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The Language of the Age: Shari'a and Natural Justice in the Egyptian Revolution

An article in the series on the aftermath of Egypt's February 2011 Revolution
and the possibilities for legal and constitutional reform.

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I. INTRODUCTION

One of the most memorable images of the Egyptian Revolution is that of hundreds of people lined up for Islamic prayer in Tahrir Square in Cairo, in Alexandria, and in all of the other cities around the country. Hundreds organized into neat rows, standing, bowing, and prostrating in tandem to perform Islamic ritual prayer as they endured assaults of hot gushing water and tear gas by riot police. For a number of political analysts and commentators, such images of public religiosity and religious performance throughout the course of the Egyptian Revolution proved to be challenging, if not confusing. For some, it appeared paradoxical, if not incongruous, that despite the decidedly prominent role of expressions of Islamicity, whether through forms of expression of Islamic identity, such as collective prayer, or the invocation of Islamic symbolism, or the usage of Islamic phrases, the Egyptian

Revolution was not a call for a theocratic government or an Islamic government. However, what is beyond dispute is that although the Muslim Brotherhood did play a limited role in the revolts, the Egyptian Revolution was not led or engineered by Islamists to bring about an Islamic state modeled after Iran or Saudi Arabia.

Nonetheless, the display of religious symbolism was not simply an expression of cultural proclivities devoid of normative ideological commitments. To the contrary, Islam, and more particularly Shari'a, which embodies a set of values and normative commitments, played an important role in fueling and engineering the Revolution, and all indications are that it will continue doing so in the future. To the extent that this dynamic seems to be fundamentally paradoxical to many in the West, the Egyptian Revolution serves as an important indicator that we need a complete paradigm shift in the way we view religion and society, and religion and politics, especially as to the role of Shari'a in the age of revolutions in the Arab world.

II. THE ROLE OF ISLAM IN THE EGYPTIAN REVOLUTION

A. *The Social and Religious Ethos of Struggling for Liberty and Justice*

The role played by Shari'a in the Egyptian Revolution was conspicuous but also subtle and complex. But before addressing the dynamics directly relevant to the Shari'a, it is necessary to analyze the multifaceted ways that Islam, in general, interacted with the Egyptian Revolution. For instance, one cannot fail to notice that the very tempo of the revolution was regulated by the Friday congregational prayers (*jum'a* prayers), and so that the very developmental stages of the revolution were orchestrated around the weekly services. The protestors labeled Friday congregational prayers with powerful mobilizing designations such as "the Friday of wrath" (*jumu'at al-ghadab*), "the Friday of departure," (*jumu'at al-rabeeh*), and "the Friday of victory" (*jumu'at al-basm*). Far from being a formalistic process of labeling, these designations grew out of the very powerful normative dynamics of the congregational prayers in being vehicles for moral and social solidarity, collective aspirations, and mobilization. These congregational performances affirmed a sense of solidarity that transcended the disparate economic statuses and divergent educational and cultural backgrounds of the revolutionaries. Importantly, Friday sermons (*khutba*) delivered by dynamic figures, such as Sheikh Al-Mahallawi in Alexandria,¹ played a critical role in sustaining and augmenting the momentum of the revolutionary zeal. In the Friday sermons, Al-Mahallawi and other clerics exhorted people to persevere, endure, and to maintain the revolution until the "fall of the despot" (President Hosni Mubarak). Importantly,

¹ I have not been able to locate a transcript of his sermons. For brief coverage of one of his sermons, see Shaimaa Fayed & Marwa Awad, *Egypt Protests Spread, Demonstrators Outside Palace*, NEXT, Feb. 17, 2011, <http://234next.com/csp/cms/sites/Next/Home/5676601-146/story.csp>.

these calls for perseverance were powerfully reinforced by a profound sense of divine providence and destiny. The Egyptian Revolution was fueled by a widespread social and religious ethos of being on a holy mission and also a divinely sanctified struggle for liberty and against injustice.

The revolutionary discourses of Egypt persistently invoked the compelling concept of jihad. Friday sermons repeatedly assured the revolutionaries that they were engaged in a jihad no less worthy or sanctified than struggling against foreign invaders or any other rarefied objective in the course of Egyptian history. Judging from the literature and discourses of the revolutionaries, the idea of being engaged in a jihad against injustice and for liberation from despotism and corruption became a central part of the ethos guiding the Egyptian Revolution. Interestingly, the ethos of the revolution as a jihad held sway not only among Muslims but also among Christian activists. This is in part explained by the very nature of the concept of jihad, which is quintessentially centered on the idea of just struggle, but also by the creative interpretive reconstructions taking place in the Egyptian context in particular.

The dogma of jihad gained further momentum and acquired a further transformative power through another Shari'a-rooted dogma—the idea of *shahada*, or bearing witness through martyrdom. Currently, rebels killed in the revolution are universally referred to as martyrs, but the same recognition is not afforded to those who lost their lives defending Mubarak's regime. These, however, are not postmortem honorific designations bestowed after the fact upon the deceased. Doctrinally, martyrdom is part and parcel a moral status that grew out of and is corollary to the concept of jihad. For the most part, those who are considered martyrs first engage in a jihad and then are killed in the process. In other words, one first rises to the status of a *mujahid* (someone engaged in a jihad) before qualifying for the honored status of martyrdom (*shahada*).² Muslim clerics, often in the context of Friday sermons, or as discussed below through the issuance of legal *responsa* (*fatawa*), affirmed that those killed in the course of protesting against despotism, injustice, and corruption are martyrs as long as the *mujahid* limited his or her protests to peaceful means. The effective and powerful role that this package of Shari'a concepts played in upholding some of the very basic concepts that sustained the Egyptian Revolution is potently reflected in the slogans and rallying cries repeated by the revolutionaries throughout Egypt. For example, the protestors incessantly yelled out “Allahu Akbar” (God is greater), the oft-used rallying cry of jihad, which was very often accompanied by the pacifist battle-cry of “silmiyya, silmiyya” (peacefully, peacefully), connoting the commitment of the rebels to peaceful means of protest—stubbornly yelled out every time the protestors were violently assaulted by government thugs or soldiers. And if the violent assaults resulted in deaths, or if the demonstrators mourned a fallen revolutionary, they yelled out “*al-shahidu habibu Allah*” (martyrs are the closest or the most beloved to God).

² See DAVID COOK, *MARTYRDOM IN ISLAM* 31–44 (2007).

B. *Liberal and Cultural Values as Expressions of Islamicity*

Alongside religious performance and symbolism, demonstrators in various Egyptian cities engaged in numerous cultural festivities—dancing, singing, pop performances, comic skits, and poetry—activities that in a strictly puritanical or Wahhabi setting would not be linked with religiosity and would even be condemned as antithetical to the teachings of Islam.³ Moreover, women participated in the Egyptian Revolution in substantial numbers, and men and women protested, worshipped, and celebrated together in mixed gender settings. The free mixing of the sexes is deemed offensive and sinful by puritanical persuasions within Islam, but beyond the question of puritanical sensibilities, the gender dynamics and practices observed in the Tahrir Square and other urban centers in Egypt would also not have appealed to the more culturally conservative or traditional elements of Egyptian society. However, these gender practices, as is the case with the democratic values espoused by the revolutionaries, reflected the liberal cultural values that had come to inspire the rebels. Most importantly, these liberal values were not held by the pioneers and makers of the Egyptian Revolution in opposition to Islam or as a challenge to Islamic values. For the revolutionaries, these liberal values and the cultural practices were considered to be true and genuine expressions of Islamicity.

C. *The Marked Absence of Religious Absolutism*

At the same time that there was widespread deployment of religious doctrines and symbolisms, the religiosity displayed by the revolutionaries was far from puritanical or absolutist. The revolutionaries assiduously avoided any suggestion of creating a religious state or a hegemonic and totalitarian system of government. At the first Friday congregational services after Mubarak's resignation, one of the first acts of the revolutionaries was to invite prominent religious authorities, such as Shaykh Yusuf Qaradawi, who for decades had lived in exile because of Mubarak's repression, to address tumultuously rejoicing masses of supporters.

But, at the same time, the Egyptian Revolution also portrayed a remarkably equanimical picture in which Christian prayers were held alongside Muslim prayers, and as a sign of national unity and solidarity, the Qur'an was raised side-by-side with the cross, and both Islamic and Christian clergy held unified religious services in the midst of the Tahrir Square. Perhaps most tellingly, the demonstrations that overtook all the major cities were distinctly devoid of any chants or placards proclaiming that sovereignty belongs only to God (*al-hakimiyya li'llah*), or that the Qur'an is the only legitimate constitution (*al-quran dusturuna*), or that Islam is the only solution (*al-Islam huwa al-hall*), all of which were the typical rallying cries of Islamic movements in the 1970's and 1980's.

³ See KHALED ABOU EL FADL, THE GREAT THEFT: WRESTLING ISLAM FROM THE EXTREMISTS 156–61 (2005).

III. THE RE-CONCEPTUALIZATION OF SHARI'A IN MODERN MUSLIM SOCIETIES

A. *Theories on the Roots of Liberal Democratic Commitment*

The dynamic and complex expression of liberal and religious commitments in this context is evidence of the need for the re-conceptualization of our understanding of the role of Shari'a in many contemporary Muslim societies. For many in the West, this amalgamation of blended and hybridized systems of Islamic and liberal values will be seen as a sign of the lack of cultural rootedness of democratic commitments in Muslim societies. Other observers will tend to see this as part of a process of the displacement of religious cultures and Muslim values by the irrepressible forces of Western modernity and Western-directed globalization. In this latter view, the cultural displays witnessed in the Egyptian Revolution are evidence of the retreat and deconstruction of Islamic values in Muslim societies in the age of modernity.

Both of the above views, however, fail to account for or explain the formation and shaping of the internal convictions that inspired the Egyptian Revolution. Both views fail to understand why it is that in participating in a revolution raising the banner of democracy, dignity, and liberty, Egyptians were at the same time not rebelling against their Islamic tradition but, in fact, embracing it. To put the issue differently, many in the West believe that tolerance, human dignity, the rule of law, representative governance, and constitutionalism are all founded on values rooted in the Judeo-Christian tradition. Whether one ultimately agrees with this thesis or not, the argument from the Judeo-Christian tradition is well understood and represented, especially in the West. But a similar argument or school of thought maintains that the same values mentioned above are equally rooted in the Islamic tradition and especially, in the Shari'a. What is poorly understood and rarely appreciated is the impact and success that this school of thought—what one might describe as the school of Islamic rootedness—has had in shaping the way that contemporary Muslims relate to their religion, the Shari'a, and the modern world. Before exploring this point, it is necessary to discuss briefly the concept and meaning of Shari'a.

B. *Shari'a vs. Shari'a Law*

The term Shari'a is often erroneously equated with Islamic law. Although, both in Western and native discourses, it is common to use Shari'a interchangeably with Islamic law, Shari'a is a much broader and all encompassing concept.⁴ In the linguistic practices of theologians, ethicists, and jurists, the broad meaning of *Shari'a* is the way or path to well-being or goodness, the life source for well-being and thriving existence, and the natural and innate ways and order created by God. Hence, in

⁴ For an extended discussion of the meaning of Shari'a, see Khaled Abou El Fadl, *The Islamic Legal Tradition: A Comparative Law Perspective*, in *THE CAMBRIDGE COMPANION TO COMPARATIVE LAW* (Mauro Bussani & Ugo Mattei eds., forthcoming).

In Islamic literature the term is employed to refer not just to the way-of-life, or what one may call the philosophy and method of life of Muslims alone, but also to any other group of people bonded by a common set of beliefs or convictions. Therefore, Islamic literary sources such as the Qur'an will often speak of "the ways of previous generations" (*shar'* or *shari'at man sabaq* or *man qablana*), or "the Jewish way-of-life" (*shar'* or *shari'at al-yahud*) or even "the methods of Greek logicians" (*shar' al-falasifa* or *tariqat al-falasifa*).

In Islamic legal usage, typically, the expression *shari'at Allah* or *shar' Allah* refers to the broad concept of the all-inclusive, and total path to and from God, which equated by necessity to the path leading to and resulting from social goodness (*ma'ruf*) and moral goodness (*busn* or *busna*). *Shar' Allah* or *Shari'a* does not denote a positive set of divine commands with which humans must comply, but rather the ultimate good God desires for human beings.

On the other hand, Islamic law, or what is called *al-ahkam al-Shar'iyya* or *ahkam al-Shari'a*, refers to the cumulative body and system of jurisprudential thought of numerous communities and schools of thought about the Divine Will and its relation to the public good. Islamic law is thus the fallible and imperfect attempt by human beings over centuries to explore right and wrong and to discern what is good for human beings. The moral and ethical foundations and principles of natural justice in Shari'a are accessible and cognizable by human beings, but this does not necessarily lead to a determinative system of law. Shari'a, as the foundations of and pathway to goodness, is everlasting, unchangeable, eternal, and perfect. But these foundations and pathway are not perfectly cognizable or realizable by human beings. Moreover, positive legal commandments that follow from or are based on these foundations and pathway are indeterminate, changeable, and contextual.

In the remainder of this paper I will use the word *Shari'a* in the proper sense of the word, i.e. to refer to the foundational pathway to goodness and the natural principles of justice. I will use the expression *Shari'a law* to refer to positive Islamic law or the *ahkam*, the positive legal commandments deduced and expounded through centuries of cumulative legal practice.

C. *Shari'a and Shari'a Law in the Egyptian Revolution*

The Egyptian Revolution was not about the imposition of Shari'a law. In the literature generated before and after the revolution, the call for an imposition of Shari'a law or set of positive legal commandments is conspicuously absent. This literature places a great deal of emphasis on civil society, civic duties and rights, rule of law, limited and accountable government, social and political justice, and citizenship. Even the Muslim Brotherhood throughout the course of the revolution and to this day has not called for the imposition of Shari'a law, but like many of the revolutionaries, has argued that

the Shari'a of Islam not only supports but mandates this revolution.⁵ We can better understand the intellectual context and system of thought from which this revolution emerged if we keep in mind that while a large number of moderate Islamists, such as Amr Khaled, Fahmi Huwaydi, Muhammad Umarah, and Selim Al-Awa supported or participated in the protests, puritanical Salafi and Wahhabi organizations boycotted the revolution. Among other things, the objection raised by puritanical groups and activists was that the revolution did not call for the imposition of Shari'a law. Furthermore, Saudi jurists and Wahhabi activists issued legal proclamations appealing, albeit unsuccessfully, to God-fearing and pious Muslims to boycott the revolution. In these proclamations, Wahhabis contended that Shari'a law prohibited demonstrations and also prohibited rebelling against a ruler who is unjust or despotic.⁶ The Saudi government also condemned the Egyptian Revolution, stating in no uncertain terms that it was contrary to Shari'a law.⁷

Partly in response to the Wahhabi position, the prominent Egyptian jurist Yusuf al-Qaradawi spoke out in clear support of the revolution and called upon Egyptians to join it.⁸ Qaradawi appealed to the principles of Shari'a in arguing that there was a religious and moral obligation upon Muslims to support the revolution and to rebel against despotism, degradation, and injustice. Qaradawi's position on the Egyptian Revolution was consistent with a position he had articulated several years earlier. A number of years before the revolution, in a television program titled *Shari'a and Life* (*al-Shari'a wa al-haya*) broadcasted on Al-Jazeera, Qaradawi argued a proper understanding of Shari'a would give precedence to a democratic system of governance over any system of government that would give effect to the technical positive commandments of the Islamic legal tradition. Qaradawi also argued that democracy, or a political system that respects human dignity, is more fundamental to the fulfillment of Shari'a than the enforcement of a set of positive legal commandments, such as the prohibition of usury, that ultimately might or might not lead to the realization of justice.

⁵See generally Mohammad Mursi, Op-Ed., *This Is Egypt's Revolution, Not Ours*, THE GUARDIAN, Feb. 8, 2011, <http://www.guardian.co.uk/commentisfree/2011/feb/08/egypt-revolution-muslim-brotherhood-democracy>; *Muslim Brothers See Corruption-Free Egypt Flourishing*, AL-ARABIYA, Feb. 23, 2011, <http://www.alarabiya.net/articles/2011/02/23/138826.html>.

⁶The Saudi Grand Mufti, Sheikh Abdul-Aziz Al al-Sheikh, spoke out against the protests, claiming that they were orchestrated by the "enemies of Islam." *Saudi Top Cleric Blasts Arab, Egypt Protests-Paper*, REUTERS, Feb. 5, 2011, available at <http://af.reuters.com/article/egyptNews/idAFLDE71403F20110205>. See also *Saudi Scholars Forbid Protest Calls*, AL JAZEERA, Mar. 6, 2011, <http://english.aljazeera.net/news/middleeast/2011/03/201136154752122275.html>.

⁷*Egypt Protests Draw Mixed Reaction in Region*, CNN, Jan. 29, 2011, <http://articles.cnn.com/2011-01-29/world/egypt.middle.east.reaction>.

⁸For a brief account of his address, see David D. Kirkpatrick, *After Long Exile, Sunni Cleric Takes Role in Egypt*, N.Y. TIMES, Feb. 18, 2011, available at <http://www.nytimes.com/2011/02/19/world/middleeast/19egypt.html>.

On the occasion of the Egyptian Revolution, the Shaykh of Al-Azhar, Ahmad Al-Tayyib, eventually issued a statement that directly addressed the Shari'a and its import upon the Egyptian Revolution.⁹ It should be noted that the position of the Shaykh of Al-Azhar is a highly prominent one in the Sunni Muslim world. The Shaykh of Al-Azhar is in essence the highest-ranking jurist in the Sunni Muslim world, and thus the holder of this office enjoys a considerable degree of prominence and respect among Muslims. On Wednesday, February 16, 2011, the Shaykh of Al-Azhar issued a telling statement setting forth the following: First, the Shaykh stated that Shari'a endorses the principle of majoritarian rule; therefore, whatever legal system is desired by the majority, as long as it upholds the principles of Shari'a, is also the Islamically mandated and required legal system. Second, the Shaykh went on to explain that the objectives and principles of Shari'a are to: (1) promote knowledge and 'ilm (science), (2) establish justice and equity, and (3) protect liberty and human dignity. Third, he argued that a political system that upholds the basic moral values and natural principles of justice shared by all religions is mandated by Islam. Fourth, he argued that democracy is a fundamental and basic objective of any Shari'a-based system because it is the political system most likely to lead to upholding the dignity of all, to the prohibition of cruel and degrading treatment and torture, and to bringing an end to political and economic corruption and despotism. The Shaykh argued that the protection of human dignity, the prohibition of cruelty and torture, the elimination corruption, and the end to despotism are, in turn, basic and fundamental Shari'a values. Finally, the Shaykh stated that as an institution, Al-Azhar calls for a system of governance that respects the rights of all citizens and that despotism is inherently and fundamentally a breach of Shari'a. He explained that, among other things, despotism creates social ills such as cowardice, hypocrisy, social alienation, and a lack of a collective or communal ethos, all of which are contrary to Shari'a.

To jurists such as the Shaykh of Al-Azhar and Qaradawi, then, the Egyptian Revolution and its democratic goals are Islamic—they are in fact a proper expression of the normative values of Shari'a. Importantly, however, I do not believe that this perspective or conceptualization of Shari'a was engineered by the jurists and adopted by the masses. As discussed below, the idea of an innate and inherent relationship between Shari'a and justice and the idea of Shari'a as fundamentally at odds with despotism are firmly anchored in the Islamic tradition. So, for instance, the Shaykh of Al-Azhar's proclamation was enthusiastically received all over the Muslim world, and

⁹ For brief accounts of his speech in English, see *Al-Azhar Sheikh Calls for a Speedy Transition to Democracy*, ISLAMOPEDIA (Feb. 16, 2011), <http://www.islamopediaonline.org/news/al-azhar-grand-sheikh-calls-speedy-transition-democracy>; *Al-Tayeb: Al-Azhar Supported Revolution*, NEWSPUSHER (Feb. 16, 2011), <http://www.newspusher.com/EN/post/1298400531-2/EN-/al-tayeb-al-azhar-supported-revolution.html>. To watch the complete address in Arabic, see *Bayan wa Mu'amar Sabafi li Shaykh Al-Azhar Ahmad Al-Tayyib Al-Safwa Al-Islamiyya*, Address, YOUTUBE.COM (Feb. 16, 2011), <http://www.youtube.com/watch?v=MIjgBCQ28yM> (last visited Apr. 21, 2011).

not just in Egypt. Yet, Al-Azhar was placed on the defensive because of the criticism that its proclamation came late or that it should have been issued in the first days of the revolution. Islamic authorities or institutions that chose to support Mubarak's despotic regime increasingly found themselves marginalized and sidelined. Moreover, it is very telling that although Wahhabi authorities have invested considerable resources and energy into trying to persuade Muslims of the sinfulness of the Tunisian and Egyptian revolutions, at the time of this writing, revolutions with similar goals and outlooks have spread to a number of Muslim countries including Libya, Yemen, Bahrain, Oman, Jordan, and also Saudi Arabia.

D. The Organic Relationship Between Shari'a and Natural Justice

The conceptualization of Shari'a as embedded in a set of values that are fundamentally at odds with human suffering, injustice, indignity, and despotism has been expressed and articulated in historically contingent ways. The belief in an organic relationship between Shari'a and the above mentioned values is not merely a product of the modern age or an interaction with contemporary Western values. This organic relationship is rooted in sources too numerous to recount here, but among such sources are the ways that Muslims understand the Qur'anic condemnation of coercion or duress (*ikrah*) and corruption (*fasad*), as well as the Qur'anic denunciations against the despotism (*istibdad*) of the Pharaoh of Egypt and repression and exploitation of a people (*istid'af*).¹⁰ Such sources would also include the Caliph Umar's famous declaration that human beings are entitled to freedom because they are born free,¹¹ as well as the early Islamic political discourses on participatory governance (*hukm al-Shura*)¹² and the early virulent attacks on tyrannical rulers (*mulk 'adud*).¹³ This organic relationship is also found in influential medieval writings of Husayn al-Basri, 'Abd al-Jabbar, Ibn Tufayl and Ibn Rushd on natural justice and Shari'a.¹⁴

¹⁰ See THE QUR'AN, *Al-Araf* 7:88, *Al-Baqarab* 2:60, *Hud* 11:116, *Al-Qasas* 28:77, *Yunus* 10:74–92, *Al-Muminun* 23:45–48, *Ash-Shuara* 26:10–22, *Al-Baqarab* 2:49.

¹¹ FARUQ S. MAJDALAWI, ISLAMIC ADMINISTRATION UNDER OMAR BIN AL-KHATTAB 141 (2002).

¹² HICHEM DJAIT, LA GRANDE DISCORDE: RELIGION ET POLITIQUE DANS L'ISLAM DES ORIGINES 73–79 (1990).

¹³ See generally KHALED ABU EL FADL, REBELLION AND VIOLENCE IN ISLAMIC LAW 32–161 (2001).

¹⁴ On Islam and natural law theory, see generally MARCEL A. BOISARD, HUMANISM IN ISLAM 21–92 (1988); AMIRHASSAN BOOZARI, SHI'Ī JURISPRUDENCE AND CONSTITUTION: REVOLUTION IN IRAN 53–90 (2011); SAMI S. HAWI, ISLAMIC NATURALISM AND MYSTICISM 68–84 (1974); RICHARD C. MARTIN ET AL., DEFENDERS OF REASON IN ISLAM: MU'TAZILISM FROM MEDIEVAL SCHOOL TO MODERN SYMBOL 25–36 (1997). See also MARTIN ET AL., *supra* note 14, at 37, 213 (briefly discussing Husayn al-Basri), 46–56 (discussing 'Abd al-Jabbar); Lenn E. Goodman, *Ibn Tufayl*, in HISTORY OF ISLAMIC PHILOSOPHY, pt. 1, 313 (Seyyed Hossein Nasr & Oliver Leaman eds., 1996); Ibn Rushd, *The Incoherence of the Incoherence*, in MEDIEVAL

Centuries later, in the age of Colonialism, we find the same organic relationship expressed by Khayr al-Din al-Tunsi in response to the French invasion of Tunisia,¹⁵ and also in Urabi's gallant-but-failed fight against colonial rule in Egypt.¹⁶ The same conceptualization is mirrored in the 1919 Egyptian revolution against British colonial rule and the Iraqi rebellion of the 1920's.¹⁷ This conceptualization is eloquently captured in Abd al-Rahman Kawakibi's brilliantly articulated analysis of how despotism breeds social hypocrisy and false religiosity.¹⁸ The innate and organic relationship between the principles of natural justice and Shari'a is powerfully summed up in the famous comment attributed to the Egyptian jurist Rifa'a al-Tahtawi upon visiting France that in France he found true Islam but no Muslims, while in Egypt, he found many Muslims but no true Islam—meaning that in his view, Tahtawi found that the civic virtues embraced by French society embodied a more true representation of Islam than the Muslim societies of his time.¹⁹

The important point here is that this innate relationship between the principles of natural justice and Shari'a has been a firm and unwavering part of Muslim consciousness from the inception of Islam to the current age. However, to what extent this innate relationship is understood and absorbed, and how this relationship is expressed, diverges greatly from one historical context to another. So, for example, how the Egyptian revolutionaries or the Shaykh of Al-Azhar express or attempt to assert this relationship is deeply influenced by the prevalent epistemological categories and ideas of their age. Hence, it is not at all surprising that the ways in which contemporary Muslims express their understanding of this relationship will be heavily

ISLAMIC PHILOSOPHICAL WRITINGS 155 (Muhammad Ali Khalidi ed., 2005); Ibn Tufayl, *Hayy bin Yaqzan*, in *MEDIEVAL ISLAMIC PHILOSOPHICAL WRITINGS* 99 (Muhammad Ali Khalidi ed., 2005); Dominique Urvoy, *Ibn Rushd*, in *HISTORY OF ISLAMIC PHILOSOPHY*, pt. 1, 330 (Seyyed Hossein Nasr & Oliver Leaman eds., 1996).

¹⁵ For Khayr al-Din al-Tunsi's historical context, see L. CARL BROWN, *THE TUNISIA OF AHMAD BEY 1837–1855*, at 222–23 (1974). See also AL-TUNSI, *AQWAM AL-MASALIK FI MA'RIFAT AHWAL AL-MAMALIK* 6–31 (Munsif al-Shanuqi, ed., 1972).

¹⁶ On the invasion of Egypt and the resistance by Urabi and the ulama of Al-Azhar, see MUHAMAD JALAL KISHK, *WA DAKHALAT AL-KHAYL AL-AZHAR* 215–349 (1972). See also JUAN COLE, *NAPOLEON'S EGYPT: INVADING THE MIDDLE EAST* 203–21 (2007); J. CHRISTOPHER HEROLD, *BONAPARTE IN EGYPT* 190–96 (1962).

¹⁷ See, e.g., AFAF LUTFI AL-SAYYID MARSOT, *A HISTORY OF EGYPT FROM THE ARAB CONQUEST TO THE PRESENT* 95–97 (2d ed. 2007); JEREMY SALT, *THE UNMAKING OF THE MIDDLE EAST: A HISTORY OF WESTERN DISORDER IN ARAB LANDS* 86–89, 91–102 (2008).

¹⁸ 'ABD AL-RAHMAN KAWAKIBI, *TABA'I' AL-ISTIJDAD WA-MASARI' AL-ISTI'BAD* 95–114 (1931).

¹⁹ This statement about finding the true Islam in France is famously attributed to Al-Tahtawi. I have not been able to locate the exact cite at the time of writing. See RIFA'A RAFI' AL-TAHTAWI, *AN IMAM IN PARIS: AL-TAHTAWI'S VISIT TO FRANCE (1826–1831)*, at 125–26, 174–78, 255–60 (Daniel L. Newman trans., 2004) (discussing Al-Tahtawi's admiration of France and his visit to France).

influenced by Western thought and discourses. This does not mean that the relationship between the principles of justice, human dignity, or the ethical virtues at the heart of human goodness and Shari'a is a Western transplant or the product of Western influence. This does not mean that all Muslims recognize the relationship between Shari'a and the principles of natural justice and goodness. Indeed, puritanical movements such as the Wahhabis go to considerable lengths to deny the existence of this very relationship. However, once the puritanical movement shrinks or retreats, the rootedness of humanistic values in the Shari'a tradition enables Muslims who wish to remain faithful to the Islamic tradition to reclaim these values, but the process of expressing these values is invariably done in the language of the age.

It is important to note that by end of the first decade of the twenty-first century, the puritanical movements of the 1970s and 1980s, for reasons too complex to explore here, did retreat significantly. Increasingly after 2001, puritanical movements lost much of their hold over the imagination and aspirations of Muslim youth in many countries including Egypt. It is this retreat of puritanism that opened the door for numerous Muslim populations, including that of Egypt, to access and to reclaim the humanistic tradition within Islam, and to express it in the contemporary language of freedom and democracy.

IV. CONCLUSION

In short, the Egyptian Revolution marks the return to a long-rooted humanistic tradition in Islam in which religion plays a prominent role in civil society, but without suffocating and dominating it. In this tradition, the search for the will of God is a natural objective of the legal system, but this search does not involve or include the rule of theocrats or the rule of those who pretend to represent God.²⁰

The challenge before Egyptians now is to proceed without falling into a dogmatic exclusion of Shari'a, which could produce an artificial reactionism. A dogmatic exclusion of Shari'a may awaken defensive posturing, which forces people to make a false choice between democratic values and Shari'a. Egyptians must continue to grapple with the role of religion in society and governance, and must search for balance. The real challenge is to offer something the Islamic civilization contributed throughout its long juristic tradition, which is a reconciliation with religion playing a central role in social values, while at the same time, preventing any institution or individual from speaking authoritatively on behalf of God or as the voice of God.

²⁰ KHALED ABU EL FADL, *AND GOD KNOWS THE SOLDIERS: THE AUTHORITATIVE AND AUTHORITARIAN IN ISLAMIC DISCOURSES* 28–32, 37–42, 86–91 (2001).