The Islamic Rational State and New Religious Foundations for an Islamic Liberal Theory

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By

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ACKNOWLEDGMENTS

NOTES ON TRANSLATION
AND TRANSLITERATION

This book incorporates several Arabic terms and phrases, each of which is essential for conveying nuanced meanings that their English equivalents may not fully capture. A thorough understanding of these terms is crucial for fully engaging with the content. To maintain clarity and precision, I have provided translations for these terms upon their initial introduction. Subsequently, I may employ the Arabic terms without further translation or alternate between the Arabic and English terms to ensure the reader retains a clear understanding of the intended meaning. It is important to note that Arabic terms that have been assimilated into English, such as jihad, shari'a, Qur'an, and hadith, have been left untranslated.

In transliterating Arabic terms into English, I have deliberately chosen a straightforward and accessible approach, avoiding the use of diacritics that are standard in more formal transliteration systems. This simple approach is designed to make the text more approachable and less intimidating for readers who lack a background in Arabic. For readers with a background in Arabic, the context provided by the accompanying translation should suffice to identify the original Arabic words, even without diacritical marks.

To assist all readers, I have included a glossary of the most frequently used Arabic terms in this monograph, where each term is accompanied by its English translation and its proper transliteration, as per the IJMES Transliteration system. It is important to note that this glossary is not exhaustive of all the Arabic terms used in this work but rather serves as a reference for the most frequently employed terms.

GLOSSARY OF ARABIC TERMS

Term	Transliteration	Translation
'ada	'āda, sing. 'ādāt, pl.	habits, transactional behaviors
Akhira	ākhirā	the other world, afterlife
'aqila	'āqila	tribe, allies
'alim, sing. 'ulama', pl.	'ālim, sing. 'ulamā', pl.	Religious scholars
'aql	'aql	Reason
dunya	dunyā	This world
darura	ḍarūra	Matters classified as necessary to human life
Daruri	ḍarūrī	Necessary
faṣl	faṣl	Separation
faqih, sing. fuqaha, pl.	faqīh, sing fuqahā, pl.	Jurists
Hadith	ḥadīth	Prophetic tradition
Hajiyyat	ḥajiyyāt	Matters classified as legally needed for human life
had, sing. hudud, pl.	ḥad ḥudūd	Corporal punishments
hawa', sing. ahwa'pl.	ahwā'	Whims
Jihad	jihād	Sincere and sustained effort in combatting vice, and holy struggle
Khilafa	khilāfa	Caliphate, medieval Islamic system of government
Kufr	kufr	Denial, ingratitude, disbelief
mandub	mandūb	Recommended act

maqsid, sing. *maqasid, pl.*	*maqāṣid*	The overarching aims of Islamic teachings
maslaha, sing. *masalih, pl.*	*maṣlaha, sing.* *maṣālih, pl.*	Interests: recognized legal individual and public interests
Nahda	*Nahḍa*	The period of Arab Renaissance, roughly from the middle of the 19th Century onwards.
Naql	*naql*	Textual sources, revelation.
Naskh	*naskh*	Abrogation
qat'i	*qat'ī*	definitive legal evidence
Qur'ān	*Qur'ān*	Islamic Divine Revelation
ruskhsa, sing. *rukhas, pl.*	*rukhṣā, sing.* *rukhaṣ, pl.*	Legal allowance
Rukn	*Rukn*	Pillar
Sahwa	*ṣaḥwa*	A period of religious awakening across the Muslim world, roughly from 1970s onwards
sama'	*samā'*	Listening to music or religious incantations
shar'	*Shar'*	Islamic legislation
Shari'a	*Sharī'a*	Totality of Islamic teachings defining the best way of life
Shura	*Shūra*	The Islamic system of consultation and deliberation of public affairs.
Sunna	*Sunna*	Typically, reports of what the Prophet, Muhammad, said, did, or tacitly approved

Tafsir	*Tafsīr*	Interpretation, Qur'anic exegesis
Tahara	*ṭahāra*	Purity
Tahsiniyyat	*Taḥsīniyyāt*	Matters classified legally as ameliorative conditions for human life
Taklif	*taklīf*	The state of being legally accountable
Tamyiz	*tamyīz*	distinction
tasawuf	*taṣawuf*	Sufism
usul	*Usūl*	legal foundations, legal theory, primary texts
ʿurf	*ʿurf*	Standard and accepted practice in a social setting
zakat	*zakāt*	almsgiving

INTRODUCTION

Despite the diversity of the phenomenon of political Islam, Islamists are often painted with a single brush as extremists, violent, and undemocratic. Their participation in local elections is viewed, with fear and trepidation, as a tactical ploy to win the election and grab power once and for all.[1] It is feared that the Islamists would marshal the power they gain through democratic means to violate the rights of individual citizens, especially minorities and women.[2] This portrayal finds justification in the violent strife that embroiled certain Islamist groups with some local repressive regimes. It is also based on the belief of some Islamists and many of their critics that Islam forges an unbreakable nexus between politics and religion.[3] It has, therefore, become commonplace to assume—without critical examination—that all strands of political Islam are antithetical[4] to liberal values.[5]

Those who embrace this view feel vindicated because the discourses of early Islamist movements relied on a specific radical understanding of classical forms of Islamic governance at odds with electoral politics. In those early days, many Islamists explicitly called for the establishment of religious states, where religious affiliations define concepts of citizenship and loyalty. They had, furthermore, called for the imposition of stringent readings of Islamic law, restricting women's presence in the public sphere and implementing corporal punishments as primary symbolic markers of Islamic political power exercise. Looking back at the discourses of Algerian Islamists in the 1980s, the proclamations of the Egyptian al-Jama'a al-Islamiyya in the 1990s, or the rhetoric of the Libyan Fighting Group of the early 2000s,[6] one could hardly fault those observers who believed that political Islam is antithetical to liberalism and democracy.

However, most contemporary Islamist discourses—excluding those of marginal jihadists—have significantly abandoned those efforts.[7] And some Islamists have indeed undertaken the task of critically examining the premises of traditional Islamist discourses in search of convincing Islamic legal grounds, endorsing an engagement in modern liberal politics. This Islamists' effort to comfortably situate themselves within the contemporary liberal order as contesting but civil subjects is very critical for understanding

the political and intellectual landscapes of the Arab region where political Islam is and will continue to be a vital social force.

Although this avenue in Islamic legal discourse has attracted some interest, its breadth, depth, and implications for the evolution of Muslim politics remain understudied and mostly misunderstood. Most literature is still held back by the early premises of Islamist activism, viewing it as static and unchanging. Most Western scholars have paid little attention to this new overture, often overlooking the complex, dynamic, and dialogic debates within Muslim societies about religious values, legal norms, and political traditions. Even those amongst Western scholars who are attuned to this dialogue tend to privilege one aspect in the discussion: the reaction to Western secular values. This explains why calls to investigate "the central role that Islam has played in the Arab Spring" have mostly fallen on deaf ears. Shifts in Islamist discourses continued to be viewed in terms of a dichotomous struggle between secularists and Islamists,[8] where Islamists' "revisions" feature as capitulations to exogenous pressures from secular interlocutors or structural limitations in the Arabi/Islamic political environment.

Using this lens has so far led many experts on political Islam to two primary conclusions. The first conclusion is one of skepticism. The Islamists are part of a "pantheon of historical bad guys about whom we have learned nothing if not to be skeptical." [9] The second conclusion maintains that the Islamists have lost the public argument and have, as a result, given up on their own ideology. [10] Both perspectives are theoretically limiting. As for the first view, approaching social subjects with a skeptical mindset runs the risk of entrapment in a self-fulfilling prophecy, where one always finds practical and discursive evidence of one's initial conjunctures. The second option is theoretically sterile as well, for one achieves little by calling this process a post-Islamization or secularization. As Larry Shiner has long noted, defining any move away from one form of religiosity to a new one as secularization is unconvincing because any shift in emphasis could also be interpreted as a process of refinement.[11] In other words, any change in emphasis may be "part of a necessary differentiation within the group which leaves behind the affectional relationships of the 'good old days' without breaking down the core of the tradition?"[12]

A third approach has recently emerged. Circumspect analysts interpreted these shifts as a sign that the Islamists—much like autocrats across the globe—are embracing democracy as a procedure, but not as a culture. These analysts—much like skeptics—warn that this embrace of democracy must

not be confused with liberalism, in which one expects a commitment to individualism, plurality, and diversity. Instead, viewing democracy as a procedure means viewing it as a neutral instrument for validation and control.[13]

Influential as they are, these levels of analysis and the corollary conclusions drawn upon them about Islamist discourses are problematic because they overlook other important aspects of the ongoing dialogue within political Islam. One could trace the origin of this problem in the literature to the failure to grasp the throughgoing impacts of the religious revival movement on public discourses in the region. While anthropologists have long noted the impact of such changes on religious discourses, ethical norms,[14] notions of personhood, and outwardly religious practices,[15] their effects on political discourses and practices are not sufficiently examined.

This explains why the shift to piety was not read, for instance, in terms of its moderating impact on Arab secularism. It also accounts for why such a concept—moderation of Arab secularism—is not explored as an analytical device to examine the shifts in political praxis and discourse in the region. Overlooking the dynamism of local debates and their influence on the comportments of secular institutions and elites has resulted in gross simplifications of social change in the region in general and in the Arab world in particular.[16] While one finds notes in the literature about the positive role of secular Turks' acceptance of the democratizing impact of Islam in Türkiye,[17] commentaries on Arab Islamist-secularist interaction consistently project these shifts in zero-sum terms.[18] All shifts are understood in terms of one side fully losing[19] to the other side,[20] while rapprochement is seldom[21] perceived as a possible outcome. And "none of these views…consider the possible emergence of simpler ideological rapprochement."[22]

The primary fault of these analyses lies in their inability to critically appreciate the Islamist investment in the rediscovery of the boundaries of human political agency within the Islamic legal paradigm. By this investment, I mean the consummate, critical, and wide-ranging scholarly attempts to define and distinguish those juridico-political discourses and praxes that are textually unambiguous, binding, and transcendental from those that are this-worldly, adaptive, hermeneutical, and contingent. This project of what one can call demystifying the political sphere in Islamic discourses is complex, unprecedented, and consequential. It, therefore, merits more intention than it has so far received.

The primary hindrance to appreciating this project has been the focus on Islamist discourses projected externally to respond to secular and Western adversaries and the concomitant disinterest in or disregard to, those internally projected discourses. This resulted in the obfuscation of an important line in this ongoing dialogue, one where the interlocutors are not Western leaders nor secular Muslim intellectuals. Instead, this is the essential line where the interlocuters are modern Muslim jurists and their classical legal sources. This line of conversation focuses on classical legal scholarship, which informs the historical understanding of human political agency within Islamic legal discourses.

Understanding the Islamist investment in these internal debates allows one to go beyond the binary view that these changes in Islamist discourses could either be signs of their failures or signs of their instrumental use of democracy to secure illiberal outcomes. Appreciating this direction allows one to avoid the simplicity of interpreting moderate Islamist discourses as either those of cunning agents or those of surrendering ones.

Contribution

This volume argues against this dichotomous view. It considers these shifts to be significant evolutions in Islamist discourses— ones whose overall ramifications will remain largely misunderstood if Western scholars continue to cling to their assumption that the West and Muslim secular establishments are the Islamists' primary interlocutors. The Islamists' ongoing conversation with the Islamic legal and political tradition, their debates with the class of *'ulama* (jurists) who interpret it, and their attempt to sway the devote Muslims who look up to these jurists for guidance and inspiration are indispensable factors for comprehending the thoroughgoing transformation of political and legal cultures in the Arab societies and the Muslim world at large. This present volume is a modest contribution to help fill this lacuna in the literature.

To substantiate this claim, this volume examines the work of a prominent contingent of Islamists and argues that they advance a vision of Islamic governance (Islamic Rational State), which can live with, work within, and remedy the shortcomings of liberal politics in the Muslim world and perhaps beyond. What makes this vision unique is that it is 1) based on genuine *in foro interno* Islamic legal grounds and 2) it is not premised on the eventual re-establishment of classical Islamic political structures, such as the caliphate system, but instead on its perpetual absence. The cornerstone of this vision is the conviction that Islam's primary texts (Qur'an and Hadith)

do not explicitly regulate all political acts. Instead, politics as a whole must be conceived through broad legal and ethical guidelines derived from inductive readings of these texts. In these readings, the political sphere is understood to be quintessentially anthropocentric. Consequently, references to Islamic Scripture can no longer be expected to resolve political differences. Instead, differences can only be resolved through reasoned debates seeking to generate legal and political consensus. In other words, no fixed juridico-political frames of authority could be regarded as transhistorical.

This perspective is legally emancipating, for it allows the public (the Umma) to define the acceptable discursive frames and to proceed to change the existing structures of authority. This discursive breakthrough refutes all Islamic legal arguments, proclaiming that the caliphate system is the sole or ideal form of Islamic governance. It, furthermore, allows the Islamists to question long-held assumptions in Muslim legal and political discourses without appearing to undermine the epistemic foundations of traditional juridico-political worldviews. Their project would, therefore, pass as an organic continuity with the community's past and not as a radical epistemic break with it. Both conditions are necessary for legitimacy, attracting a large segment of Islamist youth and securing a respectable position within mainstream Islamic legal discourses on politics and governance.

This process did not take place overnight. I argue that it took almost a century of incremental change to reach its climax. Furthermore, I contend that four cultural shocks played a catalyst role in this incremental change. These shocks are 1) the rise of Europe as a cultural and military threat; 2) the abolishing of the caliphate; 3) the violent clashes between secular leaders and native Islamist movements; and 4) the ideational triumph of the liberal model, most specifically the advent of party politics and its theoretical empowerment of the masses.

The foundation of the new vision and the entry of this Islamist contingent (which I shall call henceforth the Advocates of the Rational State or ARS, for short) into Islamic juristic tradition is a legal device in Islamic legal theory called *maqasid* (sing *maqsad*) or the Islamic legal objectives. Historically, the concept was used as an addendum to legal theory to conceptualize legal responses for cases or events not covered by the Qur'an, Sunna,[23] or the consensus of the early community (See Figure 1: Legal Theory). In its rudimentary form, *maqasid* is the idea that Islamic legislation, in its totality, is based on five universals. These are the

protection of 1) religion, 2) human life, 3) human progeny, 4) human mind, 5) and wealth (See Figure 2: The Five Universals).
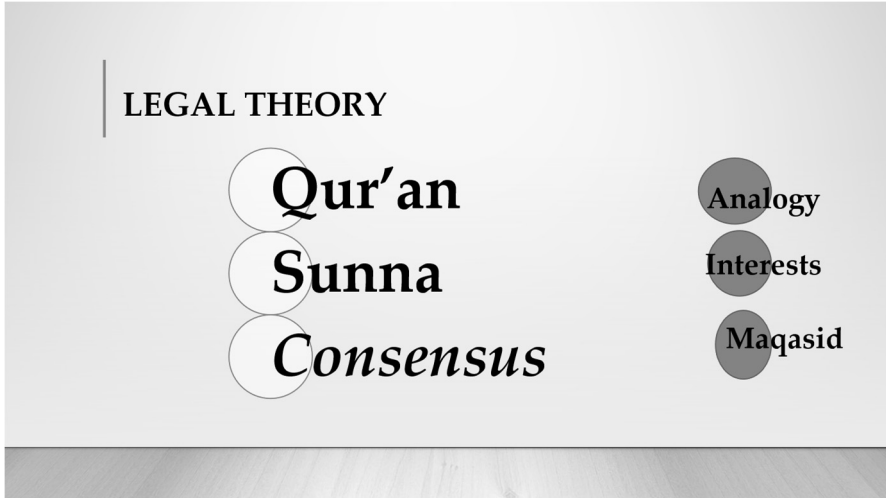
Figure 1: Legal Theory

Figure 2: The Five Universals

The logical induction of these universals from Qur'anic injunctions allows further rational elaborations, including classifying religious commandments into two master categories: rituals and interactions. Commandments in the first category are generally seen as fixed and lie beyond the scope of human rationalization. In contrast, rules governing the latter are seen as case-dependent and subject to rational deliberation. With some juristic finesse, these classifications and rational premises afford jurists great flexibility in regulating human interactions. This is especially true when no explicit textual injunctions exist, which is true of most political issues.

Furthermore, the utility of this rational methodology goes beyond helping regulate areas of textual silence. It has been used to classify texts as well. It is here that it has the most liberating value for the Advocates of the Rational State (ARS). Because the Prophet Muhammad's leadership involved both worldly (secular) and other-worldly (spiritual) dimensions, his practice (Sunna) is a rich source of juridico-political reports which subsequent Muslim leaders could not ignore. Historically, the task of implementing the massive and undifferentiated corpus of Sunna, with its idiosyncratic elements, and at times conflicting injunctions, has been, at best, challenging. However, applying the new Islamist methodology (*maqasid*) to Sunna permits a delineation between two broad categories of prophetic acts: religiously-binding and religiously enlightening. The latter category includes all the prophet's decisions undertaken in his capacity as a political leader (*imam*). Recognizing the liberating potential of this legal device, the Advocates of the Rational State (ARS) used it to free the political arena from the shackles of literalist understandings of religious laws.

Theoretical Discussion

Although contested, democracy has been the most salient and widely legitimated governance system in the post-Cold War era due to the apparent ideational triumph of liberalism.[24] The bedrock and founding principle of liberalism is the principle of legitimacy, which states that "the state's exercise of coercive power is only legitimate where it conforms to a constitutional order that can be justified to citizens in terms they can accept."[25] It is often assumed that the failure to establish such a constitutional order would result in the alienation of all or some citizens.

In the West, satisfying the principle of legitimacy has traditionally rested on the appeal to "universal truths" and "notions of persons" that Enlightenment liberals took to be self-evident and rationally compelling. Although the pluralistic environment of post-Enlightenment has made it difficult to speak

of such "universal truths" and has invigorated the intellectual search for alternative grounds, the most compelling alternative has been to trade truth for legitimacy. This avenue is exemplified in the works of John Rawls.

In *Political Liberalism*, Rawls theorized a limited notion of justice restricted to the political domain. For this notion of justice to work, one needs a 'freestanding' notion of political justice, which people of different worldviews could endorse for reasons intrinsic to their respective doctrines. A freestanding idea of justice has three central features. Firstly, it is a moral concept, but it is limited to the political realm. Secondly, this notion presents itself neither as an addendum to an existing comprehensive doctrine nor as an independent one. People should not expect it to provide answers to their existential questions. They could cling to those furnished by their respective comprehensive doctrines. Thirdly, this freestanding notion of justice is expressed in certain principles central to any democratic culture.[26]

Rawls introduces two concepts that he believes are essential for the continuity of this freestanding notion of justice: reasonable people and reasonable comprehensive doctrine. For a freestanding idea of justice to be legitimate and stable, it must continually enjoy the support of a majority of 'reasonable' citizens. Reasonable citizens are people who embrace reasonable comprehensive doctrines. Reasonable doctrines are those which either accept or, in the minimum, do not conflict with basic notions of human liberties. Reasonable citizens' support for this view must rest on *in foro interno* judgment. The litmus test of stability is thus whether social actors who embrace a given comprehensive doctrine would continue to support this freestanding notion of justice irrespective of whether their power is increased or decreased.[27]

Rawls contends that for the concept to be freestanding, it must not be one of the contending comprehensive doctrines in its environment. It must be neutral. What is then demanded of reasonable political actors is to find and agree on free-standing principles (First-order moral prepositions), which could be drawn from their political culture or literature. The value of privileging these free-standing first-order moral claims is that one can avoid appealing to other foundational values within each comprehensive system that would be controversial in the public sphere. By avoiding controversial comprehensive doctrinal or epistemological "truth claims," one resolves the complex question of legitimacy in a pluralistic society.

In defense of Rawls, John Anderson explains what distinguishes Rawls' scheme from classical Enlightenment liberals' position. Unlike the

dogmatism of Enlightenment liberals, who insist on liberal moral principles as the supreme political value, Rawls' position is pragmatic. His appeal to the "principle of legitimacy" and "reasonableness" stems from their saliency in the public political culture of the West as non-controversial values. Advocating this *pro tanto* justification phase does not preclude their ultimate endorsement as normative values in the *ad hominem* phases of justifications. Nor does it bar individual citizens at this stage from rejecting them, although they would need to justify their rejection. Accepting the "First-order moral prepositions" at the *pro tanto* phase as culturally embedded neutral positions and their final endorsement on rational grounds makes this Rawlsian scheme different from a simple *modus vivendi* in which one searches for legitimacy at all costs. It also makes it applicable to other cultural contexts, where various "First-order moral prepositions" would have to reflect such cultures' political, legal, and values.[28]

In the post-modern, pluralistic, and globalized world, the democratic project would have no place in any society where it fails to garner broad consensus over the general political praxis it enables and legitimates. In the Arabic and Islamic context, religion has long played a critical role in forming subjects' views on power exercise. Religion has furthermore shaped the juridico-political lexicons through which they express it. Recent qualitative and quantitative studies demonstrate that most Arab youth endorse the implementation of Shari'a[29] despite their favorable views of democracy. The implication is that any democratic praxis that does not find legitimation in Islamic legal norms and worldviews is bound to fail.

The above discussion is consequential. It is evident that the Islamist *maqasidist* vision, which we discuss in this volume, is important not just for the prospect of political Islam but also for the general Islamic democratic culture. While a call to trade truth for political legitimacy will not find— *prima facie*—support in the Islamic environment, mining the public culture to re-define the boundaries of permissible human political rationalizations is necessary to establish the regions from which "First-order moral prepositions" can be drawn. But this could only be done if traditional political theories and praxes are subjected to critical appraisal to parse human elements from divine ones. This entails separating religiously binding legal injunctions and precedents from religiously enlightening ones.

Furthermore, given the pervasiveness of "Shari'a-based values" in the Arab political culture, this Islamist *maqasidist* view presents sufficient freestanding moral ideas to draw a range of political conceptions that the majority of Arabs would find mutually reasonable. This becomes especially evident if

we consider that "the question which divides supporters and opponents of democracy in the Arab world is not whether laws should follow the ethical guidance contained in Islam's founding message, but whether a fixed corpus of Islamic laws exists."[30] This distinction between broad ethical guidelines and a fixed corpus of law hints not at an aversion to strict Islamic texts but at a certain doubt about the contextual relevance and applicability of certain historical interpretations related to public management and political conduct. One finds no such aversion to texts addressing matters of worship and, indeed, far less enthusiasm for questioning rules pertaining to family law. It is this spirit that the appeal to *maqasidic* approach responds to.

I invoke Rawl's theory here not just because it moves the political discourse beyond the narrow confines of comprehensive liberalism, permitting an "intersubjective moral formation, that is, offering fair terms of cooperation … acceptable to other free and equal citizens."[31] Nor do I do so because it "effectively leaves many areas and issues off the political agenda,"[32] thus providing a tempting template for appropriation in different contexts. I invoke it for more, although its attractiveness has been sufficient for some theorists to argue that it is the most compatible political platform for Muslim societies.[33] My primary interest goes—as should have been clear in the introductory notes—beyond this outward observation to investigating a parallel theoretical elaboration of an equally limited Islamic political liberal theory, which is fully endorsed by a reasonable reading of Islamic juridco-political norms. This interest is based on my belief that one does not have to agree with Rawls' overall work to see its value and relevance to political liberalization in any pluralistic society, which is increasing the prospect of most nation-states.

It is also based on these facets of Rawls' work and a comprehensive reading of the Islamists we study here that I contend that they have developed a theoretically dense legal foundation for an Islamic political liberalism. This project is premised on the renunciation of other Islamists' previous efforts to replicate classical Islamic governance systems as gratuitous and misguided. Meanwhile, this project rests not on a break with the Islamic legal heritage but on a claim of rediscovering and refining the most authentic, profound, and germane aspects of it to modern social life. This process of rediscovery and refinement is based on the systematic use of certain facets of medieval legal theory, especially those outlined in Abu Isḥāq al-Shāṭibī's (d. 790/1388) *Muwafaqāt* and Shihāb al-Dīn al-Qarāfī's (d. 684/1285) *Furūq*. The systematic use of these materials allowed the Islamists to construct a coherent *in foro interno* Islamic liberal theory, which transformed Islamic jurdico-political thought in the Arab world and beyond.

This theory opens immense potentials for reasonable 'overlapping consensuses' with traditional and secular Muslims, people of other faiths, and atheists.

Methodology

The present volume is in part based on a doctoral dissertation, which brought together the findings of extensive textual research of Arab Islamist discourses carried out between October 2014 and July 2017. The methodology employed in this study is that of Qualitative Discourse Analysis, which is the most appropriate for this subject. Qualitative Discourse Analysis is the process of critically analyzing language in the summation of its discursive rather than exclusively linguistic functions to extrapolate meanings beyond the literal translation of words. For example, Michel Foucault refers to 'discursive formations' as entailing terms of reference, courses of action, and modes of address and not merely ideas, symbolic formulations, and ideologies.[34] Qualitative analysis, therefore, allows one to dissect not merely *what* is being said in a particular discourse, but the subject (*who*) of that discourse and *how* such a discourse finds expression.

The importance and relevance of discourse analysis to my work lie in the fact that I am dealing with a living discourse whose participants bring much more to the debate than abstract theorizations. The Muslim Brotherhood, and especially the speakers under consideration, have invested themselves in the cause of Islamist revision. This investment is not merely a historical dispute carried out entirely in textbooks but a living engagement with traditional and historical texts, figures, ideas, and political realities. Qualitative Discourse Analysis was developed precisely to allow the navigation of such a complex arrangement of contingencies that come to bear on how language is delivered and received.

The application of this methodology has primarily consisted of interrogating the discursive works of influential current or former members of the Muslim Brotherhood who have challenged critical facets of the movement's political ideology. These intellectuals hail from countries including Egypt, Mauritania, Morocco, and Qatar. While the initial study involved a large pool of intellectuals, it has since been refined to focus on five leading politicians and scholars whose works have had a defining impact on Islamist ideology across the region.

These five figures are the Egyptian legal theorist Jasir 'Awda; the former Head of the dissolved Qatari branch of the Muslim Brotherhood, Jasim

Sultan; the former Vice-President of the International Union of Muslim Scholars, Ahmad al-Raysuni; the former President of the Mauritanian Islamist party, Jamil Mansur and; the former Prime Minister of Morocco, Sa'd al-Din al-'Uthmani. I examined their public lectures on critical issues of governance, as well as their written works on Islam, democracy, and politics. I have looked, critically and comparatively, at these sources, including their speeches during the political campaigns in which they respectively ran for office. My focus has been on the etiquette through which they create meaning and forge relationships with texts and ideas within their cultural milieus to illustrate their vision of acceptable Islamist political activism.

Sample

The Islamists I study in this volume represent a unique segment of those Islamists whose discourse and practice have experienced significant shifts, allowing a greater involvement in liberal politics. What makes this segment unique, however, is that is participation is neither timid nor premised on a renunciation of religious frames. Its involvement is relatively wide, systematic, and, more importantly, religiously framed. This group represents a specific trend that has begun to take shape from the 1990s onwards, challenging the Islamist normative discourse and proceeding to mold a growing share of Islamist youth. It no longer premises its political activism on the desire to establish an Islamic state, defined by the imposition of strict Islamic legal ordinances within or beyond the borders of the nation-state. Nor does it accept that such a goal should be the end stage of any meaningful Islamic political engagement. Instead, it insists that the goals of Islamic political commitment are more substantive than formulaic. Islamic activism must seek to foster consensus, expand freedoms, enhance transparency, and push consistently for a more just society.

To closely examine the discourse of this new generation of Islamists, I study the writings of five prominent Islamist intellectuals whose writings and political activities best capture these new shifts in political and legal discourses across Arab Sunni Islamist literature. In contrast to traditional Islamists, these scholars use Islamic legal devices to argue that the differentiation between the secular and the religious domains is central to Islam and that the implementation of Islamic laws—where their reach extends to the public secular sphere—must always be subjected to a schema of prioritized objectives. While these scholars may not have been the first to articulate and develop these new politico-legal views, they have lent them

a powerful and systematic expression in various domains and contexts. This group comprises an academic ('Awda), a strategist (Sultan), politicians (Mansur and 'Uthmani) and a legal theorist (Raysuni).

1-   Jasir 'Awda

Jasir 'Awda is a co-founder of the International Union of Muslim Scholars (IUMS) and the vice-director of the Center of Islamic Legislation and Ethics at the Qatar Foundation. An Egyptian by origin, 'Awda received his higher education in Europe. He holds a PhD from the University of Wales in the philosophy of Islamic law and a second doctorate in systems analysis from the University of Waterloo in Canada. Like Raysuni, Mansur, and Sultan, 'Awda is one of a growing number of Islamist thinkers who advocate a political and legal approach based on the theory of *maqasid*. Although he tends to be more liberal in his political and legal views than Jamil and Raysuni, and more akin to Sultan in those respects, 'Awda shares with these Islamists not only the institutional affiliation (Jamil, Raysuni, and 'Awda are members of the IUMS), but also the pursuit of an Islamic state, one increasingly defined by a general and elastic Islamic legal philosophy, not by strict textual ordinances. This pursuit has led 'Awda, much like Raysuni, to write more extensively on *maqasid*. But while Raysuni writes with the temperaments and erudition of traditional *faqih*, albeit one attuned to the legal and philosophical challenges of the modern, 'Awda's writings are light on classical allusions and scholastic pedantry, often taking for granted an evident correspondence between Islamic and liberal concepts.

2-   Jasim Sultan

Sultan was born in 1953 and graduated with a medical degree from the University of Cairo in 1980. After graduation, Sultan pursued further education in management and administration in the UK. Subsequently, Sultan worked as an expert in strategic planning, overseeing and advising key Qatari state institutions. For example, he advised the Qatari Ministry of Education, the Ministry of Health, the Women Wellness Program, and the Qatari Center for the Protection of Women and Children, among other state and private programs. He is devoting time to his *Nahda* project, which aims to train three million Muslim youth (men and women, as he insists) in leadership and strategic planning. According to a short biography, published on Sept. 2nd, 2012, as an addendum to an interview with Sultan by *Majalat al-Ma'rifa*, there are currently 160,000 youth (from across the Arab world, Africa and Europe) involved in Sultan's *Nahda* mass training project.[35]

Sulan played a critical role in founding and later dissolving the local branch of the Muslim Brothers in Qatar.

3-   Ahmad al-Raysuni

Raysuni was born1953 in Northern Morocco in a small town (Awlad Sultan). He received his early tertiary education at al-Qarawiyyin University in Fes and his MA (1989) and PhD (1992) from Muhammad V University in Rabat. His MA and doctorate focused on the concept of *maqasid*, examining the work of the medieval Andalusian scholar al-Shatibi. Raysuni held various jobs while going to school at Muhammad V University, including as a high school teacher, a notary for the Ministry of Justice, and the head of an administrative court. After his graduation, Raysuni lectured at several universities across the Arab world (Rabat, Jeddah, and Sharjah) in his area of expertise in *usul* and *maqasid*. He also worked with several research institutions and think tanks in the Gulf region, including the Islamic Fiqh Council in Jeddah.

4-   Jamil Mansur

Mansur was born in 1967 in Mauritanian where he received extensive education in Arabic and Islamic sciences. He would later travel to Morocco for further education at al-Qarawiyyin University in Fes, where he graduated with an MA in Islamic studies. In 1993, Mansur returned to Mauritania. He was embroiled, upon his arrival, in the political strife between the emerging Islamist groups and the regime. Mansur was jailed on several occasions on account of his Islamist activism. His last imprisonment was in 2004. Between 2005 and 2007, he was able to lead a successful public relations campaign, resulting in the establishment of the first legally recognized Islamist political party. He would lead the nascent party for a decade, consolidating the party's mainstream position. During his tenure, the party witnessed a significant surge in membership and political clout in the local democracy. In 2017, Jamil Mansur stepped down from his position as the leader of the Islamist party of *Tawasul* in what was then described as the first democratic transition within the local political party system.

Although Mansur continued his Islamist activism, he has recently resigned from the party, much to the dismay of many of his sporters. His party is now the second most popular party in the country. During his political tenure in *Tawasul*, Jamil won a few elections. He served once as a mayor of the largest municipality in the capital, Nouakchott. He also represented his group in parliament. However, his bid for the highest office in two

presidential elections was unsuccessful. It is unclear what the future holds for Mansur after he resigned from the party and supported the ruling party. What is, however, clear is that his influence on Islamist discourses in his country will undoubtedly endure.

5-   Sa'd al-Din al-'Uthmani

The former Prime Minister of Morocco, Sa'd al-Din al-'Uthmani was born in 1956 in a small town in the southern region of Morocco. Born to a family with a long history of Islamic scholarship, 'Uthmani was introduced to Islamic teachings at a very early age, a taste he has ever since sought to satiate from traditional and modern Islamic learning institutions. 'Uthmani graduated at the age of twenty-seven from the college of Shari'a at Ait Melloul University, and proceeded to earn an MA equivalent from the esteemed higher Islamic learning institute of *Dar al-Hadith al-Hasaniyya* in 1986. Simultaneously, 'Uthmani pursued a doctorate in general medicine from the College of Medicine and Pharmacology in Casablanca, which he earned in the same year.

Between 1986 and 1994, 'Uthmani shifted his focus, pursuing a degree in clinical psychology. He would, however, return in due course to Islamic studies, the area where his research was destined to impact modern Islamist activism significantly. 'Uthmani's MA thesis (1999) in Islamic studies from the University of Rabat, which focused on examining the political comportments of the Prophet Muhammad and their legal theoretical applications, would define his political career and, more importantly, constitute a leap forward in the Islamist political thinking. 'Uthmani's subsequent works further clarified his thesis's central argument that much of the Sunna corpus consists of prophetic political *ijtihad* (strategies and tactics), which is intrinsically human and context-specific.

In addition to his rich and eclectic career, 'Uthmani was also highly active in the cultural and political arenas. 'Uthmani co-founded, at age twenty-five, one of the largest organized Islamist platforms, *Jam'iyyat al-Jam'iyyat al-Islamiyya*. This early entry into political organizations facilitated 'Uthmani's rise to leadership positions. It was no surprise that he was elected as a member of the Executive Bureau of the Dar al-Hadith Scholars' Association in 1989 and a member of the Executive Board of the Unity and Reform Party (*Hizb al-Tawhid wa'l-Islam*) in 1991, a position he held until 1996. In 1998, 'Uthmani co-founded and led the Constitutional Popular Democratic Movement, which constituted the nucleus of what later became the Justice and Development Party (JDP), a governing party in Morocco.

Like Jamil Mansur, Uthmani was elected several times (in 1997, 2002 and 2007) to represent the Islamists in parliament, assuming the position of the Vice Chair of the Foreign Relations Committee in the Moroccan parliament between 2001-2002. He was elected the Secretary General of the Justice and Development Party (the Islamists' main party) in 2004 and has been the head of its National Council since 2008. In 2017, 'Uthmani was appointed by the Moroccan King, Muhammad VI, to the post of Prime Minister, a post he continued to hold until his party lost the general election in September 2021.

Despite commonalities on the ideological plane, these pioneers are diverse regarding their national origin and professional focus. Geographically, these scholars represent the eastern and western parts of the Arab world. Jamil Mansur (Mauritanian), Ahmad al-Raysuni and Sa'd al-Din al-'Uthmani (Moroccans) come from the Maghreb; 'Awda (Egyptian) and Jasim Sultan (Qatari) are from the east. Additionally, they include an academic ('Awda), a strategist (Sultan), politicians (Mansur and 'Uthmani) and a legal theorist (Raysuni). This geographical distribution and the variation of their individual focus (a strategist, legal theorist, academic and politicians), provide a range of sources to examine the new mutations of the Islamist project from different angles.

Outline of the book

The following nine chapters explain this new Islamist vision and trace its roots in a critical narrative, documenting the essential constitutive juridico-political stadial shifts that made this breakthrough possible. While the most immediate seeds of this vision became palpable from the 1990s onwards, I believe that a profound understanding of this development requires a close examination of the chain of reactions emanating from the encounter between the legacy of European colonialism, on the one hand, and the project of Arab revivalism from *Nahda* to the present, on the other hand.

Thematically, this volume is organized into three sections. The first chapter, which constitutes the first section, provides a general account of the current state of Arabic juridico-political discourses, illustrating how the opponents of this new trend within the class of *fuqaha* seem ambivalent in their criticism. The chapter also outlines the four shocks and their impact on the Islamic politico-legal discourses. The second, third, and fourth chapters provide a chronological account of how historical events, socio-political shifts, and religious-legal debates shaped the precursors of the current position (from the dawn of the 20th century to the 1990s). The subsequent

chapters (5, 6, 7, 8, and 9) explain the legal foundations of these visions and their theoretical and practical implications for the Islamist positions from the national state, democracy, and the application of Islamic law.

Chapter 1, *WHO SAID THAT WE NEED A CALIPHATE?* documents and analyzes the most recent and prominent Islamist views on Islamic governance. It particularly examines how the concept of *khilafa* (caliphate), the historical norm of Islamic governance and the traditional endgame of Islamist activism, has become a contested subject. A rising segment of the Islamists now question whether it was an essential (or accidental) part of the Islamic political experiment in the early years of Islam. They point to the absence of textual (Qur'anic or Sunnaic) indicants to support their doubt.

Chapter 2, *ISLAMIC JURIDICO-POLITICAL IDEAS AND THE NATION BEFORE ISLAMISM,* discusses the responses of early Arab revivalists (mostly jurists) to European secular polemics. These responses were formulated to defend Islam against charges of promoting theocracy, of antagonizing reason, and of impeding science and human progress. In the early stage (before 1922), these reactions were often mild discursive rebuttals directed at certain individual European scholars and local secularists. Their goal was limited to demonstrating that Islam is neither theocratic nor antagonistic to reason and human evolution. However, these reactions would assume a sharper tone, especially after the abolishing of the last symbol of Muslim political unity: the caliphate. In this vein, the chapter analyzes the controversial work of 'Ali 'Abd al-Raziq, which constitutes the first elaborate attack on the institution of the caliphate by a Muslim jurist. This includes an evaluation of the reactions it elicited as well as its enduring impacts.

Chapter 3, *THE ISLAMISTS' ENTRY INTO THE NATION'S DOUBLE-TIME MACHINE*, is the first of two chapters that explore the juridico-political shifts that took place at a time when traditional values were no longer championed by the jurists but by the emerging *affendia*, and later Islamists. This comprises an account of the physical and discursive violence that resulted from the encounters between the Islamists and the regimes of the newly independent states. It also analyzes the incremental discursive shifts resulting from these encounters, including the Islamist sober reflections in their aftermaths. To highlight this evolution, I contrast the intellectual works of two prominent Islamists: Sayid Qutb and Hasan al-Hudaybi.

Chapter 4, *THE SEARCH FOR COMMON GROUNDS: ISLAMIC LAW AND DEMOCRACY,* this chapter chronicles the evolution of Islamist legal thought from the 1970s onwards. It examines the impact of the ideational triumph of the Islamists and their emergence as the most influential ideologues in the Arab world. The most important theme of this section concerns the Islamist attempt to grapple with democracy and to find ways to assimilate it into Islamic political discourses. This process reaches its climax with the maturation of the theoretical foundations of the current Islamist vision (which I call the Rational State, RS). This vision is based on adapting classical *maqasid* and their use as a central interpretive device.

Chapter 5, *MAQASID: THE CONCEPT, ITS ROOTS AND EVOLUTION,* explains the meaning of *maqasid* and traces their evolution in the Islamic legal literature. This includes looking at their early articulation with Juwayni and his student al-Ghazali in the 11th century to their maturation into a theory with the Andalusian scholar Al-Shatibi in the 14th century. It is *maqasid* in this final form that attracts these Islamists because of their emancipatory potential.

Chapter 6, *THEORERITICAL FOUNDATIONS OF THE RATIONAL STATE,* answers the question of why and how *maqasid* became the favorite legal device for the political project of this vanguard of Islamists (ARS). It analyzes the events and political vagaries that discredited many earlier Islamist assumptions about Islamic law and political legal concepts. The most consequential event, in this context, is the advent of democracy as the central method of political activity. The ideational victory of the liberal West, which came with the end of the Cold War, coincided with the Islamist dominance of the cultural sphere, a phenomenon called *Sahwa*. This convergence encouraged the Islamists to embrace democracy, revise their traditional positions, and find thorough justifications for their new overture.

Chapter 7, *SHARI'A IN THE RATIONAL STATE: THE QUESTION OF SPHERE, SCOPE AND SENSIBILITIES*, examines the rational religious arguments these Islamists deploy to claim that a distinction between the religious and the political has always been a central feature of Islam. This resolution of the piety-politics complex rests on a close reading of prophetic statements and declarations. It, furthermore, depends on delineating the different categories of the Prophet's acts. This resulted in deeming those acts that the Prophet undertook as a political leader as instructive rather than binding.