sacred, but religious discourse is not, for it is a human activity amenable to error or rectitude, and also the principle that our age requires a new religious discourse that is harmonious with the variables of the historical moment.

There was renewal with Gamal Al-Banna who denied that Islam is a “religion and a state,” but rather a “religion and a nation”, believing in freedom of expression and thereby positing the

principle of separation of religion and state, and that it is God only who shall hold people to account.

All of the foregoing few sentences are but shining examples of the renewal of the Islamic religious discourse starting from the noble Prophet and culminating with the contemporary period. But all of these renewals – and there are many others which I have not mentioned – have not been effectuated, due to the behest of the ruling political authorities across the ages, whether in the periods when renewal took place or in succeeding phases.

I shall briefly focus on Mohamed Abdou, as an example. Abdou said with full resoluteness: “Islam eliminated religious authority and removed its trace . . . for Islam through God and His Messenger did not grant authority over the belief of anyone, nor dominance over his faith, and the Prophet (pbuh) was a notifier and warner, not a hegemonic figure, and did not give any one of his folk the authority to loose and bind (to decide) neither on earth nor in heaven.”<sup>177</sup> And with full resoluteness he defined the principles of Islam as the following five: mental apprehension to acquire faith, considering that reason supersedes the apparent aspects of Sharia when there is a contradiction, refraining from considering others as apostates, being edified by God’s laws in creation, and overturning religious authority completely.

Abdou was a product of the moderate Sunni religious institution, and despite this, contemporary and later political authorities joined the contemporary and later Salafi religious authorities in not effectuating his reformist opinions in the various aspects of Egyptian life, with a view to safeguarding their mutual interests: the subjugation of citizens and servants of God.

The political authorities were the principal adversary of religious renewal: they suppressed its experiments or exiled or marginalized its exponents, using two methods. The first was to directly combat them by impounding, burning, banning or killing. The second was to support extremist Salafi religious currents and empower them in the infrastructure and superstructure of the state, so that revivalist religious thought, in the best of circumstances, resides in the interior of books for specialized students and researchers, while Salafi religious thought continues to dominate, because it supports stability and the continued monopoly of the political system, while revivalist religious thought is concomitant with rationalism, freedom and civil life.

In recent decades, had the political authority publicized the thought of Ibn Rushd, Mohamed Abdou, Al Raziq, Abu Zaid, Gamal Al-Banna and others, and promoted it in education, the media, television, the Ministry of Waqf, culture venues and universities, we would have been saved from theocracy, the accusation of apostasy, and the burning of books, minds, and souls! But this did not happen because the despotic political authority will not build its own grave.

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177 Mohamed Abdou, *Al-Islam din al-'ilm w'al madaniyya* (Makabat al-Uusra, Cairo, 2002).

In brief, the problem of the renewal of religious discourse, involving a more tolerant and open-minded view of literature and the arts, is a political rather than a jurisprudential or rational problem.

Needless to say, naturally, that the religious discourse experienced renewal many times does not mean that we do not need to renew it anymore, for this need will not be over today or tomorrow, but be increasingly needed. The entire intention was that the problem did not lie in its renewal, but in applying it in the manifold facets of political, social, cultural and creative life.

### **Disagreements between antagonistic brothers**

This well-entrenched alliance between political despotism and despotism in the name of religion has not been completely consistent, despite its old and modern firmness and strength. In certain instances or events there have been tensions, disagreements, divisions or differences, incidental or transient.

Those disagreements or disputes – when they occur – do so for two main reasons.

Firstly, the defensiveness of one party in the alliance towards the other party. Political authority serves religious currents by spreading and flirting with them, provided that the religious currents reciprocate the favor by weakening the progressive, leftist, secular and liberal forces opposed to the regime, driving citizens to succumb to their situation as divinely decreed, leading them to obey the rulers as a corollary and part of obedience to God, and persuading them that God apportions provisions and wealth, so attempting to alter the situation represents an objection to the will of the Lord.

This is the implicit or declared agreement, for if the religious currents overstep this role and change from Salafi religious currents that call on people to surrender and acquiesce, to armed political Islamic groups that accuse society, the state and the political system of apostasy, declare that sovereignty is God’s rather than the political authority’s, and plan to topple the regime by violence, there is disagreement and difference.

Political authority, then, demands from religious currents three things: first, to overcome the intellectuals opposing them, instill in the citizens the habit of acquiescence, and afford the ruling regime religious legitimacy as long as it lacks popular legitimacy. For the sake of these three provisions, it gives religious currents political protection, and provides them the societal spaces that enable them to dominate the citizens and be their intermediary with God and means to paradise.

The eventuality of those religious currents gaining teeth within the political system itself (which patronized them, the second party to this agreement) constitutes a contravention of the covenant, and here occurs the fissure. This happened between Nasser and the Muslim

Brotherhood, between Sadat and religious groups, and with Mubarak.

The second reason is the schism in the Egyptian state itself between its civil nature and religious nature, with all that stems from this in terms of the dissonance of the two frames of reference. Constitutionally Egypt is a civil state: the law stipulates citizenship, and there exist bodies that signify the modern civil state: parliament, army, universities, the three branches of government (theoretically), a judiciary, elections, and other elements.

On the other hand, there is the religious identity provided for in the Constitution's second article, and there are manifold influential religious bodies: Al-Azhar, the Islamic Research Academy, Dar Al-Ifta, Al-Azhar University, the Ministry of Waqf, the Muslim Brotherhood – which has been simultaneously banned and allowed, thousands of Sunni religious societies, and thousands of muftis in newspapers, prayer corners and satellite television stations.

This schism makes Egypt of a dual nature: civil (supported by the Constitution and well-entrenched institutions) and religious (supported by the Constitution and well-entrenched institutions). This ambiguous situation has led some analysts to say that Egypt is a state with a civil form and a religious essence, on the premise that a religious state is not one in which sheikhs and jurists sit on the seat of power, but is – in essence – a state in which religion is the frame of reference for every procedure and whose citizens ask the opinion of a sheikh – whether he is a sheikh from Al-Azhar, Dar Al-Ifta, a newspaper, a zawiya (small mosque in a residential building), the television, a religious school or a cellular phone – concerning every small or big detail. This is the present Egyptian condition, and so some analysts say that Egypt has not decisively, thus far, assumed a modern secular course, after two centuries of what is called the Egyptian renaissance, which calls for saving the country from the tentacles of the coming religious state.

At any rate, this identity schism has led to a situation where the structure of the political, social and cultural system has become torn between two frames of reference, whereby some of its practices emanate from a secular view while others emanate from a religious view. And between the two visions there have been instances of disagreement between the political authority and religious currents, or indeed between certain segments of the ruling authority and other segments, destabilizing the solid alliance temporarily.

The last ten years alone have provided us with numerous examples of this division in the structure of the political, social and cultural system, between the civil authority and the religious authority, of which I have selected two examples relating to literature and creativity.

The first is the 2000 event relating to Haydar's novel *A Banquet for Seaweed*. The following are brief relevant points:

- The novel was issued by an official institution, the Cultural Palaces Association,

headed by the high official and eminent secular intellectual Ali Abu Shadi, as part of the series 'Aafaq 'Arabiyyah' headed by a major secular intellectual and novelist Ibrahim Aslan.

- The campaign to ban it was led by Ahmad Umar Hashim, chairman of the parliament's Religious parliament, a member of the ruling National Democratic Party, and president of Al-Azhar University (note the official positions).
- The novel was defended by the Higher Council of Culture (a secular official body headed by major secular intellectual Gaber Asfour) through the formation of a committee of literary criticism experts chaired by Abdel Qader Al-Qit, which issued a statement emphasizing that the religious and sexual overstepping in the novel is necessitated by the artistic work and decadence or insult are not intended.
- The political authority undertook two contradictory courses of action to prevent dissension. It dismissed the head of the Cultural Palaces Association and Ibrahim Aslan from their posts and expropriated the novel. It also closed down Al-Sha`ab newspaper, which partook fiercely in the campaign against the novel, through its editor-in-chief Adel Hussein and managing editor Majdi Ahmad Hussein (both Marxists turned Islamists). The newspaper was stopped using the courts.

The second example is the poem 'The Balcony of Layla Murad' by myself (2007), and these are the relevant facts:

- The poem was published by 'Ibda`a' magazine, which is issued by the Writers' Public Commission (a civil official institution).
- Some sheikhs leveled the accusation that it slanders God Almighty, and so its market distribution was stopped by the commission to avoid the attacks by religious currents.
- The sheikhs filed a lawsuit demanding that the magazine be shut down because it printed poetry insulting God, and the administrative judiciary decided to shut down the magazine.
- The Writers' Public Commission appealed the ruling before the higher administrative court, which rescinded the earlier decision.
- The Higher Council for Culture (an official secular body) granted the poet who wrote the poem the state award for literary excellence for his literary production.
- The sheikhs brought legal action against the Ministry of Culture (an official civil institution) demanding that the award be withdrawn, and the court ruled to

withdraw it, and then the Ministry of Culture appealed the court decision.

- The Islamic Research Academy (a religious governmental body) supported the sheikhs, as did the culture committee in the parliament's lower house (a legislative official body).
- The Minister of Culture (an executive authority), the then secretary of the Higher Council for Culture Ali Abu Shadi (a civil institution and a secular intellectual), various non-governmental organizations (civil institutions) and intellectuals supportive of freedom of expression all defended the poet, poem and award.

These two examples reveal the destabilization of the alliance between the despotic state and the Salafi religious current, the obsequiousness of some civil official bodies towards those religious currents to avoid their revolutions, and the schism of the institutions of the political, social, judicial, and cultural system between civil and religious frames of reference.

The alliance, whether solid or tenuous, does not prevent the political and security authorities from taking the initiative to suppress and expropriate, individually and in a manner separate from the alliance (if not without its blessings). Among the most prominent of such cases was the banning of the novel *Yawmiyyat dabit f'il aryaf* (*The Diaries of a Rural Policeman*, 1998) by novelist and former police officer Hamdi Al-Batran. The Ministry of Interior referred him to questioning and a disciplinary council, and he was dismissed from his job because "he overstepped his professional duty by publishing a novel for whose publication he did not get a permit from the Ministry of Interior" and because the novel "treats imaginary matters that are unrelated to reality and which relate to the state security apparatus."<sup>178</sup>

Renewals of religious discourse in past and present, had they taken root and become entrenched, would have brought great benefit in all walks of life. In literature and the arts we would have reaped great gains relating to freedom of creative expression, as those renewals would have instilled a set of values safeguarding the freedom and flourishing of the arts, such as:

- Dialogue instead of sequestration, through sound and reasoned argument.
- Refraining from considering as infidel any literature or art, according to the Quranic principle "you abide by your religion and I abide by mine."
- Adopting a flexible interpretation of the texts and not relying on an exoteric literal reading that targets literature and art.
- Respecting difference and other views.
- Appreciating the fine arts and respecting sculpture, singing, music, and

dancing.

- Leaving appraisal of literature and art to the specialists, namely critics, scholars and authors, in compliance with the Quranic verse "Ask those who have sound knowledge if you do not know a matter," rather than applying a religious perspective in assessing works of art.
- Differentiate between criminal trespassing and intellectual trespassing: the first is to be confronted by penal law, and the second by intellectual debate.

We have stated that those renewals in religious discourse have needed in the past and still need the presence of a strong political authority that believes in those innovations and concomitant rationalism and enlightenment, adopts from these renewals the advocacy of the principles of human dignity, and disseminates and safeguards them. However, this has not happened – indeed the opposite occurred: the political authorities in most arenas marginalized, suppressed and distorted those renewals with a view to safeguarding the powers that be.

All this does not mean that I think that the effective solution is for the political authority to impose rationalism, enlightenment, progress and civil virtues from the top by administrative force or the force of law or sword. Actually, history proves the error of imposing enlightenment, reason and progress from above: the Caliph Al-Ma'moun (third century Hijri) failed to impose by coercion Mutazala rationalist thought, for very quickly the Caliph Al-Mutawakkel brought down the Mutazala and their thinkers as this intellectual orientation had not found those who would come to its defense in society. Furthermore, Atatürk's experiment (1924) failed to convert Turkey into a secular state when it had just emerged from the Ottoman caliphate.

The sound approach is to spread rationalism and enlightenment in the arteries of the entire society, in all educational stages, in the press, television, and in all the apparatuses of creating awareness and knowledge. There should be a disengagement between the civil and religious frames of reference in favor of the modern civil state. This would require filling civil forms with genuine civil content rather than religious content, amending legislation and laws which consecrate the schism dividing life in two, separating religion from state, establishing genuine rather than formal democracy – in which the ruling party monopolizes power without its circulation – and having a genuine separation of powers.

To sum up, we need a new political system to apply this sound cure. The Mubarak regime was a vicious antithesis to all the elements of a sound treatment: it allied itself with Salafi religious thought to achieve its interests in terms of stability and continuity, allowed extremist Islamic groups to oppose intellectuals and artists so as to appear as innocent as the wolf of shedding the blood of Jacob's son, and included in its legislation that which fosters extremism, prevents the

178 Eid Abdel Halim, *Al-Hurriyah wa akhawatiha* (Madbouli House, Cairo, 2008).

circulation of power and the plurality of political parties, and gives the sheikhs legal and judicial weapons to repress intellectuals and artists.

Only then will the expropriation of art end, because the extremism of the authorities in expropriating literary freedom “does not protect virtue, but protects corruption, because art is the sign of the free, and not the slaves” as Taha Hussein once put it.<sup>179</sup>

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179 Taha Hussein, *The Future of Culture in Egypt* (Maktabat Al-Usra, Cairo, 1990).

## 6. Culture, Politics and Human Rights in Europe

### The representation of minorities in the media by Anders Jerichow

#### *Prologue*

Some twenty years ago I wrote a book called *Arab Voices for Democracy*, published in Denmark and Norway. In this book a number of distinguished Arab intellectuals made the case for democracy and the universality of human rights. One of them is here today, Behei el-din Hassan of the Cairo Institute for Human Rights.

Today Behei and I still make the same case. His hair is still mainly dark, mine is now grey – at least what is left of it.

It is highly depressing that the issues today are the same as then: whether human rights are universal and the same for Arabs and westerners and all; whether human rights should be defined and serve the people or those in power; whether the West is supporting human rights or governments suppressing human rights; why the West is intolerant of Muslim minorities.

The rulers of the Middle East are basically still the same. To be fair the power in a few Arab states has moved from father to son, but the authoritarian system however is the same – the suppression, the censorship, the corruption, the failures of government, often even worse. And in Europe the problem of intolerance also is the same - and likely often worse.

In Arabia, the poverty of Egypt, Yemen, Sudan, Mauretania and others – the same; apart from the emergence of a new middle class in countries such as Egypt, Jordan and Syria.

In the West, a dilemma of multiculturalism has erupted – as well as a political manifestation of Islamophobia.

In the years between, the UNDP has warned about three deficits in the Arab world – the deficit of freedom, the deficit of equality and the deficit of knowledge – awkward deficits.

Bush, George Walker Bush – the disputed, the hated, the controversial, the conservative Bush – made a speech in 2004, stating what progressive heads of governments should have said – that all people are entitled to human rights and all people need democracy.

And his successor, Barack Obama, in Cairo tried to catch up – reminding the people of Arabia that all nations deserve freedom just as all people have the right to opt for democracy.

But 20 years after I wrote the mentioned book on democracy, rulers of the Arab world are still either authoritarian or totalitarian and not democratic; chosen not by their peoples, but by

themselves, the military or by their fathers. Hundreds or even thousands of books on human rights and Arab development have been published in between – Behei el-din Hassan and I have written some of them – and students of human rights have spent conference after conference discussing the difference between totalitarianism and authoritarianism. But rulers have generally managed to censor the public discourse on suppression, corruption, torture and the business of rulers and censors – i.e. the use of power and censorship. And the West supports these very same rulers, whatever the nature of the rule.

Anyway, human rights still make sense. Human rights are in fact still a very good idea. Twenty years on and a generation has been wasted by repressive rulers – and we have let the rulers do away with hopes of democracy, popular participation and human rights. Elections are rigged – as happened in November 2010 in Egypt. Freedom of speech is censored as happens in most Arab countries to varying degrees. And political freedom still belongs to the future.

Last summer, a counsellor to Hillary Clinton and the US State Department told me that “we have come to the conclusion that *‘a good dictator is preferable to a bad democrat’*.”

And in Europe the right as well as the left seem weary of human rights. The political right do not find the Arab Middle East ‘ripe for democracy’, while the political left dig into a cultural relativism, tempted by the discriminatory notion of Arabs enjoying other types of traditions and other rights than those of freedom and democracy. Which approach is the most paternalistic? You may choose.

Both worlds are hit by xenophobia and quite a bit of cultural arrogance, obsessed by the idea that all peoples of this world subscribe to either Islam or Christianity – though most people belong to other religions or no religion at all. If not for other reasons this should remind us of concentrating on universalism instead of pretending that Christianity or Islam have a right to dictate the world.

We are witnessing a change of balance:

Today we are discussing how human rights adapt to religions, such as Islam and Christianity – instead of insisting on compliance with human rights on the part of rulers of different religions.

And we are easily drawn into discussions of religious interpretations – as if the Universal Declaration of Human Rights was a document of the future; but please, friends – the declaration is here, and as members of the UN all our governments in fact can and should be taken to task by media, human right activists and researchers such as us.

We have work to do. Human rights are challenged, and peoples are censored and suppressed each and every day.

*But now, a few words about media and minority representation:*

### **Embedding with the other?**

Reporters competed for a chance to follow the American troops into Iraq in March 2003. Only few – if any – volunteered to be embedded with Iraqi units, since long before the fighting began, the role of the two armies was decided up front. The Iraqis were preparing to retreat, to lose, to die – while only the Americans were preparing to pursue, to win, to live.

The best story, for sure, would have been to embed with ‘the other’. This would be the possibility to understand the other, to share his fate, to understand his thinking. But even media prefer living to dying.

The same question, however, may be asked in a time of peace within European journalism: Who embeds with ‘the other’?

It’s all about empathy and representation.

And it still makes news when the German writer Günter Walraff turns himself into another. It made news when he published his experiences as a Turkish ‘gastarbeiter’ in the book *Ganz Unten* (Lowest of the Low) back in 1985. And it still made news when he posed as a black Somali immigrant in the documentary film *Schwarz und Weiss* (Black and White) some 25 years later, in 2009. His approach has been interesting, but disturbing as well. Do we still suffer from a deficit, regarding information about the lives of ‘the other’? And do we still need one of ‘our own’, i.e. an old-time white westerner, though in disguise, to tell the story?

Now, after a quarter of a century, European media face the same challenge: Do we want to understand the other – and will they have a chance to tell the story themselves?

It is about access to media, representation and images of perception.

Back in the 1980s news programs in my country, Denmark, with very few exceptions were dominated by white men, young or old, mostly middle aged. Female representation was still scarce, while non-white reporters or anchors were absent.

These media, dominated by white men, reported about ‘foreign’ people, countries and religions. People of those religions, colours and backgrounds rarely had a voice. Media talked about foreigners, among them about Muslims – only seldom did they talk *to*, or engage in conversations *with* foreigners in general, and Muslims in particular. And on even fewer occasions were people of Muslim or other non-Danish backgrounds present as reporters or as expert sources for information in the media.

The American CNN may have made a difference. As the first international news station reporting

live on international news from more or less any corner of the world, it had a tremendous effect on news coverage. Similarly important was the effect of the British BBC mirroring its viewers by featuring anchors as well as reporters of any colour and creed.

In Denmark the two national television stations, both established and generally financed by state dictated license, at first took different stands when faced with the multicultural future. While DR, the Danish Broadcasting Company, deliberately aspired to hire people of non-traditional appearance for local viewers, the new TV2 Station at first refrained from any change of appearance.

At stake wasn't primarily the question of content, but the very basic question of whether the face of media should reflect the changing faces of the population.

Today this is old news. The two dominating television stations both have reporters as well as anchors with names and appearances reflecting backgrounds that just two decades ago would be perceived 'foreign'. Today they are 'Danish' AND – not 'but' – Muslim and/or with an ethnic background other than traditionally Christian and white.

However, years later the media industry realized that not only the face but also the content was in need of change. Denmark as well as other Nordic and European countries had experienced remarkable immigration leading to the development of multicultural societies. Though media in this country even today discuss multiculturalism as an option, not necessarily as a fact, they do realize that they better include so-called 'new Danes' in the staff. Quite a few media in the 1990s considered reporters of 'foreign' background for the coverage of stories implicating people or citizens of other ethnic backgrounds than traditionally 'Danish'. Just as most newspapers and news programs would have specialized reporters for subjects such as economy, social affairs, education and crime, quite a few media started around the turn of the century to have reports on 'immigrants' or 'ethnic stories' prepared by reporters with different ethnic backgrounds.

Some media, such as the daily newspapers Politiken and Information and the television station DR have made special efforts to ensure this change of face and to obtain an editorial window into new parts of Danish society.

The reflections of the media may have been constructive as well as positive – to ensure coverage of the new face of society as well as to ensure some specialized knowledge about the migrant part of society. Even so, it raised other relevant questions. Should only migrant reporters cover migrant news? And should immigrants or 'second generation immigrants' (as people are called in Denmark, where people continuously are labelled second or third generation 'immigrants', though they are born in Denmark) – only have access to covering migrant stories?

If carried through, the concept would have had far-reaching consequences. Imagine if only

Christians could report on Christian affairs, only Muslims on Islam and the Middle East, only Jews on Judaism and Israel, only Kurds on Kurdistan? What about the 'cross-overs'? What about the notion of neutrality, non-bias and arms length principles? If carried through, men could hardly have reported on women – well, maybe they shouldn't – and basic media ethics would have to be rewritten.

The good news is that in contemporary Danish society 'new' names and people of 'new' backgrounds and religions have made their way into Danish media. They appear in all editorial positions, all editorial subjects and all sorts of programs. Today it will be difficult to claim that all colours and creeds are not represented in media.

Of pressing concern one still needs to ask whether 'new Danes' and citizens of other ethnic backgrounds than traditionally Danish are fairly represented among sources and experts in the media?

Though it is difficult to measure or quantify it is fair to say that 'experts' two decades ago were predominantly found or identified among traditional Danes. And it is probably fair as well to state that new experts with new names and of hitherto rarely represented backgrounds today appear in the media as sources and experts.

Quite a few (Muslim) capacities in different fields have experienced not being called on by the media for their expertise – while they may have been interviewed about subjects relating to their religious or ethnic background.

A change of the expert face of Danish media is now happening. You will find new names and faces among the experts of most specialized fields – from social affairs to economy, health, sexuality and security.

The media as well as the new minority societies still suffer from another problem, that of defining authentic representation of minorities.

In a heavily organized civil society such as Denmark's, most people are organized by education, trade, living area, political interests, sexual orientation as well as by religion. In Denmark media will know whom to call for an interview or the responsibility in any sort of story, because there's always an organization representing this or that particular industry, trade, behavioural tradition, gender as well as religious background.

This being the tradition, it has come as a surprise to the Danish media that 'Muslims' are not necessarily organized to the same extent or by the same tradition, always ensuring a central spokesperson or head of society. So who does a newspaper contact to obtain 'a Muslim' reflection on current news? In times of Al-Qaeda terror and international disputes over the Danish 'Mohamed Cartoons' this has led to noteworthy media problems as to identifying who

is in a position to speak on behalf of Islam or Danish Muslims – and even worse, accepting that there is not necessarily a common voice of the Muslim minority populations, rather many voices.

So who do media select for representation? Obviously it may have important ramifications whether the media call local representatives of Wahabi Islam or a secular community of Turkish origin – and whether the media in the first place choose to look for Muslim representation among mullahs or secular leadership. Just about 10% of Danish Muslims visit the mosque every year, just as fewer than 10 percent of Danish Christians attend church annually – for instance when relatives need help with a funeral. Nonetheless, ‘Muslims’ in Danish media are often represented by religious leaders.

The Muslim Council, an umbrella union of 13 Danish organizations of various Muslim orientations, has tried to offer leadership, representing some 35,000 Danish Muslims or about a tenth of the Muslim population. But the majority of Danish Muslims remain organized in other ways or not at all – leaving them without spokespeople in the media or without authentic or legitimate representation.

The Muslim Council has tried to offer advice and a Muslim voice at times of news stories involving the Muslim community. The council has repeatedly tried to manifest that the use of political violence or terror in the name of Islam has no religious authenticity and no legitimacy in its society. Unfortunately, few media outlets have shown interest in making use of press releases from the council – while the media frequently and willingly refers to terrorists trying to legitimize their violent actions in the name of Islam.

Another kind of representation is a source for dispute as well. Should media report on the cultural or religious background of inflicted people, sources of information or the suspect in relation to a crime?

While it may be irrelevant to a piece of information or to the explanation of a crime case, it is repeatedly mentioned in media if the source or culprit is ‘immigrant’, ‘Muslim’ or of other ethnic origin than Danish. In the political context, the populist Danish Peoples Party (which gets about 14% of votes in opinion polls) and others maintain that it is the right of people to know the identity of people involved in crime, while others claim that ethnicity or religious background is less relevant than social or occupational status. Among media there is no nationwide consensus on when and how to mention religion or ethnicity.

The problem is whether culture or religion may be used by media as a determining factor or explanation of social behaviour in reporting on crime where social or economic explanations would otherwise be sought?

This is also about representation of the other. Do media see and portray citizens of other ethnic

backgrounds than ‘Danish’ as individuals or as templates of their perceived social group?

The very basic notion of the other reflects that the media often identifies or accepts the political concept of – irreconcilable? – differences between the majority and minority communities within the overall multicultural society.

In 1985 Guenter Wallraff received great respect when he posed as a Turkish immigrant for two years to convince his countrymen of his understanding – and experience – of migrant life in Germany. When he did the same in 2009, posing as the Somali immigrant Kwami Ogonno for the film *Schwarz und Weiss*, he still received a lot of attention and made great news. But this time he was severely criticized by members of his country’s black community. Noah Sow, musician and writer, was quoted by public broadcaster ARD as saying that “He can’t have black experiences as a painted white man, and he can’t put them into context, even if he thinks he can.”

No one would question that empathy is needed. Now, 25 years after Guenter Wallraff’s book, it would be hard to argue that minority citizens are not still regularly subjected to discrimination or prejudice.

The media have a responsibility to cover – and at the same time not to be part of - the problem.

## **Religious minorities in Denmark and Europe by Bashy Quraishy**

Let me start by thanking the Danish Institute Human Rights for this timely initiative to discuss cultural dialogue in the framework of human rights. In the light of global and European developments, there is a great need not only for dialogue but for strong cooperation across the board. Time has shown that this is vital for the wellbeing and progress of all humanity.

But first let us have a look at the Danish situation regarding religious minorities.

According to the latest data available from the Ministry of Integration and Statistics Denmark, the total population of Denmark on 1 January 2010 was 5,475,791 people. This figure includes persons of 160 different nationalities from all over the world. Denmark has few religious minorities, such as Jewish, Hindu, Buddhist, Sikh and Baha’i. Muslim communities make up the largest religious group, numbering close to 200,000. This makes up less than 5% of the total population.

From the 1960s to the 1970s, the most common expression used for non-Danes was ‘guest workers’, which changed to ‘foreign workers’ in the 1980s. After many years of discussions in the 1990s and pressure from ethnic minority representatives, the expression ‘ethnic minorities’ was accepted and started being used, both in the media and by the authorities. Since 2001, the word ‘Muslim’ has been used in a negative manner, giving off the impression that most

ethnic and religious minorities have a Muslim background. This has resulted in an Islamophobic atmosphere in the country. The reality is that because of official policies, minorities from Muslim countries face an impossible task when coming to Denmark.

Denmark is the only country in Europe that not only proudly proclaims that it has the most restrictive aliens laws in Europe but political leaders, especially Danish Peoples Party leaders, have publically stated that Islam is not welcome in this country. Let me give two examples:

- I. On 16 August 2009, Lene Espersen – deputy prime minister of Denmark – stated: “The Muslim threat to our society is greater than the climate change issue”.
- II. Over the years many top politicians of the Danish Peoples Party have compared Islam to cancer, Nazism, and fascism and called it a threat to the West. Here are a few of their statements:
  1. Islam is a new totalitarian plague sweeping Europe
  2. Islam has since its inception been a terrorist movement
  3. Islam is by its very nature an evil, which must and will be combated
  4. In many ways we are anti-Muslim
  5. The Quran teaches Muslims that it is acceptable for them to lie and deceive, cheat and swindle as much as they like

It is important to mention here that as a parliamentary partner, the Danish Peoples Party has forced this government to make 18 restrictive changes in the aliens laws since 2001.

Besides being Islam phobic, this powerful political party not only disregards human rights but publically advocates and asks the government to reduce Denmark's commitment to UN and European human rights conventions. The Danish Institute for Human Rights has often reminded this government that many of its changes to laws regarding ethnic and religious minorities are very close to breaching these conventions.

As a media monitoring journalist, a minority consultant and part of the largest network of anti-racist NGOs in the EU, I have the possibility to keep a very close eye on what is being so heavily and negatively discussed in Denmark and Europe today. A fleeting glance at the mainstream media, blog coverage, and public debates, along with the harsh laws being pushed through most EU parliaments, would easily disclose to any neutral observer that it is not the Jewish, Christian, Hindu and Buddhist, and definitely not the secularist communities, that are being insulted, mocked and ridiculed. The target is Islam as a religion and Muslim communities at large.

Keeping this situation in mind, I hope that you will not mind if I focus particularly on the tendencies of Islam phobia, anti-Muslim hatred and how we can deal with it. The aim of my

presentation is not to accuse or lament the unfortunate changes that we have all witnessed, but to remind the democratic Denmark and Europe and its native citizens that we must hold on to the model of a society which is inclusive, values diversity, and rewards all individuals for their contributions to the society they live in. Most important of all, there is a dire need for the country not only to respect and practice equality but also to formulate all its policies in accordance with the spirit and letter of human rights conventions.

In Denmark, Muslims are often told to learn not to mix religion with politics. I passionately believe in this important separation because religion to me is a private matter and should be kept out of state affairs so that rights are available to all citizens and even residents of a country.

But Denmark does not always practice what it preaches. One such example is that Christianity as a religion and the Christian church has special privileges and benefits, which no minority religion enjoys.

For example, according to the Danish Constitution, the monarch has to be Christian. The Lutheran Church is the official representative, with 85% Danes paying the church tax. The Danish state pays for the upkeep of churches and 50% of priests' allowances. The Danish flag has a big cross in it, parliament members attend the Christian mass on the opening day of the parliament and all public holidays are Christian. We have a Church Ministry and a minister of churches as well as blasphemy laws against insulting Christianity. In the primary school curriculum Christianity has a very dominant place while other religions are fleetingly mentioned. There is even a prominently displayed cross on high school students' graduation caps.

If there ever were a glaring example of double moral standards, hypocrisy and inequality in religious rights, this would be it.

As you all know, Denmark and Europe has gone through dramatic changes in the last 40 years. Most have been very positive, such as the reunification of Germany, the fall of the Iron Curtain, the establishment of the EU and an unparalleled socio-economic prosperity for most of its citizens. The rapid industrial progress also made it possible to bring in foreign workers from outside the boundaries of Europe to do dirty, menial and low paid jobs, which ordinary Europeans did not want to do at that time.

At that time no one asked what cultures these workers had, which God they prayed to or if they wanted to integrate into their new society. The fact is that as long as they did what they were told, no one even showed any interest in them. A British scholar, Sivanandan, explained this dilemma very beautifully: “Europe asked for cheap labour – but human beings came.”

This simple narrative can help explain the whole discourse and dilemma as to why, after almost 50 years, the relationship between non-European ethnic and religious minorities and the

European majorities has not resulted in a fruitful, painless and shared society – for all.

On the contrary, the issues of **migration, integration and the presence of Muslim minorities** are being discussed heatedly in every country in Europe. Some voices from powerful political parties, mainstream media outlets, church authorities, university academics and society intellectuals are not only debating complex topics in simplistic terms but are also advancing scaremongering theories.

Such parties, groups and individuals create the impression that Europe is being swamped by people from the outside who are hungry, extremist and do not belong here. And that those who have lived here for many years do not want to integrate, hate Western values and do not believe in democracy. Interestingly enough, the communities that are the subjects of these discussions, namely the ethnic and religious minorities from non-European countries, are not involved in the discussion process. Naturally not because they are incapable of a reasonable intellectual exchange but because they are almost never invited to sit at the decision-making table.

### **Cultural prejudices**

Muslim communities are collectively being blamed all over the continent for not integrating, for establishing parallel societies, having primitive cultures, practicing medieval traditions, indulging in extremism, sympathizing with terrorism and worst of all, being fifth columnists. In many parts of the media, ‘experts’ seek to enlighten us on the new dangers from East; holy wars, fanatical masses, the revenge of the Middle Age on modernity and of religion on the Enlightenment.

Islam is sometimes presented as a ‘challenge’, sometimes a threat. Simple minds might even see it as a battle of Islam against Christianity, or against ‘unbelievers’. In Europe all these perceptions exist, sometimes side by side and at other times separately.

When I criticize the prevailing perception of Islam in the West as ‘the enemy’, I do not do it to justify all aspects of Muslim politics and societies, or to sweep them under the carpet of cultural difference. I do it as a protest against the propaganda made by those Europeans who try to make themselves feel good by associating problems with another culture and religion. Instead of critique, Europe has arrogance and scheming. Instead of criticizing the faults in their own societies, and using the same yardsticks in their criticism of other societies, many Europeans set the two cultures up against each other.

In this sense, making Islam into the enemy (as opposed to having a real one) only contributes to the fact that an important opportunity, the end of the Cold War, has been wasted. This is the main problem. We do not have an Islamic fundamentalist threat, which, in any case, could only be dealt with by political and economic means and most importantly by Muslims themselves.

Thus some groups and individuals in the West invent an Islam that suits them, that best fulfils their western political and psychological needs. This is exactly how one arrives at a clean separation between ‘us’ and ‘them’, between an inside and outside that are never supposed to meet and thus succeed in fencing off and fortifying western identity.

This artificially constructed picture of Us, the civilized, and Them, the primitive Muslims, has had catastrophic consequences.

Not only has hatred against Islam and Muslims in Denmark and Europe become more visible and accepted in the wider society, it has also resulted in the mushrooming of anti-Islam political parties and populist movements. From Denmark, the poison has spread to Holland, Sweden, Austria and many other countries. An alliance of anti-Islam political parties met in Vienna in October 2010 to work out a strategy to stop the Islamization of Europe. There has been a rise in hate crime, hate speech, physical attacks on persons, and painting graffiti on property, places of worship and even private businesses. Recent examples are the killing of a woman wearing a headscarf in Germany, the shooting of numerous people in Sweden, the firebombing of homes in Greece and police brutality in France. Even the home of a famous MEP was fire bombed in UK.

Then the question arises as to what states can do to rectify the situation and achieve the desired integration of Muslim communities?

Here are some recommendations:

- Draft laws in line with human rights conventions
- Fully implement anti-discrimination EU directives
- De-link immigration issues and integration policies
- Acknowledge the intercultural and inter-religious nature of societies and the benefits that brings
- Involve Muslim representatives in the formulation of policies relating to their living conditions and improvements to be carried out
- Insure the funding of NGOs to help the process of integration and non-discrimination fieldwork
- Establish integration committees on the municipality level, consisting of Muslim representatives, local solidarity NGOs and municipality officials
- Support specialised bodies for complaints to be registered and useful legal help to be received
- Ensure that public services are being provided without prejudice or arrogant attitudes
- Make sure that the media live up to their responsibility of creating a harmonious

atmosphere. Freedom of expression must go hand in hand with minority protection, otherwise it becomes dictatorship of the majority

- Consider racism and racist statements as crimes against humanity and deal with them legally and morally
- Keep an extra vigilance towards far right populist political parties, racist propaganda and fascist movements

### **Responsibility also lies with minorities**

Having said the above, it is vital that Muslim minorities live up to their own responsibilities towards the societies they live in. It would be unfair if majority societies do all the work and minorities only act as victims or passive observers.

The process of mutual integration can only succeed if religious minorities are proactive, take a constructive attitude towards the well-being of the whole society and play their due part in the development process.

### **I have always advised minorities – especially with Muslim background – to do few practical things.**

- Learn and master the language and educate yourself
- Accept and respect the law and the constitution
- Create good relationships in the neighbourhood
- Adopt/enjoy the majority culture as best as you can
- Practice your traditions and religion peacefully and show respect towards your fellow human beings

Over and above these five conditions, a person has all the rights to live life according to his or her needs, wishes and desires. State authorities and society should not dictate or force a minority person to assimilate, overtake the host culture or be a bad copy of the majority.

My experience of 40 years in the West tells me that no matter how bleak the future looks, hope will show us the way. But it is imperative that progressive Europeans take this task seriously. As the saying goes: to those whom much is given, much is required.

I am a passionate believer in and advocate of mutual integration based on respect and accept. Differences of cultures, faiths, traditions and ways of living should be celebrated and not condemned. But I am also a realist. As long as Europe does not shed its colonial hangover, its supposed cultural superiority and traditional arrogance towards non-white and non-Christian minorities, it will not succeed in its endeavour to be a centre of the civilised world.

In short, ethnic minority groups, their organisations, solidarity NGOs and individual Europeans must rise to these challenges. We cannot pretend that problems will go away by themselves. We need to double our efforts and must seize the initiative from the hands of hatemongers and the enemies of harmony, no matter who they are. On the gravestone of the great German humanist Albert Schweitzer in Gabon, West Africa, it says “Search and see if there is a place, where you can invest your humanity.”

Well, I and millions of Muslim minority members chose Europe to do so. Today, it is Europe’s turn to treat us as equal partners.

### **Tomorrow may be too late!**

## **Women's rights in Denmark - challenges and opportunities**

**By Ingrid Stage**

This presentation is given on behalf of the Women's Council in Denmark and will describe the council's work for gender equality and various aspects of women's rights in Denmark.

Firstly, I will briefly describe the council itself, its membership and its partners, national as well as international. Then I shall demonstrate that gender equality in law does not necessarily mean gender equality in practice. The main part of my presentation will focus on the continuing problems and challenges to gender equality and women's rights, specifically in the following four areas:

- Lack of women in decision-making, including women in local politics, management, and research positions
- The gender-segregated labor market, equal pay and parental leave
- Trafficking in women
- Violence against women

I will finish off my presentation with a brief description of the way we carry out our dialogue with the government as a central element in our role as watchdog, and mention two examples of what, in our opinion, have been successful campaigns.

### **The Women's Council in Denmark**

The Women's Council in Denmark was established in 1899 to coordinate political demands for women's rights and influence gender politics, nationally as well as internationally.

The idea behind creating a women's council was to establish a common platform for the development of real democracy where the focus is on gender equality and respect for diversity. Our goal is to promote women's rights – including the prevention of violence against women, and the abolition of pay inequalities and other forms of discrimination in the labor market – and to secure women's influence in the power circles of society.

### **Members**

We are not a political organization, affiliated with a certain political party. Our work is based on women's rights, pure and simple. This platform enables us to unite a broad range of members. Today 45 organizations are members of the Women's Council in Denmark, and they have a total of more than one million members, who are represented by the women's council and our efforts to improve women's rights. Our member organizations include trade unions, professional associations, gender equality committees from various political parties, and a number of

humanitarian groups and societies. Not least, the women's council includes women's groups from various professions and ethnic minorities, as well as researchers of gender politics.

The women's council represents member organizations in national and international forums. We hold posts in a number of public councils, boards and committees that advise national and international politicians and other decision makers.

### **International cooperation**

The women's council is in contact with a number of women's organizations worldwide. Our collaboration ensures that our demands for women's rights are forceful. We cooperate in particular through the European Women's Lobby which includes NGOs from all EU member countries. We also have a special Nordic organization, the Northern Women's Cooperation, called NOKS.

Under the auspices of the Arab Initiative the women's council collaborates with partners in the Middle East and Northern Africa in order to increase women's political representation and to prevent violence against women.

### **Legal versus actual gender equality**

In Denmark we have come a long way in our struggle to secure equality between women and men. If we simply judge by the Danish Gender Equality Act of the year 2000, we would say that gender equality is obtained. In clause one it is stated that "the purpose of this Act is to promote gender equality, including equal integration, equal influence and equal opportunity in all functions of society, on the basis of women's and men's equal status. The purpose of the Act is also to counteract direct and indirect discrimination on the grounds of gender and to counteract sexual harassment".

In the women's council we feel that the government often paints a much too rosy picture when describing how far we have come towards obtaining equality between men and women in all aspects of life and functions of society. Therefore, we see it as a permanent challenge for us to help qualify the political and public debate on this issue. We have set ourselves the task of helping to open the eyes of the Danish people to the challenges we still face in this country.

The women's council works for better integration of women with ethnic origins other than Danish. They face the same problems as all other women, but on top of that they have their own specific problems related to language barriers, insufficient knowledge about their rights, less involvement in the labor market, etc. Women with an ethnic background other than Danish are more vulnerable when subjected to violence from partners. Breaking away from a violent partner may result in the loss of her residence permit. Therefore, the women's council has set

itself a special task as watchdog for women from ethnic minorities.

## Current challenges in Denmark

Here I would like to point out four of the main current themes in which we find that there is room for improvement.

*Women in decision-making, including women in local politics, management and research positions*

Danish figures are by no means impressive in any area. But most promising are the figures for the Danish parliament. It is leading the way with 9 out of 19 cabinet ministers and 38% of all members of the Danish parliament women. Local politics lags behind, with just 15 out of 98 mayors women and 32.1% women in town councils and district councils. But much worse figures are to be found in the world of research, as a mere 14.1% of all professors are women. And this is in spite of the fact that women have made up the majority of students at universities since the year 2000. The very worst picture we find in industry and business. Of top executive officers and managers, 94.6% are male, and 90.15% of all posts on the boards of private companies are filled by men.

You may ask why it is important to have women take an active part in decision-making processes. I'll give you four basic arguments:

- Equity and fairness – women do make up half the population
- Talent and intellectual resources are most likely equally distributed between men and women, and we cannot afford to waste any of them
- Women's experience must be represented – as long as men live lives that are at least partially different from that of women, this is important
- Possible conflicts of interest between men and women on certain issues – for example, are men as seriously interested in equal pay as women?

In the run-up to local elections in November of 2009 the women's council took the initiative for a nationwide campaign to get more women elected to district and regional councils. With the slogan "Women at the top" a national network of women candidates was established – uniting women across political party divides in setting up local initiatives to make women candidates more visible. The message of the campaign was supported by cards listing facts about the low representation of women. Large meetings were held in Aarhus and Odense. On election day the results showed an increase of 5% for women. The women's council is happy to have contributed to this result.

## a. The gender segregated labour market, equal pay and parental leave

Denmark has one of the most gender-segregated labour markets in the EU. Women work primarily in the public sector, whereas men work in the private sector. Men fill the posts at the top of the job hierarchy, and that is true of both the private sector and the public sector. The gender-segregated labour market is recognized as one of the basic factors behind the problems of the pay gap between men and women that we see in Denmark.

The women's council wants to highlight the inequalities that both the labour market and the education system create, thus disadvantaging women both financially and career-wise. The seeds of the gender-segregated labour market are sown by the education system and the choice of education.

In the education system the important point is to make sure that children and young people acquire knowledge of gender issues, and that the education of the professionals who will work in educational institutions includes knowledge of gender issues. This means that gender issues must be incorporated into the planning of educational programs as well as the guidance and advice on choice of education, and of course must be inherent in any implementation of educational programs.

On this issue of the gender-segregated labour market, the women's council focuses on

### ***Equal pay and equal rights for men and women as parents , including equal right to parental leave***

The women's council has appointed seven ambassadors for equal pay. Together with the women's council they initiate and carry on a public debate about equal pay. In the run-up to and immediately following the last round of collective bargaining for public sector employees there was some success in generating public debate about the fact that Danish women on an average earn some 17% less than men, according to EU surveys and a number of other studies. But the debate has unfortunately died down again, even though the pay gap has not been reduced.

The fact that women avail themselves of the far greater part of parental leave is one of the major barriers to equal pay. The unequal sharing of parental leave influences the pay check throughout the career. And it is important that we make the effect more visible to women. The pay of highly educated professional women in the private sector, who avail themselves of a year's maternity leave, is reduced by about 6% per child throughout the career. The most important factor is the duration of the leave.

Other studies show that one fifth of women with a short or medium-length education who are on leave miss out on the pay bargaining they are entitled to by law.

Because of the overwhelming evidence of the negative effect of a long maternity leave on the lifelong pay of women, the women's council advocates dividing parental leave into three equal portions: one for each parent, and one which they can share, take together, or let one parent take. A marked increase in fathers availing themselves of paternity leave would make men and women more equal in the eyes of the employer. If employers realise that men will also have lengthy periods of parental leave away from the workplace, the likelihood is that young women will become more attractive as potential employees. Currently, Danish men on an average are taking three weeks of paternity leave – and this is a figure that is not changing at all.

#### **b. Trafficking in women**

In 2009 some 50 women were identified by the authorities as victims of trafficking. And it is estimated that there is a minimum of 5,000 prostitutes in Denmark, half of whom are foreigners. The women's council regularly contributes to the government's action plans to combat trafficking in women. We back the Danish policy of support for victims, prevention, and lawsuits against those who profit from trafficking.

But the efforts are too meagre. More should be done. It is our opinion that women who have been subject to trafficking have had their human rights violated. This means that our society is obliged to give them the necessary support. We have therefore recommended that politicians spend more time and resources on identifying possible victims of trafficking. The 72 hours now being spent on this is far too short a time. We also recommend a less rigid regime for obtaining residence permits, and we think that the period of 100 days for reflection which women are offered should be unconditional. Furthermore, it is our firm opinion that criminalising the clients of prostitution in combination with offers of better social services to the women involved in prostitution would substantially contribute to a reduction in the number of women being trafficked for prostitution in Denmark.

#### **c. Violence against women**

In Denmark some 28,000 women and 9,000 men are subjected to violence from a partner. Some 21,000 children live in violent families, and every tenth young girl has been the victim of violent behavior from a lover. These figures are alarming, and although the number of women subjected to partner violence has been decreasing, it is still far too high.

Combatting violence against women was finally put on the agenda in Denmark in 2002 after years of advocacy from the women's council and other NGOs, in particular the Danish National Organization of Shelters for Battered Women and their Children.

In 1997 the Women's Council set up a group of experts on men's violence against women. This task force, the National Observatory on Violence Against Women, consists of representatives from

institutions, organizations, and individuals working within the field. This gives the observatory a unique knowledge base built on shared research, practical experience and feminist insight.

The members of the observatory are involved in a variety of aspects of the phenomenon of men's violence against women, and they represent different theoretical and methodical approaches. But their common endeavour is to combat men's violence against women.

Since 2002 the observatory has made contributions of new knowledge and specific proposals to the government's national action plans to combat violence against women.

I feel that the subject of violence within the family against women and children is one area where the women's council has helped change attitudes to the problem. Whereas the general opinion in 2002 saw violence in the home as a private matter, the predominant attitude now is that it is an aspect of gender equality problems – and a problem requiring action from the public and public authorities. We all have a duty to react and to act.

The National Observatory on Violence Against Women participates in the European collaboration on violence against women under the auspices of the European Women's Lobby, and it works with women's organizations in the Middle East toward the establishment of a regional observatory on violence.

#### **d. The dialogue with the Government**

In my presentation I have given a number of examples of how the Women's Council in Denmark carries out its task as a "watchdog". In my experience we have a greater chance of success in getting our message across when we gather and produce new knowledge of specific challenges and problems of gender equality, and more so when we do this in collaboration with other organizations.

Writing critical comments in the media is not enough if we want the government to take action on gender inequality issues. Our message has a greater chance of getting across, and we have a greater chance of getting results, when we are seen as a critical but constructive partner offering cooperation, knowledge and concrete proposals for action.

Let me therefore conclude this presentation of the work of the Women's Council in Denmark by giving two examples of successful campaigns:

#### ***The long hard struggle for a maternity fund in Denmark***

As early as the 1990s a collective maternity fund was on the agenda of the women's council, as we could see that small and medium sized enterprises with many women employees paid the price of women bearing children. The demand for a central maternity fund quickly spread to

wider circles. The real breakthrough came when young politicians across party divides joined forces in working for a central maternity fund. The problem of financing parental leave is not solved yet, but we have come a long way, and all companies are now obliged to pay into a maternity fund.

***The campaign for an effective gender equality institution in Denmark***

DM and the Danish Association of Masters and PhDs joined forces in campaigning for an independent institution for gender equality. We arranged public hearings, where politicians came to listen to experts and representatives of NGOs. We sent countless letters to various ministers in which we pointed out that Denmark did not live up to the standards to be expected of an EU member state. And the efforts have been fruitful. As of February 2011 the Danish Institute of Human Rights will be charged with this task.