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Title: Cleansing the Nation of the “Dogs of Hell”: ‘Ali Jum‘a’s Nationalist Legal Reasoning in Support of the 2013 Egyptian Coup and its Bloody Aftermath

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Abstract: This article contributes to an emerging conversation about the support among the Sunni ‘*ulamā*’ for the 3 July 2013 coup in Egypt and the massacres that followed. I focus on the legal justifications for the coup and its bloody aftermath articulated by the former Grand Mufti ‘Ali Jum‘a (b.1952) and, in particular, engage with the interpretation presented by Muhammad Fadel in an article published in 2016. In contrast to Fadel’s argument, which views Jum‘a’s support for the coup as indebted to well-established, premodern lines of reasoning, I consider Jum‘a’s arguments to be rooted in Egyptian nationalism and a discourse of the nation-state. Fadel attributes the divide between Jum‘a and Yusuf al-Qaradawi (b.1926) over the coup to a division between two sub-traditions of Islamic political thought that he terms traditionalist and republican respectively. By contrast, I consider both Jum‘a and al-Qaradawi’s arguments to be representative of two sides of a nationalist coin that has its historical origins in the proto-nationalism of Rifa‘a al-Tahtawi (d.1873).

Over the course of July and August 2013 Egyptian security forces killed an estimated 1150 people at five locations. These locations included camps where protesters had gathered to oppose the ousting of President Muhammad Mursi (b.1951) in the 3 July 2013 military coup led by ‘Abd al-Fattah al-Sisi (b.1954). Human Rights Watch presented evidence that these massacres were the result of coordinated efforts by snipers, bulldozers, and armored personnel carriers, rather than an unavoidable consequence of preserving public order.¹ The most well-known of these massacres occurred at the square by the Rabi‘a al-‘Adawiyya Mosque on 14 August 2013.

Among the most prominent supporters of the coup and its bloody aftermath was ‘Ali Jum‘a (b.1952). Jum‘a was the Grand Mufti of Egypt from 2003 until February 2013, and he has remained a prominent public figure since then.² In the aftermath of the coup Jum‘a was a common sight on Egyptian television, and his arguments supporting it were littered with concepts drawn from the Islamic jurisprudential (*fiqh*) tradition. He suggested that the coup was legitimate according to the principle of *taghallub*, a historically premodern concept whereby usurpers may legitimately take power by force. The assumption underpinning *taghallub* was that usurpers’ ability to overthrow a ruler demonstrated their *de facto* ability to ensure stable rule and avoid a protracted civil war. As such, it was a ruler’s ability to ensure stability that was the source of their legitimacy, rather than the means by which they had assumed power. After the coup Jum‘a also gave speeches and recorded lectures for the army. In these lectures Jum‘a often called the anti-coup protesters *khawārij* and the “dogs of hell” (*kilāb al-nār*).³ These terms, originating in Prophetic hadith and the history of early Islam, appeared to suggest that Jum‘a was legitimizing the army’s killing of the protestors on the grounds that they had engaged in illegitimate rebellion, and were no longer to be considered Muslim.⁴

Introduction

The aim of this article is to contribute to an emerging conversation about Jum‘a and many of the Azharite *‘ulamā’*’s support for the 3 July 2013 coup.⁵ In general, current research has contextualized Jum‘a’s support for the coup in relation to quietist precedents in premodern Islamic political thought or his Sufi background.⁶ For example, Mohammad Fadel suggests that the divide between the *‘ulamā’* over the coup, epitomized by the opposing positions adopted by Yusuf al-Qaradawi (b.1926) and Jum‘a, has its roots in the division between two sub-traditions, which he terms “republican” and “traditionalist” Islam. For Fadel, republican Islam has its roots in the nineteenth century reformers like Rifa‘a al-Tahtawi (d.1873), Khayr al-Din al-Tunisi (d.1890), and Rashid Rida (d.1935). These scholars, though not liberal, advocated for a more active citizenry and a public sphere that was more tolerant of alternative ideas.⁷ Fadel considers this sub-tradition to be best represented by al-Qaradawi and other *‘ulamā’* who opposed the coup and are generally sympathetic to the Muslim Brotherhood. Contrastingly, Fadel suggests that the traditionalist Islam represented by Jum‘a and his supporters is linked to contemporary Sufism. In Fadel’s view, Sufism’s hierarchical relationship between teacher and student, integral to the cultivation of a pious Muslim subject, renders Sufism more sympathetic to authoritarianism.⁸ This hierarchical structure was also expressed historically by premodern *‘ulamā’* such as al-Ghazali (d.1111). Fadel does not argue that Jum‘a and the *‘ulamā’* of traditionalist Islam support authoritarian regimes “as a direct result of their adherence to the political philosophy articulated by medieval theologians” like al-Ghazali. Nevertheless, Fadel does contend that the *‘ulamā’* who supported the coup did so because they “share a certain political aesthetic” with the premodern *‘ulamā’*.⁹ In using the term “political aesthetic” Fadel is referring to al-Ghazali and his *‘ulamā’* peers’ idealized political order. This vision assumed that social harmony was best maintained

when the scholarly authority of the *'ulamā'* establishment was united with the coercive force of the military elites in a shared purpose of preserving the public order. Though al-Ghazali considered this hierarchical “cosmic-moral order”¹⁰ to be underpinned by God, it nevertheless needed to be overseen by a pious autocrat. As a result, the *'ulamā'* came to accept the legitimacy of a ruler who had taken power by force. Rather than contest the legitimacy of particular rulers on the basis of how they might have acquired their power, usually by force, the *'ulamā'* of the late medieval period instead invested their energies in attempting to manage how the new ruler exercised that power.¹¹ Fadel argues that following the marked pluralization of the Egyptian public sphere after the 2011 Revolution, where all manner of ideas about Islam were voiced and heard, the tensions between the traditionalist and republican sub-traditions came to a head,

While advocates of republican Islam such as [al-Qaradawi] do not seem to be overly fearful of the spread of heterodoxy in the wake of democratization, traditionalist theologians such as [Jum'a] have clearly decided that protection of religious orthodoxy is more important than establishing a representative government. In making this choice, they are clearly vindicating a well-established line of reasoning in Islamic political thought. The Muslim religious establishment of Egypt believes that in Sisi it has found the pious autocrat idealized by pre-modern theologians such as al-Ghazali, and from their perspective, a religious autocrat who can control religious debate is preferable to a religious president [i.e. Mursi] presiding over a political system in which religious teachings become a subject of public contestation.¹²

For Fadel, then, the Azharite *'ulamā'* of traditionalist Islam were unable to tolerate the radically democratized nature of the post-2011 public sphere, which had seen their authority as the voices of Islam markedly eroded. Fadel argues that, following the coup, Jum'a and his like-minded colleagues saw an opportunity to reassert al-Azhar's authority, and limit the proliferation of alternative actors that were competing with them as voices of Islam in the public sphere.¹³

In this article I present an alternative interpretation of Jum'a's support for the coup. In contrast to Fadel's presentation of a clash between two sub-traditions of political thought originating in the premodern period and the nineteenth century respectively, I contend that Jum'a's arguments are rooted in Egyptian nationalism and a discourse of the nation-state. I argue that the concept of nationhood is highly significant for understanding Jum'a's Islamic legal arguments in favor of the coup and the subsequent crushing of anti-coup demonstrations. I therefore disagree with Fadel's suggestion that it is only the republican Islam of al-Qaradawi that is rooted in the writings of nineteenth century authors like al-Tahtawi, while the authoritarian sympathies of Jum'a and traditionalist Islam is rooted in Sufism and premodern Islamic thought. Instead, I consider Jum'a's pro-coup arguments to be rooted just as much in the legacy of the nineteenth century reformers as the anti-coup arguments of al-Qaradawi. Moreover, I consider the political vision articulated by the nineteenth century reformers to be deeply indebted to the premodern political vision of *'ulamā'* like al-Ghazali. However, I do not attribute the authoritarian streak in the thought of nineteenth century reformers like al-Tahtawi (and present in Jum'a's arguments) to this premodern influence. Rather I emphasize of the proto-nationalist twist that al-Tahtawi added to the Islamic political imaginary and the appearance of the modern nation-state.

Jum‘a credits al-Tahtawi as being the first to call for the renewal of the Islamic jurisprudential tradition (*tajdīd al-fiqh*) in modern times, and he clearly sees himself as part of a chain of modernist reformers that began with al-Tahtawi.¹⁴ Therefore, I will use the writings of al-Tahtawi to argue that Jum‘a’s authoritarian sympathies represent the other side of a nineteenth century proto-nationalist coin, as it were, rather than a different sub-tradition altogether.¹⁵ Though al-Tahtawi is often credited as the “father of Egyptian democracy,”¹⁶ I read his work as representing the first link in a chain of Egyptian nationalist ‘*ulamā*’ with authoritarian sympathies, of which Jum‘a is also a part. While drawing attention to the tension between al-Tahtawi’s democratic and authoritarian sympathies is not new in itself, I argue that this tension does not come as a result of his “difficulty in reconciling the workings of the secular political system with his basic Islamic outlook”¹⁷ or his “late-Ottoman mindset,”¹⁸ as is commonly presumed to be the case. Instead, I contend that his authoritarian sympathies are rooted in the discourse of the emerging nation-state. While al-Tahtawi argued that the progress of the Egyptian nation necessitated the cultivation of an engaged citizenry within a new body politic, his concept of nationhood was very supportive of the absolutism of Muhammad Ali (d.1849) and his successors. Fadel notes that the concept of nationhood makes conceivable the transfer of sovereignty from a ruler to a citizenry. However, appeals to national progress also make possible all kinds of horrors including, I suggest, the liquidation of recalcitrant citizens at Rabi‘a al-‘Adawiyya.

Significantly, I contend that when Jum‘a uses concepts like *taghallub* and *khawārij*, he is not speaking to Muslim subjects who see themselves as part of cosmic-moral order sustained by God, as was the case in the ideal political order of the premodern ‘*ulamā*’. In this article I do not wish to overemphasize the extent of the transformations wrought by the appearance of the

nation-state in the Arab World, and establish an absolute dichotomy between the pre and post nineteenth century worldviews of the *'ulamā'*.¹⁹ Nevertheless, I do consider the emergence of nationhood as a concept to have fundamentally altered the *'ulamā'*'s conceptual universe. Among the most significant changes for the purpose of my argument relates to time. During the nineteenth century the premodern order, which had existed temporally in a perpetual present underpinned by cosmic justice, was supplanted by a worldview that prioritised the future, or the futurity, of the nation.²⁰ This emphasis on the future at the expense of the present excuses inhuman behavior in the present as necessary to bring about a better world. My argument, then, attenuates the notion of there being shared assumptions underpinning the ideal political orders of modern *'ulamā'* like Jum'a and their premodern counterparts like al-Ghazali. This is because the worldview of Jum'a and his audience is underpinned by their shared concern for the future of the Egyptian nation, and Jum'a's arguments for the necessity of the Rabi'a al-'Adawiyya massacre are justified for the sake of the nation. Similarly, I consider that the accusation of kharijism, which Jum'a directs at the anti-coup protesters is better understood as an accusation of treason and expulsion from the Egyptian nation rather than *takfir*, or veritable excommunication from the Muslim community.²¹

This article is divided into five parts. In the first part I analyze al-Tahtawi's concept of nationhood. I highlight al-Tahtawi's authoritarian sympathies and argue that these sympathies are rooted in the emergence of the nation-state. I consider Jum'a to be part of a chain of nationalist Egyptian *'ulamā'* that began with al-Tahtawi, and in part two I give a biographical introduction to Jum'a. In part three I analyze Jum'a's Islamic legal arguments in the wake of the coup, focusing on his usage of the concepts *taghallub* and *khawārij*. In part four I then argue for the importance of understanding Jum'a's arguments as part of a discourse of the nation-state and

emanating from the state bureaucracy. In the fifth, final part I suggest that Jum‘a’s arguments in favor of greater state regulation of Egyptian religious life can be understood as part of a modern process rooted in what Hussein Agrama calls the state’s “questioning power” before concluding.

The Father of Egyptian Nationalism: Rifa‘a al-Tahtawi

In this section I will argue that, while Fadel credits al-Tahtawi with sowing the seeds of a republican sub-tradition, al-Tahtawi’s proto-nationalist political theory is just as relevant, if not more so, for providing a historical context for Jum‘a’s support of al-Sisi. As Fadel points out, al-Tahtawi articulates a political order that views the citizen as an active political subject, and it is in this shift that Fadel sees the roots of an Islamic republican sub-tradition, in contrast to his sub-tradition of traditionalist Islam that continued to look to al-Ghazali and other premodern *‘ulamā’* for political inspiration. By contrast, in this section I will highlight that al-Tahtawi is also thoroughly indebted to the premodern tradition, but not in such a way as it would explain his authoritarian leanings. Rather, his authoritarian sympathies come from his proto-nationalism, particularly his concern for the future of the nation.

Al-Tahtawi’s biography is well known. He came from an elite family in Upper Egypt and enrolled at al-Azhar in 1817, becoming a teacher of the Islamic sciences there in 1822. The most significant event in al-Tahtawi’s intellectual development came when he accompanied a contingent of Egyptian military officers to study in Paris in 1826. Al-Tahtawi spent four years studying in Paris and immersed himself in the work of Enlightenment authors like Rousseau and Montesquieu.²² On his return to Egypt, al-Tahtawi published a manuscript describing his experiences, and throughout his life was a prolific author and translator. Significantly, he also played a key role in the development of the Egyptian nation-state.²³

Al-Tahtawi's political imaginary was certainly informed by his reading of French Enlightenment authors. At the same time, his political vision was deeply indebted to al-Ghazali and other premodern *'ulamā'*. As such, I suggest Jum'a's references to an idealized political order, while reminiscent of the premodern *'ulamā'*, does not place him outside the nationalism instigated by al-Tahtawi, since the nationalist chain of thought begun by al-Tahtawi also builds upon the political vision of the premodern *'ulamā'*. However, that does not mean that I attribute Tahtawi's authoritarian sympathies to his "late Ottoman mindset" or his "basic Islamic outlook" as two historians have put it.²⁴ Instead, I suggest it is the proto-nationalist twist that Tahtawi added to the Islamic political vision that provides a historical context for Jum'a's support of the coup. In short, this nationalist addition was that the citizen serves the nation, the nation legitimizes the state, and the progress of the nation is a moral good in itself.

I make this contention not only because al-Tahtawi's proto-nationalist writings contain authoritarian sympathies, but also because al-Tahtawi is writing at a time when the Egyptian nation is just emerging as a discourse. Most importantly here, the concept of nationhood and the concern for its wellbeing became intertwined with a temporal transformation. To al-Tahtawi and his contemporaries, the idea of civilization (*tamaddun*) no longer conveyed a cyclical notion of time in which civilizations rose and fell. Instead, civilization became a verb that described a process, and signalled a faith in the forward drive of progress (*taqaddum*) through time toward a future of open possibilities.²⁵ As such, al-Tahtawi's writings are dependent upon a worldview that considers the future of the nation to be the central concern. For al-Tahtawi, to be an Egyptian and a patriot (*ḥubb al-waṭan*) was not simply to have a national identity, but to share in a vision of Egypt's future civilization.²⁶

I argue that it is the inauguration of this new context that positions al-Tahtawi as the first link of a chain connecting him to Jum‘a’s arguments in favor of authoritarianism, since they both justify their arguments out of a concern for the future of the Egyptian nation and on behalf of the national will. The connection between nationalism as a discourse and the nation-state is an important part of my argument. Though states are, of course, not solely discursive constructs, states produce nations through discourse to legitimate their existence and their power over their citizens. As a result of this discourse, citizens recognize themselves in the nation-state and become willing to sacrifice their lives for it.²⁷ Significantly, this discourse of the nation, upon which the state depends, provides an entirely new context within which authors produce their arguments. As such, though “patriotic speeches, ethno-‘national’ literature, public festivals and much else” may well have existed prior to the appearance of the nation-state, these kinds of writings now acquire new meanings and produce different effects.²⁸ This contextual difference is due to the fact that citizens of a nation-state no longer exist within a cosmic-moral order underpinned by a just God, but are instead integrated into the “metaphysics of the state and its nation.”²⁹ This point is important because, in addition to al-Tahtawi’s proto-nationalist additions to the Islamic political imaginary, the very fact that al-Tahtawi’s vision is articulated within the novel context of the nation-state endows his arguments with new meanings and effects. This is despite the fact that al-Tahtawi’s political vision is also reminiscent of the harmonious political order articulated by al-Ghazali and other premodern ‘*ulamā*’.

Al-Tahtawi derived his concept of nation, which he translated as *umma* or occasionally *milla*, from Montesquieu. Montesquieu wrote that nations have a spirit, customs, and manners.³⁰ Moreover, Montesquieu’s nation could deliberate, it had a voice, and could choose its leaders. For Montesquieu, then, this personified nation had a collective will, and was sovereign.

Moreover, this nation was connected to a specific territory, its homeland or *patrie*, which al-Tahtawi expressed through the word *waṭan*. The homeland was a passive concept, it needed to be loved and saved by its citizens, who must be willing to die for it. As McLarney has pointed out, however, it is common for historians to overemphasize the purely French roots of al-Tahtawi's conceptual innovations,³¹ and attribute what they perceive as failings in his political vision to his al-Azhar training. Al-Tahtawi's political vision was grounded in the Islamic ethical tradition of *adab* and took as his point of departure the harmonious system articulated by his predecessors.³² However, al-Tahtawi made a proto-nationalist addition that placed the progress of the nation at the center of his vision. As such, rather than attribute al-Tahtawi's authoritarian leanings to his "basic Islamic outlook,"³³ I consider al-Tahtawi's authoritarian sympathies to be a result of his place in the emerging discourse of the Egyptian nation-state.³⁴

In al-Tahtawi's theoretical writings on obedience to the ruler, he emerges as a nationalist and a monarchist with absolutist leanings. There would be chaos without kings, al-Tahtawi writes. While al-Tahtawi thought government should be divided into executive, legislative, and judicial branches, he also argued that all these branches existed under the singular authority of the monarch. As such, there was to be no institutional or constitutional restriction on the ruler's power.³⁵ Moreover, al-Tahtawi did not consider the nation to be sovereign, nor did he utilize Qur'anic or Sunnaic sources to advocate for a constitutional check on the ruler's power, in contrast to later authors like 'Abd al-Rahman al-Kawakibi (d.1902) or Muhammad 'Abduh (d.1905).³⁶

For al-Tahtawi, the ruler's power was limited only inasmuch as he chooses to exercise responsibility and paternalistic concern. The ruler's subjects owe him their "complete obedience," (*al-ṭā'ā al-kāmila*) in a manner analogous to the obedience owed to God and the

Prophet.³⁷ Additionally, al-Tahtawi writes, “if he [the ruler] oppresses them, then they [the people] are to persevere until God opens a door to guide him toward the good.” As such, the people have no right to rebel against an unjust ruler, and it is only the mercy of God that can “guide [the ruler’s] state toward justice.”³⁸ At first, then, al-Tahtawi’s position on obedience to an unjust ruler might resemble the writings of a premodern author, and in this vein Delanoue describes al-Tahtawi’s argument as being constructed in a “very traditional manner.”³⁹ However, even though al-Tahtawi imagines the relationship between the ruler and the ruled through a vivid originally premodern allegory, as a harmonious body in which every organ knows its place and function, he exhibits markedly different assumptions about rulership. For example, when he writes, “The king is like the soul and [his] subjects are like the body. The body has no strength other than through its soul,”⁴⁰ this does not imply that he understands the ruler-ruled relationship in premodern terms of a theorist like al-Mawardi (d.1058) who considered the ruler to play a fiduciary role on behalf of the Muslim community.⁴¹ In contrast to al-Mawardi, al-Tahtawi considers the ruler’s power and status as *walī al-amr* to come from his status as leader of his nation (*raʿīs ummatihi*).⁴² To be sure, the corporal metaphor al-Tahtawi uses to describe the ruler-ruled relationship is indebted to the premodern order articulated by the premodern ‘*ulamā*’. In Arabic it originates with al-Farabi’s (d.950) virtuous city, *al-madīna al-faḍīla*, which in turn originates with the Greek *polis*.⁴³ At the same time, the corporeal metaphor of the national body is common to the nationalism that al-Tahtawi encountered in France, while the *cit * of French nationalism also ultimately traces its roots back to the Greek *polis* and the Roman *patria*.⁴⁴ Clearly then, the political traditions that al-Tahtawi took as his point of departure were by no means hermetically sealed, or mutually exclusive. Of course, the same point is relevant for later nationalist ‘*ulamā*’ like Jum‘a.

Al-Tahtawi grounds his authoritarian leanings in proto-nationalism, rather than premodern lines of reasoning about the ideal political order. In fact, al-Tahtawi himself highlights that the relationship between the ruler and the ruled that he is proposing to be new. For example, in a passage from *Manāhij al-Albāb al-Miṣriyya fī Mabāhij al-Ābāb al-‘Aṣriyya* (Methods for Hearts and Minds in the Pleasures of Modern Literatures, 1869) he acknowledges that in the majority of countries kings were formerly chosen by the authoritative consensus of the community (*ijmā‘ al-umma*) and elected by the masses (*intikhābiyyan bi-l-sawād al-‘aẓam*). Now however, because elections are the cause of “corruption, civil strife, war and disagreement” monarchies have become hereditary in order to ensure the “perfection of the monarchical system.”⁴⁵ In my reading of this passage, I see al-Tahtawi engaging with premodern political imaginary in two ways. On the one hand, he is departing from al-Mawardi’s understanding of the premodern ruler’s role as fiduciary, because the king is no longer chosen by the authoritative consensus of the community. On the other hand, al-Tahtawi is also echoing premodern reservations regarding Hellenistic democracy (*al-madīna al-jamā‘iyyah*) voiced by ‘ulamā’ like al-Farabi.⁴⁶ At the same, al-Tahtawi is thoroughly rooted in his own context. He had been in France during a time when a nationalistic cult had been developing around the memory of Napoleon Bonaparte, who had become revered as the “martyr and messiah” of the French Revolution and was an “emblem of national unity.” Al-Tahtawi was influenced by this cult of veneration, and constructed a similar “Napoleon-like myth” around Muhammad Ali.⁴⁷ As such, in my view al-Tahtawi is better understood as a proto-nationalist and a monarchist with absolutist leanings who drew from a plethora of traditions rather than an instigator of a republican sub-tradition.

A concern for the nation's future, rather than the past, is a quintessential aspect of the modern nation-state project. Time is understood as progress, and nations are to be judged against one another by their progress.⁴⁸ Al-Tahtawi expressed this notion through his concept of *tamaddun*, referring to the material and moral civilizing of the Egyptian nation that was to be carried out by all its citizens.⁴⁹ As such, one of the few checks on the ruler's power that al-Tahtawi does emphasize is public opinion (*al-ra'y al-'umūmī*). This check was significant in al-Tahtawi's view, to the extent that he referred to public opinion as a "vanquishing sultan" (*sulṭān qāhir*) in the heart of the king.⁵⁰ However, in my view this check was subordinate to proto-nationalist concerns, because while al-Tahtawi wrote a "free nation" should be consulted by the ruler, the benefit of this consultation was to be that subjects could help the ruler "please their *waṭan*" and ensure his "moral domination of the souls and lives of his subjects" (*al-tasalṭun al-ma'nawī 'alā al-nufūs wa-l-arwāḥ*).⁵¹ More significantly for my arguments here is that, in the paragraph following after al-Tahtawi's description of public opinion as a vanquishing sultan, he then emphasizes the importance of a particular segment of the public: the historian. Al-Tahtawi emphasizes the importance of the ruler's concern for history and the historian as a particularly important check on his power. Presumably, the ruler is concerned for how history and the historians of the future will judge him on how best he had served the nation and aided its progress.⁵²

In this section I have emphasized that al-Tahtawi's Islamic legal writings contained authoritarian sympathies. This point is not new in itself.⁵³ However, while other scholars attribute these sympathies to al-Tahtawi's inability to reconcile his reading of French Enlightenment thought with his study at al-Azhar, I have argued that his authoritarian leanings are predicated on proto-nationalism. This nationalism is a product of modern nation-state

discourse that emerged as a result of the Enlightenment.⁵⁴ As such, while al-Tahtawi is indebted to the harmonious political order variously articulated by al-Farabi, al-Mawardi, al-Ghazali and many others, those figures understood themselves as a part of a cosmic-moral order that was stable, unchanging, and underpinned by a just God. By contrast, al-Tahtawi's worldview is underpinned by a concern for the good of the nation and the nation's future.

Fadel suggested that Jum'a and other advocates of traditionalist Islam had shared understandings of an ideal political order with their premodern counterparts, and this was a key factor in determining their support for the coup. This shared ideal was dominated by the view that only when the religious and military elites supported each other under a system regulated by a pious autocrat could the public order be maintained.⁵⁵ By contrast, Fadel suggested that opponents of the coup like al-Qaradawi drew their inspiration from nineteenth century reformers like al-Tahtawi, who instigated a republican sub-tradition. In constructing my alternative interpretation, I have contended that al-Tahtawi's own vision was also very much indebted to the premodern political imaginary, and that he began a chain of thought that was proto-nationalist with authoritarian leanings and this is significant for understanding Jum'a's support for the coup. At the same time, I consider al-Tahtawi's authoritarian sympathies to be more thoroughly rooted in modern nationalism and in the discourse of the state, which produces a nation to legitimate itself, rather than Islamic premodern thought. I will now show that it is the quintessentially modern political assumptions about progress and the good of the nation that Jum'a shares with al-Tahtawi, which is at the root of Jum'a's own authoritarian sympathies and support for the coup.

‘Ali Jum‘a’s Image before the Coup: Liberal, Democratic, Progressive

For the remainder of this article I will focus on Jum‘a’s Islamic legal arguments justifying the coup and its bloody aftermath. The diverse anti-Brotherhood coalition that coalesced against the Mursi-led government in 2013 included liberal elites, Salafists, and army officers, but was bound together by nationalism.⁵⁶ Jum‘a and many of the Azharite *‘ulamā’* were also part of this coalition, and their decision to join it is indebted in no small part to the Egyptian nationalist chain that al-Tahtawi instigated. This is because, like al-Tahtawi and the nationalist *‘ulamā’* who came after him, Jum‘a’s arguments can also be understood as part of a nation-state discourse, and Jum‘a justifies his position through the modern concern for the future of the nation.

Jum‘a is somewhat unusual among the *‘ulamā’* of al-Azhar in that he began his education in a secular institution. He earned his BA in Commerce from Ain Shams University in 1973. He then enrolled at al-Azhar and received a BA in Islamic studies in 1979, before completing an MA and PhD in Islamic jurisprudence. He then joined al-Azhar’s teaching faculty in 1988. Jum‘a developed a reputation as a gifted scholar and, by combining an engaging preaching style with mild criticisms of the Mubarak regime, amassed a wide following among Egypt’s pious middle class.⁵⁷ During the 1990s Jum‘a was also the Director of the International Institute of Islamic Thought’s (IIIT) Cairo office,⁵⁸ which at that time served as a hub for scholars who could be loosely termed “New Islamists” including Abdelwahab al-Mesiri (d.2008), Heba Raouf Ezzat (b.1965), Muhammad al-Ghazali (d.1996), and Yusuf al-Qaradawi (b.1926).⁵⁹ Jum‘a’s position at the (IIIT) office in Cairo clearly does not mean that Jum‘a was sympathetic to the Muslim Brotherhood. However, Jum‘a’s own understanding of the kind of legal reform necessary to renew the Islamic jurisprudential tradition shares many similarities with the New Islamists who lay claim to the legacy of the nineteenth century reformers like Rida and al-Tahtawi. For

example, Jum‘a writes sympathetically about Muhammad al-Ghazali and al-Qaradawi’s controversial efforts in the realm of hadith criticism,⁶⁰ and both Jum‘a and al-Qaradawi were signatories of the Amman Message in 2006.⁶¹ This similarity in perspective renders Jum‘a and al-Qaradawi’s later public disagreement over the 2013 coup all the more surprising.

It was with Jum‘a’s appointment to the office of Grand Mufti in 2003 that his popularity became international. He wrote regular op-eds for *The Washington Post* and articulated progressive positions on issues like democracy,⁶² FGM, and female political participation.⁶³ Jum‘a never became quite as well-known as, say, ‘Amr Khalid (b.1967)⁶⁴ or al-Qaradawi, and he built his support on different bases. Rather than cultivating an image as a relatable everyman (like Khalid) or a scholar-activist (like al-Qaradawi), Jum‘a instead worked to cultivate a Sufi mystique through a teaching style that made “centuries-old texts exciting and timely, tying them to the burning issues of the moment.” In Jum‘a’s study-circles he would encourage his students, both male and female, to engage with the great classical texts of the Islamic tradition saying, “You must stand where they stood and think and reflect.”⁶⁵ On the basis of his progressiveness on key issues, democratic sympathies and mystical leanings, Jum‘a also became particularly popular with Muslim student-travelers from Europe and North America. These student-travelers would come to Cairo in search of an authentic scholarly tradition that Jum‘a’s mystique appeared to represent to them.⁶⁶

Jum‘a’s arguments in favor of the coup and the clearing of the protest camps were never published in a single location.⁶⁷ Rather, he presented his justifications through interviews, lectures and speeches via the media. The most significant sources are an interview broadcast on CBC Egypt on 23 August 2013 and a lecture to the army that appears to have been recorded during Ramadan 2013 (between 9 July and 7 August 2013).⁶⁸ As such, it was likely produced

before the massacre at Rabi‘a al-‘Adawiyya on 14 August 2013. The lecture also appears to have been intended specifically for distribution among the army, given that among the topics Jum‘a discusses is the issue of desertion and militancy in the Sinai region. By focusing on these sources it becomes possible to ascertain Jum‘a’s Islamic legal justifications for the coup and the aftermath.

The Concepts of *Taghallub* and *Khawārij* in Jum‘a’s Argument

In the CBC interview on 23 August 2013 (after the Rabi‘a al-‘Adawiyya massacre) Jum‘a refers to the concept of *taghallub* as justification for the coup.⁶⁹ In premodern *fiqh*, *taghallub* was used by some ‘*ulamā*’ to rationalize their acquiescence to a ruler seizing power by force. The justification for this seizure was that to rule effectively and ensure stability a ruler must have the allegiance of the military, otherwise there would be chaos. As such, it was considered better to lend legitimacy to a usurper who was able to seize power quickly and successfully, rather than support a ruler who had just been deposed. A deposed ruler clearly did not enjoy the support of the military and so, as the ‘*ulamā*’s reasoning went, continuing to support him would only lead to a protracted civil war. As such, the majority of the ‘*ulamā*’ felt it was better to focus their energies on influencing how the usurper exercised their power once he had seized it, rather than concerning themselves with the issue of whether or not that power had been seized legitimately.⁷⁰

Jum‘a refers to this originally premodern concept of *taghallub* as he looks to legitimize the coup, but in a distinctly novel way. His reference to *taghallub* is novel because he connects it to the modern concept of the Egyptian national will. At first, Jum‘a’s argument looks familiar to earlier justifications of seizing power by force when he states that, “If an Iman [i.e. a ruler] who had assumed power legitimately is arrested by those under his own authority he loses his

legitimacy.”⁷¹ For Jum‘a, Mursi was not a ruler with the capacity to rule effectively and ensure stability, or else the army would not have been willing or able to arrest him, and this fact means that Mursi is no longer a legitimate ruler. Rather than referring to this process as a coup (*inqilāb*), Jum‘a refers to the arrest of Mursi as a legitimate assuming of power due to greater strength and capacity to govern possessed by Mursi’s opponents.⁷² So far, this reasoning resembles the rationale of some of Jum‘a’s premodern predecessors. However, Jum‘a then connects his understanding of *taghallub* to the concept of the national will, a notion that originates in Islamic political thought with the proto-nationalism of al-Tahtawi. When Jum‘a says “We have become the ones with legitimacy to rule through our capacity to govern effectively,” (*aṣḥānā al-mutaḡhallibīn*) he justifies this seizure of power via the concept of the sovereignty of the nation and the national will. Jum‘a begins by explaining, “What happened in the revolution of 30 June [referring to the beginning of demonstrations leading up to the coup] is that people came out in protest.”⁷³ Referring to the sovereignty (*siyāda*) of the people, Jum‘a then argues that the army then intervened only in response to the undivided voice of “all the Egyptian people” (*jamī’an*), and that al-Sisi was acting in accordance with the will of the people (*binā’an alā al-sha‘b*).⁷⁴ As far as Jum‘a is concerned, it was only the voice of the people that initially gave the army permission to intervene in a manner that proceeded according to the terms of *taghallub*.⁷⁵ In the lecture he produced for the army during Ramadan, Jum‘a claimed that the crowds of protesters had numbered thirty million.⁷⁶ As such, even though Jum‘a referred to the concept of *taghallub* in order to legitimate the coup in a manner that resembled a premodern rationale, his reasoning is underpinned by the modern assumption that it was the voice of the personified nation that justified Mursi’s ousting.

One of the most striking aspects of Jum‘a’s argument in favor of the coup and its aftermath was his common referral to the anti-coup demonstrators as *khawārij*.⁷⁷ Jum‘a often referred to a hadith that called the *khawārij* the “the dogs of hell” (*kilāb al-nār*). He also referred to another hadith, commonly understood as referring to the *khawārij*, that reads, “He who comes to you when you are united and wants to divide you, kill him.”⁷⁸ The term *khawārij* has a long history in Islamic thought, dating back to the time of ‘Ali, the fourth Caliph.⁷⁹ At first, Jum‘a’s statements would appear to invoking this history, and could therefore be construed as a veritable excommunication of the Brotherhood and their supporters from the Muslim community, thereby legitimating their deaths. Understanding contemporary accusations of kharijism by the Sunni ‘*ulamā*’ in premodern terms, however, overlooks the extent to which the Egyptian nation-state has transformed the concept since the nineteenth century. In this new context, the accusation of kharijism refers to treason, terrorism, and is predicated upon the good of the Egyptian nation. As Jeffrey T. Kenney has shown, during the twentieth century the contestation over the concept of kharijism in Egypt was no longer a question of who is a member of the Muslim community and who is not. Rather, what was at stake was membership of the Egyptian nation.⁸⁰

Kenney argues that over the centuries the Sunni ‘*ulamā*’ establishment has molded the shifted the term *khawārij* away from the original rebels ‘Ali and molded the term into an ahistorical symbol representing illegitimate rebellion against a legitimate ruler.⁸¹ As Kenney puts it,

Kharijism has an unequivocal legacy in the Islamic tradition [...] the image of the Kharijites is that they never rise up to defend a just cause or to denounce an unjust ruler. They always separate themselves from both leaders and fellow Muslims who are worthy of respect, and they always kill those who truly deserve better.

Most important, despite wearing their faith on their sleeves, they never really represent the principles of Islam for which they claim to fight.⁸²

In postcolonial Egypt, however, the meaning and purpose of the kharijite accusation has been altered further by the discourse of the nation-state that aimed to turn the population within its territory into compliant citizens. Consequently, “a good Muslim [became] nothing more than a good citizen of the state, someone who obeys the law and remains loyal. Kharijite and traitor to the modern state [became] the same.”⁸³ As such, membership of the nation is what is at stake for those the *‘ulamā’* accuse of kharijism today, rather than membership of the Muslim community. It was in this context that the accusation of kharijism re-emerged in postcolonial Egypt, when it formed part of a broader attempt to delegitimize the Muslim Brotherhood, particularly in 1948 and 1954. The nationalization of al-Azhar by the Nasserite government then “brought the charge of kharijism into the orbit of government policy” and the accusation of kharijism that the *‘ulamā’* establishment directed toward the Brotherhood became a part of state propaganda.⁸⁴

Jum‘a similarly uses the *khawārij* accusation to explain why the anti-coup protests were happening, and this accusation is also part of a more recent history of contestation between the Brotherhood and the *‘ulamā’* establishment. Jum‘a’s predecessors in the al-Azhar establishment often accused the Brotherhood of kharijism. Like Jum‘a, they also littered their arguments with the same hadith that referred to the *khawārij* (i.e. the Brotherhood) as the “dogs of hell.” My point is that the postcolonial history of the *‘ulamā’* establishment’s usage of the kharijite accusation against the Brotherhood is not a question of sin and unbelief, but stems from the nation-state’s concerns to prevent disorder while also delegitimizing the Brotherhood as a voice of Islam.⁸⁵ The accusation of kharijism has come to play the same role as accusations of terrorism do for the United States and,⁸⁶ as Richard Falk notes,

The resonance of the word terrorist [and here I would add, kharijite,] makes it an often valuable tool in political conflict. If the tactics and organizational entity of rival political forces can be described as terrorist and that label can be made to stick, two consequences follow: no pressure for concessions on political grievances and acceptability of the use of ruthless means and suspension of normal constitutional limits to inflict pain and death.⁸⁷

Jum‘a, then, is following these modern iterations of the accusation of kharijism, using it to mean an accusation of terrorism. He is affirming the nation-state’s legitimacy to use force, while also attempting to re-establish the Azharite ‘*ulamā*’s monopoly on speaking in the name of Islam.

Jum‘a’s Arguments as Part of the Nation-State Discourse: The Necessity of Quiet Death

Jum‘a’s description of the anti-coup protesters as *khawārij* is not an accusation of unbelief, putting the anti-coup protesters outside the bounds of the Muslim community. Rather, this accusation is better understood as an accusation of betraying the nation. I consider putting a group outside the bounds of the premodern Muslim community to markedly different to putting a group outside the bounds of the modern nation-state. This is because, while the premodern community considered itself to be bound by moral laws outside its control and part of a moral cosmology sustained by God and the Sharia, the nation-state controls and promulgates the law to serve its own advancement.⁸⁸ Foucault uses the concept of bio-power to describe the difference between the power the premodern sovereign had over his subjects and the power the state has over its citizens. While a premodern sovereign had complete power over the deaths of his

subjects, the nation-state controls the life of the nation and its citizens. Subsequently, modern wars and massacres are not undertaken to cause death, but rather to preserve the life of the nation.⁸⁹ When massacres are justified in the name of preserving the nation, they become far more frequent. I consider Jum‘a’s arguments legitimating the army’s killing of the protesters at Rabi‘a al-‘Adawiyya to be rooted in this same assumption.

In his lecture to the army, Jum‘a emphasizes that the anti-coup protesters “do not love the homeland” and, as a result, “do not deserve our Egyptianess” (*lā yastahiqqūnā miṣriyyatanā*). To Jum‘a, they are traitors who have no claim to membership of the Egyptian nation. Jum‘a also describes the situation as one of increasing anarchy in the country and, as a result, the protesters’ deaths have become necessary to preserve the nation. However, in line with Foucault’s argument, though Jum‘a encourages the army to “respond with full force against those who do not love this *waṭan*” he does not describe the army as an agent of destruction, but rather as a preserver of life. In contrast to the protestors, who do not want “Egypt to rise,” Jum‘a praises the army as a developer of the *waṭan* by, for example, building roads and as a protector of the nation.⁹⁰ Similarly, while the Rabi‘a al-‘Adawiyya massacre was widely reported in the media, it was not perpetrated as a public spectacle. Rather, bulldozers were immediately on hand to clear the wreckage away the bodies of the deceased were quietly removed, and only released to their relatives much later, if at all. Foucault describes these kinds of massacres as an intrinsic manifestation of bio-power, “That death is so carefully evaded is linked less to a new anxiety which makes death unbearable for our societies than to the fact that the procedures of power” have changed.⁹¹ Perpetrating mass death quietly in the name of preserving life is central to state power. By making the Rabi‘a al-‘Adawiyya massacre appear necessary to protect the nation Jum‘a played an important role in this process.

When Jum‘a spoke to the army he argued that the anti-coup protesters were a threat to the nation, even though they were unarmed. Instead, he claimed that the threat the protesters posed was through their words. Jum‘a suggested that the protesters, just like the *khawārij* in his view, were “using words they do not believe in,” like legitimacy (*shar‘iyya*) and democracy. As such, Jum‘a accused the protesters of incitement (*tahrīd*), and “this incitement is, in its essence, incitement to civil strife (*fitna*).” Moreover, incitement is “like the strike of a sword” and “words are like weapons.” Jum‘a said that those who incite, that is the protesters, were killing people figuratively (*ma‘nawiyyan*), and God will judge them as though they have killed human beings. To explain what he meant, Jum‘a used the example of a protest on 8 July 2013 outside the military barracks where Mursi was being held. Jum‘a said that this protest caused terror among the people, “women are scared and miscarry, and their hair goes white with fear.” Moreover, these protests destroyed property, closed roads, and obstructed prayer. They spread false rumors, “which in our modern language we call terrorism.”⁹² That day, fifty-one people were killed outside the barracks as the army fired into the crowd “like pouring rain” as one witness put it.⁹³ However, Jum‘a explained in his lecture to the army that this response, firing into a crowd, was self-defense. “When I am attacked,” Jum‘a said, “I am not just defending myself, but defending life and security.” The army had no choice “but to kill those who spread lies” and those people “have to be killed to save others.” The army was noble in character and soldiers killed as a last resort, because “when the enemy is strong, you have no option but to shoot him from a distance.” Jum‘a even went so far as to suggest that the protestors were “committing suicide” because, “If I play with a gun,” Jum‘a said, meaning that if the protesters incited the army through their presence in the streets, “it is my fault if it kills me.”⁹⁴

I consider Jum‘a’s argument that the army’s killing of unarmed protesters was necessary to defend the nation to be rooted in a bureaucratic logic that facilitates impersonal mass killings. Even though the protesters were not armed, they were a threat to the social order. As scholars such as Zygmunt Bauman have argued, in times of social dislocation the impersonal nature of state bureaucratic logic leads bureaucracies to conclude that massacres are a necessity for the good of the nation.⁹⁵ Over the course of the nineteenth and twentieth centuries, al-Azhar was integrated into the bureaucracy of the Egyptian nation-state and,⁹⁶ though by August 2013 Jum‘a was no longer officially Grand Mufti he was nevertheless still part of Egypt’s bureaucratic discourse.

The State and the Mixing of Religion and Politics

At first glance, Jum‘a’s legitimation of the coup would seem to a prime example of a religious scholar’s intervention in politics. However, the notion that religion and politics are two distinct realms is not self-evidently true, but rather is the result of a historical process that began in seventeenth century Europe and then spread unevenly throughout the world during the colonial and postcolonial periods.⁹⁷ The modern ‘*ulamā*’ have, of course, been affected by this process. As such, while they may disagree with the ideological notion that religion and politics are not to be mixed, they have nevertheless accepted that the concepts of religion and politics are distinct and refer to different phenomena. With that point in mind, Hussein Agrama has argued that the discourse of modern states is characterized by states’ ever-increasing capacity to regulate religious life.⁹⁸ I will now argue that Jum‘a’s interventions in 2013 are part of this process of expansion.

In his own reading of Jum‘a’s arguments Fadel wrote that, in supporting the coup, “Traditionalist theologians such as [Jum‘a] have clearly decided that protection of religious

orthodoxy is more important than establishing a representative government. In making this choice, they are clearly vindicating a well-established line of reasoning in Islamic political thought.”⁹⁹ Fadel’s argument was that the Azharite ‘*ulamā*’ were unable to tolerate the markedly increased diversity of competing voices in the post-2011 Islamic public sphere, and saw in al-Sisi “a religious autocrat who can control religious debate.”¹⁰⁰ While I do not disagree with this interpretation, I contend that a fruitful additional means to make sense of Jum‘a’s reasoning is through Agrama’s arguments on secularism and Egyptian state discourse.

In *Questioning Secularism* Agrama explains how the nation-state purports to regulate the divide between religion and politics. Taking up the question, “is Egypt a Secular or Islamic state?” Agrama argues instead that such a question is neither useful nor even answerable. Rather, Agrama suggests that the very fact one cannot say definitively whether Egypt is a secular state or not is the essence of secular power.¹⁰¹ Agrama argues that secular power is not the power of the state to establish norms, rules and boundaries that divide religion and politics. Instead, secular power is a “questioning power” that works by continually raising questions and causing anxieties among the population about where the divide between religion and politics really lies. For the public the answer to this anxiety is that further intervention by the state is necessary and legitimate, so that this unclear divide can be resolved satisfactorily. It is in this mistaken assumption, however, that the root of secular power lies. This is because it is the state itself that first produces the concepts of religion and politics as separate entities that can, and should, be divided. However, secular power does not divide these realms at all but rather, “hopelessly blurs them.” As a result, the public assume that the state simply needs more power to resolve the religious-political divide, and subsequently accept the expansion of the state’s sovereign capacity over more realms of social life. It is this circular premise, that the state is needed to reconcile a

divide between two realms it created, and blurs between, then, that is at the root of secular power, and leads to the ever-increasing expansion of state sovereign capacity in social life.¹⁰² As such, I argue that in addition to understanding Jum‘a’s support for the military as part of a desire to restrict new voices entering the Islamic public sphere, his intervention is also part of the dynamic Agrama has described. Jum‘a’s arguments help create the anxiety that the Brotherhood and their supporters are mixing religion and politics because, like the *khawārij* in Jum‘a’s view, they “utter words of truth intending falsehood.”¹⁰³ At the same time, Jum‘a is also a religious scholar and former Grand Mufti, who is now speaking to the public as a private citizen, further compounding the discursive mingling of religion and politics. In line with Agrama’s argument, the solution that Jum‘a proposes is greater state control to police the religion-politics divide. For example, in a number of interviews with the Egyptian press Jum‘a argues that the state must be given the capacity to regulate religious life further by granting licenses to issue fatwas, and have more control of mosques and sermons.

For example, in an interview with the Egyptian newspaper al-Ahram in February 2013, just before Jum‘a left office, the interviewer asks Jum‘a to describe the greatest challenges facing his successor, Shawki ‘Allam (b.1961). In his response, Jum‘a expresses his concern about the current “chaos in religious discourse” (*fawḍa fi-l-khiṭāb al-dīnī*), as he calls it.¹⁰⁴ Jum‘a explains that the Egyptian public sphere is awash with an overwhelming diversity of religious opinions ranging from the extreme, to the licentious, to the moderate, the political and so on. The problem is that the Egyptian public do not know whom to trust. Furthermore, the people who issue these fatwas are only “expressing their personal views, not [the views of] the religious establishment.”¹⁰⁵ Fadel considers Jum‘a’s concerns in this interview to be reminiscent of a yearning for the political order idealized by the premodern ‘*ulamā*’. Al-Ghazali considered the

ideal social order to be strictly hierarchical, with the *'ulamā'* and the ruling establishment at the top speaking with one voice on matters of religion and governance while the public listened obediently. As a result, Fadel argues that Jum'a's desire to support the coup is rooted first and foremost in the historically well-established view that public order can only be preserved when there is a single, authoritative voice speaking on behalf of Islam. Fadel emphasizes that, for Jum'a, tolerating a pluralistic Islamic public sphere means tolerating chaos and is unacceptable.¹⁰⁶

In contrast to Fadel's argument, I suggest first of all that Jum'a's concerns about an overly pluralistic public sphere are better contextualized in historical terms by the nationalism that began with al-Tahtawi, rather than the ideal political order of al-Ghazali.¹⁰⁷ Second of all, I consider Jum'a's arguments in favor of greater state regulation of religion to be part of the broader discursive process whereby citizens accept that greater state control is necessary as a result of the state's questioning power. While al-Tahtawi did display a certain tolerance for a diversity of publicly expressed opinions and ideas, he always added that this tolerance was not to be at the expense of "national unity." Moreover, al-Tahtawi also emphasized that internal disorder (*al-ikhtilāl al-dākhilī*) and civil strife (*fitan*) were to be avoided to ensure that the nation (*umma*) would remain strong enough to defend the *waṭan*.¹⁰⁸ Al-Tahtawi initiated these tropes, which were mobilized by later nationalist authoritarians like Nasser,¹⁰⁹ and they play a key role in Jum'a's arguments as well. Jum'a's refers to the Egyptian public as the "children of the homeland" (*abnā' al-waṭan*). Like al-Tahtawi, Jum'a describes his own role as a servant of the *waṭan*. Speaking to al-Ahram in 2013 about his impending departure from his post, Jum'a says "I am going to continue to serve my religion, my homeland, and my brothers [...] I ask almighty God that He help the new [Grand] Mufti to complete the journey of making the Dar al-Ifta an

example that all state institutions will follow, in order to revive this beloved *waṭan*, and return Egypt to its former era of preeminence, advancement and progress.”¹¹⁰ I also consider Jum‘a’s understanding of freedom to have its origins in al-Tahtawi’s proto-nationalism. Jum‘a says, “Freedom means adhering to [proper] authority and legitimacy, not escaping [from them] and following capricious whims or desires.”¹¹¹ Al-Tahtawi and the *‘ulamā’* who came after him also understood freedom first and foremost as the freedom to obey the law, and the freedom to love the *waṭan*.¹¹² Like al-Tahtawi, underpinning Jum‘a’s arguments is his concern for the future of the Egyptian nation and its progress.

Jum‘a’s solution to the perceived problem of chaos in religious discourse is increased state control over religious life, and he is therefore an important actor facilitating the state’s increasing capacities of control. Jum‘a advocates for a law granting the Dar al-Ifta the exclusive right to issue licenses to regulate the promulgation of fatwas.¹¹³ He makes his arguments in unison with the Egyptian Minister of Awqaf, which at the time was also attempting to assert control of all Egypt’s mosques. The Ministry made this attempt by stripping thousands of imams of their licenses to preach, and attempted to close all small mosques less than 860 square feet in size. These moves were justified by Jum‘a and the Ministry because of a need to disentangle religion and politics, or counteract the “merchants of religion” (*tujjār al-dīn* i.e. the Brotherhood) as they put it.¹¹⁴ Jum‘a argued that “it is necessary that this matter [of issuing fatwas] should be restricted to specialized scholars, and that scholars who wish to assume this role [must] be trained thoroughly” and, at the time, the Ministry of Awqaf planned to send Azhari trained imams throughout the country.¹¹⁵ As such, on the one hand Jum‘a’s arguments for greater state support for al-Azhar and the Dar al-Ifta can certainly be read as part of the *‘ulamā’*’s conscious decisions to reassert their power in the public sphere over the Brotherhood and other groups as

Fadel points out.¹¹⁶ On the other hand, at the level of state discourse, I also contend that Jum‘a’s arguments can be read as an illustration of how the state comes to enjoy a greater capacity to regulate religious social life.

Conclusion

In this article I have analyzed ‘Ali Jum‘a’s arguments in favor of the coup and its aftermath during the Egyptian 2013 counter-revolution. Alongside Fadel’s own analysis of Jum‘a’s support for the coup, I have argued that Jum‘a’s Islamic legal arguments can be fruitfully understood as nationalist, and as part of a discourse of the nation-state. As such, rather than comparing Jum‘a’s authoritarian sympathies to the hierarchical relationships found between Sufi shaykhs and their *murīds*, or to well-established, premodern lines of reasoning, I have contended that, if one were looking to make a historical comparison, Jum‘a’s arguments have their roots in the writings of Rifa‘a al-Tahtawi. Al-Tahtawi was the first in a long chain of nationalist ‘*ulamā*’ leading up to Jum‘a and his contemporaries. Like Jum‘a, al-Tahtawi’s writings are part of a discourse that produces new subjects, citizens, who are loyal and recognize themselves in the idea of the nation and are concerned with that nation’s future. Rather than viewing al-Tahtawi as instigating a new, republican sub-tradition that is distinct from a sub-tradition Fadel calls traditionalist Islam, I emphasized that al-Tahtawi’s political vision is also very much indebted to the premodern political imaginary. At the same time, I have foregrounded al-Tahtawi’s proto-nationalist additions to this political vision, and argued that the authoritarian sympathies within his proto-nationalism is part of chain that leads to Jum‘a.

A state cannot justify its existence without a nation. The discursive creation of the nation by the state pulled the premodern Muslim out of a cosmic-moral order underpinned by God and into a new order defined by the nation-state.¹¹⁷ With this point in mind, I demonstrated that

Jum‘a’s arguments were rooted in an appeal to progress of the nation, and out of a concern to protect it. I also emphasized Jum‘a’s usage of the concept of *taghallub*. Even though *taghallub* is originally a premodern Islamic legal concept, I showed that Jum‘a’s usage of the concept is novel inasmuch as it is connected to the concept of popular sovereignty and the national will, which legitimated the army’s intervention. As such, Jum‘a’s arguments represent a new phenomenon whereby lines of reasoning, which had their origins in premodern Islamic political thought, are being redeployed in the modern context with entirely new justifications, and being put to new purposes.

The aftermath of the coup was dominated by the massacre at Rabi‘a al-‘Adawiyya. The most striking aspect of Jum‘a’s legitimization of the massacre was his referral to the protesters as *khawārij*. While this might appear to be a reiteration of a premodern concept that served to excommunicate the anti-coup protesters from the Muslim community and legitimate their killing, I argued instead that the term *khawārij* has a very particular history in postcolonial Egyptian politics. Not only is the concept intended to serve as an explanation for a rebellion and convey the meaning of illegitimate rebellion against a legitimate ruler, it also carries the meaning of terrorism and treason against the nation and has been a common feature of anti-Brotherhood diatribes since at least 1948. The accusation of kharijism, then, which Jum‘a levels at the anti-coup protesters, does not put them outside the Muslim community, but outside the bounds of the nation.

Being put outside a premodern Muslim community is different from expulsion from the modern nation in a number of ways. While the premodern sovereign enjoyed total power over the deaths over his subjects, the modern state enjoys complete dominance over the life of the nation and its citizens. Similarly, the assumptions that Jum‘a drew upon to legitimate the

massacres were rooted in the preservation of life, rather than power over death. He argued that the protesters had to be killed to save the nation. This rationale was quintessentially modern, and does not have its origins in the political order idealized by the premodern *'ulamā'*. As a number of scholars have emphasized, appeals to the future progress of the nation make all kinds of horrors possible in the present.

Finally, in the months prior to the 2013 coup, Jum'a spoke of his deep concern about the multiplicity of voices speaking in the name of Islam in the Egyptian public sphere. He referred to this phenomenon as the "chaos of religious discourse." Fadel argued that this concern was a key factor in the Azharite *'ulamā'* and Jum'a's support for the coup, and was drawn from the historical vision of a hierarchical society promulgated by premodern *'ulamā'* like al-Ghazali. By contrast, I have emphasized that Jum'a's concern was first of all underpinned by his concern for the future of the nation, a concern he shares with al-Tahtawi. Second of all, I argued that the solution Jum'a proposed, increased state control, was symptomatic of a discourse that first creates two separate concepts of religion and politics, inextricably blurs them together, and then validates the state's existence as the only force able to disentangle them. Agrama termed this dynamic the "questioning power" of secularism.

Academics who study contemporary Islam and politics in the Arab World have primarily concerned themselves with the Muslim Brotherhood, and the activist *'ulamā'* close to that movement like al-Qaradawi, who promulgated a "*fiqh* of revolution" (*fiqh al-thawra*) in support of the 2011 Arab Spring.¹¹⁸ However, since the Egyptian coup in 2013 it is now time to focus on the *fiqh* of counter-revolution advanced by the *'ulamā'* establishment. This article is an effort to contribute to this emerging conversation and, alongside Fadel's emphasis on the importance of history and aspects of contemporary Sufism, I have emphasized that Jum'a's *fiqh* of counter-

revolution can also be usefully understood as rooted in nationalism and a concern to protect the Egyptian nation.

Author's note: I wish to express my gratitude to Muhammad Fadel and Carl Sharif El-Tobgui for sharing drafts of their own work on this topic with me, and also to Tazeen Ali and the three anonymous reviewers for their helpful comments.

¹ Human Rights Watch, "All According to Plan: The Rab'a Massacre and Mass Killings of Protesters in Egypt," *Human Rights Watch*, 12 August 2014, <https://www.hrw.org/report/2014/08/12/all-according-plan/raba-massacre-and-mass-killings-protesters-egypt>.

² Since stepping down from his post as Grand Mufti in February 2013 Jum'a has retained a visible presence on social media through his personal website, facebook, and twitter (he has over one million followers on both outlets) and he is a regular commentator on Egyptian television and in Egyptian print media. In September 2014 he was among the initial signatories of the *Open Letter to al-Baghdadi*, which describes itself as a scholarly rebuttal of ISIS' interpretation of Islamic legal texts by leading 'ulamā'. "Open Letter to Al-Baghdadi," September 2014, <http://www.lettertobaghdadi.com>. Perhaps in response to his continued public presence and support for the coup Jum'a has been the target of assassination attempts, most recently on 5 August 2016. "Al-Dākhiliyya al-Miṣriyya: Najāt Muftī al-Jumhūriyya al-Sābiq 'Alī Jum'a Min Muḥāwalat Ightiyāl," *BBC Arabic*, 5 August 2016, http://www.bbc.com/arabic/middleeast/2016/08/160805_ali_gomaa_egypt.

³ 'Ali Jum'a, "Hadīth al-Duktūr 'Alī Jum'a: 'Aḍū Hay'at Kibār al-'Ulamā' bi-l-Azhar al-Sharīf," *YouTube*, (Uploaded 20 September 2014), <https://www.youtube.com/watch?v=LCQqrryBy1E>; 'Ali Jum'a, "Video Musarrab li-'Alī Jum'a li-l-Sīsī fī Ḥuḍūr al-Sīsī Iḍrab fī'l-Malyān," *YouTube*, (Uploaded 8 October 2013), https://www.youtube.com/watch?v=L0TVL_H-eak.

⁴ Ebrahim Moosa, "Political Theology in the Aftermath of the Arab Spring: Returning to the Ethical," in *The African Renaissance and the Afro-Arab Spring: A Season of Rebirth?*, ed. Charles Villa-Vicencio, Erik Doxtader, and Ebrahim Moosa (Washington, DC: Georgetown University Press, 2015), 101–19 (15).

⁵ At the same time, it would be wrong to characterize the 'ulamā' of al-Azhar as a monolithic bloc. Some of them notably supported the 2011 Revolution including Emad Effat, who was killed in a demonstration on 15 December 2011. Similarly, Hasan al-Shafi'i is probably the most well-known of the 'ulamā' who resigned their positions at al-

Azhar in protest and spoke out vociferously against the massacres perpetrated by the army after the 2013 coup. See for example Hasan al-Shafi‘i, “Kalima Nāriyya min al-Shaykh Ḥasan al-Shāfi‘ī ḍidd Majāzir al-Sīsī al-Sufāh,” *YouTube*, (Uploaded 27 July 2013), <https://www.youtube.com/watch?v=500qVovTP7I>.

⁶ For example, Ebrahim Moosa draws attention to the pragmatism shown by the ‘*ulamā*’ establishment in the face of colonial and postcolonial regimes. Moosa suggests that after the coup al-Azhar ultimately preferred to be loyal to the side that commanded overwhelming force, and therefore authority, a notion that has roots in premodern Islamic political thought. Amr Osman sees an explanation for the ‘*ulamā*’s divisions over the coup in the precedents of early Islamic history, particular the differing positions taken after the murder of the ‘Uthman and the revolt of Ibn al-Zubayr. Moosa, “Political,” 14–15; Amr Osman, “Past Contradictions, Contemporary Dilemmas: Egypt’s 2013 Coup and Early Islamic History,” *Digest of Middle East Studies* 24, no. 2 (2015): 303–26.

⁷ Mohammad Fadel, “Islamic Law and Constitution-Making: The Authoritarian Temptation and the Arab Spring,” *Osgoode Hall Law Journal* 53, no. 4 (2016): 472–507 (18-23); Fadel, “Modernist Islamic Political Thought and the Egyptian and Tunisian Revolutions of 2011,” *Middle East Law and Governance* 3, no. 1–2 (2011): 94–104 (5-11).

⁸ Fadel, “Islamic,” 3–4.

⁹ *Ibid.*, 27.

¹⁰ This concept is used by Wael Hallaq. Wael B. Hallaq, *The Impossible State: Islam, Politics and Modernity’s Moral Predicament* (New York, NY: Columbia University Press, 2013), 106.

¹¹ Fadel, “Islamic,” 11–16. Khaled Abou El Fadl has shown that the characterisation of the premodern ‘*ulamā*’ as primarily quietist in the face of unjust rule is an oversimplification. Khaled Abou El Fadl, *Rebellion and Violence in Islamic Law* (Cambridge: Cambridge University Press, 2001).

¹² Fadel, “Islamic,” 35–36.

¹³ Fadel notes that al-Qaradawi also struggles to tolerate voices he considers to be beyond the pale of acceptable debate, while al-Azhar benefitted from the post-colonial proliferation of authoritative Islamic voices as the Egyptian regime began to invest in al-Azhar and provide it with the capacity to assert its voice in the public sphere. *Ibid.*, 30.

¹⁴ ‘Ali Jum‘a, *Qaḍīyyat Tajdīd Uṣūl al-Fiqh* (Cairo: Dār al-Hidāya, 1993), 4.

¹⁵ While any detailed discussion of al-Qaradawi arguments since the Arab Spring are beyond the scope of this article, I consider much of his reasoning during the 2011-13 period to be indebted to the same nationalism chain that links both him and Jum‘a to al-Tahtawi. Moreover, Uriya Shavit has pointed out that for long periods the Muslim

Brotherhood as a whole has accepted the premise that violent overthrow of a government would only be legitimate if was certain that it would be swift, successful, and thereby avoid a long civil war. Uriya Shavit, “The Muslim Brothers’ Conception of Armed Insurrection against an Unjust Regime,” *Middle Eastern Studies* 51, no. 4 (2015): 600–617.

¹⁶ Azzam Tamimi, “Islam and Democracy from Tahtawi and Ghannouchi,” *Theory, Culture & Society* 24, no. 2 (2007): 39–58.

¹⁷ Leon Zolondek, “Al-Taḥṭāwī And Political Freedom,” *The Muslim World* 54, no. 2 (1964): 90–97 (6).

¹⁸ Juan Cole, *Colonialism and Revolution in the Middle East: Social and Cultural Origins of Egypt’s ‘Urabi Movement* (Cairo: AUC Press, 1999), 42.

¹⁹ Anver Emon has highlighted that there can be an ideological element in overemphasising the role of the nation-state, and particularly the codification of Islamic Law, in the colonial transformation of the Arab World. Anver M. Emon, “Codification and Islamic Law: The Ideology Behind a Tragic Narrative,” *Middle East Law and Governance* 8, no. 2–3 (2016): 275–309.

²⁰ This point should not be understood as a repetition of the Orientalist trope that the premodern Islamic world existed in a state of stagnancy or retardation. Rather, I mean to say that an emphasis on accessing truth through a reflective tradition was replaced by a refashioning of the world with man at its center. For more on this point see William Gallois, “The Destruction of the Islamic State of Being, Its Replacement in the Being of the State: Algeria, 1830-1847,” *Settler Colonial Studies*, 2017, 1–21 (6-9), doi:10.1080/2201473X.2016.1273864; Gallois, “The War for Time in Colonial Algeria,” in *Breaking up Time: Negotiating the Borders between Present, Past and Future*, ed. Chris Lorenz and Berber Bevernage (Göttingen: Vandenhoeck & Ruprecht, 2013), 252–73.

²¹ Jeffrey T. Kenney, *Muslim Rebels: Kharijites and the Politics of Extremism in Egypt* (Oxford: Oxford University Press, 2006). At the same time, however, accusing a group of being *khawārij* would nevertheless be legible in terms of *takfīr*. The accusation of being *khawārij* has been used in this way by other contemporary ‘*ulamā*’, such as the Syrian Muhammad al-Yaqoubi in his fatwa condemning ISIS as *khawārij*. Muhammad al-Yaqoubi, *Inqādh al-Umma: Fatwā Mufaṣṣila fī Ithbāt an Dā‘ish Khawārij wa-Qitāluhum Wājib*, 2015.

²² Albert Hourani, *Arabic Thought in the Liberal Age 1798-1939* (London: Oxford University Press, 1962), 69–84.

²³ For example, in 1863 Khedive Isma‘il placed al-Tahtawi in charge of organizing education throughout Egypt, in the forerunner to the Egyptian Ministry of Education.

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- ²⁴ Cole, *Colonialism*, 42; Zolondek, “Ṭaḥṭāwī,” 6.
- ²⁵ Wael Abu-‘Uksa, *Freedom in the Arab World: Concepts and Ideologies in Arabic Thought in the Nineteenth Century* (Cambridge: Cambridge University Press, 2016), 50–83.
- ²⁶ *Ibid.*, 82.
- ²⁷ Hallaq, *Impossible*, 99.
- ²⁸ *Ibid.*, 105.
- ²⁹ *Ibid.*, 106.
- ³⁰ Hourani, *Arabic*; Benjamin Geer, “The Priesthood of Nationalism in Egypt: Duty, Authority, Autonomy” (Doctoral Dissertation, School of Oriental and African Studies, 2011), 110.
- ³¹ Ellen A. McLarney, “Freedom, Justice, and the Power of *Adab*,” *International Journal of Middle East Studies* 48, no. 1 (2016): 25–46 (1).
- ³² *Ibid.*
- ³³ Zolondek, “Ṭaḥṭāwī,” 6.
- ³⁴ Cole, *Colonialism*, 42.
- ³⁵ Geer, “Priesthood,” 133.
- ³⁶ ‘Abduh cited the Caliph ‘Umar’s famous urging that people “straighten his deviations,” while Kawakibi referred to the Qur’anic story of Bilqis, the Queen of Sheba, to make an argument for a consultative assembly. Zolondek, “Ṭaḥṭāwī,” 3.
- ³⁷ Rifā‘a al-Tahtawi, *Manāḥij al-Albāb al-Miṣriyya fī Mabāḥij al-Ābāb al-‘Aṣriyya* (Cairo: al-Majlis al-‘Alī li-l-Thaqāfa, 2002), 368.
- ³⁸ al-Tahtawi, *Manāḥij*, 369.
- ³⁹ Gilbert Delanoue, *Moralistes et politiques musulmans dans l’Égypte du XIXe siècle (1798-1882)* (Cairo: Institut Français d’Archéologie Orientale du Caire, 1982), 469–70. Quoted in Geer, “Priesthood,” 133–34.
- ⁴⁰ al-Tahtawi, *Manāḥij*, 348.
- ⁴¹ Fadel, “Islamic,” 6–8. See also Fadel, “Nature, Revelation and the State in Pre-Modern Sunni Theological, Legal and Political Thought,” *The Muslim World* 106, no. 2 (2016): 271–90 (15-17).
- ⁴² al-Tahtawi, *Manāḥij*, 353.

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- ⁴³ Larbi Sadiki, *The Search for Arab Democracy: Discourses and Counter-Discourses* (New York, NY: Columbia University Press, 2004), 208–18.
- ⁴⁴ Geer, “Priesthood,” 91–97.
- ⁴⁵ al-Tahtawi, *Manāhij*, 354.
- ⁴⁶ Sadiki, *Search*, 213–15.
- ⁴⁷ Geer, “Priesthood,” 112–18, 128.
- ⁴⁸ Samuli Schielke, “Hegemonic Encounters: Criticism of Saints-Day Festivals and the Formation of Modern Islam in Late 19th and Early 20th-Century Egypt,” *Die Welt Des Islams* 47, no. 3 (2007): 319–55 (3); Talal Asad, *Formations of the Secular: Christianity, Islam, Modernity* (Stanford, CA: Stanford University Press, 2003), 13.
- ⁴⁹ Rifā‘a al-Tahtawi, *al-Murshid al-Amīn li-l-Banāt wa-l-Banīn* (Cairo: al-Majlis al-A‘lā li-l-Thaqāfa, 2002), 90–95.
- ⁵⁰ McLarney, “Freedom,” 2.
- ⁵¹ al-Tahtawi, *Manāhij*, 323.
- ⁵² *Ibid.*, 355–56.
- ⁵³ See for example, Cole, *Colonialism*, 39–40; Hourani, *Arabic*, 73; Zolondek, “Ṭaḥṭāwī”; Geer, “Priesthood,” 132–35, 143–45.
- ⁵⁴ Hallaq, *Impossible*, 24.
- ⁵⁵ Fadel, “Islamic,” 17.
- ⁵⁶ Samuli Schielke, *Egypt in the Future Tense: Hope, Frustration, and Ambivalence in Egypt Before and After 2011* (Bloomington, IN: Indiana University Press, 2015), 355.
- ⁵⁷ Zareena Grewal, *Islam Is a Foreign Country: American Muslims and the Global Crisis of Authority* (New York, NY: New York University Press, 2013), 191–99.
- ⁵⁸ The International Institute of Islamic Thought was founded by the Palestinian intellectual Isma‘il al-Faruqi (d.1986) in 1981. It is based in Herndon, VA, and hosts a number of offices worldwide.
- ⁵⁹ For a discussion of some of the New Islamists and their work see Raymond W. Baker, *Islam Without Fear: Egypt and the New Islamists* (Cambridge, MA: Harvard University Press, 2003); Ellen A. McLarney, *Soft Force: Women in Egypt’s Islamic Awakening* (Princeton, NJ: Princeton University Press, 2015), 219–54.
- ⁶⁰ Jum‘a, *Tajdīd*, 15–18.
- ⁶¹ Fadel, “Islamic,” 25.

⁶² In 2010 Jum‘a appeared to confirm his democratic sympathies with statements such as, “Muslims are free to choose whichever system of government they deem most appropriate for them, provided they respect and uphold basic principles of equality, freedom and human dignity.” ‘Ali Jum‘a, “Islam and Modernity,” *Contending Modernities*, 22 November 2010, <http://blogs.nd.edu/contendingmodernities/2010/11/22/islam-and-modernity/>. Quoted in Moosa, “Political,” 15.

⁶³ See for example, ‘Ali Jum‘a, *Responding from the Tradition: One Hundred Contemporary Fatwas by the Grand Mufti of Egypt*, trans. Tarek Elgawhary and Nuri Friedlander (Louisville, KY: Fons Vitae, 2011).

⁶⁴ Jum‘a has had a cooperative relationship with Khalid, co-authoring a book with him. ‘Ali Jum‘a and ‘Amr Khalid, *al-Īmān wa-l-‘Aṣr: Ru‘ya Jadīda Fa‘āla li-Dawr al-Dīn fi al-Ḥayāt* (Cairo: Samā li-l-Nashr wa-l-Tawzī‘, 2015).

⁶⁵ Grewal, *Islam*, 193.

⁶⁶ *Ibid.*, 191–99; G. Willow Wilson, “The Show-Me Sheikh,” *The Atlantic*, August 2005, <http://www.theatlantic.com/magazine/archive/2005/07/the-show-me-sheikh/304053/>.

⁶⁷ I would like to thank Carl Sharif El-Tobgui for sharing his with me his conference paper “*Fiqh* Discourses and the July 2013 Military Coup in Egypt” that brought many of these sources to my attention. Carl Sharif El-Tobgui, “*Fiqh* Discourses and the July 2013 Military Coup in Egypt” (Middle East Studies Association Annual Conference, Washington, DC, 24 November 2014).

⁶⁸ ‘Ali Jum‘a, al-Ḥiwār al-Kāmil li-l-Shaykh ‘Alī Jum‘a ma‘a Khairī Ramaḍān, interview by Khairi Ramadan, *YouTube*, (23 August 2013), <http://www.youtube.com/watch?v=DcAoD8FtnU>; Jum‘a, “Video”; Jum‘a, “Ḥadīth.” In the lecture to the army Jum‘a refers to fasting in such a way as to suggesting a recording date during Ramadan 2013.

⁶⁹ Jum‘a, Ḥiwār.

⁷⁰ Fadel, “Islamic,” 10.

⁷¹ Jum‘a, Ḥiwār.

⁷² *Ibid.*

⁷³ *Ibid.*

⁷⁴ Jum‘a, “Ḥadīth.”

⁷⁵ In fact, we also now know that al-Sisi and the army leadership exhibited a similar reasoning as they planned for the coup with leaders of the anti-Brotherhood coalition, and refused to act until they had received a “written popular

demand” calling for intervention signed by civil-society leaders, which was duly provided. Khaled Abou El Fadel, “Failure of a Revolution: The Military, Secular Intelligentsia and Religion in Egypt’s Pseudo-Secular State,” in *Routledge Handbook of the Arab Spring: Rethinking Democratization*, ed. Larbi Sadiki (Abingdon: Routledge, 2014), 253–70 (18).

⁷⁶ Jum‘a, “Ḥadīth.”

⁷⁷ Since the events of July and August 2013 Jum‘a has denied that he was using the word *khawārij* to refer to the pro-Mursi protesters, explaining that he was in fact talking about militants in Sinai. However, though Jum‘a does refer to militancy in the Sinai region during his lecture, based on the material available this interpretation does not seem credible. “‘Alī Jum‘a: Lam Aṣif al-Ikhwān bi-l-Khawārij,” *Masrawy*, 24 October 2013, http://www.masrawy.com/News/News_Egypt/details/2013/10/24/73346/.

⁷⁸ Jum‘a, Ḥiwār; Jum‘a, “Ḥadīth.”

⁷⁹ *Khawārij* means “those who go out,” but is commonly understood to mean “rebels.” The term originates with the battle of Siffin (657 CE) during the first intra-Muslim conflict that began after the murder of ‘Uthman (d.656). ‘Ali was then elected caliph, but Mu‘awiya refused to assent to this before ‘Uthman killers were punished. ‘Ali refused and their dispute led to a clash at Siffin. Significantly, the resulting truce did not recognize ‘Ali as “commander of the believers” (*amīr al-mu‘minīn*). Upon hearing this news, a group of ‘Ali’s own soldiers demanded he continue fighting. After ‘Ali refused, this group turned on him, rejecting both ‘Ali and Mu‘awiya. Kenney, *Muslim*, 21–26.

⁸⁰ *Ibid.*, 116.

⁸¹ *Ibid.*, 19–54.

⁸² *Ibid.*, 47.

⁸³ *Ibid.*, 116.

⁸⁴ *Ibid.*, 71.

⁸⁵ *Ibid.*, 104–8.

⁸⁶ *Ibid.*, 103.

⁸⁷ Richard Falk, *Revolutionaries and Functionaries: The Dual Face of Terrorism* (New York, NY: Dutton, 1988), 27. Quoted in Kenney, *Muslim*, 103.

⁸⁸ Hallaq, *Impossible*, 48–52.

⁸⁹ Michel Foucault, *The History of Sexuality*, vol. 1 (New York, NY: Random House, 1990), 134–38.

⁹⁰ Jum‘a, “Ḥadīth.”

⁹¹ Foucault, *History*, 1:138.

⁹² Jum‘a, “Ḥadīth.”

⁹³ Patrick Kingsley, “At Least 51 Protesters Killed in Egypt as Army Opens Fire ‘Like Pouring Rain,’” *The Guardian*, 8 July 2013, <https://www.theguardian.com/world/2013/jul/08/egypt-clashes-morsi-muslim-brotherhood-military>.

⁹⁴ Jum‘a, “Ḥadīth.” Jum‘a, “Ḥadīth.”

⁹⁵ Zygmunt Bauman, *Modernity and the Holocaust* (Ithaca, NY: Cornell University Press, 1989), 18, 144.

⁹⁶ Jakob Skovgaard-Petersen, “Egypt’s ‘Ulama in the State, in Politics and in the Islamist Vision,” in *The Rule of Law, Islam, and Constitutional Politics in Egypt and Iran*, ed. Said Arjomand and Nathan Brown (Albany, NY: SUNY Press, 2013), 279–302.

⁹⁷ Timothy Fitzgerald, “Encompassing Religion, Privatized Religions and the Invention of Modern Politics,” in *Religion and the Secular: Historical and Colonial Formations*, ed. Timothy Fitzgerald (London: Acumen, 2007), 211–40.

⁹⁸ Hussein Agrama, *Questioning Secularism: Islam, Sovereignty, and the Rule of Law in Modern Egypt* (Chicago, IL: Chicago University Press, 2012).

⁹⁹ Fadel, “Islamic,” 38.

¹⁰⁰ *Ibid.*, 36.

¹⁰¹ The case of Nasr Abu Zayd occurred when he was accused, on the basis of his controversial research in the field of Qur’anic studies, of having renounced Islam. Given that under Egyptian law a Muslim woman is not permitted to marry a non-Muslim, it was argued that Abu Zayd’s marriage to his wife should be annulled as he was not Muslim. The plaintiff, a member of the public who was not personally affected by the case, argued that he had a right to accuse Abu Zayd according to the terms of *ḥisba* (the obligation to command the right and forbid the wrong when it became manifest in public). Astonishingly, the court accepted the plaintiff’s argument, seemingly at a stroke bringing *ḥisba* into the orbit of Egyptian civil law. Agrama, *Questioning*, 42–68.

¹⁰² Agrama refers to states’ increasing “capacity” to control religious and social life, in contrast to actual control. He focuses on the capacity to control rather than tangible control in order to collapse the common analytical distinction between liberal and authoritarian states. As far as Agrama’s level of analysis is concerned, a liberal states like the

United States is increasing its capacity to regulate citizens' lives under the auspices of national security on the same terms as an authoritarian state like Egypt. *Ibid.*, 1–41.

¹⁰³ Jum'a, "Ḥadīth."

¹⁰⁴ 'Ali Jum'a, "Fawḍat al-Khiṭāb al-Dīnī," *al-Ahram*, 28 February 2013, <http://www.ahram.org/NewsQ/133883.aspx>. Quoted in Fadel, "Islamic," 28.

¹⁰⁵ Jum'a, "Fawḍa."

¹⁰⁶ Fadel, "Islamic," 27–30.

¹⁰⁷ However, at this point it would be worth acknowledging that, in support of Fadel's argument, though al-Tahtawi does afford the 'ulamā' a special role as guides, he does this in a republican-esque fashion inasmuch as al-Tahtawi understands the 'ulamā''s role to be not only educators of the ruler, but the public as well. McLarney, "Freedom," 36.

¹⁰⁸ al-Tahtawi, *al-Murshid*, 129–30.

¹⁰⁹ Geer, "Priesthood," 141.

¹¹⁰ Jum'a, "Fawḍa."

¹¹¹ Fadel, "Islamic," 28.

¹¹² al-Tahtawi, *al-Murshid*, 127–29.

¹¹³ Fadel, "Islamic," 27–29.

¹¹⁴ *Ibid.*, 31.

¹¹⁵ Ahmed Morsi and Nathan Brown, "Egypt's al-Azhar Steps Forward" (Carnegie Endowment for International Peace, 7 November 2013), <http://carnegieendowment.org/2013/11/07/egypt-s-al-azhar-steps-forward#>.

¹¹⁶ Fadel, "Islamic."

¹¹⁷ Hallaq, *Impossible*.

¹¹⁸ See Aria Nakissa, "The Fiqh of Revolution and the Arab Spring: Secondary Segmentation as a Trend in Islamic Legal Doctrine," *The Muslim World* 105, no. 3 (2015): 298–321; Muhammad al-Atawneh, "Khurūj in Contemporary Islamic Thought: The Case of the 'Arab Spring,'" *Ilahiyat Studies* 7, no. 1 (2016): 27–52; David H. Warren, "The 'Ulamā' and the Arab Uprisings 2011-13: Considering Yusuf al-Qaradawi, the 'Global Mufti,' between the Muslim Brotherhood, the Islamic Legal Tradition, and Qatari Foreign Policy," *New Middle Eastern Studies* 4 (2014): 1–33.