CONTENTS

List of Tables ix

Note on Transliterations xi

Acknowledgments xiii

Abbreviations xvii

Introduction 1

1 The State's Enduring Custodianship of Islam: Old Ideals and New Techniques of Governance in the Regency of Tunis's 1861 Constitution 29

2 Competing Custodians of Islam in the 1907–1959 Tunisian Constitutional Episode: Islamic France, the Bey, and Independent Tunisia 91

3 State Custodianship of Islam in the Tunisian 2014 Constitution: Debating a Muslim and Democratic State 151

4 The Political Cleavage about Islam in Governance in the Modern Middle East: A Reappraisal 188

5 The Concrete Implementation of the State's Custodianship of Islam in the *Longue Durée* and Its Discontents 244

Conclusion 314

Tables 319

Data Appendix 335

Bibliography 355

Index 391

Introduction

IN THIS BOOK, I study how the role of Islam in governance has been conceived in the modern period,[1] how it has been implemented in concrete terms, and what has changed from premodern times. I do so by examining constitutional projects and debates from their onset in the modern Middle East as well as the evolution of public expenditures on religious provisions (Islamic worship infrastructure, Islamic education, Islamic courts and personnel, Islamic forms of public assistance) from the nineteenth to the twenty-first century, with some incursions into the further past. There is a vast literature on the premodern history of Islam in governance, which has notably discussed the distribution of religious authority among rulers and ʿulamā (religious scholars). Despite some scholarly disagreements about specifics,[2] a consensus seems to have emerged that the relationship between Islam and the state in premodern times was characterized by (1) a partnership between political and religious authorities (notwithstanding confrontations and significant fluctuations in the balance of power in this partnership) and (2) the expectation that the state be what I will call throughout this book the custodian of Islam (the state-preferred religion), of its institutions, and of the Muslim community. Crone (2004, 286–314) enumerates the services medieval Muslims "expected from the state" from the point of view of the revealed law as well as its "non-*sharʿī*" duties: "the validation of the community" by the ruler who had to maintain the normative order of sharia, the "validation of public worship," the "execution of the law," the "execution of the *ḥudūd* [punishments]," the execution of "*jihād*," "commanding right and forbidding wrong," "the preservation of the religion" (*ḥifz al-dīn*), "fiscal services," "internal security," "roads, bridges, inns, walls, mosques, and other infrastructure," as well as "poor help, disability pensions, famine relief," "medical services," "education," and "culture." Many of the "non- *sharʿī*" state duties, such as the building of mosques and madrasas, and Islamic education more broadly, could also be understood as part of the preservation of the religion. Crone (2004, 395) also argues that "there was nothing specifically Islamic about [the rulers]," but that they had "a religious role to play" as "protectors of a religious institution." Stilt (2011, 26) provides another premodern example, that of the Mamluk sultans of Egypt, who, she shows, "undertook the fundamental duties demanded of a ruler of a Muslim polity: establishing prayer, collecting *zakāt* [almsgiving], appointing judges, carrying out punishments, and facilitating the pilgrimage." She underlines that "these are not isolated examples of a political entity taking an interest in the "religious" but rather some of the very core functions of the ruler."[3]

---

[1] By modern period, I mean the nineteenth to the twenty-first centuries, in a mere chronological sense.

[2] For instance, Crone and Hinds (1986) argued that, in early Islam, religious authority was concentrated in the hands of the ruler. In contrast, Tyan (1938) argued that the prophet, as well as the first four caliphs, did not establish a new judicial system and did not act as judges. Also, Lapidus (1975, 364) argued that, by the tenth century, "Muslim states were fully differentiated political bodies without any intrinsic religious character, though they were officially loyal to Islam and committed to its defense." Lapidus (1975) interpreted Islamic history as a process of separation of religion and state through the emergence of a class of ʿulamā and their competition with rulers for religious authority, whereas Crone and Hinds (1986) saw the separation between religious and political authorities as a division of labor under the canopy of Islamic law, which prevented any separation of religion and state. Zaman (1997a, 1997b) showed that, except for the period of the *miḥna* under the Caliph al-Ma'mun, there is little evidence of a competition for religious authority between rulers and ʿulamā in the Abbasid period, whereas there is evidence for the continuity of their partnership.

There have also been ample discussions in the literature about what changes the modern period brought to the relationship between Islam and the state. Responses have pointed to imperialism, colonization, nationalism, modernization and to the effect of various forces, such as secularism, to posit a radical rupture to this relationship. This book aims to contribute to these discussions by showing that the premodern partnership between rulers and ʿulamā has generally endured in modern Muslim-majority polities. Moreover, although new techniques of governance have been imported from the West in modern times, the state has generally continued to be expected to act as the custodian of Islam (its preferred religion, in the sense that it protects and supports Islam more than other religions). This has continued through a variety of contexts, including precolonial rule, colonial rule, nationalist struggle for independence, independent state building, authoritarian rule, and democratization. This duty is viewed by most political actors as indispensable and inextricably tied to sovereignty, even when exercised by a foreign, non-Muslim ruler. To be sure, the precise list of duties expected from and carried out by the state as the custodian of Islam has varied from time to time and from place to place, but three broad overlapping principles have persisted. The first is the preservation of *the religion*—for example, by guaranteeing worship, the celebration of Muslim holidays, or the organization of the pilgrimage but also by producing, disseminating, and enforcing specific interpretations of Islam articulated by state religious authorities and/or the public school system or limiting freedom of expression. The second principle is the preservation of *the Muslim community*—for example, by defending its borders or shoring it up against erosion through forbidding or preventing Muslims' conversions. Third is the preservation of *Islamic institutions*—for example, by upholding Islamic law, courts, and judges or funding Islamic education, schools, and teachers as well as places of worship and their personnel. Therefore, the state's custodianship of Islam as the preferred religion is a specific type of state engagement with religion. Indeed, state engagement with religion has been shown to be ubiquitous in premodern and modern times (whether supportive, neutral, or hostile), including in polities that aspire to separate religion and state.[4] Moreover, the state's custodianship of Islam does not necessarily imply the conflation between religious and political authorities, which is only one of its conceivable instantiations. Nor can it be reduced to the absence of state neutrality or of separation between Islam and the state: they are only two of its implications. And it does not preclude that the state might also be the custodian of religions other than Islam, even if Islam is the preferred one, or that there can be domains of equality between Muslims and non-Muslims. We do find such domains in modern as well as premodern times.[5]

---

[3] Stilt (2011, 4) also shows, echoing in part Zaman (1997a, 1997b), how "policy concerns and doctrine interacted, cooperated and competed."

Equally importantly, Muslims have vigorously debated how to implement the state's custodianship of Islam, and these debates have structured an important part of political life in most modern Muslim-majority polities. To be sure, neither its necessity nor the existence of debates about how to best implement it are distinctive features of the modern period; nor is the import of foreign

---

4. For a quantitative study of the various forms of contemporary states' engagement with religion worldwide, see Fox (2008, 2011, 2015); for a study of the United States, see Sullivan (2005); for an analysis of state support versus hostility toward religion, see Kuru (2009).

5. For some premodern examples, see Fierro and Tolan (2013) and Delgado (2022).

techniques of governance in Muslim states; nor are other significant changes in governance, such as those historically triggered by severe epidemics, conquests, invasions, economic crises, and so on. However, a central argument of this book is that, notwithstanding previous significant ebbs and flows of centralization and decentralization, at least one transformation of the modern period is truly unprecedented and has had a profound impact on the role of Islam in governance: the significant increase in the size and reach of the state, in absolute terms and in relation to the overall economy. Moreover, some features are distinctive of the modern period. New institutional forms have developed and expanded, old ones have disappeared or been marginalized, and debates about how to implement the state custodianship of Islam have involved new protagonists, such as mass political movements and parties (e.g., nationalist, progressive, or Islamist parties), in addition to old ones (e.g., rulers, state officials, ʿulamā, tribal leaders, ordinary people, or foreign powers). They have been influenced by the salient issues of the time, such as foreign occupation, world wars, the urgency of human and economic development, the integration of religious minorities into the nation, authoritarianism, and democratization. These debates and their concrete outcomes have therefore varied considerably in time and space.

State Custodianship of Islam in Constitutional Debates and in State Expenditures

To clarify the terms of the contemporary political cleavage on Islam in governance, and to retrace the historical continuity of the expectation that the state be the custodian of Islam, I start by examining debates throughout Tunisia's constitutional history since it is one of the oldest and longest among Muslim-majority polities.[6] This allows for a study of the conceptions and implementation of the state's custodianship of Islam in a particularly wide variety of contexts and for the disaggregation of what the debates on Islam and governance owe to historical contingencies from what they owe to the persistence of core principles. Tunisia's first constitution was proclaimed in pre-protectorate Tunisia in

---

[6] The 1839 Ottoman Khatt-i Sherif of Gulkhane, a declaration of principles, and the 1856 Khatt-i Humayun, made up of more than thirty paragraphs, predate the Tunisian 1857 Security Pact and 1861 Constitution. However, they did not have the comprehensive legal reach of a constitution, despite the French use of the term "charter" or "constitutional charter" to characterize them at the time. See Charte des Turcs (1840) and Bianchi (1856).

1861, in a context of imperial competition and European penetration. Its 1959 Constitution was drafted at independence at the onset of an authoritarian regime and after a nationalist struggle against colonization, during which constitutional demands played a salient role. Finally, its third constitution, proclaimed in 2014, was drafted in a post–Arab Spring context of transition to democracy, and its fourth, in 2022, in a context of return to authoritarianism. Therefore, Tunisia's constitutional history is rather unique in that it allows us to examine conceptions of Islam in governance in contexts that span precolonial times, colonial rule, a nationalist fight for independence, the building of an independent state, authoritarian rule, and a transition to democracy. Moreover, since Tunisia is often deemed one of the most "religiously neutral" polities of the Middle East,[7] it is a particularly illuminating case to sustain my argument for the continuity of the state's custodianship of Islam as the preferred religion in most Muslim-majority polities and of the vigorous debates about its concrete implementation.

While it is not my aim to provide a continuous and exhaustive history of constitutional episodes and debates in the Middle East, I also thematically focus on key ones outside of Tunisia to illuminate my argument. I analyze constitutional debates about Islam in governance that took place in the 1920s, a period often described as a "liberal age" (and contrasted with later periods of alleged Islamization), when several Middle Eastern polities first drafted constitutions for their newly sovereign (or quasi-sovereign) states.[8] In particular, I examine the creation of the 1923 Egyptian Constitution by analyzing the debates on Islam in governance in its Constitutional Committee, which to my knowledge have not yet been the object of thorough scholarly attention. This is a particularly important case, not only because of its rich intellectual and political legacy and its paradigmatic status in the historiography but also because it immediately preceded the emergence of the Egyptian Muslim Brothers, one of the first and most influential organized Islamist movements. This allows for a reassessment of the Muslim Brothers' contribution to the conservative political tradition on the role of Islam in governance. In conjunction with an examination of the debates that took place during the creation of the 1920 Greater Syria Draft Constitution and the 1926 Lebanese Constitution (in two polities that are distinctive because of their large proportion of non-Muslims), it also allows for a study of the impact of the demographic weight of religious minorities on the role religion can play in governance and on the extent to which there can be a state-preferred religion. In addition, these three constitutional episodes provide us with organized and fully-fledged constitutional debates that took place in formal arenas of deliberation in the 1920s, when, in Tunisia, nationalists wrote their first known constitutional draft. In this process, constitutional demands were central to nationalist claims, but colonial authorities foreclosed democratic deliberations.

---

[7] For instance, Stepan (2012) points to Tunisia's "pioneering role in building constitutional and state structures that were religiously neutral [*sic*]." Similarly, Al-Azmeh (2020, 385–386) curiously claims that Tunisia was one of the very few "Arab state[s] without an official religion."

[8] Other examples from this period, not examined in this book, include the 1923 Fundamental Law of Afghanistan, the 1924 Constitution of Turkey, the 1925 Constitution of Iraq, the 1926 Fundamental Law of the Hijaz, and the 1928 Constitution of Transjordan.

Lenses other than constitution making could be used—for example, treatises on governance, court decisions, chronicles, mirrors for princes, parliamentary debates, etc.—and I use some of these as a complement.[9] However, the study of constitution making presents the distinct advantage that, in Muslim-majority polities, constitutions are imported tools of governance in which the reaffirmation of the Muslim character of the state is often made evident by their drafters and is therefore discussed explicitly. Moreover, constitutional episodes are often moments of deep introspection by state and intellectual elites about their conceptions of governance. In Muslim-majority polities, they often crystallize existing disputes about how to preserve the state's custodianship of Islam as the preferred religion in the face of ongoing challenges. Therefore, my primary object of study is not the final texts of constitutions[10] but the negotiations and deliberations that took place during their making, unmaking, or modification.[11] The text of a constitution is usually too thin to be used by itself to analyze the conceptions of Islam in governance in a polity and the disagreements about it. It is often more revealing for what it does not say or for how it was deliberately mistranslated in foreign languages, as we will see in several instances. Moreover, constitutional clauses are sometimes not enforceable or not enforced, and are not necessary to implement the state's custodianship of Islam as the preferred religion. For instance, although a 1928 amendment to Turkey's Constitution removed its "Islam is the religion of the state" clause, which was present in the

---

9. Some works, such as Findley (2010) and Salomon (2016), use cultural productions.

10. Therefore, this book is not about "constitutional Islam" per se, as in Ahmed and Ginsburg (2014), or about Middle Eastern constitutions, as in N. Brown (2002).

11. Another important component in constitutional analysis is the judicialization of constitutions. See Moustafa (2018).

1876 Ottoman Constitution and in the 1924 Constitution of the Republic of Turkey—and although a 1937 amendment proclaimed secularism (*laiklik*) one of the principles at the foundation of the Turkish Republic—the state continued to be the custodian of Islam, the state-preferred religion in Turkey, as shown by the role of the Diyanet within the state bureaucracy, the state's ambition to define correct Islam,[12] and its training of religious personnel, albeit with significant fluctuations in enrollments (see chapter 5). Moreover, debates about the role of Islam in governance continued to animate Turkey's political life.[13] In fact, as of 2010, five Muslim-majority polities with a state-preferred religion[14] (more than 10 percent of them) do not have any establishment, source law, or repugnancy constitutional clauses,[15] and two (Syria and Sudan) have a source law clause but no establishment clause.[16]

In addition, I examine quantitatively the evolution of an important metric of the concrete implementation of the state's custodianship of Islam, aggregate state expenditures on public Islamic provisions (whether funded and dispensed directly, or indirectly—for example, via public religious endowments), in four Muslim-majority polities of the Middle East (Morocco, Tunisia, Egypt, and Turkey) from the nineteenth or twentieth to the twenty-first century, with some incursions into the further past and elsewhere in the Muslim world, such as tenth-century Iraq. This particular metric is appealing because (1) it captures a concrete and objective outcome (how much is actually spent or budgeted), with less risk of interpretative bias than alternative metrics; (2) it allows more straightforward comparisons with nonreligious state undertakings, notwithstanding the challenge of determining what counts as religious and nonreligious; and (3) it allows more straightforward comparisons across time (including across centuries) and countries, notwithstanding the challenge of computing accurate relative price levels.[17] This allows for a quantitative identification of historical continuities and ruptures that have previously been overlooked. While my selection of countries for this study is far from exhaustive, their historical, political, and socioeconomic dissimilarities are significant enough to assess the robustness of my findings. That said, it might be illuminating to expand the range of this analysis to include, for instance, theocracies or polities that aspire to separate religion and state. In addition, I do not evaluate the extent of the state financial support of public religious provisions for the non-Muslim populations of Muslim-majority polities (a question that would deserve a study of its own) since my aim is to evaluate historically the extent of the state's custodianship of Islam, the state-preferred religion, and not that of other religions.

---

[12] Berkes (1964, 485).

[13] For instance, in 2016, some members of the Islamist Party of Justice and Development expressed their wishes to draft "a religious constitution." The April 25, 2016 "declaration by the speaker of the Grand National Assembly of Turkey, Ismail Kahraman, a representative of the Party of Justice and Development." For a critique of this project, see Halil Karaveli, Turkey's Journey from Secularism to Islamization: A Capitalist Story, *Turkey Analyst*, https://www.turkeyanalyst.org/publications/turkey-analyst-articles/item/542-turkey%E2%80%99s-journey-from-secularism-to-islamization-a-capitalist-story.html, accessed December 9, 2018.

[14] I use, as a proxy, the data set of polities with a state-preferred religion (i.e., with an "Official Support" variable named SBX greater than or equal to 8 as of 2010) according to the Religion and State Project, Round 3, which includes 183 of the most populous polities worldwide. Jonathan Fox, Religion and State dataset, http://www.religionandstate.org. Fox (2008, 2011, 2015).

[15] Turkey, Northern Cyprus, Indonesia, Guinea, and Gambia.

[16] I follow here the terminology of Stilt (2015). Constitutional establishment clauses—that is, clauses enshrining Islam as the religion of the state—are common (although not universal) in Muslim-majority polities. When they are present, they are often (89 percent of the time in the Middle East, and 83 percent overall) combined with clauses making Islamic law a (or the) source of legislation or repugnancy clauses. See table 8 for the frequencies of each type of clause in 2010.

The Main Questions at the Heart of the Debates on Islam in Governance

Despite the persistence of a broad agreement on the principle of the state's custodianship of Islam as the preferred religion, at least four core and interrelated questions have shaped the terms of disagreements about the role of Islam in governance in Muslim-majority polities in modern times, regardless of the significantly different contexts and circumstances in which these disagreements arose and regardless of the specific, recurrent, or contingent issues being debated: (1) to what extent should Islamic principles constrain the state (e.g., in legislation or as a philosophy of governance), what I call the *thickness* of the state's custodianship of Islam, or the commitment of the state to Islamic principles in governance; (2) what is the extent of public religious provisions that the state should make available to Muslims (e.g., mosques, imams, Islamic education, Islamic courts and personnel, Islamic forms of public assistance), what I call the *munificence* of the state's custodianship of Islam, or the state's commitment to Islam from a material point of view; (3) to what extent should the state constrain Islam and its institutions with its coercive and pedagogical apparatus (e.g., by imposing its own interpretations of Islam), what I call the *strength* of the state's custodianship of Islam, or the degree of state control of the religion, the Muslim community, and its institutions; and (4) who can partake in implementing and discussing the state's custodianship of Islam? While the first three questions are mostly about *outcome*, this fourth question is more about *process* and addresses in particular the organization of the partnership between political and religious authorities. Political actors often describe it as the question of the legitimacy of "mixing religion and *politics*," sometimes (and wrongly) confused with the question of separation of religion and *state* in the literature. For instance, an issue often at stake is whether the ʿulamā, the experts in sharia, should engage with politics (*siyāsa*). They might bring religion into politics when reproaching the ruler for his lack of commitment to Islam—for example, a too thin and not sufficiently munificent custodianship of Islam (see chapters 1 and 5). In the face of too strong a state custodian of Islam, they might opt for a quietist attitude, leaving politics to governing elites, which can also lead to tensions (see chapter 1). Other examples we will encounter include debates about the extent to which political competition should be influenced by religion—for example, by organizing political representation along sectarian lines (see chapter 4)—and whether to disallow politics in mosques or political activism based on Islamic principles (see chapter 3). States that are strong custodians of Islam often prohibit civil society from mixing religion and politics in order to enforce their monopoly on this practice.

---

[17] Alternative metrics, which have their own virtues, include expert coding of laws and regulations and government practices, such as in Fox (2008, 2011, 2015).

As we will see, disagreements about these four interrelated core questions—their formulations; their connections with specific, recurrent, or contingent issues; and the answers that were provided—have varied considerably in the history of the modern Middle East. Therefore, we can observe state custodianships of Islam that differ in strength, thickness, and munificence, with varying degrees and forms of the mixing of religion and politics. We also consistently observe political battles between two camps: those who, in response to these four questions, argue for increasing the role of Islam in governance and those who argue for decreasing it in their respective times and places. There is, of course, considerable regional and historical variation in the ideological characteristics of these two camps: arguing for a larger or smaller role for Islam in governance takes different meanings depending on the status quo. Moreover, we can observe ideological diversity as well as ideological evolution within each camp, which will be highlighted throughout this book. Even though these labels are imperfect and might sometimes be anachronistic, I will usually call these two camps "conservative" on the one hand and "liberal" on the other hand. I will also sometimes use common contextual labels for ease of exposition. In real life, in the twentieth century, conservative political actors are often referred to as "conservatives" (*muḥāfiẓūn*), and liberal political actors as "liberals" (*aḥrār*),[18] but also as "progressives" (*taqaddumīyūn*), "modernists" (*ḥadīthīyūn*), or "civil" (*madanīyūn*), three labels that many conservatives have also, at times, claimed for themselves. In the heat of the battle, some in each camp have used other, sometimes inflammatory or self-flattering, labels—such as "atheists" (*mulḥidūn*), "nominal" or "geographical" (*jughrāfīyūn*) Muslims, "nonreligious" (*lā-dīnī*), or "enlightened" (*mustanīrūn*) to refer to liberals; and "reactionaries" (*rajʿīyūn*), "fanatics" (*fanatiques*), or "servants of the religion" (*khadamat al-dīn*) to refer to conservatives. The term "Islamists" (*Islāmīyūn*) is also often used to refer to conservatives when organized into movements or parties.[19] I will only use this label contextually to refer to specific movements labeled as such, and the terms "Islamism" or "political Islam" to refer to their ideologies, without ascribing conceptual definitions to these terms.[20] On the other hand, although political actors (especially conservatives) and scholars and observers (especially in the West) often use the term "secularist" (*ʿilmānīyūn*)[21] to refer to liberals, I refrain from using it because it could imply support for the separation between Islam and the *state*, or for state neutrality, a rarity in most (albeit not all) Muslim-majority polities in the period under study. In fact, as we will see, many liberals do not even advocate for separating religion and *politics*, for instance when asking for political representation of religious minorities. That said, I will not give unwarranted importance to labels since my aim is to analyze the substance and the history of ideological agreements and disagreements about the role of Islam in governance.

---

[18] On the meaning of the Arabic adjective *ḥurr* in the Arab Middle East in the last decades of the nineteenth century, see Abu-Uksa (2016, 194).

[19] Lauzière (2015, 17) points out that the term "Islamism" was used by Hassan al-Banna as early as 1944. The actual Arabic word he used was "*Islāmīya*." See Ḥasan al-Bannā, Bayn al-Qawmīya wa-l-Islāmīya [Between nationalism and Islamism], *Al-Ikhwān al-Muslimūn*, January 29, 1944, vol. 2, no. 27, 3–4.

[20] Definitions the literature has given of these terms vary from the narrowest to the broadest, making their use as concepts (as opposed to labels) unhelpful to analyzing the terms of the debate on Islam in governance. Definitions range from the project of implementing sharia and/or rejecting Western liberal ideas, which are specific and contextual instantiations of conservative (and Islamist) articulations about the role of Islam in governance, to, for instance, the definition of political Islam by John Voll and Tamara Sonn in *Oxford Bibliographies Online*—"Any interpretation of Islam that serves as a basis for political identity and action"—which is so broad in scope that it would encompass most political movements and actors in the modern Middle East and would therefore also lead to mischaracterizing the terms of the debate on Islam in governance.

[21] We find two pronunciations of the term: *ʿalmānīya* and *ʿilmānīya*, with the latter appearing to be the oldest, dating back at least to 1882 as attested in Steingass (1882, 350). See, for a brief genealogy, Al-Azmeh (2020, 7).

With this in mind, in the debates about Islam in governance in relation to the four aforementioned main questions, conservatives argue for a thicker state custodianship of Islam whereas liberals advocate for a thinner one—that is, for fewer Islamic constraints on the state. Conservatives also argue for a more munificent state custodianship of Islam; they aim to expand the place of Islam in governance by increasing state-funded religious provisions, whereas their liberal adversaries aim to shrink it by decreasing them. On the other hand, on the issues of the strength of the state's custodianship of Islam and the mixing of religion and politics, the picture is more complicated. Liberals, who argue for a thinner state custodianship of Islam often also advocate for a stronger one—that is, for its coercive implementation—and would in that case be better described as illiberal progressives. For instance, they often advocate for specifying and enforcing a "correct Islam" and for imposing limits on their (conservative) political adversaries' freedoms of expression and association—for example, by outlawing the "mixing of religion and politics." However, they seldom argue for separating Islam from the state or for state neutrality, converging in this regard with conservatives. On the other hand, conservatives generally support "mixing religion and politics" since they often argue that policies can and should be derived from religious doctrine. They also often support a weak state custodianship of Islam, in response to the repression some of them endure or have endured from authoritarian regimes in their respective countries. However, they might advocate for a stronger one if the state abides by an Islamic philosophy of governance that is to their liking. Disagreements about the implementation of the state's custodianship of Islam are sometimes accompanied by disagreements about institutional forms (e.g., Islamic education in modern schools vs. in madrasas,[22] direct state funding and delivery of religious provisions vs. indirect via public religious endowments). They are also sometimes accompanied by disagreements about content (e.g., what constitutes Islamic knowledge). And disagreements about

---

22. I call "modern schools" those established in the modern period for the primary purpose of teaching imported European knowledge, as opposed to the madrasas whose primary purpose is the teaching of the Islamic sciences.

doctrinal matters (e.g., Sufis vs. anti-Sufis) are sometimes salient. However, as we will see in several instances, the liberal vs. conservative political divide over Islam in governance described above does not always overlap neatly with these disagreements about institutional forms, content, and doctrinal matters. In addition, it has recurrently come to the fore in discussions about how to maintain the Muslim character of the state even (and especially) in the face of pressing challenges of a nonreligious nature.

The Concrete Implementation of the State Custodianship of Islam: A Quantitative Evaluation

We can observe that, as of 2010, all twenty or so Muslim-majority Middle Eastern polities—except for highly religiously fractionalized Lebanon, and including Turkey, despite its constitutionalization of "*laiklik*" (secularism)—have a state-preferred religion, Islam.[23] Outside of the Middle East, the only exceptions to this empirical regularity among Muslim-majority polities are those that were formerly part of the Communist Bloc[24] and six out of the ten Muslim-majority West and Central African countries.[25] Overall, 88 percent of the population of Muslim-majority polities around the world, and 99 percent in the Middle East, live under a state that favors Islam (table 8). The fact that there are exceptions to this empirical regularity shows that the state having a preferred religion is not an inevitable or essential feature of Muslim-majority polities. Moreover, this feature is not distinctive of these polities, since 45 percent of other polities have a state-preferred religion. However, it is much more prevalent among Muslim-majority polities (being present in 71 percent of them), a difference that is both substantial and statistically significant.[26] A worldwide statistical analysis of the factors that might influence the odds of a state having a preferred religion strongly suggests that it is a variable of choice,[27] subject to certain constraints (notably, the demographic weight of religious minorities). Neither GDP per capita, average years of schooling, nor an index of political rights significantly influences these odds, whereas the demographic weight of the religious majority does: it increases them in a substantial and statistically significant way.[28] We will see this effect in action in the constitutional episodes analyzed in this book, when the anxieties of the majority about being governed by the minority have collided with the anxieties of the minority about not having its rights protected. We will see that the larger the demographic weight of religious minorities, the more effective their resistance to the majority's ambition to favor its own religion.

---

[23] As mentioned above, I use as a proxy the data set of polities with a state-preferred religion according to the Religion and State Project, Round 3. Fox (2008, 2011, 2015).

[24] Six former Soviet republics as well as Albania and Kosovo.

[25] Niger, Senegal, Mali, Burkina Faso, Sierra Leone, and Chad.

[26] P-value = 0.001.

[27] Why this particular choice is prevalent is, in my view, a matter of collective preferences, for which I do not have a causal explanation, contrary to M. Cook (2014), who puts forward "the foundational texts" of the Islamic tradition and what he calls "heritage" as an explanation of a related, albeit not identical, question: Why does Islam play "a larger role in contemporary politics than other religions?" While I acknowledge the weight of past choices, I identify one

I also find that Muslim states have ensured that their custodianship of Islam is implemented concretely, by providing financial support to religious institutions and by funding public religious provisions.[29] Therefore, such financial support has largely been, and continues to be, a state affair, which the state might provide directly (from the state treasury) or indirectly—notably by way of funding and overseeing religious endowments (waqf or *ḥabūs*) or by subsidizing and leveraging the capabilities of civil society. That said, despite its symbolic prominence in official public records, the extent of this financial support has historically been modest in relation to other public expenditures, and particularly in relation to the overall economy, with significant variations across time and space. In addition, with the massive and unprecedented increase of the size and reach of the state in the modern period—a global phenomenon

---

element of the Islamic tradition that has remained, the necessity of the state custodianship of Islam as the preferred religion, while many other elements have been abandoned along the way, a fact that M. Cook (2014) does not address.

[28] GDP per capita and mean years of schooling from the World Bank, UNDP, and the CIA Factbook; political rights rating (out of 40) from Freedom House; population data from the Pew Research Center and the World Religion Project in Maoz and Henderson (2013). In multivariate analysis, the coefficient on the demographic weight of the religious majority is statistically significant, in contradistinction to the coefficients on these socioeconomic and political rights variables. Its statistical significance is robust to potential measurement error and endogeneity bias correction, and its estimated magnitude is in fact *larger* after such correction. This is important since population censuses often constitute major political issues and are therefore the object of suspicion and manipulation, as this statistical finding would also suggest. Barro and McCleary (2005) obtain a similar result using multiple earlier data sets but interpret it as supporting a market model.

[29] In this book, "public provisions" exclude goods supplied within the family as well as those supplied on a user-fee basis.

(albeit not perfectly synchronized across polities)[30]—while the extent of public religious provisions may have decreased in proportion to other state expenditures (as shown for Tunisia in table 2), it has significantly increased in per capita real terms (table 2). This two-pronged, paradoxical, long-term trend has been particularly pronounced in religious education: by implementing universal or quasi-universal public schooling, Muslim states have been able to disseminate Islamic education at an unprecedented scale, reaching the vast majority of their Muslim population and exposing it to an unprecedented number of hours of religious instruction (tables 4a and 4c). Yet, at the same time, the relative share of hours devoted to religious education in school curricula has drastically decreased (table 4c). This trend has fed the (preexisting) debate between conservatives and liberals about the appropriate extent of public Islamic provisions, and policy tugs-of-war between the two camps have led to significant short-term expansions and contractions in the munificence of the state's custodianship of Islam. In addition, these trends and fluctuations have fed academic debates between those scholars who highlight what they see as a process of overwhelming secularization, and who sometimes claim that the modern state annihilated Islamic institutions, and those who highlight what they interpret as an Islamic revival or even a "hegemonic Islam."[31] In reality, (expanding) Muslim states have persisted in their unwavering financial support for religious institutions throughout the modern period. To be sure, Muslim states have provided their support on their own terms, and their means of delivery of public religious provisions have often taken new institutional forms, notably in an effort toward centralization and efficiency. Moreover, some public religious provisions have been drastically deprioritized, or even eliminated, in favor of others. However, these transformations have removed neither the ideal of the state's custodianship of Islam nor the reality of its concrete implementation. Similarly, although they have created new challenges, expectations, and opportunities for both Muslim states and ʿulamā, these transformations have diminished neither the importance of their partnership nor the ʿulamā's ambivalence toward the state (and vice-versa). The ʿulamā have continued to ask for financial support from the state but also for more autonomy. Rulers and state officials have continued in their unwavering financial support for religious institutions but have also continued to strive to control them, often while attempting to keep them at a safe distance in order to keep them out of politics and to better manage the expectations of the Muslim community.

---

[30] Karaman and Pamuk (2010).

[31] For instance, Asad (1993) and Hallaq (2013) on the one hand, and Kepel (1985a) and Starrett (1998) on the other.

Reassessing the Novelty of the Politicization of Islam

Given their importance in the political life of many Muslim-majority countries, and the sustained scholarly and journalistic attention they receive, I also examine and reassess the ideological contribution of organized Islamist movements (at the time they were formed) to the debate about Islam in governance. I find that these movements joined a preexisting intellectual and political battle between conservatives and liberals, rehearsing ideological repertoires formulated by earlier conservatives who sought to expand the role of Islam in governance. I show that the Egyptian Muslim Brothers (founded in 1928 and one of the earliest organized Islamist movements, with the broadest and deepest impact on other such movements) merely repurposed, at their inception, conservative tropes that already resonated in and around the 1922 Egyptian constitutional debates. Therefore, their entry into the political scene marked the advent of mass politics rather than an ideological rupture.[32] If there was a rupture with the past at the time, it was in the means and unprecedented scale of the dissemination of and mobilization around political projects, which can in fact be observed across the political spectrum. Indeed, the thrust of the Muslim Brothers' project was actively promoted, against their liberal adversaries, by conservative ʿulamā in the public and political arena well before Hassan al-Banna established his society, notwithstanding his and other Muslim Brothers' self-serving claims that the ʿulamā were politically (and religiously) passive. Contrary to what is often argued in the literature, the Muslim Brothers' project was therefore in continuity with a conservative tradition of political thought, and, as such, it did not result from social, economic, and political factors or dysfunctions,[33] nor was it the unintended consequence of misguided educational or other (indigenous or colonial) policies.[34] Some of these factors might play a role in explaining temporary regional variations or historical ebbs and flows in the strength (electoral or otherwise)—and especially the political and mobilization strategies (such as their use of violence or the moderation of their platforms)—of specific Islamist (and non-Islamist) movements in specific places at specific times. However, they do not explain the presence in the political arena of the political project of a more expansive role for Islam in governance and a thicker and more munificent state custodianship of Islam since this project predates them. And it might be premature to predict its decline.[35] As long as the state custodianship of Islam remains a broadly shared expectation, it is likely to remain a political issue, and disagreements as to how it should be implemented are likely to shape political life, just as those about governance issues of a nonreligious nature.

---

[32] By mass politics, I mean the massive scale of the dissemination of ideas and of the political organization, mobilization, and competition that we observed in the Middle East in the twentieth century. However, I will not venture to date its advent with precision, to fully characterize it, or to describe all its effects. Freeden (2003, 31–33) argues that, in Europe, "the advent of mass politics . . . saw the consolidation of traditions of political thought such as liberalism, conservatism, and socialism." In the same vein, one could argue that the advent of mass politics in the Middle East saw the consolidation of the liberal and conservative traditions of political thought, with their respective projects to expand or reduce the role of Islam in governance, through what Freeden calls the introduction of "programmatic politics" and the "emergence of practical political thinkers who reinterpreted politics not only as a battle among power holders and notables, . . . but as a struggle over the minds of men and women."

In the same vein, the impact of colonization, nationalism, independent state building, authoritarianism, secularism, liberalism, and democratization on the relationship between Islam and politics needs to be reassessed. Contrary to what is sometimes argued,[36] these recent historical developments should not be held responsible for the politicization of Islam: the principle of the state's custodianship of Islam and political debates about how to best implement it long preceded them and are inextricably tied to the exercise of sovereignty, including foreign and non-Muslim. This is clear from the history of modern Tunisia, where before, during, and after colonization, as well as under authoritarianism and during a transition to democracy, this principle

---

33. For such arguments, see, for instance, Ibrahim (1980), Davis (1984), Kepel (1985a), and Burgat (2003). Goldberg (1991) was among the first to question the "dysfunction" explanation of the emergence of Islamist movements. Factors put forward in the literature include economic crises, rapid urbanization, modernization and secularization, authoritarian repression by supposedly "secular" regimes, and exclusion from the political process but also, more recently, a variety of other institutional, organizational, geopolitical, or socioeconomic factors—e.g., in Masoud (2014), Mecham (2017), Brooke and Ketchley (2018), and the bibliography there.

34. For such arguments, see, for instance, Starrett (1998) and Beck (2009).

35. For such predictions, see, for instance, Mitchell (1969, xiii–xiv), Roy (1994), Bayat (1996), and Kepel (2002).

36. E.g., Starrett (1998), Karpat (2001), Nasr (2001), Moaddel (2005, 342), E. Thompson (2015, 2020), Wyrtzen (2015), Mahmood (2016), Fabbe (2019), and Laurence (2021).

was reaffirmed while at the same time its concrete implementation was vigorously debated in the political arena. During colonization, there were competing sovereignties, hence competing custodians of Islam: the state exercising or aspiring to exercise sovereignty was tasked with this custodianship. While these actual or potential custodians were all quite different, what was expected, even if a foreign, non-Muslim occupier was to be custodian, remained broadly the same: the preservation of the religion, the Muslim community, and its institutions. Other cases studied in this book also attest to the persistence of this principle, its tie to sovereignty, and the vigor of its attendant political debates, despite the wide diversity of contexts and circumstances.

Some Remarks on the Literature

One trend in the study of Islam and politics in the modern Middle East has developed in the comparative politics literature, often to explain the democratic deficit of the region and/or to identify ways to reduce it. It analyzes individual attitudes or the strategic choices of political actors under the constraints of institutional structures,[37] sometimes through the lens of social movement theory,[38] or by focusing on the regulation and institutionalization of religion,[39] or on patterns of distribution of religious authority instead,[40] and often by attempting to leverage institutional cross-country differences (rather than focus on persistent historical trends and commonalities across Muslim-majority polities). Works following this trend rarely examine the long history of political ideas and debates regarding Islam in governance. In addition, they rarely examine the liberal side of these ideas[41] and tend instead to disproportionately focus on organized Islamist movements and their conflict with supposedly "secular" governments in the twentieth century. They often reduce the relationship between Islam and politics to this antagonism and ignore the broad and long-standing agreement across the political spectrum that the state be the custodian of Islam, the preferred religion. As a result, they have searched for the institutional and/or social "origins" of political Islam,[42] or of the politicization of Islam, in the development and innerworkings of nation-states and organized Islamist movements in the twentieth century, as if the issue of the role of Islam in governance were not an object of political contentions before that.

---

[37] E.g., Lust-Okar (2007), N. Brown (2012), Jamal (2012), and Tessler (2015).

[38] Notably Rosefsky Wickham (2002, 2013).

[39] E.g., Zeghal (1999a, 1999b), Wiktorowicz (2001), Fregosi (2003), Feuer (2018), Fabbe (2019), and Laurence (2021) in a comparison with Catholicism.

[40] E.g., Philpott (2007) in a comparison with other religions.

[41] Exceptions include Rutherford (2013), who examines liberal Egyptian judges' rulings during the Mubarak era.

Intellectual historians have similarly searched for the intellectual origins of political Islam, but they go slightly further back: starting with the thought of Muslim reformists, typically Jamal al-Din al-Afghani (1838/39–1897) and Muhammad Abduh (1849–1905), transitioning to the writings of one of his students, Rashid Rida (1865–1935), and culminating with the political project of Hassan al-Banna (1906–1949) and the Muslim Brothers. Hourani (1962, 360) argued that the Muslim Brothers "accepted" the "general outlook" of Rashid Rida, although the latter "might have disapproved of [their] political methods." Mitchell (1969, 321–322) wrote that the Muslim Brothers "saw themselves clearly in the line of the modern reform movement identified with the names of Jamal al-Din al-Afghani, Muhammad Abduh, and Rashid Rida," and claimed that this was "a fairly accurate assessment of their role and that of the Society in modernist developments."[43] Dallal (2000, 357–358), Shulze (1990, 2000), Mayeur-Jaouen (2002), and Brunner (2009), in line with conventional wisdom, have also proposed a similar genealogy, presumably inspired by Hourani's (1962) research agenda, selection of authors, and periodization.[44] Albert Hourani's monumental and pioneering modern intellectual history of the Arab Middle East aimed "to relate different thinkers with each other, and to construct a chronological framework within which they could be placed," tracing "a line of descent of four generations of writers" from the 1830s to the mid-twentieth century.[45] However, he treated these thinkers in isolation from their adversaries and therefore seldom explored the terms of the ongoing intellectual debate and political battle over Islam in governance. Taking this broad, linear intellectual history as their starting point, along with the Muslim Brothers' self-serving appropriation of a reformist legacy harking back to Muhammad Abduh,[46] intellectual historians overlooked the writings of those intellectuals who focused on issues of law and governance and who formed, in the words of Hourani (1962), "the first generation" to focus mainly on "the second generation" (revolving around Muhammad Abduh) and its bifurcation into "Muslim fundamentalism," which formed one aspect of "the third generation."[47] They were then left with the challenge of explaining what logically appeared to them as a puzzle: the shift from the sophistication of the earlier intellectual reformism of Afghani and Abduh to the more basic political project of the Islamists of the 1930s and 1940s and its mass appeal.[48] However, this apparent puzzle is an artifact of an approach that diachronically compares stances that are difficult to equate (e.g., the Muslim Brothers' stances on Islam in governance versus Muhammad Abduh's on, say, legal methodology) and that follows a linear succession of writers rather than a synchronic perspective on debates and disagreements.[49] Focusing on a specific issue instead, the role of Islam in governance, and following the history of intellectual and political disagreements on this issue tells us a radically different story: rather than a puzzling shift, we uncover an enduring political battle, one in which the Muslim Brothers simply appear to be new protagonists using the means of their time—that is, mass politics—which certainly made this battle much more noticeable to historians.

---

[42] E.g., Brooke and Ketchley (2018) have studied the mobilization strategy of the Muslim Brothers at their formation, with the declared aim of finding the "social and institutional origins of political Islam."

[43] Carré and Michaud (1983, 14–15 and 35) argue, in the same vein, that Hassan al-Banna was influenced by the "reformist, puritan but also rationalist" ideas of Muhammad Abduh and by Rashid Rida's *Al-Manār*.

[44] For instance, Schulze (2000, 18 and 95) speaks of a transition from an intellectual movement that he calls "salafiya," that sought the "return to the 'pure' Islam of the forefathers (*al-salaf al-ṣāliḥ*)" and a "timeless aesthetic and intellectual ideal, derived from an origin that was pure of all temporal circumstances," to what he calls "neo-salafiya," i.e., a movement "of Islamic intellectuals who recognized the failure of the salafiya ulama and sought to found their own independent Islamic public." Mayeur-Jaouen (2002) and Brunner (2009) follow a similar thread, employing a vocabulary that suggests novelty (e.g., "neo-salafiya" and "new ulama"), and speak of a "turning point" or of a "new phase," after 1927–1928. See also P. Shinar and W. Ende, Salafiya, *EI*^{2}. For a critique of the use of the notion of *salafīya*, see Lauzière (2015).

---

[45] Hourani (1983, v–vi) In the preface of Hourani (1983, iv–x), a reissue of Hourani (1962), the author explains that the first generation he analyzed (1830–1870) was that of proponents and propagandists of the Tanzimat, such as Rifaa Rafi al-Tahtawi (1801–1873) in Egypt, Khayr al-Din al-Tunisi (d. 1890) in Tunis and Istanbul, and Faris al-Shidyaq (1804–1887) and Butrus al-Bustani (1819–1883) in the Levant. The second was represented by Muhammad Abduh (d. 1905), whose task was to "reinterpret Islam so as to make it compatible with living in the modern world," hence moving the analysis away from issues of governance. The third was that of Abduh's "disciples," such as Qasim Amin (d. 1908), Lutfi al-Sayyid (d. 1963), Ali Abd al-Raziq (d. 1966), Rashid Rida (d. 1935), and Taha Husayn (d. 1973), who, he argues, divided in "two strands of thought" represented on the one hand by "a kind of Muslim fundamentalism" and on the other by those who although they accepted Islam "as a body of principles, or at the very least of sentiments, . . . held that life in society should be regulated by secular norms." The fourth generation seems to have been shaped by Arab nationalism and Islamic fundamentalism.

[46] Mitchell (1969, 321–322). See also Haddad (1998) on Rashid Rida's appropriation of Muhammad Abduh's legacy.

[47] Hourani (1983, iv–x).

[48] For instance, Schulze (2000, 93–94) invokes as explanations the economic crisis of the 1930s, the rural exodus to the cities, the exclusion from "the aspirations of colonial society," and the fact that, or so the author claims, Hassan al-Banna "was unable to integrate" and "politicized his own misery when he co-founded the Muslim Brotherhood."

Another trend that has enjoyed prominence, inspired by Foucault (1969), Said (1978), and the variegated poststructuralist literature, is notably represented by Asad (1993, 2003), Mahmood (2005, 2016), Agrama (2010, 2012), and Hallaq (2013). It has looked for newly emerging concepts and categories of thought related to religion in modern times as evidence of profound transformations of Islam in Middle Eastern states and societies.[50] When seeking to identify historical ruptures, scholars following this research agenda often deem conceptual reformulations sufficient to explain social transformations. They claim that in modern times the Middle East has become subject to a ubiquitous and hegemonic Western liberal "secularism."[51] This modern condition is at times defined as an aspiration to separate "church and state" or to make the state "neutral in regard to religion,"[52] which, as we will see in this book, are both largely (albeit not completely) absent from the political history of the modern Middle East, as both aspirations and realities. At other times, "secularism" is extended to mean the state regulation of religion and the delimitation of the proper place it must occupy,[53] two features that, as we will see and as is already well-known, are not distinctive of modern times. In other instances, this modern condition is taken to mean the "separation of religion and politics."[54] However, as we will see, in the modern Middle East separation of religion and *politics* has often served as a means for the state to enforce a specific understanding of Islam, and also to keep religious minorities' political ambitions at bay and keep Islam the sole state-preferred religion. This trend in the literature posits (rather than documents) a radical rupture in the role of Islam in governance between premodern and modern times. It overlooks past conceptions of secular domains of human activity in the long history of Islam and ignores the ambitions of premodern Muslim states to regulate and bound specific religious domains, even though these past conceptions and ambitions have been amply documented, in Imber (1997), Zaman (1997b), Hallaq (1997), Dakhlia (1998), Al-ʿAẓma (1998), and Stilt (2011) among others. It also elides most modern Middle Eastern states' duty and ambition to be the custodians of Islam as the preferred religion, a broadly shared expectation, and ignores modern conservative articulations of the role of Islam in governance. It only acknowledges remnants of a premodern Islamic tradition that the inescapable and universal force of Western modern

---

[49] Albert Hourani was aware of the potential pitfalls of his methodology. Looking back at it in Hourani (1983, iv–x), he underlined the "risk . . . of imposing an artificial unity on [these thinkers'] thought, of making it seem more systematic and consistent than in fact it was," and acknowledged that he started with "a debate which began on the level of political institutions or laws" and continued toward broader questions "about how men and women identified themselves and what they could believe about human life." He also acknowledged that he did not investigate why and how intellectual influences took place and that he was mainly interested to "note the breaks with the past: new ways of thought, new words, or old ones used in a new way." As a result, he focused very little on conservative articulations.

[50] For instance, Asad (2003, 25 and 209) argues that "changes in concepts articulate changes in practice" and aims to explore "precisely what is involved when conceptual changes in a particular country make "secularism" thinkable." For a critique of the claim that religion is a distinctively modern epistemological category, see Riesebrodt (2010).

[51] For instance, Mahmood (2016, 10 and 208) wants to account for the "epistemological hegemony of European forms of life and historical teleology" and argues that, "as a feature of liberal political rule, secularism characterizes all modern societies." For similar claims, see also Asad (1993, 7–24 and 191) and Asad (2003, 25).

[52] Mahmood (2016, 105) defines the "classic framework of liberal secularism" as "how to engineer a system of governance that was neutral in regard to religion while at the same time allowing it to flourish in the social and civic life of the polity." Mahmood (2016, 20–21) also

---

argues that "political secularism is not *merely* the principle of state neutrality or the separation of church and state. It also entails the reordering and remaking of religious life and interconfessional relations in accord with specific norms, themselves foreign to the life of the religions and peoples it organizes." Emphasis is hers.

53. Mahmood (2016, 3) defines "political secularism" as "the modern state's sovereign power to reorganize substantive features of religious life, stipulating what religion is or ought to be, assigning its proper content, and disseminating concomitant subjectivities, ethical frameworks, and quotidian practices." Agrama (2012, 28) defines secularism as "a problem-space," i.e., "the ensemble of questions, stakes, and range of answers that have historically characterized it," with at its center "the question of where to draw a line between religion and politics (and a presupposition that there *is* a line to be drawn)." He acknowledges that "there were certainly discussions and instances of the separation of temporal and spiritual power" in medieval times, but he does not say (or document) what the premodern identifiable stakes were (or were not), only that in modern times the stakes "are the rights, freedoms, and virtues that have become historically identified with liberalism, such as legal equality, freedom of belief and expression, tolerance, as well as the possibilities and justifications for peace and war."

54. E.g., Mahmood (2016, 87) speaks of "the secular promise of the modern state to keep religion and politics separate."

liberal secular governance allegedly annihilated, and it provides scant empirical evidence for this sweeping claim. In fact, Asad (2003, 206) claims that "the issue here is not an empirical one" and that "it will not be resolved simply by more intensive archival research" and "mere ethnographic fieldwork."[55] Hence, these works often read as thought-provoking ruminations on the modern condition, and especially the anxieties it provokes, but do not deliver on their promise to illuminate the rupture they posit.[56]

What This Book Strives to Do Instead

With this in mind, I strive to identify, through empirical (discursive and quantitative) evidence in the *longue durée*,[57] historical continuities as much as ruptures. I also strive to relate the history of ideas about Islam in governance to concrete history—that is, to concrete aspects of the state's custodianship of Islam—and, when relevant, to economic and demographic contexts, since I analyze ideas about Islam in governance as answers to concrete challenges and aspirations. I put the broadly shared expectation that the state be the custodian of Islam as the preferred religion at the center of my analysis and I examine (as much as possible in actual loci of political deliberation, with a particular attention to indigenous protagonists' points of view) intellectual and political debates about how this custodianship should be carried out. This vantage point allows me to broaden the scope of the study of Islam in governance in the modern period beyond (and, when appropriate, in combination with) mechanisms of state regulation, instrumentalization, institutionalization, and control of religion, or distribution of religious authority, and beyond an overly narrow focus on legal procedures and practices.[58] From the vantage point of the state's custodianship of Islam as the preferred religion, these mechanisms and organizational aspects are simply means to an end, although they are certainly often quite salient. They are, in fact, also often at play in polities in which the state is not the custodian of a preferred religion, including those that aspire to separate religion and state. However, they are only an accessory to the question at hand: identifying the core agreements and disagreements about the role of Islam in governance in Muslim-majority polities. This approach allows me to paint a more complete and accurate historical picture of one of the most important political cleavages that animates political life in the modern Middle East and to reappraise claims that have been made in the literature about the ruptures of modern times.

---

[55] However, note that Asad (1993, 167) also promises to "reconstruct in detail the historical conditions in which different projects and motivations are formed."

[56] For incisive reviews of this trend in the literature, see March (2015) and Al-Azmeh (2020, xxiii–xxvi).

[57] On some of these methodological points, see also Sewell (2005) and Armitage (2012).

[58] On the disproportionate emphasis on law in the study of Islam, see S. Ahmed (2016).

What This Book Does Not Argue

First, while I underline the prevalence and historical persistence of the necessity of the state's custodianship of Islam as the preferred religion (and therefore of the absence of separation between Islam and the state and of state neutrality) in most Muslim-majority polities, I do not mean to essentialize it. I treat it as an empirical observation, by no means universal or inevitable. Notably, I do not argue that Islam is an inherently political religion, or more political than other religions,[59] or that the political in Muslim states is inherently or predominantly religious. In fact, I provide a quantitative evaluation of a well-bounded domain of state involvement in religion—public religious expenditures, relative to nonreligious ones, in modern but also premodern times—which shows just the opposite. I also do not make predictions as to whether the expectation that the state be the custodian of Islam as the preferred religion will continue to be prevalent in most Muslim-majority polities in the future, its historical persistence notwithstanding. In fact, I argue that it is rather a variable of choice, subject to certain constraints such as the demographic weight of religious minorities, and that this choice has been made, in the modern period, in full awareness of a wide array of alternative potential options as to the role of religion in governance. Different choices could therefore be made in the future. Nor do I theorize on the compatibility of Islam with democracy or with liberalism, freedom, or equality, in a scriptural or essential sense, although I study how these questions have been raised, answered, and debated by indigenous and foreign political protagonists throughout the modern period. We will see that such lofty notions have sometimes been embraced and implemented, and at other times qualified or rejected outright, sometimes with the help of religious scriptures and at other times in contradistinction to them.

---

[59] This is, on the other hand, the argument of M. Cook (2014) in a comparative study of Islam, Christianity, and Hinduism.

Second, my focus here is not on individual conduct and subjectivities. It has been shown that there is a wide spectrum of attitudes among Muslims, from assiduous practice to rejection of Islam, including in Muslim-majority polities where Islam is the state-preferred religion.[60] In this vein, while I highlight the prevalence of a broad agreement on the state custodianship of Islam as the preferred religion in Muslim-majority polities, especially in the Middle East, I also find that some voices call (or have called) for a change in this respect, although they are rare and seldom express themselves in formal deliberative arenas.[61] This reinforces the fact that what is prevalent today, as far as the role of Islam in governance is concerned, is by no means ineluctable.

Third, while I begin with a study of the 1857–1861 Tunisian constitutional reforms, I do not argue that nineteenth-century constitutional innovations marked the beginning of "modern" political thought or other modernizing trends in the Middle East.[62] Nor do I argue that this was the first time that severe challenges induced changes in techniques of governance and prompted a reaffirmation of the ideal of the state custodianship of Islam as well as intellectual and political debates about how to best implement it. It is in fact my expectation that earlier debates about Islam in governance can also be illuminated by a conceptualization of change as recurrently prompted by new challenges, met by solutions that may unsettle existing ideals of governance and trigger disagreements.

Fourth, contrary to a recent literature that has interpreted the politicization of the issue of religious minorities in the Middle East as a "modern" phenomenon and/or has argued that minorities are a modern invention,[63] I do not subscribe to such a periodization. Nor do I blame, as some authors do, "modern secular governance," the "modern liberal state," and "the epistemological hegemony of European forms of life and historical teleology" for the discrimination against religious minorities in Middle Eastern polities such as Egypt.[64] Instead, I analyze the issue of minorities in the early constitutional history of the Middle East as yet another instance in which, as in premodern times, the organization and management of religious differences and hierarchies under a Muslim state have constituted a political and legal issue that was discussed and instrumentalized by all protagonists, indigenous and foreign.[65]

---

[60] E.g., Mahmood (2005), Lybarger (2007), Schielke (2012), and Zeghal (2013b).

[61] See, for instance, for a Sudanese voice, An-Na'im (2008), and, for a Tunisian voice, Mezghani (2011). See also, in chapter 4, earlier voices in 1920s and 1950s Syria.

[62] Hourani (1962), Gran (1979), Levtzion and Voll (1987), Schulze (1990), and Dallal (2018), among others, have attempted to date such trends, albeit with scant attention to Islam in governance and to conservative articulations; and so have (with a focus on legal practice) works surveyed in Wood (2018, 554–555n10, and 577) as "revisionist."

[63] For instance, Makdisi (2000, 7) relates the advent of sectarianism in Mount Lebanon (1830–1860), which he defines as "the deployment of religious heritage as a primary marker of modern political identity," to the process of modernization ushered in by the nineteenth-century Tanzimat. Similarly, White (2011) argues that modern governance in nation-states, with its principle of popular sovereignty and majority rule, is responsible for "the emergence of minorities in the Middle East." However, majorities and minorities, and, among other mechanisms, the balance of power between them, long preexisted nation-states, if not as analytical categories, certainly as empirical ones.

Fifth, my continuity argument notwithstanding, I do not mean to minimize the changes that occurred during the modern period, notably with colonization, nationalism, independence, mass politics, the massification of education,[66] and democratization efforts. In fact, I highlight the implications of one unprecedented development of the modern period, the massive increase in the size of the state in absolute terms and in relation to the overall economy. I argue that however transformative and/or traumatic these historical developments were, two core features of the relationship between Islam and the state have generally remained: the necessity of the state's custodianship of Islam, the preferred religion, and vigorous debates about how to implement it. This is not to minimize the potentially traumatic effects of the displacement of some traditional institutions by new ones, or of the erosion of sharia as a technique and foundation of governance, a much-debated question as to its actual and desired extent. However, I do not venture to take part in this debate like Hallaq (2013), who argues that modern transformations removed the ideal of sharia from governance and that "*any* conception of a modern Islamic state is *inherently self-contradictory*."[67] Nor do I argue that this debate must be settled once and for all, as urged by some.[68] It is an integral part of political life in most Muslim-majority polities (historians of modern Europe would not, I believe, suggest that the contentious issues that animate political life in European countries should be settled once and for all). Further, I do not argue that the role of Islam in governance is the only issue at stake in the modern Middle East. Political life in this region of the world should be studied by rigorously identifying and historicizing other crucial issues that may be at stake, and that may or may not involve Islam.

---

[64] E.g., Mahmood (2016, 1, 2, 10, 26), whose reasoning can be summarized as follows: (1) religious minorities are discriminated against in Egypt; (2) Egypt has adopted "the principle of state neutrality toward religion" (an ambition that is, however, absent from the sources, as we will see in chapter 4); and therefore (3) it is the secular principle of state neutrality toward religion that is to blame for the discrimination against religious minorities in Egypt. Mahmood (2016, 2) also writes, without providing concrete evidence, "While Islamic concepts and practices are crucial to the production of this inequality, I argue that the modern state and its political rationality have played a far more decisive role in transforming preexisting religious differences, producing new forms of communal polarization, and making religion more rather than less salient to minority and majority identities alike." Whether the situation of religious minorities worsened or improved in the modern period in Muslim-majority polities, and in Egypt in particular, is a pertinent question and should be studied with the appropriate tools and metrics.

[65] For premodern examples, see Cohen (2008), Rustow (2013, 307–332), and Yarbrough (2019).

[66] See Eickelman (1992) for its impact on religious subjectivities in Arab societies.

Outline

In chapter 1, I study the making and the demise of the Regency of Tunis's 1857 Security Pact and 1861 Constitution, in a context of imperial competition, deep fiscal crisis, and, most of all, a battle for legal sovereignty between the bey's state and the European powers. I find that, with the importation of European techniques of governance and the erosion of sharia as a technique of governance, the state custodianship of Islam was strongly reaffirmed in the new legal framework and that vigorous debates, which have often been overlooked in the historiography, took place about how to best implement this custodianship.

In chapter 2, I examine the demands for a constitution and the constitutional projects articulated in Tunisia under French occupation (1881–1956) as well as the making of its 1959 Constitution. I find that, in continuity with precolonial times, the state's custodianship of Islam continued to be formulated as a duty that had to be fulfilled by the sovereign, be it the Husaynid dynasty for the bey, imperial "Islamic France" for the French and for Tunisian protonationalists and antinationalists, or a sovereign independent Tunisia (or Tunisian people) for nationalists. Once Tunisia became independent, debates focused again on how to best implement this custodianship, and I show that President Bourguiba not only arbitrated but also suppressed these debates by imposing an "authoritarian synthesis" between liberal and conservative conceptions of the role of Islam in governance, as other autocratic leaders have done in much of the contemporary Middle East.

---

[67] Hallaq (2013, xi). Note, however, what seems to be a caveat on page 172. Emphasis is his.

[68] E.g., Wood (2018, 569).

In chapter 3, I turn to the post–Arab Spring democratic transition, and I examine the 2012–2014 debates of the newly elected Tunisian National Constituent Assembly. I show the remarkable persistence not only of the state's custodianship of Islam—the preferred religion—as an imperative but also the main elements of Bourguiba's synthesis, while vigorous debates between Islamists and their adversaries reactivated public expressions of a long-standing cleavage about the role of Islam in governance. I also show that, far from compromising on the substance of their disagreements, they built a framework through which Tunisians could continue to democratically debate and adjudicate them in the future.

In chapter 4, I examine and reassess a paradigmatic case, the making of the 1923 Egyptian Constitution, and the terms of the debate on religion and governance between liberals and conservatives in 1920s Egypt. This period is commonly celebrated as a "liberal age" later spoiled by the emergence of the Society of the Muslim Brothers. I find instead that the Muslim Brothers rehearsed already-resonating conservative tropes and did not innovate ideologically at their inception, and that there was a broad agreement between liberals and conservatives about the state being the custodian of Islam, the preferred religion. I also examine two constitutional episodes in polities with distinctly large proportions of non-Muslims—1920 Greater Syria and 1926 Lebanon—to analyze how the demographic weight of the religious majority influences the role religion can play in governance.

In chapter 5, I measure the concrete implementation of the state custodianship of Islam by estimating aggregate public religious expenditures from the nineteenth or twentieth to the twenty-first century in Tunisia, Egypt, Morocco, and Turkey, with some incursions into the further past, such as tenth-century Iraq. These expenditures have mainly been a state affair, and despite their symbolic prominence and the state's unwavering financial support for religious institutions (albeit on its own terms), they have been modest in relation to other state expenditures and especially in relation to the overall economy. While they may have decreased relative to other public expenditures in the *longue durée*, they significantly increased in per capita real terms, both driven by the unprecedented increase in the size and reach of the state in the modern period. I examine debates related to these long-term trends and to short-term fluctuations due to policy tugs-of-war between liberals and conservatives as well as disputes about the content and institutional form of delivery of public religious provisions. I also analyze the ambivalence expressed by ʿulamā (who yearn for autonomy and state financial support) but also rulers and state officials (who strive to control religious institutions while keeping them at a safe distance) about the state's support of, and meddling in, religious institutions. A summary of sources and methodology for the quantitative aspects of this chapter can be found in the data appendix.

INDEX

Italic pages refer to figures and tables

Abbasid court budget, *331*, 340–41; public religious expenditures and, 262–64
Abd al-Raziq, Ali, 19n45, 190n5, 209n92, 232, 238n224, 241
Abdelhamid II, 282
Abduh, Muhammad, 18–19, 274, 282n152
absentee-landlord rent, 257–59
Academy for Islamic Research (Egypt), 234
Administration of the Moroccan Debt, 343
Afek Party (Tunisia), 168, 180
Afghani, Jamal al-Din al-, 18–19
Agreement of La Marsa, 89, 97
ʿAhd al-Amān. *See* Tunisian Security Pact of 1857
Algeria: France and, 97, 102, 106n66; 1992 military coup in, 160; Tunisia's autonomy and, 35; waqfs and, 260n50, 290–291, 296–297
Ali, Muhammad, 281, 295, 311n292
alms, 2, 69, 263, *331*
Amān: protection agreement, 57, 70n211; security, 52n129, 53, 58–59
apostasy, 67–68, 101, 132, 136, 138, 172, 177–78, 181
Aqwam al-Masālik fī Maʿrifat Aḥwāl al-Mamālik (The Surest Path to Knowledge Concerning the Conditions of Countries), 33, 66, 73, 86n308
Arab Spring, 5, 27, 150, 184, 234; al-Azhar and, 311; freedom of expression and, 155–57; waqfs and, 261n54; sharia and, 173–74, 181, 185–86; Zaytuna and, 280, 307n274, 336n5
Aridha al-Chaabiya, al- (The Popular Petition, Tunisia), 156–58
Army of Africa (France), 111
Asad, Talal, 14n31, 20, 22, 189n4, 248n9
atheism and atheists, 10, 96, 178, 180, 227, 232–33, 241n239
Atiya, Abd al-Khaliq, 227
authoritarian synthesis, 26–27, 93–94, 134–41, 149–53, 155, 159, 163, 167, 169, 171, 183, 234–35
Azhar, al- (Egypt), 192–193, 213, 216, 228, 230, 232–237, 239n232, 242, 247, 261n54, 268, 274–80, 295–96, 298, 305n263, 309–12, *325–30*, 335–40, 343–44, 346–47
Azmi, Mahmud, 192, 225

Bach Hamba, Ali, 95n8, 99–100, 102n50, 103n53, 105
Bach Hamba, Mohammed, 111n96
Badawi, Abd al-Hamid, 192, 217nn128–29, 218n135, 219nn136–39, 219n141
Bakhit, Muhammad, 192, 209–10, 215, 218, 236, 238
Banna, Hassan al-, 10n19, 15, 18, 19n48, 190n8, 193, 235–41, 285
Banna, Muhammad al-, 68n208
Bardo military school, 31n6, 270n86, 282
Bardo Mosque, 265n78
Bardo Treaty, 89, 97

Barrès, Maurice, 123
Battle of Gallipoli, 112
Bay al-Mal, 250, 295n221–22, 298, 312, 336
Bayram I, Muhammad, 56n150, 82, 85–87
Bayram IV, Muhammad, 47, 67, 87n316
Bayram V, Muhammad, 32, 71n219, 72n220, 79n266, 270n86, 348
Ben Achour, Muhammad al-Tahar, 142, 185n103, 274
Ben Achour, Yadh, 55n144, 149, 160n22
Ben Ali, Zine al-Abidine 141, 143, 145n261, 149nn278–79, 151, 154–58, 162–63, 166–67, 170–72, 184, 279, 280n140
Ben Ayed, Farhat, 105, 106n70, 108n81, 108n83, 109nn84–87, 110n88, 122n157
Ben Jaafar, Mustapha, 156, 160
Ben Youssef, Salah, 133n206, 137, 145
blasphemy, 49, 67–68, 106n71, 178
blood price, 110–13
Bolshevism, 115
Boncour Commission, 202n57
Bourguiba, Habib, 26–27, 93–95, 98n26, 131–156, 159, 162–63, 167, 169–72, 183–84, 268, 272, 277, 279, 297n229
British Mandates, 194n21, 195, 198n38
Butros Ghali, Butros, 220

Cairo Citadel school, 281
Caliphate, 1n2, 35n35, 86–87, 100, 112–13, 201n53, 209n92, 262–64, 278, *331*
Carnières, Victor de, 117n130
centralization and decentralization, 4, 14, 85, 89, 115, 246, 249, 258, 266, 287–91, 295, 299, 307–11, 336
Chabbi, Néjib, 156n10, 163
Charfi, Mohamed, 272n94, 279–80, 285, 349
charity, 58, 214n116, 245, 250, 252–53, 254n24, 256, 263–65, 287, *331–32*
Charter of Medina, 165
Christians, 112–13, 316n2; in Egypt, 193n20, 215–27, 230, 235n208; in Greater Syria, 194n21, 197n34, 198; in Lebanon, 202–3, 206n73; Ottoman subjects, 54n137, 68; in Syria, 200; in Tunisia, 46–48, 65n194, 67n203, 72, 75, 123
civil society, 9, 13, 159, 167, 246, 250–51, 256, 261n52, 285–86, 305, 312–13, 342
colonialism, colonization, and foreign occupation, 2–3, 5–6, 16–17, 19n48, 25–26, 30n5, 89, 91, 93, 98, 104, 106n67, 111, 114, 117, 118n133, 119–20, 122, 126–27, 130–31, 134, 135n211, 139, 148, 150, 162, 188, 243–44, 248, 266–68, 270, 281–82, 284, 287, 294, 296, 303–305, 307, 314–15, 344
Committee for Individual Liberties and Equality (COLIBE, Tunisia), 168n51
communism, 12, 106, 124n167, 125, 128, 130, 134, 155–56, 171
Concert of Europe, 46
Congress for the Republic (CPR, Tunisia), 156–63, 166, 175n73, 176, 180
constitutionalism, 32–33, 58–59, 64, 66, 74, 77, 128
Consultative Conference (Tunisia), 97, 102n51, 103, 112
Cook, Michael, 12n27, 23n59, 316n2
Coptic Congress of 1911 (Egypt), 191n10, 220
courts of *maẓālim*, 55, 75, 316
Crimean War, 35n36, 43
Crone, Patricia, 1n2, 2, 259n45, 265nn75–76, 316n2
customary justice, 50, 52n129, 53, 55, 59–60, 69, 75, 82, 86n308, 119

Dammous Report, 204–7
decentralization. *See* centralization and decentralization
democracy, 3–5, 16, 23, 73, 104, 107, 122, 151–54, 159, 162–63, 181–82, 185n102, 186–88, 314
Democratic Forum for Labor and Liberties (Ettakattol, Tunisia), 156–60, 165, 169–73
Dijwi, Yusuf al-, 192, 216, 224n161, 226, 236–38, 241n239
Diyanet (Turkey), 7, 268n82, 307n275
Djaibi, M'hamed, 105
Djait, Muhammad al-Aziz, 137n220, 138, 140–43

Djait Code, 140–42
Djemaia (*Jamʿīyat al-Aḥbās,* Tunisia), 115, 117–20, 147n272, 250n10, 252–53, 257, 260, 287, 289–93, 295–97, 299, 301–7, 310, 335–36, 344
Duss, Tawfiq, 191, 209, 214, 217–20, 225
Dustūr Party (or Old Dustūr Party, Tunisia), 95n11, 104–14, 121–24, 129, 132–34, 136–38, 141

Egyptian Assembly of Delegates (1882 Regulation of), 207n83, 211–12
Egyptian Congress of 1911, 191, 215, 220–22
Egyptian Constitutional Committee of 1922, 5, 189, 191–93, 206–10, 213–22, 225, 238
Egyptian Constitution of 1923, 5, 27, 188, 189nn2–4, 191, 194n22, 196, 207–14, 216–19, 222, 225–27, 229, 233–35, 238n225, 240, 281n147, 338
elementary schools (Egypt), 237n215, 281–82, 338, 345–47
enzel, 117, 118n136, 120n147, 300
equality, 3, 21n53, 23, 25n64, 30, 34, 46–47, 49–54, 57, 60n165, 62, 65, 68–69, 71–72, 76, 88–89, 92, 96, 102–104, 109–10, 116, 122–23, 132, 135, 137, 140, 143, 146–47, 149, 167n50, 168n51, 178, 185n103, 189, 195, 200n49, 201, 203, 207–10, 213–14, 217–25, 233
Essafi, Ahmed, 101nn48–49, 105, 124n165, 124nn167–68
establishment clause, 7, 167n49, 194–97, 200n49, 201, 208, 209n93, 210, 225–29, 231, 234, 240, 334
extraterritoriality, 40–42, 49

Fahmy, Abd al-Aziz, 192, 209, 218–21, 223
fiqh, 71, 86, 200, 291, 340
Fasi, Allal El-, 275, 300–1
fatwas, 53n131, 54n135, 56, 68–71, 80, 82–83, 88, 131n196, 142, 242n245, 298n234
Fitoussi, Elie, 97n20, 98
Franco-Arab schools (Morocco and Tunisia), 283–84
French Army of Occupation (in Tunisia), 122
freedom from religion, 135–39, 148, 162, 169, 177–81, 186–87, 209, 213–14
freedom of belief, 21n53, 144, 146, 149, 176, 178–79, 184, 195, 200n49, 203, 208, 210, 214n117
freedom of conscience, 146, 159, 167n50, 171n59, 175–81, 183–86, 203, 210
freedom of expression, 3, 11, 94, 151, 155, 159, 180, 243, 311
freedom of religion, 58n158, 139, 162, 169, 172, 177, 181, 186–87, 213–14
freedom of worship, 51, 53, 58, 144, 176, 179, 184, 195, 200n49, 208, 212, 214n116, 221
Free Officers (Egypt), 231, 294, 307–8
French Constitution of 1958, 134
French League for The Rights of Man, 106nn66–67, 121
French Mandates in the Levant, 193, 194n21, 195–98, 201n54, 202–4, 206, 219, 261n53
French Nation in the Regency of Tunis (Nation Française), 41–43, 63
French Parliament, 92, 94, 102, 106, 110, 113–16, 117n130, 121–30, 150
French protectorate: in Morocco, 291, 293–94, 300, 304, 335n3, 339, 351; in Tunisia, 89, 91–92, 94–100, 107, 110, 116–18, 122, 124n167, 126–30, 133n205, 138, 140, 277, 279, 282, 284, 302, 307n273, 333, 338–39
French Section of the Workers' International (SFIO), 123
Fundamental Law of Afghanistan of 1923, 5n8, 194n22

GDP, 13, 39, 74n233, 244, 255n30, 256–58, 260, 266–68, 293–94, 297, 320–23, 332, 338, 341, 352–53
General Syrian Congress, 195–97
Ghannouchi, Rached, 166–67, 182–84, 284
Ghazali, Abu Hamid Al-, 83, 211
governance: ideal of, 24, 29–31, 33, 58, 72, 80–81, 85, 88–89, 314; Islamic, 31, 33, 42, 58, 71–72, 80, 85, 88–89, 153, 238, 240; Islam in, 1, 4–12, 15–24, 26–27, 30–32, 74, 91, 93–95, 148, 151–55, 159, 164–65, 171, 175, 181–83,

governance (*continued*)
186, 188–91, 193, 220n145, 223–24, 228–29, 231–36, 238, 240, 242–43, 248, 314–15, 317; object of, 228; philosophy of, 8, 11, 31, 148, 152, 172, 228, 231; secular, 22, 25, 72, 189n4; technique of, 2, 4, 24–26, 29–31, 58, 81–83, 88–89, 228, 241, 314–15
Great Council (precolonial Tunisia), 45n95, 59–60, 62n172, 66, 72–75, 88, 107
Great Council of the ʿUlamā (Egypt), 192–93, 216, 233
Greater Syria's Draft Constitution of 1920, 6, 27, 188, 193–97, 201–2
Great War. *See* World War I

ḥabūs. *See* waqfs
Haddad, Charles, 140n233
Hafsid dynasty, 288, *333*
half-sovereignty, 97–99
Hajwi, Muhammad Hassan al-, 275, 300
Hakim, Yusuf al-, 196–97
Halbawi, Ibrahim al-, 218
Hallaq, Wael, 14n31, 20–21, 25–26, 153, 211n102, 248n9, 259n46, 286nn176–77
higher education, 130, 215n120, 271, 276–77, 279–80, *325–30*, 337, 339, 346–51
Higher Islamic Institutes (Turkey), 247, 279, *325–30*, 339, 349
Hourani, Albert, 18–20, 24n62, 192, 220n145, 224, 231n189
Husayn, General, 31, 62n174, 72–73, 80, 88
Husayn, Muhammad Khidr, 193, 220n142, 238n225, 241n239
Husayn, Taha, 19n45, 189n4, 190n7, 192, 225–33, 236, 239–40, 278, 301
Husaynid dynasty, 26, 35, 38, 39n58, 59, 92, 127–31, 136, 150, 288, 306n270, *333*

Ibn Abi Diyaf, Ahmad, 32, 39n60, 47, 51, 61, 64, 66, 71–73, 78–88, 96, 108, 290, 305n263
Ibn al-Azraq, Muhammad, 84, 85n303, 211n103
Ibn al-Khuja, Muhammad, 287–88, 299n236, *333*
Ibn Aqil, Abu al-Wafa Ali, 56, 85–86
Ibn Khaldun, 83–87, 264
Ilahiyat (Turkey), 247, 279, *325–30*, 339, 349
Imam-Hatip schools (Turkey), 247, 278, *325–30*, 339, 349–50
International Financial Commission (Tunisia), 89, 90n323, 337, 342
Islamic courts. *See* sharia courts
Islamic education, 1–3, 8, 11, 14, 148, 212–13, 230–31, 236–37, 244, 246–47, 249–50, 253, 256–57, 263, 265, 267n80, 268–74, 276–85, 295–97, 299–300, 307, 315, *322–330*, 336–40, 345, 347–52
Islamic France, 26, 92, 125–27, 131, 133, 150
Islamic knowledge, 11, 228, 237, 247, 273–77, *324–330*, 338–39
Islamic law, 1n2, 3, 7n16, 56, 68–69, 71, 86, 88, 93, 117, 119, 139–43, 173, 189n3, 229, 240
Islamic revival, 14, 188, 248, 266
Islamic Tendency Movement (Tunisia), 155
Islamism, Islamists, and Islamist movements, 4–5, 10, 15–19, 27, 143, 148, 151–86, 190, 201n54, 224, 234–43, 248, 268, 280, 284–86, 297n228, 314
Islamization, 5, 7n13, 160, 182, 248, 266, 272, 285n171, 315
Itḥāf Ahl al-Zamān bi-Akhbār Mulūk Tūnis wa-ʿAhd al-Amān (The History of the Kings of Tunis and the Security Pact Presented to the Contemporaries), 33, 71n219, 80n276, 84n297, 88

Jabarti, Abd al-Rahman al-, 265n77, 274, 295, 298n234
Jamʿīyat al-Awqāf (or *Jamʿīyat al-Aḥbās*). *See* Djemaia
Jews: in Egypt, 193n20, 215n118, 216, 218n135, 227; in Greater Syria, 194n21, 198n38; in Lebanon, 202n58; in Morocco, 304n261; in Syria, 200n50; in Tunisia, 34, 37, 42, 46–50, 52, 68–69, 72–73, 76–77, 88, 92, 96, 101–4, 108, 116, 138, 140, 144, 146, 178
jihad, 2, 112–13, 298
jizya, 69–70, 72, 88, 215, 250, 336

Johansen, Baber, 85n305, 86, 251nn13–14, 290–91

Jouvenel, Henry de, 204–5

Kahia, Ali, 105, 116n119

Kattani, Abd al-Hay al-, 275, 285n172

Kemal, Mustapha (Ataturk), 141n239, 232, 268, 279

Khayr al-Din (al-Tunisi), 19n45, 31n6, 33, 43n84, 61–62, 66, 73, 80, 82, 86n308, 95–96, 289, 293, 299n238

Khatt-i Humayun of 1856, 4n6, 29n2, 32n15, 45n98, 46, 48–49, 54, 68

Khatt-i Sherif of Gulkhane of 1839, 4n6, 29n2, 32n15, 45n98, 54n136, 80n276, 87

Kitāb al-Wuzarāʾ (al-Ṣābī), 262–64, *331*, 340–41

kuttābs, 100, 265, 277, 281n147, 338, 345

Ladgham, Béhi, 144–47

laïcité, 123, 136–39, 180, 187, 198

League of Nations Mandate Charter of Syria and Lebanon (1922), 202n57, 203n61, 206n72

Lebanese Constitution of 1926, 6, 27, 179n83, 188, 191, 193–94, 202–7

Lebanese Organic Statute Committee, 202–4

Lebanese Representative Council, 193, 199n45, 202nn56–57, 203n61, 205–7

legal sovereignty, 26, 30, 33, 36, 40, 42, 46–47, 58–60, 64, 66, 89; definition of, 30

Liberal Constitutional Party (LCP, Egypt), 192n11, 209, 220n145, 232n196, 310n289

Libyan Statute of 1919, 110, 116

Luccioni, Joseph, 260n50, 261n55, 293–94, 304n259, 350–51

madrasas, 2, 11, 89, 111, 244, 247–48, 250, 252, 257–59, 263, 265, 270n88, 273–76, 278, 288–89, 295, 309, 311–12, *324–330*, *333*, 336–40, 346n14, 351

Mahmood, Saba, 16n36, 20, 21nn53–54, 24n60, 25n64, 93n2, 189nn2–4, 222n154, 223n157

Martyr Tunisia-Its Demands (Thaalibi and Sakka), 106–8, 113n108, 120, 132n203

Marzouki, Moncef, 156

mass politics, 4, 15, 20, 25, 131, 190, 235–36, 248, 313–14

Mestiri, Ahmed, 141n239, 142nn245–46

Mestiri, Hamouda, 105

Mezghani, Ali, 24n61, 149, 153, 157n13

Miftah, Shaykh Abd Rabbih, 216

minorities and majority, 4, 6, 11–13, 21, 23–25, 27, 52–53, 69, 72–73, 88, 102, 104, 138–39, 140n233, 146, 150, 171, 172n63, 178, 180–81, 189–91, 193–94, 195n24, 196, 197n37, 198n38, 200, 202–4, 207, 209, 214–26, 234n207, 243, 316–17; demographic weight of, 6, 12–13, 23, 27, 104, 144, 189, 191, 193–94, 198–200, 203–4, 207, 215, 243

mixed tribunals, 41, 48–54, 60, 63, 69

moderation hypothesis, 152–53, 181–82

Modernist Democratic Pole (PDM, Tunisia), 156–58, 166, 171–72, 177n79, 183

Modern Qur'anic Schools (Écoles Coraniques Modernes or ECMs, Tunisia), 283–84, 338, 348

modern schools, 11, 89, 193, 213, 228n176, 230, 244, 246–50, 268–72, 274, 279–82, 284, *322–330*, 336–40, 345, 347, 349–50, 352; definition of, 11n22, 246–47, 338

Moubadara, al- (The Initiative, Tunisia), 156–58, 171n59

Mouline, Mohamed, 300

Moussa, Fadhel, 166, 177n79, 183

Moutet, Marius, 106, 121n150

*msid*s and renovated *msid*s (Morocco), 283, 338, 350–51

Muqaddima (Ibn Khaldūn), 84, 87, 264, 273n96

Muslim Brothers, 5, 15, 18–20, 27, 153, 160–61, 165, 189–91, 193, 200, 228, 234–43, 285

Muslim policy (*politique musulmane*), 126–27

Muslim power, 93, 99, 112, 131; France as, 92, 100, 102, 112, 114

Nahdha Party, al-(Tunisia), 143, 149n279, 152–168, 171–186, 280, 286n181
Nasser, Gamal Abdel, 234n204, 268, 274–75, 296, 307
National Constituent Assembly of 1956–59 (Tunisia), 93–94, 134nn207–8, 135n211, 141–49, 153, 268n82, 272
National Constituent Assembly of 2012–14 (Tunisia), 27, 151–83, 272, 286n181
nationalism, 2, 16, 19n45, 25, 91, 93, 105, 131, 178, 189nn3–4, 197n35, 200n49, 207, 230, 270, 303
naturalization, 101–2, 104, 108, 116, 130–32
Nayfar, Shadhili al-, 142n245, 144n258, 145, 149
New Dustūr Party (Tunisia), 95n11, 133–39, 143–44, 156n7, 168n51, 272n92

October 18, 2005 Movement (Tunisia), 172
official religion, 5n7, 92, 104, 108–14, 121–24, 131, 133, 137, 149, 194n22, 197, 201, 210n100, 221, 223, 230, 233
Ostrorog, Léon, 107
Ottoman Capitulations, 41, 61–62, 65n194
Ottoman Constitution of 1876, 7, 29n2, 98, 194n22, 211n101, 223n158
Oualdi, M'hamed, 29n3, 31n6, 33n22, 36n38, 63n180, 72n221, 73n227, 78n258, 93n3, 137n220

Pasha, Hammuda, 38n57, 85
Pamuk, Şevket, 14n30, 39, 266, 338n6, 352–53
Pasha, Ibrahim, 295
Personal Status Code of 1956 (PSC, Tunisia), 93, 135, 139–43, 148–49, 166–68
politicization of Islam, 15–18, 19n48, 24, 93, 131, 235
private voluntary associations, 248, 251, 253–56, 352
Progressive Democratic Party (PDP, Tunisia), 156, 158, 161, 163, 175n73, 180
proportional representation of religious minorities, 194, 196–98, 201, 205–7, 209, 214–22, 225
protected minorities, 52–53, 68–70, 72, 88n321, 316
public works and assistance, 1, 8, 102, 244, 250, 253, 256, 263, 265, 292n207, 293, 299–300, 302–3, *322–24*, *331–32*, 336
public order, 144, 178, 200n49, 203, 208, 210–13, 214n116, 227
public provisions (religious or otherwise), 1, 7–8, 11, 13–14, 28, 115, 147–48, 162, 229, 244–61, 266, 267n80, 269n85, 285–88, 292n207, 294, 297–98, 302n252, 305, 312–16, 336–37, 344; definition of, 13n29, 244–45
public expenditures (religious or otherwise), 1, 4, 7, 13–14, 23, 27, 37n54, 90n323, 109, 244–70, 285–317, *320–24*, *331–32*, 335–37, 340–45, 353
purchasing power parity, 245, *320–23*, *332*, 352

Qabadu, Mahmud, 29n2, 32, 57, 88n317
qāḍīs, 41, 55, 58, 75, 86, 263, 265, 273, 289, 299, 317, *331*, 347
qānūn, 29, 31, 59, 60n165, 81, 86–88, 144, 176, 208, 239
Qarawiyin (Morocco), 247, 274–76, 295, 296n224, 300, 325–30, 337, 339, 351–52
Qayati, Mustafa al-, 227
Qur'anic schools, 100, 246n4, 247, 252, 265, 277, 281n147, 282n152, 282n158, 283, 338 (see also *kuttābs* and *msids*)

Radhi, Khayrat al-, 209–10
Rashid, General, 290
Raymond, André: Tunisia's 1857–1861 legal reforms and, 29n3, 30n5, 32nn12–15, 35n33, 40n67, 40n69, 43nn87–89, 46n100, 48n113, 50n124, 51n125, 51n127, 54n136; waqfs and, 245n2, 259n43
religious endowments. *See* waqfs
revolt of 1864 (Tunisia), 29, 33, 63, 73–78, 88
Rida, Rashid, 18, 19nn45–56, 193, 195n23, 197, 201–2, 224n161, 227, 232, 236, 240–41, 278n132
Roches, Léon, 32n12, 32n14, 34–35, 39–44, 46–51, 54–55, 60–65, 67n203, 77
Rushdi, Husayn, 192, 217, 219n139

Sabi, Hilal Ibn al-Muhassin al-, 262–64, *331*, 340–41
Sadat, Anwar, 307–8
Sadiki Hospital (Tunisia), 264n72, 292
Sadiki School (Tunisia), 89, 95, 247n6, 270n86, 272n92, 282, 348
Saied, Kais, 183–86
Sakka, Ahmed, 105–7
Salafists, 155n6, 160, 164, 178, 234
salafiya, 18n44
Sami, Amin, 215n120, 269n84, 281, 282nn151–52, 288, 345–47
Sarrail, General, 204–5
Sayyid, Ahmad Lutfi al-, 19n45, 190n6, 192, 220
Sayyid Marsot, Afaf Lutfi al-, 188n1, 189n4, 190nn5–6, 235n209, 286n179, 311n292
sectarianism, 9, 24n63, 184, 194, 198n41, 199, 204–7
secular personal status, 135, 139
secularism and secularists, 2, 7, 10, 12, 16, 20–21, 123, 137, 157, 161, 171, 180, 190n5, 199, 222n154, 223
secularization, 14, 16n33, 32, 182–83, 248, 266, 315
separation (or mixing) of religion and politics, 1n2, 9, 11, 21, 73, 152, 154, 168–69, 171, 186, 190, 194, 196–97, 219, 221–25
separation of religion and state, 1n2, 3, 8–11, 20–23, 31n9, 93, 96, 99, 101, 135–36, 150, 152, 157, 164, 169, 171, 174, 185–86, 189–91, 194, 198, 200, 201n54, 212n105, 219–20, 224, 228, 238n225, 241
Sfar, Béchir, 105, 119n138, 120n145, 292n207, 299n237, 302–3, 305n264
Sfez, Bato, 45n98, 47, 49, 68, 87n316
Shakir, Muhammad, 210
Shamama, Nassim, 47, 103n58
sharia, 2, 9, 10n20, 25–26, 30–31, 51, 53–60, 64, 66–71, 74, 76–89, 103, 115–16, 134–36, 139–43, 145–46, 148–49, 152–54, 159, 163–70, 173–74, 181, 185–86, 197, 201n53, 216–17, 226, 234, 235n208, 237n217, 238n225, 240, 241n239, 257, 286, 317; purposes of, 173, 184–85, 211
sharia courts and justice, 34, 47–49, 53, 55–57, 60, 68, 89, 103, 115, 130, 134n208, 139, 148, 195, 199, 213, 230, 244, 250, 253, 256, 257n35, 290, 292, 299, 312, *322–24*, 336
Sharif, Salah al-, 112–13
shāshīya hats, 38, 72, 76
Shatibi, Al-, 85, 185n103
Sirāj al-Mulūk (Al- Ṭurṭūshī), 84–85
siyāsa, 9, 55–57, 69, 71n219, 77, 81–87, 108, 131, 198, 216, 316; sharia and, 55–56, 77, 81, 84–86, 108, 131
siyāsa sharʿīya (governance according to revealed law), 56, 82, 84–86, 89
slavery, 76–77, 82, 83n289
Sovereignty in Sunni Muslim Public Law (Sakka), 106–7
specialized Islamic tracks, 246–47, 249, 268, 270–72, 276–79, 296, *324–330*, 336–40, 347–49, 351–52; definition of, 247
state custodianship of Islam: definition of, 3; munificence of, 8–9, 11, 14, 16, 147–48, 168, 191, 242, 244, 247–48, 267, 314–15; strength of, 9, 11, 72, 152–54, 168–69, 171–72, 175, 184–86, 231, 314; thickness of, 8–9, 11, 16, 72, 93, 146, 148, 152–54, 168–69, 171–75, 179, 181–82, 184–87, 189, 191, 224, 231, 233, 241, 314
state expenditures (religious or otherwise). *See* public expenditures (religious or otherwise)
state-preferred religion, 2–3, 5–8, 12, 17, 21–25, 27, 91, 93, 104, 151–52, 154, 157, 165, 168–69, 176, 181, 186–89, 191, 194–95, 207, 209, 222–24, 235, 243, 314, 316–17, *334*
state neutrality toward religion, 3, 5, 10–11, 20, 23, 25n64, 93, 135–36, 152, 157, 164, 172, 184, 187, 189–90, 198, 220, 222–24, 228, 241
Stilt, Kristen, 2, 7n16, 21, 55n142, 223n158

Taïeb, Samir, 171–72
Taittinger, Pierre-Charles (and Taittinger motion), 123, 128, 130
Tajdid Party (Tunisia), 156, 171

taʿlim aṣlī, 247, 276, *325–26*, *329–30*, 339, 351–52
Tanzimat, 19n45, 24n63, 44–45, 73, 80n276, 82, 87
tartībs, 31, 51n125, 66n197, 81, 85
Tékia (Tunisia), 264n72, 292n204, 292n207, 292n209, 293n210
Thaalibi, Abd al-Aziz, 95, 105–10, 113, 121, 122n157, 138n225, 140n234
Tunisian Communist Party, 134, 156, 171
Tunisian Constitution of 1861, 4–5, 26, 29–34, 44–47, 51, 58–69, 71, 73–81, 84, 87–88, 91, 98–99, 107, 124n167, 133n205, 134, 135n211, 179–80, 185, 212
Tunisian Constitution of 1959, 5, 26, 91, 93–94, 104, 113–14, 124, 133–36, 138–39, 142–49, 151–52, 154n4, 163, 165–68, 170–71, 173–76, 178–80, 183, 185–86
Tunisian Constitution of 2014, 5, 104, 146, 149, 151–87
Tunisian Constitution of 2022, 5, 183–84
Tunisian Drafting Committee of 1857, 66–68, 71, 72n220
Tunisian Human Rights League, 162
Tunisian Labor Union (UGTT), 134, 156n9, 167
Tunisian Security Pact of 1857 (*ʿAhd al Amān*), 4n6, 26, 29–34, 42, 44–46, 50–59, 61, 66–69, 71n219, 72, 76, 80, 88, 99n31, 107–10, 166, 185, 316
Turkish Constitution of 1924, 5n8, 6–7, 194n22, 211n101
Turtushi, Al-, 70n213, 84, 85n303

ʿulamā, 1–2, 4, 9, 14–15, 18n44, 28, 32–34, 55–57, 66–68, 70–72, 75, 80, 82, 84, 88–89, 106n71, 136–37, 140–41, 143, 148, 190, 192–93, 196–97, 200, 216–17, 226, 228, 230–33, 237–42, 247–49, 263–64, 274–79, 284, 286, 289, 295, 297–98, 300–301, 306–7, 309–11, 313–17, *332*
unions, 134, 143, 156n9, 167, 277n120

Valensi, Lucette, 34n30, 35n35, 36nn38–40, 37n53, 38nn55–56, 39nn58–59, 74n233, 75n237, 75n240, 75n242, 251n13, 257–58, 260n48, 266n79, 353

Wafd Party (Egypt), 189n4, 192n11, 209, 215, 218n134, 220n145, 227, 231, 310n289
waqfs, 7, 11, 13, 58, 82, 89, 114–20, 122–23, 126, 129–31, 147–48, 150, 195, 201nn52–53, 212–13, 227, 229–30, 245–46, 250–53, 256–61, 265, 285–312, *320-24*, 335–38, 340, 343–45; definition of, 114
Warren, Edouard de, 117n130, 128
Wood, Richard, 32n12, 35, 40, 43, 49–50, 51n125, 55, 65, 80, 81n280
World War I, 92, 105–6, 110–13, 116, 118, 120–26, 131, 150, 215
World War II, 94
worship, 1–3, 51, 53, 58, 69–70, 93, 136, 144, 146–48, 152, 165, 169–70, 176, 178–79, 182, 184, 195, 200n49, 203, 208, 212, 214n116, 221, 229, 244, 249, 252–53, 256, 263–65, 268n82, 281, 295, 297, 300, 302–3, 305, 315, *322–24*, *331–32*, 335n2, 336

Yediyıldız, Bahaeddin, 245n2, 258n40, 260n50, 288
Young Tunisians, 92, 94–105, 109, 111, 116, 119–21, 125–27, 132
Young Turks, 95, 116, 125

Zaccaria, Mohsen, 125–27, 131, 133
Zaman, Muhammad Qasim, 1n2, 2n3, 21, 263n68, 316n2
Zaouche, Abdeljelil, 95, 98–99, 100n41, 103, 104n60, 118n132
zāwiyas, 115, 117, 119–21; definition of, 115n113; public religious expenditures and, 251–53, 264n73, 265, 290n197
Zaytuna (Tunisia), 32, 57, 79n265, 81, 95, 101, 106, 112, 115, 136–38, 141–42, 144, 148–49, 165, 247, 270, 272, 274–75, 277–80, 285, 292–93, 295, 297, 299, 306–7, *325–330*, 336–37, 339, 344, 348
Zmerli, Sadok, 105