

UNDERSTANDING THE DISCOURSE OF ‘ALĪ JUM‘AH ON THE MILITARY COUP DURING THE ARAB SPRING IN EGYPT

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Abstract

This article aims to propose an alternative explanation to the existing scholarship about the factors behind the failure of Egypt to transform into a democratic country after having experienced the major moment of the Arab Spring. I argue that the theological discourse of the ‘*ulamā*’ and their commitment to one of the currents of Islamic political thought in the premodern period contributed to the miscarriage of the Arab Spring. In doing so, I focus on unpacking the discourse of the previous grand *muftī* of Egypt, ‘Alī Jum‘ah (Ali Gom‘ah), on the military coup against the democratically elected president from the Muslim Brotherhood, Muḥammad Mursī (Mohammed Morsi). On several occasions, Jum‘ah conveyed discourses that supported and justified the actions of the military leaders who took power. I trace ‘Alī Jum‘ah’s discourse on the coup through three medieval scholars’ views on the usurpation of power (*al-istīlā*’ *alā l-imārab*). I compare ‘Alī Jum‘ah’s discourse to that of al-Māwardī, al-Ghazālī, and Ibn Jamā‘ah, three prominent political theorists and jurists in the medieval period. I argue that the tendency to conform with tradition led ‘Alī Jum‘ah to formulate his

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undemocratic discourse. In this article, I examine several notions from the Islamic legal field that ‘Alī Jum‘ah employed to justify the coup. I also argue that in addition to following the standard norms from the medieval period, ‘Alī Jum‘ah also departed from such norms in several aspects. I contend that his discourse during the Arab Spring has had severe implications for both the Islamic legal field and the political trajectory of Egypt.

Key Words: Usurpation of power, Egypt, ‘Alī Jum‘ah, the Arab Spring, authoritarianism.

I. Introduction

The Arab Spring, which occurred eight years ago in several Arab countries in the Middle East, failed to accomplish its objective to achieve democratic reform in the region. In Egypt, since the ousting of Ḥusnī Mubārak in 2011 and the success of the first democratic election in 2012, there have been setbacks, moving the country toward an authoritarian system. The military took power through a coup against President Muḥammad Mursī in 2013, and since then, Egypt has endured the worst authoritarian system in its modern history. This setback has compelled researchers to ask the following question: how can we explain the failure to transition into a democratic system in Arab countries, more specifically in Egypt?

A number of works have been written about this failure. Some studies look at the hegemony of the military in Egyptian politics as the main force behind the durability of authoritarianism in the country.¹ Others look at the factor of Egypt’s neo-liberal economic structure, which relies on *crony capitalism*.² Many look at the role of

¹ Khaled Abou El Fadl, “The Praetorian State in the Arab Spring,” *University of Pennsylvania Journal of International Law* 34 (2013), 305-314; M. Cherif Bassiouni, “Egypt’s Unfinished Revolution,” in *Civil Resistance in the Arab Spring: Triumphs and Disasters*, ed. Adam Roberts, et al. (Oxford: Oxford University Press, 2016), 53-87.

² Michal Lipa, “Internal Determinants of Authoritarianism in the Arab Middle East. Egypt before the Arab Spring,” *Hemispheres: Studies on Cultures and Societies* 31, no. 3 (2016), 57-67.

the pragmatism of the *Salafī* political groups.³ Some maintain that “the lack of [an] intellectual anchor” and the absence of radical ideology explain the failure of the Egyptian revolution.⁴ Still more investigate the role of foreign countries in weakening the revolution movement.⁵ Finally, some authors examine the role of the secular intelligentsia who betrayed the revolution because of their aversion to the Muslim Brotherhood.⁶ While these approaches are important, this study will examine the factor of theological rationalization by religious actors as a contributor to the longevity of the authoritarian system in Egypt. This writing follows what, in political science, is called a constructivist and interpretivist account, namely, an approach that looks at the religious tenets of religious actors and examines how the religious actors use their capacity to interpret religious text to

³ Jacob Høigilt and Frida Nome, “Egyptian Salafism in Revolution,” *Journal of Islamic Studies* 25, no. 1 (2014), 33-54, <https://doi.org/10.1093/jis/ett056>; Annette Ranko and Justyna Nedza, “Crossing the Ideological Divide? Egypt’s *Salafists* and the Muslim Brotherhood after the Arab Spring,” *Studies in Conflict and Terrorism* 39, no. 6 (2016), 519-541, <https://doi.org/10.1080/1057610X.2015.1116274>.

⁴ Asef Bayat, *Revolution without Revolutionaries: Making Sense of the Arab Spring* (Stanford, CA: Stanford University Press, 2017).

⁵ Khaled Abou El Fadl points out the role of Saudi Arabia and the United Arab Emirates (UAE) not only in terms of funding but also in setting up the military coup against the Muslim Brotherhood. See Abou El Fadl, “Failure of a Revolution. The Military, Secular Intelligentsia and Religion in Egypt’s Pseudo-Secular State,” in *Routledge Handbook of the Arab Spring: Rethinking Democratization*, ed. Larbi Sadiki (London & New York: Routledge, 2015), 253-270.

⁶ Ahmed Abdel Meguid and Daanish Faruqi, “The Truncated Debate: Egyptian Liberals, Islamists, and Ideological Statism,” in *Egypt and the Contradictions of Liberalism: Illiberal Intelligentsia and the Future of Egyptian Democracy*, ed. Dalia F. Fahmy and Daanish Faruqi (London: Oneworld, 2017), 253-290; Amr Hamzawy, “Egyptian Liberals and Their Anti-Democratic Deceptions: A Contemporary Sad Narrative,” in *Egypt and the Contradictions of Liberalism: Illiberal Intelligentsia and the Future of Egyptian Democracy*, ed. Dalia F. Fahmy and Daanish Faruqi (London: Oneworld, 2017), 337-360; Abou El Fadl, “Egypt’s Secularized Intelligentsia and the Guardians of Truth,” in *Egypt and the Contradictions of Liberalism: Illiberal Intelligentsia and the Future of Egyptian Democracy*, ed. Dalia F. Fahmy and Daanish Faruqi (London: Oneworld, 2017), 235-252.

respond to certain phenomena.⁷

This study examines the role of ‘Alī Jum‘ah (pronounced ‘Alī Gom‘ah in the colloquial Egyptian Arabic), a former grand *muftī* of Egypt and an Azharī scholar, and the discourse he produced in justifying the overthrow of the first democratically elected president of Egypt, Muḥammad Mursī. Given his position as the grand *muftī*, Jum‘ah was the most important cleric who formulated political discourses to respond to the political turmoil in Egypt in 2013.⁸ Before and after the coup on July 3, 2013, he attended the assembly of the Egyptian Security Forces and gave a speech in front of the military officers. Jum‘ah also appeared in an interview on the Egyptian pro-military TV channel. On these occasions, he stated his support for the military coup announced by General ‘Abd al-Fattāḥ al-Sīsī. Moreover, he legitimized the carnage against approximately 1150 people who supported the deposed president.

⁷ Ron Eduard Hassner, *War on Sacred Grounds* (Ithaca, NY & London: Cornell University Press, 2009), 6-8; Carolyn M. Warner and Stephen G. Walker, “Thinking about the Role of Religion in Foreign Policy: A Framework for Analysis,” *Foreign Policy Analysis* 7, no. 1 (2010), 113-135, <https://doi.org/10.1111/j.1743-8594.2010.00125.x>.

⁸ The support of the military coup was not exclusive to ‘Alī Jum‘ah. Many other important figures and political factions in Egypt assented to the coup as well. However, since they used different reasoning that was not theological, their position is outside my current concerns. In this research, I focus on Jum‘ah because he is a scholar of Islam who employed the Islamic discursive tradition to support the military leaders who took over the power. It is true that grand sheikh of al-Azhar, Aḥmad Ṭayyib, also sanctioned the coup by quoting the famous legal maxim “*irtikāb akbaff al-ḍararayn* (taking the lesser of two evils),” meaning that the removal of Mursī was less evil than keeping him in the office. However, Aḥmad Ṭayyib’s subsequent discourse is not significant for this analysis. As Banoo notes that after the coup, Aḥmad Ṭayyib was silent regarding the carnage committed by the military officers against Mursī’s followers. He then withdrew from the public scene for quite a while and reappeared again to comment on another Islamic legal issue. For further elaboration regarding the stance of the grand sheikh of al-Azhar on the al-Sīsī regime, read Masooda Bano, “At the Tipping Point? Al-Azhar’s Growing Crisis of Moral Authority,” *International Journal of Middle East Studies* 50, no. 4 (2018), 722, <https://doi.org/10.1017/S0020743818000867>.

In looking at the discourse of ‘Alī Jum‘ah, this study will investigate the following question: How did ‘Alī Jum‘ah formulate his discourse on the military coup? Two minor questions underpin this central question: How does the Islamic tradition influence ‘Alī Jum‘ah, and how does he differ from that tradition?

There are four relevant works for examining the discourse of Muslim scholars in general and ‘Alī Jum‘ah in particular during the Arab Spring. Mohammed Fadel, in his study of the position of the ‘*ulamā*’ (Muslim scholars) during the Arab Spring, conducted a comparison between the discourses of what he calls “republican Islam” and “authoritarian Islam.” He maintains that it is still speculative to claim that the discourse of ‘Alī Jum‘ah was a result of an adherence to classical Islamic discourses. What can be confirmed, he argues, is that authoritarian Islam is more concerned with preserving Islamic orthodoxy than democratization.⁹ David H. Warren, in his article responding to Fadel, contends that ‘Alī Jum‘ah’s discourse was highly influenced by the modern ideas of nationhood and nation-states formulated by Rifā‘ah al-Ṭaḥṭāwī (d. 1873), an Egyptian Muslim scholar whose work heralded the beginning of Islamic reformation in Egypt.¹⁰ Those two scholars have not paid significant attention to ‘Alī Jum‘ah’s indebtedness to the Islamic tradition.

Unlike Warren and Fadel, who doubt the adherence of ‘Alī Jum‘ah’s discourse to the traditional discourse on power, Ibrahim Moosa argues that the traditionalist ‘*ulamā*’ of al-Azhar (including ‘Alī Jum‘ah) still espoused the traditional language on politics such as the notion of *shawkah* (the army) in their response to the political turmoil in Egypt. Moreover, he also stated that the language of modern democracy, namely, the sovereignty of the constitution, has been absent in their discourse.¹¹ In line with Moosa, Amr Osman also

⁹ Mohammad Fadel, “Islamic Law and Constitution-Making: The Authoritarian Temptation and the Arab Spring,” *Osgoode Hall Law Journal* 53, no. 2 (2016), 472-507, <https://doi.org/10.2139/ssrn.2711859>.

¹⁰ David H. Warren, “Cleansing the Nation of the ‘Dogs of Hell’: ‘Ali Jum‘a’s Nationalist Legal Reasoning in Support of the 2013 Egyptian Coup and Its Bloody Aftermath,” *International Journal of Middle East Studies* 49, no. 3 (2017), 457-477, <https://doi.org/10.1017/S0020743817000332>.

¹¹ Ebrahim Moosa, “Political Theology in the Aftermath of the Arab Spring: Returning to the Ethical,” in *The African Renaissance and the Afro-Arab Spring*:

contends that events in early Islam shaped the political stance of Muslim scholars during the Arab Spring. ‘Alī Jum‘ah, in particular, Osman continues, had a tendency to avoid the topic of *fitnah* (civil unrest) in medieval Islam when justifying the military coup.¹² While these two studies are very specific in pointing out the influence of the classical Islamic tradition, they do not attempt to juxtapose ‘Alī Jum‘ah with specific scholars from the classical-medieval age. In addition, they fail to elucidate the extent to which ‘Alī Jum‘ah deviates from the Islamic tradition.

To explain ‘Alī Jum‘ah’s discourse on the military coup (*al-inqilāb al-‘askarī*), this paper will look at the medieval Islamic discourse on the usurpation of power (*al-istilā’ ‘alā l-imārah* or *al-tagballub*). In this research, I compare the reasoning of both medieval scholars on the usurpation of power and ‘Alī Jum‘ah on the military coup. I select three scholars from the medieval period to be compared with ‘Alī Jum‘ah, namely, al-Māwardī (d. 450/1058), al-Ghazālī (d. 505/1111), and Ibn Jamā‘ah (d. 733/1333). The selection of these scholars is justified by their salient positions in Islamic political thought. These three scholars are among the most prominent theorists of Islamic politics and most quoted Muslim scholars on the issue of state and government by contemporary researchers. I argue that we will not be able to understand the reasoning of ‘Alī Jum‘ah unless we trace the genealogy of his discourse and its constitutive elements in the classical discourses.¹³ As I will explain later, ‘Alī Jum‘ah employed a

A Season of Rebirth?, ed. Charles Villa-Vicencio, Erik Doxtader, and Ebrahim Moosa (Washington, DC: Georgetown University Press, 2015), 101-120.

¹² Amr Osman, “Past Contradictions, Contemporary Dilemmas: Egypt’s 2013 Coup and Early Islamic History,” *Digest of Middle East Studies* 24, no. 2 (2015), 303-326, <https://doi.org/10.1111/dome.12071>.

¹³ The tracing of the genealogy of ‘Alī Jum‘ah’s discourse in this article is an application of Talal Asad’s concept of “Islam as a discursive tradition.” Unlike the tendency of some sociologists to read the political discourses of modern Muslim activists as mere responses to modernity or material conditions and, therefore, to disregard the examination of the classical Islamic discourse that is constitutive to modern discourse, Asad suggests that a scholar working on Islam has to look at a person’s specific discourse, which relies upon continuity with classical discourse. For further clarification of this concept, read Talal Asad, “The Idea of an Anthropology of Islam,” *Qui Parle* 17, no. 2 (2009), 1-30, <https://doi.org/10.5250/quiparle.17.2.1>.

number of notions from classical Islamic political discourses to justify the military coup.

Following Ovamir Anjum’s method for examining Islamic political thought, in comparing the ideas of the three medieval Muslim scholars and those of ‘Alī Jum‘ah, I pay attention to three components in my analysis, namely, the conceptual elements of their political thought, the sociopolitical context in which they formulated their political insights, and the position of their ideas within the Islamic discursive tradition.¹⁴

In this study, I see ‘Alī Jum‘ah as a scholar whose tendency is conformity with tradition. As such, I view the discourses he formulated during the political upheaval in Egypt as a result of his commitment to the medieval view, which allow the holder of arms to usurp power from legitimate rulers. Following this logic, I argue that the reason ‘Alī Jum‘ah justified the military coup against the democratically elected president in 2013 is that he followed the dominant political thought within the legal culture in Islam. Therefore, I argue that the medieval discourses profoundly influenced ‘Alī Jum‘ah’s discourse on the military coup during the political turmoil in Egypt in 2013. That being said, I also suggest that in addition to being influenced by the medieval discourses, Jum‘ah also departed from them. He produced a legal discourse that fit with the interest of the Egyptian military. This divergence from traditional concepts has implications both for the Islamic legal field and the political trajectory of Egypt.

This article is divided into five sections. In the first section, I explicate the theoretical framework that I use in this study. In the second section, I elaborate the thoughts of the three medieval Muslim political theorists on the issue of usurpation of power, namely, al-Māwardī, al-Ghazālī, and Ibn Jamā‘ah. In the third section, I proceed to describe ‘Alī Jum‘ah’s discourse before, during, and after the ousting of Muḥammad Mursī in the military coup. In the fourth section, I juxtapose the discourse of ‘Alī Jum‘ah and the three medieval Muslim scholars, revealing the similarities and differences between them. Finally, in the fifth section, I conclude by pointing out the findings and limitations of this research.

¹⁴ Ovamir Anjum, *Politics, Law, and Community in Islamic Thought: The Taymiyyan Moment* (Cambridge: Cambridge University Press, 2012), 19.

Before I proceed, there is one thing I need to mention with regard to the limitations of my study. The discourse regarding the issue of the usurpation of power within the Islamic tradition is not monolithic. There are various positions regarding the usurpation of power and the military coup. Some classical scholars such as Abū ‘Abd Allāh al-Ḥalīmī (d. 403/1012), a scholar of ḥadīth and kalām, and modern scholars such as Yūsuf al-Qaraḍāwī, the former President of The International Association of Muslim Scholars, have rejected the usurpation of power. In this regard, it is relevant to highlight Bruce Lincoln’s contention that religion, as a macroentity, “has countless internal varieties and subdivisions”¹⁵ and, therefore, cannot be essentialized. As such, what I want to emphasize is that the inclination that I discuss here is not the only stance that exists in the Islamic tradition. The elaboration of the ideas of scholars who have rejected the usurpation of power is beyond the scope of this article.

II. Theoretical Framework

There is one theoretical question that helps me frame my work, namely, how can we understand Islamic political discourse? In this article, I see the political discourse of the three medieval scholars and that of ‘Alī Jum‘ah as a part of the legal culture in Islam. To put it differently, I treat their political discourse as a legal discourse and treat them as political theorists and jurists at the same time. As political thinkers, they talk about power and respond to the political issues they faced in their respective times. As jurists, they use the language of law in formulating such a discourse. The reason why I frame those scholars as jurists and their political discourse as legal discourse is that in the Islamic scholarly tradition, politics is one field of many within the legal system. In the Islamic tradition, a legal field is an all-encompassing field. It deals with the whole aspect of practical issues in Muslim life, from ritual (*‘ibādāt*) such as prayer, giving alms, and pilgrimage, to human relations (*mu‘āmalāt*), which include the matters of transactions and politics. Therefore, by positioning ‘Alī Jum‘ah and the previous scholars as jurists, it is easier to demonstrate their social influence and understand why their discourses have been very powerful in shaping people’s opinions. In the Islamic tradition, legal scholars (jurists) have a very important and

¹⁵ Bruce Lincoln, *Holy Terrors: Thinking about Religion after September 11*, 2nd ed. (Chicago: The University of Chicago Press, 2010), 8.

prominent position since they deal with two aspects of Islamic rulings: transcendent (divine scripture) and practical issues.¹⁶ Muslims perceive jurists as authoritative interpreters of God’s speech and mediators through which people implement religious rulings. Muslims also consider jurists to be civic leaders because of their involvement in day-to-day Muslim matters through the *fatwās* they issue.¹⁷

One particular notion within the Islamic legal-thought system that profoundly informs the perspective of this article is the idea of *taqlīd*, wherein a jurist or Muslim legal scholar follows or adapts established ideas in taking a stance and formulating discourse. When he faces a contemporary issue that needs to be explained to his coreligionists, instead of using his own reasoning independently, he will refer to the existing views. He will select an opinion that has become either a convention among legal scholars or the strongest opinion in the field. A jurist, as a consequence of the field of law, therefore, tends to be a “conservative and resistant to change.”¹⁸ In regard to taking a stance pertains to a political issue, a jurist will also look at the previous precedent within the field, namely, how the authoritative scholars in the past have responded to the same predicaments. If he finds that previous scholars already address it, he will conform to the existing views and abide by them. If not, he will derive his opinion on a new case from the spirit of the traditional opinion.

In the next few sections, I will explain how al-Māwardī, al-Ghazālī, and Ibn Jamā‘ah, who lived in different time periods, responded to the issue of usurpation of power.

A. Al-Māwardī and the Rise of the Discourse

The issue of the usurpation of power (*al-istilā’ ‘alā l-imārah* or *al-tagballub*) in Islamic scholarly tradition is a central topic that has been addressed by most Muslim jurists writing on political issues

¹⁶ Ebrahim Moosa, “Allegory of the Rule (*Hukm*): Law as Simulacrum in Islam?” *History of Religions* 38, no. 1 (1998), 23, <https://doi.org/10.1086/463517>.

¹⁷ Wael B. Hallaq, *The Impossible State: Islam, Politics, and Modernity’s Moral Predicament* (New York: Columbia University Press, 2012), 52.

¹⁸ Abou El Fadl, *Rebellion and Violence in Islamic Law* (Cambridge: Cambridge University Press, 2001), 111; Anjum, *Politics, Law, and Community in Islamic Thought*, 24.

from the medieval period until today. In the modern era, for instance, Muḥammad Rashīd Riḍā (d. 1935), a reformist jurist who experienced the abolishment of the Ottoman Empire still alluded to this topic in his political treatise, *al-Kbilāfab*.¹⁹ This section discusses the ideas of al-Māwardī to show the origin of the concept.

Abū I-Ḥasan al-Māwardī was a jurist from the Shāfi'ī school of legal thought. In the era of al-Qādir Billāh and al-Qā'im Billāh, two caliphs of the 'Abbāsīd dynasty, al-Māwardī served as a chief judge (*aqḍā l-quḍāb*) in several cities, namely, Ustuwā' and Baghdād.²⁰ According to Gibb, as quoted by Khaled, al-Māwardī was the first jurist to legalize the usurpation of power as a means to come to power.²¹ Likewise, Riḍwān Sayyid contends that al-Māwardī is the first jurist to be fully aware of new realities and believe that there is no point in returning to the condition in which a caliph has full authority without being controlled by usurpers. For al-Māwardī, Riḍwān argues, there is no harm in setting the caliph up as a mere symbol of order, continuity, and the political unity of Muslims.²²

Three sociopolitical contexts were very influential in shaping al-Māwardī's discourse on the usurpation of power. First, the 'Abbāsīd was already conquered and ruled by the Būyīd warlords from a region in Iran called Daylam who embraced Shī'ah Ithnā 'Ashariyyah (Twelver Shiism). The control of 'Abbāsīd caliphs by the usurpers (*umarā' al-istilā'*), according to Riḍwān al-Sayyid, had taken place a

¹⁹ Muḥammad Rashīd Riḍā, *al-Kbilāfab* (Cairo: Mu'assasat Hindāwī li-l-Ta'lim wa-l-Thaqāfah, 2012), 38-40.

²⁰ Abū I-'Abbās Shams al-Dīn Aḥmad ibn Muḥammad Ibn Khallikān al-Barmakī al-Irbilī, *Wafayāt al-a'yān wa-anbā' abnā' al-zamān*, ed. Iḥsān 'Abbās (Beirut: Dār Ṣādir, 1900), III, 282; Abū 'Abd Allāh Shams al-Dīn Muḥammad ibn Aḥmad al-Dhahabī, *Siyar a'lām al-nubalā'* (Cairo: Dār al-Ḥadīth, 2006), XIII, 311.

²¹ Abou El Fadl, *Rebellion and Violence*, 9.

²² Riḍwān al-Sayyid, *al-Jamā'ab wa-l-mujtama' wa-l-dawlab: sulṭab al-aydiyūlūjiyā fī l-majāl al-siyāsī al-'Arabī al-Islāmī* (Beirut: Jadāwil li-l-Ṭibā'ah wa-l-Nashr wa-l-Tawzī', 2015), 54-55. Lambton holds a different view. She maintains that al-Jāhīz (d. 255/869), who lived two centuries earlier than al-Māwardī, was the first scholar who accepted the usurpation of power. He did so to justify the seizure of power from the Umayyad Caliphate by the 'Abbāsīd. Ann K. S. Lambton, *State and Government in Medieval Islam. An Introduction to the Study of Islamic Political Theory: The Jurists* (New York: Oxford University Press, 1981), 58-59.

few centuries before al-Māwardī's era, namely, right after the Caliph al-Ma'mūn (d. 218/833) started replacing the Khurāsānī warriors by employing Turks and Daylamīs as soldiers.²³ Second, the caliph of the 'Abbāsīd was only a puppet of the Būyid *amīrs*, who ruled without real political power. The caliph was still the symbol of the caliphate, but the actual power was in the hands of the Būyid rulers. Third, the 'Abbāsīd caliphate faced an external threat from the Zaydī Caliphate in Yemen and Ṭabaristān and the Isma'īlī Caliphate in Cairo.²⁴

Al-Māwardī discusses the topic of the usurpation of power on two occasions in his book *al-Aḥkām al-sulṭāniyyah* (*Sultanate Ordinances*). The first occasion is in the chapter on the contract of rulership (*'aqd al-imāmab*). In this section, al-Māwardī speaks about two kinds of deficiency in the capacity of a caliph to act (*naqṣ ḥurriyyat al-taṣarruf*). The first deficiency is a control (*al-ḥajr*), namely, a condition where "someone with his retinue gains authority over the caliph."²⁵ Al-Māwardī states that as long as a usurper does not commit a serious sin (*ma'ṣiyah*) and does not oppose the actual caliph, this control does not exclude the rulership of the caliph and does not impair the validity of his governance. However, if the usurper commits a severe transgression over Islamic law or he does not behave justly, he cannot be retained in power. This person who is in control of the caliph should be removed instead. The second deficiency is coercion (*al-qabr*), namely, "the caliph becomes imprisoned by an enemy force."²⁶ This situation prevents the caliph from continuing as a caliph. Al-Māwardī decrees that a Muslim community (*ummab*) should choose another capable person as the caliph. If there is a possibility that the captive caliph can be freed, however, the *ummab* should strive to save him either through war or ransom. Al-Māwardī mentions one specific case: If the caliph is a captive of rebel Muslims and the rebels have not appointed another caliph, then he should be maintained as a caliph. If the rebels appoint another ruler; however, the captive ruler has no longer any power, he

²³ Al-Sayyid, *al-Jamā'ab wa-l-mujtama'*, 52.

²⁴ *Ibid.*, 53; Lambton, *State and Government*, 87-88.

²⁵ Abū l-Ḥasan 'Alī ibn Muḥammad ibn Ḥabīb al-Māwardī, *al-Aḥkām al-sulṭāniyyah wa-l-wilāyat al-dīniyyah*, ed. Aḥmad Mubārak al-Baghdādī (al-Manṣūrah & Kuwait: Dār al-Wafā' & Maktabat Dār Ibn Qutaybah, 1989), 27.

²⁶ *Ibid.*, 28.

should be excluded from the office. The electors (*abl al-ḥall wa-l-‘aqd*) should choose another person to be caliph.

Reading this ordinance, one can see the effort that should be put forth to sustain the legitimacy of a caliph in situations of control and coercion by others. Although al-Māwardī recognizes the *de facto* power of usurper, he does not legitimize a usurper’s claim of *imāmah* (being a caliph). Even if a caliph is deposed, the usurper can never be caliph. In this situation, there should be another person who fully meets the standard conditions in medieval Islam for being a caliph, among which is “having a lineage from the Quraysh tribe or the Prophet’s family.”²⁷ The maximum extent of authority that al-Māwardī allows is the usurper having the status of *amīr* or executor of power on behalf of the caliph.²⁸

It is relevant to mention here that the idea that a caliph being in captivity necessitates choosing a substitute for him was later used by ‘Alī Jum‘ah to justify Mursī’s ouster during the Egyptian uprising in 2013. Despite the difference in the political context, namely, the Islamic caliphate in the past and the modern democratic system in the current situation, Jum‘ah used this notion to justify Muḥammad Mursī’s ouster. Quoting the classical discourse of *al-imām al-maḥjūr* (coerced ruler), Jum‘ah contended that Mursī was no longer legitimate because the military power had him imprisoned.

The second discussion of usurpation in al-Māwardī’s *al-Aḥkām* lies in the chapter on “establishing governorship in the provinces (*taqlīd al-imārah ‘alā l-bilād*).”²⁹ Al-Māwardī mentions a case in which a military leader took over a certain area within the ‘Abbāsīd caliphate territory using military force. Al-Māwardī maintains that this situation forces a caliph to listen to the local usurper and give him administrative authority. Al-Māwardī mentions a reason for the recognition of the usurper in this kind of usurpation: “to preserve shariah canon and to safeguard religious laws that cannot be left to dissolve and be messy.”³⁰ This view assumes that if a caliph rejects the authority of usurper, something harmful such as bloodshed, might

²⁷ *Ibid.*, 5.

²⁸ *Ibid.*, 45

²⁹ *Ibid.*, 40-46.

³⁰ *Ibid.*, 45.

happen. For al-Māwardī, instead of letting the harm happen, it is wiser to acknowledge the rulership of a local usurper.

However, the recognition of a usurper is not done without meeting certain conditions. Al-Māwardī puts forward seven circumstances for the acknowledgment of this second kind of usurpation of power. These conditions are as follows: first, the usurper does not abolish the prophetic office of the caliphate, therefore, shari‘ah is maintained. Second, he should give an oath of allegiance to the caliph. Third, he should establish unanimity in friendship and mutual help in order to maintain an active Muslim community. Fourth, he should conclude religious contracts and execute other rulings and court judgments. Fifth, the receipt of the money that accords with shari‘ah should be paid. Sixth, he should apply *hudūd* (criminal punishments) correctly. Seventhly, he should possess moral capacity, meaning that he always avoids what Allah prohibits.³¹

Scrutinizing al-Māwardī’s discourse on the usurpation of power, one can see how the idea of establishing good governance, namely, a healthy system of power rotation, was absent from his concern. What seemed at stake for him was stability and order for the sake of the application of Islamic law at the expense of having an ideal system of rulership. The temporal reality that he justified later on become a norm in Islamic legal discourse. The idea of accepting usurpation has profoundly shaped Islamic political thought and was repeated in Islamic legal discourse in subsequent periods. The idea has been invoked several times to justify the usurpation of power throughout the history of politics in Muslim societies, including by ‘Alī Jum‘ah in his discourse legitimizing the military coup against Muḥammad Mursī. For jurists who accept this notion, once a usurper becomes the holder of power and can govern effectively, “people have to obey him (*wajaba taqlīd al-mustawlī*).”³² Al-Ghazālī and Ibn Jamā‘ah are the next Muslim scholars who repeated the same tendency and gave additional reasoning for accepting such a notion.

³¹ *Ibid.*

³² *Ibid.*

B. The Development of the Discourse: al-Ghazālī's and Ibn Jamā'ah's Interventions

Like al-Māwardī, Abū Ḥāmid al-Ghazālī was also a scholar from the Shāfi'ī school of legal thought. He served as a professor at Nizāmiyyah University in Baghdād. During his time, the Shi'ī rulers no longer controlled the 'Abbāsīd caliphate. The Seljuq dynasty had already defeated the Būyid dynasty in 1055.³³ Like al-Māwardī, al-Ghazālī was preoccupied with the threat of the so-called Bāṭinī dynasty or the Fātimīd Caliphate in Cairo. This threat can be seen in his treatises, such as *al-Munqidh min al-ḍalāl*, *Faḍā'iḥ al-Bāṭiniyyah*, *Mi'yār al-'ilm*, and *al-Qiṣṣās al-mustaqīm*, in which he criticizes the theology of the Bāṭinī on the notion of *al-ta'lim* (deriving esoteric knowledge from an absent imām). This empirical context informs us that al-Ghazālī's political thought revolved around an effort to solidify the Sunnī Muslim community.

Al-Ghazālī addressed the issue of usurpation of power in two books, namely, *al-Iqtisād fī l-i'tiqād* (Moderation in Theology) and *Iḥyā' 'ulūm al-dīn* (Revival of Religious Knowledge) (2003; 2005). In *al-Iḥyā'*, al-Ghazālī unequivocally states that whoever usurps power with military force (*wa-man istabadda bi-l-shawkab*), as long as he is still loyal to the caliph, he is considered an executor of administrative and court duties in the caliphate territory (*fī aqṭār al-arḍ*). Al-Ghazālī legitimizes the usurpation of power and grants usurpers the title *sultān*.³⁴ He further maintains that even if a *sultān* is oppressive, as long as "the military power supports him (*sā'adatbu l-shawkab*)" and overthrowing him would be painful and could cause civil chaos, he should be left in power and obeyed.³⁵ This statement has two

³³ Carole Hillenbrand, "Islamic Orthodoxy or Realpolitik? Al-Ghazālī's Views on Government," *Iran* 26, no. 1 (1988), 81.

³⁴ In *Faḍā'iḥ al-Bāṭiniyyah*, al-Ghazālī maintains that under no circumstances can a usurper be a caliph if he is not from Quraysh lineage. Abū Ḥāmid Muḥammad ibn Muḥammad al-Ghazālī, *Faḍā'iḥ al-Bāṭiniyyah*, ed. 'Abd al-Raḥmān Badawī (Kuwait: Mu'assasat Dār al-Kutub al-Thaqāfiyyah, 1970), 180.

³⁵ Al-Ghazālī, *Iḥyā' 'ulūm al-dīn* (along with Abū l-Faḥl Zayn al-Dīn 'Abd al-Raḥīm ibn al-Ḥusayn al-'Irāqī's *al-Mughnī 'an ḥaml al-aṣfār fī l-aṣfār fī takbrīj mā fī l-Iḥyā' min al-akbbār*), (Beirut: Dār Ibn Ḥazm, 2005), 591. In *Faḍā'iḥ*, al-Ghazālī even states that the legitimacy of an imām depends not on the number of people who give an oath of allegiance to him but on the military reach (*shawkab*) he

meanings. On the one hand, al-Ghazālī permits the rulership of a tyrannical usurper.³⁶ On the other hand, he also permits the possibility of deposing him as long as it does not create civil disorder. In other words, even though al-Ghazālī accepts the reality of the usurpation by and rulership of an oppressive *sultān*, he still favors an ideal condition, which is succession without the usurpation of power. For al-Ghazālī, usurpation is not a standard means for gaining a ruler. In *al-Iqtisād*, which is a theological book, al-Ghazālī affirms this notion. He maintains that if a usurping ruler has military power and opposing him will cause chaos, the best choice is to give him an oath of allegiance. Al-Ghazālī further argues that living under the oppressive and unjust rulership of the usurper is preferable than living without any ruler because the absence of a ruler will invalidate all matters in the courts and provincial rulership within the caliphate. Additionally, any contracts and marriages will be considered invalid.³⁷

At first glance, al-Ghazālī seems to hold the same view as al-Māwardī. However, it is worth noting that there is a significant difference between the two scholars. While both accept usurpation, al-Māwardī is still quite selective in legitimizing the usurper. He still places some conditions upon which the legitimacy of the usurper rests. Al-Ghazālī, by contrast, accepts the legitimacy of a usurper without almost any condition, even the usurper has moral issues. With the logic of necessity (*al-ḍarūrah*), Al-Ghazālī even accepts the rulership of an unjust usurper. Starting with al-Ghazālī, the Islamic discourse of usurpation of power became more pragmatic.

Like al-Māwardī and al-Ghazālī, Ibn Jamā‘ah was also the jurist from the Shāfi‘ī school of legal thought. He was born in Syria and later lived in Egypt under the Mamlūk Dynasty. Ibn Jamā‘ah was also a chief justice like al-Māwardī. During Ibn Jamā‘ah’s time, the threat from the Shī‘ī community was no longer significant. The Fāṭimīs were already defeated by the Ayyūbid Dynasty a few centuries earlier. However, there were two other issues that the Mamlūk Dynasty

has. Hence, if a usurper is supported by military force, he has legitimacy as a ruler (*wa-dbālīka yaḥṣu^l bi-kull mustawlin muṭā^{dm}*); al-Ghazālī, *Faḍā’ih*, 177.

³⁶ Al-Ghazālī grounds his acceptance of the rulership of an oppressive and ignorant *sultān* in six ḥadīths that emphasize obedience to a ruler and the prohibition of *kburūj* against him; al-Ghazālī, *Iḥyā’*, 591.

³⁷ Al-Ghazālī, *al-Iqtisād fī l-i’tiqād*, ed. Inṣāf Ramaḍān (Damascus & Beirut: Dār Qutaybah, 2003), 171.

faced: the Mongols and the crusade troops. A century before his time, the Mongols had already devastated Baghdād city, the ‘Abbāsīd capital. The crusade was trying to conquer Jerusalem, which was part of Mamlūk territory. Based on this historical context, therefore, Ibn Jamā‘ah’s ideas should be read as an attempt to consolidate Muslim power against outside enemies.

Following al-Māwardī, in *Tabrīr al-aḥkām*, Ibn Jamā‘ah discusses the issue of usurpation (*al-istīlāʿ*) on two occasions. The first one regards a mechanism of rulership (*in ‘iqād al-imāmah*). The second regards how a caliph should appoint a governor in a province (*tafwīḍ al-wilāyah*). Ibn Jamā‘ah considers usurpation (*al-imāmah al-qabriyyah*) to be a third way to select an imām (ruler) after the two established methods in Islamic legal system, namely, selection (*al-ikhtiyār*) by the electors (*ahl al-ḥall wa-l-‘aqq*) and appointment by the previous caliph (*istikhlāf al-imām*). As such, Ibn Jamā‘ah was the first scholar to place the usurpation of power within the discussion of the mechanisms for establishing an imām in his office. Moreover, he was the first jurist to recognize usurpers not as *sultāns* but as *imām* themselves. In this sense, his acceptance of usurpation goes beyond that of the two previous jurists. It was not an exaggeration, therefore, when Abou El Fadl contended that Ibn Jamā‘ah signifies an absolute political realism in Islamic political thought.³⁸ After Ibn Jamā‘ah, Muslim scholars no longer cared about idealism. Instead, they were preoccupied with justifying existing political realities.

Ibn Jamā‘ah maintains that conquest and overcoming a leader (*al-qabr wa-l-taghallub*) through military power (*shawkah*) is a legitimate means to come to power. For him, obeying the usurper is not only necessary but also obligatory for achieving unity among Muslims. He states:

If there is no capable person to be an imām (ruler), then someone with arms and troops overcomes the power without a pledge of allegiance of the electors and an appointment from the previous ruler, his rulership is upheld. Obeying him is mandatory for achieving unity among Muslims. Even if he is ignorant and immoral, his rulership is

³⁸ Abou El Fadl, *Rebellion and Violence*, 12.

still acceptable according to the strongest opinion (in our school).³⁹

He further contends that even if the usurper is defeated or coerced by another person through force, obedience should be given to whoever wins. One can note in this statement the influence of both al-Māwardī and al-Ghazālī. Ibn Jam‘ah inherited acceptance of usurpation from al-Māwardī and acceptance of the rulership of an unjust ruler from al-Ghazālī. His originality comes in the form of a detail in his argument, namely, a statement from Ibn ‘Umar, one of the Prophet’s Companions, that justifies the acquisition of power through usurpation: “We are with whoever wins (*naḥnu ma‘a man ghalaba*).”⁴⁰

In a chapter on appointing a governor in a province, Ibn Jam‘ah contends that if a person comes to power through military force in certain areas within the caliphate, the caliph should give him authority to rule to avoid disunity in the ummah. The usurper takes the executive office of power. Furthermore, if the usurper is not the right person for *wilāyah* because he lacks the desired qualities, the caliph still has to obey him. As a solution, the caliph should appoint someone capable as a deputy to the usurper in order to manage the affairs of both the world and the hereafter.⁴¹

From the above discussion, it is clear that the idea of acceptance of the usurpation of power originated with al-Māwardī. He formulated such a discourse to avoid disunity among Sunnī Muslims when facing external threats. Al-Ghazālī, who came after him, followed his ideas. Al-Ghazālī departed from al-Māwardī when he accepted unjust and immoral usurpers as rulers. Ibn Jam‘ah strengthened al-Ghazālī’s position. His divergence from the two previous jurists lay in his discussion of the topic within a chapter on the mechanism of selecting a ruler. It is also evident that although al-Māwardī, al-Ghazālī, and Ibn Jam‘ah share a basic view on the issue of usurpation of power, namely, accepting it, each jurist had a distinct idea in terms of the details and made a significant departures from their predecessors’ ideas on the topic.

³⁹ Abū ‘Abd Allāh Badr al-Dīn Muḥammad ibn Ibrāhīm Ibn Jam‘ah, *Ṭaḥrīr al-aḥkām fī ṭadbīr abl al-Islām*, ed. Fu‘ād ‘Abd al-Mun‘im Aḥmad (Doha: Ri‘āsat al-Maḥākīm al-Shar‘iyyah wa-l-Shu‘ūn al-Dīniyyah, 1985), 55.

⁴⁰ *Ibid.*, 56.

⁴¹ *Ibid.*, 61.

The next section will discuss how ‘Alī Jum‘ah legalized the military coup against Muḥammad Mursī in 2013 using ideas from these medieval scholars.

III. ‘Alī Jum‘ah’s Discourse

Before turning to ‘Alī Jum‘ah’s discourse on the usurpation of power, I will briefly explain his position in the sociocultural life of Egypt when the Arab Spring erupted. ‘Alī Jum‘ah was a grand *muftī* of Egypt who served in the position until February 2013 and was a prominent scholar of al-Azhar, a semigovernmental seminary that is influential in the Sunnī Muslim world. These two positions had two consequences for Jum‘ah. On the one hand, they gave him credentials for influencing public perception. On the other hand, his positions put him under the control of the state. With these two positions, it was impossible for him to produce a discourse that contradicted the interest of the state.⁴² In fact, during his term as a *muftī*, he never issued any legal opinion denouncing any oppression committed by Ḥusnī Mubārak. For instance, he never made any statement criticizing the detention law that allows Egyptian authorities to arrest suspicious persons. He also never denounced the torture of political detainees in prisons by Egyptian police officers. ‘Alī Jum‘ah had only distanced himself from the state when the state was not under the influence of military control. ‘Alī Jum‘ah made several statements that, more than just weakening, actually opposed the authority of Muḥammad Mursī.

‘Alī Jum‘ah’s discourse on the usurpation of power can be traced starting from his *fatwā* regarding two mass protests against two different ruling governments. The first protest was what the Egyptians called the January Revolution (*thawrah yanāyir*), which happened in 2011. People from various backgrounds gathered at Taḥrīr Square, demanding that the dictator, President Ḥusnī Mubārak, withdraw from office. On this occasion, ‘Alī Jum‘ah showed a tendency to

⁴² The tendency of al-Azhar’s figures to be state legitimizers has been a fact since the period of Gamal Abdul Nasser, who undertook a top-down modernization and subordinated al-Azhar by giving the grand shaykh a status equal to the prime minister. For further reading, see Malika Zeghal, “Religion and Politics in Egypt: The Ulema of al-Azhar, Radical Islam, and the State (1952–94),” *International Journal of Middle East Studies* 31, no. 3 (1999), 371-399, <https://doi.org/10.1017/S0020743800055483>.

discourage people from protesting. He stated that protesting is forbidden (*ḥarām*).⁴³ He issued a *fatwā* that it was permissible for Muslims to not attend obligatory Friday prayer at mosques during protest days. He argued that there was greater risk of harm if one attended prayers at a mosque.⁴⁴ In general, ‘Alī Jum‘ah’s argument discouraging Egyptians from protesting against Mubārak was based on the idea of avoiding civil strife (*fitnah*). He believed that protesting the president would lead to chaos that, in turn, would shake the stability of the state. The second mass protest ensued two years later, in 2013, against the democratically elected president, Muḥammad Mursī, from the Muslim Brotherhood. A group that called themselves the *Tamarrud* (Rebellion) movement asked Muḥammad Mursī to hand over power. His one-year presidency was deemed a failure in terms of bringing about stability and improving the economic situation of Egypt. Mursī was also seen as having monopolized power and making collusive policies. He only placed Islamists from his party and the *Salafī* parties in the Constituent Assembly, disregarding other political factions, especially liberals. Moreover, he was seen by his critics as the president of the Muslim Brotherhood rather than the president of Egypt.⁴⁵ Soon after the protest against Mursī erupted, ‘Alī Jum‘ah changed his legal opinion regarding acts of protest. In this case, he supported the *Tamarrud*

⁴³ ‘Alī Jum‘ah, *Maqta‘ sawtī li-muftī ‘Alī Jum‘ah atbnā’ al-thawrab wa-yu‘alliq ‘alaybi l-Shaykh Muḥammad Sa‘d al-Azharī*, https://www.youtube.com/watch?v=hzf_79q9fKo, accessed May 20, 2019.

⁴⁴ Jum‘ah, “Min mawāqif al-ustādh al-duktūr ‘Alī Jum‘ah,” accessed May 20, 2019, <http://www.draligomaa.com/index.php/%D8%AF%D8%B1%D9%88%D8%B3-%D9%88%D9%85%D8%AD%D8%A7%D8%B6%D8%B1%D8%A7%D8%AA/%D9%85%D8%AD%D8%A7%D8%B6%D8%B1%D8%A7%D8%AA/%D8%A3%D9%85%D8%B3%D9%8A%D8%A9-%D8%AB%D9%82%D8%A7%D9%81%D9%8A%D8%A9/item/911-%D9%85%D9%86-%D9%85%D9%88%D8%A7%D9%82%D9%81-%D8%A3-%D8%AF-%D8%B9%D9%84%D9%8A-%D8%AC%D9%85%D8%B9%D8%A9>.

⁴⁵ Ann M. Lesch, “The Authoritarian States Power over Civil Society,” in *Egypt and the Contradictions of Liberalism: Illiberal Intelligentsia and the Future of Egyptian Democracy*, ed. Dalia F. Fahmy and Daanish Faruqi (London: Oneworld, 2017), 142; John L. Esposito, Tamara Sonn, and John O. Voll, *Islam and Democracy after the Arab Spring* (New York: Oxford University Press, 2015), 220-224; Khalil al-Anani, “The ‘Anguish’ of the Muslim Brotherhood in Egypt,” in *Routledge Handbook of the Arab Spring: Rethinking Democratization*, ed. Larbi Sadiki (London & New York: Routledge, 2015), 232.

movement. For him, the enormous mass protest of Mursī was a sign that Mursī no longer had legitimacy. His short-term presidency only caused the country to be more unstable.⁴⁶ ‘Alī Jum‘ah then went beyond a mere legitimization of the people’s protest. He also justified the coup and the massacre of approximately 1.150 Muslim Brotherhood members by the Egyptian army.⁴⁷ In his speech before a group of military officers, he even stated, that “they are rebels (*kbawārij*), and the *kbawārij* are the dogs of the hellfire (*kilāb al-nār*). They are *kbawārij*; blessed are those who kill them (*ṭubā li-man qatalahum*).”⁴⁸ On several occasions, Jum‘ah appeared in front of the public to condemn the rallies of the Muslim Brotherhood in Rab‘ah Square and to give support to the actions that the army had taken.

‘Alī Jum‘ah’s discourse justifying the military coup against President Mursī was based on typical reasoning from the Islamic legal tradition (*fiqh*). Scrutinizing his speeches before and after the coup, I observed that he employed four traditional Islamic legal notions to support the army. First, he used the concept of *taghallub abl al-shawkab* (the conquest by the possessor of force), which was already elaborated above in the discussion of the three medieval scholars. This notion was apparent when he pronounced in his interview with CBC channel that “*aṣbaḥnā l-mutaghallibin* (we became the defeaters).”⁴⁹ Jum‘ah stated that, although Egyptians had pledged allegiance (*bay‘ah*) to the new regime, President Mursī had caused disarray during his short presidency. Within one year of Mursī’s

⁴⁶ Youssef Belal, “Islamic Law, Truth, Ethics: Fatwa and Jurisprudence of the Revolution,” *Comparative Studies of South Asia, Africa and the Middle East* 38, no. 1 (2018), 116, <https://doi.org/10.1215/1089201x-4390015>.

⁴⁷ This number for the death toll was taken from the Human Rights Watch website. See Human Rights Watch, “The Rab‘a Massacre and Mass Killings of Protesters in Egypt,” <https://www.hrw.org/report/2014/08/12/all-according-plan/raba-mas-sacre-and-mass-killings-protesters-egypt>, accessed May 20, 2019.

⁴⁸ Jum‘ah, ‘*Alī Jum‘ah wa-buwa yakḥṭub amāma ‘askar al-inqilāb al-liqā’ al-musarrab kāmīl*, https://www.youtube.com/watch?v=s5_r-zV5Tj4, accessed May 18, 2019.

⁴⁹ The interview was done on 23.8.2013 by the journalist Khairī Ramaḍān. See ‘Alī Jum‘ah, *Faḍīlat al-imām al-duktūr ‘Alī Jum‘ah wa-ru’yab taḥlīliyyab li-mā yaḥduth fī l-bilād*, <https://www.youtube.com/watch?v=52DMpHZBxE4>, accessed May 20, 2019.

administration, Egyptians were experiencing a serious energy crisis, specifically, electricity, gas, and petrol shortages. During this period, the prices of everyday supplies were inflated tremendously. The interest of the country was affected at both the national and international levels.⁵⁰ For 'Alī Jum'ah, Mursī's incapacity to be an effective ruler to overcome the crisis was a legal excuse to depose him. In his speech before the Egyptian Security Forces, 'Alī Jum'ah stated:

In Islamic law (*fiqh*), it is permitted to depose a president. It is permitted to depose a president if he goes insane. It is even permitted to depose a president if he is imprisoned by the enemy. It is permitted to depose a president if he loses his senses. It is permitted to depose a president if there is anarchy in the land and among the people, and rights are no longer protected.⁵¹

In supporting his invocation of the traditional notion of "*al-tamakkun bi-l-quwwah* (the conquer by the holder of the army)," 'Alī Jum'ah praised Egypt's Supreme Council of Armed Forces (SCAF), which the medieval scholars did not do, even when they accepted the usurpation of power. He addressed the Egyptian soldiers as "O knights of the knights (*ayyubā l-abṭāl al-fursān*)." ⁵² 'Alī Jum'ah maintained that the Egyptian military had not done anything wrong, nor would they ever. He stated in his message to the Egyptian Security Forces after the coup that "the Egyptian army never went to the marketplace to beat people or steal their wealth. On the contrary, it builds rather than destroys."⁵³ He further argued that the Egyptian army "always sides with the truth, eliminates oppression, and

⁵⁰ 'Alī Jum'ah, "Translation of the Transcript of Ali Gomaa's Message to the Egyptian Security Forces in the Weeks Prior the Rabaa Massacre, draft translation (12/2015) by Usaama Al-Azami," https://www.academia.edu/19791977/Translation_of_Ali_Gomaa's_Message_to_the_Egyptian_Armed_Forces_Summer_2013_in_the_weeks_prior_the_Rabaa_Massacre_draft_.

⁵¹ Jum'ah, "Tolerance in Islam [A translation of Ali Gomaa's Lecture to the Egyptian Armed Forces on 18 August 2013 – 4 days after the Rabaa Massacre]," trans. Usaama al-Azami, https://www.academia.edu/31264955/Ali_Gomaa_s_Lecture_to_the_Egyptian_Armed_Forces_on_18_August_2013_four_days_after_the_Rabaa_Massacre_draft_, accessed May 18, 2019.

⁵² Jum'ah, *'Alī Jum'ah wa-buwa yakhtub*.

⁵³ Jum'ah, "Translation of the Transcript of Ali Gomaa's Message to the Egyptian Security Forces in the Weeks Prior the Rabaa Massacre."

punishes rebels.” and “God always guides them in whatever action they do.”⁵⁴ To elevate the military’s position after the coup and convince people to accept what the army had done, ‘Alī Jum‘ah then mentioned several ḥadīths that he identified as the Prophet’s guarantee of the truthfulness of the Egyptian army.⁵⁵ He also recalled several heroic actions that the Egyptian army had taken throughout the history of the nation: namely, the war against Israel in 1948 and the war in Mexico in 1863.

Second, ‘Alī Jum‘ah used the concept of *al-imām al-mahjūr* (detained ruler) to justify the coup. According to Jum‘ah, in traditional Islamic legal thought, there is a notion that allows the holder of the army to detain a ruler for his incapacity to govern. If a ruler lacks experience, the people will fall into disorder. In facing this situation, jurists may call on people with power (*ahl al-shawkah*) to arrest the ruler and isolate him in a legally restricted place. Afterward, he will lose legitimacy in governing.⁵⁶ Jum‘ah stated:

The jurists of Islam have talked about a detained ruler. The imām to whom we have pledged allegiance causes instability in the country. His colleagues detain him and quarantine him (*fa-aṣḥābu^{bi} i’taqalūhu, wa-ḥajarū ‘alayhi*). They say: “Sit down here” and they lock him. He loses his legitimacy (*dhahaba shar‘iyyatuhū*).⁵⁷

Based on my reading of al-Māwardī, al-Ghazālī, and Ibn Jamā‘ah, I have found no specific concepts that perfectly match with this idea. I

⁵⁴ Ibid.

⁵⁵ He mentioned the ḥadīth about the virtue of the so-called “*al-jund al-gharbī* (the western army),” namely the Egyptian Army from al-Ḥākim’s book of ḥadīths, *al-Mustadrak*. According to this ḥadīth, the Prophet predicted that “there will be the days of chaos among people. The safe people are the Western Army, namely the Egyptian army.” See Jum‘ah, *Ḥadīth Rasūl Allāh ‘an jaysb Miṣr* <https://www.youtube.com/watch?v=C8odslSmrI&t=573s>, accessed May 18, 2019. In fact, this ḥadīth is strongly inauthentic (*shadīd al-ḍa‘f*). See Ṣalāḥ al-Dīn ibn Aḥmad al-Idlibī, “Ḥadīth al-jund al-gharbī: Ḥadīth ‘satakūn fitnah, khayr al-nās fī-hā al-jund al-gharbī,” <http://idlibi.net/jundgarbi/>, accessed May 20, 2019; Muḥammad Nāṣir al-Dīn al-Albānī, *Silsilat al-aḥādīth al-ḍa‘īfah wa-l-mawḍū‘ah wa-atbarubā l-sayyi‘ fī l-ummah* (Riyadh: Maktabat al-Ma‘ārif li-l-Nashr wa-l-Tawzī‘, 2004), XII, 1066.

⁵⁶ Jum‘ah, “Min mawāqif.”

⁵⁷ Jum‘ah, *‘Alī Jum‘ah wa-buwa yakḥṭub*.

suppose that ‘Alī Jum‘ah was referring to the idea of a coerced caliph in al-Māwardī’s *al-Aḥkām*, namely, when al-Māwardī discusses the deficiencies of a ruler. Recalling what I mentioned previously, according to al-Māwardī, if an enemy imprisons a caliph and there is no chance to free the caliph, the electors can replace him with another person. Even if this was what Jum‘ah meant, the case of Mursī was meaningfully different. He was deposed and detained by military officers, not by the nation’s enemies. Mursī lost the capacity to govern because the army took over his power not because the enemy infiltrated the country and defeated him. By using this notion, ‘Alī Jum‘ah actually unwittingly equated ‘Abd al-Fattāḥ al-Sisī, the head of the Supreme Council of Armed Forces of Egypt that overthrew Mursī, with the enemy. Moreover, Jum‘ah also overlooked the fact that al-Māwardī was unwilling to give the status of caliph to one detaining a caliph—the caliph should be appointed by legal means instead. The analogy of President Mursī as a caliph was also flawed because he was chosen as a president through a presidential election in a democratic system. In contrast, caliphs are chosen based on either a testamentary designation (*al-istikhlāf*) by a previous caliph or a selection by a committee of electors (*ikhtiyār abl al-ḥall wa-l-‘aqd*). As such, Jum‘ah’s analogy of a military coup as *al-imām al-mahjūr* was defective and dishonest. The reasoning behind Jum‘ah’s discourse does not look consistent with that of the classical authority that he was trying to refer to, leading to the impression that he produced a legal trick to support Mursī’s ouster.

Third, ‘Alī Jum‘ah employed the notion of the will of the people (*binā^ʾ ‘alā l-sha‘b*). For him, the people are the actual holder of sovereignty—not the constitution, not the electors, and not the president.⁵⁸ As such, contrary to the popular conception in politics that sees sovereignty in the constitution, Jum‘ah maintained that the supreme authority lays in the hands of the people. When the people called for Mursī to withdraw from his position, it meant that Mursī was untenable. Jum‘ah claimed that before the military coup, thirty million people protested against Mursī in Taḥrīr Square, demanding his withdrawal.⁵⁹ By implication, Jum‘ah argued, that meant that they

⁵⁸ Jum‘ah, *Faḍīlat al-imām*.

⁵⁹ Jum‘ah, *30 yūniyū yawm min ayyām Allāb intaşara fībi l-mu‘minūn ‘alā l-kāfirīn*, <https://www.almazryalyoum.com/news/details/1303970>, accessed October 11, 2018.

supported the military's actions in overthrowing him. Jum'ah also claimed that this number was even larger than the number of those who protested against Mubarak. In this regard, Jum'ah based the notion of the people's will on the concept of *al-sawād al-a'zam* (the overwhelming majority).⁶⁰

This notion initially came from a ḥadīth that teaches Muslims to always side with the mainstream group if there is cleavage among people.⁶¹ Jum'ah used this notion as a political instrument to undermine Mursī's presidency. Commenting about the Muslim Brotherhood's victory in the 2012 presidential election, Jum'ah said that Mursī's victory came only with 51% of the vote, which is far below the concept *al-sawād al-a'zam* and does not represent the will of the people at all. Jum'ah argued that Mursī was chosen by only 13 million out of 25 million Egyptian voters, which is only a quarter of the total Egyptian population of 90 million. Jum'ah continued, suggesting that considering 51% as a majority vote is an un-Islamic concept. Such a figure is considered the majority only in the US political system, not in the Islamic legal system. He claimed that according to the Islamic legal system, especially the Shāfi'ī school of legal thought, 51% cannot be taken seriously. According to his calculations, *al-sawād al-a'zam* means 86%, and this was the number of people who protested against Mursī.⁶²

Fourth, to justify the coup, 'Alī Jum'ah employed the concept of the moral deviance of a ruler and his followers. In an interview with CBC, 'Alī Jum'ah stated that he considered Mursī and his followers to be "evil crooks criminals (*al-fāsiqīn al-fāsidīn al-mujrimīn*)."⁶³ The reason he called them that is that "they are in conflict against the believers and the nation (*wa-kānū fī širā' ma'a l-mu'minīn ma'a al-*

⁶⁰ *Ibid.*

⁶¹ The ḥadīth says, "*idbā ra'aytum iktbilāf^m, fa-'alaykum bi-l-sawād al-a'zam* (if you see the disputation among people, you have to side with the majority)". This ḥadīth was compiled by Ibn Mājah, and according to some ḥadīth critics, it is *ḍa'if* (weak).

See islamweb.net, "Ma'nā l-sawād al-a'zam wa-l-amr bi-luzūm al-jamā'ah al-ūlā," <https://fatwa.islamweb.net/fatwa/index.php?page=showfatwa&Option=FatwaId&Id=210028>, accessed May 21, 2019.

⁶² Jum'ah, *30 yūniyu*.

⁶³ *Ibid.*

awṭān)” and in political positions that “they do not deserve.”⁶⁴ Further, he called Mursī and the members of the Muslim Brotherhood *kbawārij* (rebels) because they insisted on asking for the restoration of Mursī’s presidency through protests in the Rabah Square, inciting violent protests and creating civil strife.⁶⁵ By doing so, he argued, the Muslim Brotherhood divided Egyptian society. To condemn Mursī and his followers, Jum’ah once again invoked Prophetic tradition, using a ḥadīth calling *kbawārij* the dogs of hellfire.⁶⁶

From the description above, it is clear that ‘Alī Jum’ah was influenced by several notions in the traditional Islamic legal system. The next part will juxtapose ‘Alī Jum’ah’s discourse with that of three medieval political theorists. It will reveal the extent to which Jum’ah’s discourse was influenced by and differed from these medieval discourses.

IV. Analysis: Influences and Divergences

As has been described before, in his political discourse, ‘Alī Jum’ah used the notion of conquering through force (*al-tagballub bi-l-shawkah*) and the idea of the detained ruler (*al-imām al-mahjūr*). Moreover, he invoked ḥadīths about the overwhelming majority (*al-sawād al-a‘zam*) and the evilness of rebels (*kbawārij*). This section will discuss the commonalities and significant differences between ‘Alī Jum’ah’s discourse and that of the medieval jurists.

Aside from an explicit invocation of the traditional discourses on the usurpation of power, there are other similarities between ‘Alī Jum’ah’s political discourses and that of the three medieval scholars.

⁶⁴ *Ibid.*

⁶⁵ Warren, “Cleansing the Nation,” 465-467.

⁶⁶ Yūsuf al-Qaraḍāwī, his fellow Azharī scholar and a strong supporter of Mursī’s legitimacy, refuted the invocation of *kbawārij* to label the Muslim Brotherhood members. Instead, he used this term to designate those asking for the withdrawal of Mursī. For further reading, see Yūsuf al-Qaraḍāwī “al-Khawārij bayna l-dīn wa-l-tārīkh wa-l-siyāsah [Kharijis between Religion, History, and Politics],” Al-Jazeera’s Interview with Yūsuf al-Qaraḍāwī, <http://www.aljazeera.net/programs/religionandlife/2013/8/25/%D8%A7%D9%84%D8%AE%D9%88%D8%A7%D8%B1%D8%AC-%D8%A8%D9%8A%D9%86-%D8%A7%D9%84%D8%AF%D9%8A%D9%86-%D9%88%D8%A7%D9%84%D8%AA%D8%A7%D8%B1%D9%8A%D8%AE-%D9%88%D8%A7%D9%84%D8%B3%D9%8A%D8%A7%D8%B3%D8%A9>, accessed July 10, 2018.

First, ‘Alī Jum‘ah, following previous Muslim jurists, not only legalized the usurpation of power but also argued obedience to usurpers to be a religious obligation. In this discourse, dictatorship and the usurpation of power are not seen as deviations from a norm but rather as normal behaviors. As a result, there is no way Egypt can become a truly democratic country, as the autocracy is sanctioned by political theology. Second, ‘Alī Jum‘ah was also in agreement with the medieval scholars in terms of their understandings of politics. Al-Māwardī, al-Ghazālī, and Ibn Jamā‘ah, along with other scholars, were realism-based scholars who accepted their realities for the sake of avoiding *fitnah* (civil disorder) and at the expense of having a normal system of circulating power. ‘Alī Jum‘ah continued this trend. For ‘Alī Jum‘ah, a mere election cannot validate and sustain the leadership of a ruler if people no longer want him in the office. Jum‘ah was also not particularly interested in formulating a good political system for selecting an ideal ruler.

Third, there is a complete absence of any notion of accountability from those in power and of checks and balances against rulers in the discourses of ‘Alī Jum‘ah and that of the medieval scholars. For Jum‘ah, a usurper or an army officer, once he defeats the previous ruler and can reign effectively, becomes unquestionable. There is no need for people to criticize him, since it will open the door to civil chaos. After several years of General al-Sīsī sitting in office after several cases of the abuse of power, ‘Alī Jum‘ah did not make any critiques of this autocracy. I contend that the absence of critiques of the autocratic ruler in Jum‘ah’s discourse is the influence of medieval views that overlook such a notion. This confirms what Ovamir Anjum, an intellectual historian, has noted that in the medieval political discourse: most Muslim political theorists have raised the position of the ruler to a certain level of sanctity by embracing what Anjum calls “a ruler-centered vision.”⁶⁷

All of these similarities with traditional discourses indicate that the political discourse of Muslim scholars is determined by what I mentioned previously as a tendency to conform. Muslim jurists care more about concordance with tradition than with the need to transform countries into democratic states. In this sense, formulating a discourse is just a matter of repeating already established opinions.

⁶⁷ Anjum, *Politics, Law, and Community*, 132.

As Moosa states, “law ruling was activated in a mechanical manner.”⁶⁸ This adherence to past authorities on the issue of the usurpation of power confirms what Abou El Fadl identified in his study on Muslim scholars’ discourses on the rebellion: the traditional discourses on Islamic political thought “are repeated without material revision or development.”⁶⁹

It is also important to note that aside from being influenced by medieval discourses, in some senses, ‘Alī Jum‘ah also deviated from those ideas. In other words, his discourse did not entirely abide by classical *fiqh* (Islamic legal thought); he also departed from such *fiqh*. This deviation can be seen in several ways. First, it is clear that the logic behind the classical jurists’ discourse is avoiding bloodshed (*fitnah*) at the expense of having an accountable political system. Al-Māwardī, al-Ghazālī, and Ibn Jamā‘ah had to justify the usurpation of power in order to avoid disunity and civil strife. In contrast, ‘Alī Jum‘ah neither avoided *fitnah* nor built a system. He even formulated a discourse that sanctioned massacre and human rights violations by the Egyptian government. For Jum‘ah, the point was not stopping the *fitnah*, because even after al-Sīsī became the ruler, the *fitnah* still ensued and even escalated.⁷⁰ What was at stake for Jum‘ah was instead encouraging society to be submissive to the ruler and

⁶⁸ Moosa, “Recovering the Ethical: Practices, Politics, Tradition,” in *The Shari‘a: History, Ethics, and Law*, ed. Aryn B. Sajoo (London & New York: I. B. Tauris & The Institute of Ismaili Studies, 2018), 52.

⁶⁹ Abou El Fadl, *Rebellion and Violence*, 244.

⁷⁰ In Egypt, with the rise of the junta military into power, authoritarianism has intensified tremendously. ‘Abd al-Fattāḥ al-Sīsī, the current president, plays a zero-sum game, which has never been done by previous leaders. Not only has he cracked down on the Muslim Brotherhood, but he also allows no opposition movement to exist. He labels any critical opponent an enemy, terrorist, or violent actor. In the last election, in March 2018, he detained almost all of the candidates whom he thought could challenge his popularity. Among all candidates, al-Sīsī retained only the weakest one as his competitor. Not only that, he also has blocked any possibility for the presence of a stable civil society. In 2013, the first year of his administration, he banned hundreds of thousands of imāms and closed 5,000 small mosques (*zawāyā*) in Egypt, which he considered places for disseminating hatred and opposition toward his administration. For further reading regarding banning imāms and closing mosques, see Abou El Fadl, “Dominating Religion in Egypt’s Pseudo-Secular State,” <http://www.abc.net.au/religion/articles/2013/09/15/3848943.htm>, accessed March 5, 2018.

negating the Muslim Brotherhood, which formed a possible threat to the position of al-Azhar as the only religious authority in Egypt.⁷¹ Second, even though the medieval Muslim jurists accepted the legitimacy of a usurper of power, they still bound him with several moral obligations that must be fulfilled. In contrast, ‘Alī Jum‘ah was not interested in formulating such a notion. He was not interested in guiding the usurper in exercising power as a ruler. He never talked about the moral obligation of a ruler toward the people. In Jum‘ah’s discourse, a usurper (*mustawli*) then becomes an absolute ruler.

Third, through the invocation of the term *kbawārij*, ‘Alī Jum‘ah treated the followers of the deposed president as rebels. However, Jum‘ah’s discourse on rebels does not correspond with the discourses of the medieval scholars on the same subject. They prohibit rebellion against the government, but they do not condemn rebels if they have a political reason (*ta’wīl*).⁷² For them, rebellion is not a sin or a criminal act. Therefore, rebels should not be tortured, let alone killed.⁷³ Rebels have to be treated humanely.⁷⁴ Rebellion, according to traditional norms in Islamic legal thought, is only a civil infraction. The ruler is allowed to fight rebels but not to nullify them; the ruler should rather prevent any harm they might cause.⁷⁵ For ‘Alī Jum‘ah, by contrast, it was right that the Muslim Brotherhood members who refused to obey the ouster of the weak president and who were adamant about restoring Mursī’s position and creating civil strife were killed. In this sense, Jum‘ah completely departed from the medieval tradition.

Fourth, the political discourses of medieval scholars emphasized a ruler-centered vision, meaning that politics always revolve around the interests of a ruler. Meanwhile, ‘Alī Jum‘ah produced what I call “a pseudocommunity vision.” By invoking the notion of *al-sawād al-a‘zam* (the overwhelming majority) as the excuse to justify the military coup, it might have seemed that he took the consideration of the people (*ummah*) seriously and put them at the center of his political vision, but he, in fact, did not do so. In the aftermath of the Egyptian uprising and the ascension of General al-Sīsī to the

⁷¹ Fadel, “Islamic Law and Constitution-Making,” 504.

⁷² Abou El Fadl, *Rebellion and Violence*, 326.

⁷³ *Ibid.*, 244.

⁷⁴ *Ibid.*, 233.

⁷⁵ *Ibid.*, 243.

presidency, Jum'ah set the community aside again. He did not, for instance, formulate any ideas for how people can channel their critiques of the current military regime. He cared about neither the imprisonment nor the cultural silencing of political activists who were critical of the dictator president. He only used this concept to support the overthrowing of Mursī.

These significant departures from the medieval discourses on politics suggest two important things. First, they reveal how 'Alī Jum'ah betrayed the humanistic face of the Islamic legal tradition, particularly when he justified killing people and called them rebels against the political gains of the army. Second, they suggest that although the legal tradition was influential in shaping Jum'ah's stance, it also became an instrument to enable the military regime to gain power. In other words, he was not sincere and honest when dealing with the legal tradition. Ultimately, this implies that 'Alī Jum'ah has set a highly negative precedent. Through his arguments, the Islamic legal tradition becomes not only a reference that determines political stances but also the most effective legal trick in the political game.

V. Conclusion

In this article, I have examined the political discourse of 'Alī Jum'ah as an alternative explanation of the reasons behind the failure of Egypt to transition into a democratic country after the Arab Spring. I have argued that 'Alī Jum'ah's discourse on the military coup against the democratically elected president was shaped by his strict adherence to the discursive legal tradition in Islam. He followed the most dominant view within the Islamic legal system, which accepts the usurpation of power by the holder of the army. He employed the notions of defeat (*al-taghallub*), a detained ruler (*al-imām al-mahjūr*), the moral deviance of a ruler (being *kbawārij*), and an overwhelming majority (*al-sawād al-a'zam*). Despite his substantial conformity with tradition, however, Jum'ah also digressed from it. The way he deployed traditional Islamic legal concepts seems very selective, leading to the impression that he used Islamic law as a trick to legalize the usurpation of power.

'Alī Jum'ah accomplished such trickery in several ways. He distorted the medieval concept of a detained ruler, treated the group that rejected the coup as rebels, and legalized killing people for

political reasons. The way he invoked these three concepts is significantly different from the way al-Māwardī, al-Ghazālī, and Ibn Jamā‘ah discussed them. Therefore, although Jum‘ah’s arguments defending the usurpation of power relied heavily on the medieval discourse, it might be not an exaggeration to say that he also abused the Islamic legal tradition to fit military interests.

‘Alī Jum‘ah’s discourse has consequences for both the ethical dimension of the Islamic legal system and the political trajectory of Egypt. Due to his authoritarian discourse, the Islamic legal field has become displaced from its ethical mooring. To borrow Moosa’s expression, by being “faithful to tradition but violating contemporary moral norms”⁷⁶ Jum‘ah cost the Islamic legal field its humanist face and moral values. In addition, Jum‘ah’s justification for the military coup has also caused Egypt’s possibility of being a democratic country to fade away. His pro-dictatorship discourse has estranged Egypt’s political path from democracy. Under the patronage of a religious establishment that is very hegemonic in Egypt’s social life, there is no way that autocracy and dictatorship can disappear from the country’s politics in the near future.

DISCLOSURE STATEMENT

No potential conflict of interest were reported by the authors.

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⁷⁶ Moosa, “Recovering the Ethical,” 53.

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