Is Islam Compatible with Democracy:

A Critical Reexamination of Existing Theory to Establish Renewed Potential

By: Nicholas Provencher

University of Arkansas at Monticello

Abstract

A narrow understanding of the democratic peace thesis brings about questions of the compatibility of Islam and democracy. Western attempts to modernize Middle Eastern countries have been preceded by an expectation that the region would fully accept Western style democracy; hence the seemingly unilateral rejection thereof leads to confusion. Rather than doggedly holding onto an inflexible view of how an ideal democracy should function, it must be understood that the best form of democracy is one that: 1) adjusts to shifting paradigms of modernity; 2) utilizes existing cultural values and norms to create a more legitimate government; and, most importantly, 3) is amendable by the people. This paper seeks to address these misconceptions by taking the core principles of separation of powers (in conjunction with checks and balances from Western democratic systems, as originally developed through the American Revolution) and purposefully applying them to countries within the Middle East. By re-examining the established theories of democratic consolidation, a more holistic view of democracy will be formulated that is culturally applicable and is flexible enough to adapt western-style democracy to the varied cultures of the Middle East.

Introduction

Trappings of the Democratic Peace Thesis (DPT) re-emerged within American foreign policy following the collapse of the Soviet Union in 1991. The decades old stance of containment had become increasingly outdated even before the fall of communism, but afterward, it was widely accepted that democracy had clearly trumped communism. Communism, now fully discredited, left a massive ideological vacuum throughout half the globe, which prompted a renewed global optimism about the potential for democratic consolidation. This was seemingly further supported by the fact that the former Soviet satellites were ready and eager to embrace democracy and free-market capitalism.

Unabated and meeting minimal resistance, democratization gained the appearance as the answer for freedom and modernity. Leading into the twenty-first century, as mounting tensions within the Middle East could no longer be overlooked, democratization efforts were thus undertaken with the widespread expectation that if dictators were removed, democracy would automatically flourish. The apparent subsequent rejection of democratic action by Middle Eastern populations left Western leaders scrambling for explanations, but more problematically left many to conclude that Islam and democracy were wholly incompatible, an idea that has certainly been questioned by recent events in Egypt and Libya.

If it is to be accepted that Islam and democracy are incompatible entities, it is not enough to surmise that Islam is wholly inflexible, as this presupposition conversely assumes that democracy would also, by necessity, be a static instrument. Such an assumption demonstrates a lack of appreciation of the evolutionary consolidation of the democratic practices found today within the western world, where political participation and suffrage came slowly after much toil. Advanced democracy was only realized after a long period of liberalization occurred, strengthening the institutions within western states that would withstand the brunt of the ever expanding suffrage.

While this process is taken for granted as a natural part of the democratization process in the West, this understanding grew from lessons learned by former colonial powers which served as strong reminders to the dangers of nation building without the necessary legitimacy

and grassroots level support. If American efforts are meant to guide democratic consolidation in formerly authoritarian countries successfully, and create the necessary institutional framework, a new approach to democratization must take shape. Confronting the assumption that treats democratization is a one stage process; this project will conceptualize democratic consolidation as a two-phased process, whereby the development of liberalization comes before an effective and working democracy. In addition it will advocate a strategy proposing processes of liberalization in favor of template democracy and seeks to co-opt existing cultural institutions with the goal of creating a political framework that is answerable to the masses and allows for greater political freedoms. Events, after all, are showing that "the revolutions that have ousted dictators in Tunisia and Egypt and threaten to do the same in Libya and Syria have owed virtually nothing to political Islam and everything to the simple secular democratic demand of frustrated people that they be free to choose their own leaders" (Economist:19). As these developments have continued to gain international attention, it becomes increasingly clear that even in nations with a strong Islamic identity, the desires of democratic freedom cannot be suppressed.

By re-examining established theories of democratic consolidation, this project distinguishes between the processes of liberalization and democratization, as discussed above, to construct a more holistic view of democracy that is culturally applicable / flexible enough to adapt western-style democracy to authoritarian systems. Moreover to overcome perceptions that Islam and democracy are incompatible, an inflexible view of how an *ideal* democracy should function must be shed for an understanding that democracy must: 1) adjust to shifting paradigms of modernity; 2) utilize existing cultural values and norms to create a more legitimate government; and, most importantly, 3) be amendable by the people. The primary discussion centers on how core principles of separation of powers (in conjunction with western-style checks and balances) can be applied to transitional governments to allow for legitimate, institutionalized political participation. It will do this by targeting specific qualifiers of legitimate democratic institutions, including elections and voting, political parties, within a liberal format that adopts the principles of separation of powers within a system of checks and balances, that

are subject only to the rule of law. This will then be tested against empirical derived from U.S. history and current events within the Middle East.

Establishing Legitimacy in a Newly Formed Government

As authoritarian governments are currently being pushed to liberalize because of public pressure, debates about the possibility of democratization in the Middle East have regained prominence. It must be remembered rallies behind the cries for democracy, or more appropriately greater liberalization, is only a first step towards consolidating a working, stable democracy. One of the first tasks is for the new government to be viewed as legitimate in the eyes of the people.

Max Weber discusses the basis of legitimacy in his work *Economy and Society*. Legitimacy for Weber is the interplay between domination and legitimacy, where domination will be the incoming government. Weber explains "experience shows that in no instance does domination voluntarily limit itself to the appeal to material or affectual or ideal motives as a basis for its continuance. In addition every such system attempts to establish and cultivate a belief in its own legitimacy. But according to the kind of legitimacy which is claimed, the type of obedience, the kind of administrative staff to guarantee it, and the mode of exercising authority, will all differ fundamentally" (Weber, 1978:213). Weber's assertion explains that the nature, reason, and path by which power consolidates vary according to the demands that brought it about.

Core ideals of democracy serve as parameters to guide democratic action in the West even as western countries have continued to morph and find ways to include more citizens within the political process. Before addressing ways for ideals to survive the revolutionary process in the Middle East, i.e. how they are to become part of a system, the objectives about what the system should look like must be made clear.

As argued by Robert Dahl, the ideal system would include the following:

- the right to vote in the election of officials in free and fair elections;
- the right to run for office;

- the right to free expression;
- the right to form and participate in independent political organizations, including political parties;
- the right to gain access to independent sources of information;
- the rights to any other freedoms and opportunities that may be necessary for the effective operation of political institutions of large-scale democracy (Dahl,1998:59).

Dahl does highlight the essential for what has become familiar in the West as advanced democracy. Without the principles as laid out by Dahl, participation would lose all value because a disconnect would still remain, there would be no effective measure that could gage the responsiveness of the government to the people. This symptom forms the basis of complaints against authoritarian regimes. However Dahl's ideals in effect presuppose the existence of institutions which can withstand these practices. Particularly in his conclusion that leaves his definition open to any and all rights needed to facilitate continued participation. It is impossible to know which institutions will prove to have a vital role in democracy making it impossible to create a specific definition of what an institution should be.

The longer Dahl's process governs society the harder it becomes to remove, and the byproduct yields more liberty. Dahl reflects on this point by stating "as democratic institutions become more deeply rooted in a country, so do fundamental political rights, liberties, and opportunities. As democratic institutions mature in a country, the likelihood that they will give way to an authoritarian regime approaches zero" (Dahl, 1998:55). Therefore it seems logical that the more rights, liberties, and opportunities afforded to individuals the harder it becomes for any one person or group to control government. This is reflected in Dahl's conclusion that "as we all know democracy can collapse into dictatorship. But breakdowns are extraordinarily rare in mature democracies. Instead, breakdowns are likely to occur in countries that encounter times of great crisis and stress when their democratic institutions are relatively new and fragile" (Dahl, 1998:55-56).

For continued analysis that will allow for full appreciation of the Dahl's concept of political participation through pre-existing institutions, it must be recognized that the regimes being studied have yet to progress into advanced stages of liberalized democratization. Therefore Dahl's conclusion proves to be the end goal, as he makes implicit that liberalization has already occurred and the system retains enough stability for mass participation. First a clear definition of liberalization opposed democratization must be established to truly comprehend the value of Dahl's theory.

Carsten Schneider and Philippe Schmitter also comment on the consolidation of democracy in their article *Liberalization, Transition, and Consolidation: Measuring the Components of Democratization*. They make the argument that the ultimate goal of democratization "can be defined most generically as the process or, better, the processes that make mutual trust among relevant actors more likely" (Schneider, 2004:61). Clearly this definition is too vague but underpins the general goal of mutual cooperation that leads to greater stability, the primary goal in liberalization and democratization efforts.

Schneider and Schmitter continue with more specific analysis that states "the challenger for democracy consolidators is to find a set of institutions that embodies contingent consent among politician and is capable of producing the eventual assent of citizens" (Schneider, 2004:62). Democratization efforts need to focus on the cultural institutions recognized by politician and citizen alike. It is through these institutions the hope for democratic success can be realized.

The eventual definition of democracy Schneider and Schmitter come to accept, referring back to previous work, explains "regime consolidation consists in transforming the accidental arrangements, prudential norms and contingent solutions that have emerged during the uncertain struggles of the transition into institutions, that is, into relationships that are reliably known, regularly practice and normatively accepted by those persons or collectivities defined as the participants/citizens/subjects of such institutions: and in such a way as that the ensuring channels of access, patterns of inclusion, resources for action, and norms about decision making conform to one overriding standard: that of citizenship" (Schnedier and Schmitter,

2004:62). This definition, far more in depth, highlights that democratization realized into democracy, if a heterogeneous mixture of actors and institutions working under a system of rules accepted by all sides.

To further emphasize that democracy needs to incorporate an assortment of groups and institutions Schneider and Schmitter continue with "the major implication of the preceding discussion is that no single set institutions/rules (and least of all, no single institution or rule) defines political democracy" (Schneider and Schmitter, 2004:63). Further Schneider and Schmitter assert "not even such prominent candidates such as majority rule, territorial representation, competitive elections, parliamentary sovereignty, a popularly elected executive or "responsible party system" can be taken as its distinctive hallmark" (Schneider and Schmitter, 2004:63).

This seems to run contrary with Dahl's theory of working democracy but these assertions are to not to completely contradict Dahl, rather Schneider and Schmitter acknowledge "it may not be difficult to agree on what Robert Dahl has called "the procedural minimum", without which no democracy could be said to exist" (Schneider and Schmitter, 2004:63). There could be little argument with Dahl's qualifications, and certainly at some point they all must be realized for full-on democracy. Schneider and Schmitter draw distinction in that "underlying these accomplishments and flowing from them are much more subtle and complex relation that define the substance and form of nascent democratic regimes" (Schneider and Schmitter, 2004:63). It is not enough to label democracy, or more the function of democratization based on generic practices and structure, such as elections and voting and an executive head of government. The real indicators of success are found within the interrelations of all components that bring legitimacy to the democratic institutions.

In a final thought on democratization from Schneider and Schmitter they identify the crux of the issue at hand "the concepts of liberalization and consolidation that we have just defined are obviously each composed of a bundle of theoretically related, but not always empirically co-variant conditions" (Schneider and Schmitter, 2004:63). The problem being "no single observation is likely to be adequate to measure such complex outcomes, least of all

across polities in such diverse social, economic and cultural circumstances" (Schneider and Schmitter, 2004:64). The ideal which Dahl presents should not be abandoned, but it must be taken as that. If a template similar to Dahl's is used to gage the success of democratization, failure is almost certain. Without distinguishing the factors that culminate in political liberalization, the empirical measurement mentioned by Schneider and Schmitter is clouded and inconclusive at best.

Liberalization, more specifically political liberalization, when defined as "the process of making effective certain rights that protect both individuals and social groups from arbitrary or illegal acts committed by the state or third parties"(Schneider and Schmitter, 2004:60), allows for clear parameters and goals to be accomplished by the liberalization process. This definition found is further expanded by explaining the necessity for "us to grasp conceptually and then measure empirically political liberalization in a strict sense" (Schneider and Schmitter, 2004:61). Liberalization can be measured through the levels of participation, but only as long as it is legally binding through a stable institutional framework (Pitkin, 1972:281-283).

Because a stable consolidated system existed, that was able to withstand the passions of the people that the framers so feared, liberalization was allowed to morph into near fully inclusive democracy that is now the present United State. Therefore it holds that "if there is one overriding political prerequisite for democracy, it is the prior existence of a legitimate political unit. Before actors can expect to settle into a routine of competition and cooperation, they must have some reliable idea of who the other players are and what will be the physical limits of their playing fields" (Schmitter, 1996:84). Now that democratization is being cultivated in other cultures it now again becomes necessary to understand the distinction between liberalization and democratization.

One of the problems that should now be apparent was the lack of distinction between the stages of liberalization and democratization was never explicitly defined. Liberalization was admittedly always implicitly included in the over-arching process of democratization. Prominent authors such as Samuel Huntington don't consider the process of democratizing until the 1820's. It was during the time that led to "widening of suffrage to a large proportion of the

male population in the United States" (Huntington, 1996:3). Following on this movement subsequent social waves continued to expand suffrage into the twentieth century that included Women and African Americans. This inclusion was facilitated by an increasing stable system of governance within the United States. What is not directly stated, but nonetheless equally important, is that this inclusion occurred only after the country consolidated legitimacy into the system of government, rather than its leaders.

Democratic success can be found in the protections afforded to minorities and oppositional groups. When groups are barred from any political activity they are left with little choice other than violent opposition. This fact again highlights the need for liberalization as it is the only effective means to incorporate minority groups. While the type minority may differ from, country to country, be they political, racial, or religious, etc. their exclusion comes primarily at the hands of persecution which is at the foundation of authoritarianism. Dr. Martin Luther King Jr. foreshadows the inevitable opposition with "oppressed people cannot remain oppressed forever. The urge for freedom will eventually come. This is what happened to the American Negro. Something within him reminded him of his birthright of freedom; something without has reminded him that he can gain it" (King, 1985:82). Democracy is not confined to majority rule; the concerns of existing minorities must be heard.

In specific regard to Arab uprisings from the spring of 2011 the Economist provides commentary on this phenomena with "whatever their doubts, most democrats in the Arab world reckon that Islamists who say they will abide peacefully by the rules of the game must be allowed indeed encouraged-to participate in mainstream politics: far better than forcing them into a violent, conspiratorial underground" (Economist: 2011, 19). Dissent and opposition are focal points of democratic procedure.

If political discourse operates within a stable environment for a long enough period of time, it will gain the legitimacy necessary to retain authority. However persistent instability within the Middle East through a culmination of external pressure, limited suffrage, and authoritarian practice has greatly inhibited the ability of democratic institution's to gain a strong enough foothold.

Goals of Democracy and Western Assumptions

The theory of democracy in action becomes the reduction of democracy to elections and voting, after all both practices where denied under authoritarianism. Given that five of Dahl's six points (as outlined above) on democracy were related specifically to elections and voting, many concluded that this is what he meant for the consolidation of democracy. While Dahl understood it was more complex and related to more advanced democracies, a more thorough investigation of elections, voting, and political parties must be made to validate these assumptions.

Elections

Alexis de Tocqueville, in his book *Democracy in America*, explains the nature and purpose of elections when he states that "the nation participate in the making of its laws by the choice of its legislators, and in the execution of them by the choice of the agents of the executive government; it may almost be said to govern itself, so feeble and so restricted is the share left to the administration, so little do the authorities forget their popular origin and the power from which they emanate. The people reign in the American political world as the Deity does in the universe" (Tocqueville, 1956:57). Certainly Tocqueville is speaking solely of the American political process; however he describes the actions that have come to be expected as the result of elections and voting.

James Madison also shared in this perspective by stating "the right of suffrage is certainly one of the fundamental articles of republican Government, and ought not to be regulated by the Legislature. A gradual abridgement of this right has been the mode by which Aristocracies have been built on the ruins of popular forms" (Madison, 1980:204). Without holding elections, the results observed by Tocqueville would never have been reached in America, and Madison too warns of the dangers posed by not holding elections.

Political Parties

Political parties serve to anchor the sovereignty of states by allowing the citizenry to unite under common platforms and compete in general elections. Even more important is the

role political parties play in transcending race, ethnicity, socioeconomic class and religion. This role if fulfilled by the necessity of a party to gain the appearance of working with an array of groups throughout society thereby giving them the authority to speak on issues that will appeal to a greater number of voters. One such instance where political parties were instrumental in stabilizing a country came from early on in America's history. This came about because "political activities had increased in scope and vigor thus demanding a more extensive, powerful, and permanent system to deal with the problems of American politics" (Silbey, 6:1998). The birth of the American party system emerged from "the need to manage and guide a rapidly growing electorate; the need to bring together like-minded interests and factions into coalitions in order to win elections; and the need to enact specific policies in an arena where real differences over public policy existed alongside perceptions of serious public danger if the wrong policies, people, or groups dominated" (Silbey, 1998:6). This formation allows for the interplay between partisan groups to be analyzed.

Minority coalitions once formed then hold the potential to 'check' the will of the majority party (since the latter must compromise to ensure minority support/enduring legitimacy) and represent groups that otherwise feel disconnected and unrepresented. Coalitions are unavoidable due to the phenomena of factionalization. James Madison explains that the "inference to which we are brought is, that the causes of faction cannot be removed, and relief is only to be sought in controlling its effects" (Madison, 1965:45). Minority Coalitions aid in this relief, in that the majority must consent to a portion of the minority faction's demands in order to retain power.

Political parties also hold the potential to further liberalization and help incorporate more democratic practices within the Middle East. In order to develop a large constituency to become an active member of government, former oppositional groups have to broaden their platform to address a multitude of concerns. Furthermore once power is obtained through election to public office the group's behavior is further restrained, meaning that the potential is there to minimize radical and extremist activities that would otherwise threaten the legitimacy of the party and in turn jeopardize their newfound power. Oppositional groups can also be co-

opted into other pre-existing political parties that share similar sentiments, but pursue more moderate action to achieve goals.

The Imperative for Principles of Liberalization

The synergism of elections and voting creates the expectation of an immediate and fluid democracy. While elections and voting are the bedrock necessary if democracy is going to survive, they are the not the complete solution. Elections hold little value if they are not free and fair. What is even more important than free and fair elections is participation, but participation is of little value when the electorate holds little understanding of the nature of democracy. This is further complicated when party systems are not equipped with the requisite arena in which to compete, they cannot be expected to provide information necessary for voters to make decisions that best reflect their preferences. Add a final variable of years of bitter animosity as reflected within transitional democracies there can be no hope for civil and organization political activity. Therefore the assumption made by many that merely holding elections and voting will generate meaningful democratic action is inherently flawed.

Charles Barry addresses this issue in his paper *What Democracy for Afghanistan?* In his work he sites key obstacles that prove formidable to any potential success for democracy in Afghanistan. While Afghanistan is not inductive of the entire region, Barry aptly points out the dangers assumptions hold when they are made without contextualization. For example Barry notes that "low literacy rates inhibit dissemination of knowledge necessary for democratic participation. Optimistic estimates at about 40%; female is below 20%. Pessimistic estimates suggest that the national total of literate adults may actually be around 20% of the populace" (Barry, 2011: 26). Literacy is vital for active and meaningful participation in democratic elections. Voters should have some understanding of whom they are choosing to represent and lead them. This information will prove less then reliable and conflicting accounts of candidates will confuse voters who have to receive information word of mouth.

Along with low literacy rates Barry sites "the harsh geography of Afghanistan, combined with an urban/rural split of about 25%-75%, means that much of the population lives in isolated rural areas. National elections to a distant assembly in Kabul may mean relatively little to much

of the population, given that many Afghans in rural areas have not traveled a significant distance from their birthplace in their lifetime" (Barry, 2011:26). The world understood by most Afghans consists of the village in which they live and convincing them that the decisions made within the capital city had a large effect on their way of life would be more than difficult. Most Afghans as focus solely on local affair because local experience governs their way of life. Democracy made hold promise in the immediate environment but a meaningful national election seems out of reach.

To avoid the continuation of making goals and setting priorities outside of context, the focus will shift towards principles of liberalization that do not rely on the electorate's knowledge and experience of democracy. Three principles that hold strong potential to further liberalization are Separation of power, in conjunction with checks and balances, as well as the rule of law.

Separation of Powers and Checks and Balances

The concentration of power in either an individual or small group of individuals' always carries with it the potential for abuse. Given the nature of democracy in that leaders are chosen by the people, if any one leader or set of leaders began to act beyond their authority the people could vote them out of power. However government is not that simple. As James Madison states in *The Federalist Papers* No. 51: "the dependence on the people is, no doubt, the primary control on the government; but experience has taught mankind the necessity of auxiliary precautions" (Madison, 1964:337) to protect against the passions of the people. John Adams also warned about the potential of abuse and the dangers of relying on popular election as the sole method of control during the formation of the constitution. As recounted by Page Smith in *The Constitution: A Documentary and Narrative History*, Adams believed that "a single unchecked legislature … would lust after power, and in time will 'not hesitate to vote itself perpetual'" (Smith, 1980:53). Even though citizens may vote in good leaders, if this line of logic is adopted, eventually these leaders will fall victim to a flawed system that allows them to yield too much power. Therefore it becomes imperative to restrain that power, and the best method of restraint is to improve the system.

Returning to Alexis Tocqueville, who when discussing ways to limit authority, states that the "manner of diminishing the influences of authority does not consist in stripping society of some of its rights, nor in paralyzing its escorts, but in distributing the exercise of its powers among various hands, and in multiplying functionaries, to each of whom is given the degree of power necessary for him to perform his duty" (Tocqueville, 1956:62). First the power must be fragmented amongst a range of offices, and the power granted to these offices should only encapsulate what is necessary to perform the duties prescribed to that office. Thereby this separation of powers by granting a specific amount of power to each office safeguards the greater society from unimpeded abuse from members of government because they lack the authority needed to carry out such abuses.

As separation of powers is necessary to shield citizens from abuse, checks and balances ensures the continued operation of government. Checks and balances keep any one faction from over-taking one office of government and imposing their will, whereby the different houses of government must illicit the cooperation of other offices in order to pass their legislation. Madison also writes about this interplay between offices in *The Federalist Papers* No. 51 when he shares "we see particularly displayed in all subordinate distributions of power, where the constant aim is to divide and arrange the several offices in such a manner as that each may be a check on the other" (Madison, 1965:337). The subordinate distribution of power guarantees that government offices must compromise and cooperate to accomplish their agendas.

Rule of Law

In democracy no one is above the law, and everyone falls subject to its jurisdiction. The idea of rule of law dominates American society as Tocqueville addressed with "in no country in, the world does the law hold so absolute a language as in America (Tocqueville, 1956:63). The absolute language used to describe American law falls in line with Aristotle's philosophy of law when he states "for passion influences those who are in power, even the very best of men: for which reason law is reason without desire" (Aristotle, 3:16). It is in the best interest of society for law to be based on logic. Logic does not see color or minority and escapes the prejudice and

emotion that leads to the demonizing of minority groups. While all laws have not always escaped prejudice, the system necessary to continue the critique of logic exists and therefore allows the review of law to form a more just outcome. This concept cannot be overlooked as it has trended throughout all western democracy across the paradigms of history.

For the on-going critique to survive it needs to be grounded in a legal structure. This adds special emphasis to the importance of the structure in that "without the working of the Constitution, no amount of talk would have convinced the American people to their parochial loyalties for a higher allegiance". The Constitution's promise of equal protection under the law becomes a vital milestone (Worfford, 1969:61). The structure provides the medium of action that allows participation in the law to produce a tangible outcome.

Hence it should be clear that the theory was showing that "*individual voters* today seem unable to satisfy the requirements for a democratic system of government outlined by political theorists. But the system of democracy does meet certain requirements for a going political organization. The individual members may not meet all the standards but the whole nevertheless survives and grows. This suggests that where the classic theory is defective is in its concentration on the *individual citizen*" (Berelson et al, 1971:35; original emphasis). Now that the principles of liberalization have been defined, it is readily apparent that the current application of advanced modern democracy is by necessity flawed. Individual voters cannot be expected to withstand the weight of democracy without the pre-existing democratic institutions.

Theoretical Application

Most of the Middle East has a healthy understanding of the democratic process and its purpose as Amaney Jamal Recognizes in his essay *Actors, Public, Opinion, and Participation* when he states "citizens across the region, by majorities above 75 percent, believe that democracy is the best form of government". (Jamal, 2011:195). This fact allows Jamal to make that statement "some people may be struck by the overwhelming support for a democracy in a region that has little democracy, but additional data substantiate that Arab citizens show a healthy understanding of the concept of democracy" (Jamal, 2011:195). It is clear that the

concept of democracy is healthy within the Arab region, and this concept is not foreign to more modern states such as Iran or Turkey.

If democracy is so popular within the region, than why hasn't it democratized? The biggest obstacle originates with "the prevailing concern is whether forces of Islamism can be reconciled with democratic values" (Jamal, 2011:196). This is primarily a concern that plays off western fears and hypotheticals, where as "large numbers of Arabs and other Muslims contend that the tenets of Islam are inherently democratic" (Jamal, 2011:196). Yet "many believe that the religious orientations and attachments of Muslim citizens create a normative climate that is hostile to democracy" (Jamal, 2011:196). The foundation of this belief relies highly on theological sentiments rather than empirical analysis.

Opposed to viewing elements of Sharia Law and Islamism as immovable obstructions standing in the path to democracy, the potential of these cultural institutions to be co-opted into the liberalization process needs to be explored. To examine this potential, a first step away from analyzing the two institutions on their theological credentials must take place, and more emphasis placed on the role with which the play in society.

Sharia Law

In the western world, debates about whether or not Sharia Law is incompatible with democracy have escalated, since it is often viewed as a medieval form of judgment. This view lacks any form of critical analysis of the true role Sharia plays in mediating disputes between Muslims. However, before an argument of contemporary applications of Sharia Law takes place, an appreciation of the origin of Sharia has to be developed. Benazir Bhutto in her book *Reconciliation: Islam, Democracy, and the West* made a pivotal observation that "the early Muslim caliphate (immediately after Prophet Mohammed's death) did not have Sharia to govern it, as Sharia was not developed" (Bhutto, 2009:64). This fact is essential in examining the nature of Sharia, given that it was not an original part of Islam, but instead came from interpretation of Islam. What this means is that contrary to many current interpretations thereof, it was not meant to be a rigid and/or static doctrine.

Bhutto continues to explain, for example, that "much later, in medieval Islam, Sharia law was developed" (Bhutto, 2009:64). In its original purpose "Sharia law actually restricted autocratic rulers from abusing their people, through a system of checks to ensure justice and equality" (Bhutto, 2009:64). What is now viewed as an oppressive force of authoritarian regimes thus originally emerged as a tool to protect people from the government. While the theory of Sharia acting as a check will be returned to later, what is immediately important is the foundation upon which Sharia was built, specifically a belief that justice and equality should be the primary focus of society.

Sharia becomes problematic when it is coupled and interpreted through the lens of the Hadith, and fundamentalist interpretation of the Qu'ran. Fundamentalist utilizing the Qu'ran and Hadith set strict parameters in how Sharia should be enforced against not only the state, but the citizens within the state. These parameters have had a tendency to stagnate society by penalizing and mediating disputes among Muslim citizens that are no longer up to date. However Bhutto reminds us that "while sacred texts are constant and divine, interpretations should evolve over time based on changes in the social and political environments." Adding emphasis to this perspective is her conclusion that "modern Muslim can do the same" (Bhutto, 2009:63-65). Expanding on this, Sharia was implemented to meet the political condition of restraining the power of the caliph; it today needs to return to its original premise of rising to meet social and political dilemmas. Bhutto continues with "Sharia is not an end but rather a means to justice or equality or principles that have been laid down" (Bhutto, 2009:65). It is thus not a concrete set of rules which society must abide by, it is the formal recognition of what society deems to be the solution to social issues.

If Sharia is to reflect tenets of Islam, it becomes necessary to understand that "the Quran provides broad beliefs and morals by which to live. The specifics were left to be interpreted in the light of proper historical context" (Bhutto, 2009:65). The capital cases that gain the most amount of exposure in the Western media, such as the bodily mutilation of perpetrators of supposed crimes and the stoning of women for adultery, seem to reflect the interpretations that demonstrate no consideration to the current historical context. It would

seem "there is no escaping the perception many in the West have of Sharia. Not seeing the broad role Sharia plays in Islam, people focus instead on rare draconian punishments" (Hosni,2011). What is missing in this interpretation is the use for of Sharia Law, and the authority is has in mediating disputes between Muslims that are current. More confronting is that many "might be surprised to learn that Sharia as a criminal justice system is used only in Saudi Arabia and some parts of Nigeria. Most Muslim countries apply Sharia principles only to their finance and banking, contract, marriage and inheritance laws" (Hosni, 2011).

Sharia viewed through its role in reality, opposed to perpetuated myths, demonstrates Bhutto's ideas fall in line with Weber's theory of legal-rational authority. Weber tells us that "legal authority rests on the acceptance of the validity of the following mutually inter-dependent ideas. That any given legal norm may be established by an agreement or by imposition, on grounds of expediency or value-rationality or both, with a claim to obedience at least on the part of the members of the organization" (Weber, 1978:217). The relationship between the caliph and citizens in this period was seen as valid for all those involved. The people recognized the need for a head of state and the caliph saw themselves as being the one with the right to claim that post. The need of the people, along with the need of the caliph to exercise authority provided the mutually inter-dependent ideas that were consented to by both sides. Weber continues his theory with " usually extended to include all persons within the sphere of power in question- which in the case of territorial bodies is the territorial area-who stand in certain social relationships carry out forms of social action which in the order governing the organization have been declared relevant" (Weber,1978:2217). Here Weber is defining the role of sovereignty. The persons whom share social relationships and actions come together to view the governing organization (the state) to be the relevant arbitrator of rules.

The culmination of the interaction between the people and the governing body is found in "that every body of law consists essentially in a consistent system of abstract rules which have normally been intentionally established. Furthermore, administration of law is held to a consist in the application of these rules to particular cases; the administrative process in the rational pursuit of the interests which are specified in the order of governing the organization

within the limits laid down by legal precepts and following principles which are capable of generalized formulation and are approved in the order governing the group, or are at least not disapproved in it" (Weber, 1978:217). The caliph was bound by the interests laid out by the group (the group being Muslim citizens) and was supposed to act in-line on precepts the community agreed to, or could act insofar as the caliph didn't pursue actions that would disapproved.

The true purpose of Sharia worked hand in hand in the establishment of legal authority, it failed that definition when it was hijacked to enforce a specific and unalterable agenda brought about by either authoritarians looking for a method of control, or fundamentalist Muslims who needed the strict rules on society to accomplish their goals. This method of control becomes impossible when "the community has tremendous discretion in interpreting islam and enacting laws that embody its spirit. Democratic decision can extend to every area of life and law" (Feldman, 2003:59). Sharia is and should be a community instrument to deliver results that are viewed as just by the people under its jurisdiction.

Islamism

As mentioned previously, any form of Islamism has been viewed as the obstacle to democratic progress within the region. To refer again to Amaney Jamal's study of the Arab world, Jamal aptly points out that Westerner's are made weary when " support for Islamism, and support for democracy can indeed become compatible" (Jamal, 2011:197). This fact should not threaten or intimidate any effort made on behalf of the West at cultivating liberal practice in the region. Bruce Feiler in his book *Generation Freedom* discusses an interview he had with Ethar El-Katatney, a twenty three year old Muslim political activist. Views of democracy have been greatly skewed throughout the region, not only through authoritarian regimes whom have been routinely backed by Western powers, accompanied by extensive corruption among government organization, it should not then come as a surprise when Katatney asserts " organized Islamists across the region were the one group willing to offer an alternative to the stagnation and political infantilizing…Fundamentalism became a fall back." (Feiler, 2011:123). It becomes easier to see that the more conservative trends among Islamist are more from a

reactionary stance. These trends don't necessarily represent an obstacle but emerged as a way to address the ills within the present model.

Katatney's assertion is strengthened by the observations of John Esposito in his book *Islam: The Straight Path*. Esposito argues "behind their democratic parliamentary facades, problems of authoritarianism, legitimacy and limited political participation plagued most Muslim countries. Government promises and development programs had created rising expectations that often went unfulfilled. Poverty and illiteracy remained unchecked" (Esposito, 2005:162). Naturally Muslims would seek reprieve within a cultural institution that still hadn't compromised all its value, and could provide discourse over possible solutions. Accompany this with the fact "modernization seemed to benefit a disproportionate few, the new urban-based middle and upper classes, fostering conspicuous consumption and corruption" (Esposito, 2005:162). Democratic actions that in reality served to bolster corrupt regimes and elites created distrust and made Islam a cultural reprieve.

The inclination after viewing the strands of conservatism that grew among the Islamists increased the propensity to focus on a pre-modern form of Islam. Benazir Bhutto explains "the past is used too frequently to define Modern Muslims, especially when evaluating their receptivity to democracy" (Bhutto, 2009:63). Bhutto follows this statement by adding "when analysts look at the receptivity of modern Muslims to democracy, they too often look to Islamic texts and interpretations, as well as to the kind of social structure of the first community of Muslims" (Bhutto, 2009:63). This view, which is often readily accepted, is only reinforced by the oppressive dictatorships that are crumbling within the Middle East today. However the same view, and at times a more archaic version, is passed along to Islamists and the assumption is made that they will be even less open to democratic freedoms.

It holds little sense to judge Islamists on their historical origin, or to hold them in the same light of extremists groups who espouse a message akin to the one governing the earliest Muslim communities.

Perhaps one of the most prominent, and certainly longest lasting, Islamists groups would be the Muslim Brotherhood. It is true The Brotherhood took violent actions that should

never be condoned, although later renouncing such actions, what should be examined is in the way the group gained popularity. Feiler explains "the organization built its popularity by deftly deploying social services, such as constructing hospitals, pharmacies, and schools, along with forming strategic alliances" (Feiler, 2011:66). The Brotherhood took action to improve the community in which it operated. These actions directly coincide with basic tenets within Islam as Esposito explains "Muslims are not only to know and believe, but also to act and implement. Worship and devotion to God embrace both private and public life, affecting not only prayer, fasting, and pilgrimage, but social behavior as well" (Esposito, 2005:29). Esposito provides more specific instances of behavior when he states "false contracts, bribery, abuse of women, hoarding of wealth to the exclusion of its subordination to higher ends, and usury are denounced" (Esposito, 2005:29).

The Brotherhood never got the chance to fully implement its policies into action because "in 1954, the government of Gamal Abdel Nasser, fearing the Brotherhood's growing clout, banned the organization for the next decade and a half systematically tortured Brotherhood leaders" (Feiler, 2011:66). Feiler continues to describe the extent to which the Brotherhood was barred from political space in Egypt with "in recent years, the Mubarak regime arrested tens of thousands of members, yet the Brotherhood still managed to capture 20 percent of the parliament in the 2005 election" (Feiler, 2011:66).

The world has seen the Brotherhood's action when ostracized. Considering their subsequent persecution at the hands of the Egyptian government, extremism called for by Sayyid Qutb seems only a natural progression of events. However Anouar Boukhars in his article "The Arab Revolutions For Dignity" adds exclamation to the fact "a minority followed Sayyid Qutb, who left the organization and advocated terror as the only possible response to the brutality or military backed regimes" (Boukhars, 2011:65). What remains more interesting are the actions taken by the Brotherhood during Egypt's drive and early days of independence, and the attempts at reformation made during persecution. Since those days the Brotherhood has been afforded minimal political space at best, the world has not seen what the Islamist group

would do when granted power. The question becomes whether or not the Brotherhood could be expected to continue the community projects found at the heart of Islam.

What remains certain is that if the decision is made to exclude The Brotherhood yet again from all political activity, the probability for violence makes it an almost certain outcome. The only option left is to open political participation to Islamist groups, and allow them to vie for power within the government. This has already taken place within the Gaza strip, where Hamas became the ruling power in 2009.

Hamas and the Potential of the Political Party Format

A strange shift of agenda appears to be developing within the Gaza strip. The ruling power Hamas is beginning to demonstrate behavior that suggests it has far more interest in building its state, rather than carry on actions that led to its label as a terrorist organization.

In fact the label of a terrorist organization is misleading as Matt Rees points out in his article *Inside Hamas* by stating "It is tempting in the post 9/11 world to assume that all labeled terrorist groups are alike, made in the image of Osama bin Laden's Al Qaeda. But the Islamic Resistance Movement, known as by its Arabic acronym Hamas (which translates to "zeal"), is not an international organization of hate committed to bringing down the Western World" (Rees, 2004: 4). While it remains true and cannot be ignored that they have participated in arm resistance and suicidal bombing campaigns against Israel Rees continues with "to date, Hamas has leveled its fire only against the occupying power, Israel" (Rees, 2004:4). The conflict is more akin to conventional war between state actors, opposed to resembling ideological resistance by a sub-national group. The perceptions of any Islamic group participating in violence are often misunderstood due in part to the connotations that are brought forth by the label of a terrorist organization.

Sharing in this sentiment Fawaz Gerges maintains "Operationally and ideologically, there are huge differences between Hamas and jihad extremist such as Al-Qaeda – and there's a lot of bad blood. Hamas is a broad-based religious/nationalist resistance whose focus in violence is limited to Palestine/Israel, while Al-Qaeda is a small, transnational terrorist network that has

carried out attacks worldwide" (Gerges, 2010:21). The groups overarching goals distance it from what many see in the absolutist rhetoric of Al-Qaeda like organizations.

Even with Hamas's shift in focus Gerges goes on to explain "Before 2006 parliamentary elections, Hamas was known for its suicide bombers, not its bureaucrats, even though between 2002 and 2006 the organization moved from rejectionism toward participation in a political framework" (Gerges, 2010:21). Once applied, the terrorist label creates an emotional response, preventing people from objectively investigating actions taken by organizations such as Hamas, and broad generalizations are made that don't reflect the full impact the group has on its environment. In particular the fact that "Hamas is not just a political party. It's a social movement, and as such it has a long record of concern about and close attention to public opinion"(Gerges, 2010:21). These actions and behaviors get lost among religious rhetoric similar to that of Al-Qaeda but "that does not mean Hamas is incapable of change or compromise but simply that its political identity is strongly constituted by its religious legitimization" (Gerges, 2010:21). The religious overtones have to be understood in their context, a political party playing to the sentiments of an electorate.

In his essay Islamic resistance in "Palestine: Hamas, The Gaza War And The Future of Political Islam" by Dr. Seif Da'na when speaking about Hamas further advocates that "more importantly, it successfully restrained and effectively directed any potential dogma-motivated radicalism into productive political activism, thus denying any Al-Qaeda style formation any political space"(Da'na, 2009:223). Hamas within its sphere of influence has taken control and denied Al-Qaeda and similar organizations the opportunity to further their campaigns.

Given the format of Hamas as a political party elected to office, it makes far more sense to start evaluating and anticipating the group's behavior by assuming it is a rationale political actor that will act in a way consistent with maintaining legitimacy and its power base. According to Menachem Klein in his work "Against the Consensus: Oppositionist Voices in Hamas" this notable shift in practice can be traced back to "the peace process that began with the Madrid Conference of 1991 prompted the composition of Hamas's political statements" (Menachem, 2009:882). Menachem continues by explaining that new political documents in Hamas were

started before the Oslo peace process, and were in more specific response to the 1992 Israeli government's position of conducting talks with the inhabitants of the West Bank and Gaza Strip about conducting elections and self-governing.

Menachem explains "the document laid out four choices available to Hamas and examined the advantages and disadvantages of each one. The choices were 1) full participation in the election; 2) participation under a different name; 3) a boycott of the election; and 4) using force to prevent the elections" (Menachem,2009: 882). Having weighed the options "those within Hamas who advocated participation argued that the organization should not risk losing public support and should in fact translate its support into power within the new governing institutions" (Menachem, 2009: 882). Hamas understood that its power derived from public support, and if it did not ensure that it retain a favorable public opinion, they would lose their power and be relegated to insignificance.

The shift toward democratic participation was not immediate. Ave Hovdenak explains in his article "Hamas in Transition: the Failure of Sanctions" when he sites "the transformation process in Hamas did not, however, start with its entrance into parliamentary politics in 2006, but can be traced back to the mid-1990s when Hamas started searching for political accommodations within the status quo of Palestinian society" (Hovdenak, 2009:62). Contrary to popular sentiment, the decision to participate in the 2006 elections was not a decision made to appease Western powers pushing for peace. It represents a fundamental shift in strategy; Hamas would seek to achieve its agenda through political participation.

The political party format charts the movement of Hamas from its origins in jihad, to an active member of government and in the political sphere. It remains to be seen whether the group will continue to reform and moderate in its legitimate setting, or if they will revert back to a more militaristic agenda. Hamas will do this at its peril; the group has certainly recognized the need to appease the masses in order to retain their authority. For this reason it would seem unlikely to conclude that Hamas will fully abandon any and all actions similar to that of a rationale political actor. Rather the greater danger seems to be posed by system in which Hamas gained election. Without a clearly defined system of checks and balances, Hamas in its

efforts to improve the Gaza strip, could also become a victim of political stagnation that can so easily cause upheaval.

Concluding Analysis

Hamas and the Muslim Brotherhood prove problematic when facets of the organization splinter as the group becomes more mainstream. Party hardliners often reject any movement away from the use of violence, even as moderate portions of the group are being co-opted into legitimate political participation. It is here western powers must use extreme caution, when individuals act in the name of the entire group, the urge is for the government to crackdown and penalize the group as a whole. This only bolsters sympathy for the organizations that see government crackdown as persecution. Some sects within groups are particularly committed to continued violence, such as the split between the Irish Republican Army (IRA) and the splinter group, the Real IRA. The Real IRA stayed committed to terrorist action and accused the IRA as selling out and becoming part of the government. This distinction is necessary if non-violent solutions are expected to become default outcomes rather than rare occasions. To help distinguish who is a legitimate actor in government and who is not, a system of checks and balances that separates power amongst varying levels of government must be in place to provide the stability needed for incorporation.

When stagnation occurs, the populous lose faith in the progress towards freedom. If stagnation is to be avoided then the preceding areas of potential liberalization must be fit into a system of checks and balances that distinguish a clear separation of powers. The question that must now be addressed is if this can possibly be enacted in a formerly authoritarian regime unpinned by Islamic principles.

The roots of checks and balances are not completely foreign to Islamic society; rather they can be traced back to when Islam was in its golden age. They system emerged as a result of the competition for power that was created in the wake of the Prophet Muhammad's passing. Yahya Armajani and Thomas Ricks describe the effects of the vacuum of power by stating "the rivalry among claimants for the position of caliph was so strong that it resulted in

bitter civil war only twenty-five years after the prophet's death" (Armajani and Ricks, 1986:45). The Koran had left little instruction as to the setup of government which led to the conflict.

Noah Feldman describes how of checks and balances in Islamic government emerged out of this conflict. In his book *The Rise and Fall of the Islamic State*, Feldman explains: "in a system of designation or election, there are often at any one given time multiple claimants to the position of ruler" (Feldman, 2008:31). In this case, the competition of multiple claimants created "the need for some person or group of people to buttress the claims of the person who will successfully emerge as the ruler in a transitional situation" (Feldman, 2008:31). The group that rose to fill this role was the *ulema*, the class of religious scholars in Islamic society. The scholars were essential in that "the scholar's power to confer legitimacy was significant because the uncertain nature of succession demanded affirmation of legitimacy" (Feldman, 2008:34). The leader relied on the concession of the scholars in order to retain the legitimacy necessary to exert power.

Along with granting the leader legitimacy, the scholars also defined law within Islamic countries. Feldman explains "the corpus of law as shaped by the scholars was known to the members of the scholarly community, including judges. The law, in this sense, was a real and almost tangible force, embodied in the collective experiences and opinions of the scholarly class" (Feldman, 2008:29). Through this process, the law evolved into what Feldman describes as "its own living organism in the heart of Islamic life." This then culminated in a jurists' law that "consists of much more than what the judges decided in particular cases. It contains also the considered opinions of scholars outside the judiciary about the content of law and its application" (Feldman, 2008:28). The interpretations of not only legal scholars, but also scholars outside of the legal profession dictated the way the law was to be enforced, meaning that the caliph was constrained by the legal findings of the *ulema*.

It would seem that the caliph served merely at the whim of the *ulema*, however this was not the case. Scholars interpreted what the meaning of law should be, however the mechanism for appointing jurists and enforcing the law belong to the state (Feldman, 2008:27). It is true that "the ruler could pervert the course of justice only at the expense at being seen to violate

God's law" (Feldman, 2008:29). If this course was taken, the loss of legitimacy would mean the end of their reign, so a caliph remained wary before acting in a way as to assault the scholarly community. Feldman also informs us that "in practice, the scholars did not spontaneously declare a sitting caliph disqualified. This would have been a foolish thing to do, especially in view of the fact that the scholars had no armies at their disposal" (Feldman, 2008:31). The caliph held nearly all power in the state, but had to stay within the good opinion of the *ulema*.

The balance is easy to see, between a class of scholars, and a caliph, no one man could attain supreme power. Whereas the scholars were a community of individuals, it prevented any one scholar from gaining any real power over all his peers; and the community as a whole would need just cause for the removal of the caliph. Anything short of just cause would give the caliph a viable opportunity to remove the scholars from power whereas they did not possess a force strong enough to repel the ruler. This balance is necessary, since it remains true that "for law to be practically relevant, as opposed to purely abstract or theoretical, it must have some connection to the way power is deployed by those in authority" (Feldman, 2008:27). The *ulema* were responsible for developing the law, and the caliph enforced it, forming a direct relationship that took Islamic law from theoretical to practical.

Feldman is not alone in this type of assessment, as his system of checks and balances is extremely similar to Benazir Bhutto's description of Sharia being the check the people had against the caliph. Both conceptions of checks and balances in Islamic society by Feldman and Bhutto show that mechanisms were in place that allowed the people to redress their grievances with the government. Feldman's analysis more clearly demonstrates the separation of powers amongst the *ulema* and the caliph, but Bhutto's conclusion also implied the separation of power in that the caliph's power was restrained to a point.

The observations make it clear that a system of checks and balances was certainly rooted deep in Islamic life, but it seems hardly sufficient for a modern state to liberalize. Systems of checks and balances must be present even among offices within a single modern bureaucracy, but it is a structural problem rather than a theoretical dilemma requiring merely an alteration in configuration opposed to the adoption of a culturally foreign concept.

Liberalization is not at odds with Islamic society because the problem is structural. As the essay has demonstrated, that with the proper framework previously authoritarian governments can liberalize. After considering the long phases of institutional consolidation within the U.S. along with the western ideals for democracy, it becomes apparent what institutional practices must be incorporated for successful liberalization that leads to democratic consolidation. Elections and voting are in of themselves not sufficient, because they are unable to withstand the passions of the people as they are allowed to participate in ways never conceived under the previous system. Therefore a more comprehensive and creative form of democracy can only hope to be achieved after practices liberalization have been firmly rooted in the culture for a significant amount of time. Thus confirming Weber's assertion that under the right construction, what at first seems to be a purely western model is readily adaptable to foreign cultures. While the exact outcomes are still uncertain, what is certain is if template style of democracy is applied to the Arab Spring movements occurring in Middle-Eastern countries failure is all but inevitable. However if a two phase strategy of democratic consolidation, that recognizes the necessary liberalization process before democracy can be realized, democracy may indeed flourish.

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