

# Tyranny of the Majority: Islamists' Ambivalence towards Human Rights

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The Arab revolutions have not yet led to the emergence of democracies founded upon respect for human rights and individual freedoms. Islamists took power through the ballot boxes in Tunisia and Egypt, but their ambivalent approach to human rights has subverted or delayed these rights. This paper evaluates the performance of the Muslim Brotherhood (MB) and its Freedom and Justice Party (FJP), the Salafist Nour Party in Egypt, and the Ennahda Party in Tunisia by analyzing the positions, programs, and practices of these Islamist parties in light of international human rights standards.<sup>1</sup>

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<sup>1</sup> For the purpose of this study, I will identify theoretical and practical positions using official platforms, pamphlets, statements, parliamentary records and intellectual contributions of the main ideologues and scholars of the three parties: the Freedom and Justice Party, the Ennahda Party, and the Nour Party. In talking about Ennahda, I will make use of the writings of Rached Al-Ghannouchi, who was recently re-elected president of the movement and whose book on public liberties is acknowledged by Ennahda as one of its official documents.

Since the fall of Ben Ali and Mubarak, Islamists have engaged actively in the transitional processes in Egypt and Tunisia, succeeding in coming to power in these two countries. The FJP and Ennahda are currently the largest political parties in Egypt and Tunisia, respectively, and the Nour Party became the second-largest political bloc following the first parliamentary elections held in Egypt after the revolution. These Islamist parties, which are under study in this paper, have led the processes of drafting the new constitutions in Egypt and Tunisia.

In their programs, statements, and literature, Islamists have been keen to show that their beliefs are not incompatible with international human rights standards. However, the evidence shows that, in fact, universal human rights will be endangered under the rule of these parties due to their ambivalent conception of rights. Islamists vary in their opinions on specific rights, ranging from hardline positions to reformist attitudes, and thus they have failed to develop a coherent and consistent approach to human rights. Islamists have not abandoned the objective of establishing Islamic states based on adopting *Shari'ah* (Islamic law) as the legal framework for the state. They reject the 'civil' or secular state that is neutral towards all religions and based on citizenship and equality before the law. Limiting democracy to the holding of elections - without safeguards for individual human rights, the rule of law, and the separation of powers - will not prevent the emergence of new majoritarian tyrannies and their rise to power through the ballot box, at the expense of the rights of minorities. This is certainly not what the Arab revolutionaries aspired to.

A number of key questions are relevant in assessing the human rights record of Islamist parties. What is the status of human rights in Islamic law in general? What commitments did Islamist parties make regarding fundamental human rights before the elections? To what degree are their visions of fundamental human rights in line with international human rights standards? How have Islamist parties in government performed in terms of respect for human rights? And finally, what does the ambivalence of Islamist parties towards human rights mean for the future of Arab societies and for their relations with their international partners?

## Islamists in Power: A Distorted View of Democracy

Islamism, or political Islam, refers to ‘the reassertion of the role of Islam in both public and private life’.<sup>2</sup> The Islamist movements and parties considered here are those political organisations that ‘mobilise and agitate in the political sphere while deploying signs and symbols from Islamic traditions’.<sup>3</sup> Islamist movements are diverse in their strategies and interpretations of Islamic legal traditions. These differences can be attributed to the historical and organisational evolution of these movements, as well as to the changing socio-political contexts in which they operate.<sup>4</sup> Bassam Tibi differentiates between jihadist Islamists, who use violence to achieve their political objectives, and institutional Islamists, who pursue their goals through non-violent means and engage in formal political processes and institutions.<sup>5</sup>

Institutional Islamists are influential political actors in the Middle East and North Africa (MENA) today, having gained the largest number of seats in the parliamentary elections in Tunisia, Egypt, and Morocco in 2011 and 2012. The Syrian Muslim Brotherhood is also a key player in the Syrian opposition. In Egypt, the Muslim Brotherhood’s candidate, Mohammed Morsi, recently became the country’s first civilian elected president. In Libya, Islamists have failed to achieve the same electoral success as their peers in Tunisia and Egypt, yet they remain influential.

The increasing political clout of Islamist parties across the region has stirred up serious domestic and external concerns over the depth of their practical commitment to international human rights standards. Long before the Arab revolutions, many observers were suspicious of Islamists’ commitment to human rights and liberal democracy.<sup>6</sup> These concerns were bolstered by previous experiences of Islamic governance and the application of *Shari‘ah* law in countries such as Iran, Pakistan, Sudan, Northern Nigeria and

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<sup>2</sup>M. Monshipouri, *Islamism, Secularism and Human Rights in the Middle East* (Colorado: Lynne Rienner Publishers, 1998), p.2.

<sup>3</sup>S. Ismail, *Rethinking Islamist Politics: Culture, the State and Islamism* (New York: I.B Tauris, 2006), p.2.

<sup>4</sup>M. Ayoob, *The Many Faces of Political Islam: Religion and Politics in the Muslim World* (Ann Arbor: The University of Michigan Press, 2008), pp. 14-17.

<sup>5</sup>B. Tibi, *Islam and Islamism* (New York: Yale University Press, 2010), p.10.

<sup>6</sup>See S. Huntington, *The Clash of Civilizations and the Remaking of World Order* (London: Simon and Schuster UK Ltd, 2002), pp.192-198; B. Lewis, ‘Freedom and Justice in the Modern Middle East’, *Foreign Affairs*, 36(2002), pp. 48-50; B. Tibi, ‘Why They Can’t Be Democratic’, *Journal of Democracy*, 19(3) (2008), pp. 43-48.

Afghanistan.<sup>7</sup> Given the popularity of Islamist parties in many Muslim states, other analysts advocated for the integration of peaceful Islamists into political processes as a tool of de-radicalization and moderation.<sup>8</sup>

Before the revolutions, Islamist parties were outlawed in Egypt and Tunisia. However, they remained active in the political opposition to varying degrees. In Egypt after 1984, the Mubarak regime intermittently tolerated the political participation of the Muslim Brotherhood, and MB members were represented in the parliaments of 1984 and 1987 as independents; they also dominated professional syndicates and student unions. The group was subjected to a security crackdown during the 1990s, yet in 2000 and 2005, the MB emerged once again as a powerful oppositional bloc in the parliament. In Tunisia, Ennahda, known before 1989 as al-Itijah al-Islami, was a major political player during 1980s, yet it was systematically banned and repressed in Tunisia after 1989. Many of the top leaders of Ennahda lived in exile. After the fall of Mubarak and Ben Ali, the Muslim Brotherhood and Ennahda have flourished in the political scenes of their respective countries.

Other Islamist actors have emerged as well. In Egypt, Salafists, as well as former violent jihadist movements such as al-Gama'a al-Islamiya, have formed political parties. After decades of staying away from formal politics, Salafists decided to make use of the free political space in the post-Mubarak era and to participate in politics. The main social base of the Nour Party is the Salafist Call Association in Alexandria, a major organisational umbrella group for Salafists in Egypt.<sup>9</sup> Tunisian Salafists have also become visible in public life, but unlike their Egyptian counterparts, they have not yet participated in post-revolution elections. On March 30, 2012, the first

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<sup>7</sup>See A.E. Mayer, *Islam and Human Rights: Tradition and Politics* (Boulder, CO: Westview Press, 2004) Fourth edition, pp. 36-46; P. Marshall, 'Introduction: The Rise of Extreme Shari'a', in P. Marshall (ed.) *Radical Islam's Rules: the Worldwide Spread of Extreme Shari'a Law* (Lanham: Roman and Littlefield Publishers, 2005), pp. 1-17.

<sup>8</sup> K. Kausch, 'Plus Ca Change: Europe's Engagement with Moderate Islamists', FRIDE's Working Paper 75, 2009, available at: [www.fride.org/publications/563/europe's-engagement-with-moderate-islamists](http://www.fride.org/publications/563/europe's-engagement-with-moderate-islamists) (Accessed 15 February 2012); K. Roth, 'Time to Abandon the Autocrats and Embrace Rights: the International Response to the Arab Spring', in *Human Rights Watch World Report 2012* (Washington: Human Rights Watch, 2012), pp. 1-21. In the introduction of the 2012 world report of the Human Rights Watch, Kenneth Roth, the executive director of the organisation, states that 'Islamic movements are hardly monolithic or implacably opposed to rights. Yet rather than engage with them to demand respect for rights, Western governments have often treated them as untouchable.'

<sup>9</sup> U. Abdul Latif, 'Salafists and Politics in Egypt', *Arab Center for Research and Policy Studies*, 2012, available at: <http://english.dohainstitute.org/release/508a64a4-3f6e-4958-8e1b-e0c9d6288d67>, p. 11.

Tunisian Salafist party was established, with a view to competing in the parliamentary elections scheduled for the spring of 2013.<sup>10</sup>

The experience of Islamists in power so far demonstrates that their conception of democracy is limited to competition at the ballot box, with less appreciation for ensuring the rights of minorities, individual liberties, the separation of powers, and the independence of public institutions, including the judiciary. If this trend continues, Islamist-led regimes in the wake of the revolutions will entrench a tyranny of the majority rather than true democracies, as envisaged by the revolutions.

After coming to power, Egyptian Islamists have been far more concerned with securing a dominant position in the emerging regime than with working with other political forces to consolidate the transition to democracy. Many of their actions have raised doubts about the genuineness of their commitment to democracy and the rule of law. Although Ennahda showed a liberal and consensus-driven mindset at times throughout the transition in Tunisia, its recent political behaviour and its stance on certain human rights are cause for concern. Having obtained the majority of seats in the parliament in Egypt, Islamists dominated the Constituent Assembly as well,<sup>11</sup> and they refused to develop a set of supra-constitutional principles regarding human rights, citizenship, and democratic governance. The FJP and the Nour Party firmly maintain that the elected parliament should have exclusive authority to oversee the drafting process of the new constitution. They have refused to give universal human rights a privileged status in the constitution, arguing that these rights reflect ‘western values’.<sup>12</sup>

President Morsi has succeeded in asserting his power over the military,<sup>13</sup> but no reforms have yet been undertaken to prevent the politicization of the army. The Muslim Brotherhood has dominated state-owned media and used Mubarak’s press law to silence journalists.

President Morsi has also broken his electoral promise to restructure the membership of the Constituent Assembly to reflect Egypt’s political

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<sup>10</sup> The Reform Front Party was officially established on 30 March 2012. See S. Ajmi, ‘Reform Front Party: Tunisia’s First Salafist Party’, *Tunisia Live*, 11 May 2012, available at: <http://www.tunisia-live.net/2012/05/11/reform-front-party-tunisias-first-salafist-party/>.

<sup>11</sup> See M. Ottoway, ‘The Death of the Constituent Assembly’, Carnegie Endowment for International Peace, 2012, available at: <http://carnegieendowment.org/2012/06/13/egypt-death-of-constituent-assembly/brzn>.

<sup>12</sup> See ‘A Statement by the Freedom and Justice Party’, 6 September 2011, available at: [http://www.hurryh.com/ar\\_print.aspx?print\\_ID=2308](http://www.hurryh.com/ar_print.aspx?print_ID=2308).

<sup>13</sup> See M. El Fegiery, ‘Crunch Time for Egypt’s Civil-Military Relations’, FRIDE Policy Brief, 14 August 2012, available at: <http://www.fride.org/publication/1054/crunch-time-for-egypt-s-civil-military-relations>.

diversity, and he failed to deliver on his promise of an inclusive cabinet. Islamists' imprint on public institutions was obvious in the formation of the National Council for Human Rights, some members of which are known for their outright hostility to human rights.<sup>14</sup> One member was previously involved in a flagrant incitement to hatred and violence against Shiite Muslims.<sup>15</sup>

President Morsi and his Islamist allies consider that their success at the ballot box allows them to infringe on the independence of the judiciary and to subordinate the judiciary to their political agenda. Indeed, the Egyptian judiciary has been subjected to flagrant attempts to control its supervisory role over the executive and the legislature. President Morsi has confronted the Supreme Constitutional Court (SCC) and circumvented its judgment on the dissolution of the parliament. He unilaterally adopted a Constitutional Declaration on November 21, 2012 to immunize his actions from the judicial oversight. This declaration allowed him to dismiss the attorney general and to appoint a new one of his own choosing. When the SCC refused to submit to the president, Islamists besieged the headquarters of the SCC and prevented its judges from entering in an attempt to prevent potential judgments on the constitutionality of the upper house of parliament and of the law regulating the Constituent Assembly. One of the stated objectives of President Morsi and the Muslim Brotherhood has been to stifle the powers of the SCC in the name of reforming the judiciary.<sup>16</sup> The SCC does need reforms to ensure its full independence, but these reforms must not serve as a pretext to weaken the court. Islamists used the new constitution as an opportunity to achieve this goal. Article 233 reduced the number of judges in the court from 17 to 11. Accordingly, its newest six members were removed from the bench. Article 176 provides that both judicial and non-judicial organs can nominate judges to serve on the SCC and that their appointment takes place by presidential decree. Before the adoption of the constitution, the general assembly of the SCC was charged with appointing its members and president. The new appointment system will allow the government to restructure the membership of the court in the near future. Moreover, a new law being prepared to regulate the court is likely to limit its jurisdiction. This attack on the judiciary is not an attempt at judicial reform, as claimed by the

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<sup>14</sup> See 'Political Groups, Figures Concerned over Politicised Human Rights Council', *Ahram Online*, available at: <http://english.ahram.org.eg/NewsContent/1/64/52100/Egypt/Politics-/Political-groups,-figures-concerned-over-politicis.aspx>, accessed 6 May 2012.

<sup>15</sup> See the statement of Safwat Hegazî, a leading Islamist who is a close ally of the Muslim Brotherhood, available at: [http://www.youtube.com/watch?v=j\\_3m10LZ4mU](http://www.youtube.com/watch?v=j_3m10LZ4mU), accessed 6 May 2012.

<sup>16</sup> See the statement of the leftist al-Tagammuh Party on 8 August 2012, available at: <http://www.elwatannews.com/news/details/35934>.

president and his supporters. Rather, the president and his allies have taken these actions to enable their use of the judiciary in the future in order to serve their political goals.

In the early months of Tunisia's transition, Ennahda tended to seek political compromise with secular parties, even when the concessions involved came at the expense of important elements of the party's ideological underpinnings. It confirmed its willingness to share power with other Tunisian political forces and to draft an inclusive constitution. It also declared its respect for the rights of women as enshrined in family law. One major step was Ennahda's agreement with other political forces to refer to Islam as the official religion of the state in the first section of the constitution, rather than citing *Shari'ah* as the main source of legislation. This move did not signal an abandonment of Ennahda's Islamist agenda. Rather, it reflected a new organisational and political reality that is different from the situation of Islamists in Egypt.

Ennahda has chosen to defer controversial political issues likely to divide Tunisian society so as to successfully steer the country through the fragile political transition. Unlike their counterparts in Egypt, Tunisian Islamists face a strong secular opposition and feminist movement. These actors pressure the Islamist movement and its political leadership to emphasize their reformist understanding of Islamic law. Ennahda has not rejected the doctrine of supremacy of *Shari'ah* and the traditional methods of Islamic law, yet this does not contradict with the development of its comparatively progressive views on human rights. Tensions remain between its Islamist agenda and international human rights standards, but in comparison to the thought and practice of Islamists in Egypt, Ennahda has thus far introduced a relatively soft version of Islamism. Even before the revolution, political leaders of Ennahda had engaged in dialogue with secular Tunisian political forces and reached agreements with them on many sensitive issues.<sup>17</sup> Nevertheless, this consensus has recently been threatened amid accusations by its political partners that Ennahda is attempting to monopolize power and to restrict media freedoms and gender equality.<sup>18</sup> Ennahda has been also

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<sup>17</sup> See L. Hajji, 'The 18 October Coalition for Rights and Freedoms in Tunisia', Arab Reform Initiative, February 2007, available at: <http://www.arab-reform.net/18-october-coalition-rights-and-freedoms-tunisia>.

<sup>18</sup> 'Tunisia President Launches Attack against Ruling Islamists', AFP, available at: <http://www.google.com/hostednews/afp/article/ALeqM5icOOze62kG3rLP2EptGS3vbTT-Q?docId=CNG.6ecabf95f500747be87b57255a70d2e9.7b1>.

criticised for being too lenient with hardline Salafists who have committed violence against intellectuals and against artistic activities.<sup>19</sup>

Recently, the Tunisian government arbitrarily dismissed 75 judges from their posts, claiming to be purging the judiciary. This action represents an inappropriate interference in the judiciary, as the government has not adopted a transparent and impartial mechanism to review the records of judges.<sup>20</sup> Moreover, the independence of the judiciary and of constitutional monitoring bodies remains questionable under the current draft of the constitution,<sup>21</sup> which provides for the establishment of a new Constitutional Court that would be charged with interpreting the constitution and overseeing the constitutionality of future laws. However, the parliament would be charged with selecting the judges of this Constitutional Court based on nominations from the president, the prime minister, the speaker of the parliament and the Supreme Judicial Council, thus subjecting the court to the dominant political groups in the parliament. The parliament would also be charged with appointing the members of the High Elections Commission, the National Human Rights Council, and other monitoring bodies. No criteria are suggested in the draft constitution to ensure that political considerations do not influence the selection process and, thus, the independence of these bodies.

## Ideological Underpinnings and Political Practice

Examining the ideological and programmatic deliberations of the Muslim Brotherhood, the Nour Party, and Ennahda can provide insight into these groups' posture towards human rights and their views regarding the relationship between religion and the state. This section also addresses the relevant constitutional, legal, and political positions taken by these parties after coming to power. Issues that are particularly important to discussions regarding Islamists' commitment to human rights and democracy include the role and nature of the state, the definition of human rights, the relationship between *Shari'ah* and pluralism, equality between men and women, limits of religious freedom, the rights of non-Muslim citizens, and restrictions on the freedom of expression.

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<sup>19</sup> N. Dala, 'Is the Ennahda Government Soft on Salafists?', *Al-Monitor*, 24 May 2012, available at: <http://www.al-monitor.com/pulse/politics/2012/05/tunisian-media-and-political-ana.html>.

<sup>20</sup> Human Rights Watch, 'Tunisia: Mass Firings a Blow to Judicial Independence', available at: <http://www.hrw.org/news/2012/10/29/tunisia-mass-firings-blow-judicial-independence>.

<sup>21</sup> In this paper, I refer to the draft Tunisian constitution published on 14 December 2012.

## The Civil State with an Islamic Reference

Islamists have argued that their conception of *Shari'ah* as the legal framework of the state is compatible with that of a constitutional democratic state. Many have pointed out that they seek to establish not a theocracy but a 'civil state with an Islamic reference'. At the same time, the distinction made by many Islamists between a theocratic state and an Islamic civil state fails to address the fears expressed by non-Muslims, liberals, and the human rights community.

Both the Muslim Brotherhood and Ennahda consider themselves to be part of a centrist, 'moderate' Islamism. In its platform, Tunisia's Ennahda underlines the movement's enlightened understanding of Islam. It has expressed its readiness to let its doctrine benefit from modern human and civilizational achievements through *ijtihad* (independent juristic reasoning).<sup>22</sup> The FJP and Ennahda say that very few rulings in *Shari'ah* are fixed and unamenable to change, having been derived from provisions of the *Qur'an* or *Sunna* that are of indisputable meaning and authenticity. All other rulings are established through *ijtihad*, guided by the overarching legal principles of Islamic jurisprudence, the intent of *Shari'ah*, and the principle of seeking the public interest.<sup>23</sup>

This approach to *Shari'ah* leaves open a wide space for human reasoning, but it does not provide a sufficient basis for reforming religion. Many of the so-called fixed rulings in the *Qur'an* and *Sunna* are not compatible with fundamental human rights such as gender equality, the rights of non-Muslims, and the prohibition of cruel forms of punishment. Moreover, this approach leaves many loopholes open for the issuance of arbitrary rulings based on the positions and values of the bodies tasked with interpreting *Shari'ah* as the legal framework of the state.

Like the FJP and Ennahda, the Salafist Nour Party shares the view that Islam offers comprehensive guidance for the political, economic, social, and cultural spheres, and as such it believes in the supremacy of *Shari'ah*.<sup>24</sup> Generally, Salafism refers to the Islamist trend that aims to purify Islamic belief and practices by returning to the origins of Islam as practiced by the Prophet and his companions. This definition can be applied to many

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<sup>22</sup> *Parnāmiy Harakat al-Nahdah* (2011), available at: <http://www.365p.info/livre/index.html>, p.3.

<sup>23</sup> *Hizb al-Hurriyyah wa al-'Adallah, Parnāmiy al-Hizb* (2011), p.28. See also *Al-Nahdah Movement, al-Rū'iyyah al-Fikriyyah wa al-Manhaj al-ūsūlī* (2011), available at: <http://www.ennahdha.tn/الفكرية-الروية>.

<sup>24</sup> See *Parnāmiy Hizb al-Nour* (2011), available at: [http://www.alnourparty.org/page/program\\_headers](http://www.alnourparty.org/page/program_headers).

Islamists, including Muslim reformers in the nineteenth century, as well as the Muslim Brotherhood. However, today the term ‘Salafism’ is usually used to refer to Islamists influenced by Wahabism and Zahirism, which are characterized by their emphasis on strict and literal interpretations of *Qur’an* and *Sunna*.<sup>25</sup> Since the 1970s, the Muslim Brotherhood has been exposed to increasing Salafist influence, and many leaders of the Muslim Brotherhood are also part of Salafist associations in Egypt.<sup>26</sup>

The MB states that it aims to establish a ‘civil state with an Islamic reference’.<sup>27</sup> The MB insists that this model differs fundamentally from the theocracies of medieval Europe, claiming that in an Islamic state, no special privileges would be given to clergy in the name of God, the source of authority would be the people, and democratic institutions would be entrusted with protecting the teachings of Islam.<sup>28</sup> The constitution would be based on the principles of *Shari’ah*, and the function of *shura* (consultation) would be performed through an elected parliament whose decisions are binding on the ruler. The parliament would legislate in accordance with the principles of *Shari’ah*, and the Supreme Constitutional Court would oversee the compatibility of laws with these principles.<sup>29</sup>

The Nour Party generally agrees with the FJP on the structure and nature of the ‘Islamic version’ of democracy ruled by *Shari’ah*, but it rejects the term ‘civil state’, fearing that this idea could undermine the application of Islamic law.<sup>30</sup> Like the FJP, the Nour Party rejects both the theocratic and the secular state. It affirms its belief in an Islamic, modern, constitutional state where representative democracy is practiced in accordance with *Shari’ah*. This state, according to the Nour Party, would be based on the separation of powers, the independence of the judiciary, and the respect of human rights and public liberties.<sup>31</sup>

The concept of a civil state with an Islamic reference poses many dangers for the future of human rights and constitutionalism. Fundamental human rights,

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<sup>25</sup> G. Denoëux, (2011) ‘The Forgotten Swamp: Navigating Political Islam’, in Volpi, F., (ed.) *Political Islam: a Critical Reader*. New York: Routledge, pp. 59-60.

<sup>26</sup> See H. Tammām, *Tassaluf al-Ikhwan* (Alexandria: Bibliotheca Alexandrina, 2010); J. Brown, ‘Salafists and Sufis in Egypt’. *Carnegie Endowment for International Peace* (2011), available at: [http://carnegieendowment.org/files/salafis\\_sufis.pdf](http://carnegieendowment.org/files/salafis_sufis.pdf), p.5.

<sup>27</sup> ‘I Al-‘Iryān, *al-Ikhwan al-Muslimun wa Al-dawlah al-Madanyah* (Cairo: Markaz al-‘ilām al-arabi, 2011).

<sup>28</sup> Ibid., pp. 30-31.

<sup>29</sup> Ibid., pp. 44-45.

<sup>30</sup> *Hizb al-Nour: Narfud al-Dawlah al-Madaniyyah*, available at: <http://www.youm7.com/News.asp?NewsID=567760>.

<sup>31</sup> *Parnāmij Hizb al-Nour* (2011), available at: [http://www.alnourparty.org/page/program\\_headers](http://www.alnourparty.org/page/program_headers).

such as freedom of religion, could be restricted in the name of *Shari'ah*, unless clear safeguards are included in the constitution to protect citizens from arbitrary interpretations of Islamic law. Moreover, including a constitutional clause stating that Islamic law is a fundamental element of the political system limits the scope of other articles in the constitution. The legislative process under such a constitution would lack clarity and transparency, as interpreting *Shari'ah* would be left to the majority in parliament and to the judiciary and every political actor would seek to establish its understanding of *Shari'ah* as the truest representation of Islam.

Article 81 of the new Egyptian constitution states: 'Rights and freedoms shall be exercised in a manner not conflicting with the principles pertaining to the elements of the state and society in the Constitution'. This means that Islamic law (Article 2), other vague criteria pertaining to public morals (Articles 10 and 11), the cultural and civilizational foundations of society (Article 12), and national unity (Article 5) will determine the scope of constitutional rights. The state's adherence to international human rights treaties will be also subject to these vague qualifications (Article 145).

State interference in certain areas of public and private life in the name of public order and public morals can go far beyond the acceptable limits under international human rights law. For this reason, the UN Human Rights Committee stated in its General Comment No. 22: 'The fact that a religion is recognized as a state religion or that it is established as official or traditional or that its followers comprise the majority of the population, shall not result in any impairment of the enjoyment of any of the rights under the [International Covenant on Civil and Political Rights]'. The Committee also stated that 'the concept of morals derives from many social, philosophical, and religious traditions; consequently, limitations on the freedom to manifest a religion or belief for the purpose of protecting morals must be based on principles not deriving exclusively from a single tradition'.

Islamists assert that in their model of an Islamic state, no one would be able to monopolize the interpretation of *Shari'ah* and that *ijtihad* is open to all Muslims. In practice, however, it would appear that this would not be the case, as *ijtihad* is only considered permissible when based on human-made approaches and principles of jurisprudence and Islamists insist that there are fixed rulings in *Shari'ah* that cannot be open to change. This view is supported by many institutions in Egypt, including the Supreme Constitutional Court and al-Azhar. While there is no definite list of these fixed rulings, a Muslim jurist who practices *ijtihad* in any of these areas can be declared an apostate, as he or she would be considered to be denying an Islamic fact. Thus, under the model of the Islamic state, one specific understanding of Islam would be institutionalized and adopted by the state as

authentic. Consequently, any religious belief that differs from the mainstream understanding of *ijtihad* and *Shari'ah* would be denounced as heresy.

Islamists consolidated the status of *Shari'ah* in the new Egyptian constitution, which establishes a consultative role for religious scholars in the law-making process. Article 4 states: "Al-Azhar Association of Senior Scholars is to be consulted in matters pertaining to Islamic law". The platform of the Freedom and Justice Party affirms that the Supreme Constitutional Court is the competent body to interpret Islamic law, yet the draft political platform of the Muslim Brotherhood from 2007 mentions granting authority to Muslim scholars for the interpretation of Islamic law. Many scholars of the Muslim Brotherhood since Hassan al-Banna have also upheld this proposal. Moreover, the former presidential candidate of the Muslim Brotherhood, Khairat al-Shater, promised during his electoral campaign to form a committee of Muslim jurists to assist him in applying Islamic law.<sup>32</sup> Further, the inclusion of Article 4 in the Constitution has been seen as a concession made by the Muslim Brotherhood to satisfy its Salafist allies. Nonetheless, Article 4 has provoked outrage from a wide range of liberals and human rights activists. They consider this move a bold step towards theocracy, where unaccountable religious scholars intervene in the work of the elected bodies.<sup>33</sup> Even though the opinions of the Association of Senior Scholars are not binding, the scholars represent a powerful moral and religious authority over elected parliamentarians.

Furthermore, Article 219 of the Constitution provides an explanation of Islamic *Shari'ah* which is now binding on all judicial and political bodies in Egypt. Even though this explanatory article refers to the traditional sources, methods, and principles of Sunni Islamic law, it remains very broad and vague and leaves the door open to the whole range of Sunni juristic choices, from moderate to hardline opinions. Article 219 is broader than the previous interpretation of the principles of Islamic *Shari'ah* introduced by the Supreme Constitutional Court (SCC) in the 1990s, when the SCC pointed out that the legislator should not override fixed rulings of *Shari'ah* derived from the *Qur'an* and certain texts in *Sunna*. This interpretation emphasized the role of *ijtihad* in all other cases in order to accommodate changing realities in ensuring the public interest. Article 219 of the new constitution provides the executive, legislature, and the Association of Senior Scholars with broad discretionary powers to determine the scope of Islamic law, which will result

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<sup>32</sup> See Al-Masry Al-Youm, 4 April 2012, available at: <http://www.almasryalyoum.com/node/751541>.

<sup>33</sup> See the statement by the Egyptian Initiative for Personal Rights on 16 July 2012, available at: <http://www.eipr.org/pressrelease/2012/07/16/1453>.

in a lack of legal certainty and transparency in the law-making process. Thus, the new constitution will likely lead to political struggles between different actors over how to interpret *Shari'ah*. Article 219 also establishes that the Sunni Islam is the only recognized Islamic doctrine in Egypt, thereby excluding Egyptian Muslims who belong to other non-Sunni doctrines.

In contrast, Ennahda has avoided explicit reference to *Shari'ah* as the legal framework for the state in its political platform, maintaining only that Islam is the official religion of the state. It considers Islam to be its supreme reference and says that its program is in its entirety committed to Islamic values. Contrary to its Islamist peers, Ennahda and its leaders have openly used the term 'the secular state', albeit with some refinement to make it fit their Islamist approach. Ennahda's leader, Rachid al-Ghannouchi, has argued that Islam is reconcilable with 'procedural secularism', under which constitutional safeguards on religious freedoms and freedom of expression can be established to ensure the state's neutrality towards different religions. Since the state refrains from intervening in the religious way of life of its citizens, the coercive apparatus of the state would not be used to impose religious habits or practices.<sup>34</sup> In the sphere of politics, according to Ghannouchi, "the state is Islamic insofar that it assures its actions are in accordance with Islam's values without being subjected to the tutelage of any religious institution," and the parliament conducts peaceful management of diverse interpretations of Islam.<sup>35</sup>

However, Ghannouchi's theory aims to maintain two irreconcilable ideas: the religious neutrality of the state and Islam as the supreme source of law for the state. In the words of An-Na'im, "The rationale and purpose of public policy or legislation is based on the sort of reasoning that the generality of citizens can accept or reject, which cannot happen when such matters are demanded as categorical religious mandate".<sup>36</sup>

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<sup>34</sup> R. Al-Ghannouchi, 'Secularism and Relations between Religion and the State from the Perspective of al-Nahdah Party', a lecture organised by the Centre for the Study of Islam and Democracy, 2 March 2012. The video of the lecture is available at: [http://www.ustream.tv/recorded/20827717?utm\\_source=Transcript+of+Rached+Ghannouchi%27s+lecture+on+Secularism++March+2%2C+2012&utm\\_campaign=Tunisia+Democracy+Rached+Ghannouchi+Transition+Center+for+the+Study+of+Islam+and+Democracy+%28CSID%29&utm\\_medium=email](http://www.ustream.tv/recorded/20827717?utm_source=Transcript+of+Rached+Ghannouchi%27s+lecture+on+Secularism++March+2%2C+2012&utm_campaign=Tunisia+Democracy+Rached+Ghannouchi+Transition+Center+for+the+Study+of+Islam+and+Democracy+%28CSID%29&utm_medium=email). The full transcript is available in English at: <http://blog.sami-aldeeb.com/2012/03/09/full-transcript-of-rached-ghannouchis-lecture-on-secularism-march-2-2012/>.

<sup>35</sup> Ibid.

<sup>36</sup> A. An-Na'im, 'The Compatibility Dialectic: Mediating the Legitimate Coexistence of Islamic Law and State Law', *The Modern Law Review*, 73 (1) (2010), p. 3.

Ennahda has had different political priorities during the transitional period in Tunisia than those of its counterparts in Egypt. Ennahda's official party platform does not call for the application of *Shari'ah*, and al-Ghannouchi has stated that his party is not concerned at this stage with implementing *Shari'ah* or including it in the constitution. Despite pressure from Tunisian Salafists and hardliners among Ennahda's ranks, Ennahda agreed to liberal demands that *Shari'ah* not be mentioned in the new constitution. Instead, it contented itself with keeping Islam in the constitution as the official religion of the state.<sup>37</sup> This represented a significant move in reducing tensions between secularists and Islamists. Al-Ghannouchi says that his movement's priority is to consolidate freedom and democratic transition in Tunisia, which he claims is in any case a central part of *Shari'ah*.<sup>38</sup> However, on different occasions, Ennahda leaders have stated that reference to Islam as the official religion of the state allows the party to adopt Islamic laws and nullifies any laws that are not consistent with *Shari'ah*.<sup>39</sup> Indeed, Ennahda's longer-term aspiration to implement the rule of *Shari'ah* has not been fully abandoned. The issue has been set aside to be addressed at a later stage, when the movement is better established socially and politically.

The draft constitution in Tunisia would allow Islamist parties to gradually impose their agendas, as it includes several references which guarantee that the state favor Islam in its public policies. The preamble of the draft constitution refers to the centrality of the foundations and objectives of Islam in the society, although it does emphasize a moderate and flexible understanding of Islam. Article 4 establishes the role of the state in safeguarding religion and protecting sanctuaries, and the reference to Islam as the official religion of the state is considered to be a non-amendable constitutional provision.

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<sup>37</sup> K. Fahim, 'Tunisia Says Constitution Will Not Cite Islamic Law', *New York Times*, 28 March 2012, available at: <http://www.nytimes.com/2012/03/27/world/africa/tunisia-says-constitution-will-not-cite-islamic-law.html>.

<sup>38</sup> Al-Assad Ben Ahmad, 'We Fought for Freedom, Not Sharia Law', *Al-Ahram Weekly*, 5 April 2012, available at: <http://weekly.ahram.org.eg/2012/1092/re4.htm>.

<sup>39</sup> See interview with al-Ghannouchi, 'Mijalat Al-Mujtama', 7 April 2012, available at: <http://magmj.com/index.jsp?inc=5&id=9419&pid=2456&version=137>.

## The Concept of Human Rights

All three parties under study acknowledge the value of human rights and international human rights treaties in theory. The protection of human rights as a basic function of the Islamic state has been repeatedly addressed in the literature of the Muslim Brotherhood and Ennahda over the last three decades.<sup>40</sup> The Nour Party has also shown openness towards human rights.<sup>41</sup> The rights proposed and advocated by Islamists do intersect with many universal human rights, yet some important conceptual differences remain. These differences give rise to tensions, especially in the areas of gender equality, the rights of non-Muslims in the Islamic state, freedom of expression, political pluralism, religious freedoms, and the prohibition of inhumane and cruel punishment.

The conception of human rights adopted by many Islamists establishes religious texts and *Shari'ah* as the foundation for human rights, with less appreciation for reason and the human experience in understanding these religious texts. This conception contradicts the rationale behind universal human rights. Article 1 of the Universal Declaration of Human Rights (UDHR) affirms that each individual – regardless of his or her religion – can claim human rights by appealing to human reason and conscience. Although religion can form a conceptual basis for human rights, religious interpretations exist which contradict international human rights norms.

The FJP says that it is committed to universal human rights, provided that they are not inconsistent with *Shari'ah*.<sup>42</sup> The electoral platform of President Morsi mentioned the protection of human rights as stipulated in *Shari'ah* and fundamental religious values.<sup>43</sup> The Nour Party says that public liberties and

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<sup>40</sup> M. Al-Ghazzali, *Huqūq al-Insan Bayn Ta'ālym al-Islam wa 'l'lān al-'umm al-Mutahidah*. 4th edn. (Cairo: Nahdat Misr, 2005); Al-Ikhwan al-Muslimun, 'Bayān Li al-Nāss', in 'A Al-Shamākh, *Dalīlak Ila Jama'ah al-Ikhwan al-Muslimun* (Cairo: Iqra', 2011) pp. 315-320; M.M. El-Hodaiby, *The Principles of Politics in Islam* (Cairo: Islamic INC, 1997); R. Al-Ghannouchi, *Al-Hurriyyat al-'Ammah Fî al-Dawlah al-Islamiyyah part 1 and 2* (2011).

<sup>41</sup> In an Amnesty International survey on the positions of Egyptian political parties on international human rights, 'al Nour Party agreed to all pledges with the exception of the abolition of the death penalty and protection of women's rights'. See Amnesty International, 'Egypt: Survey of Political Parties' Views Reveals 'Disturbing' Opposition to Women's Rights', 2011, available at: [http://www.amnesty.org.uk/news\\_details.asp?NewsID=19911](http://www.amnesty.org.uk/news_details.asp?NewsID=19911), accessed 23 August 2012.

<sup>42</sup> Hizb al-Hurriyyah Wa al-'Adallah, *Parnāmiy al-Hizb* (2011), p. 29.

<sup>43</sup> Hizb al-Hurriyyah Wa al-'Adallah, *al-Parnāmiy al-Ri'āsî li Mohammad Morsi* (2012), p.8.

fundamental rights should be protected in accordance with Islamic *Shari'ah* and the foundational values of the nation (*thawabit al-ummah*).<sup>44</sup>

In many Arab countries, vague references to *Shari'ah* and the respect of religious values have often been misused by both secular governments and Islamists to erode the guarantees provided by international human rights law. Of the three parties under study, only Ennahda does not condition human rights based on the limitations of *Shari'ah*. It states in its platform that “international human rights treaties are generally consistent with the objectives and values of Islam”.<sup>45</sup> However, on other occasions, al-Ghannouchi and other party representatives have expressed their support for the reservations on the CEDAW<sup>46</sup> previously expressed by the Tunisian state.<sup>47</sup>

### **Shari'ah and Political Pluralism**

Before the 2011 uprisings, Islamist movements such the MB and Ennahda focused largely on political rights. Working in a repressive environment for decades, Islamists could only survive and engage in the political system by demanding their political rights. Islamists argue that political pluralism in modern democracies is similar to the pluralism between the various schools of Islamic law. The MB and the Nour Party state that political pluralism in the Islamic state exists within the supremacy of *Shari'ah*.<sup>48</sup> This means that any party or association that differs from their version of Islamic could be subjected to restrictions or dissolution, since *Shari'ah* constitutes the public order of the Islamic state and neither Muslims nor non-Muslims can challenge it. Ennahda and its chief thinker, al-Ghannouchi, have asserted that all kinds of parties and associations can exist in an Islamic state, including those with secular or atheist orientations.<sup>49</sup> In practice, however, this assertion seems dubious, since Ennahda aims to criminalise certain forms of expression in the name of protecting religious sanctities. This argument

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<sup>44</sup> See *Parnāmiy Hizb al-Nour* (2011), available at: [http://www.alnourparty.org/page/program\\_headers](http://www.alnourparty.org/page/program_headers).

<sup>45</sup> *Parnāmiy Harakat al-Nahdah* (2011), available at: <http://www.365p.info/livre/index.html>, p.7.

<sup>46</sup> The Convention on the Elimination of all Forms of Discrimination against Women.

<sup>47</sup> See interview with al-Ghannouchi, *Mijalat Al-Mujtama'*, 7 April 2012, available at: <http://magmj.com/index.jsp?inc=5&id=9419&pid=2456&version=137>.

<sup>48</sup> 'I. Al-'Iryān, *al-Ikhwan al-Muslimun wa Al-dawlah al-Madanyah* (Cairo: Markaz al-'ilām al-arabi, 2011); *Parnāmiy Hizb al-Nour* (2011), available at: [http://www.alnourparty.org/page/program\\_headers](http://www.alnourparty.org/page/program_headers).

<sup>49</sup> R. Al-Ghannouchi, *Al-Hurriyyat al-'Ammah Fî al-Dawlah al-Islamiyyah part 2* (2011), pp. 147-150.

could easily be turned into a tool to silence liberal Muslim and secular voices.

## Gender Equality

The most controversial area in the debate on Islamism and human rights is the rights of women. In general, none of the Muslim Brotherhood, the Nour Party, or Ennahda believes in the concept of gender equality as stipulated in international human rights treaties. Members and leaders of the MB have usually been critical of the concept of gender equality as established in the CEDAW, arguing that the international approach to women's rights corrupts Islamic social values and morals.<sup>50</sup> Instead, Islamists advocate the concept of complementary roles for men and women.<sup>51</sup> In reality, this means that not all the rights enjoyed by men are granted to women. This understanding is reflected in the discriminatory positions held by many Islamists on marriage, divorce, and the political rights of women.

The three parties under study agree on some legal aspects of the relationship between men and women in Islamic law, including the responsibility of men to provide for their wives financially according to the doctrine of *Qawammah*, in exchange for advantages for men in the institution of marriage. They also agree that women should inherit half of the share of inheritance allocated to their male siblings, and they think that the marriage of Muslim women to non-Muslim men should be prohibited. These legal opinions are common among scholars of Islamic law, since they are directly derived from clear stipulations in the *Qur'an* and *Sunna*. Therefore, even reformist Islamists, such as al-Ghannouchi, have not departed from these views.

There are remarkable differences between the three parties in the understanding of many other aspects of women's rights. Ennahda, for example, is much more progressive than Egyptian Islamists on many controversial areas of women's rights. For instance, Ennahda does not oppose restricting the practice of polygamy, although it adopts the view that

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<sup>50</sup> See interview with Makarim al-Dirî, 11 August 2012, available at:

<http://ikhwanonline.com/ramadan/Pageview.aspx?ID=2333&SectionID=9>.

<sup>51</sup> Al-Ikhwan al-Muslimun 'Wathîqat al-Mar'ah wa al-Shūrah', in 'A Al-Shamākh, *Dalîlak Ila Jama'ah al-Ikhwan al-Muslimun* (Cairo: Iqra', 2011), p. 307. The same meaning is also clear in the program of FJP, Hizb al-Hurriyyah wa al-'Adallah, *Parnāmiy al-Hizb* (2011), pp. 112-113 and p. 31; *Parnāmiy Hizb al-Nour* (2011), available at: [http://www.alnourparty.org/page/program\\_social](http://www.alnourparty.org/page/program_social); and R. Al-Ghannouchi, *Al-Hurriyyat al-'Ammah Fî al-Dawlah al-Islamiyyah part 1* (2011), p. 90.

polygamy should not be outright abolished.<sup>52</sup> Most Egyptian Islamists, by contrast, maintain that polygamy is permissible in Islam and cannot be subjected to legal restrictions, as long as men are committed to just and fair treatment of their wives.<sup>53</sup>

Human rights activists in Egypt fear that the new constitution could lead to changes to the Personal Status Law.<sup>54</sup> Female leaders of the Freedom and Justice Party have stated on many occasions that family law should be amended to be consistent with *Shari'ah*. They have also said that international treaties on the rights of women have been destructive to the values of the Muslim family. Members of the Nour Party have proposed draft laws in the post-revolution parliament that are inconsistent with the rights of women. One of these proposals aimed to reduce the age of marriage for girls to 12 years old. During his electoral campaign, President Morsi said that early marriage should be legalised. The Nour Party has also proposed decriminalisation of the practice of female genital mutilation. This is consistent with the position of the Muslim Brotherhood, which believes that this practice should be left to the discretion of families but that it must be performed by doctors.<sup>55</sup> In 2008, the parliamentary bloc of the Muslim Brotherhood opposed the criminalisation of female genital mutilation and resisted raising the age of marriage to 18 years old.<sup>56</sup>

Protections for gender equality and the rights of women are severely lacking in the new Egyptian constitution, which endorses the patriarchal view of gender relations in the society and reinforces a conservative interpretation of Islamic *Shari'ah* on the matter. Women are mentioned in the constitution as mothers and sisters but not as citizens that enjoy full equality with men. Article 33 states: "All citizens are equal before the law. They have equal public rights and duties without discrimination". However, the reference to the prohibition of discrimination based on sex, religion, ethnicity and any other basis was omitted in the last version of the constitution, leaving the

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<sup>52</sup> R. Al-Ghannouchi, *Al-Mar'ah bayn al-Qur'an wa Waq' al-Muslimîn*, 3rd edn. (London: Maghreb Center for Research and Translation, 2000), p.98 and p. 104.

<sup>53</sup> The Muslim Brotherhood and other Egyptian Islamists have traditionally opposed the restriction of polygamy in the amendments to the family law in 1979. See S. Al-Bahnasāwî, *Qawānîn al-'Ussrah Bayn 'Ajz al-Nissa' wa da'f al-'Ulamā'* (Kuwait: Dār al-Qalam, 1984) pp. 144-146; S. Al-Bahnasāwî, *Hurriyyat al-Ra'i: al-Waqi' wa al-thawabit* (Al-Mansurah: Dār al-Wafa', 2003) p. 115.

<sup>54</sup> H. Badran, 'The Arab Spring Represents a Leap Backward for Women'. *The Daily Star*. 27 August 2012, available at: <http://www.dailystar.com.lb/Opinion/Commentary/2012/Aug-27/185770-the-arab-spring-represents-a-leap-backward-for-women.ashx#axzz24mOSmBKj>.

<sup>55</sup> Ibid.

<sup>56</sup> See Al-Markaz al-I'lāmî Lil Ikwān al-Muslimun, 'Al-Ikhwan al-Muslimun fi Parlamān 2005', *Al-Mawsū'ah al-Tarikhīyah al-Rasmiyyah li al-Ikhwan*, 2008, available at: <http://bit.ly/O99T9U>, accessed 23 August 2012.

constitution without any explicit provision on gender equality. Article 10 opens the door for discriminatory policies against women within the family and in workplaces. Using vague language, this article entrusts the state and society with maintaining the authentic character of the Egyptian family and ensuring its moral and religious values. According to the same article, the state guarantees that women can reconcile between their “duties towards their families” and their participation in public life.

After the fall of Ben Ali, Ennahda was keen to assure Tunisian women that their rights under family law would not be repealed. The party accepted the electoral law that stipulated allocating an equal number of seats to men and women in the electoral lists of parties. However, Ennahda has come under attack as a result of its proposal to use the expression ‘complementarity of roles between men and women’ in the constitution. This proposal has triggered outrage particularly among secularists and human rights advocates, who fear that it could be used to justify a future retreat from the protection of women in Tunisian law.<sup>57</sup> Tunisian Islamists withdrew this controversial proposal, and the Tunisian draft constitution recognizes the rights of women in many provisions. It refers to gender equality (Article 5) and the rights of women and the protection of any progress achieved previously in Tunisia in this area (Article 7). It also protects equal opportunities for men and women and refers to the state’s responsibility to end all forms of violence against women (Article 37). However, it remains unclear how this progressive language will play out in light of other constitutional provisions establishing Islam as the official religion of the state (Article 1) and the vague reference to the state’s responsibility to protect the family and its cohesion (Article 8), as certain interpretations of these provisions could obstruct full equality between men and women. Tellingly, when the Tunisian government lifted its reservations on CEDAW in August 2011, it made an ambiguous declaration saying that the implementation of the treaty should not violate Islam as the official religion of the state.<sup>58</sup>

On the political rights of women, the Muslim Brotherhood has maintained that *Shari’ah* allows women to run in parliamentary elections and to occupy any public post except for the presidency of the state.<sup>59</sup> Prior to 2011,

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<sup>57</sup>H. McRobie, ‘Will the Tunisian Constitution Erode the gains of Women in the Arab Spring’ *New Statesman*, 15 August 2012, available at: <http://www.newstatesman.com/blogs/politics/2012/08/will-tunisian-constitution-erode-gains-women-arab-spring>.

<sup>58</sup> See Human Rights Watch, ‘Tunisia: Government Lifts Restrictions on Women’s Rights Treaty’, 7 September 2011, available at: <http://www.hrw.org/news/2011/09/06/tunisia-government-lifts-restrictions-women-s-rights-treaty>.

<sup>59</sup> Al-Ikhwan al-Muslimun, ‘Wathîqat al-Mar’ah wa al-Shūrah’, in ‘A Al-Shamākh, *Dalîlak Ila Jama’ah al-Ikhwan al-Muslimun* (Cairo: Iqra’, 2011), p. 310.

Egyptian Salafists were of the view that women should not be allowed to run for seats in parliament.<sup>60</sup> Following the revolution, leading scholars of Salafism reviewed this position, yet it is clear from a legal opinion by leading Salafist Yasser al-Borhami that Salafists have been forced to retract their previous position in order to conform to the Egyptian electoral law requiring all parties to nominate at least one female candidate in their electoral lists. Al-Borhami says that the nomination of women in the parliamentary elections is in principle not permitted. However, he goes on to say that this position can be altered to prevent moral corruption, or the corruption that could be caused if secularists who refuse the rule of *Shari'ah* were to dominate elected bodies.<sup>61</sup> During the parliamentary elections of 2011, the Nour Party did not publish the photos of their female candidates in the electoral lists, instead replacing them with pictures of flowers or photos of the candidates' husbands. Ennahda's al-Ghannouchi, by contrast, stated in his book on public liberties in the Islamic state that Islam does not prohibit women from being nominated for all public posts, including positions in the judiciary and the presidency.<sup>62</sup>

## Freedom of Religion

The political platforms of all three Islamist parties under study state that freedom of religion is a key right in Islam. However, Islamists conceive of religious freedom differently than it is envisioned in international human rights law. The prevailing opinion in the Muslim Brotherhood and the Nour Party in Egypt is that conversion from Islam is prohibited and can be punishable by the death penalty.<sup>63</sup> Converts from Islam can be deprived of their rights in marriage, inheritance, and custody of children. Some Egyptian jurists, such as Yousef al-Qaradawi and Salim al-'Awa, have argued that the punishment of apostasy is a discretionary punishment and that it is not part of the fixed punishments in Islam. However, many Islamists think that apostasy is a serious crime that should be punished in the Islamic state. The

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<sup>60</sup> Y. Al-Borhami, 'Fatwa Tarashuh al-Mara'h li Majlis al-Sha'b', 2010, available at: <http://www.salafvoice.com/article.php?a=4821>.

<sup>61</sup> Y. Al-Borhami, 'Hukm Musharakat al-Mar'ah fi al-Majalis al-Niyabiyyah', 2011, available at: <http://www.salafvoice.com/article.php?a=5710>.

<sup>62</sup> R. Al-Ghannouchi, *Al-Mar'ah bayn al-Qur'an wa Waq' al-Muslimin*. 3rd edn. (London: Maghreb Center for Research and Translation, 2000), pp. 115-128.

<sup>63</sup> See the legal opinion (fatwa) published on the official web site of the Department of *Da'wa* at the Muslim Brotherhood on 27 March 2012, available at: <http://www.manaratweb.com/e-print.php?id=1608>. Similar fatwas have previously been published and are available on the web site. See also the opinion of the leading Salafist scholar Yasser al-Borhami on apostasy in Islam, 12 May 2012, available at: [http://www.youtube.com/watch?v=IL3AhugZ\\_5E](http://www.youtube.com/watch?v=IL3AhugZ_5E).

MB and the Salafists contend that Islam is the system of belief in the Islamic state and that apostasy represents a rebellion against this system.<sup>64</sup> During his electoral campaign, President Mohamed Morsi was asked about his position on apostasy, to which he responded that people can change their religion in private but that they are not allowed to display their conversion from Islam in public.<sup>65</sup>

In contrast, Ennahda's al-Ghannouchi says that freedom of religion, including apostasy, is absolutely protected in Islam.<sup>66</sup> He, too, fails to address the consequences of apostasy on the civil status of apostates, however. Without ending the civil punishment of apostates, allowing conversion is a hollow concession.

### **The Rights of Non-Muslim Citizens**

The majority of Egyptians are Sunni Muslims. Christians make up the largest religious minority, while other religious communities include Baha'is, Jews, Shi'ites, Ahmadiyahs, Quranists and Jehovah's Witnesses. Religious minorities have lately become deeply concerned about their future rights under Islamist rule.<sup>67</sup> Over the last two decades, the Muslim Brotherhood has on numerous occasions stressed its respect for the principle of citizenship and equality between all Egyptians, yet the status of the rights of religious minorities in the thinking of the Muslim Brotherhood remains problematic.

The MB's Reform Initiative of 2004 stated that "religious freedom is guaranteed for the recognized heavenly religions" (in addition to Islam, these are Christianity and Judaism, whose followers are often referred to as 'people of the book').<sup>68</sup> A similar restriction can be found in the FJP's platform, which only refers to the state's duty to protect the "heavenly" religions.<sup>69</sup> MB leaders have stated that non-Muslim citizens who are not "people of the book" have the right to live in Egypt but are not allowed to

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<sup>64</sup> Ibid.

<sup>65</sup> See the electoral debate 'Maw'id M'a al-Ra'is', al-Nahar TV 18 May 2012, available at: <http://www.youtube.com/watch?v=7ReJFzuKONk>.

<sup>66</sup> R. Al-Ghannouchi *Al-Hurriyyat al-'Ammah Fi al-Dawlah al-Islamiyyah part 1* (2011), pp. 72-77.

<sup>67</sup> See O. Halawa, 'Egyptian Religious Minorities Fear Rise of Islamists', *Egyptian Independent*, 3 June 2011, available at: <http://www.egyptindependent.com/node/462243>, accessed 20 March 2012.

<sup>68</sup> Al-Ikhwan al-Muslimun, 'Mubadarat al-Ikhwan Lil-Islā ', in 'A. Al-Shamākh, *Dalīlak 'Ila Jama'ah al-Ikhwan al-Muslimun*. (Cairo: Iqra', 2004) p. 324.

<sup>69</sup> Hizb al-Hurriyyah wa al-'Adallah, *Parnāmij al-Hizb* (2011), p. 154.

publicly express their religious beliefs or to build their own places of worship.<sup>70</sup> The platform of the Nour Party names Christianity as the only non-Muslim minority in Egypt whose religious freedom is protected.<sup>71</sup> In contrast, Ennahda's al-Ghannouchi has supported the opinion of many Muslim jurists that religions of those not belonging to "the people of the book" should also be protected in the Islamic state.<sup>72</sup>

The FJP and the Nour Party state in their platforms that non-Muslims should apply their own religious regulations in their family and religious affairs. They agree that in all other areas, however, state laws, i.e. Islamic law, should be applied equally to Muslims and non-Muslims. Similarly, Ennahda's chief ideologue, al-Ghannouchi, also says that all Islamic regulations related to public order should be applicable to Muslims and non-Muslims alike.<sup>73</sup> Non-Muslims in Egypt have expressed their refusal to be governed by Islamic law, particularly with reference to Islamic corporal penalties (*hudud*).

On political rights for non-Muslims, the official documents published by the FJP and the MB after the revolution avoid discussing the right of non-Muslims to be nominated for the presidency. By contrast, in its draft political platform of 2007, the MB unequivocally excluded non-Muslims from running for the positions of president and prime minister. These positions of 'grand leadership' (*willayah 'uzmah*), they said, must be occupied by male Muslims.<sup>74</sup> Following the revolution, MB leaders stated that the group would not nominate non-Muslim or female candidates to the presidency but that they would not object if other parties did so.<sup>75</sup> In the ideological literature of the Muslim Brotherhood, it is explicitly stipulated that non-Muslims and women are excluded from positions of 'grand leadership'.<sup>76</sup> In Tunisia, al-Ghannouchi states that the Muslim faith is a requirement for the presidency, although he goes on to say that in some exceptional cases, such as to

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<sup>70</sup> See R. Scott, *The Challenge of Political Islam: Non-Muslims and the Egyptian State* (California: Stanford University Press, 2010); M. Tadros, *The Muslim Brotherhood in Contemporary Egypt* (London: Routledge, 2012).

<sup>71</sup> See Parnāmiy Hizb al-Nour (2011), available at: [http://www.alnourparty.org/page/program\\_headers](http://www.alnourparty.org/page/program_headers).

<sup>72</sup> R. Al-Ghannouchi, *Huquq al-Muwatanah*. 3rd edn. (Virginia: Al-Ma'had al-'Alāmi li al-Fikr al-Islami, 1993) pp. 56-57.

<sup>73</sup> *Ibid.*, p. 105

<sup>74</sup> Al-Ikhwan al-Muslimun, 'Parnāmiy Hizb al-Ikhwan', *Al-Mawsū'ah al-Tarikhīyah al-Rasmiyyah li al-Ikhwan*, 2007, available at: <http://bit.ly/e2JXBE>, accessed 15 May 2012.

<sup>75</sup> M. Tadros, *The Muslim Brotherhood in Contemporary Egypt* (London: Routledge, 2012).

<sup>76</sup> M. Ghuzlān, *al-Islam Huwa al-Hal* (Cairo: Dār al-Tawzī' wa al-Nashr al-Islamiyyah, 2006).

preserve the national unity in multi-religious societies, this requirement may be lifted.<sup>77</sup>

Discrimination against non-Muslims in political rights is enshrined in Tunisia's draft constitution, Article 67 of which stipulates that the president of the republic must be a Muslim citizen. This condition is inconsistent with another constitutional provision that guarantees equality and non-discrimination among Tunisian citizens (Article 5). This condition was copied from the former Tunisian Constitution despite opposition from Tunisian human rights defenders and other political forces. The leaders of the Nour Party have made it clear that non-Muslims are not allowed to occupy positions of "grand leadership" in the Islamic state. For them, this also includes the position of vice president.<sup>78</sup>

Undoubtedly, the rights of religious minorities under the new Egyptian constitution are in peril. The practice of religious freedom will only be guaranteed to the followers of the monotheistic "heavenly" religions (namely Islam, Christianity, and Judaism). This means that other religious minorities, such as Baha'is, will be deprived of their religious rights. Indeed, the parliamentary bloc of the Muslim Brotherhood was outspoken against the recognition of the Baha'i religious minority in the parliament of 2005, considering Baha'ism a heretical belief that should not be protected in a Muslim society.

The new constitution in Egypt recognises the rights of non-Muslims to apply their own religious regulations within their family and religious affairs. Some observers have viewed this article as a step forward for the rights of non-Muslims, since it represents the first time that a constitution has recognised the existence of other religions in Egypt. However, this article entrenches the sectarian regulation of family matters in Egypt, rather than having one civil law for all citizens regardless of their religion. Many Christians suffer from the strict regulations on divorce applied by the Orthodox and Catholic Churches, which have forced some Christians to convert to Islam.<sup>79</sup> Applying sectarian religious family laws means that members of each religious community will be subject to discriminatory religious regulations that are not in line with human rights.

The rights of the Christian minority in Egypt have not improved after the revolution. Rather, the intolerant religious climate aggravated by Islamists'

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<sup>77</sup> R. Al-Ghannouchi, *Al-Hurriyyat al-'Ammah Fi al-Dawlah al-Islamiyyah part 1* (2011), pp. 235-241.

<sup>78</sup> See statements of Yasser al-Borhami, 4 July 2012, available at: <http://www.youm7.com/News.asp?NewsID=722750&>.

<sup>79</sup> See 'Protesting for the Right to Divorce', *Ahram Weekly*, 28 July 2011.

political dominance has deepened the fears of Christians. Egypt has witnessed a series of sectarian clashes over the past year, yet these instances have been dealt with as a security issue rather than by tackling the root causes of the injustice felt by religious minorities. Rather than addressing the legitimate rights of Christians to equality and non-discrimination, the Muslim Brotherhood and President Morsi have repeated the mistakes of the former regime. One fundamental demand of Christians in Egypt has been to remove legal restrictions on building and maintaining churches. In June 2011, the transitional government headed by Essam Sharaf presented a draft law with unified procedures on building places of worship. Many Christians opposed the law, considering it restrictive and below their expectations. The Muslim Brotherhood and the Nour Party have been firm that any regulations must be proportional to the number of Christians and their exact needs. They therefore oppose having a unified law on places of worship.<sup>80</sup>

The appointment of non-Muslims and women to senior political positions is contentious for Islamists in Egypt. In his electoral campaign, President Morsi vowed to appoint a Christian and a woman as vice presidents. This proposal was opposed by Salafists, who considered that the position of vice president, who may assume the role of the president under certain conditions, should only be occupied by a Muslim male. President Morsi gave in to this pressure, appointing a woman and a Christian as presidential assistants and naming a prominent Muslim, male judge as his vice president.

## Freedom of Expression

The definition and scope of freedom of expression and its relation to religion and morality is problematic in Islamist agendas. The programs of the FJP and the Nour Party are full of vague, broad formulations that allow for limitations on freedom of expression. For example, the FJP says that it is committed to “freedom of expression provided that it respects the fundamental values of the society”.<sup>81</sup> The FJP also establishes a direct connection between freedom of artistic creativity and respect for the morals, values, and traditions of society.<sup>82</sup> The party platform includes a special section on media reform, where it says that “the press is free and it is not subject to any form of censorship except the censorship of the professional conscience, the values of the society, and the law”. It adds that “the freedom

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<sup>80</sup> See al-Wafd Newspaper, 16 May 2012, available at: <http://www.alwafd.org/برلمان-العبادة-دور-قانون-على-يعترضون-والإخوان-السلفيون-210983-الشعب-مناقشات-471/الثورة>, and al Masry al-Youm, 21 March 2012, available at: <http://www.almasryalyoum.com/node/725126>.

<sup>81</sup> Hizb al-Hurriyyah wa al-'Adallah, *Parnāmiy al-Hizb* (2011), p. 31.

<sup>82</sup> Ibid., p. 140.

to publish newspapers, magazines, or any other printed or electronic outlets is guaranteed without any legal or administrative obstacles, as long as the outlet respects the constitution and the law as well as public morals”.<sup>83</sup> Similarly, the party program ensures the right to establish private TV channels and radio stations, provided that they respect the values of the society and public morals, and emphasises that media must respect the “heavenly” religions.<sup>84</sup> These references to the values of society and respect for religions leave the door wide open for arbitrary interference in the media on religious grounds. Moreover, the FJP fails to define what kinds of restrictions can be imposed by the law and on what grounds. The program does not include a commitment to amend the penal code to abolish the prison sentences for journalists, which has been a serious concern in Egypt for decades. In Egypt, where state-owned media were frequently used by the Mubarak regime for repressive purposes, the FJP’s platform vows to restructure the ownership of the state-owned print and broadcast media to ensure their independence, yet it again fails to establish how this will be carried out.

Freedom of expression on the Internet also faces restrictions. The FJP aims to establish a specialised council for new media, tasked with drawing up guidelines for electronic media so that their work is guided by “the spirit of Islam and the values and morals of the Egyptian civilizational project”.<sup>85</sup> While the exact tasks of this council are not clearly defined, the proposal raises concerns that restrictions might be imposed on the use of the Internet. The FJP also pledged to adopt a new law on Internet offenses related to intellectual property rights, piracy, and the protection of public morals. This kind of law is common in many other states, yet the vague reference to the protection of public morals could be used to restrict and block certain websites.

The Nour Party has stated that freedom of expression and media freedoms should be consistent with *Shari‘ah*, the fundamental values of society, and the maintenance of public order. The party points out that the government and its institutions, including the ministry of information, should promote Islamic identity and culture. This position does not reflect the religious and cultural pluralism of Egyptian society, and it raises concerns that a Salafist-led government could systematically use the state media as a tool to boost Islamic religious education and promote Islamic values. In addition, the

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<sup>83</sup> Ibid., pp. 153-158.

<sup>84</sup> Ibid., p. 154.

<sup>85</sup> Ibid., p. 157.

Salafist party's program does not mention the freedom of artistic creativity at all.<sup>86</sup>

Egypt's President Morsi has vowed to respect the right to artistic creativity and freedom of expression, yet Islamists' bleak record in this area in practice casts doubt on the official positions of the Muslim Brotherhood and Salafists. Since the 1990s, Islamist activists have pressured the Mubarak regime to restrict certain types of expression that are protected under international human rights. Numerous parliamentary interrogations were presented by members of the Muslim Brotherhood, including President Morsi himself, against publications released by the ministry of culture and the ministry of information that were deemed offensive to Islam. Prominent leaders of the MB recently supported positions taken by al-Azhar and the government against academic freedoms and freedom of expression and artistic creativity, stating that freedom of expression should respect the values and morals of the society.<sup>87</sup>

In response, a group of Egyptian intellectuals, actors, artists, and novelists have formed 'Egypt's Creativity Front' to protect the right to artistic creativity and freedom of expression. These artists were alarmed by a series of cases filed against Egyptian artists by Islamist lawyers who accused them of offending Islam and its symbols. The Front has vowed to combat any attempts to impose censorship on cultural activities by Islamists.<sup>88</sup>

President Morsi has taken no legal measures to ensure that artists are protected from this kind of lawsuit. Rather, the new constitution includes an article that prohibits the defamation of all prophets and messengers of God. This article was presented by al-Azhar and backed by Islamists and other political forces;<sup>89</sup> it could be used to prosecute Muslims deemed heretics under the dominant Sunni perspective, such as Shiites. It will have a far-reaching negative impact on freedom of expression and religious freedom in Egypt's emerging political order. Trials of persons, including non-Muslims, charged with blasphemy against Islam increased over the last four months of

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<sup>86</sup> Parnāmij Hizb al-Nour (2011), available at: [http://www.alnourparty.org/page/program\\_headers](http://www.alnourparty.org/page/program_headers).

<sup>87</sup> See the statements of Abd al-Rahmman al-Barr to al-Hurrah TV on 13 January 2012, Taqfir Khas, available at: <http://www.youtube.com/watch?v=ZXOG6c9WNkI>.

<sup>88</sup> A. Mohsen, 'Dark Comedy: Is Adel Imam's Sentence the Start of a Worrying Trend?', *Egypt Independent*, 25 May 2012, available at: <http://www.egyptindependent.com/news/dark-comedy-adel-imam's-prison-sentence-start-worrying-trend>.

<sup>89</sup> See Makhawif Ala Huriyyah al-Aqiddah Fi Misr, August 2012, available at: <http://almarayanews.com/new/permalink/5501.html>.

2012. Some of the defendants received prison sentences,<sup>90</sup> and in one of the famous blasphemy cases, the defendants were sentenced to death in absentia.<sup>91</sup>

President Morsi and his government have also taken tough stances against media in recent months. An increasing number of lawsuits have been filed against journalists on charges of insulting the president. At the same time, President Morsi and his government have tolerated the discriminatory discourse of Salafist media and some Islamists. Instead of working to reconstruct the ownership of the state-owned media as promised in its platform, the Muslim Brotherhood has used its political power and laws of the former regime to appoint media professionals with close ties to them to positions of influence – including as editors and administrative officials – in state-owned newspapers.<sup>92</sup>

Ennahda states in its program that freedom of expression is guaranteed, without naming any explicit restrictions. It also asserts that “freedom of artistic creativity is protected and the state should issue laws to guarantee its practice”. On media, the program generally refers to “the development of media in order to enrich the cultural sphere”. However, it fails to explain exactly how public and private media are to be reformed.<sup>93</sup>

The prosecution of journalists in Tunisia over the last few months has given rise to doubts about the commitment of Ennahda to freedom of expression. Ennahda also proposed criminalising offenses against the sanctity of Islam in the future constitution. Secularists and human rights defenders resisted this proposal until it was withdrawn from the draft constitution. However, another sentence was added to Article 4 that maintains the same meaning, ambiguously stating that “the state protects sanctities”. Some observers argue that the movement did this as a concession to the demands of Salafists.<sup>94</sup> In the meantime, it has failed to deter hardline Islamists who threaten public liberties and freedom of artistic creativity.

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<sup>90</sup> Amnesty International, ‘Egypt: Outrageous’ Guilty Verdict in Blasphemy Case an Assault on Free Expression’, available at: <http://www.amnesty.org/en/news/egypt-outrageous-guilty-verdict-blasphemy-case-assault-free-expression-2012-12-12>.

<sup>91</sup> Ahram Online, ‘Six Expat Copts Receive Death Penalty Sentence for Anti-Islam Film’, available at: <http://english.ahram.org.eg/NewsContent/1/64/59363/Egypt/Politics-/Six-expat-Copts-receive-death-penalty-sentence-for.aspx>.

<sup>92</sup> See the Joint Statement by Egyptian Rights Groups on 9 August 2012, ‘The Muslim Brotherhood Following Mubarak’s Footsteps’, available at: <http://www.cihrs.org/?p=3773&lang=en>.

<sup>93</sup> Parnāmiij Harakat al-Nahdah (2011), available at: <http://www.365p.info/livre/index.html>.

<sup>94</sup> See Amnesty International, ‘Tunisian Journalist Faces ‘Public Morals’ Charge after Criticizing Government’, 8 August 2012, available at:

In summary, the theoretical and practical positions of all three groups on key human rights issues are extremely worrying. While Ennahda adopts more progressive positions in many instances, it remains ambiguous in others. The visions of both the Muslim Brotherhood and the Nour Party on several fundamental universal human rights are flagrantly restrictive.

## **Islamism, Human Rights, and Islamic Reformation**

Any future introduction of Islamic law as interpreted by Islamists into the legal frameworks in Tunisia and Egypt will undermine international human rights standards. A recent comparative study of the incorporation of Islamic law in the legal systems of Muslim states revealed that “a number of violations are directly related to norms and practices based in Islamic legal traditions”.<sup>95</sup> Liberal Muslims maintain that international human rights law and modern constitutionalism cannot be put into practice in the context of the Islamic state unless Muslim scholars engage in drastic reformation of traditional Islamic law. The Sudanese scholar Abdullahi An-Na'im argues that there is nothing divine in Islamic law, and as such its content and methods of implementation are a product of human interpretation of Islamic sacred sources. Thus, Muslims can review it at any time in light of their changing circumstances.<sup>96</sup> Moreover, many Muslim scholars reject the idea of using *Shari'ah* as the legal framework for the state. For instance, the Egyptian judge Muhammad Sa'id Al-'Ashmāwī argues that *Shari'ah* in the *Qur'an* means the way of God or of Islam but that the term was changed by Muslim jurists in the second century of Islam to apply mostly to legal matters.<sup>97</sup>

An-Na'im contends that the secular state is necessary in Islam. He explains that Islamists overlook the significant differences between the modern nation state and the pre-modern Islamic community. Historically, Islamic law was by and large interpreted and applied by independent Muslim jurists and judges, rather than as part of the central authority. Early Muslims committed

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<http://www.amnesty.org/en/news/tunisian-journalist-faces-public-morals-charge-after-criticizing-government-2012-08-07>; A. Guellali, 'Tunisia's Setback in Freedom of Expression'. *Human Rights Watch*, 2012, available at:

<http://www.hrw.org/news/2012/06/24/tunisia-s-setback-freedom-expression>.

<sup>95</sup> J. Otto, 'Towards Comparative Conclusions', in J. Otto (ed.), *Sharia Incorporated. A Comparative Overview of the Legal Systems of Twelve Muslim Countries in Past and Present* (Leiden: Leiden University Press, 2010), pp. 618.

<sup>96</sup> See A. An-Na'im, *Towards an Islamic Reformation: Civil Liberties, Human Rights and International Law* (Syracuse, NY: Syracuse University Press, 1996).

<sup>97</sup> E.W. Shepard, 'Muhammad Said al-Ashmawi and the Application of Shari'a in Egypt', *International Journal of Middle East Studies*, 28 (1) (1996), p. 43.

themselves voluntarily to *Shari'ah* in accordance with their convictions, without any need for coercion. According to An-Na'im, any law applied by the central authority will always be secular and cannot be described as Islamic, because Muslims will always disagree on the exact interpretations of *Shari'ah*.<sup>98</sup>

Respect for international human rights norms through creating inclusive, equal citizenship will be essential to guarantee the peaceful co-existence of the multiple religious, ethnic, and cultural communities in Arab societies. It is mistaken to consider demands for universal human rights an imposition of alien values on Muslims. Muslims do not all hold one monolithic view on the place they assign to religion in the public domain, and many Muslim scholars and human rights actors increasingly support international human rights norms, Islamic reformation, and a secular state.<sup>99</sup> A document produced by a coalition of Egyptian and Arab human rights NGOs in 2004 affirms that international human rights is a product of the interaction between cultures and civilizations throughout history. The document warns against invoking conservative interpretations of Islamic sources that undermine the universality of human rights.<sup>100</sup>

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<sup>98</sup> A. An-Na'im, 'The Compatibility Dialectic: Mediating the Legitimate Coexistence of Islamic Law and State Law', *The Modern Law Review* 73 (1) (2010).

<sup>99</sup> See A.E. Mayer, *Islam and Human Rights: Tradition and Politics* (Boulder, CO: Westview Press, 2004) Fourth edition; see also the analysis of the work of some liberal reformers in W. Hallaq, *A History of Islamic Legal Theories: An Introduction to Sunnī usūl Al-Fiqh* (Cambridge: Cambridge University Press, 1997), pp. 207-254.

<sup>100</sup> The Second Independence: Towards an Initiative for Political Reform in the Arab World. This is a joint declaration adopted by the first civil society forum organized by the Cairo Institute for Human Rights Studies in collaboration with the Association for Defending Rights and Freedoms, a Palestinian Human Rights Organization. The forum gathered 52 NGOs from 13 Arab States (Cairo Institute for Human Rights Studies 2004). The same view has been expressed on many other occasions over the last two decades by Egyptian and Arab human rights NGOs.

Moreover, the popular uprisings that swept the Arab region in 2011 have shown the popular impetus for democracy and human rights values. These developments challenge the assumptions that universal human rights have no basis in Arab societies and that conservative Islamist forces are the sole political alternative in the region. Although Islamists have consolidated their political influence as a result of the political transitions that occurred in Tunisia, Egypt, and Libya, the political and intellectual diversity of these societies is obvious. In Egypt, new political parties emerged in 2011 which clearly advocate international human rights norms and embrace liberal and progressive understandings of Islamic sources.<sup>101</sup>

## Conclusion

Scrutinizing the human rights records of Islamists is very important at this critical stage of the political transitions in the Arab region. Islamists are not the only actors who are hostile to human rights, yet the Arab revolutions have shown that the political culture of Muslims is not monolithic and that support for universal human rights is on the rise. However, Islamists' impact on religious discourse is immense. The political rise of Islamists in a country like Egypt since the 1970s prompted Sadat and Mubarak to adopt both repressive measure and religious policies to appease Islamists. Islamists' ascendancy has influenced the society as a whole, and their ideology has infiltrated cultural, media, educational, and religious institutions, reinforcing cultural relativism and conservatism in society.

There has been no expectation that Islamists will positively transform the human rights landscape in the region upon coming to power. Islamists have so far failed to offer a coherent and consistent theory and practices harmonizing their Islamist agenda with international human rights standards. The positions of Ennahda can be considered more progressive than those of Egyptian Islamists, yet there are deep-seated tensions between fundamental human rights and the positions and actions of all three of the Islamist parties under study.

A promising factor in both Tunisia and Egypt is the increasing constituency backing universal human rights among liberals, young activists, and civil society. Without a doubt, liberals are potential competitors of Islamists. If they strengthened their organizational and communications capacities, they

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<sup>101</sup>For instance, see the political platforms of the Egyptian Social Democratic Party, available at: [http://www.egysdp.com/docs/party\\_pro.pdf](http://www.egysdp.com/docs/party_pro.pdf) (Accessed: 10 April 2011); the Platform of the Egyptian Liberals Party, available at: <http://almasreyeenalahrrar.org/PartyProgram.aspx> (Accessed: 10 April 2011); the Platform of Freedom Egypt Party, available at: <http://www.masralhureyya.org/about-party/program> (Accessed: 10 April 2012).

could well achieve electoral success in future elections. Human rights defenders have also been outspoken about Islamists' performance after coming to power, insisting that they must abide by international human rights standards. Yet human rights defenders and liberals should not leave religion to be distorted by Islamists. Islamic reform and rooting universal human rights in Islamic discourse should be a strategic objective. The international community should make sure that current governments in the region effectively respect the freedoms of expression and association. The ability to exercise human rights can ensure that a vibrant debate on the future of universal human rights and religion takes place in an environment free from intimidation.

Beyond the domestic context, Islamists' ambivalence about human rights can be expected also to have an impact in the regional and global contexts. Arab governments led by Islamists will likely attempt to trigger a debate on cultural specificities in international human rights institutions. Issues such as gender equality and defamation of religions can be expected to come to the fore both globally and regionally. Universal human rights in bilateral and multi-lateral cooperative frameworks between the EU and Southern-Mediterranean will be contested on cultural grounds. After a long history of suspicion of Islamists, the United States and Europe have recently become supportive of the inclusion of Islamists in political processes, but this policy shift should not come at the expense of the respect of international human rights norms in Arab states. It should also avoid overshadowing the long struggle of liberal Muslims and the human rights community to find common ground between Islamic traditions and universal human rights. The United States and Europe should prioritize political and moral support for liberal Muslims and human rights defenders who share common universal values. Universal human rights, and particularly gender equality, non-discrimination, and freedom of expression, must continue to be the frame of reference between the European Union and its Arab partners. The European Union can draw on the diverse experiences of Muslim states in establishing respect for human rights and refer to best practices to encourage Islamist parties to develop their legal positions on international human rights treaties.

