

*The Turn to the Political in Islamic Modernism  
and the Tunisian and Egyptian Revolutions*  
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*“And religion is ease; the caliphate is by consent;  
law is by consultation; and legal disputes are for  
judges.”*

Aḥmad Shawqī, d. 1932<sup>1</sup>

## I. Introduction

When civil disturbances broke out in Tunisia in December 2010 few people predicted that those events would usher in a season of revolution in the Arab world throughout the Arab region. After the initial shock of the Tunisian revolution wore off and the January 25<sup>th</sup> Egyptian Revolution began, many outside observers began to raise concerns centered on the role of political Islam in Tunisia and Egypt, and in particular, the role of groups such as The Renaissance Party (*al-Nahḍa*) in Tunisia and the Muslim Brotherhood (*al-Ikhwān al-Muslimūn*) in Egypt. In the popular press, meanwhile, two salient themes emerged: first, the bravery and the persistence of the Tunisian and Egyptian people in waging largely non-violent demonstrations against brutal police states, and second the tendency to reduce, or even deny entirely, the role of Islam in these two popular

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\* Note to the readers: this work remains very much a working draft, and I expect to make substantial revisions to the arguments presented herein. To that extent, I look forward to receiving your comments. I hope you will forgive the unfinished nature of this draft, but I expect the piece will be improved substantially as a consequence of sharing it with you at this relatively early stage of drafting.

<sup>1</sup> This line is taken from a poem published in March 1912 (1313 in the Islamic calendar) on the occasion of the Prophet Muḥammad’s birthday. Selections from this poem were in turn set to music and sung by the renowned Egyptian singer Umm Kulthum under the title “Wulida al-Hudā” (Guidance was born). Nearly one hundred years later, it remains an important part of the modern Egyptian nationalist musical repertoire. The poet himself was the official court poet for the pre-World War I nominal ruler of Egypt, the Khedive ‘Abbās. The British forced both Shawqī and the Khedive into exile at the outbreak of World War I for their sympathies with the Ottoman Empire.

revolutions. This latter desire seems to have been a product of the media's sympathy with the popular revolutions, and negation of any meaningfully Islamic contribution to these movements seems to have operated as a prerequisite to allowing outside observers to feel sympathy for the revolutions in good faith.

And while Tunisian and Egyptian demonstrators should probably be grateful that their revolutions did not spark irrational fears of Islamophobia that could have been exploited by the dictatorial regimes to keep themselves in power, the attempt to minimize the role of Islam in these revolutions does little to help us understand the course of Islamic political thought over the last 150 years in the Arab world, its relationship to the democratic demands of the Arab peoples, and the prospects for modern Islamic political thought to reconcile, in a meaningful fashion, with certain forms of democratic secularism. Indeed, the central hypothesis of this paper is that neither the Tunisian nor the Egyptian Revolutions could have succeeded without the ideological contributions of Islamic modernism to modern political thought in the Arab world. Accordingly, these revolutions can be called Islamic revolutions, but only in the very specific sense of being "modernist" Islamic revolutions.

A crucial feature of modernist Islamic political thought, at least as manifested in the Tunisian and Egyptian revolutions, is its insistence that religious teachings, insofar as they are relevant to building political society, must be interpreted in a manner consistent with the goals of freedom, national development and democratic decision-making. This modernist configuration of the theo-political in turn renders political coalitions with non-Islamic political movements palatable. Indeed, in important respects, Islamic modernists are more comfortable with secular political movements than they are with other Islamic

modes of the theo-political, whether Sunni Traditionalism or Revolutionary Sunnism. It was the successful cooperation between modernist Islamic movements and secular opposition which ultimately guaranteed the success of these two revolutions, and consolidation of the revolutions' achievements will require them to continue to cooperate in the future.

This observation naturally leads one to ask: to what extent can one posit the existence of a shared community of values between Islamic modernism and liberal secularism in countries like Tunisia and Egypt? Answering that question, however, is beyond the scope of this paper. This paper is limited to tracing what I consider to be the salient characteristics of Islamic modernist political thought through the writings of three seminal modernist Muslim political thinkers from the Arab world: Rifā‘a Rāfi‘ al-Ṭahtāwī (d. 1873), Khayr al-Dīn al-Tūnisī (d. 1890), and Muḥammad Rashīd Riḍā (d. 1935). The most important such values are the reconciliation of positive law with revealed law; the necessity of constitutional government; national independence; and the mutually reinforcing relationship of political and religious virtues. I will then contrast Islamic modernism's approach to the political with other Islamic configurations of the theo-political. I will conclude with an analysis of the religious rhetoric of the Tunisian and Egyptian revolutions in an attempt to demonstrate their adherence to the political principles of Islamic modernism. But the first question to address is whether it even makes sense to speak of “modernist” Islamic political thought as a distinct tradition of political thought, and if so, why.

## II. What is “Modernist” about Modernist Islamic Political Thought?

Rawls, in his work *Political Liberalism*, famously identified the central problem of modern democracy as that of pluralism, or more specifically, the stability of democracy in the context of pluralism? Similarly, in helping us to determine whether we are justified in treating the political thought of figures such as al-Ṭaḥṭāwī, Khayr al-Dīn and Riḍā as “modernist,” we need to offer some set of questions or concerns that both unifies their particular contributions to Islamic political thought, on the hand, and distinguishes it from other strains of Islamic political thought, on the other.

I propose the following as the central question that gives rise to what I am calling “modernist” Islamic political thought: how is it possible to establish an *effective* system of Islamic justice in the context of a post-enlightenment world characterized by rapid scientific, economic and political change? Like other traditions of Sunni Islamic political thought, whether traditionalist or revolutionary, they share the fundamental commitment to the truth of Islam as a theological doctrine and that it provides a completely adequate and universal system of justice through Islamic law. Unlike the adherents of the other two camps, however, they also accept the legitimacy of the political, economic and scientific accomplishments of the post-enlightenment world, while maintaining an Islamic metaphysics.

One thing that is obviously missing from the concerns of modernist Islamic political thought is the problem of pluralism, in particular religious pluralism and its relationship to equality. Although the Arab Middle East was religiously plural, and included numerous varieties of expansionist and salvationist religions, whether Islamic or Christian, it never experienced the history of religious wars that engulfed Europe in the wake of the religious divisions caused by the Reformation. Accordingly, the experience

of all out, religiously-driven civil war, simply never became a formative part of Middle Eastern political culture, much less its tradition of political reflection. In addition to the historical differences between Europe and the Middle East with respect to religious conflict, the role normative Islamic doctrine played in shaping the direction of Middle Eastern political thought with respect to the problem of pluralism should not be overlooked. In particular, because Islamic law had its own internal doctrines of restraint with respect to both non-Muslims and “heretical” Muslims, Sunni Muslims were generally committed only to maintaining their dominance within the political community rather than eliminating the existence of non-conforming religious communities, while at the same time maintaining the hope that non-conforming communities, whether dissident Muslims or non-Muslims, would eventually adopt orthodox Islam.

This hierarchical system of pluralism, while internally justified by the truth of Sunni Islam relative to other religious doctrines, was justified to non-Muslims on the promise that the political order of Sunni Islam and whose anchor was Islamic law was a just order and that it guaranteed non-Muslims their essential rights. Legally, this relationship was manifested through the doctrine of *dhimma*, pursuant to which non-Muslims agreed to bind themselves to the non-religious norms of Islamic law (*iltizām aḥkām al-islām*). In exchange for this commitment, the Muslim community undertook to afford such non-Muslims all the legal (but not political) rights and protections afforded to Muslims on a basis of equality. This system was encapsulated in a statement attributed to the Prophet Muhammad who was reported as saying that if non-Muslims accepted this relationship, “They have our rights and our obligations, but leave them to their religious affairs (*lahum mā lanā wa ‘alayhim mā ‘alaynā wa yutrakūna wa mā yadīnūna*).” Non-

Muslims subject to this pre-modern system were effectively the equivalent of permanent resident aliens: while enjoyed substantial rights under the law, they lacked the right to participate in its formulation.

In normative Islamic doctrine, this hierarchical system of toleration was not grounded merely in prudence, but was also an Islamic *moral* obligation, as evidenced by the use of the term *dhimma* to refer to the contract, and the use of the term *dhimmi* to refer to the non-Muslim party to the contract: *dhimma* is the legal term that refers to the capacity of a human being to undertake an obligation to God or a human being; *dhimmi* thus means a person who is the beneficiary of this moral obligation and can assert claims against the conscience of the Muslim community, unlike other non-Muslims, who are strictly limited to their contractual rights against the Muslim community.

By the 19<sup>th</sup> century, however, important transformations in the relationship between Islamic states and Europe had shaken the confidence of the Sunni political and religious elite. In particular, the Ottomans no longer seemed able to defend Islamic territories against encroaching European powers, and while initially its military weaknesses were felt primarily outside the Middle Eastern heartland of Islam, in 1798 French forces under the leadership of Napoleon Bonaparte, successfully invaded and occupied Egypt. In the wake of the objective weakness of the Ottoman Empire vis-à-vis Europe, the political class ushered in a series of political, administrative, and increasingly, legal, reforms, first in Egypt and then throughout the Ottoman Empire. These reforms, generally known as the *Tanzīmāt*, were intended to usher in a new era, *al-nizām al-jadīd*.

For the Muslim political class that undertook these reforms, and both al-Ṭaḥṭāwi and Khayr al-Dīn were important members of this class, it was necessary to produce a theory of reform that reconciled the new order to the underlying ideology of Sunni political theory, namely, that the state is bound to Islamic law. The answer they give, essentially, is that the new order – an important part of which is legal reform – does not contradict or supplant the Sharī‘a, but instead vindicates it by making it more effective. Islamic modernists’ quest to make the Sharī‘a more effective, like Rawls discovered in his attempt to revise his account of stability in *Theory of Justice*, in turn required them to argue for profound changes in the way Muslims understand Islamic law, its relationship to rational politics (political philosophy), the relationship of the ruler and the ruled, and the rights of non-Muslims.

Here, it may be useful to contrast the approach of modernist Islamic political thought to the structure of Rawls’ argument in *Political Liberalism*: where Rawls aims to describe the rules of a polity that free and equal persons would endorse under the morally appropriate conditions provided by the initial position, and arrives at the idea of a “well-ordered society as a society effectively regulated by a public conception of justice,” modernist Muslim political thought begins with the knowledge of what constitutes a “well-ordered society,” specifically, a society governed in accordance with Islamic law, but what they lack is the knowledge of how to make that society effectively governed in accordance with Islamic law’s norms. Western political thought and practice, independent of its metaphysical commitments, can then be taken as a model of emulation because it is assimilated into Islamic normative ideals as a tool that can be adapted and put to a different metaphysical end.

Whether this project is intellectually satisfying or fully coherent is another question. It is sufficient for the purposes of this paper simply to point out that modernist Islamic political thought, although it takes for granted the adequacy of the Sharī‘a as a system of public justice, argues that its substantive norms must be interpreted in a manner necessary to make it fully effective under modern conditions, and in so doing, radical differences are introduced between modernist Islamic political doctrines relative to other Islamic conceptions of the theo-political. It is the overriding concern with rendering Islamic justice politically effective that justifies treating modernist Islamic political thought as a distinct tradition of political thought, not only with respect to Western political thought, but also other modes of Islamic political thought.

### III. Ṭaḥṭāwī and the Centrality of the Homeland

Rifā‘a Rāfi‘ al-Ṭaḥṭāwī hailed from a small town in Upper Egypt and moved to Cairo to complete his education at the mosque college of al-Azhar. When Mehmet ‘Alī, the then Ottoman governor of Egypt and founder of the modern Egyptian state, sent a group of Egyptian students to study the “modern sciences,” Ṭaḥṭāwī was selected to accompany the students as their religious advisor while they were in France. Al-Ṭaḥṭāwī was a keen observer and student of French life and upon his return to Cairo, he published the memoirs of his journey (*Takhlīṣ al-Ibrīz fī Talkhīṣ Bārīz*) which described his life in Paris, and the social, cultural, political and economic life of 19<sup>th</sup> century France. This work included a chapter discussing the French legal system, including, its constitution, evidencing his interest in the new political ideas emerging in Europe, a topic he would return to in much greater detail later in his life when he wrote a lengthy treatise,

ostensibly on education, called *al-Murshid al-Amīn li-l-Banāt wa-l-Banīn* (“The Reliable Guide for Girls and Boys”).

In addition to his career as a public intellectual, he had a distinguished career in the Egyptian government, serving in a variety of administrative positions in the new Egyptian bureaucracy, including, as director of the newly established medical school; translator for the artillery school; director of the School of Foreign Languages which translated thousands of works in various fields into Arabic; director of the Military School; editor of the official newspaper; and an educational journal. He also participated in numerous educational reform commissions and personally translated two dozen French works.

Although his memoirs included only one relatively short chapter (about 5% of the work) on the French legal system, what he called their “wondrous administration (*tadbīruhum al-‘ajīb*)” clearly impressed him and he was determined to describe it accurately so that it “could be an example to those who take heed (*‘ibratan li-man i‘tibar*).” In his memoirs Ṭaḥṭāwī was largely content with providing an objective account of French institutions as he understood them with minimal commentary. The commentary he does provide, however, is indicative of the political values of the French post-Revolutionary constitutional monarchy that he found admirable. First, and perhaps most significantly, was the fact that the king’s power was limited by and subject to the laws of France.<sup>2</sup> Accordingly, French law (*al-siyāsa al-faransāwiyya*) serves as a constraint on the king’s power (*qānūn muqayyad*) and in accordance with that principle the king’s powers are only lawful when they are exercised within those constraints. The

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<sup>2</sup> Takhlis, p. 169.

basic law of France, which he identifies as the Charter of 1814, “contains matters which no rational persons would deny are constitutive of justice.”<sup>3</sup>

The second critical observation was the Charter’s status as rational law, meaning that it did not derive its authority from any supernatural source. Despite this fact, or perhaps precisely because the Charter disclaimed any religious authority, he chose to describe its provisions in detail so that his audience, who might have been skeptical that a rational polity of the sort Ṭaḥṭāwī described might actually exist, could appreciate “how their reason caused them to understand that justice and fairness are among the causes of increased civilization and relief for the subjects, how both the ruler and the ruled submitted to it, producing prosperity for their country, the creation of knowledge, the accumulation of wealth and security of hearts.”<sup>4</sup>

Third, after his translation of the Charter’s provisions, he identifies its most significant provisions, beginning with equality before the law. He tells his readers that this represents for the French the foundational principle of the Charter, whose importance to the French he identifies to his Muslim readers by using the Islamic concept of “fecund speech (*jawāmi‘ al-kalim*).” This term is significant for another reason: it is an express allusion to the Prophet Muḥammad’s self-description of his own law-making activity as “fecund speech” which was a divine favor of inestimable worth.<sup>5</sup>

Ṭaḥṭāwī chose to translate freedom literally as *ḥurriyya*, but his gloss on the meaning of this term is significant. Rather than understanding it as the absence of

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<sup>3</sup> *wa fīhi umūr lā yunkir dhawū al-‘uqūl annahā min bāb al-‘adl*. Id. p. 170.

<sup>4</sup> Ibid.

<sup>5</sup> The Prophet Muḥammad is reported to have said “I have been given pregnant speech (*la-qad ūtītu min jawāmi‘ al-kalim*)” which jurists later took to be a reference to the fact that the laws and principles he communicated, despite their brevity, were applicable to vast range of cases.

internal or external restraint, he chose to describe it as justice (*'adl*) and fairness (*inṣāf*). Freedom, from Ṭaḥṭāwī's perspective, is a feature of a political order, and accordingly "a [political] system of freedom means establishing equality with respect to legal judgments and substantive laws so that the ruler does not act arbitrarily against any person; rather, it [i.e., freedom] is that the laws are the judge and the criteria [for decision in all cases] (*li-anna ma'nā al-ḥukm bi-l-ḥurriyya huwa iqāmat al-tasāwī fī al-aḥkām wa-l-qawānīn bi-ḥaythu lā yajūr al-ḥākim 'alā insān bal al-qawānīn hiya al-muḥakkama wa-l-mu'tabara*)."<sup>6</sup> A country is free only to the extent that its people enjoy effective equality under its laws.

Thus far Ṭaḥṭāwī has focused largely on certain procedural aspects of law in post-Revolutionary France, namely, its rejection of absolutist monarchy and its commitment to equality under the law. Ṭaḥṭāwī analysis of the substantive rights guaranteed by the Charter begins with the principle of equal opportunity set forth in the Charter's third provision. He identifies this provision as the key to understanding French prosperity because it motivates citizens to pursue their individual talents, thus extending the breadth and depth of French prosperity and civilization. Ṭaḥṭāwī also identifies the Charter's eighth provision – freedom of expression, particularly as manifested in freedom of the press – as crucial in establishing accountability and in the dissemination of useful information.<sup>7</sup>

And while French constitutional law clearly impressed Ṭaḥṭāwī, he was less impressed with its positive law: it lacked any basis in revelation and thus was derived

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<sup>6</sup> Ibid p. 181. There is clearly a misprint in the printed edition. My translation is based on what I believe the author meant.

<sup>7</sup> Ibid. pp. 183-184.

almost entirely from rulers and was unstable (*laysat qārrat al-furūʿ*). Nevertheless, he concludes his discussion of the French state’s laws with two lines of poetry that suggest a certain level of anxiety: “Whoever claims a need that causes him to leave the path of revelation, be not his companion, for he is a harm with no benefit!”<sup>8</sup>

Whatever Ṭaḥṭāwī’s state of mind was when he wrote his memoirs, he clearly continued to think about the relationship of revealed law to rational law throughout the rest of his career. Indeed, the concern he shows in his Parisian memoirs with reconciling what he recognizes as the rational politics of the French with the revealed politics of Islam is a prominent theme of his later work, *The Faithful Guide*. Although Ṭaḥṭāwī’s work is ostensibly a work on education, *tarbiya*, he is compelled to discuss his political theory insofar as proper education, in his view, entails both rational and religious sciences, and accordingly, he must take a position between the claims of each. Thus, in the first part of his discussion of education, he warns his readers to take care not to follow those who would derive their morality from their rational intuitions (*alladhīna ḥakkamū ‘uqūlahum bi-mā iktasabūhu min al-khawāṭir allatī rakanū ilayhā taḥsīnan wa taqbīhan*).<sup>9</sup> He instead counsels that individuals should be taught law using the techniques of revelation, not abstract reason (*fa-yanbaghī ta’līm al-nufūs al-siyāsa bi-ṭuruq al-shar’ lā bi-ṭuruq al-‘uqūl al-mujarrada*).<sup>10</sup> Even as he expresses profound suspicion of those who would ground moral knowledge in what he terms rational intuitions, he is keen on disclaiming any general hostility to reason, and in the next sentence writes “it being known that the noble revelation does not prohibit seeking benefits or warding off harm and does not oppose the wondrous innovations which those

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<sup>8</sup> Ibid. p. 188.

<sup>9</sup> Ibid. p. 61.

<sup>10</sup> Ibid. p. 62.

whom God most high has granted reason and inspired in them useful crafts are inventing (*wa ma 'lūm anna al-shar' al-sharīf lā yuḥadhdhir jalb al-manāfi' wa dar' al-mafāsīd wa lā yunāfi al-mutajaddidāt al-mustaḥsana allatī yakhtari 'uhā man manaḥahum allāhu ta 'ālā al-'aql wa alhamahum al-ṣanā'a*).<sup>11</sup> Throughout the rest of his book Ṭaḥṭāwī will struggle in attempting to distinguish the morally dubious metaphysical claims of reason to authority, from its legitimate claims to ordering life in the context of a Muslim polity.

While Ṭaḥṭāwī was hardly the first Muslim thinker to conceptualize the problematic relationship between scripturally-grounded ethics/law and rationally-derived norms, his analysis is unique insofar as it is mediated through the concept of the homeland (*al-waṭan*), and the obligations that persons owe to their homeland. In other words, Ṭaḥṭāwī hopes to resolve the tension between these two competing sources of authority in the specific context of how to formulate a polity that honors the homeland in the appropriate fashion. The obligation to honor the homeland is akin to the moral obligation of the child to honor his parent, as evidenced by the title “On the Sons of the Homeland and Their Obligations.”<sup>12</sup> This is a natural obligation universally shared among mankind and finds its origins in longing (*ḥanīn*) and love (*tashawwūq*) to the place where one is born and raised.<sup>13</sup>

The most important duty they owe the homeland is its improvement (*iṣlāḥ*), a task which God has naturally prepared them to undertake by providing them with a “single king, submission to single basic law [*sharī'a wāḥida*] and single positive law [*siyāsa wāḥida*].” Accordingly, “it is as though the homeland is in the position of their mother

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<sup>11</sup> Ibid.

<sup>12</sup> Ibid. p. 93.

<sup>13</sup> Ibid. p. 90.

and father, and the place of their upbringing, so that it should also be the place of their mutual happiness (*fa-ka'anna al-waṭan huwa manzil ābā'ihim wa ummahātihim wa maḥall murabbāhum fa-l-yakun maḥallan li-sa'ādātihim al-mushataraka baynahum*).” Thus, all children of the homeland should have the common intention of directing the homeland to virtue and honor. They should also honor the homeland’s rights and those of their brethren. The relationship between the citizens and the homeland, moreover, is reciprocal: just as the citizens have duties toward one another and the homeland, so too the homeland owes its citizens obligations, namely, “protecting the citizen from everything that harms him.”<sup>14</sup> Love of homeland and love of achieving the general good for one’s compatriots is a morally desirable trait that is within the grasp of all citizens, and is a cause for their mutual love: “How fortunate is the person who inclines by his nature to distance evil from his homeland, even if that means he harms himself!”<sup>15</sup>

Ṭaḥṭāwī used the concept of *tamaddun* to describe the process by which the homeland is improved. *Tamaddun* is often translated as “civilization,” and provided that one understands the term as encompassing both material civilization (which Ṭaḥṭāwī describes using the more narrow term *‘imrān*) and moral norms, it is an acceptable translation. For purposes of clarity, I will use the Arabic term. Accordingly, he defines *tamaddun* as “The realization of what is required for the people of a material civilization (*ahl al-‘umrān*) in respect of the means (*adawāt*) necessary to improve their conditions, materially and morally, which consists in the excellence of their character, customs,

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<sup>14</sup> Ibid. p. 94.

<sup>15</sup> Ibid. pp. 94-95.

moral education, and encouraging them to love praiseworthy qualities and to acquire perfection of their civic characteristics (*istijmā' al-kamāliyyāt al-madaniyya*).”<sup>16</sup>

The principles of genuine civilization are known through revelation as disclosed by the prophets' laws (*risālat al-rusul bi-l-sharā'i*); the principles and rules of the Islamic revelation in particular are responsible for universal civilization (*alladhī jā'a bihi al-islām min al-uṣūl wa-l-aḥkām huwa alladhī maddana bilād al-dunyā 'alā al-iṭlāq wa inba'athat anwār hadiyhi fī sār al-āfāq*). He justifies this claim on the grounds that any person who assiduously studies the foundational principles of Islamic jurisprudence (*uṣūl al-fiqh*) and its substantive rules (*fiqh*) knows that “all the rational rules that civilized non-Muslim peoples (i.e., Europeans) have derived in developing their civilization and which they made the foundation of their civilization's laws and rules scarcely differ in substance from the substantive legal rules which have been derived from the foundational principles [of Islamic jurisprudence] that constitute the field of transactions (*jamī' al-istinbāṭāt al-'aqliyya allatī waṣalat 'uqūl bāqī al-umam al-mutamaddina ilayhā wa ja'alūhā asāsan li-waḍ' qawānīn tamaddunihā wa aḥkāmihim qalla an takhruj 'an tilka al-uṣūl allatī buniyat 'alayhā al-furū' al-fiqhiyya allatī 'alayhā madār al-mu'āmalāt*).”<sup>17</sup>

Al-Ṭaḥṭāwī explains that what Muslims call “the foundations of jurisprudence (*uṣūl al-fiqh*) is what they [i.e., Europeans] call natural rights (*al-ḥuqūq al-ṭabī'iyya*) or natural law (*al-nawāmīs al-fīṭriyya*).” These are rules which, according to Ṭaḥāwī, they derive based on what their reason deems to be good or bad (*qawā'id 'aqliyya taḥsīnan aw taqbḥan*). As for what Muslims call substantive law (*furū' al-fiqh*), the Europeans call it civil law and civil rights (*al-ḥuqūq wa-l-aḥkām al-madaniyya*). He further explains that

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<sup>16</sup> Ibid. 124.

<sup>17</sup> Ibid.

what Muslims call “impartiality and liberality (*‘adl wa ihsān*),” the Europeans call “freedom and equality.” What Europeans call patriotism Muslims call love of religion, because for Muslims love of the homeland is a part of faith. Muslims are therefore motivated to love the homeland for two reasons: the same natural reasons that make others patriotic, and on account of the religious reasons that Islam also imposes on them.<sup>18</sup>

Finally, among the means for the spread of *tamaddun* is zealous adherence to revelation’s teachings (*al-tamassuk bi-l-shar‘*) and diligent pursuit of learning and the sciences (*mumārasat al-‘ulūm wa-l-ma‘ārif*), and giving priority to agricultural, commerce, industry and geography (*istikshāf al-bilād*).<sup>19</sup>

Freedom results in a people’s happiness, and when their freedom is grounded in just laws, it plays a crucial role in producing love of the homeland, and thus helps spread *tamaddun*, at least by implication.<sup>20</sup> Freedom as a general matter is the permission (*rukhsa*) to perform any act that is, all things being equal, permissible (*mubāḥ*). A person is free (*ḥurr*) when he is able to exercise these rights without any interference other than a rule of law, whether derived from revealed law or positive law, in accordance with the just principles of his country (*al-māni‘ al-maḥdūd bi-l-shar‘ aw al-siyāsa mim mā tastad‘īhi uṣūl mamlakatihi al-‘ādila*). It also means that one cannot be punished except in accordance with legitimate criminal law, again whether derived from revelation or positive law in accordance with his country’s basic law (*wa min ḥuqūq al-ḥurriyya al-*

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<sup>18</sup> Al-Murshid, pp. 124-125.

<sup>19</sup> Ibid., p. 125.

<sup>20</sup> Al-Murshid, p. 128.

*ahliyya an lā yujbar al-insān ‘alā an yunfā min baladihi aw yu‘āqab fihā illā bi-ḥukm shar‘ī aw siyāsī muṭābiq li-uṣūl mamlakatihī).*<sup>21</sup>

Ṭaḥṭāwī recognizes five different kinds of freedom. The most fundamental is natural freedom (*al-ḥurriyya al-ṭabī‘iyya*) which is simply the freedom to satisfy human necessities such as eating and drinking. The second is freedom of conduct (*al-ḥurriyya al-sulūkiyya*), whose norms are derived through reason in accordance with each individual’s conscience and that in which his soul finds comfort with respect to his own conduct and noble manners in his treatment of others (*al-wasf al-lāzim li-kull fard min afrād al-jam‘iyya al-mustantaj min ḥukm al-‘aql bi-mā taqtaḍīhi dhimmat al-insān taṭma‘innu ilayhi nafsuhu fī sulūkihi fī nafsīhi wa ḥusn al-akhlāq fī mu‘āmalat ghayrihi*). Religious freedom is the freedom to adopt theological and legal doctrines that are not heretical (*al-ḥurriyya al-dīniyya hiya ḥurriyat al-‘aqīda wa-l-ra’y wa-l-madhhab bi-sharṭ an lā takhruj ‘an aṣl al-dīn*), but interestingly, the power of rulers to make laws according to Ṭaḥāwī is itself cast as derivative of religious freedom, apparently on the grounds that political differences (*al-madhāhib al-siyāsiyya*) are like the legal differences of the historical legal schools. Accordingly, “kings and their ministers are free to adopt various rational measures using different methods all of which derive from one origin, namely that of good judgment and justice (*mulūk al-mamālik wa wuzarā’ahum murakkhaṣūn fī ṭuruq al-ijrā’āt al-siyāsiyya bi-awjuh mukhtalifa tarji‘ ilā marji‘ wāḥid wa huwa ḥusn al-siyāsa wa-l-‘adl*).”

Civic freedom (*al-ḥurriyya al-madaniyya*) bears similarities to the idea of the rights that flow from a social contract and it consists in that freedom which the citizens of a state (*madīna*) enjoy together, “it being as though the social institution which is

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<sup>21</sup> Al-Murshi, p. 127.

composed of the people of the country have mutually guaranteed and agreed to respect the rights of one another (*taḍāmant wa tawāṭa'at 'alā adā' ḥuqūq ba 'dihim li-ba 'd*) and that each one of them guarantees to the other that he will assist them in their performance of everything that does not violate the country's basic law and not to oppose him, and that they will reject, together, all those who oppose him in exercising his freedom on condition that he does not go outside the bounds of the law (*fa-ka 'anna al-hay'a al-ijtimā'iyya al-mu'allafa min ahālī al-mamlaka taḍāmanat wa tawāṭa'at 'alā adā' ḥuqūq ba 'dihim li-ba 'd wa anna kulla fard min afrādihim ḍammāna li-l-bāqīn an yusā'idūhum 'alā fī 'lihim kulla shay' lā yukhālif sharī'at al-bilād wa an lā yu'arīḍūhu wa an yunkirū jamī'an 'alā man yu'arīḍūhu fī ijrā' ḥurriyyatihi bi-sharṭ an lā yata'addā ḥudūd al-aḥkām).*<sup>22</sup> The last category of freedom is political freedom (*al-ḥurriyya al-siyāsiyya*) and that is the state's guarantee to the people that it will not interfere in their legal rights.<sup>23</sup>

Equality (*al-taswiya*) among the citizens (*ahālī al-jam'iyya*) is a natural attribute of humanity (*ṣifa ṭabī'iyya tī al-insān*) which requires that each person have all the civic rights (*al-ḥuqūq al-baladiyya*) of his fellow compatriots. Equality derives from the fact that all people share the same essence and attributes (*jamī' al-nās mushtarikūn fī dhawātihim wa ṣifātihim*), e.g., they all have the same organs and limbs, and they all have an equal need for the means of life. Accordingly, they are all equal with respect to the requirements of this temporal life (*kānū jamī'an fī māddat al-ḥayāt al-dunyā 'alā ḥadd sawā'*) and they all are the same with respect to using the things necessary to protect life

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<sup>22</sup> Ibid. p. 128.

<sup>23</sup> Ibid.

with no basis to giving preference to one over the other with respect to life.<sup>24</sup> Equality, however, is in reality only relative, and thus humans are unequal with respect to natural abilities, talents, and morals, but despite these actual differences, God has made them equal with respect to the law. Accordingly, “equality means just equality under the law (*fa-laysa li-l-taswiya ma ‘nā ākhar li-ishtirākihīm fī al-aḥkām bi-an yakūnū fihā ‘alā ḥadd sawā’*).” Moreover, because equality is a natural condition, it is inconceivable that positive laws could abrogate it (*lā yumkin an turfa ‘ hādhihi al-taswiya min baynihīm fī al-aḥkām al-waḍ‘iyya*).<sup>25</sup>

Concomitant with freedom’s requirement for equality in rights is equality in obligations, and freedom from an operational perspective means simply the faithful discharge of the obligations citizens owe one another, since in each case where a party claims a right there is another person who has an obligation to honor it. Consequently, rights and obligations are always concurrent and symmetrical (*al-ṭālib dhū al-ḥaqq wa al-maṭlūb huwa dhū al-wājib fa-l-wājibāt dā’iman mulāzima li-l-ḥuqūq lā tanfakku ‘anhā*).” A person who habitually performs his obligations and demands his rights (but no more) is described as *‘adl*, a person of integrity (*fa-man addā wājibātihi wa istawfā ḥuqūqahu min ghayrihi wa kān da’bahu dhālika*). This quality causes him to be upright in his speech and his actions, and to be fair to himself and others (*yantaṣif li-nafsihi wa li-ghayrihi*). This quality of integrity according to Ṭahāwī is the basis of all other moral virtues, including political virtues such as patriotism (*ḥubb al-waṭan*) and even religious piety,

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<sup>24</sup> Ibid. p. 129-130.

<sup>25</sup> Ibid. p. 130.

with the highest degree of integrity found in the Prophet’s statement “None of you believe until he wishes for his brother what he wishes for himself.”<sup>26</sup>

Throughout his discourse on the homeland, and indeed even in earlier sections of his treatise, Ṭaḥṭāwī has had occasion to refer to various different normative registers, including, *shar‘*, *sharī‘a*, *qānūn*, *ḥukm ṭabī‘ī*, *siyāsa* and *nāmūs*. And while it is not clear whether he used these terms rigorously, it appears that he was trying to weave an account of the polity that preserved the centrality of revealed law – which he usually calls *shar‘* or *al-sharī‘a*, with the term *sharī‘a*, when used as an indefinite, functioning in the sense of “basic law” – as a foundational element to the state while making the substantive claims of revealed law to be virtually indistinguishable from the rules deriving from the rational sources of legal obligation, *qānūn* and *siyāsa*. For example, he argues that the civic obligations that are the subject of civil freedom, whether arising out of revelation or positive law (*al-takālīf al-shar‘iyya wa-l-siyāsiyya*), are each consistent with rationality “because revealed law [i.e., Islamic law] and positive law are based on practical wisdom rationally accessible to us (*li-anna al-sharī‘a wa-l-siyāsa mabniyyatān ‘alā al-ḥikma al-ma‘qūla lanā*).” As a matter of proper theology, however, we cannot rely on what reason finds appealing or what it rejects as a stable foundation for our judgment until revelation confirms it as good or bad (*wa innamā laysa lanā an na‘tamid ‘alā mā yuḥassinuhu al-‘aql aw yuqabbihuhu illā idhā warada al-shar‘ bi-taḥsīnihi aw taqbīhihi*).<sup>27</sup>

His affirmation of the orthodox Ash‘arī theological position that reason cannot, on its own, establish the goodness or evilness of an act, does not cause him to deny what he

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<sup>26</sup> Ibid.

<sup>27</sup> Ibid. 131.

calls “natural judgment which is derived from reason (*al-ḥukm al-ṭabī‘ī al-mustanid ilā al-‘aql*).”<sup>28</sup> This kind of judgment originates prior to the time that God sent messengers with revealed law and was placed by God in human nature (*al-quwā al-bashariyya*) and is shared universally among human beings without regard to the particular laws (*qawānīn*) of each country with the purpose of directing them to what acts were permissible.<sup>29</sup> Moreover, every species, and every members of a species, human and non-human, is itself subject to natural laws (*nawāmīs ṭabī‘iyya*) which under no normal circumstances can be violated because they are constitutive of being a member of that species.<sup>30</sup>

Even though orthodox Islamic thought denies any power of causation to nature, a doctrine Ṭaḥṭāwī affirms, human beings are bound, pursuant to the rules of “natural laws,” to respect the observed order of causation in the natural world.<sup>31</sup> Revealed rules (*al-aḥkām al-shar‘iyya*) are largely, if not overwhelmingly, consistent with the rules of “natural laws” because those rules are “dispositional, God most high having created them in the human being and having made them co-extensive with him in existence, it being as though they are a mold for him in which he was formed and stamped in accordance with its model, and it being as though they were written on the tablet of his heart as a kind of divine inspiration without mediation, after which the laws of the prophets came (*fa hiya iṭriyya khalaqahā allāhu subḥānahu wa ta‘ālā ma‘a al-insān wa ja‘alahā mulāzima lahu fī al-wujūd fa-ka’annahā qālib lahu nusijat ‘alā minwālihi wa ṭubi‘at ‘alā mithālihi fī al-*

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<sup>28</sup> Ibid. 131.

<sup>29</sup> Ibid.

<sup>30</sup> Ibid. 131-132.

<sup>31</sup> Ibid. p. 132.

*wujūd wa ka-'annamā hiya suṭirat fī lawḥ fu'ādihi bi-ilhām ilāhī bi-dūn wāsiṭa thumma jā'at ba'dahā sharā'i' al-anbiyā'.*"<sup>32</sup> It was in reliance on these natural laws that the philosophers and the ancients could establish law during periods in which revelation was absent (*azmān al-fatra*).<sup>33</sup>

Despite the substantial congruence in substance between the rules advanced by revelation and the rules produced by reason, Ṭaḥṭāwī does not dissolve one into the other. Accordingly, there are times they can conflict, and when they do it is the distinguishing feature of Muslim states to give effect to revelation while states that depend exclusively on rational law making will of course adopt the rule that reason suggests. The one example that Ṭaḥṭāwī provides for such a conflict concerns women acting as heads of state: this can occur only in states whose laws recognize only positive law (*al-bilād allatī qawānīnuhā maḥḍ siyāsa waḍ'īyya*).<sup>34</sup> Because the rules of such countries are based on personal freedom without regard to revelation, it necessarily permits the mixing of the sexes (*ikhtilāṭ al-rijāl bi-l-nisā'*) whereas in Islamic states, whose laws are founded on the lawful and unlawful as set forth in revelation, pure reason is not a basis for establishing a rule (*tamaddun al-mamālik al-islāmiyya mu'assas 'alā al-taḥlīl wa al-taḥrīm al-shar'īyyayn bi-dūn madkhal li-l-'aql taḥsīnan wa taqbīḥan fī dhālika*).<sup>35</sup>

On the other hand, Ṭaḥṭāwī does not make non-religious reasoning (*siyāsa*) irrelevant to law making in an Islamic state either. The ruler has the power, for example, when he notices that something is beneficial for the people, to prohibit what revelation

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<sup>32</sup> Ibid. p. 133.

<sup>33</sup> Ibid.

<sup>34</sup> Ibid. p. 123.

<sup>35</sup> Ibid. p. 123.

otherwise permits to prevent a harm that could result to the people from practicing that otherwise permitted act (*wa innamā yajūz li-l-ḥakim idhā ra'ā maṣlaḥa zāhira li-l-ra'īyya shar'īyya mar'īyya ka-makhāfat ḍarar yalḥaq al-ra'īyya fī dīnihā aw dunyāhā an yanhā 'an ba'd al-mubāḥāt allatī yatarattab 'alayhā al-ḍarar*). What is forbidden is for the government to issue rules based on revelation according to its own inclinations, and on these matters, it is bound by the historical rules of Islamic law as found in the opinions of the scholars and the great legal scholars (*lā yasūgh li-mutawallī al-aḥkām an yaḥkum fī al-taḥrīm wa-l-taḥlīl bimā yulā'im mizājahu mimmā yukhālif al-awdā' al-shar'īyya al-manqūla 'an al-a'imma al-mujtahidīn wa lā 'ibrata . . . bi-l-istiḥsān al-ṭabī'ī wa-l-akhdh bi-l-ra'y min ghayr dalīl shar'ī bal ya'tamid mutawallī al-aḥkām 'alā fatāwā al-'ulamā' wa aqwāl al-mujtahidīn*).

Accordingly, the ruler has the power, indeed the duty, to adopt political rules to protect and enhance the welfare of the people, and when he adopts such a rule, provided that it is based on the people's welfare, it is binding (*ṣār wājiban*).<sup>36</sup> What is prohibited, then, is for the ruler to make positive law based arbitrarily, or to permit acts that revelation has prohibited. Whatever revelation has prohibited is simply outside the scope of civilization (*mā yamna'uhu al-shar' ṣarāḥatan aw ḍimnan fa-ghayru mubāḥ wa lā yu'addu tamaddunan*). On the other hand, the ruler is empowered to interfere with what revelation has ruled is permissible (*mubāḥāt*) in accordance with what reason considers to be good and bad by using his power as ruler to transfer them from one legal category, e.g., permitted, to another category, e.g., forbidden or obligatory, with a resulting improvement in the people's condition. Whereas a ruler's attempt to permit something

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<sup>36</sup> Ibid. pp. 123-124.

that revelation has forbidden cannot be deemed part of the civilizing project that is the state's duty, the ruler's use of reason to improve the condition of the people by supplementing revealed law with wise human law falls squarely within the domain of civilization, and indeed, "is precisely the civilization of which we speak."<sup>37</sup>

For Ṭaḥṭāwī rational law is not part of the *sharī'a* in the first instance, but it becomes a legitimate part of the law – provided that it used to further the ends of civilization, i.e., it furthers the public good – as a second order matter. Accordingly, one can say that while revealed law is foundational for true civilization in Ṭaḥṭāwī's view, it is not sufficient to perfect civilization. For that, rational law-making is required, and for this reason, *siyāsa* can be said to be revelation's complement in Ṭaḥṭāwī's rather than its rival that seeks to eliminate it.

#### IV. Khayr al-Dīn and the *Tanzīmāt*

Khayr al-Dīn al-Tūnisī was an Ottoman statesman who first served as prime minister in Tunisia where he implemented a series of wide-ranging political and administrative reforms. A fierce advocate of the internal Ottoman-reform movement known as the *tanzīmāt*, he came to the attention of the Ottoman Sulṭān who appointed him as the grand vizier of the Ottoman Empire. Policy disagreements with the Sulṭān, however, led him to resign a mere eight months after his appointment. He lived out the rest of his days in retirement in Istanbul.

His work, *Aqwam al-Masālik fī Ma'rifat Aḥwāl al-Mamālik*, a treatise on government and comparison of European politics with that in the Islamic world, both in his day and across history, became famous among 19<sup>th</sup> century reformers, with Ṭaḥṭāwī referring to it in his work *al-Murshid al-Amīn*, and calling him "the greatest of the princes

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<sup>37</sup> Ibid. 123-124.

and the pride of the great (*amīr al-umarā' wa fakhr al-kubarā'*).<sup>38</sup> *Aqwam al-Masālik*, unlike Ṭahṭāwī's *al-Murshid al-Amīn*, does not attempt to lay out an ideal theory of the state in the fashion of his contemporary; rather, it is a book of practical statecraft whose goal is to give a defense of the *tanẓīmāt*. Generically, it bears closest resemblance to the genre of writing in the pre-modern Muslim world known as mirrors-for-princes. Such works were intended to encourage rulers to deal justly with their subjects, both for reasons of practical power politics and for the religious duty to rule justly. Typically, such works would be written by a member of the religious class to the ruler of his day. Instead of argument, these works consisted largely of hortatory statements praising just rulers and condemning tyrants, anecdotes of exemplary rulers, both good and bad, and various aphorisms that were considered illustrative of the demands of practical justice.

Khayr al-Dīn's work is certainly not free of such elements, but what makes his work unique is that it is written by a politician primarily for religious scholars, in a radical reversal of the usual relationship between politicians and religious scholars. Khayr al-Dīn's decision to address directly the religious scholars was not motivated by a desire to author a theological treatise or to correct some long-standing theological error; rather, he believed that his reform program could only work if he was able to enlist the support of substantial numbers of the religious class. His need for their support was not limited to the necessity of neutralizing one potentially powerful source of opposition to the reforms; rather, he needed their affirmative support because he believed that Islamic law would play a critical reform in making his proposed reforms effective, but for his vision to succeed, the religious scholars would need to revise dramatically their role in the governance of Islamic societies.

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<sup>38</sup> Ibid. 98.

For Khayr al-Dīn, the prosperity and strength of a state were a function entirely of the quality of its governance. Under his theory, good governance produced security, which in turn encouraged the citizens of the state to invest, which in turn led to innovations and progress, as can be seen to have occurred in Europe.<sup>39</sup> Good governance is in turn dependent upon just laws and their effective administration. Accordingly, European superiority was not on account of a more favorable climate, as evidenced by the fact that other regions of the world were equally blessed with natural resources. Nor can European superiority be attributed to Christianity as is evidenced by the backwardness of the Papal states and the fact that Christianity is indifferent to secular affairs, being a religion devoted entirely to worship and asceticism. This means that the only explanation for European progress is their system of positive laws that fulfill the requirements of political justice to the point that justice has become natural in their lands (*al-amn wa al-'adl ṣārā ṭabī'tan fī buldānihim*).

It should come as no surprise to Muslims, Khayr al-Dīn argues, that justice is the centerpiece of European progress because the *Sharī'a* itself confirms the centrality of justice to the health of states and attributes their collapse to its absence.<sup>40</sup> This much of his argument is lock, stock and barrel from the mirror-for-princes genre, and indeed he even manages to cite an oft-repeated aphorism found from this genre of works which states that “sovereignty is the foundation [of a state] and justice is the guardian. Whatever lacks a foundation collapses, and whatever lacks a guardian is lost (*al-mulk*

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<sup>39</sup> *Aqwam al-Masālik*, p. 89.

<sup>40</sup> *Ibid.* p. 98.

*asās wa al-‘adl hāris fa-mā la yakun lahu asās fa-mahdūm wa mā lam yakun lahu hāris fa-dā’i’).*”<sup>41</sup>

What is unique in his argument is that autocracy (*istibdād*) itself is identified as contrary to justice and must be replaced or brought under control with some combination of revealed law, rational law, or both. Wherever autocracy is entrenched, one finds injustice and backwardness; wherever it is checked, one finds freedom and progress, something that is confirmed both by Islamic history and European history. When Islamic civilization was advanced and prosperous, Muslim rulers respected the *Sharī‘a* and did not rule autocratically. After the collapse of the caliphate into three warring factions – the ‘Abbāsids, the Fāṭimids and the Umayyads, the Ottomans rescued the Muslim community by reinstating respect for the *Sharī‘a* and promulgating just and rational laws (*qānūn*), in particular Sulaymān the Lawgiver in the 16<sup>th</sup> century CE. The relative decline of Islamic civilization in the modern period is precisely attributable to the decline in the efficacy of the *Sharī‘a* and the *qānūn* as rulers began to ignore their requirements with impunity.

Respect for the *Sharī‘a* is an important part of good governance because it entails numerous principles crucial for good governance, including: removing individuals from the control of their arbitrary passion; respecting the rights of others, whether Muslim or non-Muslim; taking account of the public interest in light of changing circumstances; warding off harm rather than seeking new benefits; and, choosing the lesser of two evils. But, its most important political value in Khayr al-Dīn’s estimation is its mandate against autocracy through the requirement of consultation (*shūrā*) in all public matters. The

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<sup>41</sup> Ibid. p. 99. Interestingly, he chose to include a version of this aphorism which uses “justice” as the guardian of the state instead of the more common version which instead speaks of “religion” as its guardian.

centrality of consultation in public affairs to the *Sharī‘a*’s conception of good governance is evidenced in Khayr al-Dīn’s opinion by the fact that God ordered the Prophet Muḥammad, despite his infallibility by virtue of his office as prophet, to consult his companions in all matters of public concern.<sup>42</sup>

The *Sharī‘a* also provides a mechanism for ensuring the maintenance of good governance: commanding the good and forbidding the evil. The *Sharī‘a* thus provides a coherent answer to the dilemma posed by the state: the state is needed as a restraint (*wāzi‘*) against humans’ tendency in nature to oppress one another, but without another restraint (*wāzi‘*) that can monitor the state, the state, instead of protecting rights, can itself despoil the rights of the people. The function of commanding the good and forbidding the evil in the *Sharī‘a* is precisely to monitor the state and assure that it complies with law. “Accordingly, there must be a countervailing force (*wāzi‘*) to the government, to stop it, whether in the form of divine law or rational politics. But, neither one of these can defend itself if it is violated, and for that reason, it is an obligation on the religious scholars of the community and its leading men to demand remediation when the law is violated (*fa-lā budda li-l-wāzi‘ al-madhkūr min wāzi‘ yaqif ‘indahū immā shar‘ samāwī aw siyāsa ma‘qūla wa kull minhumā lā yudāfi‘ ‘an ḥuqūqihī in untuhikat fa-li-dhālika wajaba ‘alā ‘ulamā’ al-umma wa a’yān rijālihā taghyīr al-munkarāt*).”<sup>43</sup>

But there is another reason that the *Sharī‘a* categorically rejects autocracy in Khayr al-Dīn’s view that has nothing to do with the risk that the ruler will be tempted to use his powers to oppress the populace: the likelihood that an autocrat, even a well-intentioned one, will be incompetent. Khayr al-Dīn makes the point that it is trivial law

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<sup>42</sup> Ibid. p. 100.

<sup>43</sup> Ibid. pp. 101-102.

that a ruler's actions under the *Sharī'a* are valid only to the extent that their decisions are consistent with the public good. Determination of the public good, however, is an extremely complex matter, and it is unlikely to be achieved if the ruler attempts to formulate rules based on his own opinion. Involvement of the leading men of the state in the institutional decision-making of the state, far from constituting an interference in the ruler's jurisdiction, is a mechanism to insure that his decisions are in fact consistent with the public good and are therefore lawful (*wa ma'lūm anna taṣarruf al-imām fī aḥwāl al-ra'yya lā yakhruj 'an dā'irat al-maṣlaḥa wa anna al-qiyām bi-maṣāliḥ al-umma wa tadbīr siyāsatiḥā mim mā lā yatayassar li-kulli aḥad fa-ta'īl al-irāda ḥīna'idhin innamā yaqa' fī shay' khārij 'an dā'irat al-taṣarruf al-musawwagh lahu*).<sup>44</sup>

Khayr al-Dīn's great innovation then is to argue that Islamic law, through the two principles of consultation and commanding the good and forbidding the evil, provides its own principled response to the problem of autocracy and despotism, and thus provides the basic foundations for good governance. For this structure of governance to work, however, religious scholars must take their role in governance seriously, for the application of the *Sharī'a* in particular circumstances is not something that can be achieved merely through proficiency in textual interpretation. This is because of the nature of *Sharī'a* norms: typically, they are not specific rules, but rather provide general governing principles, and accordingly Muslims must resort to the tools of practical reasoning and good judgment to determine how best these general principles can be applied in specific circumstances. What is needed then is an effective partnership between knowledgeable men of state and religious scholars "so that they can cooperate, the entirety of them, as though they were one person, toward achieving the community's

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<sup>44</sup> Ibid. p. 111.

welfare by discovering how to achieve the public good and ward off public harms . . . for it is men of state who grasp [questions of] what is beneficial and what is harmful while the religious scholars can then determine the form of the solution so that it is in accordance with the *Sharī'a*'s principles (*yata 'āwanūna majmū'uhum hā'ulā'i 'alā naf' al-umma bi-jalb maṣālihihā wa dar' mafāsidihā bi-ḥaythu yakūn al-jamī' ka-l-shakḥ al-wāhid . . . fa-rijāl al-siyāsa yudrikūna al-maṣāliḥ wa manāshi' al-ḍarar wa al-'ulamā' yuṭabbiqūna al-'amal bi-muqtaḍāhā 'alā uṣūl al-sharī'a*).<sup>45</sup>

Religious scholars who choose to isolate themselves from the affairs of state and are ignorant of domestic and foreign affairs are incapable applying the *Sharī'a*'s norms effectively in the particular social circumstances of his society. By remaining aloof from public life in the mistaken assumption that it is immoral to participate in politics, religious scholars in fact aid the cause of despotism: by failing to discharge their duty to provide appropriate norms of the *Sharī'a* to restrict the power of rulers, they effectively give them free reign to do as they wish.<sup>46</sup> Indeed, he instead argues that the cooperation of the learned religious scholars with the men of the state, with the aim of helping them achieve the public good, is among the most important obligations of the law because that is the only effective means for religious scholars to learn sufficiently about the world so that they can effectively apply the *Sharī'a* (*min ahamm al-wājibāt shar'an li-'umūm al-maṣlaḥa wa shiddat madkhalīyyat al-khulṭa al-madhkūra fī iṭlā' al-'ulamā' 'alā al-ḥawādith allatī tatawaqqaf idārat al-sharī'a 'alā ma'rīfatihā*).<sup>47</sup>

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<sup>46</sup> Ibid. p. 153.

<sup>47</sup> Ibid. p. 152.

Khayr al-Dīn is effectively calling for an alliance between the technocratic and political elite of the Muslim world, on the one hand, and its religious scholars, on other hand, to act in a coordinated fashion to develop a constitutional order (*ṭarīb tanẓīmāt*), an order which would also include substantial positive legislation, that could effectively control the autocracy of rulers that is in accordance with the principles of the *Sharī'a* (*al-uṣūl al-shar'iyya*) but at the same times incorporates the rational considerations of the public good (*mu'tabirīn fī [al-tanẓīmāt] min al-maṣāliḥ aḥaqqahā wa min al-maḍārr al-lāzima akhaffahā*).<sup>48</sup> Significantly, what he calls for is respect for the *principles* of the *Sharī'a* (*al-uṣūl al-shar'iyya*) rather than the detailed substantive legal doctrines of the jurists; the actual substance of the new constitutional and positive legal orders would be a product of *siyāsa*, rational law-making that is based on the public good, rather than textual interpretation of revelation. And for this reason, his rhetoric makes clear that while he is calling for a partnership between the men of state and leading religious scholars, the role of the latter is largely technical, i.e., confirming that the form of the new rules is as consistent with the principles of Islamic legality as practicable; it is the men of state, the experts in the empirical domain of what constitutes good policy, who are entrusted to making the substantive decisions regarding the contours of the public good.

The common belief of Europeans that Muslims' adherence to the *Sharī'a* precludes Muslim states from achieving progress is, therefore, mistaken, but it is a mistake for which they must be excused in light of the reality of poor governance in Islamic countries. For Khayr al-Dīn, the blame for the reality of poor governance lies on the shoulders of two groups: the rulers of the day who lack sufficient fidelity to the

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<sup>48</sup> Ibid. p. 153.

*Sharī'a*, and the religious scholars' neglect of their duty to keep abreast of current affairs so they can meaningfully assist the government pursue the public good.<sup>49</sup>

Khayr al-Dīn's criticism of the religious class was relatively restrained. Our next thinker, Rashīd Riḍā was not so gentle.

#### V. Rashīd Riḍā and the Relationship Between Political and Religious Despotism

[This section will discuss Rashīd Riḍā's views of the political choices facing the Muslim world at the end of World War I as set forth in his book *The Caliphate*, the symbiotic relationship between political and religious despotism, how secularism in the Muslim world is largely a reaction to the alliance between political and religious despots, and his argument as to why a reformed conception of Islamic law that is grounded in representative institutions offers the only way forward for the Muslim world, as well as offering the world a coherent alternative to European materialist civilization that threatens the destruction of humanity.]

#### VI. The Theo-Political in the Egyptian Revolution

[This section will analyze the various positions toward the January 25<sup>th</sup> Egyptian Revolution taken by different religious figures in Egypt. It will argue that a plausible case can be made for calling the Jan. 25<sup>th</sup> Revolution an Islamic Modernist Revolution, based on the substantive values of the Revolution. It is not, however, an Islamic revolution either in the sense of the Iranian Revolution of 1979, nor does it represent a triumph for other conceptions of the theo-political among Muslim thinkers, whether traditionalist or revolutionary. It is the centrality of Islamic modernism to the Islamic currents supporting

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<sup>49</sup> Ibid. p, 165.

the Revolution that in turn allowed them to make common cause with non-Muslim elements in society, whether Christian or secularist.]

## VII. Conclusion

[I will conclude with an overview of the legacy of Islamic modernist politics, how it should be understood from the perspective of liberal political theory, and the possibilities that it may transform itself from a tradition that views democracy as an indispensable tool for effective governance to an end sought for itself on grounds such as the equality of the person.]