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Tunisia: Democracy and Islam in Post Arab Spring Politics

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Departmental Thesis

The University of Tennessee at Chattanooga

Political Science: International and Comparative Studies

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UNIVERSITY OF TENNESSEE AT CHATTANOOGA

Tunisia: Democracy and Islam in Post-Arab Spring Politics

Departmental Honors Thesis: Political Science, International and
Comparative Studies

Mary Beth Shults
Spring 2014

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Tunisia: Democracy and Islam in Post Arab Spring Politics

Abstract:

Since the ousting of the former regime and the first free and fair elections in 2011 in Tunisia, political Islamist parties have been in the majority. The ruling party did not have a mandate, which necessitated concessions. Nonetheless, religion, balanced with a history of institutional secularism enforced by a dictator, has impacted the creation of a democracy. Inequality and repression drove protestors to the streets to demand new governance. These problems, along with religion and societal norms, influence the meaning of democracy in Tunisia. This paper will explore the thin lines between religion, democracy and the everyday politics of Tunisia, most notably found in political history, citizens' attitudes, and the implementation of a new Constitution. It will argue that Tunisia maintains democracy but not in the traditional Western understanding of institutional democracy. Instead, it combines elements of religion and polity.

Introduction:

The Arab Spring started in Tunisia when mass demonstrations forced the ruling regime, led by President Zine el Abidine Ben Ali, to step down in January 2011. In October 2011, Tunisia held its first free and fair elections, and the primary Islamist party, Ennahda, won a majority of seats for the newly formed National Constituent Assembly (NCA), which was tasked with creating a new Constitution. However, they did not win an absolute majority and formed a ruling

troika with the Congress Party for the Republic (CPR) and Ettakatol. After three years of economic depression, numerous demonstrations, and the formation of new institutions, the NCA ratified a new Constitution in January 2014. In the recent history of Tunisia, including the implementation of the Constitution, the nation started to implement democracy. However, Tunisian democracy may not be identical to Western forms of democracy. Instead, as the overwhelming majority of Tunisians are Muslim, there is a greater influence of religious principles in government, creating an Islamic democracy.

To understand the issues surrounding this new democracy, we must first look at the terms associated with Tunisia's polity. The state draws largely on a history of secular policies under authoritarian leaders alongside Muslim influence in society. Now, pushing against authoritarianism, Tunisia is forming democracy but in a way that does not entirely align with Western interpretations of the word. In understanding what these terms mean in the Tunisian context, we can then look at the political history from the end of French colonialism until the recent ratification of the Constitution. To explore the issues of Tunisian democracy, we will look at polling data, the new Constitution, and the events that led to the adoption of the Constitution.

Literature Review:

Tunisia's post-colonial history was determined by Western-educated men influenced by French liberalism and modernization. President Habib Bourguiba, the first president of the Republic, especially believed that religion and modernity

were incompatible, and he attempted to institutionalize elements of secularism during his presidency. Following Bourguiba, President Zine el Abidine Ben Ali tried to take this action even further by outlawing Islamist parties, though Ben Ali's policies intended to silence dissent more than promote secularism. With the overthrow of Ben Ali's regime, Islamism (political Islam) was reintroduced in Tunisia's politics and was popular among the general population. However, there remains a strong secular minority in Tunisia. The divide between politically secular and politically Islamic is important to understand in the Tunisian context. As Islamism and secularism demand opposite values and policies, this will greatly impact how Tunisia defines itself as it forms a democracy, especially since many values of democracy and Islamism do not directly oppose one another, though some Western thinkers have implied that democracy is a primarily Western value. Furthermore, religion plays a central and influential role in the everyday life of Tunisians and has affected the politics of many citizens, just as societal morals move Western voters. To explore the underlying tensions in Tunisian politics and to understand the formation of a new government, we must first understand what is meant by secularism, Islamism, and democracy. These terms are largely contested, so we will look at a specific understanding of each word in the Tunisian context.

Generally, secularism means separation of church and state. Secular states, like the United States or most Western democracies, draw a line between religious institutions and government. Adrien Katherine Wing (2006) more precisely

identifies an ideal secular nation in her study of Turkish secularism¹. In a secular government, political parties should not have religious ties. Religious texts should not drive legislation. Education and religion should be separate, and religious texts should not be part of public education. Secular nations should not show deference to particular religious groups; therefore, constitutionally secular nations should not have a state religion. According to Wing (2006), these are the ideal principles of a secular nation, but a secular nation may not necessarily comply with all of these guidelines. Western culture associates “secular” with “democratic²” in regards to governance. Yet, as we see in Tunisian history, secularism also exists in authoritarian forms of government. Sometimes, authoritarians may protect minorities or promote separation of church and state more vehemently than democracies for various reasons. They may use such policies to maintain power or to gain support of Western states. Therefore, it is not a consistent democratic value.

Secularism is not universally the same. In the United States, the state may not interfere in religion and must protect religious freedom. Religious speech is one of the most protected forms of speech under American law. However, many non-Western nations follow the example of French *laïcité*. *Laïcité* translates to “secularism,” but is practiced very differently. In France, religion is excluded to the *place privé* and may not be exhibited in public. Most famously, in 2011, the French government banned the hijab, or headscarf, in public schools and other

¹ Wing draws on the work of Yilmaz Aliefendioglu who explored the Turkish definition of secularism.

² The association of democracy with secularism comes from Enlightenment thinkers who prized reason over religion, such as Thomas Hobbes and John Locke, who later influenced the formation of democratic governments.

governmental offices because ostentatious displays of religion are forbidden under *laïcité* (Erlanger, 2011). *Laïcité* influenced many young democracies and former French colonies. Notably, democratic Turkey constitutionalized a very similar form of secularism (Wing and Varol, 2006) but the current ruling party is an Islamist party. As a former French colony, Tunisia and its leaders were heavily influenced by *laïcité* and small elements thereof are seen in the newly adopted Constitution. However, historically, many secular practices are associated with colonialism and with authoritarianism (Esposito and Voll, 1996: 16).

Furthermore, some conservatives question the faith of officials who advocate policies that are secular in nature. Such a ploy is not only dangerous politically but has also led to physical threats against these advocates. These heated exchanges make the question of constitutional and practiced secularism very serious for the development of a new government in Tunisia. Islamism sharply contrasts with secularism. However, both have influenced Tunisian history, current politics, and societal understandings of Tunisian events. While secularism played a larger role in the post-colonial government of Tunisia, the post-Arab Spring government draws more on Islamism, though both schools of thought are now represented in Tunisian policy.

Simply put, Islamism, or political Islam, denotes Islam as a political movement encompassing religious beliefs along with political ideology. According to Roger Hardy (2010), political Islam is “the notion that Islam (is) not just a religion and a way of life but an all-encompassing political and social ideology.” Islamist parties are typically characterized by a desire to use Quranic

law in legislation, which is not just limited to the more radical and conservative *sharia* law. Islamism grew under colonialism and was conceptualized in Egypt under imperial Britain when it sought to unite Egyptians through religion against the colonists. It originally sought to recreate the *ummah*, or religious community, of the Prophet Mohammed in Medina in the seventh century (Hardy, 2010). The goal of the movement was to unite the oppressed Arab world against the non-Muslim colonists. Leaders united the colonies by focusing on an aspect of the national identity that made their followers different from the invader³.

While a basic definition of political Islam seems self-evident, Islam itself is a very diverse religion, which means that since the religion itself varies from one country to another, the interpretation and understanding of Islam on the political stage varies dramatically (Strindberg and Wörn, 2011). For example, the Islamism practiced by the leading party in Tunisia, Ennahda, is different from the Islamism seen by factions in Afghanistan. Islamism in Tunisia is not monolithic and rural areas tend to be more conservative than industrialized and urban areas. Furthermore, the ideology of Islamism does not serve as an alternative to the political values of democracy, socialism, communism, or fascism but frequently may complement such values, especially since political Islam generally does not imply a specific form of government, such as democracy (Esposito and Voll 1996). It also directly opposes the Western liberal idea of separation of church

³ The concept of national identity continued to influence anti-colonial and post-colonial movements in independent North Africa and Middle East, even though many formed secular governments. Tunisia's own post-colonial history grew out of a nationalist movement that separated from a more religiously-based party.

and state because it serves as a tool to link church and state to each other.

Incorporating elements of the faith and practice in Islam to political decision-making is a goal and virtue of Islamism. Many early proponents of Islamism saw it as being in direct competition with Western secularism, which is why it was a tool of anti-colonial movements (Strindberg and Wörn, 2011). Today, many Western thinkers see it as incompatible with democracy, especially since many Western democracies have largely drawn on secularism.

Before the ratification of the constitution, Tunisian Islamist legislators pushed for religious law in the constitution. They were largely denied. However, this idea did not lack support among citizens. Religion plays an active and visible role in the everyday lives of Tunisians, so many wished the new form of government to reflect the principles of Tunisian society. While Muslim nations are no longer under colonial rule, Muslim identity may be invoked against Western imperialism. Religion still unites citizens. As its prominence in political life grows, it sometimes serves as a campaign tool to attract voters or as a dangerous weapon against the politically secular. However, just as political Islam across the world is different, adherents of Islamism in Tunisia do not always agree. Ennahda is the leading Islamist party. It won a plurality of votes in the 2011 election and currently heads the coalition government with two other parties, the Congress Party for the Republic (CPR) and Ettakatol. Party leaders refer to Ennahda as a moderate party, but opponents believe that Ennahda wishes to impose more conservative policies (Arief, 2011). Its constituency is not uniform. Members in the city are frequently less traditional than members in rural areas.

Like most political movements, Ennahda must deal with the influence of conservative, in this case salafist, movements that do not reflect the majority of the party. However, Ennahda must also adhere to the party's mainstream while overseeing a government that includes opponents of Islamism. The opposing views of secularists and Ennahda have been a major source of contention in forming democracy in Tunisia after the Arab Spring.

The Arab Spring had many goals, but analysts often consider the establishment of a representative democracy with greater freedom of speech and expression to be one of these goals. However, democracy is not translated the same universally and is a highly contested word among political scientists. Western democracies focus on institutions of democracy, such as election systems, bicameralism, and checks and balances. Many non-Western democracies believe that the government should create equality. This differs from traditional, Western democracy because these forms of government were founded on the natural rights theory of John Locke and other Enlightenment thinkers, including the American Founding Fathers. According to natural rights philosophy, man is born equally free with the same inherent rights. Lockean governments are established to protect the natural rights (life, liberty, and property) that exist in the state of nature, and the government shall not interfere with these rights. From this point of view, man is born inherently and equally free from compulsion. Government does not aim to create all men equal but to protect existing equal rights. However, non-Western governments are not built primarily on Lockean democracy or natural rights doctrine. Instead of focusing on an equal state of

nature, they observe the inequality of present conditions. It becomes the duty of government to make citizens equal. These perceptions create different goals for democracy as well as different understandings of implementing democracy. For instance, constitutions of such governments tend to emphasize social justice and equity. As a young democracy, Tunisia is still deciding what democracy will mean in the Tunisian context. In this framework, we cannot create a consistent definition and apply it to Tunisia and say that this young government is definitively democratic. Instead, we must observe the values that shape political decisions, elections, and the newly formed constitution to understand what democracy will look like as Tunisia establishes new institutions. Nonetheless, it is helpful to differentiate traditional and non-traditional understandings of democracy in order to display the meaning and the value of democracy from a non-occidental background.

To start with a traditional definition, Robert A. Dahl (1971) provided a clear, modern understanding of the Western perception of democracy in his book, *Polyarchy*, which details the patterns of democratization. Dahl works off of the conclusion of Joseph Schumpeter that democracy can be understood as the sum of its institutions. For Dahl, democratization includes, “the development of a political system that allows for opposition or competition between a government and its opponents (Dahl, 1971: 1).” This primarily is understood to mean that democratization consists of democratic institutions, namely elections. In Dahl’s view, for a system to become democratic, it must respond to its citizens primarily by ensuring that they may formulate their own preferences and signify these

preferences to one another and to the government through individual or collective action. Then, the government should weigh each individual's preference equally to that of other individuals. Each of these three components of a democracy includes special freedoms and rights, though free and fair elections with the opportunity for dissent is vital to each component and perhaps the overriding theme of a democratic state. Dahl notes on the other hand, "Even the most repressive dictators usually pay some lip service today to the legitimate right of the people to participate in the government, that is, to participate in 'governing' though not in public contestation (Dahl, 1971: 5)." He sees that a country may, for example, have universal suffrage, but still not allow opportunity to express opposition to policy or leadership. In Dahl's view, the rights to participate and to oppose the government are two of the most important aspects of a democracy and generally manifested in the form of elections. Both of these rights come from institutional understandings of what democracy should be.

In expanding the work of Dahl and a modern understanding of democracy, Samuel Huntington further analyzed the meaning of democracy in *The Third Wave* (1991). Huntington tells us that democracy today is best understood in the procedures that establish government, and he considers the "selection of leaders through competitive elections" to be the paramount procedure. He affirms that democracy should promote universal suffrage and free and fair elections with multiple parties: "Elections, open, free, and fair are the essence of democracy, inescapable *sine qua non* (Huntington, 1991: 9)." If elections create a democracy, then the peaceful transition of government and a division of powers empower a

democracy to thrive. Huntington also asserts that democracy is an important political virtue but it does not necessarily influence further virtue in a government. This largely differs from many non-Western understandings of democracy in which democracy can be used to promote further political virtue. Huntington and Dahl frame democracy in regard to its institutions, such as elections or separation of powers. They do not explore the value that citizens tend to place on democracy or the idea that democracy may benefit its citizens. With an institutional and empirical conception of democracy, one can perceive it solely as a form of government measured without regard to the physical benefit of a nation. However, as Huntington implies, nations frequently understand democracy as both a form of government consisting of institutions and as a virtue that enables these institutions to function. As both a value and a style of governance, the West understands democracy as the sum of political participation and the rights to participate. As seen in the works of Huntington and Dahl, Western democracy may not necessarily promote greater equality, but it should protect natural rights of citizens. Conversely, if a society associates democracy with social justice, then it may be understood as something more than a form of government. It also may seek to foster equality among citizens in ways that Westerners could perceive as threatening to natural liberties.

The word “democracy” does not have a universal meaning. In order to explore different interpretations of “democracy,” Fred Schaffer conducted a case study in democratic Senegal which he discusses in *Democracy in Translation* (1991). As Senegal is a largely bilingual nation, he investigated the difference

between the French word *démocratie*, which he discovered to largely resemble American democracy, and the Wolof word *demokaraasi*. He discovered that certain values were attached to *demokaraasi* that differ from values attached to democracy and *démocratie*. He pushes against the institutional understanding of democracy advocated by Dahl and Huntington because of the differing values of *demokaraasi* cannot be understood in a purely empirical study of democratic institutions. He further argues that the translation of the word democracy to apply to various governments and cultures is faulty “because the cultural premises that infuse American practices and institutions may not be universal (Schaffer, 1991: 14).” Instead, Schaffer discovered that *demokaraasi* implied elections, just like democracy, but was also associated with “collectivist ideals of welfare,” which are not inherently democratic in a Western understanding. Social governmental assistance was associated with the Wolof term. In concluding his study, Schaffer states:

If students of democracy aspire to understand the meaning, social context, and democratic implications of the behaviors they observe, they cannot assume that their own ideals of democracy are universal...Even when democratic ideals are diffused throughout the world, local communities assimilate imported ideas selectively and transform them to fit their own life conditions (Schaffer, 1991: 146).

The difference in ideals applies to our understanding of Tunisian democracy because American and Western ideals of democracy may exist in some form in Tunisia, but they exist alongside values and even institutions that Westerners may understand as undemocratic. Furthermore, as Tunisia is predominantly Muslim and religion plays a major part of Tunisian culture, we may find certain

democratic values come from the religious context and are not in accord with Western democratic values.

Democratization, or the creation of democratic institutions, in former authoritarian regimes, such as Tunisia, represents a people's desire for increased political input and empowerment. With greater empowerment and participation comes the fusion of societal values in the political process. As John Esposito and John Voll note in *Islam and Democracy* (1996), modern Islamists consider Islam to be “*din wa dawla*, that is religion and state (4).” Religion governs all spectrums of life. For devout practitioners, it could seem counter-intuitive to establish a government wholly separated from religion since religion dictates societal values. Furthermore, secularism is historically synonymous with authoritarianism in many Muslim nations, so a reaffirmation of Islamic identity may be viewed as a rejection of previous authoritarian leadership⁴. In comparing modern Islamist movements to the former nationalist movements, Esposito observes: “Just as the more popular nationalism's base of support, the more Islamic its orientation, democratization loses its secular dimensions as it becomes a popular and more truly democratic movement (1996: 16).” If a nation is deeply Islamic, its democratic values would necessarily reflect religious values. While Western influence has led Muslim nations to implement democratic institutions, Islam fosters certain democratic principles that such nations incorporate into traditional Western structures. However, Western values created Western institutions and

⁴ Authoritarianism in the Tunisian context was seen under former Presidents Bourguiba and Ben Ali, though it became more pronounced under Ben Ali. Here, it largely refers to a government which hinders massive political participation, particularly by opposing parties while one party dominates the political process and decision-making.

cannot be artificially transplanted into a nation with different values and goals. Instead, nations such as Tunisia must create their own structures coming from existing values.

Scholars on Islam and democracy cite existing values and codes in Islam that are naturally democratic. Esposito points to the principles of consultation, consensus, and interpretive judgment as principles of democratic Islamism. While he admits that these values have not been traditionally tied to democracy, they are values already present in the culture and can be used to foster a natural democracy. Faithful Muslims are encouraged to take consultation, or *shura*, on all matters. In state matters, all citizens are agents of God who give consent to a ruler who in turn must seek the opinion of citizens who have given up their natural liberty to belong to the state. This resembles the forgoing of natural liberties to form a government as recognized by John Locke. Traditionally, a ruler must consult with others before making decisions. Some modern thinkers say that the Quran actually intends for a participatory *ummah* (Islamic community) with the collective will dictating action, instead of one person directing all affairs of the community. For a group to be directed by *shura*, it must also form consensus, *ijma*. The best example of *ijma* lies in the understanding of Quranic law by the *ulema*, which is the body of legal Muslim scholars. While the general population had less influence in forming *ijma*, the existence of this principle lends itself to the creation of consensus democracy. Consensus can also lend legitimacy to institutions necessary in governance, such as a constitution. To reach a consensus, each individual must be capable of “informed, independent

judgment,” or *ijtihad*. *Ijtihad* essentially refers to the implementation of God’s will even during societal upheaval. One practices such judgment everyday by applying religious values in normal circumstances and understanding how one should conduct oneself in light of societal values. This is a very important aspect of everyday Muslim life. It does not mean that a leader can apply *ijtihad* to any decision and claim that it follows the Quran, but it allows Muslims to apply religious dictums in changing circumstances. While all of these terms are debated among Islamist scholars, these three principles guide the building of democracy in the Muslim context (Esposito and Voll, 1996). They create a different understanding of democracy than Western perceptions because they have a different source and lead to different interpretations of what democracy should look like. For example the United States practices majority-rule democracy, so consensus democracy may not resemble the American system. These principles also come from religion and would essentially oppose secularism. Religion influences the creation of democracy. At the same time, these principles institutionalize societal values into polity by fostering a participatory, consensual government founded on recognition of independent judgment.

When looking at democracy in a Muslim nation, one may expect to find elements of *shura*, *ijma*, and *ijtihad*. However, these principles are generally not found explicitly in Tunisian democratic institutions. Instead, we find institutions which enshrine the importance of these values, without necessarily mentioning Islam or adhering to strict religious principles. In Tunisia, these principles are most clearly found in the recently adopted Constitution, both in Constitutional

provisions and also in the process of adopting the Constitution. Freedoms of speech and media, social justice and the role of religion are important values in the Tunisian context and are democratic principles distinctive to the Tunisian interpretation of democracy. In public opinion, we see further evidence of a desire for a form of democracy, along with a desire for religious principles to be incorporated in governance. To explore the new democratic nature of Tunisia's government, we will look at the historical context, particularly the absence of democracy and the complex relationship with Islam, under Presidents Bourguiba and Ben Ali.

Historical Background:

In understanding how Islamic democracy develops in Tunisia, one must also look at the past authoritarian and secular history to understand what has changed and is still changing. Post-colonial politics were largely secular and undemocratic because they were dominated by one party that discouraged participation by other parties. Leaders were influenced by Western education and instilled Western values while pushing against Muslim practices. They wanted to modernize Tunisia and believed that religion hindered this process. After the French withdrew from Tunisia, leaders often mimicked Western themes, primarily industrialization and secularism. "Modern" became synonymous with "Western" and "secular" in Arab political structures. Then, as secularism increased, democracy decreased. The post-colonial republic and leadership grew out of nationalist parties that had fought for independence, while focusing on

national unity. The newly inspired nationalism discouraged opposition because dissent weakened national unity and was shunned.

Tunisia achieved full independence from France on March 20, 1956. The first elections were held on March 25 and the Neo-Destour (“new constitution”) party led by Habib Bourguiba won. Neo-Destour had been the leading nationalist party in obtaining independence. It replaced older nationalist movements that were originally less vocal in demands for full independence and deeply rooted in Islam, unlike Neo-Destour. Though it did not reject Islam, Neo-Destour was a secular movement with fewer religious ties than preceding independence parties because leaders of the newer movement were more influenced by French Enlightenment thinking due to a French education. Neo-Destour was more westernized than the original nationalist movements and supported a republic rather than the restoration of the beylicate, or monarchy, which had maintained a semblance of power under French occupation. In 1957, the Constituent Assembly deposed the bey to create the Tunisian Republic. At this time, President Bouguiba was given the executive and legislative powers of the former bey. In 1959, the Constitution was ratified. Academics criticized the constitution due to the strong executive powers and said that the presidency was tailored to Bourguiba and future leaders would be unable to fill the role (Nelson, 1979).

Habib Bourguiba was a charismatic leader with hero status. Like many early post-colonial leaders, he was educated in France and inspired by French rationalism and natural rights philosophy. He won the presidential election on four different occasions and was named president for life in March 1975. Yet, as a

post-colonial leader, Bourguiba often attempted to placate both Arab nations and Western governments. At the same time, Western ideas and Arab culture played important societal roles, as they do today. Bourguiba sought to maintain the modernity that the French had brought to Tunisia. Under colonialism, France had stabilized and stimulated the economy, albeit largely to the benefit of European investors (Nelson, 1979). Nonetheless, the first goal of the young republic was to maintain economic stability through modern means.

However, modern means often meant introducing greater secular practices. In creating the vision of a modern Tunisia, the government abolished religious courts and absorbed many Quranic and religious schools into the department of education (Nelson, 1979). One notable policy passed under Bourguiba was the Code of Personal Status (CPS) in 1956, which offended many orthodox Muslims. The CPS banned polygamy, making Tunisia the first Arab-Muslim nation to do so. It further improved the status of women by declaring that marriage had to be consensual between both parties and took divorce out of the hands of religion and family and put it into the competence of courts. Tunisian women came to regard Bourguiba as a great liberator. Bourguiba publicly demonstrated this status by going to rural areas and de-veiling women in a show of freedom and compassion (Charrad, 2007). In addition to this newly liberal status of women, Bourguiba also gained fame as an Arab leader by calling for an end to fasting during Ramadan, which is one of the five pillars of Islam. This effort was soundly resisted, though he refused to fast during the holy month himself (Nelson, 1979). While some of these actions had no real effect on policy

and others served to keep Bourguiba on a pedestal, overall the policies of Bourguibism reflected a new understanding of the Arab state. He saw himself as “defending Islam and the Islamic character by modern means (Nelson, 1979: 94)” These modern means were comparable to French *laïcité*, which Bourguiba would have been familiar with, and he attempted to keep religion out of politics in a society where religion defines everyday life. The post-colonial government even called on religion to legitimize some of its actions and respected the emotional and cultural attachments to Islam.

Post-colonial Tunisia fell short of constitutional secularism; for example, Article 1 declared that Islam was the religion of the nation. Furthermore, the Tunisian president was required to be Muslim. However, the government remained more secular in practice. The best example lies in the implementation of the CPS as part of the family law code which went directly against traditional Muslim practices and sharia. Despite declaring his protection of religion and paying lip-service to Islam, Bourguiba saw many religious regulations and customs as “obsolete” and old-fashioned; he wanted to do away with most of these as seen in his implementation of the CPS (Nelson, 1979). At this same time, the government also sought to centralize power which led to a great consolidation of power, especially in the hands of the president, giving Bourguiba greater powers. One academic said of the office of the presidency and the powers held by Bourguiba, “the makers of the Constitution let loose from the political bottle the jinni of arbitrary rule (Nelson, 1979: 169).” Many scholars feared that policy would be based on Bourguiba’s personal approval rather than a process of

collaboration and compromise. Political minorities were marginalized. Between this marginalization and Bourguiba's prestige as a national hero, the president easily amassed executive control and was named president for life.

In 1987, then Prime Minister Zine al Abidine Ben Ali had Bourguiba declared mentally and physically incompetent to rule and took office in a peaceful coup. The end of Bourguiba's rule was marked by a weakening economy and civil unrest, particularly due to an increasingly restrictive style of government (Charrad, 2007). Unlike Bourguiba, Ben Ali did not receive the same adoration from his people. Ben Ali's presidency was characterized by very repressive control over the government and the harsh persecution of political opponents and religious groups. Corruption was rampant, and the president and his family were especially seen as highly corrupt. Freedom of expression, political participation, and human rights were restricted. Ennahda, a moderate and influential Islamist party formed in 1981, was declared illegal because of its religious roots and some members lived in exile for many years during the Ben Ali regime (Arieff, 2011). By restricting political participation, Ben Ali wanted to maintain power and prevent resistance. His actions were not motivated by fear of political Islam itself but a fear of competition. The mentality of nationalist unity was replaced with pure authoritarianism which harshly silenced criticisms. Under this regime, the government sought to placate citizens by offering nominal changes such as further changes to the CPS in 1993. Though largely insignificant, these changes were a further break from traditional Islamic law codes (Charrad, 2007). In small offerings such as these, Ben Ali could maintain the support of Western powers

through secular practices and in keeping Islamist parties at bay. However, in restricting political participation of all other parties and silencing any opposition, Ben Ali's regime was wholly undemocratic. Under Ben Ali, the government became more restrictive and corrupt. This stifling background created the environment for the protests of the Arab Spring.

Corruption and human rights violations, coupled with major economic downturn, were the leading causes for the Arab Spring. The revolution started in small, rural Sidi Bouzid, located in the interior of Tunisia (Arieff, 2011). Like many of the interior cities of Tunisia, Sidi Bouzid is less-developed than urban centers such as Tunis. On December 17, 2010, a young producer seller, Mohammed Boazizi set himself on fire in protest of police brutality. This action started a wave of protests and calls for the resignation of Ben Ali. The protests were originally concerned with the lack of economic development. However, as protests mounted, the government acted to stop the movement by sending troops to the streets and imposing a nation-wide curfew. On January 14, 2011, Ben Ali officially resigned from his position after almost 24 years in power and fled the country. Shortly thereafter, the government was re-shuffled and a temporary government formed. Ben Ali's party, (RCD), was disbanded and most officials were replaced with less partisan officers (Arieff, 2011).

Post-Arab Spring Politics

Politics existed in an almost vacuum at this point. With the former ruling party forced out of government and disbanded, formerly banned parties started

vying for recognition. Unlike the independence movement led by a nationalist party, the revolution was not led by a single party but was ignited by the people's anger and mostly formed by youth who had been deprived of opportunities. It was, in many ways, a very democratic action as the people demanded their rights and a better government. It bears similarities to the original natural rights doctrine with the populace uprooting a tyrant that did not adequately protect life or property. However, angry masses cannot govern a nation, so existing parties, that formerly had little voice, started campaigning. Throughout the campaigning, Ennahda held the majority. Ennahda has traditionally advocated for Islamic democracy. It also supported the use of Quranic law in creating a new constitution while voicing respect for the CPS and women's rights. Prior to the elections, the party also claimed to support separation of church and state, though opponents suspected this statement to be a campaign tool (Arieff, 2011). On October 23, 2011, Tunisia held its first free and fair elections with a multi-party system. In fact, over 100 parties registered to run in these premier elections. Ennahda won the majority of votes but did not receive a mandate with 89 of 217 seats in the National Constituent Assembly (NCA) (European Forum for Democracy and Solidarity, 2014). It formed a ruling *troika* with two other majority parties. The NCA was formed with the purpose of drafting a new constitution.

This constitutional process took much longer than expected, largely due to the deep distrust between liberals (frequently secularists) and Islamists. Both sides believed that they were protecting the ideals and institutions of Tunisia. Furthermore, internal party struggles, particularly for Ennahda, created tension

concerning the place of religious law in the constitution and the general attitude that the government should take in regards to custom and religious practice and its role in legislation. The tension climaxed with the political assassination of Chokri Belaid, a leading liberal politician, in February 2013 and then the assassination of Mohamed Brahmi, a less influential liberal, in July 2013 (Al-Jazeera, 2013). An extremist conservative group, Ansar al-Sharia was blamed for both deaths. The second assassination led 60 NCA members to resign, which caused a stalemate in the NCA. Riots and protests erupted after Brahmi's death, largely by liberal groups, though there were many counter-protests from conservative groups. In October 2013, two years after the election of the NCA, talks began between the groups to bring the stalemate to an end. The goal was to choose a new Prime Minister to head the government until elections were held (Slama, 2013). However, the talks were delayed after parties could not reach a consensus. Nonetheless, on January 3, 2014, delegates began voting on the final draft of the Tunisian constitution. On January 9, 2014, Prime Minister Ali Laarayedh announced his resignation after members for a Board of Elections were chosen and agreed upon. On January 23, 2014, the NCA completed its task and ratified the Constitution, only days after the three year anniversary of Ben Ali's resignation (Jasmine Foundation, 2014).

Since the first protests in Sidi Bouzid and Tunis, Tunisia has led the way for the Arab Spring nations, while democracy in Libya and Egypt has struggled. Tunisia was the first Arab Spring nation to hold elections and Ennahda's win predicated the win of the Muslim Brotherhood in Egypt. However, Tunisia's

military is much weaker and notably absent from politics. Amidst the sharp political division, the military never interfered and never intended to. This has protected democratic institutions because, ultimately, representatives must govern the nation since no other actor is capable of ruling. This important difference between Tunisia and other Arab Spring nations, namely Egypt, reflects the fact that the Tunisian movement has been citizen led, from the very first protest through ongoing demonstrations. Tunisia has remained the most stable Arab Spring nation, despite continuing protests and government stalling. Protests have grown in influence since the Arab Spring and are now a regular occurrence. As protest culture has developed in Tunisia, a deepened respect for opposition and for freedom of speech is featured in the Constitution. Furthermore, these protests have both harmed and helped the legislation. At face value, they have fueled the divide between traditionalists and progressives. However, Tunisians are now free to express their criticisms of the government and of society. State run media now competes with independent organizations. Protests are common, which may have led to political instability. However, these protests also shows that citizens have found their voices and have discovered their power in a democracy. Tunisians now demand the government protect and assist citizens instead of protecting leaders from the public. This element of social justice influenced the constitution along with the importance of minority voices and opposition.

The constitution went through numerous drafts and, ultimately, many provisions found in the original draft were removed well before the final draft came to a vote. Such provisions, frequently tied to religion, were often removed

because conservative parties were unable to force their own values into the document. All parties had to make concessions. Ultimately, the constitution was a consensus document that represents the wide variety in Tunisian opinion. It takes elements of tradition and Islam and blends them with elements of secularism and rationalism to represent a new democratic form. The approval debate started on January 4, 2014. The draft constitution consisted of 146 articles with 256 amendments offered by deputies of the NCA. Of the 217 members of the NCA, two-thirds were necessary to approve the constitution or it could be put to referendum. On January 23, 2014, the final articles and amendments were approved and on January 26, the new Tunisian constitution was officially adopted (Jasmine Foundation, 2013). In recognition of the occasion, foreign dignitaries attended a ceremony in Tunis where French President Francois Hollande stated, “The constitution honors your revolution and is an example for other countries to follow... It confirms what I had said [when I visited] in July, that Islam is compatible with democracy (Al-Jazeera, 2014).”

Democratic Elements of the Post-Arab Spring Regime

In looking at the new Constitution, there are many elements which indicate the form that democracy is already beginning to take in Tunisia. Some of these elements derive from Islam and others are more heavily borrowed from Western institutionalism. Furthermore, the relatively new appreciation for the value of protest has also heavily influenced the understanding of Tunisian democratic values as popular demonstration directly led to a new form of government. There are four core principles revealed in the Constitution which

speak most clearly to the development of Tunisia: the importance of opposition, the role of media and freedom of speech, social justice and equality, and a greater role of religion. Each of these four values appears in the constitution as well as in social movements and the basic understanding of current events in Tunisia. The importance of opposition and freedom of speech institutionalize *ijma* and *shura*. Social justice and the role of religion are more influenced by the specific combination of national history and theology seen in the Tunisian context. The desire for social justice comes from the problems faced by the nation during the Arab Spring as well as from a cultural push for equality. As Islam protects the collective and enhances these specific democratic values, there is a new role for religion in government. Islam is first given an explicit role, but we also see the influence of theology in the growth of the republic with these democratic and religious principles lending themselves to the formation of Tunisian democracy. The Constitution ensures protection for each of these principles, principles which also grew out of the demands of the Arab Spring.

The Constitution is primarily a consensus document born out of the struggle for recognition among parties. Channels to express opposition did not exist under the post-colonial regime. As previously noted, immediately following the departure of the French, power rested in the hands of one party. When Tunisians demanded independence, a sense of “us versus them” prevailed; the nation was largely united against French imperialism. This sense of unity did not lend itself to the creation of a multi-party system. In fact, to oppose the leading liberators was to oppose nationalism. At that point, there were other minor parties

but the only ones that had a voice in the government worked with Neo-Destour. After Ben Ali came to power, he outlawed major opposition parties, namely Ennahda, and heavily curtailed rights of opponents. Before the revolution, there was not an effective multi-party system. However, post-Arab Spring Tunisia differs from post-colonial Tunisia as no party led the revolt against the Ben Ali regime. It was largely grassroots and citizen-based and did not come from a nationalist or other organized movement. Therefore, when the first elections took place in 2011, parties scrambled for attention. Islamists appealed to the masses, particularly in rural areas. Secularists were more popular in more urban areas, especially where education rates were higher. However, the two opposing forces were deeply divided which became apparent during the constitutional debates. Nonetheless, the development of a multi-party system was not questioned in Tunisia. Tunisia already had a parliamentary system in place, so it stands to reason that a multi-party system functions best with a parliament. Yet, this created tension in the government which eventually led to the four-month stalemate.

Any observer of post-Arab Spring politics in Tunisia would note that most decisions never met the original deadlines. Everything took longer than anticipated. After the resignation of Ben Ali in January 2011, the constitution called for elections within a month, but elections did not take place until October. The NCA was given a mandate to complete the constitution within a year, but it took 3 years. Elections were meant to re-occur two years after the first election but are now meant to take place later in 2014, which is a year later than originally scheduled. Such delays generally cause alarm in regards to institutional

democracy because, frequently, such delays are ploys to delay democratic turnover. While this was a legitimate fear in Tunisia (some analysts feared that Ennahda would attempt to hold on to power), it has already proved untrue; ultimately, all goals were reached. They were generally reached after demonstrations and political arguments. Since no one party has the majority, decisions cannot be enacted immediately because consensus cannot be reached. Parties initially refused to cooperate and find middle ground until demonstrations occurred and the situation necessitated cooperation. No one party is at fault because all sides at times refused to concede. Originally these delays slowed down democratization when consensus between parties could not be reached. However, after months of gridlock, the need for consensus that forced politicians to work together effectively ensured a respect for opposition, grown out of the repression seen under Ben Ali. Because consensus with the opposition was ultimately necessary for the NCA to complete its work, certain rights had to be granted towards opposition parties.

However, before the adoption of the Constitution, the divide between secularists and Islamists became most evident after the assassination in February 2013 of Chokri Belaid and the July 2013 assassination of Mohamed Brahmi. Both deaths stunned the nation and were greatly mourned by the Tunisian people. Both men were liberal leaders, though Brahmi's death came as a greater shock since he was less influential than Belaid. Ansar al-Sharia, an extremist Islamist group, was blamed in both deaths. After Brahmi's death, protests erupted in Sidi Bouzid, the symbolic city where the Arab Spring started. These protests led to counter-

protests by Islamists. In the aftermath of the assassination, sixty NCA members resigned in protest and did not return to work until November 2013. Despite these sharp divisions, calls for rebellion were largely ignored. Amidst the chaos of the NCA and the stalemate of the government, no one seriously intended to overthrow the government and the military never stepped in as it did in Egypt (Sadiki, 2013). Instead, though it took four months of virtually no political headway, Tunisian representatives had to fix their own problems since no foreign power or military threatened to interfere.

Because of the struggles of opposition, along with a history of political repression and the need to cooperate, Tunisians appreciate the value of multiple parties in the formation of a democratic state and enshrined opposition in the Constitution. Article 59 guarantees rights to the opposition:

The opposition is an integral element of the Chamber of Deputies and shall have the rights that enable it to undertake its tasks in parliamentary work. The opposition is guaranteed an appropriate and effective representation in all the Chamber's structures and internal and external activities, and it shall be given the presidency of the financial affairs committee or the foreign affairs committee and the role of rapporteur within one of the two committees. It shall have the right to establish and head an investigation committee per year. Its duties include active and constructive participation in parliamentary work. (Jasmine Foundation. 2014.)⁵

This Article is unique and powerful. It not only recognizes the importance of all elected voices in Parliament, but it also incorporates the opposition in a very real way by giving it very real power. The opposition has the unusual opportunity to

⁵ All quotations from the Constitution are referenced from the Unofficial English Translation provided by the Tunisian non-governmental organization and watch-dog group, the Jasmine Foundation.

impact major policy by leading either the committee on finance or foreign affairs for Parliament. By granting such a position for a weaker party, the Constitution guarantees that the nation must take consultation in decision-making seriously because there will necessarily be differing viewpoints overseeing major legislative committees. The statement that allows the opposition to hold the presidency for one of these committees was an added amendment to the constitution. The amendment was approved by the Consensus Committee before it reached the NCA. (Typically, in regards to current Tunisian politics, “opposition” refers to more than one party that opposes conservative Islamism mainly espoused by Ennahda. If the opposition is a conglomerate of parties, like the current troika, the party with the most seats would presumably receive the presidential position.) Even without this addition, Article 59 demonstrates the commitment to consultation by protecting the voice of the opposition.

While opposition has frequently slowed down the democratic process of Tunisia, it ultimately created a constitution that fits the needs of all Tunisians. This embodies the consensus (*ijma*) and consultation (*shura*) principles of Islam and creates an Islamic democracy. In Article 59, we see an institutionalization of *shura* where leaders must account for the opinions of other parties. Furthermore, Tunisians offer *shura* as seen in the frequent demonstrations. Because citizens force leaders to listen to their views, leaders must take consultation in order to understand the views of citizens. The strong voice of protestors creates this element of Islamic democracy. Tunisia’s history also paved the road for *shura* because there was previously no respect for opposition. Yet, this lack of respect

could not possibly continue after the 2011 elections because no party held an absolute majority in the NCA; therefore, consensus was necessary for the government to function. While parties were not always amicable to one another, each party had to accept some unfavorable solutions to certain problems in order to achieve collective success. In the end, this need for consensus gave the opposition a larger voice than would have occurred if a single party held a mandate. Therefore, the need for *ijma* led to the necessity of *shura*, and we see both principles engrained in the Constitution. This Constitutional integration indicates elements of Islamic democracy that are present in Tunisia, but that are realized in a uniquely Tunisian manner.

After the self-immolation of Mohamed Boazizi, protestors demanded a participatory democracy, and the voice of the people inspired a new form of government for Tunisia. Because protests catalyzed a change in government, free speech is of greater importance than ever before in Tunisia. After the Arab Spring, citizens became more aware of their power to affect change, and are more willing to take to the streets. While current demonstrations are often led by parties, instead of grassroots movements, they still give Tunisians an opportunity to express their opinions. These demonstrations have affected government, though they have at times added to the constant delays. Furthermore, after the fall of the regime, the media was no longer solely controlled by the state, and new media channels, as well as NGO's, offered alternative sources for current events and analysis. The greater protection for freedoms of speech and media was a major accomplishment of the Tunisian Arab Spring. It forced the government to

incorporate the principle of *shura* into decision-making as the people's voice had a new impact on government policy and thought which was institutionalized in constitutional rights. The principle of *ijtihad* also works into this freedom as people have the opportunity to learn more about current events.

Before the revolution, citizens could not fully express displeasure with the government. Now, demonstrations occur regularly. Citizens take to the streets because they do not believe that their lives have improved with the change in government, and, according to polls taken in spring 2013, they saw no significant change. Instead, they have witnessed a failing economy and high unemployment rate as well as a growing security risk. These concerns are serious and should not be ignored. However, the fact that people can protest these problems represents a growth in liberty that was not present before. People can openly disagree with and even mock the NCA and leaders of Tunisia. They have the freedom to riot in the streets without major repercussions (Cherif, 2013). Party politics and plenary debates have perhaps had the greatest influence in shaping government attitudes and constitutional changes, but mass demonstrations have also proved effective in reversing policies, such as the former "complementary clause" that referred to women as complementary to men (Human Rights Watch, 2012). This clause was present in early drafts of the Constitution but was removed from the final revisions. The Pew Research Group polled Tunisians about the state of the republic in spring 2013. At this time, the Constitution had not been approved and over all, things in 2013 were perceived as getting worse. According to Pew's poll in 2013, most Tunisians were very dissatisfied with the government and the lack

of progress seen two years after the regime change. Only 54 percent of those interviewed believed that democracy was preferable to other forms of government, and 56 percent preferred stability to democracy while in another question, 65% of those surveyed preferred a strong economy to a strong democracy⁶. However, both questions indicate that, in a developing country, stability and democracy may be mutually exclusive and that young democracies are generally unstable. This assumption slightly manipulates the phrasing of the question which could affect the understanding of the word “democracy” by respondents. In fact, despite this seeming lack of support for democracy, in spring 2013, a majority of Tunisians (54%) believed that democracy was preferable to any other form of government while 53% felt that it was better to rely on democracy to fix the nation’s problems rather than a strong leader. Furthermore, most Tunisians supported what PEW terms “democratic principles⁷,” including 62 percent of those interviewed who agreed that freedom of speech is very important for the country’s future and that anyone should be able to criticize the government. Another 71% agreed that it is very important to hold regular, honest elections (Pew Research Center, 2013). The desire for freedom of speech is an element of the democratization of Tunisia as it plays the role of *shura*, which is necessary for the development of the *ummah* because it encourages civic participation with collective will directing action. Consultation is institutionalized

⁶ This was a dramatic change from 2012 when 55% of those interviewed preferred democracy even if there was some political stability while 38% of those interviewed stability even if it was not fully democratic.

⁷ For the purposes of this paper, I do not refer to these ideas as democratic principles, since I argue that democratic principles in Tunisia may not necessarily reflect what Western nations view as democratic, though in this particular case freedom of speech plays a role in democratization.

in elections, but protests serve as a non-institutional form of *shura*. Both forms promote participation in democracy by encouraging citizens to voice their opinions to leaders and compelling leaders to take citizens thoughts into account.

While freedom of speech was liberalized, so were media rights. Before the revolution, the government only permitted the existence of state-run media. Now, numerous NGO's and media sources are developing. For example, *Tunisia Live* is a youth-led, online news source that reports in English. Its small team reported for and contributed to international news sources during the Arab Spring (Tunisia Live, 2014). Al-Bawsala is also youth-led and is an independent, non-profit, non-governmental organization. It focuses primarily on democratic participation and protecting "the concepts of social progress and citizen empowerment (Al-Bawsala, 2013)" by building relationships with representatives and offering citizens the tools to educate themselves on ongoing political processes and debates. Al-Bawsala embodies the principle of *shura* by offering citizens and elected officials a platform to consult one another. It monitored the work of the NCA and the final constitutional debates and facilitates discussions between MP's and citizens. These alternative sources make it possible for Tunisians and non-Tunisians alike to gain information and insight into ongoing events and the political processes of the country. The newly won right of the media is important to citizens. In Pew polling of spring 2013, 69% of those surveyed believed that free media without danger of censorship was important, reflecting another example of a principle of democracy that influences Tunisian leaders (Pew Research Center, 2013). The development of new media sources allows citizens

to gain informed, independent judgment, *ijtihad*, in order to engage in civic duties and practice their rights to express their opinions.

Freedom of speech and media contributed to the formation of a new Tunisian form of government; therefore, it comes as no surprise that these rights are protected in the constitution. It is seen subtly in the Preamble and also explicitly in the Constitution itself. The first substantive statement of the Preamble recalls pride for and loyalty to those who struggled for independence and to bring down the autocratic regime and establishes the Constitution, “in response to the objectives of the revolution of freedom and dignity.” The Republic is built on the work of protestors. Chapter Two of the approved Constitution establishes rights and liberties. Under this chapter, Article 30 guarantees, “freedom of opinion, thought, expression, media, and publication (Jasmine Foundation, 2014)” and states that these rights may not be censored. Article 36 guarantees the right to peaceful assembly and demonstration, and Article 31 guarantees the right to information and to access information as well as a right to access communication networks. This article means that media should not solely be run by the state. Both article 30 and 36 were passed unanimously by the NCA. Both articles were amended to remove possible legal limitations. The amendments imply that there is a fear that these rights could be derogated, so the Assembly removed wording that was unclear in order to further protect these freedoms. These freedoms have now been institutionalized and must be protected under the Constitution.

Now, censorship cannot legally exist. However, in December 2013, Amnesty International reported on the case of Jabeur Mejri, a blogger who was jailed after expressing views contrary to Islam. Amnesty International (2013) referred to this as the first “opinion jailing,” but there have been other examples of persons who were persecuted for expressing viewpoints contrary to Islam. This form of verbal persecution climaxed during the constitutional assembly when a member of the opposition received death threats after an Ennahda deputy called the opponent “an enemy to Islam (Jasmine Foundation, 2013).” In response to the potential violence, the opposition proposed an amendment to Article 6 of the Constitution in order to outlaw accusations of apostasy, or *takfir*. The amendment was accepted and also outlawed incitement to violence. This amendment should provide needed protection for more liberal or secular politicians whose lives have been endangered for voicing their beliefs, which are not in accord with Islam. However, the president of Al-Bawsala referred to the amendment as “draconian” because she believes that such wording goes against freedom of expression. Article 6 now provides protection for some who have exercised this freedom while simultaneously limiting freedom of speech. This is a common theme in the adopted Constitution. In order to equalize rights for all, certain freedoms are limited. This seems contrary to the modern notion of democracy because modern democrats believe that a nation must be free to be democratic. Yet, in reality, most democratic governments still employ some limitations on complete freedom of speech to prevent violence. For example, in the United States, one may not yell “Fire!” in a crowded, public space unless there is an actual fire. Tunisian

representatives understand different forms of speech to evoke violence. Since, in this context, delegates see a direct correlation between accusations of apostasy and violence, it seems a natural progression to limit freedom in order to prevent future violence. Tunisian democracy gives greater importance to equality and stability than to full liberties. The goal of the government is not the actual protection of liberties, but a just and equal society with balanced opportunities for all people and regions. Freedom is still an important principle of the formation of the government, but social justice plays a more active role in the Tunisian Constitution.

Social justice was a primary goal of the revolution and inequalities led to protestors' anger. In Tunisia, this can be seen in Constitutional principles. Furthermore, regional disparities are a major problem in Tunisia; the Arab Spring called for more opportunities and fiscal aid for poorer and rural areas. Regardless of where the disparities exist, the call for social justice reflects a broader, religious influence. It also demonstrates an understanding of democracy in terms of equality rather than a protection of rights. While, in reality, Western democracies, particularly American democracy, focus on liberty and broad personal freedoms originating in a protection of natural rights, non-Western nations often prefer egalitarian governments and believe that democracy is equipped to bring equality to all. In Tunisia, this idea is codified in the Constitution.

One of the more controversial sections of the Constitution, Article 12, institutes positive discrimination in favor of deprived regions. This article was initially rejected by the NCA, but after the body was permitted to re-visit a

different, protested article, deputies insisted on re-examining Article 12. During the re-vote, the article passed with 150 for and 3 against. It now reads, “The state shall seek to achieve social justice, sustainable development, and balance between regions, and to make good use of national resources based on national indicators and the principle of positive discrimination (Jasmine Foundation, 2013).” In many ways, this section seems contradictory of the idea of equality through democracy by using a form of discrimination. If the goal of democracy is to protect natural equality, and if democracy encourages capitalist development, then this article would be problematic. However, since the creation of equality stands as a goal of Tunisian democracy, then this Article represents the implementation of this goal. This article would benefit less wealthy, generally interior, regions of the state by offering them previously unavailable resources. Regional inequality was a major problem before the Arab Spring and stimulated civil unrest.

According to a 2011 report by the Carnegie Endowment for International Peace, three deprived cities, Sidi Bouzid, Kasserine, and Thala were instrumental in leading the uprising. The report also states that, within the 5 years before the Arab Spring, the wealth gap between the rich and poor grew for various reasons.

Meanwhile, wealth gaps between regions also widened. Furthermore, these rural areas lacked adequate infrastructure, including health care and education, and suffered from higher unemployment rates (Achy, 2011). These problems tell us that there was a legitimate need to provide greater help to these regions through use of positive discrimination. As a major goal of the Arab Spring, it would go against the overall interests of the nation to not include this article. Furthermore,

while individualists would suggest that such a policy hurts the self-interests of wealthy companies in Tunis, the call of greater social justice and equality prevails over individualism in Tunisian democracy.

The most basic example of the protection of equality is under Article 20, “All citizens, male and female alike, have equal rights and duties and are equal before the law without any discrimination (Jasmine Foundation, 2013).” This article starts Chapter 2, which details rights and liberties. It provides the framework for following articles that establish a system to guarantee social rights for citizens. Many of these rights are considered protected human rights under treaties that Tunisia has signed. Nonetheless, protecting rights in a Constitution that seek to equalize a society puts these rights on a higher level than if they were protected only in the legal code or in treaties. Examples include the right to health and health care, the right to education, and the right to work. The right to health falls under Article 37 in which the State also provides the right to preventive health care and treatment by ensuring free health care for low-income citizens. Immediately following that, Article 38 mandates education by providing free public education at all stages. Education also serves as a tool to encourage Arab-Islamic culture while seeking to give students appreciation for other cultures and human rights philosophy. For a constitutional provision to protect education on this level reflects its cultural importance. Some Tunisians have pointed to their level of education as a cause for the Arab Spring as they take pride in their understanding of rights and in their awareness of the larger world. This cultural pride is now codified to ensure that future generations will also be able to enjoy

this education. It also ensures that future leaders will have a respect for human rights as education thereof will be institutionalized. Next, Article 39 codifies the right to work as an equal right for men and women and affirms that the State should “ensure the availability to work on the basis of competence.” While this largely reflects the state of the economy and the current need for job-creation, it also represents the desire for the state to improve the lives of citizens in a tangible way. Forcing the State to provide health insurance for low-income citizens, providing free public education at all stages, and playing a role in providing work exemplifies ways that Tunisian government is expected to affect daily life. This role seemingly contradicts another article concerning local government under Chapter 7 which states that government should be based on the principle of decentralization. However, this simply means that the local government should play a more energetic role in providing for citizens. If a government is rooted in providing equal opportunities for all, then the definition of strong government may shift slightly. Citizens would expect government to be visible and energetic in providing social services, but it should guard against falling into the pattern of history and becoming an authoritarian regime. Furthermore, an emphasis on equality and social justice replicates religious ideals as governmental goals. While the Constitution is not based on religious laws and these Articles do not stem directly from religion, the cultural mindset is such that they are simply an ingrained idea that corresponds to Muslim values such as integration of the *ummah*. The participation of the community is a necessary value both in Islam and in democracy, but in Islam, members of the community have the duty to

protect and help one another. Therefore, in the formation of democracy, we see a government committed to aiding communities by helping citizens. The government does not focus on the individual or protecting private rights but on the collective good.

This cultural mindset, heavily influenced by Islam, strengthens the need for greater equality and social justice which is then codified in the Constitution. Interpretations of Quranic meanings and Islamic principles have changed over the years, just as with any religion. However, the basic standards have remained constant, even if they are understood differently in everyday lives and in the formation of a Muslim society today. In fact, they are expected to change; this is why there is the principle of *ijtihad*. Muslims are expected to exert their own judgment in applying the tenets of Islam in daily life. *Ijtihad*, *shura*, and *ijma* were practiced in forming the Constitution as seen in articles of the document itself and also in the debates of the Constitution. All parties had to make sacrifices in order to reach a consensus. In part this is due to the lack of one majority party which meant that no party could vote an article through without the support of other parties. Yet, the act of *ijma* reflects the nature of the government as both democratic and Muslim. While *ijma* is necessary in Islamic governance, its existence in the Constitution does not make the document inherently Islamic. It points more to the manifestation of religious institution alongside Western institutions. The same may be said for *shura*. Demonstrations and elections are democratic methods for a people to express their voice, and they offer officials an opportunity to gain a sense of popular opinion. These approaches may be a

modern form of *shura*. It provides for a participatory democracy in which the *ummah* dictates direction by voicing satisfaction or opposition to leaders.

In looking at the intended role of religion, there is a feeling among the general population that religion should have a small role in government. To explore this viewpoint, one can refer again to the Pew Research Global Attitudes Project of 2013 for Tunisia. The survey was administered in the spring of 2012 and 2013, so we may compare the changes in attitude. In terms of religion, in 2013, the majority of Tunisians preferred a small influence of religion in the formation of government, though there was not an overwhelming consensus on the issue, reflecting the division in political bodies. In looking at the role that religious leaders should play, we refer to two questions. When asked how much influence religious leaders should have in political matters, the largest percentage (30%) of those interviewed said that they should have some influence. However, 27% said they should have no influence at all and 14% said they should no influence while 24% said they should have a large influence. This also means that 54% prefer for religious leaders to have at least some influence in politics while 41% do not want religious leaders to have a role in politics. When asked if it was important that religious parties be allowed to participate in government, 53% of those interviewed found it very important. This also reflects the previous oppression of religious parties as well as an appreciation for the greater freedoms of political parties. However, when asked about the role of Islam and the Quran in laws, 59% of respondents agreed that, “Laws should follow the values and principles of Islam, but not strictly follow the teachings of Islam.” This compares

to 11% who do not believe that laws should support the teachings of the Quran, and 29% who hold that laws should strictly follow the teachings of the Quran (Pew Research Center, 2013). While Tunisians were largely split on most issues, a majority agreed that basic Muslim values should be present in the law code. This desire was followed in the Constitution as it did not use sharia law and may not draw directly on the Quran, but many religious principles are still evident in the construction of the law and in some of the articles.

The first Article of the Constitution following the Preamble in its approved form reads, “Tunisia is a free, independent and sovereign state. Its religion is Islam, its language is Arabic, and its form of government is a republic. This article cannot be amended (Jasmine Foundation, 2013).” This article received a number of amendments which were not approved but would have explicitly altered the source of legislation for Tunisia. Months before the approval of the Constitution, debate raged on the wording of this Article, with Ennahda promoting greater protection of Islam and the use of religious law as legislation. During the debate on the article, amendments arose which sought to refer to Islam or the Quran and Sunnah (Islamic religious law) as sources of legislation for Tunisian law. These amendments were not approved. The opposition prevented such changes by agreeing to the added phrase, “This article cannot be amended.” The article as approved blends both sides of Tunisian politics by demonstrating the deep-rooted dedication to Islam that is a vital part of the national identity. However, the lack of usage of Sharia, the Sunnah, and Quranic law also points to a commitment to protect secularist ideals that Habib Bourguiba instilled in the

post-colonialism period and that still influence liberal leaders. Furthermore, Islam is not the religion of the state as Article 141, which referred to it as such and would have prevented amendments to the Constitution that prejudiced Islam, was struck down. In exchange for the removal of Article 141, Article 1 may not be amended.

Freedom of religion is highly protected, though it sometimes comes into conflict with freedom of speech⁸. This freedom is expressed under the previously examined Article 6:

The state shall protect religion, guarantee freedom of belief, and conscience and religious practices, and ensure the impartiality of Mosques and places of worship away from partisan instrumentalization. The state shall commit to spreading the values of moderation and tolerance, protecting sanctities and preventing attacks on them, just as it shall commit to preventing calls of takfir and incitement to hatred and violence and to standing against them (Jasmine Foundation, 2013).

The protecting of religion should be expected; however, the assurance of impartiality in mosques implies that politically religious groups should not meet in mosques and places of worship, and that mosques should remain neutral in politics. While not directly imposing a separation of church and state, it does call for a practical partition between these two spheres. Furthermore, this resembles *laïcité* in calling for neutrality on the part of places of worship rather than solely neutrality of the State as the arbiter on the place of religion in public life. It differs from American secularism because democracy as an institution is seen to function on a religious and even social level, not just a state level, which calls for a more

⁸ The tension between these two freedoms is often present in democracies. For example, in the United States, religious speech is the most highly protected form of speech.

institutional separation of the spheres. This mild separation indicates a victory for liberal parties as well as a respect for certain forms of secularism while also protecting Islam and other religions. One may even argue that it better protects religious institutions by keeping politics out of the Mosque. It also promotes a specific form of religion, because it promotes moderation, which is to say that it seeks to dissuade extremism. Extremism is an increasing worry in Tunisia, chiefly in the form of Ansar al Sharia, the group blamed for the assassinations of 2013. Tunisia has also had feared the infiltration of extremists from neighboring nations, namely revolutionaries of Libya with the fall of former dictator Gaddafi. This Article protects religion and also those who are not religious while also envisioning the ideal Muslim state in the modern world, a moderate state guided by tolerance and discouraging of religious violence.

Other minor provisions that demonstrate the role of religion in the state fall under the purview of the Executive. Article 73 states that the President of the Republic must be Muslim. This provision was included in the original Constitution of 1959. While the overwhelming majority of Tunisia is Muslim and likely not affected by this article, it still has the potential to discriminate. This article reminds Western observers of the deeply religious nature of citizens, even in this nation that upholds many liberal ideals. The president also has the power to appoint and dismiss the General Mufti. The Mufti serves the State as a religious advisor. According to the website for the Republic of Tunisia, his functions include answering questions about Islam, representing Tunisia at “Islamic scientific seminars” and “Islamic international academies,” and offering opinions

on schoolbooks, documents, and studies relating to Islam (Republic of Tunisia, 2014). A mufti generally stands as the head of the ulema, or religious scholars, and is an expert on religious law. This Article gives the president an express religious power as the Mufti is influential for the practice of Islam in Tunisia. It gives the president a chance to influence the way religion is viewed in the nation.

Religion plays a role in Tunisian government, though this role is largely implicit. Many of the policies surrounding religion seek to divide the two spheres. However, elements of the constitution and democratization of Tunisia are inherently Islamic. Islam still maintains protection under the new Constitution but some of its legal influence has been mitigated. Culturally and socially, Islam holds a special importance which is reflected in the new institutions of the Republic. It was also reflected in the debates of delegates and in the conversations between parties. However, the previous existence of secular practices ensured a level of respect for a separation of church and state. While this separation is mild compared to Western states, it is dramatic for the area. Now, the form of government represents Tunisia's unique history and culture.

Conclusion:

The religious principles of *ijma*, *shura*, and *ijtihad* are present in the young Tunisian democracy. They exist on an institutional level in the Constitution, primarily in protections for opposition parties and the understanding of freedom of media and speech, often seen in the form of protests. These freedoms promote independent judgment and the need for

government leaders to consult with citizens as well as with minority parties. The important role of the opposition reflects Tunisia's historical need to grant wider freedoms to ensure a politically competitive system. The need to build consensus and work across party lines ultimately necessitated a larger role for opposition groups in framing the Constitution, which has ensured future rights for less influential parties. This unusual dichotomy between dissent and consensus present in Tunisia would be an area for future research, particularly as the role of the opposition is manifested in future elections.

The desire for social justice and a role of religion in government is reflected in the Constitution. However, these values come from a largely societal push. Social justice is a uniquely Tunisian democratic principle, especially in providing special aid to impoverished districts of Tunisia. Equality is not an inherently Western democratic principle; however, in Tunisia, there is a sense that the formation of democracy can be used to create equality. This lends a special importance to social justice. Protection of rights is an important role of government, but the goal is to promote equality on a physical level. Religion influences each of these principles along with the incorporation of *shura*, *ijma*, and *ijtihad*, though the role Islam plays in government features heavily in the adopted Constitution and influenced many of the debates leading up to the ratification. Because of this strong position, Tunisia has adopted a form of Islamic democracy that does not totally adhere to Western democracy. It has different goals, and equality is a primary goal instead of a by-product of institutions.

Furthermore, while Tunisia's institutions are necessary in the development of government, they are not the primary source of democracy. Democracy stems from societal values, largely influenced by Islam, and the people's desire for a new government. We may now expect certain values to shape the future of governance in Tunisia, while accepting that the future democracy may not follow Western guidelines for the development of democracy.

Bibliography

- Achy, L (2011) Tunisia's Economic Challenges. Carnegie Endowment for International Peace, Washington, DC. December 2011.
- Al-Bawsala (2013) About Us. Available at <http://www.albawsala.com/en/presentation>
- Al-Jazeera (2013) Protests after Tunisian Politician Shot Dead. *Al-Jazeera English*. 26 July, 2013.
- Al-Jazeera (2014) Foreign Leaders Hail Tunisia's Constitution. *Al-Jazeera English*. 07 February, 2014.
- Amnesty International (2013) Tunisia: "You Can Go to Jail for a Word or Thought." *Amnesty International*. 11 December 2013.
- Arief, A (2011) Political Transition in Tunisia. Congressional Research Service Report for Congress, 20 September.
- Charrad, M (2007) Tunisia at the Forefront of the Arab World: Two Waves of Gender Legislation. *Washington And Lee Law Review*. 64(4):1513-1527.
- Cherif, Y (2013) Tunisia: The Old is Dying, the New is Yet to be Born. *Al-Jazeera English*. 19 December 2013.
- Dahl, R (1971) *Polyarchy: Participation and Opposition*. New Haven and London: Yale University Press.

Erlanger, S (2011) France Enforces Ban on Full-Face Veils in Public. *The New York Times*. 11 April, 2011.

Esposito, J and Voll J (1996) *Islam and Democracy*. New York: Oxford University Press.

European Forum for Democracy and Solidarity (2014) Tunisia Country Update. Available at : <http://www.europeanforum.net/country/tunisia>

Hardy, R (2010) *The Muslim Revolt: A Journey through Political Islam*. New York: Columbia University Press.

Human Rights Watch (2012) Tunisia: Fix Serious Flaws in Draft Constitution. *Human Rights Watch*. 13 September, 2012. <http://www.hrw.org/news/2012/09/13/tunisia-fix-serious-flaws-draft-constitution>.

Huntington, S (1991) *The Third Wave: Democratization in the Late Twentieth Century*. Norman: University of Oklahoma Press.

Jasmine Foundation (2014) Daily Follow-Up of the Constitution Debate. Jasmine Foundation for Research and Development. Available at: <http://www.jasmine-foundation.org/en/?p=644>

Nelson, H (ed) (1979) *Tunisia: a Country Study*. Washington DC: Foreign Area Studies, The American University.

Pew Research Center (2013) Global Attitudes Project: 2013 Spring Survey Topline Results. Release, 12 September, 2013.

Republic of Tunisia (2014) Presidency of the Government: The Cabinet of the Mufti of the Republic. Available at:

<http://www.pm.gov.tn/pm/article/article.php?id=213&lang=en>

Sadiki, L (2013) Tunisia: Tamarrod by Assassination? *Al-Jazeera English*. 27 July, 2013

Schaffer, F (1991) *Democracy in Translation: Understanding Politics in an Unfamiliar Culture*. Ithaca and London: Cornell University Press.

Slama, N (2013) Political Dialogue Begins Between Competing Protests. *Tunisia Live*. 22 October, 2013.

Strindberg, A. and Wörn, M (2011). *Islamism*. Cambridge: Polity.

Tunisia Live (2014) Team. Available at: <http://www.tunisia-live.net/team/>

Wing, AK and Varol, O (2006) Is Secularism Possible in a Majority-Muslim Country? the Turkish Example. *Texas International Law Journal* (42.1): 3-4.

Zartman, IW (1973) *Man, State, and Society in the Contemporary Maghrib*. New York and London: Praeger Publishers.