Compatibility of Democracy and Islam or the Lack Thereof: A Closer Look at Whether the Arab Spring Was Ever Capable of Culminating into a Viable Democracy in the Arab World.

Alvaro Hasani

COMPATIBILITY OF DEMOCRACY AND ISLAM . . . OR THE LACK THEREOF: A CLOSER LOOK AT WHETHER THE "ARAB SPRING" WAS EVER CAPABLE OF CULMINATING INTO A VIABLE DEMOCRACY IN THE ARAB WORLD

BY: ALVARO HASANI*

"There is something in the soul that cries out for freedom."[1]
    - Dr. Martin Luther King Jr., 1957

I. INTRODUCTION

At approximately 11:30 AM on December 17, 2010, a scrawny twenty-six-year-old young man went to the provincial headquarters in Sidi

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* B.A. Rutgers University, 2007; J.D., Seton Hall University School of Law, 2012.The author is a litigation associate in a New Jersey law firm and writes on an array of legal and geopolitical topics including Constitutional Law, Evidence, Legal History and current political events. He thanks Professor Bernard K. Freamon of Seton Hall University School of Law for his helpful comments on earlier drafts of this Article. And as always, the author is grateful to his parents for providing him with a guiding moral compass capable of navigating through the cognitive dissonance caused by our religious values and our standards of moral decency.

1. Martin Luther King, Jr., *"The Birth of a New Nation,"* Sermon Delivered at Dexter Avenue Baptist Church, THE MARTIN LUTHER KING JR. RESEARCH AND EDUC. INST. (Apr. 7, 1957), http://mlk-kpp01.stanford.edu/index.php/kingpapers/article/the_birth_of_a_new_nation_sermon_delivered_at_dexter_avenue_baptist_church/. The President of the United States of America, Barack Hussein Obama, echoed this particular quote following the departure of the Egyptian President Hosni Mubarak on February 11, 2011. *See* Press Release, White House Office of the Press Secretary, Remarks by President on Egypt (Feb. 11, 2011), *available at* http://www.whitehouse.gov/the-press-office/2011/02/11/remarks-president-egypt ("The word Tahrir means liberation. It is a word that speaks to that something in our souls that cries out for freedom.").

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Bouzid, Tunisia and calmly, without attracting any attention, poured fuel all over his body and set himself on fire.[2] Unbeknownst to him, the flames that engulfed his body would later ignite a revolution and incinerate several decades-old oppressive regimes in the Arab community.

The life story of Mohammad Bouazizi was a rather ordinary one. It was ordinary in the sense that he "was like the hundreds of desperate, downtrodden young men in hardscrabble Sidi Bouzid."[3] He gave up his studies at the age of nineteen to work full-time in order to support his family and pay for the education of his five younger siblings.[4] By all accounts, he was hard working and generous.[5] He sold fruits and vegetables from a heavy wooden cart that he somehow managed to push around all day.[6] As the sole breadwinner for his family of eight, his livelihood was threatened when a policewoman confiscated his cart and all of his goods.[7] The policewoman also allegedly slapped him, and even further demeaned him by spitting in his face and insulting his dead father.[8] This type of abuse was commonplace and a daily occurrence for Bouazizi.[9] On this particular day however, feeling humiliated and dejected, the

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2. Rania Abouzeid, *How Mohammed Bouazizi Sparked a Revolution*, TIME, Jan. 21, 2011, http://www.time.com/time/magazine/article/0,9171,2044723,00.html.

3. *See id.* (noting many young men in Sidi Bouzid "have university degrees but spend their days loitering in the cafés lining the dusty streets of this impoverished town . . . .").

4. *See id.* (claiming Bouazizi had been selling vegetables for seven years); *see also Tunisia Unveils Bouazizi Cart Statute in Sidi Bouzid*, BBC NEWS (Dec. 17, 2012), http://www.bbc.co.uk/news/world-africa-16230773 (stating that Bouazizi supported eight people with less than $150 a month).

5. *See* Peter Beaumont, *Mohammed Bouazizi: The Dutiful Son Whose Death Changed Tunisia's Fate*, THE GUARDIAN (Jan. 20, 2011, 3:02 PM), http://www.guardian.co.uk/world/2011/jan/20/tunisian-fruit-seller-mohammed-bouazizi (identifying that Mohammed Bouazizi was "funny" and "generous").

6. *See* Rania Abouzeid, *Mohamed Bouazizi's Unexpected Sequel: A Tunisian Soap Opera*, TIME Dec. 14, 2011, http://www.time.com/time/specials/packages/article/0,28804,2101745_2102138_2102235-1,00.html (describing the streets as uneven and dusty).

7. *See id.* (asserting that this was not the first time this had happened to Bouazizi, but it would be the very last).

8. *Id.* The humiliation was made even worse by the fact that "[e]veryone was watching." Kareem Fahim, *Slap to a Man's Pride Set Off Tumult in Tunisia*, N.Y. TIMES, Jan 21, 2011, http://www.nytimes.com/2011/01/22/world/africa/22sidi.html?_r=0&partner=rss&emc=rss&pagewanted=all. However, the policewoman's supervisor disputes that she slapped Bouazizi, and points out that it seems nearly impossible in Tunisian culture that a woman could slap a man in front of a crowd without triggering immediate reactions. *Id.*

9. Rania Abouzeid, *Bouazizi: The Man Who Set Himself and Tunisia on Fire*, TIME, Jan. 21, 2011, http://www.time.com/time/magazine/article/0,9171,2044723,00.html; Lin Noueihed, *Peddler's Martyrdom Launched Tunisia's Revolution*, REUTERS (Jan. 19, 2011, 6:16 PM), http://www.reuters.com/article/2011/01/19/tunisia-protests-bouazizi-idAFLDE70G18J20110119; *see also* Kareem Fahim, *Slap to a Man's Pride Set Off Tumult in Tunisia*, N.Y. TIMES, Jan. 21, 2011, http://www.nytimes.com/2011/01/22/world/africa/22sidi.html?_r=0&partner=rss&emc=rss&pagewanted=all (describing the system of bribes regularly ex-

young man sought to redress his grievances by attempting to confront the local municipal officials.[10] The officials refused to see him.[11] Less than an hour after his confrontation with the policewoman and without notifying his family, Mohammad Bouazizi in an act of frustration and hopelessness, set himself ablaze.[12]

The day after Bouazizi's self-immolation, the people of Tunisia took to the streets to protest widespread and constant police corruption and ill treatment.[13] While Bouazizi's death galvanized the public to express their anger and frustration with the government, other factors such as unemployment, food inflation, and lack of political freedom also contributed to the uprisings.[14] These demonstrations ultimately led to the removal of longtime Tunisian President Zine El Abedine Ben Ali on the 14th of January 2011.[15] Following the uprising in Tunisia, and the subsequent successful ouster of that nation's president, similar demonstrations began in Egypt, Libya, Syria, Yemen and Bahrain, along with many other nations within the Arab region.[16] The protests have led to the resignation of the Egyptian President Hosni Mubarak[17] and the ousting of the Libyan

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acted from Tunisian fruit and vegetable vendors and the frequent harassment Bouazizi suffered from municipal inspectors).

10. Abouzeid, *The Man Who Set Himself and Tunisia on Fire, supra* note 9.

11. *Id.*

12. *Id.*

13. *See* Kareem Fahim, *Slap to a Man's Pride Set Off Tumult in Tunisia,* N.Y. Times, Jan 21, 2011, http://www.nytimes.com/2011/01/22/world/africa/22sidi.html?_r=0&partner=rss&emc=rss&pagewanted=all (describing how the unrest quickly grew from local protests to a nationwide movement, aided by the Internet and labor organizations); *see also* Lin Noueihed, *Peddler's Martyrdom Launched Tunisia's Revolution,* Reuters (Jan. 19, 2011, 6:16 PM), http://www.reuters.com/article/2011/01/19/tunisia-protests-bouazizi-idAFLDE7 0G18J20110119 (providing further details on the transformation from a neighborhood uprising to a provincial movement and finally a national campaign).

14. Richard Spencer, *Tunisia Riots: Reform or be Overthrown, US tells Arab States Amid Fresh Riots,* The Telegraph,(Jan. 13, 2011, 10:30 PM), http://www.telegraph.co.uk/news/worldnews/africaandindianocean/tunisia/8258077/Tunisia-riots-Reform-or-be-overthrown-US-tells-Arab-states-amid-fresh-riots.html; Ben Bouzza, *Tunisia Riots Injure At Least 177,* Huff Post, Nov. 28, 2012, http://www.huffingtonpost.com/2012/11/28/tunisia-riots_n_2206214.html.

15. Bruce Crumley, *Tunisia Pushes Out Its Strongman: Could Other Arab Countries Follow?,* Time, Jan. 14, 2011, http://www.time.com/time/world/article/0,8599,2042541,00.html.

16. Sudarsan Raghavan, *Inspired by Tunisia and Egypt, Yemenis Join in Anti-government Protests,* Wash. Post, Jan. 27, 2011, http://www.washingtonpost.com/wp-dyn/content/article/2011/01/27/AR2011012702081.html.

17. *Egyptian President Hosni Mubarak Resigns,* CBS (Feb. 11, 2011, 11:32 PM), http://www.cbsnews.com/2100-202_162-20031504.html.

leader Muammar Gaddafi.[18] Approximately 219 people were reported dead as a result of the Tunisian uprisings.[19]

The Associated Press reported that as of April 2011, 846 people were killed in the Egyptian uprisings.[20] 3,500 people have died as a result of the Syrian uprisings as of November 2011[21] and 30,000 people have been reported dead in the Libyan conflict.[22] To therefore declare that these demonstrations have proved costly would be an understatement. A universal hope is that such sacrifices were not made in vain. However, this is precisely the viewpoint of many political commentators, that is, that the "Arab Spring"[23] was never capable of yielding democracy in the region because such a result would be incompatible with Islam.[24] As proof that the "Arab Spring" has failed, critics cite the most recent unrest in the region, the distrust of new leaders and the emergence of Islamist seeking to impose strict interpretation of Sharia law. In contrast, there are those who insist that democracy is indeed compatible with Islam. They would suggest that the "Arab Spring" and the subsequent civil unrest indicate that democracy is possible in the Arab region.[25]

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18. Gabriel Gatehouse, *Libya Marks Anniversary of Revolt Which Ousted Gaddafi*, BBC News, http://www.bbc.co.uk/news/world-africa-17070821 (last updated Feb. 17, 2012, 5:15 PM). Muammar Gaddafi was killed on October 20, 2011 after being captured by the National Transition Council fighters in his hometown of Sirti. *Id.*; *see* Mary Beth Sheridan, *Moammar Gaddafi is Captured, Killed as Last Loyalist Holdout in Libya Falls*, Wash. Post, Oct. 20, 2011, http://www.washingtonpost.com/world/gaddafis-home-town-overrun-conflicting-reports-on-his-fate/2011/10/20/gIQAMwTB0L_story.html.

19. *Tunisia Protests Against Ben Ali Left 200 Dead, Says UN*, BBC News (Feb. 1, 2011),http://www.bbc.co.uk/news/world-africa-12335692.

20. *Government Fact-finding Mission Shows 846 Killed in Egypt Uprising*, Associated Press (Apr. 20, 2011, 8:27 AM), http://www.haaretz.com/news/world/government-fact-finding-mission-shows-846-killed-in-egypt-uprising-1.356885.

21. Nada Bakri & Rick Gladstone, *Syria Faces New Threat as Opposition Seeks Allies*, N.Y. Times, Nov.15, 2011, http://www.nytimes.com/2011/11/16/world/middleeast/death-toll-mounts-in-syria-along-with-outside-pressure.html.

22. Karin Laub, *Libyan Estimate: At Least 30,000 Died in the War*, Associated Press (Sept. 8, 2011), http://www.guardian.co.uk/world/feedarticle/9835879.

23. "Arab Spring" refers to "a series of activities ranging from political protests to civil war that happened in a number of Arab countries, including Libya, Egypt, Tunisia, and Syria, beginning in the early months of 2011." *Arab Spring Definition*, Macmillan Dictionary, http://www.macmillandictionary.com/us/open-dictionary/entries/Arab-Spring.htm (last visited Mar. 15, 2013).

24. *See, e.g.*, Charles K. Rowley & Nathanael Smith, *Islam's Democracy Paradox: Muslims Claim to Like Democracy, So Why Do They Have so Little?*, 139 Pub. Choice 273, 273–99 (2009) (contending that democratic deficits in Muslim-majority countries is attributed to Islam itself).

25. *See* Robert W. Hefner, *Public Islam and the Problem of Democratization*, 62 Sociology of Religion 491, 498 (2001) (arguing that contemporary interpretations of Islamic scriptures embrace democracy); Noah Feldman, After Jihad: America and the

Given the polarizing points of view in this subject matter as well as the crucial importance of the "Arab Spring" and its global impact, this Article explores whether democracy is compatible with Islam. Through this analysis, the Article examines the question as to whether the "Arab Spring" was ever capable of culminating into a viable democracy in the region. The Article will first provide definitions of "democracy" and "Islam" by extracting common meaning of both concepts. These two terms are often interpreted as contrary ideals, depending on the region, set of individuals or collective societal thought in which the words are being examined.

Next, the Article will present the purported evidence for the claim that democracy and Islam are compatible followed by the contradictory evidence indicating possible incompatibility between the two. Finally, the Article will evaluate these conflicting claims and ultimately undertake the difficult task of proffering an answer to the question posed by the title.

II. Defining Democracy and Islam

It is important to recognize at the outset that democracy and Islam are both relative terms. Each may mean something different depending on the interpreter or the geographical region that purports to embrace them. Also, both concepts are by no means static. Their definition will most likely change from one era to the next. Therefore, even time may affect the way democracy or Islam are defined and interpreted. With this obstacle in mind, this Article will only focus on the standard core principles of each that are commonly agreed upon across the spectrums of time, culture and geography.

A. *Defining Democracy*

The effort to achieve a precise definition of democracy is a difficult and wide- ranging task. There is certainly much debate and disagreement about what democracy actually means.[26] Indeed, the nebulous concept of democracy has been described in many ways and in many different theories.[27] Nevertheless, core principles of democracy are readily evident in

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STRUGGLE FOR ISLAMIC DEMOCRACY 6 (2003) (demonstrating that core values of democracy are compatible with Islam).

26. Many scholars have provided different definitions of democracy. *See e.g.*, ROBERT A. DAHL, DEMOCRACY AND ITS CRITICS 121–22, 220–22 (1989); JOSEPH A. SCHUMPETER, CAPITALISM, SOCIALISM, AND DEMOCRACY 269 (3d ed. 1950); CARLOS SANTIAGO NINO, THE CONSTITUTION OF DELIBERATIVE DEMOCRACY (1996); M. EDELMAN, DEMOCRATIC THEORIES AND THE CONSTITUTION 5 (1984) (noting a variety of definitions of democracy in the United States).

27. For a discussion on different theories of democracy, review: BRUCE A. ACKERMAN, SOCIAL JUSTICE AND THE LIBERAL STATE (1980); JOHN HART ELY, DEMOCRACY

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literature and have yielded substantial consensus among democratic theo-
rists. Those principles may be organized in terms of three values: politi-
cal, legal, and social.[28]

The first set of these values, those founded on political considerations,
may be deemed the most important of all core democratic values. Politi-
cal values consist of self-determination,[29] participation,[30] accountability,[31]
and transparency.[32] Their importance is plainly obvious: they bestow
upon citizens the ability to command their government and hold it ac-
countable. It is often the absence of these core values that leads to the
rise of tyrannical and oppressive regimes.[33]

Legal values generally incorporate the well-known principles of equal-
ity[34] and due process.[35] Equality reflects the notion that rules should be

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AND DISTRUST: A THEORY OF JUDICIAL REVIEW 4–5 (1980); JOHN RAWL, POLITICAL LIB-
ERALISM (1993); Edward L. Rubin, *Getting Past Democracy*, 149 U. PA. L. REV. 711, 726
(2001).

28. *See* Richard C. Reuben, *Democracy and Dispute Resolution: The Problem of Arbi-
tration*, 67 LAW & CONTEMP. PROBS. 279, 285, 287–93 (2004) (discussing each value, their
sub-elements, and meaning).

> [T]hese values [are] treated separately . . . for purposes of theoretical analysis, but
> should be understood as much more integrated in practice, often overlapping and mu-
> tually reinforcing, and sometimes barely distinguishable. . . . [T]hey should [also] be
> understood as operating to fulfill democracy's ultimate aspiration of enhancing the
> capacity and competence of personal autonomy and dignity within a system of collec-
> tive self-government and social responsibility.

Id. at 286.

29. *See* Robert C. Post, *Viewpoint Discrimination and Commercial Speech*, 41 LOY.
L.A. L. REV. 169, 175 (2008) ("[D]emocracy is ultimately about 'self-development and self-
determination . . . .").

30. *See generally* JOHN RAWLS, A THEORY OF JUSTICE 234–42 (Belknap Press,
Harvard Univ. Press, rev. ed. 1999) (1979) (using economic systems and A.W. Tucker's
"Prisoner Dilemma" of game theory to describe participation in democracy and the social
contract theory).

31. *See generally* BERNARD MANIN ET AL., INTRODUCTION to DEMOCRACY, AC-
COUNTABILITY AND REPRESENTATION 8 (Bernard Manin et al eds., 1999) (1987) (discuss-
ing the importance of accountability in a democratic government). Accountability in
democracy refers to the idea that elected officials may be held responsible for their policies
by way of reelection and in some cases impeachment. *Id.*

32. U.S. CONST. amend. I.

33. *See* MANIN ET AL., *supra* note 31 (discussing the importance of accountability in a
democratic government).

34. *See also* CHARLES R. BEITZ, POLITICAL EQUALITY: AN ESSAY IN DEMOCRATIC
THEORY ix–xvi (1989) (examining political equality in a contemporary setting). *See gener-
ally* ROBERT A. DAHL, DEMOCRACY AND ITS CRITICS (Yale University Press 1989) (offer-
ing a discussion of equality in democracy);

35. *See generally* David L. Kirp & Donald N. Jensen, *What Does Due Process Do?*, 73
PUB. INTEREST LAW REPORT 75–90 (1983) (offering a general discussion of due process).

applied in the same manner to all individuals who are similarly situated.[36] Accordingly, the individual's race, gender, religion or social status, should not be determinative in their treatment by the government or the public. The principle of equality also acts as a check on arbitrary rule making or unjustified rule application.[37] Application of this principle leads to predictable outcomes and assured stability in society.[38] Similarly, due process ensures a fair and equitable procedure for applying rules. For example, it confirms the rights of citizens to be afforded ample notice and proper procedures before they can be deprived of their life, liberty, or property.[39] Again, it is often the absence of such due process values that permits oppressive regimes to exert their power over their citizens and to silence dissenters.[40]

Social values relate to civility and embrace the idea of common humanity.[41] Social values rely on an innate sense of good, which motivates civic virtue.[42] However, social values are also learned beliefs often acquired through familial relationships, schools, and religious institutions that provide opportunities to help the poor or heal the sick.[43] Thus, individuals, either through an inherent or learned sense of goodness, may reach out into their communities to help others without having any defined obligation to do so.

When woven together, the values represented by these three categories of principles develop a broad definition of democracy, which can then be

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36. *See generally* ROBERT A. DAHL, DEMOCRACY AND ITS CRITICS (1989) (offering a discussion of equality in democracy).

37. Equality is closely related to the political principle of rationality. Reuben, *supra* note 28, at 289–90.

38. *Id.* at 290–91.

39. U.S. CONST. amend. XIV § 1; *see* Mapp v. Ohio, 367 U.S. 643, 660 (holding the exclusionary rule applies to the states); Powell v. Alabama, 287 U.S. 45, 67–68 (1932) (holding denial of counsel a violation of due process rights).

40. *See, e.g.,* Scott Nowak, *Justice in Burma,* 19 MICH. ST. J. INT'L L. 667, 699–700 (2011) (discussing the lack of due process in countries such as Burma).

41. *See generally* ADAM B. SELIGMAN, THE IDEA OF CIVIL SOCIETY 1–38 (1992) (explaining the concept of civil society and its importance).

42. *See generally* Peter J. Spiro, *The Citizenship Dilemma,* 51 STAN. L. REV. 597, 625 (1999) (noting that individuals often share social values according to groups other than mere national identity); *see also* ROBERT D. PUTNAM ET AL., MAKING DEMOCRACY WORK: CIVIC TRADITIONS IN MODERN ITALY 171 (1993) (illustrating how social values affect community member choices).

43. MICHAEL HENDERSON & DOUGAL THOMPSON, HOW DO VALUES INFLUENCE GROUP DEVELOPMENT & ORGANISATIONAL CULTURE, VALUES AT WORK, 1, *available at* http://www.valuesatwork.org/A2GroupDevelopmentandCulture.pdf; *see Catholic Charites USA—Working to Reduce Poverty in America,* CATHOLIC CHARITIES USA, http://www. catholiccharitiesusa.org/ (noting an example of a religious institution that provides nationally-renowned charity work).

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used across cultures. For instance, democratic theorist Robert Dahl defines democracy as "the freedom of self- determination in making collective and binding decisions: the self-determination of citizens entitled to participate as political equals in making the laws and rules under which they will live together as citizens."[44] Throughout this article, in trying to answer the question of compatibility, this definition and the aforementioned values will exemplify what democracy means.

B. *Defining Islam*

Similar to democracy, the task of defining Islam is also complex. The interpretation of Islam may differ from region to region if only because individuals may differ in their respective degree of adherence to the faith. Some Muslims may elect to adhere fully and literally to the teachings of Islam while others may adhere only to its principal tenants.[45] Consequently, for the purposes of this section this Article explores only the main sources of Islam that have yielded substantial consensus among Muslims. Specifically, this Article focuses on Islamic law as distinguished from its other manifestations. Islamic law is defined as "the epitome of the Islamic spirit, the most typical manifestation of the Islamic way of life, the kernel of Islam itself."[46] The actual content and interpretation of its sources when determining their compatibility with democracy are discussed more in depth in the following sections.

The religion of Islam originated around 610 C.E.[47] According to Islamic belief, the word of God was first revealed to Muhammad Ibn Abdullah[48] during the month of Ramadan in a mountainous cave near the Arabian city of Mecca.[49] The Prophet Muhammad was born in 570 C.E.[50] He was approximately forty years old when he received his mis-

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44. Jane S. Schacter, *Ely and the Idea of Democracy*, 57 STAN. L. REV. 737, 738 (2004) (quoting DAHL, *supra* note 36).

45. Arguably then, it is not Islam itself that yields different definitions but rather the different people and regions that interpret it.

46. 1 LAW IN THE MIDDLE EAST 28 (Majid Khadduri & Herbert J. Liebesny eds., 1955).

47. *Birth of Islam*, FESTIVALS OF INDIA: BARAH WARFAT, http://festivals.awesomeji. com/barah-wafat/birth-of-islam.html (last visited Mar. 18, 2013).

48. Please note that whenever referencing the Prophet Muhammad, I ask that God's peace and blessings be upon him.

49. Hamid M. Khan, *Nothing is Written: Fundamentalism, Revivalism, Reformism and the Fate of Islamic Law*, 24 MICH. J. INT'L L. 273, 279 (2002). *See generally* CYRIL GLASSÉ, THE CONCISE ENCYCLOPEDIA OF ISLAM 146–51 (1989) (denoting a general introduction to Islam).

50. Khan, *supra* note 49.

sion as the messenger of God and started preaching the word of God.[51] After his death in 632 C.E., revelation as a source of Islamic knowledge came to an end.[52] Subsequently, the Caliphs[53] came into power and attempted to maintain order by closely adhering to the teachings of the Prophet and promulgating new rules.[54] These new rules however, "were essentially considered clumsy and unprincipled in light of the idealized rule of the Prophet."[55] "[I]n an effort to confine the explosion of incongruous rules and religious practices, pious religious scholars, grouped together in loose fraternities formally known as the Schools of Law (*madhab*), emerged."[56] It is now commonly accepted that there are four sources of Islamic law. They include the following: the Qur'an, the Sunna, Qiyas (analogy) and Ijma' (consensus).[57]

The Qur'an is believed to be the word of God transmitted to the people through Muhammad, the messenger of God.[58] The Qur'an contains several specific guidelines, however it is only a guide to the core principles for living a faithful life.[59] It is a scripture of general moral principles rather than a blue print for specific conduct.[60] The Sunna, which are the words and deeds of the Prophet Muhammed, further supplement the Qur'an.[61] The Qur'an and the Sunna are considered to be the principle sources of Islamic law, however, other secondary sources, namely, Ijma'[62]

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51. *See* KAREN ARMSTRONG, MUHAMMAD: A BIOGRAPHY OF THE PROPHET (1993) (detailing an in-depth biography of the Prophet).

52. *Id.*; *see also* Andra Nahal Behrouz, *Transforming Islamic Family Law: State Responsibility and the Role of Internal Initiative* 103 COLUM. L. REV. 1136, 1145 (2003).

53. These Caliphs (*al-Khulufa'ar-Rashidun*) were the political successors of the Prophet. Khan, *supra* note 49, at 282; *see also* ANTONY BLACK, THE HISTORY OF ISLAMIC POLITICAL THOUGHT: FROM THE PROPHET TO THE PRESENT 9, 14–16 (2001) (describing the role of Caliphs in the development of the history of Islam).

54. *See* MOHAMMAD HASHIM KAMALI, PRINCIPLES OF ISLAMIC JURISPRUDENCE 147–48 (The Islamic Texts Soc'y 3d ed. 2003) (1989) (listing examples of such rules).

55. Khan, *supra* note 49, at 282.

56. *Id.*

57. *Id.* at 286.

58. *See generally* Bernard G. Weiss, *The Spirit of Islamic Law* 114–18 (1998) (stating that the sources of law were the Qur'an and the traditions of the Prophet and companions).

59. AHMAD HASAN, THE EARLY DEVELOPMENT OF ISLAMIC JURISPRUDENCE 43 (1970). The author asserts that the Qur'an is not a regulation of ethics nor is it the law, but rather a list of principles that one follows. *Id.*

60. Khan, *supra* note 49, at 286–87 (explaining the role of the Qur'an and views of its teaching style).

61. HASAN, THE EARLY DEVELOPMENT OF ISLAMIC JURISPRUDENCE, *supra* note 59, at 87.

62. *See* CYRIL GLASSÉ, THE CONCISE ENCYCLOPEDIA OF ISLAM 208–09 (1989) (focusing on the interpretation of the Ijma'); Khan, *supra* note 49, at 291–94 (explaining the role of the Ijma' and Qiyas methodologies). *See generally* AHMAD HASAN, THE DOCTRINE OF

and Qiyas do exist.[63] Ijma refers to the consensus among Islamist jurists who are highly trained in both religion and law. Such "[c]onsensus on a point of law renders that point conclusive and as epistemologically certain as any unambiguous verse from the Qur'an."[64] Qiyas refers to analogical reasoning that mirrors the concept of "precedent" in American jurisprudence.[65] When employing Qiyas, one is "concluding from a given principle embodied in a precedent that a new case falls under this principle or is similar to this precedent on the strength of a common essential feature called the 'reason' (*'illa*)."[66]

Aside from these sources, Shari'a also exists. This term literally means the "clear path" and pertains to the Holy Qur'an and the traditions of the prophet Muhammad as established by the Sunna.[67] Shari'a accounts for every aspect of law including religious and social duties as well as rules of conduct.[68]

Additionally, Muslim jurists often attempt to interpret or conceptualize these sources in an effort to give them real world application. This exercise is known as Fiqh and also includes guidelines and rules as deduced from Shari'a.[69] While the principles of "shari['a are not subject to change, Fiqh-based standards may be adjusted to fit changing circumstances."[70] One may argue that it is often this type of discretion that leads to a more oppressive and conservative application of Islam.

IJMĀ IN ISLAM: A STUDY OF THE JURIDICAL PRINCIPLE OF CONSENSUS (1984) (detailing an analysis of the doctrine).

63. *See* Bernard K. Freamon, *Slavery, Freedom, and the Doctrine of Consensus in Islamic Jurisprudence*, 11 HARV. HUM. RTS. J. 1, 21 (1998) (discussing the general concepts of Ijma and Qiyas). *See generally* KAMALI, *supra* note 54 (noting the methods by which Islamic Jurisprudence examines how rituals are derived from the Qur'an).

64. Andra Nahal Behrouz, *Transforming Islamic Family Law: State Responsibility and the Role of Internal Initiative*, 103 COLUM. L. REV. 1136, 1147 (2003).

65. FAZLUR RAHMAN, ISLAM 71 (1966).

66. *Id.*

67. HASAN, THE EARLY DEVELOPMENT OF ISLAMIC JURISPRUDENCE, *supra* note 59; *see also* Shaheen Sardar Ali, *'Systemically Closed, Cognitively Open'?: A Critical Analysis of Transformative Processes in Islamic Las and Muslim State Practice*, *in* RELIGION IN THE 21ST CENTURY 120 (2010).

68. Ali Iyad Yakub, *The Islamic Roots of Democracy*, 12 U. MIAMI INT'L & COMP. L. REV. 269, 272 (2004) (citing NORMAN ANDERSON, LAW REFORM IN THE MUSLIM WORLD 6 (1976)); *see also Understanding Islamic Law*, THE ISLAMIC SUPREME COUNCIL OF AMERICA, http://www.islamicsupremecouncil.org/understanding-islam/legal-rulings/52-understanding-islamic-law.html (last visited Mar. 18, 2013).

69. Behrouz, *supra* note 64, at 1145 n.56.

70. *Id. See generally* MUDDASSIR H. SIDDIQUI, SHARI'A PRINCIPLES AND THEIR APPLICATION 110(2000), *available at* http://ifp.law.harvard.edu/login/view_pdf/?file=Sharia_Principles_and_Application.pdf&type=Project_Publication (distinguishing between the theological and ethical guidelines in the Qu'ran and *sunna*, from the *shari'a*, whose role is to further develop Islamic rules and law).

Each source illustrates the belief that God alone is the ultimate source of authority for all human matters.[71] "Everything and everyone, including the Prophets and other ruling authorities, are subordinate to Divine Law, which emanates from Divine Revelation."[72] Seemingly then, in Islam there is no higher authority than God or God's law. This revelation is important to consider because it suggests that any law or principle that conflicts with the direct word of God, (e.g. the Qur'an), no matter how virtuous it may seem, should be denounced.

The range of Islamic law is wide, "as it regulates humanity's relationship not only with his neighbors and with the State, which is the limit of most other legal systems, but also with its God and its own conscience."[73] Thus, Islamic law does not "distinguish between the religious and the secular; between legal, ethical, and moral questions; or between the public and private aspects of a Muslim's life."[74]

Being cognizant of the aforementioned core principles of democracy as well as the main sources of Islam, the succeeding sections of this Article will examine the claims for and against compatibility.

III. The Claim for Compatibility

Many Muslims and non-Muslims alike vehemently maintain that democracy is indeed compatible with Islam.[75] In fact, one commentator has declared that democracy and Islam have to be compatible because the alternative would be inconceivable and troublesome. Dr. Radwan Masmoudi asserts:

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71. *See* Khaled Abou El Fadl, *Islam and the Challenge of Democratic Commitment*, 27 Fordham Int'l L.J. 4, 7 (2003) (discussing the issue of God as the only sovereign and source of law in Islam); *see also* Freamon, *supra* note 63, at 21 (addressing further how "the ultimate source of authority for all human affairs is God alone.").

72. Qur'an 3:78–91.

73. Khan, *supra* note 49, at 277 (expressing the broad nature of Islamic law); *see also* David A. Westbrook, *Islamic International Law and Public International Law: Separate Expressions of World Order*, 33 Va. J. Int'l L. 819, 825 (1993) (describing the various sources of Islamic law and their complexities).

74. Khan, *supra* note 49, at 278 (emphasizing the ruling of Islamic law over every aspect of a Muslim's life); *see also* Detlev Vagts & Joseph L. Brand, Book Review, *The Islamic Conception of Justice*, 82 Am. J. Int'l. L. 431, 432 (1988) (confirming that "Islamic law governs the life of every Muslim in every way.").

75. *See* John L. Esposito, Islam and Politics 317–18 (1998) (discussing the various viewpoints of Muslims on reform and Western influence); Yakub, *supra* note 68, at 275–76 (describing the similarities between the methods of the Prophet in early Islam and those of the American democratic system); *see also* Hefner, *Public Islam and the Problem of Democratization*, *supra* note 25 (highlighting the claims of modern Muslim reformation supporters that "modern ideals of equality, freedom, and democracy are not uniquely Western values, but modern necessities compatible with, and even required by, Muslim ideals.").

[W]hen we are talking about the Muslim world, we are talking about the second largest religion in the world. We are talking about one and a half billion people in the world—roughly [sixty-five] countries with a majority Muslim population. We have no choice in answering this question. Islam and democracy have to be compatible, simply because the alternative is too dangerous to contemplate. If we say they are not compatible, we are condemning one and a half billion people in the world to dictatorship, violence, and anarchy. That would be disastrous, not only for them, but for all of humanity.[76]

Dr. Masmoudi substantiates his sentiments by pointing to the foundations of Islam. He notes that the principal tenets of Islam are Hurriya (liberty), Adl (justice), Shura (consultation), and Ijtihad (interpretation).[77] He maintains, "[T]hese tenets of faith emphasize the importance the individual's liberty to make his/her own decisions regarding religious matters."[78]

Other commentators point to the early history of Islam for illustrations substantiating the proposition of compatibility.[79] They note that in the advent of Islam, the Prophet and his followers not only accepted democracy, but also practiced and encouraged it. Indeed, the Prophet resembled a modern day statesman.[80] There is evidence that the Prophet led the Muslim community in a diplomatic manner and utilized the principles of Shura in decision-making; thus he took under consideration the opinion of others.[81] When "the Prophet had a sufficient understanding of the effects of each possible decision, he would make his decision as the leader of the community. [I]n making his final decision on a matter, would usually, in democratic fashion, follow the will of the majority[,]"[82] thereby embodying the essence of participatory governance.

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76. *Remarks of Dr. Radwan Masmoudi at A Symposium Entitled "Islam, Democracy, and Post-9/11 Nation Building" on November 10, 2007*, 6 REGENT J. INT'L L. 409, 409–10 (2008).

77. *Id.* at 412.

78. *Id.* at 409–10.

79. *See* Yakub, *supra* note 68, at 284 (finding that democracy "best promotes the values" of Islam); *see also* Hefner, *Public Islam and the Problem of Democratization, supra* note 25, at 493 (noting that a measure of separation was needed between Islam and human rulers). *See generally* JOHN L. ESPOSITO & JOHN O. VOLL, ISLAM AND DEMOCRACY 11–32 (1998) (discussing the global context of democratization in the Islamic communities).

80. *See* Iran Shahid, *Arabic Literature to the End of the Umayyad Period*, 106 J. AMERICAN ORIENTAL SOC'Y, no. 3, 1986 at 529, 531; *see also* Symposium *Remarks of Dr. Radwan Masmoudi at A Symposium Entitled "Islam, Democracy, and Post-9/11 Nation Building", supra* note 76 (noting that Mohammed was "ruler of a state" and made clear that he "did not represent God on Earth.").

81. Yakub, *supra* note 68, at 276.

82. *Id.*

COMPATIBILITY OF DEMOCRACY AND ISLAM

The establishment of the Constitution of Medina further supports the assertion that the Islamic religion and democratic governance are compatible. The constitution:']

> established the first multi-religious, pluralistic political entity for the Muslims in Medina. . . . [It] required the exercise of judicial authority, political rule, and religious interpretation to be subject to a consensus of the Muslim jurists [and] was ratified through a process of mutual consultation (*shura*) to ensure that the interests of the community would be taken into consideration before legislation was enacted.[83]

Even after the death of the prophet, Islam continued to embrace representative governance. It is believed that the Prophet purposely did not name a successor so that the community would collectively elect the person they wished to serve their interests.[84] The new successor operated under the principle of *bay'a*, a social contract between he and his people.[85] Pursuant to this contract, "people give an oath of allegiance to the ruler who governs over them in a manner consistent with the Shari'a."[86] That allegiance however was not absolute. "In fact, Abu Bakr, after being elected, stated: 'I was made a ruler though I was not the best among you. If I commit any wrongdoing, correct me. Obey me insofar as I obey the Prophet. If I disobey [God] and His Prophet, do not obey me.'"[87] To be sure, the following principles were firmly established in the Qur'an:

> 1) "[W]ho hearken to their Lord, and establish regular prayer; who (conduct) their affairs by mutual consultation; who spend out of what We bestow on them for Sustenance;[88] and,
>
> 2) "So pardon them and ask forgiveness for them and consult them in the matter."[89]

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83. *Id.*; *see* Ahmad Kassim, *A Short Note on the Medina Charter*, http://www.stormloader.com/qsmjam/politik/ren22s.html (last visited Mar. 18, 2013) (consisting of various communities such as Muslim Arabs, monotheists, and pagans, who under the Charter form the unified citizenry).

84. *See* Khaled Abou El Fadl, *Constitutionalism and the Islamic Sunni Legacy*, UCLA J. ISLAMIC & NEAR E.L. 67, 79–80 (2002) ("God has left people to manage their own affairs so that they will choose a leader who will serve their interests.").

85. *See* Azizah Y. al Hibri, *Islamic and American Constitutional Law: Borrowing Possibilities or a History of Borrowing?*, U. PA. J. CONST. L. 492, 512 (1999) (creating one community between Muslim and Jewish tribes under the Charter of Madinah).

86. Yakub, *supra* note 68, at 287.

87. *Id.*; *see also* AHMAD S. MOUSSALLI, THE ISLAMIC QUEST FOR DEMOCRACY, PLURALISM, AND HUMAN RIGHTS 33 (2001) (offering additional support for the authenticity of Abu Bakr's statement).

88. 42 *Surah* 38.

89. 3 *Surah* 159.

Aside from arguments that Islam is compatible with the political values of democracy, many have also proffered evidence of compatibility between Islam and the legal values of democracy.[90] For instance, Moussali demonstrates that the principles of equality existed in early Islamic history. He notes:

> Abu Bakr, the first rightly guided [C]aliph, said after his election as a ruler, 'I was made a ruler though I was not the best among you. If I commit any wrongdoing , correct me. Obey me insofar as I obey the Prophet. If I disobey God and His Prophet, do not obey me.' Also, the second rightly guided [C]aliph, 'Umar ibn al-Khattab, said, 'If you see me in any deviation, correct it.'[91]

This demonstrates that some of the early leaders wanted approval of their people and no person was given power by an arbitrary means.[92] According to Yakub, Islam also played a key role in empowering women.[93] "It granted them the right to choose their husbands and the right to own and inherit property. More importantly, Islam accorded women equal religious status before God."[94] This is apparent, because the Qur'an illustrates that God refers to men and women equally.[95] It is important to note that women were also included in the practice of *shura* and *ijma* and played a pivotal role as consultants.[96]

Further evidence of compatibility derives from Islam's recognition and adherence to the freedom of expression. For instance, the Qur'an expressly allows for the freedom of religion. The source states:

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90. As discussed previously, legal values in democracy consist of equality and due process. *See* AHMAD S. MOUSSALLI, THE ISLAMIC QUEST FOR DEMOCRACY, PLURALISM, AND HUMAN RIGHTS29 (2001) (discussing democracy in relation to Islam).

91. *Id.*

92. *Id.*

93. Yakub, *supra* note 68, at 276.

94. *Id.* at 290; *see also* Khan, *supra* note 49, at 330–31 (discussing "Islamic law's struggle with women's rights.").

95. 9 *Surah* 71–72 states:

> The Believers, men and women, are protectors, one of another: they enjoin what is just, and forbid what is evil: they observe regular prayers, practice[sic] regular charity , and obey Allah and His messenger. On them will Allah pour His mercy: for Allah is Exalted in power, Wise.
>
> Allah has promised to Believers, men and women, Gardens under which rivers flow, to dwell therein, and beautiful mansions in Gardens of everlasting bliss. But the greatest bliss is the Good Pleasure of Allah: that is supreme felicity.

See also Christina Huda Dodge, *Equal in the Eyes of God*, NET PLACES, http://www.net-places.com/understanding-islam/shrouded-in-mystery-women-and-islam/equal-in-the-eyes-of-god.htm (last visited Mar. 18, 2013) (addressing the history of gender equality in Islamic practices).

96. MICHAEL MUMISA, ISLAMIC LAW: THEORY AND INTERPRETATION 93 (2002).

Had Allah willed, He would have made you one nation [united in religion], but [He intended] to test you in what He has given you; so race to [all that is] good. To Allah is your return all together, and He will [then] inform you concerning that over which you used to differ.[97]

This passage demonstrates that even the nonbelievers or the believers of the wrong doctrine serve a purpose in the overall scheme of things. The Qur'an also "allows for freedom of thought by forbidding compulsion in matters of belief. Indeed the Prophet's duty was simply to deliver the divine message without taking it upon him to act as God's religious enforcer."[98]

Many would be surprised to learn that Islam actually mirrors even the most foundational principles of democracy as rooted in the Bill of Rights of the United States Constitution. Consider for a moment the Fourth Amendment of the Constitution.[99] It protects individuals from illegal searches and seizures and serves as the foundation for privacy rights in the United States.[100] The Qur'an, in a similar fashion, addresses the issue of privacy by prohibiting the entry of an individual's residence without permission.[101] Islamic jurists have also created standards for excluding evidence obtained illegally, resembling the United State's exclusionary rule grounded in the Fourth, Fifth, and Sixth Amendments .[102]

Islam also addresses the requirement of due process found in the Fifth Amendment, which "guarantees the right to life, liberty and property."[103] The protection of such rights "have been endorsed in Islamic law" and by the Prophet when he declared in his Farewell Pilgrimage: "Your lives and your property shall be inviolate until you meet your Lord."[104] The Sixth Amendment[105] guarantees to fairness in the criminal process are also ap-

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97. 5 *Surah* 48.

98. Yakub, *supra* note 68, at 276; 2 *Surah* 256; 17 *Surah* 17:54.

99. U.S. CONST. amend. IV.

100. *Id.*; *see also* Katz v. U.S., 389 U.S. 347, 350 (1967) ("[The Fourth Amendment] protects individual privacy against certain kinds of governmental intrusion . . . .").

101. QUR'AN 24:27.

102. *See* Yakub, *supra* note 68, at 276 (paralleling how Islamic law has developed with changing times to how American courts have had to interpret the U.S. Constitution to adhere to changing times as well).

103. U.S. CONST. amend. V; Yakub, *supra* note 68, at 293.

104. Yakub, *supra* note 68, at 293 (citing MUHAMMAD HAYKAL, LIFE OF MUHAMMAD 486 (1976) (citing QUR'AN 2:188)) (referring to Muhammad Ibn Abdullah, The Prophet's Last Sermon (632 C.E.), *available at* http://www.geocities.ws/muhammad_the_prophet/farwell_pilgrimage2.htm)l; *see also Prophet Muhammad's Last Sermon: A Final Admonition,* ISLAM RELIGION, http://www.islamreligion.com/articles/523/ (last modified Aug. 5, 2012) (providing the historical context for the sermon and the text of the sermon).

105. The Sixth Amendment to the United States Constitution provides that:

parent in Islam. In Islamic civil and criminal proceedings, there exists the presumption of innocence and the accuser bears the burden of proof.[106] Additionally, the concepts of cruel and unusual punishment[107] and *stare decisis* are also prevalent in Islamic law.[108]

Aside from the aforementioned evidence, many scholars note that the question of whether democracy may be compatible with Islam has already been answered. They contend that the answer is evident when we look at the several already successful democratic states where the majority of its citizens are Muslim.[109] Indonesia is a prime example. It is the world's third largest functioning democracy and it has the largest Muslim population in the world.[110] It would seem that this country has found a way to make democracy and Islam compatible. Indonesia, however, is not alone. Other nations have managed to reconcile democracy with Islam, if they were in fact ever at odds. Those countries include Turkey,

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In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

U.S. CONST. amend. VI.

106. Fadl, *Constitutionalism and the Islamic Sunni Legacy, supra* note 84, at 89 (arguing that just because "the Sunni juristic tradition did not develop the idea of fundamental or basic individual rights does not mean that that tradition was oblivious to the notion[ ]."); *see also* Yakub, *supra* note 68, at 293 (explaining that Islamic Law holds that "proof" or "acceptable testimony" is "determined by [the] piety and truthfulness" of the witness).

107. *See* Yakub, *supra* note 68, at 294 (discussing that the Qur'an, like the Eighth Amendment, upholds "proportionality—that the punishment should fit the crime and the character of the offender[,]" retributive justice, and "manifesting God's mercy and compassion for the perpetrator of a violent crime by offering an alternative to violence."); *see also* QUR'AN 2:178 (promoting equality when it comes to the punishment of murder and that "whoever exceeds the limits shall be in grave penalty").

108. *See* Yakub, *supra* note 68, at 294 (explaining that precedent must be upheld "unless there is a compelling reason" to abandon it because it "is essential to maintaining consistency").

109. It is important to note that the proponents of the compatibility thesis cite these countries as evidence of compatibility without fully analyzing Islam's role in the State. As it will be discussed later, opponents of the compatibility thesis claim that democracy is flourishing in these countries not because of Islam but rather in spite of it.

110. ROBERT W. HEFNER, CIVIL ISLAM: MUSLIMS AND DEMOCRATIZATION IN INDONESIA 6 (2000); *see The World Fact Book*, CIA, https://www.cia.gov/library/publications/the-world-factbook/fields/2119.html (last visited Nov 19, 2010) (stating that Freedom House considers Indonesia and Mali as the largest Muslim majority countries to have a full fledged electoral democracy).

Malaysia, Mali, and India.[111] However, this reconciliation is not evident anywhere in the Arab region.

Scripture and history notwithstanding, it is the citizenry in the Arab region that is apparently willing to not only yield to democracy but actually embrace it. This may, after all, be the strongest evidence of compatibility between democracy and Islam, as notably exemplified in the actions of Egyptian presidential hopeful Muhammad ElBaradei. He once declared after prayer, "[l]et our motto in the coming period be we are all one hand in achieving justice, equality, freedom and social justice, which are the principles of our Islamic religion."[112] While his rhetoric may have been politically motivated, non-politicians appear to share his sentiments. Pew Global Attitude Surveys have indicated that the majority of the Arab world prefers a democratic government. The forty-four-nation survey established the following:

> [P]eople in Muslim countries place a high value on freedom of expression, freedom of the press, multi-party systems and equal treatment under the law. This includes people living in kingdoms such as Jordan and Kuwait, as well as those in authoritarian states like Uzbekistan and Pakistan. In fact, many of the Muslim publics polled expressed a stronger desire for democratic freedoms than the publics in some nations of Eastern Europe, notably Russia and Bulgaria.
>
> The postwar update finds that in most Muslim populations, large majorities continue to believe that Western-style democracy can work in their countries. This is the case in predominantly Muslim countries like Kuwait 83% and Bangladesh 57%, but also in religiously diverse countries like Nigeria 75%. There are no substantive differences between Muslims and non-Muslims in Nigeria on this point.[113]

Embracing democratic principles appears, at face value, to be a natural progression in the ordinary course of business; whether or not democracy will actually be realized however, has yet to be determined.[114] Naturally,

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111. *See* DANIEL PHILPOTT ET AL., From Faith to Freedom: The Role of Religious Actors in Global Democratic Process, 2011 Annual Convention of the Am. Political Science Ass'n 8, 38 (2011), *available at* http://journalistsresource.org/wp-content/uploads/2013/02/Faith-to-Freedom.pdf (explaining that Muslim-majority countries have made democratic progress).

112. *ElBaradei in Hometown for Family Visit, Say Campaigners*, DAILY NEWS EGYPT, (Sept. 23, 2011) http://www.thedailynewsegypt.com/egypt/elbaradei-demands-roadmap-for-managed-transition.html (last visited Nov. 19, 2012).

113. 90 *Views of a Changing World 2013: War With Iraq Further Divides Global Publics*, PEW RESEARCH CTR. (June 3, 2003), http://www.people-press.org/2003/06/03/views-of-a-changing-world-2003/.

114. *On Eve of Foreign Debate, Growing Pessimism about Arab Spring Aftermath*, PEW RESEARCH CTR. (Oct. 18, 2012), http://www.people-press.org/2012/10/18/on-eve-of-

critics point out that while many proclaim Islam to be consistent with democratic values, it is undeniable that Arab countries have been marked by a pattern of tyranny and oppression throughout history.[115] Indeed, Freedom House regularly lists Arab countries as least democratic in the world.[116] And so, it begs the question: When considering that principal sources of Islamic law not only permit the exercise of democracy but may actually demand it, and when further considering that other Muslim countries have functioning democracies and that the notion of democracy appears to be attractive to the population in the Arab region, why has history proven the opposite? A leading proponent of the compatibility thesis has an answer for this paradox.

Bernard Lewis[117]has offered an historical prospective in an attempt to demonstrate why modern Islam has so greatly diverged from its roots.[118] Lewis gives two primary reasons for this divergence. First, Lewis cites efforts of rulers in the Middle East in the nineteenth and twentieth centuries to modernize their countries as they became increasingly aware that they were lagging behind the rest of the modern world.[119] While these modernization efforts had altruistic intentions, Lewis argues, they led to

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foreign-debate-growing-pessimism-about-arab-spring-aftermath/ (citing looming doubts that the Middle East will reach the point of serving as a stable, democratic nation).

115. *See, e.g.*, Rowley & Smith, *supra* note 24, at 283 ("An obvious explanation for the lack of democracy in wealthy Muslim countries is that these countries as mostly oil states, and natural resources provide rulers with a source of wealth that makes them less accountable to their subjects.").

116. ARCH PUDDINGTON, FREEDOM IN THE WORLD 2012: THE ARAB UPRISINGS AND THEIR GLOBAL REPERCUSSIONS, FREEDOM HOUSE, 14 (2012), *available at* http://www.freedomhouse.org/sites/default/files/inline_images/FIW%202012%20Booklet—Final.pdf (demonstrating a table of independent countries).

117. Bernard Lewis is the Cleveland E. Dodge Professor Emeritus of Near Eastern Studies at Princeton University. He specializes in the history of Islam and the interaction between Islam and the West.

118. *See* Bernard Lewis, *Freedom and Justice in the Modern Middle East*, *in* 84 FOREIGN AFFAIRS, no. 4, May/June 2005 at 36, 36–51, *available at* http://www.foreignaffairs.com/articles/60796/bernard-lewis/freedom-and-justice-in-the-modern-middle-east (noting the importance of studying the historical roots of Islam and its interaction with Western culture to demonstrate how the modern iteration of the religion has veered from its original form). The author cites the example of Napoleon Bonaparte's invasion and conquer of Egypt in the late 1700s. Bonaparte reportedly invaded Egypt "in the name of the French Republic, founded on the principles of liberty and equality." *Id.* at 36. However, the concept of equality was already well known to Egyptians. *Id.* at 37. Equality was a foundation principle of Islam, in contrast to the caste system of India or the aristocracy that existed in Western societies based on Christianity. *Id.*; *see also* Yakub, *supra* note 68, at 290 (exploring the concept of equality in Islam and noting Islam's "calls for justice along lines of race, class, or ethnicity. . . .").

119. *See* Lewis, *supra* note 118, at 42 (asserting that the first phase of changes in the Islamic religion came as a result of the efforts of rulers in predominantly Islamic countries in the Middle East to modernize their governments and their larger societies).

the introduction of "Western systems of communication, warfare, and rule, inevitably including the tools for domination and repression."[120] As a result, "[t]he authority of state vastly increased with the adaptation of instruments of control, surveillance, and enforcement."[121] Additionally, modernization efforts also led to the

> abrogation of the intermediate powers in society—the landed gentry, the city merchants, the tribal chiefs, and others—which in the tradi-tional order had effectively limited the authority of the state. . . . [So] on the one hand the state was getting stronger and more perva-sive, and on the other hand the limitations and controls were being whittled away.[122]

The second reason why modern Islam is seemingly different from its roots has to do with European influence in the region during the 1940s, according to Lewis. When France surrendered to Nazi Germany in 1940, French governors in the French colonies of Syria-Lebanon, sided with the Nazis.[123] Syria-Lebanon, in the heart of the Arab East, was therefore open to the Nazis.[124] Subsequently, the Nazis moved in and made it the main base for their propaganda in the Arab region. Nazism in the Middle East gave rise to the Baath party.[125] At the end of World War II, the Baath party "switched from the Nazi model to the [C]ommunist model, needing only minor adjustments. . . . [and became] particularly concerned with indoctrination, surveillance, and repression. . . . [and] continued to function along these lines."[126] Lewis maintains that since the 1940s and even after the arrival of the Soviet Union, the Middle East had succeeded in importing the fascist, Nazi, and communist European models of rule.[127]

Lewis therefore concludes that, "to speak of dictatorship as being the immemorial way of doing things in that part of the world is simply un-true. . . . [and] [t]he type of regime that was maintained by Saddam Hus-sein—and that continues to be maintained by some other rulers in the Muslim world—is modern, indeed recent, and very alien to the founda-tion of Islamic civilization."[128]

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120. *Id.* at 42.
121. *Id.*
122. *Id.* at 43.
123. *Id.*
124. *Id.*
125. *Id.* at 43–44.
126. *Id.* at 44.
127. *Id.*
128. *Id.*

As such, proponents of compatibility vigorously maintain that the existence of inequalities and oppression in the Arab region have not occurred in the name of Islam but rather in defiance of it.[129] They further contend that if Islam is interpreted consistently with its core principles and in a manner that is true to its roots, it will become evident that there is nothing inherent about Islam that serves as an obstacle to the furtherance of democracy.[130]

IV. THE CLAIM FOR INCOMPATIBILITY

On the other hand, the notion that democracy is incompatible with Islamic law finds support among Muslims, non-Muslims and atheists alike.[131] This sentiment is purportedly justified when considering the overall theory of Islam, the interpretation of Islamic scripture and the modern practices in the Islamic community.[132]

Many have suggested that democracy cannot be compatible with Islam because of the conflicting theories that both democracy and Islam embrace.[133] For instance, Iranian author Sayyid Sa'eed Akhtar Rizvi notes that in a democracy, as best defined by Abraham Lincoln, the people govern themselves and make their own laws since it is a form of "government of the people, by the people, [and] for the people . . . ."[134] Whereas in Islam, he writes, "laws are promulgated not by the consent and decree of the people, but by the Prophet, by the command of Allah. The people have no say in legislation; they are required to follow, not to make any comment or suggestion about those laws and legislations."[135] These two

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129. *See, e.g.*, JOHN L. ESPOSITO & JOHN O. VOLL, ISLAM AND DEMOCRACY 25 (1996) (stating that within the framework of the *tawhid*, analogized to a theocracy, "the absolute sovereignty of God makes any human hierarchy impossible" and, as such, any form of "hierarchical, dictatorial system has historically been condemned as non-Islamic.").

130. *See generally id.* (discussing the idea of democratization in relation to policy, Western definitions of democracy, and Islam).

131. *See* Rowley & Smith, *supra* note 24, at 298 (conducting statistical analyses to reach the conclusion that the disparities that exist between the approval of democracy within Muslim nations with the lack of democratic Muslim nations is due to nature of Islam itself).

132. *See* ESPOSITO & VOLL, *supra* note 129 (discussing the Islamic heritage and notions of government, citing three principles for the political system of Islam as "*vis: Tawheed* (Unity of God), *Risalat* (Prophethood) and *Khilafat* (Caliphate)," the three of which provide the foundation for Islamic political perspectives).

133. *See, e.g.*, Sayyid Saeed Akhtar Rizvi, *Imamate: The Vicegerency of the Prophet[s]*, AL-ISLAM.ORG, http://www.al-islam.org/imamate/ (last visited Dec. 13, 2012) (stating that throughout history Muslims have clung to the popular form of government, from monarchies, to democracy, to socialism).

134. *Id.*; *The Gettysburg Address*, ABRAHAM LINCOLN ONLINE, http://www.abraham lincolnonline.org/lincoln/speeches/gettysburg.htm.

135. Rizvi, *supra* note 133.

facts, he notes, are irreconcilable.[136] While Rizvi's assertion seems to contradict at least one of the principle tenants of Islam, namely consultation, there appears to be evidence in the Qur'an of a one's inability to question God or His Messenger once a decision has been rendered, "It is not fitting for a Believer, man or woman, when a matter has been decided by Allah and His Messenger to have any option about their decision."[137]

Rizvi also rejects the idea that the Prophet was a representative of the people and thereby resembled a democratic leader.[138] He notes that in a democracy, people govern by electing their own rulers to represent their interests.[139] Contrary to this essential democratic procedure,

> [t]he Holy Prophet, who was the supreme executive, judicial and overall authority of the Islamic government, was not elected by the people. In fact, had the people of Mecca been allowed to exercise their choice they would have elected either 'Urwah ibn Ma'sud (of at-Ta'if) or al-Walid ibn al-Mughirah as the prophet of Allah[ ] [a]ccording to the Qur'an.[140]

Consequently, Rizvi declares that "not only was the Supreme Head of the Islamic State appointed without the consultation of the people, but in fact it was done against their expressed wishes."[141] Seemingly therefore, it cannot be denied that the Prophet's ascension to the leadership position of the Islamic government was lacking in democratic procedure.

Aside from theory however, critics have pinpointed to exact scriptures that demonstrate Islam's incompatibility with democracy. As it turns out, fundamental democratic principles of equality are often casualties in Islamic scripture. This theme is readily apparent when considering the rights of women under Islam. For example, the Qur'an expressly declares men to be superior to women. It declares, "wives have the same rights as the husbands have on them in accordance with the generally known principles. Of course, men are a degree above them in status."[142]

This concept is not merely rhetoric but often manifested in actual exercise of Islamic law. For example, while Islamic law guarantees the family of the deceased shares of the estate, a woman's guaranteed share in the estate will be only half to that of a man who happens to be of the same degree of relationship to the deceased:

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136. *Id.*

137. QUR'AN 33:36; Rizvi, *supra* note 133.

138. Rizvi, *supra* note 133.

139. *Id.*

140. *Id.*

141. *Id.*

142. QUR'AN 2:228.

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> Allah instructs you concerning your children: for the male, what is equal to the share of two females.[143] If there are both brothers and sisters, the male will have the share of two females. Allah makes clear to you [His law], lest you go astray. And Allah is Knowing of all things.[144]

These inequalities are also prevalent within the notion of divorce and judicial proceedings. With regard to divorce, "[i]n contrast to a woman's right to seek a judicial divorce (before a male judge and for specific grounds) man can divorce his wife at will by unilateral repudiation without having to explain his reasons to anyone."[145] As to judicial proceedings, a woman's testimony counts for half to that of a man:

> And let two men from among you bear witness to all such documents [contracts of loans without interest]. But if two men be not available, there should be one man and two women to bear witness so that if one of the women forgets (anything), the other may remind her.[146]

Furthermore, men appear to be sexually dominant and, under certain circumstances, they are even permitted to beat their wives:

> Your wives are a place of sowing of seed for you, so come to your place of cultivation however you wish and put forth [righteousness] for yourselves.[147] If a man invites his wife to sleep with him and she refuses to come to him, then the angels send their curses on her till morning. As to those women on whose part you fear disloyalty and ill-conduct, (1) Admonish them, (2) refuse to share their beds, (3) beat them.[148]

These Qur'anic scriptures clearly undermine the argument that Islam has been hijacked by conservative Muslims through strict and oppressive interpretations.

In fact, Bernard Lewis, a scholar who has proffered historical evidence to demonstrate that the Islam of present, with its oppressive tyrannical regimes, is indeed alien from the true Islam of ancient times, has recognized that the issue of women's rights in Islam is an obstacle toward the development of democracy in Arab nations.[149] He also acknowledges

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143. QUR'AN 4:11.
144. QUR'AN 4:176.
145. Abdullahi An-Na'im, *The Rights of Women and International Law in the Muslim Context*, 9 WHITTIER L. REV. 491, 496 (1987).
146. QUR'AN 2:282.
147. QUR'AN 2:223.
148. QUR'AN 4:34–35.
149. Lewis, *supra* note 118, at 37.

that these obstacles are not the result of conservative and oppressive in-
terpretation but rather, are inherent in Islam.[150]

Aside from the inequality of women, critics note that Islam is intoler-
ant toward different religions or those that speak ill of Islam or who dare
not to believe in God. Tolerance of other religions or beliefs, they argue,
is necessary in a democracy if not just for fostering discourse in the com-
munity. Again, critics point to the Qur'an to substantiate their claim. For
instance:

> Fight those who believe not in Allah nor the Last Day, nor hold that
> forbidden which hath been forbidden by Allah and His Messenger,
> nor acknowledge the religion of Truth, (even if they are) of the Peo-
> ple of the Book, until they pay the Jizya with willing submission, and
> feel themselves subdued.[151]

This intolerance is persistent throughout the Arab world even after the
uprisings. For example, Article 39 of the newly enacted Moroccan Con-
stitution exposes individuals, even government officials, to prosecution
for expressing opinions that may be construed as injurious to Islam.[152]
Certainly, this type of provision does not comport with the democratic
principle of freedom of expression, as it is apparent that people are
strictly prohibited from expressing their views if those views are an af-
front to Islam. This restriction offends the very essence of democracy.

Gender and religious bias notwithstanding inequality is apparent also
with regard to sexuality.[153] For instance, Islam disapproves of
homosexuality:

> For ye practice your lusts on men in preference to women: ye are
> indeed a people transgressing beyond bounds. . . . And we rained
> down on them a shower (of brimstone).[154] Of all the creatures in the
> world, will ye approach males, And leave those whom Allah has cre-
> ated for you to be your mates? Nay, ye are a people transgressing.[155]

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150. *Id.* at 44.

151. QUR'AN 9:29.

152. *See* CONST. OF THE KINGDOM OF MOROCCO, Sept. 13, 1996, art. 39, *available at*
http://www.unhcr.org/refworld/country,LEGAL,NATLEGBOD,,MAR,456d621e2,3ae6b5
454,0.html ("No member of Parliament shall be prosecuted, arrested, put into custody or
brought to trial as a result of expressing opinions or casting a vote while exercising office
functions, except when the opinions expressed may be injurious to the monarchical system
and the religion of Islam . . . .").

153. *See Islam and Homosexuality: Straight but Narrow,* THE ECONOMIST, Feb. 4,
2012, http://www.economist.com/node/21546002 (describing intolerance towards homosex-
uality in Muslim countries).

154. QUR'AN 70:80–84.

155. QUR'AN 26:165–66.

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As such, there could be no same-sex marriage in Islam since the religion only permits marriage between a man and a woman.[156]

Given Islam's inherent inability to comport with democratic values, how does one explain the existence of democracy in a country such as Indonesia, where 88% of the population identify themselves as Muslims?[157] Critics of the incompatibility thesis note that democracy is flourishing in these nations in spite of Islam—not because of it.[158]

For instance, in Indonesia "Muslim groups have, since colonial times, regularly and vocally pushed for a greater political and legal role for Islam."[159] Their requests however, have largely been ignored.[160] The government of Indonesia has actively restricted Islam's role in the State. For example, even though Muslim activists had vehemently lobbied to include in the final draft of Indonesia's first independence constitution the "Jakarta Charter" calling for all Muslims to follow Islamic law, the charter was not included in final version of their constitution in 1945.[161]

It is important to note that while critics point to Islamic theory and Islamic scripture to demonstrate its incompatibility with democracy, there appears to be abundant evidence in practice indicating that Muslims have indeed embraced practices contrary to democratic values.[162] Examples

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156. QUR'AN 7:189.

157. *See* Paul D. Wolfowitz, *Indonesia: Beacon of Democracy for the Muslim World?* SAIS-JHU.EDU , http://legacy2.sais-jhu.edu/pressroom/publications/saisphere/2009/wolfowitz.htm (last visited Mar. 2, 2013) (noting that nearly ninety percent of Indonesia's population of two hundred forty million people are estimated to be Muslim); *see id* (addressing that despite the high percentage of individuals who identify themselves to be Muslim, the official religion of Indonesia is not Islam, with the country officially identifying with six monotheistic faiths, only one of which is Islam).

158. *See generally* LUTHFI ASSYAUKANIE, ISLAM AND THE SECULAR STATE IN INDONESIA 35 (2009) (describing religious reform in Indonesia); *Can Islam and Democracy Coexist*, PBS.ORG, http://www.pbs.org/weta/crossroads/about/show_indonesia.html (last visited Mar. 2, 2013) (explaining that the form of Islam practiced in Indonesia has a long tradition of being "tolerant, compassionate, and inclusive.").

159. Simon Butt, *Islam, the State and the Constitutional Court in Indonesia*, 19 PAC. RIM L. & POL'Y J. 279, 279 (2010) (citing ASSYAUKANIE, *supra* note 158).

160. *See id.* (stating that both colonial and independent Indonesia has resisted the demands of these active Muslim groups).

161. *See id.* (explaining that the "Jakarta Charter" was removed to appease non-Muslim groups who threatened to leave the state if the charter was retained. The Charter's rejection continues to be viewed by some Muslim groups as "'the' great betrayal of Islam since independence."); ARSKAL SALIM, CHALLENGING THE SECULAR STATE: THE IS-LAMIZATION OF LAW IN MODERN INDONESIA 64–69 (2008).

162. Omar Safi, *What Islam Says, and Doesn't Say*, NY TIMES, Oct. 5, 2012, 8:30 AM, http://www.nytimes.com/roomfordebate/2012/10/04/is-islam-an-obstacle-to-democracy/what-islam-says-and-doesnt-say-about-democracy (noting that the ideal model of democracy for Muslims would be based upon European models although even those models may not be "perfect").

include the harsh manner in which women are treated, the apparent intolerance toward non-Muslims and the treatment of homosexuals.[163]

Demonstrably, the claim for compatibility and the claim for incompatibility provide ample evidence for their respective propositions. Accordingly, the proffered evidence for each claim warrants a close evaluation and an ultimate determination as to its validity.

V. EVALUATION OF THE CLAIMS

Considering the aforementioned sections and the information contained therein, some things are certain. Islam is indeed rooted in the values of representative government.[164] It incorporates many values essential to the existence of democracy.[165] Indeed, its principal tenets of *Hurriya* (liberty),[166] *Adl* (justice),[167] *Shura* (consultation)[168] are requisites to any functioning democracy. Nevertheless, irrefutable evidence suggests that there are concrete obstacles that prevent Islam from fully embracing democracy. It has been shown that intolerance toward gender, religion and sexuality is unfortunately inescapable in Islam.[169] While some argue the intolerance is a byproduct of conservative interpretation and not consistent with the Islam law, the aforementioned verses from the Qur'an undermine that argument. The verses are rather explicit with

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163. It is commonly known that homosexuality is widespread among the Arab world notwithstanding Islam's strong stance against it. *See* Bruce Dunne, *Homosexuality in the Middle East: An Agenda for Historical Research*, 12 ARAB STUD. Q., no. 3/4, Summer/Fall 1990 at 1, 1–16 (explaining that homosexuality is against many of the principals in Islam).

164. Ahmed Subhy Mansour, *The Roots of Democracy in Islam*, AHL ALQURAN (Dec. 16, 2002), http://www.ahl-alquran.com/English/show_article.php?main_id=4145.

165. *Id.*

166. See Democracy in the Muslim World: Obstacles, Difficulties, and Best Methods, World Movement for Democracy, http://www.wmd.org/assemblies/third-assembly/work-shops/civil-society/democracy-muslim-world-obstacles-difficulties-and- (noting hurriya as a component of democracy).

167. *See id.* (noting *adl* also as a component of democracy).

168. Tauseef Ahmaad Parray, *Global Muslim Voices on Islam—Democracy Compatiability and Co-existence: A Study of the Views of Sadek Sulaiman, Louay Safi, Radwan Masmoudi, and Muqtedar Khan*, 6 J. MIDDLE EASTERN & ISLAMIC STUD., no. 1, 2012 at 53, 54 (explaining how *shura* is often "utilized by scholars for providing an effective foundation of democracy in Islam."), *available at* http://www.academia.edu/1248216/Global_Muslim_Voices_on_Islam_-_Democracy_Compatibility_and_Co-Existence.

169. *Stances of Faith on LGBT Issues: Islam*, HUMAN RTS. CAMPAIGN, http://www.hrc.org/resources/entry/stances-of-faiths-on-lgbt-issues-islam; *Sexuality, Gender and Islam*, Safra Project, http://www.safraproject.org/sgi-genderroles.htm; *see* Zufash, *Gender Interaction in Islam and Muslim Homosexuals*, ISLAM AND GENDER (Sept. 23, 2012, 11:10 AM), http://islam-and-gender.blogspot.com/ (inquiring about the experiences of the queer community in Islam-practicing nations); *Gender Equality*, PLAIN ISLAM, http://www.plainislam.com/in-depth/gender-equality.aspx (suggesting the writings of the Qur'an to be misogynistic).

little or no room for interpretation. It is certainly true that fundamentalists and extremists have sought to interpret Islam rather conservatively for their own interest, which has in turn led to oppression and tyranny.[170] However, one cannot deny the fact that the Qur'an itself, the primary source of Islam, contains passages that are oppressive in nature. Consequently, democracy is not wholly compatible with Islam.[171] Nonetheless, this assertion does not fully answer the questions this Article poses.

Admittedly, the title of this Article is misleading. It presumes that both questions, namely whether democracy is compatible with Islam and whether the "Arab Spring" was ever capable of producing democracy in the region, are one and the same. It presumes that you cannot have one without the other. The truth is that the two questions posed are in fact mutually exclusive and capable of yielding two different answers. How then can the "Arab Spring" culminate into viable democracy in the region if democracy and Islam are incompatible? The answer is simple. Concession. The "Arab Spring" can certainly bring about democracy in the region notwithstanding the incompatibility of Islam and democracy,[172] by way of concession. Muslims will have to yield to certain democratic values, particularly those dealing with social values such as equality among genders and religions. As previously discussed, Islam has the proper foundation to support democracy. Muslims are therefore capable of ironing out the wrinkles that serve as an obstacle to their plight for democracy and inevitable universal rights.

While they may indeed be capable, many question their willingness to do so. Many insist that Muslims will not yield their religious principles, no matter how trifle, for the mere promise of democracy. However, the

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170. *See* ASMA BARLAS, MUSLIM WOMEN & SEXUAL OPPRESSION: READING LIBERATION FROM THE QURAN, *available at* http://www.asmabarlas.com/PAPERS/Macalester.pdf (providing a discussion on how a fundamentalist interpretation of the Qur'an permits oppression of women in Islamic nations).

171. Brian Handwerk, *Can Islam and Democracy Coexist?*, NAT'L GEOGRAPHIC NEWS (Oct. 24, 2003), http://news.nationalgeographic.com/news/2003/10/1021_031021_islamicdemocracy.html; Nauman Sadiq, *Is Democracy Compatible with Islam?*, BLOG (July 30, 2012), http://blogs.thenews.com.pk/blogs/2012/07/is-democracy-compatible-with-islam/; *see* Yakub, *supra* note 68, at 270 ("It is often claimed that Islam and democracy are incompatible, that there is no foundation in Islamic doctrine that approximates the principles upon which Western civil society is founded.").

172. *See* Steven Strauss, *Can the Arab Spring Bring Peace to the Middle East?*, HUFF POST (Apr. 15, 2012, 7:05 PM), http://www.huffingtonpost.com/steven-strauss/arab-spring-middle-east-peace_b_1427155.html (discussing how the Arab Spring could provide an opportunity for the Middle East to "join[ ] the global community with dignity and prosperity."); Frank Kane, *Middle East Leaders Reassure Forum Arab Spring Will Bring Democracy*, THE NAT'L (Jan. 28, 2012), http://www.thenational.ae/news/world/middle-east/middle-east-leaders-reassure-forum-arab-spring-will-bring-democracy (noting how moderate Islamist leaders vision of democracy for the Arab community).

recent uprisings have proven just the opposite. The Arab revolution has proven that Muslims are willing to embrace democracy even if it means conceding some of their long held beliefs.[173] In a part of the world where the co-mingling of men and women was strictly forbidden, we saw a community of brothers and sisters, arm in arm crying out for freedom. In a region marked by religious oppression and intolerance, the world bore witness to Muslims and Christians praying together and chanting "we are one." In a religion that expressly forbids suicide and considers it one of the greatest sins, Mohammed Bouaziz carried out the ultimate concession. There is something powerful within humanity that is capable of transcending boundaries, be they, gender, racial or religious. It is that something inside the soul that cries out for freedom. This is the true essence of Islam.

Understandably so, many feel that any changes that develop as a result of these uprisings are only temporary and will eventually yield to the tyrannical and oppressive regimes that have come to define the Arab region. Their skepticism is rooted in history. They have proudly witnessed such demonstrations before only to be disillusioned by the subsequent regression. However, this time is different. This time around, democracy has a chance. Even though the common people in the Arab countries have yet to experience the virtues of democracy in their own land, they have undoubtedly seen it and can most certainly recognize it. Twenty-first century technology has exposed many Muslims to the benefits of democracy. Through the Internet and social media, a new generation discovered its voice and used it to demand a sense of purpose.[174] The same sense of purpose that a young twenty-six-year-old man from Tunisia had lost long ago. Never again, will that population settle for anything less than a true democracy. The constant uprisings and most recent turmoil in the region are indicative not of a failed revolution, but of a people finally

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173. Volker Perthes, *The Arab Revolts in Year Two*, OPEN DEMOCRACY (Feb. 9, 2012), http://www.opendemocracy.net/volker-perthes/arab-revolts-in-year-two (outlining the factors contributing to uprising in Arab nations for a more democratic rule); Alec Hamilton, *From Tunisia to Egypt: Protests for Democracy in the Arab World*, WNYC (Jan. 27, 2011), http://www.wnyc.org/articles/its-free-country/2011/jan/27/tunisia-egypt-protest-for-democracy/ (noting examples of protests for democracy).

174. Lorenzo Franceschi-Bicchierai, *What Happens to Social Media After a Twitter Revolution?*, MASHABLE (Mar. 9, 2013), http://mashable.com/2013/03/09/twitter-revolution/ . Social media was utilized as a tool "to fuel and drive the uprisings that arose in Tunisia and swept across the region." *Id.* Alex Fitzpatrick, *'Harlem Shake' Becomes Middle East Protest Anthem*, MASHABLE (Mar. 2, 2013), http://mashable.com/2013/03/02/harlem-shake-egypt-tunisia/ (illustrating how Middle East protestors used a popular Internet meme as a form of political protest); *see From Meme to Political Protest: The Harlem Shake Hits Egypt and Tunisia*, YOUTUBE (Mar. 1, 2013), http://www.youtube.com/watch?v=r0agNW SykSI (showing protestors participating in "Harlem Shake").

recognizing the power of freedom and finding the will and strength to demand change.

VI. Conclusion

Islam is a religion of peace and humanity.[175] It calls for and fosters those values that we hold dear. Islam is also an ancient religion, which at times seems unyielding and regressive. It is by no means perfect, if only because it is practiced and preached by fallible creatures. However, Islam should not be condemned for its imperfections, as no perfect religion exists. The Bible for instance contains far more verses promoting inequality of the sexes,[176] religion and sexual orientation,[177] than does the Qur'an, if only because the Bible is a longer book. So too is the case with other religions.[178] I believe it is of paramount importance that we acknowledge the frictions caused by our religions and our moral standards of decency. Only by acknowledging them can we successfully attempt to reconcile them, even if by concession.

I believe the Arab region is presently at that juncture. They are recognizing that Islam is not wholly compatible with democracy. It will be entirely up to them to decide if they are willing to make some concessions. The alternative will most likely reaffirm the same faith that has rendered the region the only one in the world without a functioning democracy. However, if the uprisings are any indication, it would appear that individuals are open to the idea of concession, so long as it is not forced or coerced. Concession must be genuine. Importantly, we must bear in mind that the transition to democracy will not be an easy task—it will take time. After all, even in the United States it was only during the 1960s that certain communities received even the most rudimentary of

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175. Ben Fulton, *Islam is a Religion of Peace as Exemplified by its Founder, Islamic Scholar Says*, Salt Lake Trib., http://www.sltrib.com/sltrib/news/54318701-78/qadri-peace-muhammad-islam.html.csp (last updated June 18, 2012, 11:41 AM); *see* Karen Armstrong, *The True, Peaceful Face of Islam*, Time, Sept. 23, 2001, http://www.time.com/time/magazine/article/0,9171,175987,00.html (explaining how the Islamic faith is rooted in peace).

176. *See* Kelli Mahoney, *What the Bible Says About . . . Homosexuality*, About.org: Christian Teens, http://christianteens.about.com/od/whatthebiblesaysabout/a/wbsaHomosexual.htm (noting interpretations of Biblical text condemning homosexuality).

177. Nick Franklin, *The Bible Hurts Women*, Yahoo! Voices (July 20, 2007), http://voices.yahoo.com/the-bible-hurts-women-445839.html?cat=9; Bob Deffinbaugh, *The Submission of the Christian Wife (Ephesians 5:21–32)*, Bible.org, http://bible.org/seriespage/submission-christian-wife-ephesians-521-32.

178. Judaism for instance denounces homosexuality and deems it a grave sin in The Torah: "thou shall not lie with mankind, as with womankind: it is abomination." *Leviticus* 18:22, 20:13 (Jewish).

rights.[179] In fact, the United States currently struggles with issues of equality, such as women's rights,[180] immigrants' rights[181] and same-sex marriage.[182] To therefore believe that the Arab region will transform into a functioning democracy within a short period of time would be naïve and contrary to history.

Nevertheless, the region is setting the foundation to support those tough challenges that will undoubtedly ensue. In these crucial times, it is also important that citizens remain vigilant and not complacent. At the sight of oppression they must, as they have, rise and demand their voices be heard. Only in this manner will the sacrifices, of those who had the audacity to change history, not have been in vain.

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179. *See generally* Lisa Vox, *The Civil Rights Movement*, ABOUT.COM: AFRICAN-AMERICAN HISTORY, http://afroamhistory.about.com/od/civilrightsstruggle1/tp/The-Civil-Rights-Movement.htm (discussing the Civil Rights Movement, a decades-long struggle for racial justice for African-Americans in the United States).

180. Reproductive rights are an ongoing struggle between women and lawmakers. *Women's Health, Sexual and Reproductive Rights*, AMNESTY INT'L, http://www.amnestyusa. org/our-work/issues/women-s-rights/women-s-health-sexual-and-reproductive-rights (addressing how "[o]ne of the most important fronts in the struggle for women's human rights is around sexual and reproductive autonomy . . . ."); *see also* Roe v. Wade, 410 U.S. 113 (1973) (noting the landmark decision U.S. Supreme Court case on abortion, which sparked a national dialogue on women's reproductive and health rights).

181. *See Defending and Advancing Immigrants Humans Rights*, AMNESTY INT'L, http:/ ;p/www.amnestyusa.org/our-work/campaigns/immigrants-rights-are-human-rights; *see Immigrant Rights*, Jobs With Justice, http://www.jwj.org/campaigns/immigrant.html (addressing immigrant rights on the issue of jobs and the labor market); *see generally* Analiz Deleon-Vargas, *The Plight of Immigrant Day Laborers: Why They Deserve Protection Under the Law*, 10 SCHOLAR 241 (2008) (discussing the inadequate pay immigrant day laborers receive).

182. Zack Ford, *Republicans Unanimously Approve Anti-Marriage Equality Resolution Without Debate*, THINKPROGRESS (Apr. 12, 2013, 3:11 PM), http://thinkprogress.org/ tag/marriage-equality/ (noting one example of opposition against marriage equality for same-sex couples); *see also* Michael J. Ritter, *Perry v. Schwarzenegger: Trying Same-Sex Marriage*, 13 SCHOLAR 363 (2010) (discussing California's constitutional prohibition against same-sex marriage).