

“The Shari‘a must go”: Seduction, Moral Injury, and Religious Freedom in Egypt’s Liberal Age

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In January 2016, the Egyptian writer Fatima Na‘ut was sentenced to three years in prison and fined LE20,000 for having remarked on her Facebook page that the tradition of slaughtering sheep during Eid al-Adha is the “greatest massacre committed by human beings.” The charge, based on a law dating to 1982 in Egypt’s Penal Code, was “contempt of religion” (*izdira’ al-din*), which the state has increasingly put to use since the 2011 uprising.¹ Through Na‘ut’s and similar cases, the state has regulated speech under the rubric of protecting religion, provoking public controversy. The questions of whether and how to limit speech around religion are variously disputed in contexts across the globe, including in Europe and North America where derision of Islam has recently renewed debate over the line between free speech and incitement. In the case of Egypt, the charge of *izdira’ al-din*, while often assumed by its critics to be a medieval holdover signaling an incomplete or failed project of secularism, has a genealogy traceable to the secularization of Egyptian law in the liberal period, which stretched from 1922 until the 1952 Free Officers’ Revolt.

This article explores that genealogy. I begin by describing two related incidents that occurred in the second quarter of the twentieth century. In April 1928, an American Protestant missionary of Dutch descent, Samuel Zwemer,

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¹ El-Sayed Gamal El-Din, “Egyptian Writer Fatima Naoot Sentenced to 3 Years in Jail for ‘Contempt of Religion,’” *ahramonline*, 26 Jan. 2016, <http://english.ahram.org.eg/News/185963.aspx> (accessed 5 May 2017).

entered al-Azhar Mosque with a small group of visitors and distributed a missionary pamphlet. The pamphlet, titled “Return to the Old Qibla,” described Muhammad’s decision to redirect prayer from Jerusalem to Mecca, which Zwemer saw as an antagonistic break with Judaism and Christianity that set a path to enmity. It invited Muslims to return to the “original” qibla of Jerusalem and to seek Christ.² After a shaykh confronted Zwemer, one student in the shaykh’s entourage hollered “down with evangelism” and a stir ensued. Three thousand Azhar students soon initiated a strike, and protests spread to the parliament (*majlis al-nuwwab*) in Cairo where the incident was debated.³ “Did the foreign minister hear what the American missionary association did, igniting the fire of discord [*fitna*] all over the country by distributing books and pamphlets all of which are a loathsome attack [*ta’n*]⁴ on Islam,” one minister asked. Continuing, he exclaimed, “does he know how [Zwemer] arrived to such shamelessness and insolence to dare to insult Muslims and wound their honor by attacking Islam, and in the largest and most holy Islamic institution?” In reply, the interior minister claimed that the government was taking steps to ensure such an incident did not repeat itself, and applauded the Azhar students and the nation for their “composed and wise” stance against this “act that stirs one’s feelings,” a stance that exemplified the Egyptian people’s “desire for public security” (*al-amn al-‘amm*).⁵ The encounter caused outrage at missionaries and the Capitulations, a set of treaties dating to the Ottoman period that guaranteed fiscal and legal privileges to certain foreign nationals and protected subjects, missionaries often among them.

The incident resembles another that occurred eleven years later, with one significant difference. In 1939, a Protestant-converted Coptic missionary, Hakim Wasif, was likewise distributing Christian missionary material in public, though on the streets of Cairo rather than in a mosque, and allegorical stories rather than disputatious pamphlets. One of these stories, titled *La fleur de la forêt* (The flower of the forest), described a female prostitute who has been saved by Christianity.⁶ The publication caused a stir because some

² The pamphlet, or a version of it, was later published in the journal he founded and long edited: Samuel Zwemer, “Return to the Old Qibla,” *Moslem World* 27 (1) (1937): 13–19.

³ Beth Baron, *The Orphan Scandal: Christian Missionaries and the Rise of the Muslim Brotherhood* (Stanford: Stanford University Press, 2014), 144–45. See also Tariq al-Bishri, *al-Muslimun wa-l-Aqbat fi Iitar al-Jama‘a al-Wataniyya* (Cairo: Dar al-Shuruq, 2004), 572–73.

⁴ *Ta’n* can mean “to attack with words,” “wound someone’s reputation,” or “divert from the right path,” but also “to pierce, thrust, or stab (someone).” The action of *ta’n* can thus induce what in a post-Cartesian world are often considered two separate sensations of pain—psychological and physical. Thus, I translate the word as “attack” rather than the more common “defamation,” which connotes harm to one’s reputation through the written or spoken word.

⁵ *Majlis al-Nuwwab*, *Majmu‘at Mudabit dawr al-In‘iqad al-‘Adi al-Thalith* (Cairo: al-Matba‘a al-Amriyya, 1928), Jalasa 50, 23 Apr. 1928, 762.

⁶ A. E. Theobald, *La fleur de la forêt* (Assiut and Cairo: Nile Mission Press, 1928). The version that I accessed was in French, though an English version also existed. Presumably the distributed version was in Arabic. In addition to this work, Wasif had been handing out another story whose

understood the protagonist's name, Fatima Zohra, to refer to the Prophet Muhammad's daughter Fatima al-Zahra'. The implication seemed to be that Islam led women to licentiousness from which Christianity offered salvation.⁷ Unlike Zwemer, who was a protected foreigner, Wasif, a local subject, was swiftly arrested.⁸

In contrast to the Zwemer incident, the stir sparked by Wasif's actions was quickly contained. By 1939, the Egyptian state, having gained greater sovereignty through the Anglo–Egyptian Treaty of 1936 and the Montreux Convention of 1937 phasing out the Capitulations, had written protection from moral injury into law, banning anyone from “damaging, violating, injuring, or desecrating religious practice” (*kull man kharrab au kassar au atlaf au dannas ... sha'a'ir al-din*). Though neither the author nor the publisher of *La fleur de la forêt*, and despite the objections of his foreign missionary colleagues, Wasif was sentenced to one year's imprisonment with labor based on Article 161 of the 1937 Penal Code, which covered “misdemeanors related to religion.” By distributing this book, the court said, he had not only desecrated Islam through the figure of Fatima, but he had also “intentionally alter[ed] part of this text [the Qur'an] from its intended meaning,”⁹ for *La fleur de la forêt* allegedly misquoted the Qur'an and cited invented Qur'anic passages.¹⁰

This article traces how such perceived attacks (*ta'n*) on religion came to be banned as punishable crimes in modern Egyptian law. I show that this new legal proscription reputedly protecting religion emerged through a contingent process whereby local communities, missionaries, and the Egyptian state under the shadow of colonial rule claimed and articulated the concept of religious freedom in ways that advanced their respective interests. A product of sectarian conflict and the rise of the modern state in Western Europe, this secular concept came to accumulate particular meanings in Egyptian public discourse and law. Historians have observed that Protestant missionaries in Egypt long justified their attempts to convert local Muslims through religious freedom, and that Egyptian Muslims drew on it as the right to protect their religion.¹¹ This chapter historicizes this interpretive divide and explores its

title in English was *War on the Flesh*. FO 371/23365, “Memorandum on the Case of Hakim Effendi Wasef,” 5 June 1939.

⁷ FO 371/23365, “Memorandum on the Case of Hakim Effendi Wasef.”

⁸ It is unclear whether Wasif was arrested in Cairo or Assuit, but he had been working at one of the main offices of the Nile Mission Press, which were located in these two cities.

⁹ For the Penal Code in Arabic, see Mohami Online, http://mohamionline.com/index.php?option=com_content&view=article&id=72%3Aclassic-style-and-google-fonts&catid=36%3A2011-12-22-07-17-08&Itemid=89 (accessed 25 Jan. 2016). For the French, see *Code Pénal* (Cairo: Imprimerie nationale, 1937).

¹⁰ FO 371/23365, “Memorandum on the Case of Hakim Effendi Wasef,” n.d.

¹¹ Heather Sharkey, *American Evangelicals in Egypt: Missionary Encounters in an Age of Empire* (Princeton: Princeton University Press, 2008), esp. ch. 4; Baron, *Orphan Scandal*, 54.

consequences for Egyptian society. Consistent with liberal doctrine in their home countries, Protestant missionaries in Egypt equated religious freedom with the right to proselytize and the right of autonomous individuals to change religion, for they felt that local law did not protect converts from Islam. In addition to their proselytization efforts, missionaries focused on transforming Egyptian law by reducing the jurisdiction of the shari‘a, perceived as the main obstacle to conversion, and shaping and empowering Egypt’s modern, rights-based legal system. After Egypt gained nominal independence in 1922, by which time religious freedom had become an international legal standard, missionaries pressured British authorities to ensure that religious freedom statutes explicitly protecting conversion were included in Egypt’s first Constitution.

By contrast, the Egyptian legislators tasked with drafting this Constitution sought to avoid explicit guarantees of religious freedom (*hurriyyat al-‘itiqad al-dini*) because they saw it as a critical tool of missionary proselytism that in the past had repeatedly torn the social fabric. During the late 1920s and 1930s, as a series of conversion crises rocked Egypt, Egyptians widely came to articulate religious freedom not as the ability of individuals to choose their religion but rather as the right of protection from moral injury stemming from a perceived missionary assault on the Egyptian nation, defined constitutionally as Islamic. Protection from such feelings had long been the preserve of communal authorities in their role as upholders of the communal *moral order*. However, I will show that as part of the expansion of positivist law (i.e., “neutral,” or free of moral judgment) in the 1920s and 1930s, part and parcel of the emergence of a sovereign state assuming regulative capacities over the population, the Egyptian state proscribed offense to religion within criminal law, transforming what was once a moral issue into a modern legal one carrying punitive consequences of the kind faced by Wasif and Na‘ut. Through the 1937 Penal Code and its successors, the Egyptian state authorized itself to define and police offense to religion as part of preserving *public order*, that “‘active principle’ of secular power” which authorizes the state to decide what counts as religious and what role it should play in social life.¹²

To help us understand why Egyptians tended to consider proselytism deeply threatening, I draw on the notion of seduction. Seduction refers to the manipulation of another’s desire, though not in the limited sexual sense with which the word is most often associated today. The verb “to seduce” (Fr. *séduire*), as Jean Baudrillard observed, has its etymological roots in Latin, with the word *se-ducere* meaning “to take aside, to divert from one’s path.”¹³ Thus, to seduce can mean “to lead the other from his/her truth,” and

¹² Hussein Ali Agrama, *Questioning Secularism: Islam, Sovereignty, and the Rule of Law in Modern Egypt* (Chicago: University of Chicago Press, 2012), 30–31.

¹³ Jean Baudrillard, *Seduction*, Brian Singer, trans. (Montréal: New World Perspectives, 2001 [1979]), 22.

to be seduced “to be turned from one’s truth.”¹⁴ According to Baudrillard, this play of power is coercive because the seducer captures the other without their consent by either performing as the object of desire or letting the other believe they are the subject of desire.¹⁵ The Latin understanding of seduction described by Baudrillard is strikingly different from the modern liberal version, which is associated with adept persuasion, consent, and choice. As Talal Asad has shown, in liberal societies, from which missionaries hailed, seduction is valued positively, especially in the marketplace, as a sign of individual freedom because it is seen to involve reasoned choice. By contrast, coercion is illegal because, rather than consent, it involves compulsion through the threat of or actual harm to another’s property (including the body).¹⁶

In Islamic theology, seduction, glossed in Arabic with terms such as *fatana* (“to subject to temptations,” and the root of *fitna*, meaning “captivation” or, more often, “disorder”), *rawada* (“to entice,” “to tempt,” or “to lure away,” in a sexual sense), and *gharra* (“to mislead” or “to make desire what is false,” and the root of the noun *ighra*, meaning “to attract someone,” often in a way that undermines self-control), has been viewed with serious consternation due to how it combines coercive inducement of desire with disorder or social unrest. As Talal Asad points out, “Muslim theologians and jurists assumed that seduction in all its forms was necessarily dangerous, not only for the individual (because it indicated a loss of self-control) but for the social order too (it could lead to violence and civil discord).”¹⁷ Diverting one from the true path toward the pursuit of individual pleasures and desires beyond the limits of self-control could produce anxiety and peril seen to undermine the common good (*al-maslaha al-amma*), the basis for a righteous community.

As Egypt transitioned to the nation-state form, Egyptians across religious divides often experienced missionary seduction, attempts to divert one from their truth into Protestantism, as an attack (*ta’n*) on the collective body that, despite its limited success, caused moral injury on the communal level. Moral injury involves degrading the standing or status of an individual or community, not in the law but in terms of moral being, value, and dignity, which in its most radical form is actuated through bodily harm. Though moral injury is universal and trans-historical, its form is linked to socially and historically conditioned moral experience, as is the response to it.¹⁸ In the face of particularly

¹⁴ Ibid., 86.

¹⁵ Ibid., 91.

¹⁶ Talal Asad, “Free Speech, Blasphemy, and Secular Criticism,” in Talal Asad, Wendy Brown, Judith Butler, and Saba Mahmood, “Is Critique Secular? Blasphemy, Injury, and Free Speech,” *Townsend Papers in the Humanities*, no. 2 (Berkeley: Townsend Center for the Humanities, 2009), 27–33.

¹⁷ Ibid., 37–38.

¹⁸ This definition is adapted from J. M. Bernstein, *Torture and Dignity: An Essay on Moral Injury* (Chicago: University of Chicago Press, 2015), esp. 3, 123.

aggressive forms of proselytism, Egyptians tended to express moral injury in a local ethical vernacular around blasphemy that, though embedded within the Islamic tradition, was broadly shared. The experience of moral injury propelled novel articulations of religious freedom as protection from moral injury (and thus protection *of* religion). Yet the eventual entry of religious freedom defined as such into Egyptian public law did not mean that moral injury became intelligible within Egypt’s legal system. Through religious freedom, the state has sought to regulate public order rather than maintain the common good, ultimately exacerbating rather than resolving religious divides.

This study contributes to important scholarly discussions in history and anthropology. Recent historical scholarship on Egypt’s missionary encounter has described the various ways in which American and European Protestant missionaries shaped religion and politics in nineteenth- and twentieth-century Egypt.¹⁹ My research builds on this literature in three ways. First, it focuses on the Egypt General Mission (henceforth EGM), a British missionary group founded in 1898 that eventually became Egypt’s second largest mission,²⁰ which has received less attention relative to other Protestant missions.²¹ I concentrate on the EGM because of its substantial influence, leading the Inter-Mission Council formed in 1921, and its focus on Egypt’s Muslim majority, making it an important participant in debates over religious freedom. However, the article’s findings are generalizable to many of the Protestant missionary groups that were active in Egypt. Though focused on different populations, these groups generally sought to convert who they could and worked in concert toward this end, each claiming a territory and careful not to step on the other’s toes.²² Second, my study adds a genealogical approach in which concepts are presumed to form not linearly or progressively as the teleological “evolution” of an ideal, but rather contingently and fluidly, acquiring new significations through time as locally embedded actors attempt to shape them toward their own ends. Third, the article highlights the role of missionaries in the unfolding of secularism in Egypt.²³ In this respect, and by offering a detailed account of religious freedom’s formation that ties together the legal, political, and social realms, the study also compliments recent anthropological

¹⁹ In particular, Sharkey, *American Evangelicals*; Paul Sedra, *From Mission to Modernity: Evangelicals, Reformers and Education in Nineteenth-Century Egypt* (London: I. B. Tauris, 2011); and Baron, *Orphan Scandal*.

²⁰ Earl Edgar Elder, *Vindicating a Vision: The Story of the American Mission in Egypt, 1854–1954* (Philadelphia: Board of Foreign Missions of the United Presbyterian Church of North America, 1958), 163.

²¹ For a recent study on European missions, including the EGM, see Samir Boulos, *European Evangelicals in Egypt (1900–1956): Cultural Entanglements and Missionary Spaces* (Leiden: Brill, 2016).

²² Baron, *Orphan Scandal*, 36.

²³ Sharkey, *American Evangelicals*; Baron, *Orphan Scandal*.

literature on secularism that uses Egypt as a case study, which has provided valuable analytical frameworks that inform this discussion.²⁴

CONSTITUTING RELIGIOUS FREEDOM

Prior to the emergence of the Egyptian nation-state, religious freedom (unlike other forms of freedom, including of the press) had little salience in Egypt. The idiom of religious rights had played a role in Protestant missionizing efforts in the region since the nineteenth century, but it may not have spoken to the experiences of local communities that tended to view as foreign the kind of sectarian discord and violence that gave rise to legal protection of religious freedom.²⁵ As early as 1861, missionaries from the American United Presbyterian Church demanded religious liberty when one of their representatives in Egypt, a Syrian convert and lawyer by the name of Faris al-Hakim, was beaten in an Islamic court in Assiut and imprisoned. Al-Hakim had been defending a Coptic woman whom he had converted to Protestantism and attempted to marry to a Christian man some five years after she had converted to Islam, married a Muslim, and given birth to a baby girl. The *qadi*, concerned less with al-Hakim's internal beliefs than with their effects, accused al-Hakim of having "deceived her, and enticed her from her religion," and then, after al-Hakim responded by cursing Islam as an "infidelity," of "attacking the Mohammedan religion" and "causing skepticism among the common people." Al-Hakim came under physical attack in the courtroom before being imprisoned, and was released only through the intervention of the U.S. government and Abraham Lincoln himself, who echoed the missionaries' call for "religious liberty." Yet throughout the affair, never did locals frame their grievances in the language of religious rights.²⁶ And neither would they do so in subsequent controversies involving Muslims converting to Christianity prior to the 1920s, including two prominent affairs in 1908 and 1911.²⁷

Beyond these sorts of cases, religious freedom was similarly absent from the political and intellectual realms. When a group of Egyptian Coptic elites

²⁴ E.g., Talal Asad, *Formations of the Secular: Christianity, Islam, Modernity* (Stanford: Stanford University Press, 2003); Agrama, *Questioning Secularism*; and Saba Mahmood, *Religious Difference in a Secular Age: A Minority Report* (Princeton: Princeton University Press, 2016).

²⁵ During an infamous period of sectarianism (*al-ta'assub al-dini*) in Egypt between 1908 and 1911, for example, many Egyptian writers claimed that such religious discord was unprecedented in their country and incomparable to the kinds witnessed in Europe. See, for example, Tawfiq Habib, *Tidhkar al-Mu'tamar al-Qibti al-Awwal: Majmu'a Rasa'il Musawwira* (Matba'a al-Akhhbar li-Misr, 1911).

²⁶ New York Historical Society, "Religious Toleration in Egypt: Official Correspondence Relating to the Indemnity Obtained for the Maltreatment of Faris el-Hakim, an Agent of the American Missionaries in Egypt; Reprinted from Published Official Documents" (London: Warrington, printer, 1862).

²⁷ For the 1908 case, see FO 141/520, "Sir E. Gorst to Sir E. Grey," 30 Oct. 1908. For the 1911 case, see Majlis al-Nuwwab, *Majmu'at Mudabit dawr al-In'iqad al-'Adi al-Thalith*, Jalasa 69, 28 May 1928; and al-Bishri, *al-Muslimun*, 574.

organized a Coptic Congress in 1911 to make demands of the colonial state on behalf of the Coptic community, including several related to religious practice, they framed their claims in terms of equality with Muslims rather than religious freedom.²⁸ Similarly, in his writings on freedom prior to World War I, the intellectual giant of liberalism in Egypt, Ahmad Lutfi al-Sayyid, had little to say about this concept. In a 1912 article theorizing freedom, he addressed political freedom and personal freedom, but not religious freedom.²⁹ Nor did he address it in other writings from the period.³⁰

Religious freedom emerged within Egyptian public life with the global extension of the nation-state system after World War I, which rendered it an essential component of the laws of states. Part of the broader notion of protection of (religious) minorities, religious freedom became an instrument with which the newly established League of Nations, dominated by the “Great Powers,” could regulate certain states and national societies through law. Many new states perceived religious freedom as an obstacle to full sovereignty, and thus an enticing terrain for attempting to expand their authority through the regulation of religion. The minority rights regime also enticed missionaries. With the specter of political independence threatening the continuation of their work, missionaries embraced the banner of religious rights. In religious freedom, the interests of the League of Nations and missionary societies converged.³¹ Given this background, when Egyptian legislators drafted Egypt’s first Constitution in the early 1920s, the question was not *whether* but *how* to engage with religious freedom, answers to which were powerfully shaped by Egypt’s encounter with Protestant missionaries. It was precisely in the process of drafting the Constitution, introduced in 1923, that religious freedom first came to be contested.

In 1921, as Egypt’s Constitutional Committee debated the contours of a new constitutional order, the EGM petitioned the British High Commission to advance missionary objectives. The petition initiated the language of religious freedom, a concept that would be central to the EGM’s political program during the 1920s and early 1930s and become increasingly available to Egyptians to make their own claims to religious rights. Realizing that “the institutions of Egypt [were] being remodeled,” the EGM sought to expand

²⁸ Habib, *Tidhkar*, 85–87.

²⁹ Ahmed Lutfi al-Sayyid, “al-Hurriya,” *al-Jarida*, 1 May 1912. The article was reproduced in Lutfi al-Sayyid, *al-Muntakhabat*, pt. 1 (Cairo: Dar al-Nashr al-Hadith, 1937), 296–98. The volume contains another article on freedom of opinion (*hurriyyat al-ra’i*) that also does not address religious freedom; see pp. 299–300.

³⁰ See, e.g., Ahmad Lutfi al-Sayyid, *Mushkilat al-Hurriyyat fi al-‘Alam al-‘Arabi* (Beirut: Dar al-Rawa’i’ 1959), which is a collection of Lutfi al-Sayyid’s articles from different periods.

³¹ The volume *Religious Liberty in the Near East* (London: Harper and Brothers, 1938), by Helen Clarkson Miller Davis, is evidence of this convergence. Clarkson Miller Davis herself was involved over the course of her career in both the League of Nations and the Board of Foreign Missions of the Presbyterian Church of North America.

the domain of civil law and confine that of shari'a.³² In the view of missionaries, whereas the new Constitution would likely protect religious freedom, understood as the ability to proselytize and to convert from Islam, the shari'a clearly violated it. Believing firmly in law's power to transform human sensibilities, the missionaries insisted that empowering modern law, premised on the autonomous individual, would also defuse the perceived irrational responses that their proselytism inspired—what Egyptian Muslims understood as the expression of legitimate outrage.

Missionary objectives divided into three categories: the situation of Egypt's Christians, matters of conversion, and the ability to continue missionary work unimpeded.³³ I will focus here on the first two. In regard to Christians in Egypt, the EGM demanded that "liberty be accorded to all men to rest and to worship on the day prescribed by their several faiths," and that appointments and promotions in employment be based on merit rather than religious affiliation. These requirements were intended to open a space for Egyptian Christians to claim religious rights before the state. The EGM also demanded that legal procedures in which one or both sides were non-Muslims be barred from taking place in the shari'a courts. The parties involved, the EGM argued, should have the liberty of agreeing on a mutually acceptable communal court, and if they could not, their case should be settled not by a Muslim *qadi* (as had been common practice) but in the Mixed Courts. The EGM's underlying aim was clearly to undermine the authority of Islamic law.³⁴ As William Paton, a British Presbyterian missionary who served as secretary of the Inter-Mission Council, bluntly put it, "It was said to me in the Near East, not only by missionaries but by foreign officials and other observers of different kinds, that 'the Shariat must go.'"³⁵

In terms of conversion, the EGM demanded that "steps be taken in the new Constitution to secure to all Egyptian subjects freedom in regard to change of faith, so that one who desires to change from Islam to Christianity may not be liable to injury in person, family or estate."³⁶ The EGM saw the ability to convert as the litmus test of religious freedom. While a 1913 law had established a state infrastructure for registering conversions, it assumed that conversions were unidirectional, into Islam.³⁷ Conversion cases from the period show

³² Archives and Special Collections, SOAS Library (hereafter SOAS), JCRL/09/03, "Bishop of Jerusalem and Missionary Secretaries to the High Commissionery of Egypt," 1 June 1920, 1. Throughout this article, "shari'a" generally refers to Muslim personal status law as codified in Egypt.

³³ *Ibid.*, 1–5.

³⁴ *Ibid.*, 1–2.

³⁵ SOAS JCRL/09/03, "Memorandum on Religious and Missionary Freedom in the Near East," n.d., 8.

³⁶ SOAS JCRL/09/03, "Bishop of Jerusalem and Missionary Secretaries to the High Commissionery of Egypt," 1 June 1920, 2.

³⁷ For the law, see Clarkson Miller, *Religious Liberty*, 104. It was decree no. 2466, issued on 28 Feb. 1913.

how conversion out of Islam was not illegal per se (as the EGM suggested) but unsustainable in an Islamic legal setting.³⁸ Such cases, especially when involving girls and women, landed in the shari‘a courts as the *tribunal de droit commun* (court of common law), with converts usually returned to their families and Islam. Thus, the EGM sought an “official and departmental method ... by which a Mohammedian who becomes a Christian can have the fact noted and registered.”³⁹ Put differently, this organization, whose members worked to convert souls often with legal impunity under the Capitulations, sought to empower a modern legal system to facilitate Muslim conversion to Christianity in a Muslim-majority and nominally sovereign country defining itself as Islamic. For this reason, some began to associate secular law with Christianization and violation of the national body.

Yet the missionaries also sought more. The EGM demanded that Muslims be able to convert with security—and not only physical but also financial. “When the family property is in the normal course being divided,” they urged, “the change of faith of one member should not per se prevent him from inheriting his share, and ... in signing he should not be forced to sign exclusively his former Moslem name, thus forcing on him a virtual profession of a return to Islam.” Exempting *waqf* inheritance, which they sought to eliminate, and a father’s own decision to “cut off his son with or without a shilling,” Muslim converts to Christianity, they argued, should have the right to inherit as Christians. This right, they pointed out, had already been made available in India through the 1832 Bengal Code. Although the EGM acknowledged that granting inheritance rights to converts from Islam in Egypt would inspire Muslim opposition, in India, it claimed, such opposition had been overcome by the “patent justice of reform.”⁴⁰

The missionaries’ understanding of just reform, then, was an expansion of civil law that, deaf to local moral injury, enabled “freedom,” or an individual’s ability to choose a religion. This understanding presumed both a normative view of religion based on the individual’s cognitive choice to believe, and an ideal human, the autonomous individual whose inalienable property included not only their body, but also their belief, free speech (to profess), and material possessions. On this basis, the missionaries concluded that shari‘a and the shari‘a courts were impediments to freedom, forming a binary that,

³⁸ Thus, when the missionary lawyer Faris al-Hakim, discussed earlier, claimed in an Assiut shari‘a court the ability to marry a recent convert from Islam to a Christian man according to Christian law, the *qadi* responded that this simply “could not be in the land of Islam, protected by the power of the Sultan of Islam and the most potent Viceroy, but that that [*sic*] might take place in the land of infidelity.” New York Historical Society, “Religious Toleration.”

³⁹ SOAS JCRL/09/03, “Bishop of Jerusalem and Missionary Secretaries to the High Commissionership of Egypt,” 1 June 1920, 3.

⁴⁰ *Ibid.*, 3–4.

incidentally, has persisted until today.⁴¹ Their proposals for enshrining freedom in law represented a direct challenge to Egypt's Muslim majority.

Egypt's 1923 Constitution promised religious freedom, but not quite in the ways the missionaries had advocated. Decided upon by a Constitutional Committee made up of Muslim, Christian, and Jewish Egyptian members with the "input" of British advisors, it included five clauses touching on religious freedom. We will discuss two that center on the regulation of religious practice: Article 12, stating that "freedom of conviction is absolute" (*hurriyyat al-i'tiqad mutlaqa*); and Article 13, declaring that the state protects the use of religious and creedal slogans "according to customary practice in Egypt so long as that does not disturb public order [*al-nizam al-'amm*] or contradict morals [*adab*]."⁴² The first thing to note about these clauses is that they did not guarantee what the missionaries had sought, and what the British had thought the better of advocating—principally, the freedom to convert from Islam. In fact, they did not make explicit guarantees of religious freedom at all. Article 12 guaranteed protection of what was vaguely termed "freedom of conviction" (*hurriyyat al-i'tiqad*). This formulation was the outcome of a debate within the Constitutional Committee. The clause's original phrasing, based on George Curzon's articulation and combined with what became Article 13,⁴³ was slightly different: "Freedom of *religious* conviction [*hurriyyat al-i'tiqad al-dini*] is absolute [my emphasis]. All residents of Egypt have the right to use with complete freedom, in public or in private, the slogans of any community [*milla*], religion [*din*], or creed [*'aqida*], so long as these slogans do not contradict public order or general morals [*al-adab al-'umumiyya*]."⁴⁴

The word "religious" was expunged because, as committee member Muhammad Khayrat Radi pointed out, otherwise "it would be permitted for every person to leave his religion and embrace another religion without bearing responsibility for that through civil or non-civil penalty, despite that there is no dispute that important outcomes related to inheritance, etc., result from it."⁴⁵ In other words, instituting religious freedom would have enabled the conversions sought by missionaries, which had proven so disruptive to the social fabric. The issue of religion was left to the second part of the clause—a version of which later became Article 13—which stated that the expression of religious slogans was protected but that the state could exclude religious speech that "contradicts public order or general

⁴¹ Talal Asad questions the presumption of an autonomous individual free from all constraints undergirding this notion of freedom, which has a Christian lineage, while also conveying a different understanding of freedom and the individual within the Islamic tradition. Asad, "Free Speech."

⁴² "Al-Dustur al-Misri li-Sanat 1923," <http://www.faroukmisr.net/report86.htm> (accessed 25 Jan. 2016).

⁴³ *British Foreign and State Papers* (London: H. M. Stationary Office, 1924), 204.

⁴⁴ Lajnat al-Dustur, *Majmu'a Muhadir al-Lajna al-'amma* (Cairo: al-Matba'a al-Amiriyya, 1924), 77.

⁴⁵ *Ibid.*, 115.

morals.” Whereas religious communal authority had historically regulated limits around speech as part of upholding a righteous community, that power now belonged to the state, guided by its own conception of morality and public order.

Yet religious freedom was dangerous for other reasons too. For some, such as the Islamic reformer Muhammad Bakhyat al-Muti‘i, the clause that would become Article 13 was too open in its definition of religion itself. “I request that the text be limited to recognized religions, whether heavenly or not heavenly,” he stated, “so as not to permit the creation of a new religion, such as a person claiming, for example, that he is the *mahdi* and bringing a new revelation.” Bishop Anba Yu‘annis, a committee member from the Coptic Church, shared Bakhyat al-Muti‘i’s view, providing a specific example of what was at stake. A certain “Sirjiyus, well-known to you all [committee members], left religion and truth in establishing a new religion, and requested from the government authorization for that and was refused. This is evidence that it is not possible to authorize unrecognized religions.”⁴⁶ The bishop was referring to Qommus Sirjiyus (Malti Sirjiyus ‘Abd al-Malik), a passionate Coptic Christian reformer who had repeatedly challenged the patriarchate and was excommunicated three times.⁴⁷ Due to such concerns, in the final version of the Constitution, the freedom to express “slogans of any community, religion, and creed” was modified to the freedom to express “slogans of religions and creeds according to *customary practice* [my emphasis].”⁴⁸

This formulation conveys how boundaries of free speech tend to be drawn to accommodate majoritarian populations within nation-states rather than minorities, who may draw on the same legal instruments as majorities to prevent harmful speech but rarely meet with success.⁴⁹ Through the formation of the Egyptian nation-state, Muslims became a majority (*akthariyya* or *aghlabiyya*, though the latter term, connoting domination rather than numerical superiority, eventually prevailed), with Islam the state religion, and Copts a minority (*aqalliyya*), though some prominent Copts such as the Wafdist Wisā Wasif contested this label on the basis that Copts were the “original Egyptians” rather than a separate group deprived of national rights, like Jews in parts of Europe.⁵⁰

⁴⁶ Ibid.

⁴⁷ On Qommus Sirjiyus, see Vivian Ibrahim, *The Copts of Egypt: The Challenges of Modernization and Identity* (London: I. B. Tauris, 2011), 59–67.

⁴⁸ See “al-Dustur al-Misri li-Sanat 1923.” The omission of the word *milla* in the final version of the text is also noteworthy, suggesting that the committee may have seen it as antiquated. They used *adyan* and ‘*aqā’id* instead.

⁴⁹ See Mahmood, “Religious Reason and Secular Affect: An Incommensurable Divide?” In Talal Asad, Wendy Brown, Judith Butler, and Saba Mahmood, “Is Critique Secular? Blasphemy, Injury, and Free Speech,” *Townsend Papers in the Humanities*, no. 2 (Berkeley: Townsend Center for the Humanities, 2009), 64–100.

⁵⁰ Seteney Shami, “*Aqalliyya*/Minority in Modern Egypt Discourse,” in Carol Gluck and Anna Lowenhaupt Tsing, ed., *Words in Motion: Towards a Global Lexicon* (Durham: Duke University Press, 2009), 165.

However, majority and minority could easily coalesce into a majoritarian front when it came to certain shared interests such as determining the legal boundaries of religion. The introduction of religious freedom into Egypt did not open space for “free” religious thought, speech, and practice, which everywhere is no more than an ideal. Rather, it propelled the legal codification of the boundaries of “legitimate” religious practice.

“STRANGE STORIES” OF CONVERTED MUSLIMS

The complex and contingent translation of religious freedom into Egyptian law made this concept more readily available within Egyptian society. Egyptians came to articulate religious freedom through a local ethical vernacular around moral injury, a statist project of public order, or both, as a defense against missionary proselytism and conversion of locals, which were seen to threaten the social fabric. Historians who have broached the subject of religious freedom in Egypt have shed light on at least four cases involving conversion and polemical speech acts about Islam that occurred in the early 1930s.⁵¹ While they are important, I focus on an earlier set of cases because they have yet to be analyzed in detail (and not at all in English) and because they provide important context for their successors.

In April 1926, a young woman named Zakiya Ahmad Salih from Alexandria entered the EGM hospital in the Nile Delta region of Shibin al-Qanatir “of her own free will and at the desire of her family” to be trained as a nurse. During the previous few years, Zakiya had attended an EGM missionary school in Anfushi.⁵² Her father had passed away in 1924 and perhaps she and her remaining family—her mother and two brothers—sought additional income. There are conflicting reports of what occurred at the hospital. According to Zakiya’s younger brother Yunus, about two years into Zakiya’s training, when she was about sixteen or seventeen,⁵³ she wrote to her family begging them to take her home. Responding to her plea, Yunus arrived at the hospital to find that the staff would not permit her to leave. Worse still, “they [had] obliged her to change her religion to be a Christian.” The missionaries in charge, Yunus explained, “feared she may return to her original religion” if they allowed her to rejoin her family. By his account, when he insisted on taking his sister home to his mother, who was “suffering ... sorrow,” they forcibly removed him from the school. In a letter in broken English to British authorities, Yunus pleaded for intervention, explaining that he had contacted the police

⁵¹ For a description and discussion of these cases, see Sharkey, *American Evangelicals*, 116–33. On the most prominent of them, the Turkiyya Hasan Affair, see Baron, *Orphan Scandal*.

⁵² FO 141/520, “Memoranda in the Case of Zakia Ahmed Salih,” n.d. The case is mentioned briefly in al-Bishri, *al-Muslimun*, 574.

⁵³ FO 141/520, “Acting High Commissioner R. H. Moore to the Residency,” 2 June 1928, 1. Zakiya’s precise age was unknown.

but they lacked the power to help him.⁵⁴ The EGM, a British Protestant mission, was allegedly hiding her under the cover of the Capitulations.⁵⁵

The EGM described matters differently. In its telling, Zakiya’s family was familiar with the hospital, her cousin having already trained there and her mother having stayed as a guest. In 1926, Zakiya had supposedly had a fight with a female coworker and wrote a letter to her brother asking him to bring her home, which he did. On arriving, however, he admonished her for leaving “good employment” in “a good place.” Zakiya soon returned to the hospital. Then, in the spring of 1928, Zakiya is said to have written again to her brother, this time to inform him of her “preference for Christianity, especially for Christian home-life.”⁵⁶ After receiving this letter, Yunus traveled to Shibin al-Qanatr intent on retrieving his sister, but Zakiya refused to leave.⁵⁷

According to an EGM memorandum, Yunus, frustrated by his sister’s intransigence, lodged a complaint with the Interior Ministry. He also opened a case in the shari‘a court. In the meantime, her other brother Muhammad and his mother reached out to the *ma’mur* (provincial sub-governor) for aid. The *ma’mur*, who was also contacted separately by Yunus, argued that Zakiya was old enough to decide for herself what to do. On 5 May, Zakiya received a visit at the hospital from the *wakil al-niyaba* (public prosecutor) who questioned the girl to ascertain her true wishes. The *wakil* also called in Muhammad and told him “to do what he could to persuade her to come with him.” With Zakiya still refusing to leave, the *ma’mur* concluded that his only option was to consent to her remaining at the hospital.⁵⁸

Just when the matter seemed settled, the shari‘a court, where Yunus had opened a case, issued a ruling that ordered the hospital to give up Zakiya. The EGM, outraged by the ruling and arguing that it was based on false testimony, demanded postponement of its execution and an appeal, which were granted.⁵⁹ As word of the delay spread, the Wafdist deputy, Mahjub Thabit, raised in the Chamber of Deputies the issue of Zakiya’s conversion and “the negligence committed by the *ma’mur*” to Interior Minister (and future Prime Minister) Mustafa al-Nahas, whose responsibility it was to execute judicial rulings.⁶⁰ After communicating with British authorities, and with the approval of the Coptic minister of foreign affairs Wassif Ghali and Shaykh of al-Azhar

⁵⁴ FO 141/520, “Yunus Ahmad Salih to His Majesty’s Government,” 23 Apr. 1928.

⁵⁵ *Al-Balagh*, 28 May and 3 June 1928.

⁵⁶ FO 141/520, “Memoranda in the Case of Zakia Ahmed Salih,” n.d. It is unclear whether Zakiya actually underwent baptism. Whereas Yunus’ account suggests that she may have, an article in the *Egyptian Gazette*, possibly written by a missionary, suggests she did not. *Egyptian Gazette*, “Correspondence. Strange Story of a Converted Muslim Girl,” 1 June 1928.

⁵⁷ FO 141/520, “Memoranda in the Case of Zakia Ahmed Salih,” n.d.

⁵⁸ *Ibid.*

⁵⁹ FO 141/520, “Memoranda in the Case of Zakia Ahmed Salih,” n.d., 2.

⁶⁰ Majlis al-Nuwwab, *Majmu‘at Mudabit dawr al-In‘iqad al-‘Adi al-Thalith*, Jalasa 69, 28 May 1928, 1153.

Mustafa al-Maraghi,⁶¹ al-Nahas ordered the shari‘a court’s judgment to be implemented the following morning.⁶² Embracing the ruling, Mahjub Thabit explained that it was guided by religious freedom, particularly Article 13 of the Egyptian Constitution protecting religious slogans according to customary practice unless they *disrupt public order or contradict morals*.⁶³ Thabit invoked painful memories of missionaries having violated the public order and morality, including a particularly memorable case from 1911, mentioned earlier. “It is necessary that the missionaries know,” Thabit argued, “that Egypt’s Muslims, Christians, and Jews, are but different birds united on the same one tree not wanting any disturbance to spoil their serenity.” Concluding his remarks with hope that such incidents would not repeat themselves, Mahjub Thabit received applause from the chamber.⁶⁴

Al-Nahas and the Interior Ministry articulated a notion of religious freedom guided by the logic of public order and protecting the social fabric from the dangers of seduction. This notion contrasted with that expressed by the EGM in its memoranda “defending” Zakiya, which privileged individual choice (and thus consent) protected by the Constitution. EGM Secretary George Swan, in his own comments, recognized the legal indeterminacy of the case, where constitutional protection of the individual’s religious freedom contradicted shari‘a. However, he argued that it was constitutional law that should take precedence. “In the passage of a country from the mediaeval political conception to the modern democratic conception, which the Egyptians are now professing,” Swan suggested, “there will inevitably be difficulties, and that in the meeting of them it is precisely the Shariat which will always rise up in the path.” The shari‘a was an obstacle for removal, not through its abrogation, “which is theoretically impossible,” but through “the quiet substitution of civil statutes for its canon laws on the part of the State, coupled with the staying of execution of such judgments as conflict with those civil statutes.”⁶⁵ Displaying a secularizing impulse, Swan and the EGM advocated expanding state-administered, modern law and diminishing shari‘a, which was already in the process of being reconfigured as a separate legal domain subject to state intervention.⁶⁶

Yet in its memorandum the EGM also tried to defend Zakiya’s conversion in terms of shari‘a in an effort to undermine the ruling. The EGM asserted that

⁶¹ FO 141/520, “Acting High Commissioner R. H. Moore to the Residency,” 2 June 1928, 2–3.

⁶² Majlis al-Nuwwab, *Majmu‘at Mudabit dawr al-In‘iqad al-‘Adi al-Thalith*, Jalasa 69, 28 May 1928, 1153.

⁶³ *Ibid.*; FO 141/520, “Chambre des deputes: La Conversion d’une jeune musulmane au protestantisme,” 28 May 1928.

⁶⁴ Majlis al-Nuwwab, *Majmu‘at Mudabit dawr al-In‘iqad al-‘Adi al-Thalith*, Jalasa 69, 28 May 1928, 1153.

⁶⁵ FO 141/520, “Memoranda in the Case of Zakia Ahmed Salih,” n.d., 2. This approach was generally favored by British administrators, as well.

⁶⁶ Asad, *Formations of the Secular*, ch. 7, esp. 209.

Abu Hanifa, the founder of the Hanafi branch of fiqh, taught that “a girl not having previously shown the ordinary signs of womanhood was to be declared [an] adult at the age of 17.” And Zakiya, as an adult (though her exact age at the time is unknown), was in charge of her own personhood with the full rights of an adult, and, by extension, could choose her religion.⁶⁷ One writer (likely a missionary) who contributed an editorial on the issue to the *Egyptian Gazette* under the penname “Old Fashioned Liberal” added that, according to Article 499 of Egypt’s Muslim personal status code, if a female arrives at the age of adulthood and “is a virgin ... and has both prudence and purity or is a non-virgin to be trusted with herself none of her governors can take her to himself.”⁶⁸ If this were not enough, the Qur’an states clearly, the memorandum went on, that “there shall be no compulsion in religion,” and Yunus was guilty of the “crudest and cruelest compulsion” toward his sister.⁶⁹ Compulsion—though not seduction—clearly violated Islamic law.

This reading of Islamic law is indicative of what Islamic law had come to mean not only to missionaries, but also to the British administrators who shaped Egyptian law and politics. On the one hand, Islamic law, similar to Canon law, belonged to a dark era that had been superseded by rational enlightenment and, more particularly, liberalism, with the autonomous individual at its heart. The liberty of the individual was the “mark of true liberalism; it indicates the highest degree of civilization and the triumph of moral ideas.”⁷⁰ On the other hand, Islamic law could not be completely dissolved, for it represented the true character of “Mohammedans,” a mark of colonial difference.⁷¹ And it was the shari‘a courts that were tasked with upholding that character. In part for this reason, Egypt’s (British) Office of the Judicial Advisor, made up of legal positivists rather than evangelists, could push back against the EGM after the mission had reached out to it for clarification, advising, “There is no doubt whatever that under the Sharia Law a girl of the age of 17 can be made to reside with the person who exercises paternal power over her.”⁷²

Having ordered the execution of the shari‘a court’s judgment, parliament demanded that missionaries respect the Constitution and its protection of the “sanctity of religions.”⁷³ On 30 May Yunus accompanied Zakiya to Alexandria,

⁶⁷ FO 141/520, “Memoranda in the Case of Zakia Ahmed Salih,” n.d., 4. The authors of the memorandum seem to have drawn here on *A Dictionary of Islam* by Thomas Patrick Hughes of the Christian Missionary Society, published in 1885. See “Correspondence. Strange Story of a Converted Muslim Girl,” *Egyptian Gazette*, 1 June 1928.

⁶⁸ Ibid.

⁶⁹ FO 141/520, “Memoranda in the Case of Zakia Ahmed Salih,” n.d., 4.

⁷⁰ Ibid., 3.

⁷¹ FO 141/520, “George Swan to High Commissioner Egypt,” 2 June 1928, 2.

⁷² FO 141/520, “Office of the Judicial Advisor to High Commissioner,” 7 June 1928.

⁷³ Majlis al-Nuwwab, *Majmu‘at Mudabit dawr al-In‘iqad al-‘Adi al-Thalith*, Jalasa 69, 28 May 1928, 1153.

where the police were instructed to ensure that “no harm was done to her.”⁷⁴ The EGM, though discouraged by British authorities who feared public outcry and disturbances, pursued an appeal, but the initial ruling was eventually upheld.⁷⁵ Zakiya would remain in the custody of her family.

The EGM missionaries felt bewildered by this outcome, but they knew one thing for certain: Zakiya’s case had inspired others in Shibin al-Qanatir to act against the mission. Central to this effort, they claimed, was a shadowy figure—a leitmotif in missionary discourse concerning Egypt’s anti-missionary movement⁷⁶—the “well-to-do” local merchant ‘Uthman Fakhir, who was outraged by conversion cases in Egypt and nearby Palestine. According to George Swan, when Zakiya “was handed over to her younger brother Othman Fakhr openly showed his triumph and had a great celebration in his house.” Swan maintained that he had helped to “stir up bad feelings” through the press, which followed Zakiya’s case closely. And now Fakhir refused to rest “until he has made it [the hospital] close its doors.”⁷⁷ He was part of an emerging movement outraged by conversion cases that would lead to the establishment of the Muslim Brotherhood.⁷⁸

In July 1928, as Zakiya’s case waited appeal, ‘Aziza Taha ‘Abd al-Rahman ‘Abd al-Hadi, a twenty-one-year-old woman who had spent four years working in the hospital in Shibin al-Qanatir, apparently with her father’s consent, received notice that the shari‘a court had issued a judgment restoring her to his care. The *qadi*, possibly the same judge who was involved in Zakiya’s case, had determined that the hospital “is a morally dangerous place for a young girl.” About six months prior, ‘Aziza had been baptized, also with her father’s consent. She adopted the name Phoebe, under which she registered in the Egyptian Protestant community’s al-Majlis al-Milli (Millet Council). But now ‘Aziza’s father sought to remove her from the hospital, apparently at the prodding of ‘Uthman Fakhir, the “menace to public security.”⁷⁹ The EGM, which oversaw the hospital, reacted by refusing to handover ‘Aziza to police authorities, and launched an appeal. As with the judgment in Zakiya’s case, this one had been carried out without prior notice to the young woman in question.⁸⁰ The appeal was seen by some foreign legal onlookers as a test case pitting the Constitution’s apparent protection of conversion against the shari‘a’s denial of it to Muslims.⁸¹

⁷⁴ FO 141/520, “Extract from Minutes of the Standing Committee of the Egypt Intermission Council Held at Cairo,” 9 Nov. 1928, 1.

⁷⁵ FO 141/520, “Acting High Commissioner R. H. Moore to the Residency,” 2 June 1928, 4.

⁷⁶ For example, in the 1933 Turkiyya Hasan Affair, missionaries discussed a different murky figure, Dr. Sulayman, in strikingly similar terms. See Baron, *Orphan Scandal*, 14–19.

⁷⁷ FO 141/520, “George Swan to High Commissioner Egypt,” 26 July 1928, 2.

⁷⁸ See Baron, *Orphan Scandal*.

⁷⁹ FO 141/520, “George Swan to High Commissioner Egypt,” 26 July 1928, 3.

⁸⁰ FO 141/520, “George Swan to Lomas, Esq.,” n.d.

⁸¹ See, e.g., *Times*, “Religious Law in Egypt: A Test Case. To the Editor of the Times,” 10 Sept. 1928.

In the meantime, the missionaries considered trying to transfer the girl’s custody to the “relations of another young girl,” but, given that before her baptism ‘Aziza had been married, divorced, and finally remarried (to a convert), the involved legal obstacles seemed insurmountable. Instead, they attempted to meet with the high commissioner to explore steps for securing “the liberties of the Constitution” to converts.⁸² For their part, British authorities tried to “defend” ‘Aziza as well. Searching for a legal rationale for reversing the judgment, they sought and received several adjournments of the appeal. They had considered challenging the case on the grounds that the twenty-one-year-old had legitimately converted and, as an adult, was subject not to Muslim personal status law (and thus the shari‘a courts), but to that of the Egyptian Protestant community, which had enjoyed state recognition since the nineteenth century. However, ‘Aziza’s father had based his case in the shari‘a court on his daughter being a minor. Absent a birth certificate establishing her age, it was the father who had the advantage because any legal indeterminacy between religious courts meant deferral to the shari‘a courts. Another option that the British explored was to interpret Muslim personal status law in a way that paternal custody (*puissance paternelle*) ceased at puberty or at latest when one is competent to handle property. But after the judicial advisor, who “very carefully” explored legal questions involved in the case, consulted Shaykh of al-Azhar al-Maraghi, he concluded that this argument would never stand in court.⁸³ With all avenues blocked, the British agreed not to oppose the execution of the shari‘a court’s judgment so long as arrangements were made for ‘Aziza to be placed in a government hospital or institution, “where she should have the best chance of being free from molestation or ill-treatment” by her family.⁸⁴ In different ways, both the missionaries and British authorities had sought ‘Aziza’s freedom from coercion and pain, whether spiritual or physical, even as missionary attempts at seduction, often under the protective watch of British authorities, had been a cause of collective moral injury.

Another kind of pain was at work in late 1928, in a case that recalled the Zwemer affair. Rather than in Cairo, this case occurred in Isma‘iliyya where the Muslim Brotherhood was beginning to take form; but like the case in Cairo, it involved what the local community saw as the provocative distribution of missionary literature. As elsewhere, missionaries in Isma‘iliyya routinely distributed bibles and pamphlets. Lately, however, they had “started to attack the Mohammeden Religion openly and severely,” as Ahmad Muhammad Shakir, a judge in the Isma‘iliyya shari‘a court, pointed out. “They go about with pamphlets and books containing bitter criticism of the Moslem Faith,” he explained,

⁸² FO 141/520, “Extract from Minutes of the Standing Committee of the Egypt Intermission Council Held at Cairo,” 9 Nov. 1928.

⁸³ FO 141/520, “Judicial Advisor to Oriental Secretary,” 17 Dec. 1928.

⁸⁴ *Ibid.*

“which no Mohammeden would tolerate.”⁸⁵ The sting of this bitter criticism was worsened by a recent incident involving sixteen-year-old Muhammad ‘Ali, who worked as a fireman with the Egyptian State Railways. For about a year, Muhammad had been considering conversion to Christianity, until it was arranged that he would be baptized publicly in the Church of Isma‘iliyya.⁸⁶ According to a complaint handed to the judge of the Isma‘iliyya shari‘a court, Muhammad had also fallen in love with a local girl, the daughter of an EGM preacher. The preacher was unwilling to allow him to marry his daughter unless he publicly embraced Christianity. The demand that the embrace be public, if true, was likely an attempt to ensure that Muhammad’s conversion was genuine. With his baptism scheduled, Muhammad notified the Isma‘iliyya government of his intention to convert, notification that was forwarded to the Ministry of Justice in Cairo.⁸⁷

As the conversion date approached, word spread and outrage grew, as did the anxiety of the local Isma‘iliyya government.⁸⁸ In his complaint to the Shaykh of al-Azhar, the judge Ahmad Muhammad Shakir wrote that “they intended to celebrate the occasion in a manner which would have infuriated the peaceful Moslem population of Ismailia.”⁸⁹ However, on the day of the conversion, Muhammad’s family “kept him in the house by force so the public baptism never took place.”⁹⁰ According to the judge, Muslim notables and authorities had intervened.⁹¹ Though a public ceremony had been avoided, Muhammad was apparently baptized outside the city at a later date. Unlike Zakiya and ‘Aziza, this young man continued to live openly as a Christian, reflecting the different discursive, ideological, and material entanglements that Egyptian men and women experienced in their encounters with missionaries.⁹²

As with the other two cases, this affair involved and reproduced divergent visions of religious freedom. The missionaries advocated Muhammad’s “right” to change his religion based on the Constitution. Judge Ahmad Muhammad Shakir and Shaykh of al-Azhar al-Maraghi felt differently. The judge emphasized not only the “indignation” and “infuriation” of local Muslims at the notion of the public conversion, but also the missionaries’ “disregard of our

⁸⁵ FO 141/520, “The Judge of the Isma‘iliyya Court,” n.d.

⁸⁶ FO 141/520, “Keown-Boyd to the Residency,” 12 Dec. 1928.

⁸⁷ FO 141/520, “Keown Boyd to the Residency,” 9 Dec. 1928. It is unclear why notification was sent to the Ministry of Justice given that the latter does not seem to have had an infrastructure for registering conversions from Islam. Muhammad may have been seeking protection.

⁸⁸ *Ibid.*

⁸⁹ FO 141/520, “Ahmad Mohammed Shaker to His Eminence Sheikh of El Azhar,” 21 Nov. 1928.

⁹⁰ FO 141/520, “Keown Boyd to the Residency,” 9 Dec. 1928.

⁹¹ FO 141/520, “Sheikh El Azhar Mustafa El Maraghi to the President of the Council of Ministers,” 21 Nov. 1928.

⁹² FO 141/520, “Keown Boyd to the Residency,” 12 Dec. 1928.

feelings” and “attack on our religion and on the Koran.” The Shaykh of al-Azhar also complained of the attitude of the missionaries, which “enrages the masses and hurts their feelings.” Invoking the discourse of religious freedom directly, he argued that “it is not right, from the point of view of freedom of conviction, that persons who tempt simple-minded people and minors should be allowed to spread their teachings in a manner which offends the feelings of the public.”⁹³ Freedom of religion meant freedom from the pain caused by seduction, which both the judge and the shaykh associated with coercion rather than consent. We now turn to how this notion of religious freedom was embedded within and expressed through a local ethical grammar around blasphemy.

ATTACK AND INJURY

The late 1920s and especially the early 1930s witnessed similar local-missionary encounters, largely in the Delta region, which expanded the debate over religious freedom. These cases also involved accusations of *ta'n* (attack, here on Islam). Appearing in the Qur'an, *ta'n* is one of several words in the Islamic textual tradition associated with blasphemy, including *sabb*, which also connotes injury.⁹⁴ Without delving into that tradition, I want to make two general observations. First, prior to the rise of the modern state, the role of legal proscriptions regarding blasphemy was less to maintain public order through the threat of punishment than to embody the ethics of a community and maintain the common good.⁹⁵ In other words, Islamic jurisprudence regulating blasphemy, which was fluid and complex across time and space, should not be confused with blasphemy laws of the modern state, even one that defines itself as Islamic. Second, the language around blasphemy, such as the word *ta'n*, though embedded within the Islamic textual tradition, was used widely in early twentieth-century Egypt (and elsewhere) to mean a serious accusation of attack on one's religion. Thus, the Copts who organized a congress in 1911 to demand rights based on a Coptic identity complained of an “attack [*ta'n*] on the Christian religion and its people [i.e., Copts]” by certain Muslim-run periodicals.⁹⁶

By the mid-1920s, it was increasingly the state that made this charge. However, the state linked *ta'n* not to the violation of the common good but

⁹³ FO 141/520, “Sheikh El Azhar to the President of the Council of Ministers,” 21 Nov. 1928.

⁹⁴ See “Shatm,” in P. J. Bearman et al., eds., *Encyclopaedia of Islam*, 2d ed., Glossary and Index of Terms, Brill Online, 2016, http://ezproxy.library.nyu.edu:2447/entries/encyclopaedia-of-islam-2-Glossary-and-Index-of-Terms/shatm-SIM_gi_04313 (accessed 25 Jan. 2016).

⁹⁵ See, e.g., Intisar Rabb, “Society and Propriety: The Cultural Construction of Defamation and Blasphemy as Crimes in Islamic Law,” in Camilia Adang, Hassan Ansar, Maribel Fierro, and Sabine Schmidtke, eds., *Accusations of Unbelief in Islam: A Diachronic Perspective on Takfir* (Leiden: Brill, 2016), 434–64.

⁹⁶ Habib, *Tidhkar*, 257. In Judaism, like in Islam, blasphemy has been associated with pain, offense, and even mourning. For an example, see Mishnah Sanhedrin 56a.

to the violation of public order, thus transforming it from a *moral* offense into a *criminal* one with punitive consequences. The state's target tended to be another threat to what had recently become Egypt's state religion, namely positivist intellectuals. In 1926, with the encouragement of the palace, groups of 'ulama' associated with al-Azhar, an institution long in the process of incorporation under the state umbrella, famously charged the jurist 'Ali 'Abd al-Raziq and the intellectual Taha Husayn with blasphemy for their respective, recent publications. In his book *Fi al-Shi'r al-Jahili* (On pre-Islamic poetry), for example, Husayn had questioned the authenticity of much of the pre-Islamic poetry from which the early Islamic tradition had differentiated itself, arguing that it was fabricated by Muslims at a later date, and analyzed the Qur'an as a literary work. In response, the 'ulama' claimed he had "seriously denied ... the Qur'an, and attacked [*ta'na*] the Prophet ... and his noble lineage, and in so doing incited the fury of the pious [*al-mutadayyinin*] and perpetrated what violates public order and invites people to chaos [*al-fawda*], and it was requested to take successful effective legal means against this attack on the official state religion."⁹⁷ Husayn's alleged attempt to seduce the pious had caused injury and chaos that threatened public order and demanded criminal punishment.

Before long, parliament chimed in. It debated not whether Husayn was in the wrong, but rather parliament's ability to punish him. The main advocate for punitive action was the 'alim Mustafa al-Qayati, who put into question Husayn's loyalty to the nation. Noting that Husayn, as dean of Cairo University, received his salary from the public treasury, al-Qayati exclaimed, "No one would have ever thought that the beneficence of the nation to him would be met with this recalcitrance to the extent that he struck it [the nation] with a blow to the religion of Islam, the religion of the majority."⁹⁸ Worse still, Husayn was disseminating his "denial of the truth of the Qur'an, ascription to the prophet ... of deceptiveness, and serious fabrication of history [among students]. I want to say to folks who ... claim that ... we cannot limit the freedom of people to their opinions—I say to them that we are not limiting their freedom to their convictions but we are limiting opinions dictated to our children and disseminated among members of the nation ... [which are] inviting error and iniquity."⁹⁹ In other words, he took issue less with Husayn's internal convictions than with the effects of their public expression, a position consistent with stipulations around disbelief in the classical law. Al-Qayati elaborated:

⁹⁷ Khayri Shalabi, *Muhakimat Taha Husayn: Nass Qarar al-Iltiham didd Taha Husayn Sanat 1927 hawl Kitabih fi al-Shi'r al-Jahili* (Beirut: al-Mu'assisa al-'Arabiyya li-l-Dirasat wa-l-Nashr, 1927).

⁹⁸ Majlis al-Nuwwab, *Majmu'at Mudabit Dawr al-In 'iqad al-Awwal al-'Adi* (Cairo: al-Matba'a al-Amriyya, 1926), Jalasa 55, 13 Sept. 1926, 955.

⁹⁹ *Ibid.*, 956.

If I did not spend the night among you enumerating the statements contained in this book and recalling the heinous words that indicate nothing but disbelief, it is because I do not want to inject sadness into your hearts and because I do not wish to see your tears flow in anguish over your religion and the honor of your country.

We are not talking about anything here but the motive to uphold religion, and that is something important not to Muslims alone, for the honor of all of the religions should be upheld.¹⁰⁰

Moral injury expressed in parliament became an injunction for the state to define religion and limit speech seen to undermine it. Husayn was eventually stripped of his position as dean (he was later reinstated) and his book was censored. However, the chief prosecutor in his case, Muhammad Nur, eventually acquitted him of all charges. In a long decision in which he challenged substantively many of Husayn’s claims, Nur focused on intent rather than social consequences, concluding that though Husayn’s methods and ideas were erroneous and misguided, his motive was not to attack Islam or divert Muslims to false ideas but rather to pursue scientific research.¹⁰¹ Nevertheless, in subsequent cases of this sort, including the well-known 1995 trial of Nasr Hamid Abu Zayd, the state would draw on al-Qayati’s logic in determining apostasy, subsuming this Islamic notion under the regulation of public order.¹⁰²

After many accusations of *ta‘n* during the 1920s and early 1930s, bans on seduction and offense to religion entered into modern law in 1937. As we will see, the Montreux Convention effectively proscribed missionary seduction and advanced efforts to prevent seduction between Egyptian Christians and Muslims. Meanwhile, translating offense to religion into the neutral language of modern law, Articles 160 and 161 of the 1937 Penal Code authorized the state to determine what constituted offense to religion, partly by discerning “the intended meaning” of the holy books, and to regulate it as part of preserving public order.

SOVEREIGNTY, THE LEAGUE OF NATIONS, SECTARIANISM

The Anglo–Egyptian negotiations of 1929–1930 inaugurated the specter of complete Egyptian sovereignty. Though they failed in the short term, negotiations would eventually resume and lead to a political settlement in 1936.¹⁰³ The Inter-Mission Council, originally formed in 1921 to coordinate the efforts of Protestant missions in Egypt, saw the negotiations as an opportunity to achieve its long-standing objective of codifying religious freedom, as the missionaries understood it, in Egyptian law.¹⁰⁴ As the council’s president,

¹⁰⁰ Ibid.

¹⁰¹ See Shalabi, *Muhakimat Taha Husayn*.

¹⁰² Asad, “Free Speech,” 40–43.

¹⁰³ For the negotiations of 1929–1930, see Muhammad Mahmud, *Exposé des négociations de 1929 qui ont abouti au projet de traité anglo-égyptien* (Cairo: Government Press, 1929).

¹⁰⁴ On the Inter-Mission Council, see Sharkey, *American Evangelicals*, 126–27; and Baron, *Orphan Scandal*, xix, 11.

missionary Charles R. Watson, concisely put it, “religious liberty to become effective must be codified.”¹⁰⁵ At the onset of negotiations, the council sought to persuade the Office of the High Commission that if the British were to cede sovereignty, particularly protection of minorities (one of the four reserved points in Britain’s 1922 unilateral declaration of Egyptian independence), the Egyptian government should make a legally binding guarantee to protect religious freedom (the aspect of minority protection of most interest to these missionaries).¹⁰⁶ When it became clear in late 1930 that negotiations would falter, the Inter-Mission Council, understanding that these negotiations would serve as the basis for future talks, requested that British negotiators, who had already formally acknowledged that protection of minorities would in future be the exclusive concern of Egypt (as a sovereign state), put two points on the record: first, that Britain was ceding protection of minorities on the assumption that Egypt will ensure *full* religious freedom; and second, that the Egyptian government should provide “in its codified laws” a more “exact and effective safeguarding of religious liberty in the fullest sense of the word.” The “fullest sense” involved state protection of a converted Christian’s right to inheritance, state recognition of conversion from Islam, and the ability of Muslim women to “act as an independent and free personality in regard to her religious attachments.”¹⁰⁷

The council was not alone in its demand for codification and its plan for realizing it. In a widely cited letter to the *Times* of London, British lawyer and politician Robert Cecil, who had been a major figure in the formation of the League of Nations, pointed to the discrepancy between Egypt’s protection of “freedom of conscience” in the Constitution, “which all civilized States today regard as essential,” and how this guarantee was interpreted in Egypt. Like the missionaries, Cecil found it particularly anomalous that religious freedom in Egypt did not protect conversion from Islam. “I understand,” he wrote, “that, by the law prevailing in Egypt at the present time, an unmarried [Muslim] woman who is converted to Christianity may be forcibly taken from any position she holds and restored to her Moslem parents, who may then practically insist on a Moslem husband for her.” Cecil contrasted this obstruction of agency with common practice in “Western nations.” “Is it too much to suggest to Egyptians,” he asked, “that political freedom does not accord with the denial of the liberty to individuals in so vital a matter as religion, and to hope that the Egyptian Government will, before Egypt takes her place in the community of nations, remove this archaic blot from her legal

¹⁰⁵ FO 141/771/19, “C. R. Watson to William Paton,” 27 Dec. 1930.

¹⁰⁶ FO 141/565/1, “Inter-Mission Council to the Residency,” 27 Feb. 1930.

¹⁰⁷ FO 141/771/19, “C. R. Watson to William Paton,” 27 Dec. 1930.

system?”¹⁰⁸ Egypt’s attainment of sovereignty and acceptance into the community of nations (and, as I will show, the League of Nations) was to be partly contingent on its acceptance of a certain normative arrangement of public law and religion that was seen to threaten its majority religion and target in particular young Muslim women.

As we have seen, the Inter-Mission Council and Robert Cecil were correct to suggest that Egyptians generally understood religious freedom differently than they did. Amid the conversion crises that rocked Egypt in the early 1930s, two representatives of the Inter-Mission Council sat down with Egypt’s prime minister Isma‘il Sidqi, who was accompanied by Coptic politicians Tawfiq Duss and Kamil Bulus, to convince him that press accusations directed at missionaries were unfounded. Isma‘il Sidqi reportedly defended Egyptians for their outrage, pointing out that Egypt defined Islam as the state religion, was home to the leading Islamic institution of learning in al-Azhar, and for many centuries played a leading role in the Islamic world. “While evangelistic work might be in place in primitive countries like Tanganyika [now part of Tanzania],” he argued, “it was not suitable in a Moslem country like Egypt, especially as Egypt is firmly attached to a religion of its own, and is civilized.” Sidqi went on to differentiate between two conceptions of religious freedom: the right to attack another’s religion, which is unjustifiable, and the right of individuals to maintain and practice their own religion, which was “the true conception of religious liberty.” Whereas the missionaries extended this latter right to include the ability to change religion, Sidqi contended that such conversions in Egypt were invalid because they occurred only among the “lowest classes” and as a result of “ulterior motives.”¹⁰⁹ He thus coupled a widely shared feeling that Islam was under attack in Egypt, a state of affairs he felt did not befit the country’s elevated place within a colonial civilizational hierarchy, with the assertion that missionary conversions of souls were based on coercion not consent.

But many felt that the conversion controversies of the early 1930s demanded more from the state than verbal critique. Egyptians already widely viewed the state to be sluggish in its response.¹¹⁰ To spur action, the League for the Defense of Islam (al-Lajna li-l-Difa‘a ‘an al-Islam), in which Muslim Brotherhood founder Hasan al-Banna participated, was formed in June 1933. The league’s founding document does not mention religious freedom, but its invocation of “defense” in its title, its desire to protect the “weak” and the

¹⁰⁸ Robert Cecil, “Religious Liberty in Egypt,” *Times* (weekly edition), 23 Jan. 1930. The letter was reproduced in *al-Ahram*, 25 January 1930, and in other Egyptian periodicals. Cecil’s complaint came a mere two years after Britain itself granted women suffrage on the same terms as men. I thank the peer reviewer who pointed this out to me.

¹⁰⁹ FO 141/565/1, “Resume of an Interview between Dr. R. S. McClenahan and Mr. S. A. Morrison, and H. E. Ismail Sidky Pasha,” 20 Feb. 1932.

¹¹⁰ See, e.g., *al-Siyasa*, 12 Feb. 1932.

young, and its stated purpose to “appeal to the government to prevent missionary attacks on Islam” were the products of a decade of the politics of religious freedom.¹¹¹ Unable to ban missionaries from Egypt, in 1934 the Egyptian government, and particularly Interior Minister Mahmud Fahmy al-Nuqrashi, pursued legislative action by producing a “Draft Law on Religious Propaganda.” The proposed law—never itself implemented—would have banned “religious proselytization,” including the distribution of pamphlets and books and the hanging of posters, in “institutions assigned to humane purposes” if such institutions accepted persons of different “creeds or religion,” and in the homes, places, and institutions of people belonging to a different creed or religion. Such propaganda would henceforth require Interior Ministry permission. Moreover, educational institutions whose students belonged to different creeds or religions had to guarantee “freedom and respect of faith” to all. In part, this meant that where religious instruction formed part of the curriculum, it could only be given in a student’s own religion. “It is forbidden to cause students to take part in prayers or sermons contrary to their creed,” the draft law went on, “and it is likewise forbidden to distribute to them books or pamphlets containing religious controversies or any criticism of their religion or creed.” The draft law also forbade inducing with money, service, or “any other means of trickery,” including bribery and threats, a person to attend a prayer or sermon contrary to that person’s creed or religion or to induce one to renounce their faith. Contravention of the law could result in imprisonment.¹¹²

In 1936 Anglo–Egyptian negotiations resumed. With Egyptian sovereignty seeming inevitable, Protestant missionary groups increasingly understood that Britain’s negotiating leverage was relatively weak and that it would be unable to gain the kinds of concessions they had sought earlier. The British administration was as unwilling as ever to entertain missionary policy schemes, which seemed unreasonable and potentially costly to its other military and geopolitical goals.¹¹³ The missionaries thus adapted in several ways. First, they began to emphasize minority rights and the supposedly worsening situation of Egyptian Christians (no longer just converts) since the conversion crises of 1932–1933; second, and relatedly, they called for making Egypt’s entrance into the League of Nations contingent on it declaring

¹¹¹ The founding statement appeared in *al-Siyasa*, 27 June 1933. For more on the League for the Defense of Islam, see Sharkey, *American Evangelicals*, 128; and Baron, *Orphan Scandal*, esp. 140–44.

¹¹² FO 141/565/1, “Draft Law on Religious Propaganda.” This draft law is different from Law 40 passed in 1934 to regulate *al-madaris al-hurra* (foreign private schools), which Heather Sharkey has suggested included a provision making it illegal to teach a student a religion other than their own, even with the permission of that student’s guardians. Sharkey, *American Evangelicals*, 131–32. That provision only appeared in 1948, when a new version of this law was issued and enacted as Law 38.

¹¹³ See, e.g., FO 141/613/9, “Minutes,” 17 Feb. 1936; and FO 141/613/9, “Ronald Campbell to Miles Lampson,” 23 Apr. 1936.

on the international stage that it guaranteed protection of minorities and religious freedom. In a meeting with British High Commissioner Miles Lampson, Charles Watson of the Inter-Mission Council (and the American University in Cairo) advocated this strategy, citing the Mandate states of Palestine and Iraq as precedents. The high commissioner was “increasingly struck” by the possibilities these presented.¹¹⁴ While Egypt was not a Mandate, “under the four reserved points the United Kingdom arrogated to itself ... an obligation to see to the protection of religious minorities in Egypt.” In doing so, Lampson suggested, “his Majesty’s Government have ... virtually constituted themselves a mandatory.”¹¹⁵

But what may have been possible only one year earlier seemed in vain in the spring of 1936, by which time Italy had invaded Ethiopia and Germany had occupied the Rhineland. British administrators and the Inter-Mission Council both conceded this point. “The countries which have [minority] treaty obligations ... are becoming increasingly restless,” said Lampson. “The policy of imposing permanent servitudes on sovereign states is not proving conspicuously successful,” he went on, “and it seems wise ... to avoid the creation of new ones [treaty obligations].”¹¹⁶ Some in the Inter-Mission Council wondered, with good reason it turns out, whether the League of Nations would even continue to exist.¹¹⁷ This skepticism notwithstanding, the British opted to warn then-Prime Minister Mustafa al-Nahas that the issues of religious freedom and equality were likely to be raised when Egypt was elected into the League of Nations in Geneva. They hoped this warning would prompt him to guarantee publicly to uphold these principles, thus providing “a locus standi for the Council to take the matter up” should Egypt fall short of its promise.¹¹⁸ At the request of the high commissioner, the Inter-Mission Council even drew up a draft statement declaring, among other things, that “the citizen will enjoy complete freedom in the choice of his religious affiliation.”¹¹⁹

On 26 May 1937, Egypt became the last state to join the League of Nations. Although al-Nahas initially agreed to make a variation of the statement desired by the British administration and the Inter-Mission Council at Egypt’s League of Nations election,¹²⁰ reportedly at the last minute he chose to reverse course because, as missionary William Paton explained it, “any

¹¹⁴ FO 141/613/9, “Record of a Meeting between the High Commissioner and a Deputation from the Egypt Inter-Mission Council at the Residency,” 26 Feb. 1936, 3.

¹¹⁵ FO 141/613/9, “Ronald Campbell to Miles Lampson,” 23 Apr. 1936.

¹¹⁶ *Ibid.*

¹¹⁷ FO 141/613/9, “Miles Lampson to the Foreign Office,” 6 May 1936.

¹¹⁸ FO 141/613/9, “Ronald Campbell to Miles Lampson,” 3 Dec. 1936.

¹¹⁹ FO 141/662/2, “Ideal Statement from the Egyptian Government Concerning Religious Freedom,” 12 Jan. 1937.

¹²⁰ FO 141/613/9, “Ronald Campbell to Miles Lampson,” 3 Dec. 1936.

such statement on their part would mean that they admitted the right of other bodies to enquire into what was for them a matter of purely domestic policy.” Moreover, al-Nahas felt that Egypt already upheld religious freedom, rendering the statement unnecessary.¹²¹ With the Anglo–Egyptian Treaty already signed (1936) and the League of Nations increasingly powerless, al-Nahas likely felt little pressure to bow to Britain’s or the missionaries’ demands.

Quite the contrary, al-Nahas was positioned to strike a fatal blow to missionary institutions in the country and to concretize in law Egyptian conceptions of religious freedom. Heather Sharkey has suggested that the Montreux Convention of 1937, which promised to phase out the Capitulations over twelve years, was the death knell of missionizing in Egypt because it removed tax exemptions and placed obstacles in the path of missionizing. One of these obstacles related to proselytism. Just prior to the agreement, in January 1937, the liberal jurist ‘Abd al-Hamid Badawi made an exchange of notes (i.e., an agreement) with the British Foreign Office’s legal advisor, William Eric Beckett, concerning the future of missionary institutions, which was the basis for an additional exchange of notes at Montreux. The two agreed that missionary institutions would be permitted to continue functioning in Egypt, subject to certain conditions, but that henceforth proselytization would be illegal. Several months later, an Egyptian delegation led by al-Nahas signed, as part of the Montreux Convention, multilateral agreements with several countries, including Britain, France, and the United States, stipulating that foreign “charitable institutions” existing in Egypt on the date of signing would be free to continue their activities subject to one qualification: “within the limits of the customs recognised in Egypt regarding religions other than the state religion, freedom of worship shall continue to be assured to all religious institutions ... on condition that there is no offence against public order or morale.”¹²² Interestingly, it was the Coptic delegate Makram ‘Ubayd who was said to have most vociferously rejected any statement regarding minorities or religious freedom (as he had during the debates over the 1923 Constitution) and any notion that Egypt would allow proselytization.¹²³ The British tended to dismiss his position as a way for him (and the Copts) to avoid appearing as if seeking foreign protection. Even if true, it is likely that he objected to this missionary practice, which was critical to the terms of the Montreux Convention.

The missionaries from the Inter-Mission Council may have been caught off guard by this series of events in 1937. Though they tried to undermine

¹²¹ FO 371/2365, “Memorandum on Proposed New Law Affecting Christian Missionary Schools in Egypt,” 5 July 1939, 333.

¹²² “Convention concernant l’abolition des capitulations en égypte, signé à Montreux, le 8 Mai 1937,” *Annales du Sénat: recueil des procès-verbaux des séances*, 21 July 1937.

¹²³ FO 371/23365, “Egyptian Draft Law Prohibiting Teaching Liable to Influence Religious Beliefs,” 3 Apr. 1939.

the Egyptian position—at one point arguing that they and the Egyptians had very different understandings of what constituted proselytism¹²⁴—their protests were directed at a British administration increasingly guided by realpolitik and the prospect of dismantlement, even as it itself may not have realized it had agreed to render proselytization illegal. “We seem at Montreux to have accepted the position ... that strictly speaking all proselytism in Egypt was illegal,” one legal advisor stated in response to a missionary complaint to the high commissioner. He concluded that “it is difficult to see what more precise instructions could be given on this point.”¹²⁵

CONCLUSION

The banning of missionary proselytism through the Montreux Convention, and of attacks on and offense to religion in the 1937 Penal Code, established in law the state’s reading of religious freedom. As the Egyptian state expanded positivist modern law at the expense of shari‘a, it channeled local notions of moral injury and offense toward its top-down regulation of public order. The contingent process through which religious freedom accumulated meaning in Egypt would structure political discourse around religious speech going forward, arguably shaping intercommunal relations as well.

Only two years after the Montreux Convention, in 1939, doctor and parliamentarian ‘Abd al-Khalik Salim introduced a bill to the Egyptian Senate (Majlis al-Shuyukh) intended to protect “adolescents against all propaganda having as its purpose diverting their beliefs,” and the consequential “undermining of public order.” A Commission of the Interior that reviewed and revised the bill justified it with reference to Article 13 of the Constitution.¹²⁶ Though aimed at ending the missionary enterprise, the bill’s purview extended well beyond missionaries. The draft law forbade “any inducement of young people of either sex who have not yet reached the age of eighteen ... to change religion, whether by way of persuasion, temptation, or preference between their religious faith and that to which they are invited.” It also forbade youth from participating in “religious services contrary to the religion or rite of their parents or guardians.” More broadly, it proscribed all acts intended to effect a change of one’s rite or religion. The proposed punishment for violating this law was imprisonment with hard labor for a period of up to two years, a fine of up to LE500, or both, and a repeat offense carried steeper penalties as well as the closure of involved institutions.¹²⁷ The Inter-Mission Council, feeling threatened, considered proposing a “conscience

¹²⁴ FO 371/23365, “William Paton to Archbishop of Canterbury,” 4 Aug. 1939, 368–69.

¹²⁵ FO 371/23365, “Egyptian Draft Law Prohibiting Teaching Liable to Influence Religious Beliefs,” 19 June 1939.

¹²⁶ “Convention concernant l’abolition des capitulations en égypte, signé a Montreux, le 8 Mai 1937,” *Annales du Sénat: recueil des procès-verbaux des séances*, 6 Feb. 1939, 7–8.

¹²⁷ *Ibid.*, 8.

clause”—the likes of which had been implemented by the British in India—that would exempt students in missionary schools whose Muslim parents had chosen to allow their children to receive Christian instruction.¹²⁸ Unlike Egyptian legislators, who saw persuasion and temptation in matters of religion as a form of coercion that caused communal discord, the council emphasized the conscious choices of the consenting individual, which they prioritized above the common good. However, their proposal did not come to fruition.

‘Abd al-Khalik Salim’s bill was put aside and a similar draft was discussed in the Senate in 1940. The new draft banned religious proselytization outside of one’s own place of worship and among any persons belonging to a different religion—two proscriptions that would prevent exposure of Muslim students to Christian instruction and Christian discourse more broadly. Members of the Senate greeted it with unease, particularly due to its broad scope. Tawfiq Duss argued that such a law was a result of earlier missionary crises and Christian preaching, and that conversion caused discord (*fitna*), but he worried that it would render illegal the call to prayer and the common practice of Muslims entering churches to visit or congratulate Christian friends, leading to religious sectarianism (*al-ta’assub al-dini*). His colleague, Wahib Duss, agreed with the underlying idea of the proposal but worried that in its current form it would produce strife (*fitna*). Meanwhile, the Wafdist leader Ahmad Yusuf al-Jundi argued that banning religious proselytism in such broad strokes was inconsistent with Islam. Due to such reservations, the proposal was sent to a committee for further study.¹²⁹

According to Tariq al-Bishri, yet another bill was debated in 1943. In addition to several of the stipulations in the previous drafts, this bill included a range of new proscriptions: establishing non-Muslim spaces of worship without a government license; distributing publications attacking (*ta’n*) or even touching on another’s religion; and tempting (*ighra’*) or coercing (*ikrah*) another through prayer or preaching that contradicts their religious tradition in attempt to convert them. Moreover, it considered Muslim any child whose father was unknown, and required juvenile centers (*mu’assasat al-ahdath*) to change the religion of children they housed to Islam.¹³⁰ Although this draft law, like its predecessors, was never passed, it contains the strata of the decades of debate and discord around religious freedom that led to it and later, related bills. In 1948, just prior to the end of a twelve-year phase out period for the Capitulations (and the legal privileges associated with them), religious proselytism was proscribed within Egyptian law for the first time through

¹²⁸ FO 371/23365, “Memorandum on Proposed New Law Affecting Christian Missionary Schools in Egypt,” 5 July 1939, 337–38.

¹²⁹ *Annales du Sénat: recueil des procès-verbaux des séances*, 27 May 1940; al-Bishri, *al-Muslimun*, 577–78.

¹³⁰ Al-Bishri, *al-Muslimun*, 577–78.

Law 38 regulating foreign private schools (*al-madaris al-hurra*), empowering the state to punish institutions that partook in it.¹³¹

The trail to the charge of *izdira’ al-din* discussed at the start of this article can be traced back to the conditions that gave rise to the 1937 Penal Code and the article used to convict Hakim Wasif for distributing *La fleur de la forêt*. It was this article that in 1982, soon after the assassination of Anwar al-Sadat by an Islamist militant, was slightly revised to introduce the notion of *izdira’ al-din*, which further expanded the Egyptian state’s ability to regulate speech under the rubric of protecting religion. In the final analysis, Egypt cannot be said to have a deficit of religious freedom as much as a particular trajectory of it, forged through a contingent process involving missionaries, local communities, and the Egyptian state under the shadow of colonial rule. As in other postcolonial contexts, this concept’s entangled history has helped to define and delimit Egypt’s political, moral, and religious imaginaries.

Abstract: Since the 2011 uprising in Egypt, the Egyptian state has increasingly used the charge of contempt of religion (*izdira’ al-din*) to regulate speech. This charge, though sometimes assumed to be a medieval holdover, is part of a modern genealogy of the politics of religious freedom. This article examines how religious freedom accumulated meaning in Egypt after World War I, when it became an international legal standard. Protestant missionaries in Egypt advocated religious freedom as the right to proselytize and the right of Egyptians to convert. For many Egyptians, by contrast, it came to mean the right to protect one’s religion from perceived missionary attacks (*ta’n*). Using British state archival records, missionary sources, and Egyptian parliamentary transcripts and periodicals, this article traces the formation of this paradox in public discourse and law. Drawing on theorizations of seduction and moral injury, I show how Egyptians articulated notions of religious freedom centered around feelings of moral injury and through a local ethical vernacular that, though embedded within the Islamic tradition, was broadly shared. The Egyptian state gradually incorporated these sensibilities into its expanding modern legal system as part of maintaining a majority-defined public order, transforming offense to religion from a moral issue into a punishable crime. Forged through a contingent process involving missionaries, local communities, and the Egyptian state under the shadow of colonial rule, religious freedom has exacerbated rather than resolved religious divides in Egypt, and has helped to define and delimit the country’s political, moral, and religious imaginaries.

Key words: colonialism, history, law, liberalism, missionaries, religious freedom, secularism, Egypt, shari‘a law

¹³¹ Sharkey, *American Evangelicals*, 183.