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# Law and Political Islam's Transformations: Egyptian Islamists and the Notions of a Civil State and a Religious Party

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## Abstract

Two notions have been at the center of the Egyptian constitutional debates since 2011: the ‘civil state’ and the ‘religious party’. The Muslim Brothers have played on the ambiguity of the notion of a ‘civil state’ as being neither secular nor theocratic, just as their understanding of an Islamic state. The Salafi al-Nūr Party has long refused to embrace the notion. Nevertheless, in 2019 it obtained from the Parliament’s Speaker a definition close to the one defended by the Muslim Brothers and endorsed it as a victory against the secular interpretation of the term. The same ambiguity appears regarding the notion of a ‘religious party’. The al-Nūr Party tried to prevent the interdiction of such parties in the 2014 Constitution. At the same time, it distances itself from the notion, and abides by the law, including Christian members, presenting female candidates, and organically separating political and religious activities.

**Keywords** Egypt, Constitution, Islamism, Civil State, Religious party

## Résumé

Deux notions ont marqué les débats constitutionnels en Égypte depuis 2011 : l’« État civil » et le « parti religieux ». Les Frères musulmans ont joué sur l’ambiguïté de la notion d’« État civil » comme n’étant ni séculier ni théocratique, à l’instar de leur définition d’« État islamique ». Le parti Nour a longtemps refusé cette notion. Néanmoins, il a obtenu en 2019 du porte-parole du parlement une définition proche de celle défendue par les Frères musulmans, présentée comme une victoire contre les interprétations séculières du terme. La même ambiguïté marque la notion de « parti religieux ». Le parti Nour a essayé d’empêcher l’inscription de l’interdiction de tels partis dans la constitution de 2014. Il se distingue cependant ostensiblement de cette notion, et respecte la loi en intégrant des membres chrétiens, en présentant des candidates aux élections, et en séparant organiquement ses activités politiques et religieuses.

**Mots-clés** Égypte, Constitution, Islamisme, État civil, Parti religieux

## Law and Political Islam's Transformations: Egyptian Islamists and the Notions of a Civil State and a Religious Party

Most of the literature on secularization theory draws on the experience of the Western world, and Muslim-majority countries have been understudied in this regard (Stolz, 2020). Yet, a non-Western secularization process can bring a fresh perspective (Addi, 2021). For instance, Egypt has recently known fast-paced transformations – accelerated with the 2011 revolution – of its religious institutions and of their linkage with individuals, which affect both the Muslim majority and the Christian minorities (Du Roy and Gabry-Thienpont, 2019). These transformations impact not only the religious field, but also its relations with other institutions, such as education (Aşık, 2012; Garrec, 2017) or the media (Rock-Singer, 2019).

One key dimension of these changes resides in their interactions with the legal and political spheres. Indeed, due to the idea that Islam embraces a legal and political system, its relations with positive law, secular states and politics have long been under scrutiny (Khadduri, 1956; Vatikiotis, 1987; Esposito, 1998; An-Na'im Na, 2008; Hussin, 2021). In this regard, Islamism – as a phenomenon at the intersection of politics and religion – has fed countless debates among academics (Ayubi, 1991; Roy, 1994; Esposito, 1997; Kepel, 2000; Lewis, 2010; Esposito et al., 2018; Burgat, 2020; Gana and Ait Aoudia, 2020). After 2011, Egypt has witnessed the birth of several Islamist political parties, which took part in the elections, and in the process of writing a new constitution. At the same time, their very existence has been subject to legal controversies.

The article will focus on the relations of the two main Egyptian Islamist political parties of the time – the Muslim Brothers' Freedom and Justice Party (FJP) and the Salafī Call's al-Nūr Party – with two politico-legal notions which have been at the center of the constitutional debates since 2011, and that appear in the current Egyptian constitution, as amended in 2019: the 'civil state' (Blouët and Steuer, 2015; Lavie, 2017, 2019) and the 'religious party' (Steuer, 2019). These relations have been twofold: the Islamists have played a role in the drafting of the constitutions (Moisseron and Bouras, 2015; Blouët, 2016; Jermanová, 2019), and they had to conform to legal requirements to be officially recognized as political parties and participate in the elections (Bouras, 2017).

If the semantic haziness surrounding the notion of a 'civil state' allows almost every political actor to claim it<sup>1</sup>, the opposite is true for the notion of a 'religious party', which is forbidden by article 74 of the 2014 Constitution. No Egyptian political party would call itself a religious party. Indeed, the administrative jurisprudence has for a long time narrowed the meaning of this notion, which never prevented the creation of Islamist political parties advocating the application of *sharī'a*<sup>2</sup> or describing themselves as 'civil parties with a religious frame of references'<sup>3</sup> (Steuer, 2019).

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<sup>1</sup> Jean-Philippe Bras (2016) calls it a "luggage term", as its content significantly varies according to the identity of its user. The notion is rooted in early modern Middle Eastern political thought, but its appearance in positive law is recent and dates to the Arab Spring's aftermath (Blouët and Steuer, 2015).

<sup>2</sup> Namely, the al-Nūr Party, but also the Construction and Development Party and the Aşāla Party.

<sup>3</sup> The Wasat Party and the Freedom and Justice Party.

Though the article will focus on the two parties, both created in 2011, which dominated the 2011-2013 democratic experiment, namely the FJP created by the Muslim Brotherhood and the al-Nūr Party, the “political arm” (Lacroix, 2016: 6) of the Salafi Call<sup>4</sup>, it will also make occasional references to smaller Islamist parties (the Wasat Party, the Building and Development Party, the Watan Party, the Asāla Party) to help the reader to better understand the different appropriations of the two notions within the Egyptian Islamist political narrative. The article will particularly focus on the al-Nūr Party, not only because it has been less studied than the Muslim Brothers, but also because it is the only Islamist party still active on the Egyptian political and parliamentary scenes until today, with the FJP having been dismantled after the 2013 coup. The al-Nūr Party has been involved in the writing of both the 2012 and the 2014 constitutions, as well as in the 2019 process of constitutional amendments. Thus, its positions – and their evolution – are of utter importance for understanding the notions of a ‘civil state’ and a ‘religious party’ in the current Egyptian constitutional and legal context. In this paper, we will contrast these positions with those of the Muslim Brotherhood’s FPJ, following Shaimaa Magued’s (2020) explanation of the evolution of the al-Nūr Party regarding the notion of a civil state, by examining its relations with the Muslim Brothers. In Magued’s view, the Salafi party was hostile towards this notion when it was competing with the Muslim Brotherhood to become the main Islamist contender in both religious and political fields. However, since the exclusion of its competitor in 2013, the al-Nūr Party has been free to develop a more conciliatory position towards the state and the secular political parties.

By adding the notion of a ‘religious party’ into the mix, the article challenges and nuances nonetheless this interpretation. We will see that both organizations developed ambiguous understandings of the notions of a civil state and a religious party, and that the biggest turn in the al-Nūr position in this regard did not take place in 2013, after the disappearance of the FJP, but later, in 2019. Then we will see how the legal definitions of both notions have impacted the discourses and activities of these two parties, at least during the time when their interest was in conforming to the law.

This article is based on a critical discourse analysis of several different sources: interviews with political actors (in person or published in various media sources), statements written in the name of the studied political organizations, legal texts and texts related to jurisprudence (given that constitution-makers, lawmakers, and courts are social actors). This approach fits the aim of the paper, which consists in studying the interactions between the legal sphere, the political scene, and the society as a whole. Indeed, critical discourse analysis aims to show how social structures determine properties of discourse and how discourse has effects on social structures (Fairclough, 2010). After a brief overview of the relevant political context, we will see how the two main Egyptian Islamist organizations interpret the notions of a ‘civil state’ and a ‘religious party’, and how their legal definitions have affected them in return.

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<sup>4</sup> This quietist grassroots preaching organization was founded in the 1970s. In three decades, it became the main competitor of the Muslim Brotherhood within the religious field, while maintaining a low-key profile (Lacroix and Shalata, 2018).

## Review of literature and definitions

According to Casanova (1994, 2011) secularization theory consists of three hypotheses regarding the place of religion in a given society: decline, privatization and differentiation, with the last one only being plausible. Understood as differentiation, the process of secularization presents two related and often conflicting dimensions: the separation between the state and religion and the capacity of the modern state to subordinate and reorganize religious institutions and large aspects of the religious life (Asad, 2003, 2006; Mahmood, 2015, 2017). This process implies coercion and sometimes violence. Historically, secularization happened first in Europe, but this does not entail that European societies are perfect models of secularization. Moreover, there is no uniformity among secularized societies regarding the way they organize relations between religious and non-religious institutions.

In the context of Sunni-majority societies, the opposite of secularization could be specified as ‘Islamization’, that is to say, the process of bringing positive law into conformity with *sharī‘a*, narrowly understood as a “scripturally-derived religious legal doctrine” (Quraishi-Landes, 2015). Both phenomena should be understood in relation to each other: the secularization process marginalized religious spaces and institutions, and political Islam can be analyzed as a reaction against this marginalization (Zubaida, 2005; Dalacoura 2018; al-Azmeh, 2019: 407–446). Recently, some authors have shown how state-controlled religious institutions played a role in the birth of political Islam (Cesari, 2018), and in the 1970s re-Islamization, co-constructing it along with Islamist organizations through competition and cross-pollination (Rock-Singer, 2019).

By ‘secularism’, we mean the idea that “religion as a source of authority in social and intellectual questions is not privileged over other sources of authority in societies internally differentiated” (al-Azmeh, 2019: 8). Then, in Sunni-majority societies, secular political forces are those who oppose the deep effective translation of the above-mentioned narrow conception of *sharī‘a* into positive law (or at least its limitation to the realm of family law), even if they can express a generic support for the word *sharī‘a* (Berger, 2019) and accept its symbolic role in the Constitution (Blouët and Steuer, 2015). This is the case in Egypt, whose Constitution states in its article 2 – since 1980 – that the principles of *sharī‘a* are the main source of law. The Supreme Constitutional Court jurisprudence *de facto* restricted the scope of this article to make it correspond to broad, already recognized universalistic values, except in the matter of family law. During the 1980s, this article and its interpretation became a point of consensus within the Egyptian political field, as this article was accepted by both the secular political players and the Muslim Brotherhood.

Yet, in 2012, under the presidency of the Muslim Brother Muḥammad Mursī, Salafi political parties reopened the debate, asking to remove the word ‘principles’ from article 2, thus leaving *sharī‘a* itself to become the main source of Egyptian law. If they failed in this matter, they nevertheless succeeded in introducing into the 2012 Constitution two articles aiming at enforcing a deeper translation of *sharī‘a* into the law. Fueling demonstrations against President Mursī, these articles played a role in the eventual fall of the Islamists and the suspension of the 2012 Constitution. Indeed, the following six months were marked by a rampant contestation of Mursī’s rule. Then, the al-Nūr party started to distance itself from the Muslim Brotherhood to

the point that when Mursī was overthrown by the Minister of Defense ‘Abd al-Fattāḥ al-Sīsī on July 3, 2013 al-Nūr’s leaders publicly appeared side by side with Islamic and Christian religious authorities to support the coup. Since then, the Muslim Brotherhood has been excluded from the Egyptian political life, and the constitutional debate regarding the relationship between the religions and the state has focused on two notions: the ‘civil state’ and the ‘religious party’.

The word ‘civil’ (*madanī*) appeared in the work of 19<sup>th</sup>-century philosophers such as Farah Antūn or Muḥammad ‘Abdū as an alternative to the term ‘secular’ (*‘ilmānī*), and it was used to refer to institutions with a non-religious basis (al-Azmeh, 2019: 7). The notion of a ‘civil state’ is characterized by an important semantic haziness due to the fact that the word *madanī* means ‘civil’ as well as ‘civilian’. Consequently, depending on who uses it, the term ‘civil state’ can designate the opposite of an ‘Islamic state’, the opposite of a ‘military state’, or something excluding both alternatives simultaneously. This property explains why this notion is at the same time a point of consensus and a field of tension, with each political actor struggling to fill this consensual signifier with its own definition (Hill, 2013; Blouët and Steuer, 2015; Bras, 2016). The irruption of Salafī political actors in 2011 created a breach in this consensus. In this article, we will show how and why the main Salafī party, the al-Nūr Party, eventually joined the consensus in 2019 by promoting a vision of the civil state close to that of the Muslim Brothers.

The 2014 Constitution has also put on the forefront of the political scene the notion of a ‘religious party’. Indeed, even if the Egyptian law has banned ‘religious parties’ since 1977, this ban has been introduced into the Constitution only in 2014. Just like the notion of a ‘civil state’, the signifier ‘religious party’ is an object of consensus, with no Egyptian party describing itself as being religious. In the same way, it is a field of tension, with the political actors struggling to impose their own definition on the term, in particular in front of the courts, which can decide on whether to ban a political actor (Steuer, 2019). Yet, even in the post-2014 context, no party has ever been forbidden on this basis until now. Islamist parties have developed different discourses and strategies to distance themselves from this notion, notably because of these legal constraints. When the FJP leaders were presenting their party as a ‘civil party’, the Salafis were rejecting this term until 2019, and had to develop alternative strategies to avoid presenting themselves as belonging to the forbidden category of ‘religious parties’.

Yet, discursive strategies are not sufficient to avoid a legal ban. In this matter, the interpretations and definitions of the Court prevail. Thus, Islamist parties had to adopt names that were not obviously religious, and adapt their organizational structures. Indeed, the FJP’s lack of autonomy from the Muslim Brotherhood has played a major role in its doom, and in the failure of the democratic experience in Egypt (Vannetzel, 2017; Zollner, 2019). In this article, we will show how the al-Nūr Party managed to distance itself from its own mother-organization – the Salafī Call – in the post-2013 context, while it was under the pressure to prove itself as a ‘non-religious’ party.

Lastly, the Court jurisprudence forbids creating a party where only one religion or one gender would be represented. Consequently, all the Egyptian parties need to have at least some Christians and some women among their members. The issue is particularly critical for Islamist parties because the *sharī‘a* tends to elicit conflicts with gender equality and religious equality

(Berger, 2019: 3–5). Yet, during the past half-century, many Islamist organizations have shifted from condemning women’s public presence to seeing women as agents of the Islamization and moralization of public life (Jad, 2018; Rock-Singer, 2019: 154–178). For the Islamist parties advocating the idea of a ‘civil state’ (Wasat Party and FJP), the inclusion of women and Christians as members of the given party did not create doctrinal difficulties. Conversely, the legislation on parties and elections (with its quotas for women and Christians) represented a tougher challenge for the al-Nūr Party. The need to comply with the law in this matter facilitated the organizational separation of the party from the Salafi Call, allowing the latter to maintain its doctrinal integrity while the former made compromises.

## The interpretations of the two notions by the Islamist parties

Among the secularists, the term ‘civil state’ is often used to avoid the expression ‘secular state’, which is perceived as anti-religious by large sections of Egyptian society (Hamzawi, 2011; Katbeh, 2014). On the opposite side, the secular interpretation of what a ‘religious party’ is lacks in clarity (Steuer, 2019). By contrast, the Islamists had to develop a sophisticated interpretation of both notions to support or oppose their inclusion in constitutional texts.

### *The notion of a civil state*

In the view of the Muslim Brothers, the civil state does not oppose the Islamic state, but only the rule of the military over the state. In the FJP’s manifesto, the expression “Islamic civil state” (*dawla islāmiyya madaniyya*) is used, highlighting the fact that both words are quasi-synonymous in the conception of its authors. In another part of the same text, this equivalence is expressed even more explicitly: “the Islamic state is civil in nature, as it is not a military state ruled by the army”<sup>5</sup>.

Until 2019, contrary to the Muslim Brothers, the leaders of the al-Nūr Party did not feel the need to hide behind an ‘Islamically correct’ definition of the civil state<sup>6</sup>. At that time, they were insisting on their refusal of this notion<sup>7</sup>, as they considered it an invention of the West (Magued, 2020). For them, this notion was in contradiction with article 2 of the Constitution, which makes “the principles of Islamic *sharī‘a* the principal source of legislation”, and they argued that it is unconstitutional to ask for a separation of the “church and the state”<sup>8</sup>. In the 2012 Constitutional Committee, al-Nūr’s representatives pushed for the adoption of article 219, which was intended to set the obligation to interpret article 2 following the methods of the four traditional schools of Islamic law. In addition, they also supported article 4, which states that the Azhar’s body of senior scholars is to be consulted in all matters pertaining to this domain.

For the Salafis, the importance of applying *sharī‘a*, and the implementation of an Islamic state are in the center of their mission – to realize the principle of the oneness of God (*al-tawhīd*).

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<sup>5</sup> <https://egyptianpartiesprograms.wordpress.com/برنامج-حزب-الحرية-و-العدالة/>

<sup>6</sup> The term does not appear even once in its manifesto: <https://egyptianpartiesprograms.wordpress.com/برنامج-حزب-النور/>

<sup>7</sup> <https://anasalafy.com/ar/24914-الفرقان-بين-الدولة-التيوقراطية-و-الدولة-المدنية-ودولة->

<sup>8</sup> Interview with an al-Nūr Party representative in the Parliament.

For the Salafi Call, every Muslim must denounce corrupt political actions but must not contest the *walī al-amr*. Political figures can therefore be criticized, but not the highest political authority, who remains untouchable as long as he claims to believe in God and obey the precepts of Islam. This untouchable position is meant to avoid any risk of sedition and chaos among the believers (*fitna*). Consequently, the al-Nūr Party's MPs never criticize the President of the Republic. They criticize the politics promoted by the ministers but not those of the *walī al-amr*. This behavior allows them to criticize certain political decisions without situating themselves among the regime opponents.

Following Muḥammad Mursī's removal in July 2013, demonstrations in support of the Muslim Brothers were severely repressed, and this process culminated with the Rāba'a massacre on August 14, 2013. At that time, the al-Nūr Party and the Salafi Call were the only Islamist groups to support the action of the military and to position themselves against the Muslim Brotherhood. This isolated them from the religious scene in general and the Salafi sphere. Even though the Muslim Brothers were the rivals of the Salafi forces, the al-Nūr Party's involvement in the fall of an Islamist government and the repression against not just the Muslim Brothers, but also the Salafis who went out to the demonstrations in support of the Muslim Brothers, marked a shift in the religious and political scene. Several members of the Salafi Call left the organization<sup>9</sup>, and Muḥammad Ismā'īl al-Muqqaddam took his distance from the movement he contributed to founding in the 1970s.

While the al-Nūr Party was able to have representation in the Committee of the Fifty<sup>10</sup>, and to participate in the writing of the 2014 Constitution, their attendance did not lead to the Islamic references present in the 2012 Constitution being maintained in the 2014 Constitution. But it nevertheless allowed the al-Nūr Party to regain some legitimacy within the political realm. They "proved" their loyalty and one of their spokespersons said: "We proved that we were not like the Muslim Brothers; we are not opportunists; we think about the interest of the nation first (...). We know how to make concessions"<sup>11</sup>.

The opposition of the al-Nūr Party to the constitutional amendments in April 2019 – namely against the reference to the civil state in the constitution – was not aimed to provoke the military regime. It, however, forced the Parliament's Speaker to specify the meaning of the term. Indeed, answering the worries of the al-Nūr Party's MPs, 'Alī 'Abd al-'Āl declared that 'civil state' means three 'Nos': "No to the secular state. No to the police state<sup>12</sup>. No to the religious state". Thus, the al-Nūr Party obtained an official recognition of a non-equivalence between a civil state and a secular state. This clarification has been presented as an achievement, and a contribution of the party not only to the Egyptian constitutional and political debates, but also

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<sup>9</sup> This is not clear at present as there is no solid data or survey coming from the political actors of the party. But some of the interviewees say that this happened.

<sup>10</sup> A committee of fifty members nominated in September 2013 by the interim authorities to revise the contested 2012 Constitution.

<sup>11</sup> Interview with an al-Nūr Party spokesperson, carried out in December 2018.

<sup>12</sup> It is worth noting that 'Alī 'Abd al-'Āl decided to contrast the civil state to the 'police state', and not to the 'military state'.



to the Islamic doctrine<sup>13</sup>. The last ‘No’, “No to the religious state”, could also be interpreted by the al-Nūr Party as an opposition to the ‘theocratic state’, which for them means – following Muḥammad Abdūh – a government of priests, which is something unthinkable in Sunni Islam.

### ***The notion of a religious party***

The ban on religious parties dates to the political party law of 1977, which falls under the era of Anwar al-Sādāt. The text of the law stated the following: “The party, in its principles, programs, the exercise of its activity, or the election of its leaderships or members, shall not be founded on a religious, class, sectarian, categorical, or geographical basis, or on the exploitation of religious feelings, or discrimination because of race, origin, or creed... No membership conditions shall be set based on discrimination because of religious creed, origin, race, or social standing”<sup>14</sup>. The ban was then constitutionalized in the 2007 revision of the Constitution. In that respect, article 74 of the 2014 Constitution changed neither the textual legal framework on the matter, nor its formal and restrictive interpretation by administrative courts<sup>15</sup>.

This interpretation was set by the High Administrative Court<sup>16</sup> and in practice means that the only requirement that a party must fulfill to be considered as non-religious is to have at least one adherent of another religion among its members<sup>17</sup>. The Court has also stipulated two other ways to qualify as a religious party: a party qualifies as such if its organization, principles, and beliefs are strictly religious, or if some of its activities are based on religion<sup>18</sup>. However, as far as we know, these substantive definitions have never been applied by administrative courts, leaving Islamist parties with the easy task of incorporating at least one non-Muslim in order not to be qualified as a religious party. Following the overthrow of Mubārak during the year 2011, helped by the restrictive interpretation of the law by the Courts, several Islamist parties have been easily legalized, such as the Freedom and Justice Party (FJP), the al-Nūr Party, and the Building and Development Party (BDP), the political branch of the formerly terrorist organization *al-Gamā‘a al-Islāmiyya*.

Indeed, the new party law – adopted on March 28, 2011– was not perceived as an obstacle by the Muslim Brothers, who estimated that it was possible to create a ‘civil party’ meeting the legal requirements (Guirguis, 2011). The then-General Secretary of the FJP, Muḥammad Sa‘ad al-Katātnī, denied that religion was forming the substance of his party and preferred to consider it as a “frame of reference” within which its political vision was articulated<sup>19</sup>. Accepted on June 6, 2011, the FJP was the first political party founded under the new legal conditions. Even after the fall of the Muslim Brothers in 2013, their party has never been recognized as ‘religious’ by Egyptian courts. The FJP was banned in 2014, but on the basis of its links with the Muslim

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<sup>13</sup> <https://www.mohamadalsaidi.com/?p=6871>

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<sup>15</sup> Administrative courts are competent in matters of litigation between society and the state.

<sup>16</sup> It is the highest court of the administrative judicial order. Above it, one finds the Supreme Constitutional Court, but it has yet to produce meaningful decisions on the notion of a religious party.

<sup>17</sup> *Al Watan*, April 15, 2017.

<sup>18</sup> *Ibid.*

<sup>19</sup> *Al-Jazeera*, November 27, 2011.

Brotherhood, which was deemed as a terrorist organization. Other Islamist parties (BDP, the Asāla Party, the Watan Party, the Wasat Party) have been *de facto* prevented from acting by state repression, but have never been banned, despite the many attempts to get them banned coming from secular organizations (Steuer, 2019). This highlights the symbolic importance of this designation, not only in terms of repression, but also in terms of delegitimizing.

During the 2013 discussions aiming at constitutionalizing the ban on religious parties, Ṣalāḥ ‘Abdel-Maqṣūd, a representative of the al-Nūr Party within the Committee of Fifty<sup>20</sup>, opposed the ban, but only because according to him the notion of religious parties lacks clarity and could be used in an arbitrary way<sup>21</sup>. He pointed here to the vast interpretive potential of the term, meaning that the new provision could be easily turned against parties like his own. The al-Nūr Party did not straightforwardly denounce the idea to forbid religious parties in order to avoid being associated with this category. Maqṣūd thus remained consistent with the party’s discursive strategy of defining themselves as a non-religious party to deter legal challenges, which is highlighted by the fact that he assessed that his party would in fact not be threatened by the ban.

Another strategy of the Salafi actors for avoiding the ban is to call on article 2 of the Constitution<sup>22</sup>. This view refers to two possible understandings of article 2’s function within Egyptian constitutional law. The first consists in seeing it as a supraconstitutional article, with supraconstitutionality being defined as a relationship of hierarchy between one constitutional norm and another (Troper, 2001). In this framework, article 2 invalidates the ban on religious parties mentioned in article 74 due to its superior value (Blouët, 2019). The second understanding also reinforces the normative force of article 2 but in a less straightforward way, not through drawing on the idea of hierarchy but rather through drawing on constitutional hermeneutics. Thus, a holistic constitutional theory viewing constitutional texts as a set of interconnected and interdependent articles, could see article 2 as a reference in the light of which all the other articles must be interpreted, thereby minimizing the binding force of article 74.

## **The Islamist parties’ practices in relation to the two notions**

The Islamist parties designed different strategies that notably enabled them to cope with the law forbidding the creation of religious parties. These strategies proved to be successful in this matter since these parties were legally recognized by courts in 2011. Both notions of the civil state and religious parties have accompanied an evolution of the Islamist parties’ practices in several areas: the choice of the political parties’ names, separation of religious and political activities, and integration of women and Christians into their ranks.

Islamist parties aiming at legal recognition would never use an overtly religious name or symbol (Yankaya et al., 2019). Thus, the terms ‘God’ and ‘Islam’ are banished from the denominations of these parties. Nevertheless, their names sometimes contain a reference to Koranic principles

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<sup>20</sup> We refer here to the Committee which wrote the text of the current Constitution that was adopted in 2014.

<sup>21</sup> *Al-Arab*, November 5, 2013.

<sup>22</sup> See for instance, *Al Arabiya News*, October 15, 2014, and September 23, 2015.

(e.g., *wasat*, the Middle) or to the name of a surah (*nūr*, the Light). Even the term ‘justice’ (*‘adāla*) in the name of the FJP carries Islamic references (Seniguer, 2013).

The same ambiguity can be found in the Islamists’ attitude toward the separation of political and religious activities. In the mid-1990s, some younger leaders of the Muslim Brotherhood came back with the idea to create a party, which would be their own, while the older generation would continue to control the organization. Consequently, their goal was to separate politics from the religious activity, and their main argument was that such a separation would be in accordance with the law (Martini et al., 2012: 17–18). In 1996, they announced the creation of the Wasat Party, advocating the idea of a ‘civil state within an Islamic frame of reference’, and filed a request to gain legal recognition. The party was eventually legalized by the courts in 2011, a few days after the fall of Mubārak.

Meanwhile many members of this young generation stayed within the Muslim Brotherhood and animated its reformist wing (Wickham, 2013: 120–153). They were trying to convince the leadership of the organization to create an official party of the Muslim Brothers and were pushing for the adoption of the notion of a ‘civil state within an Islamic frame of reference’. After the departure of Mubārak, the new political context was providing an incentive to create such a party, and the leadership of the organization agreed to create the FJP. But even if they let some of the reformist leaders (such as ‘Isām al-‘Aryān) gain some positions in the party, they maintained a strong control over the FJP. The first leadership of the party was directly elected by the consultative council of the Muslim Brotherhood, and key positions were reserved for members loyal to the older generation (Sa‘ad al-Katātnī, Muḥammad Mursī ). Furthermore, the FJP had the obligation to consult the leadership of the Muslim Brotherhood on all matters related to its political strategy<sup>23</sup>. Even if the FJP was officially recognized in June 2011, the Muslim Brothers never accepted a severing of the link of subordination between the FJP and the mother organization (Abbassi, 2013; Vannetzel, 2017). This lack of a separation between the two movements ultimately caused the doom of the party, which was legally banned in 2014 because of its links with an organization that from then on was deemed as terrorist.

Desirous of conforming to the law, the founders of the al-Nūr Party had to show a visible distance *vis-à-vis* the religious movement it came from, with separate administrations and local authorities for the party and the Salafi Call. This separation was a source of conflict. In 2012, ‘Imād Abū al-Ghaffūr, the principal leader of the party, wanted to further distance al-Nūr from its religious base. Yāsir Burhāmī, the Salafi Call’s leader, opposed this project. Eventually, Abū al-Ghaffūr had to leave the party at the end of 2012. He created another party called al-Waṭan in January 2013, which accepted referring to a ‘civil’ identity of the Egyptian state. In 2014, due to article 74 of the Constitution, the al-Nūr Party started to put more emphasis on its separation from the Salafi Call.

It also started to create associations to help people in catastrophe situations around 2019. Significantly, it began to invest in the field of humanitarian relief for populations affected by environmental catastrophes: floods, earthquakes, etc. Before then, after the inundations in the southern part of the country, where a lot of people lost their homes, the party had created groups

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<sup>23</sup> Interview with an FJP leader. May 2, 2011.

of volunteers to build houses and feed homeless people. On the Facebook page of the party, we could see pictures of the teams working while wearing tee-shirts of the al-Nūr Party. They see these actions as a new strategy to open the party to new territories of political action. They choose to use charity associations and to reproduce the same schema that the Salafi Call used. Besides the charity work being an advantage to the party because it will bring them new electors, the Salafi Call will probably also benefit from it, and see it as a new area in which to preach. The disbanding of the Muslim Brotherhood has left a void in the charity field, especially in the South of the country, and the al-Nūr Party is trying to fill it, at least partially.

A clear legal obligation coming from the party law and its interpretation by the courts, is the necessity for all the legally recognized Islamist parties to accept Christians and women in their ranks, an obligation which is also linked to the existence of electoral quotas for the two categories. These requirements did not constitute an obstacle for the Wasaṭ or the FJP, which were ready (even eager in the case of the Wasaṭ) to accept/promote them. Thus, the Muslim Brothers' FJP showed a will to play the democratic political game as well by nominating the Protestant Rafiq Ḥabīb for the position of one of the vice-presidents of the party (Kahouès, 2011). Both the Wasaṭ Party and the FJP define themselves as 'civil parties within an Islamic frame of reference'. Nevertheless, the Muslim Brothers addressed the fact that several aspects of *sharī'a* could potentially contradict the principles of citizenship by recognizing different rights for men and women, and for Muslims and non-Muslims (Stilt, 2010).

Lastly, even the al-Nūr Party has accepted quotas for women and Christians in parliamentary elections. In 2012, the party had to include women in each of its electoral lists to comply with the law. But this inclusion was mostly merely symbolic, with the women standing at the bottom of the Salafi lists without real chances to be elected. The inclusion of women and Christians was more problematic for this party in the electoral system adopted for the 2015 elections, a mixed two-round election. According to the quota measures fixed by the electoral law, each political party list had to contain a certain percentage of women and Christians with the consequence that all of them would be elected should the list obtain a majority of the vote in a given district (winner-take-all). Despite their ideological reluctance, the Salafis complied with the law once again. Indeed, for the al-Nūr Party's leaders, "being a good Muslim" became equal to "being a good citizen"<sup>24</sup>. The necessity to abide by the legal rules pushes for the adaptation of the Salafi religious creed to the political context.

This pragmatic approach toward the legal requirement has always been a source of tension with the Salafi Call, which advocates the *sharī'a* without operating in the same compelling legal framework as the party. After the creation of the latter, members of the Salafi Call revised many of their religious principles and engaged in a re-interpretation of certain sensitive issues, such as women and Christians' representation in the political scene. In a paper published on the Salafi Call website, Ahmad al-Shahāt, a member of the movement and its political arm, raised the issue<sup>25</sup>: "Is someone who participates in elections considered a sinner, especially in the eyes of those who consider that women and Christians are not allowed to enter these [parliamentary]

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<sup>24</sup> Interview with a responsible of the Secretary for Women of the al-Nūr Party.

<sup>25</sup> <https://anasalafy.com/ar/54010>

councils? Does this issue fall within the parameters of the creed – which should not be taken lightly – or does it fall within the parameters of accepting this presence [of women and Christians]?” Through this quote Shahāt was calling on voters to vote for the al-Nūr Party. He was asking them to understand the situation of the party, which must accept the rules of the political game in order to establish the ‘true Islam’ in the longer run. Since 2012, the party's actors have been developing a whole discourse on democracy, citizenship and Islamic values. The Salafi Call has shown more reluctance in this regard, causing tensions among its ranks.

If the al-Nūr Party had to abide by the law to maintain its presence in the political field, it was done at the price of a division among the religious actors of the Salafi Call. The more electoral rules are made to respect the building of a ‘civil state’ (encouraging a visible separation of the political and the religious), the more the al-Nūr Party is detaching itself from the ‘motherhouse’, while, however, keeping the original goal of its existence: defending the interests of the Salafi Call in the political field.

## Conclusion

In 2011-2013, the Islamist forces failed in their attempt to roll back the secularization of the Egyptian state<sup>26</sup>. Furthermore, the al-Nūr Party, which was pushing for this rollback in 2012, has accompanied the secularization process since then by accepting the constitutionalizing of the notion of a ‘civil state’ and of the ban on religious parties. It was also compelled to secularize itself by gaining in autonomy from the religious grassroots organization it stemmed from, by accepting the membership of women and Christians in its ranks, and even by supporting women candidates in the elections.

The two main Egyptian Islamist parties – the Salafi Call’s al-Nūr Party, and the Muslim Brothers’ FJP – have developed a definition of the civil state in which it is seen as an equivalent of the Islamic state, which stands between the secular state (which they reject) and the theocratic state (which they deem unthinkable in Sunni Islam). While the Muslim Brothers have played on the ambiguity of the term at least since 2007, the al-Nūr Party has long refused to embrace the notion due to the same ambiguity. Its leadership feared that this ambiguity would be used by the secular camp, which interprets the civil state as being synonymous with the secular state. In 2014, they prevented the inscription of the notion in the Egyptian Constitution. Nevertheless, in 2019, at the request of the parliamentary debate preceding the revision of the Constitution, they obtained a declaration from the Parliament’s Speaker defining the civil state by opposing it to the secular state, the religious state, and the police state. This definition is close to the one previously defended by the Muslim Brothers, and the al-Nūr Party has accepted it. In exchange for this clarification, they agreed to support the amendments introducing the notion of the civil state within the constitutional text.

The same ambiguity appears regarding the notion of a ‘religious party’. The Egyptian party law has forbidden the creation of a political party on a religious basis since 1977. Thanks to the restrictive interpretation of this provision by the administrative courts, several Islamist parties

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<sup>26</sup> It has been argued, albeit with regard to another national context, that even when in charge, Islamist political forces are not able to successfully impede – not to mention roll back – the secularization process (Ertit, 2018).

have been authorized in 2011 in exchange for a few formal precautions. Thereby, these parties define themselves as ‘civil parties’, do not use explicit religious references in their names and include women and Christians in their memberships. In 2013, the al-Nūr Party nevertheless opposed the constitutionalizing of the ban on ‘religious parties’. This opposition did not prevent the adoption of this ban in article 74 of the 2014 Constitution. If this constitutionalizing did not change the legal context, it opened a political window of opportunity for secular forces to pressure the state to disband the al-Nūr Party. In order to deflect these efforts, al-Nūr has preventively reinforced the separation of its structures and activities from the Salafi Call religious organization, which is the organization it originated from.

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