

## **The Social Requisites of Liberal Democracy, and Alexis de Tocqueville's Analysis of Islam**

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Rarely in the annals of history has it been so difficult to determine *casus belli* as it is in the case of America's 2003 invasion of Iraq. The war to overthrow Saddam Hussein's regime will be remembered as one that appeared necessary in the aftermath of the 9/11 terrorist attacks (to most Americans and to lawmakers on both sides of the aisle), but which seemed less and less justifiable as its costs mounted and the public's expectations about the war were, little by little, disappointed. Even today, almost seven years after the initial invasion, no single account of what really led the Bush Administration to invade a country halfway around the world can claim widespread acceptance. Concerns about Saddam Hussein's Weapons of Mass Destruction (WMD), Islam-inspired terrorism, and democracy promotion all figured importantly, but the relationship between these rationales was never perfectly clear. To be sure, the dangers associated with Saddam Hussein's WMD program were publically emphasized as a legitimate, sufficient, and indeed the primary, justification for invasion and regime change in the months leading up to the invasion, and understandably so. Americans' tolerance for the species of risk presented by "the crossroads of radicalism and technology" was lower than ever in the wake of 9/11 (The White House, 2002, p.12). It was widely believed Saddam Hussein could not be trusted (he had made every effort to evade U.N. sanctions and weapons inspections for more than a decade), and every national intelligence service of consequence was under the impression Iraq possessed significant WMD production capacity and stockpiles (largely because Saddam Hussein and his lieutenants actively perpetuated that myth for strategic reasons of their own).

And yet, from the beginning, other justifications for invasion were being discussed privately. Some in the administration saw war with Iraq as an opportunity to reassert American military primacy and to make an example of a relatively powerful leader, an example that would resonate throughout the Middle East and the wider Islamic world. Self-styled realists including Dick Cheney, Donald Rumsfeld, and his Under Secretary for Policy, Douglas Feith, reportedly argued that regime change in Iraq would encourage other states to take a harder line on terrorists and their supporters operating within their borders. Somewhat perversely, they believed the invasion of Iraq would exert a widespread behavior-altering effect *precisely because* Iraq had *not* been involved in the 9/11 terrorist attacks (Feith, 2008, 15). A demonstrated willingness to invade a country perceived as presenting a gathering, though not yet imminent, threat *preemptively*—for harboring extremists, or in Iraq's case, developing dangerous technologies in

contravention of United Nations resolutions—would, it was argued, establish a powerful incentive for the leaders of states like Iran and Syria (and even nominally allied states like Egypt, Jordan, Saudi Arabia, and Pakistan) to crack down on anti-American extremism actively and voluntarily, and (in the case of Iran and Syria) give up their WMD ambitions permanently. Planners understood that terrorists willing to martyr themselves cannot be deterred, but they believed the states in which terrorists were organizing could be induced to police the problem more aggressively. “You’re either with us or against us” was the message. The invasion of Iraq was, on this rationale, intended to put an overthrown tyrant’s face to the threat for the sake of credibility: prevent threats to America from gathering within your borders or your regime too will be changed.

Changed to what? Lastly, but most important for present purposes, an influential cadre persuaded President Bush that regime change in Iraq would provide an historic opportunity to build a moderate constitutional democracy in the heart of the Arab-Islamic world. True, the emphasis the administration placed on Iraq’s democratization increased dramatically as Coalition forces combing the country appeared less and less likely to uncover the major WMD stockpiles that had been emphasized pre-invasion (Feith, 2008, 477). It was not, however, as some defenders of the Bush Administration have asserted, merely a rhetorical shift. The underlying democratization rationale was first discussed at the highest levels within days of 9/11 attacks—not as a sufficient justification for the invasion of any particular country, but as a significant opportunity presented by intervention abroad, an end result that would help justify invasion (in Afghanistan and beyond) *post-hoc*, and hopefully attack terrorism at its so-called root cause over the long term (Feith, 2008). Pentagon planners believed preventing another 9/11 required “changing the way *they* live” (p. 71). A crude version of democratic peace theory was operating in the background: liberal democracies do not go to war with one another, and tolerant commercial republics do not produce religious fanatics willing to blow themselves up. Fully six months before the invasion of Iraq, the 2002 National Security Strategy established as one of its pillars the promotion of “modern and moderate government, especially in the Muslim world” (The White House, 2002, p. 1). A number of the President’s speeches in 2002 and 2003 expressed the goal in even more audacious terms.

Ultimately, America’s ill-fated approach to Iraq’s reconstruction and reconstitution, which did so much to open a space for the insurgency, was in large part the result of the overly ambitious and ill-conceived democracy-promotion end game. The replacement of Saddam Hussein’s brutal tyranny with a stable, pluralistic, prosperous, and tolerant constitutional

democracy was expected to have significant “spillover” effects in the region; changing Iraq’s regime would be the harbinger of a long-overdue Arab spring. Or so it was hoped. Instead, the power vacuum created in Iraq by American intervention unleashed forces Saddam Hussein had only managed to suppress at great effort and by brutal means, revealing in tragic fashion precisely how imperfectly policymakers and military planners understand the regime they sought to disseminate in Iraq and beyond. At once, the occupation of Iraq revealed powerful impediments to democratization today present and growing stronger in the Arab-Islamic world, but which policymakers simply failed to perceive in advance.

### ***Regimes and Civilizations***

For all the discussion of regime change, it is startling the term was so badly misunderstood. A “regime” is much more than an institutional structure and system of laws. No regime can be understood absent an inquiry into its purported purpose. Ostensibly similar institutional and legal frameworks can be employed to achieve entirely different ends: to make possible every individual’s self-directed pursuit of happiness, to conquer the known world, to bring about an equality of conditions, to instantiate God’s law, etc. More important than any particular constitutional provision is the way of life a regime exists to protect and promote by the totality of those provisions. Success ultimately depends not on the structures and laws themselves, but on the spirit that guides them. Whether a regime achieves its professed purpose therefore depends most importantly on factors external to its rules, institutions, and constitution: above all, the character of the people.

As Samuel Huntington explains, an individual’s most sacred opinions, convictions, and habits are in some sense an artifact of, and constitute his membership in, a community that is generally broader than a single village, town, or state: his civilization. Civilization “is the broadest cultural entity,” and refers to “the overall way of life of a people”; it denotes “a culture writ large” (Huntington, 1996, pp. 41-43). Communal dedication to notions of right and wrong, good and evil, noble and base, decent and obscene, permitted and impermissible, beautiful and ugly, worthy and worthless—judgments in the context of which an individual defines happiness and the sort of life it is worth living or aspiring to—determines the operation of a regime’s laws and institutions in practice. “[T]he world’s major civilizations,” another scholar explains, “are more or less coterminous with its major religions and, much more roughly, with its major races.” (Codevilla, p. 50).

What, then, is the relationship between civilization and regime? If “regime” refers to the overall political organization and purpose of a political community, “civilization” refers to the collection of influences that are extraneous to the regime, influences that have antecedently formed the subject matter, the people, regimes attempt to organize. These guiding opinions and social practices can only be changed against considerable resistance. While regimes can exert a steady and potentially transformative effect on the character of their citizens, rulers, and subjects—even to the point of affecting the tenor of the civilization they overlap over time—civilization-level forces, especially religion and other sacred beliefs, almost always exert the stronger influence. Thus, they affect the kinds of regime that are suited to a given people, and the manner in which this or that set of laws and institutional arrangements will operate in a given time or place. As Angelo Codevilla cogently puts it, “Civilizations set the bounds within which regimes exercise their powers over human habits” (Codevilla, 1997, p. 50).

It follows that distinct regimes and civilizations are more and less flexible. Some civilizations will be amenable to, supportive of, a variety of forms of political organization. The sacred beliefs that define others will mandate specific forms of political arrangement and thwart the establishment of others. Alien structures and institutions (for instance, elections and new freedoms) can be implanted in soil from which they did not naturally spring. They will not, however, achieve their professed ends (for instance, tolerant political life, the noble use of liberty, the protection of minorities, the rule of law, and equality before it) unless the character of the people animates the regime’s legal structures in just the right way. More likely, alien institutions and laws will be co-opted in service to ends glorified by the civilization’s dominant opinions.

Every student of politics knows that the species of democracy worth aspiring to demands more than elections and majority rule. Where constitutional democracy functions as it does in the West today, it is the fruit of a rare and delicate union. The liberal temperament of the people and a democratic political arrangement are mutually dependent, *vital co-requisites*; freedom and equality are established and secured where they intersect. Put another way, liberal, limited, and stable government is not an inevitable outcome of free elections and participatory institutions. Free elections can just as easily lead to tyranny of the majority and the prosecution of minorities. For government according to the will of the majority to be tolerant, just, and good, the people must first be tolerant, just, and good.

In Iraq, the institutions and privileges of the new political regime—of democracy: free elections, new rights and liberties—have been used to destabilize the country and to empower

intolerant factions determined to employ state authority for narrow parochial ends. Tragic illustrations abound. After Saddam Hussein's overthrow, prominent Shiites used their influence with American administrators to push for de-Baathification so thorough that many believed it tantamount to de-Sunnification. In addition to fueling the insurgency, this early abuse of power stands in the way of political reconciliation today, seven long years into Iraq's reconstruction. Even more egregious, the Shiites and the Kurds used the Constitutional Convention (where they were overrepresented as a result of the Sunni boycott of Iraq's first election) to build a radically decentralized state that would advantage the Kurdish and Shiite sections at the cost of using a once-in-a-generation opportunity to build a united Iraq. Prominent religious leaders have also sought political influence through elections. Ayatollah al-Sistani actively employed his religious authority over Iraq's Shiite majority, to the point of issuing *fatwas* or religious decrees, in order to build the powerful Shiite bloc that has dominated Iraqi politics since the country's first election. It has successfully achieved the relaxation of the minority protections Americans fought for on the basis that the will of a majority should never be frustrated in a democracy. One consequence: Iraq's governorates are not subject to the human rights provisions of its new Constitution.

Abuses of process in Iraq were at times much more brutal. Shiites in government uniforms used their control of the interior ministry and state militias to terrorize (even to slaughter) innocent Sunnis in response to insurgent attacks that targeted Shiites and their holy sites. The insurgency was finally suppressed at high cost, but the blatant use of state authority for narrow partisan ends persisted. Nuri Maliki's government has employed state resources to build partisan voter turnout mechanisms and marginalize key rivals; to schedule the execution of Saddam Hussein on a Sunni holy day in direct violation of Iraqi law; to deny Sunnis who helped Americans route Al-Qaeda in Al-Anbar incorporation into Iraq's massive security apparatus on fair terms; and in February of 2010, to support a blatantly partisan decision by the Shiite-dominated Accountability and Justice Commission disqualifying 500 candidates, most of them Sunni, in the looming national election. Sunni parties prepared to withdraw from the 2010 elections altogether in response.

New liberties have caused almost as much harm to Iraq's social state. The end of Saddam Hussein's systematic censorship of the press led to the immediate proliferation of satellite dishes and local media outlets. The result: inflammatory anti-American propaganda flooded into Iraqi households instantaneously doing not a little to increase domestic support for the insurgency; every political interest meanwhile (many of which turned violent in Iraq's

darkest days) rushed to create instruments of misinformation in a country with virtually nonexistent libel laws. Most problematic of all, perhaps, the end of Saddam Hussein's brutal system of fear and oppression, and the extension to Iraqis of new freedoms of movement and association, led to an unanticipated explosion of radical Islam in Iraq (it had, thitherto, been driven underground). In sum, coupled with a steady influx of foreign fighters, the new liberties regime change in Iraq afforded Iraqis provided the oxygen that allowed the insurgency to burn out of control.

In this context, it is easy to understand what Rousseau meant by his observation that great peoples have two founding moments: that which makes them a people with a certain social character, and that which gives them laws suitable to their temperament. The second type of lawgiver aims to give a people laws: a constitution graven in bronze and immortalized by political poetry, suited to the people's moral temperament, and in the best cases, one that contains provisions for sustaining the noblest aspects of the people's character going forward. The legislator of the higher order—the one who forms a people's character, who builds a civilization, in the first place—is much more rare. This species of lawgiver is the source of the most important *mores* and sacred beliefs: the laws and customs graven into the hearts of men upon which, in Rousseau's words, “the success of all the others depends.” Rousseau stresses in the *Social Contract* and elsewhere that “morals, customs, and above all opinions... form the immovable Keystone” of any regime (*Social Contract*, II.12). From the examples of this higher order lawgiver Rousseau elucidates—Numa, Moses, and Lycurgas (*Considerations on the Government of Poland*, ch. 2)—it is clear he agrees with Huntington and Codevilla: religious *mores* are generally the most important element of a people's ideational makeup.

### ***The Ideational Makeup of the Modern West***

What built a social character suited to uniting participatory institutions, individual freedoms, and moderate, liberal, government in the West? The ideas promulgated by Enlightenment thinkers over centuries, buttressed by New Testament Christianity as interpreted—and liberalized!—by men like John Locke, Benedict Spinoza, and Martin Luther, constitute the modern West's most important character-imparting influences. Though we do not sufficiently appreciate it, the way of life our constitutional arrangement guarantees depends for its endurance on airy nothings—opinions, ideas, habits, and social practices universally imbibed by citizens with the air, simply by living in the regime. We believe that all men are created equal; a just regime is therefore one in which all are equal before the law and entitled to the

same privileges of political participation. We have confidence in the human intellect and believe that an individual's right to pursue happiness as he or she personally defines it is sacrosanct; a just regime is therefore tolerant and religious authority durably separated from temporal authority. We believe certain rights are inalienable; the powers of government are therefore limited, our rights, liberties, and property secure from state encroachment without due process of law.

Alexis de Tocqueville, perhaps the greatest student of democracy, made this point with particular emphasis in *The Old Regime*. He argued that the democratic political revolutions that occurred in Europe and America in the eighteenth century *could not* have occurred in the fifteenth for the simple reason that the ideas and social practices so essential to liberal democracy were not yet capable of taking hold in men's minds: "[f]or doctrines of this kind [the natural rights of man] to lead to revolutions, certain changes must already have taken place in the living conditions, customs, and *mores* of a nation and prepared men's minds for the reception of new ideas" (Tocqueville, 1955, 13). Or as he puts it in *Democracy in America*, "I consider *mores* to be one of the great general causes to which the maintenance of a democratic republic in the United States can be attributed" (Tocqueville, 2000, p. 274). Tocqueville goes on to point out that the opinion that lies at the root of liberal democracy, and which seems so self-evidently true to us today—that all men are created equal and endowed with inalienable rights—is a truth, or sacred opinion, that will be for many peoples in many times impossible to accept:

there are periods in a nation's life when men differ from each other so profoundly that any notion of 'the same law for all' seems to them preposterous. But there are other periods when it is enough to dangle before their eyes a picture, however indistinct and remote, of such a law and they promptly grasp its meaning and hasten to acclaim it (Tocqueville, 1955, p.13).

For Europe, the precondition of the people's receptivity to these opinions, and the form of government based upon it, was the *popularization* of Enlightenment ideas—not only their wise articulation, but as important, their widespread acceptance. When Tocqueville famously declares in *Democracy in America* that the democratic revolution sweeping Europe is "irresistible," he is referring to the inevitable political impact of Europe's new political consciousness (*Democracy in America*, p. 400; c.f. pp. 6, 7). Locke taught that human beings have natural rights and that a separation of church and state was indispensable to the integrity of both; Voltaire, that superstitions adhered to on faith and promulgated by the Church had to be jettisoned in favor of the free human intellect; Rousseau, that the sacred truth of modern times is

that the legislative authority resides in the people, and legitimate government established only by social contract; and Spinoza, that the Gospels properly understood support, and indeed demand of Christians, a form of government that is limited and liberal.

If the Enlightenment's brightest lights did not agree about everything, Tocqueville is right that their basic motivation and thrust, certainly as synthesized for a popular audience then and since, can be boiled down to this: "what [they] wanted was to replace the complex of traditional customs governing the social order of the day by simple, elementary rules deriving from the exercise of the human reason and natural law" (Tocqueville, 1955, 139). The reason they succeeded, he argues, is that men of letters popularized liberalism's founding tenets. Intellectuals like Voltaire and Diderot were public celebrities. Rousseau's *Julie* outsold every book in print, save perhaps the Bible. As important, the ideas resonated, ultimately vanquishing the convictions that had so long sustained the old regimes. Locke's principles, for instance, ultimately helped inspire the American Revolution. They resonated and stuck—built new ideas that would come to define the modern West—because the revolutionary opinions that support popular government were advanced under social-political circumstances that made them seem true, self-evident, to the population at large. According to Tocqueville, Enlightenment political ideals captured hearts and minds because

there was no taxpayer aggrieved by the injustices of the *taille* who did not welcome the idea that all men should be equal; no farmer whose land was devastated by a noble neighbor's rabbits who did not rejoice at hearing it declared that privilege of any kind whatever was condemned by the voice of reason. Thus, the philosopher's cloak provided safe cover for the passions of the day and the political ferment was canalized into literature, the result being that our writers now became the leaders of public opinion and played for the while the part which normally, in free countries, falls to the professional politician (Tocqueville, 1955. p. 142).

This is why, as Tocqueville goes on to explain, ideas developed first in the minds of the era's intellectuals penetrated the psyche of the society at large, why,

instead of remaining as in the past the purely intellectual concept of a few advanced thinkers, [it found] welcome among the masses and acquire[d] the driving force of a political passion to such effect that the general and abstract theories of the nature of human society not only became daily topics of conversation among the leisure class but fired the imagination even of women and peasants" (Tocqueville, 1955, p. 139).

If the Enlightenment's egalitarian opinions resonated so well as they did because they were supported by the indignation generated by the manifest social injustices of the old regime, no



doubt the reforms of the Reformation took hold in men's minds in large because the crimes committed, and wars declared, by princes seeking to co-opt the authority of scripture (not to mention the extravagances of the Catholic Church) struck Christians as unjust, even unchristian. America was finally the place, as Tocqueville put it in his earlier and more famous work, that these "boldest theories of the human mind, which undoubtedly no statesman then had designed to be occupied, were brought into practice" (Tocqueville, 2000, p. 42).

It is well known that Tocqueville thought America's depoliticized Christianity would prove a further invaluable support for liberal democracy insofar as the Gospels' guiding tenets support liberal democracy's founding principles. As Tocqueville puts it in *Democracy in America*, "Despotism may govern without faith... but liberty cannot. Religion... is more needed in democratic republics than in any other" (Tocqueville, 2000, p. 521). Sanford Kessler goes further, arguing that Tocqueville "believed that the Christian faith was the source of the basic principles of liberal democracy and was the only religion suitable for maintaining liberty in democratic times" (p. 123). It is not hard to appreciate the respects in which the Christianity of the Gospels (or the Christian ethic distilled from it and still politically important today)—both convey tremendous moral authority—can support modern liberal government: all men are equal in the eyes of God and capable by their own lights of discovering the road to heaven; charity, forgiveness, and neighborliness are virtues of character; impartiality is a prerequisite of just judgment; a distinction between the obedience properly owed to Caesar and to God is explicitly sanctioned and so, a separation between Church and state; the notion of an immortal soul is a bulwark against the individualism and materialism egalitarian democracy naturally nourishes but which threaten to subordinate the wellbeing of the community to that of selfish individuals.

### ***Tocqueville's Study of the Koran***

It is less well known that Tocqueville devoted serious study to the Koran as well. If *Democracy in America* is not, as one prominent scholar has argued, "at once the best book ever written on democracy and the best book ever written on America," it is surely at least the second best (Mansfield, xvii). To the extent the question of the compatibility of democracy and Islam as it is practiced in the Arab world today is at the root of one of our most pressing foreign policy problems, Tocqueville's reflections on this subject are more importance than ever. His most well known discussion of Islam and Christianity with an eye toward their compatibility with democratic government comes in Volume II of *Democracy in America*:

Mohammed had not only religious doctrines descend from Heaven and placed in the Koran, but political maxims, civil and criminal laws, and scientific theories. The Gospels, in contrast, speak only of the general relations of men to God and among themselves. Outside of that they teach nothing and oblige nothing to be believed. That alone, among a thousand other reasons, is enough to show that the first of these two religions cannot dominate for long in enlightened and democratic times, whereas the second is destined to reign in these centuries... (Tocqueville, 2000, pp. 420-421).

That New Testament Christianity as practiced after the Reformation does not, in contrast to the Koran, demand the civil authority enforce laws derived from revelations, and that it supports very personal (as opposed to public) forms of worship and observance is, no doubt, one of the key sacred opinions that makes limited and liberal government possible in the West. Tocqueville discusses this subject in greater detail in little-known notes he prepared in 1839 and 1840 upon a careful study of the Koran at a time France's interest in Algeria was a hot topic of debate in Paris. In fact, Tocqueville considered himself an expert on the subject, one of the only prominent Frenchman who understood Algeria's high importance to France; he even made two trips to Africa at high risk to his personal health (Richter, 364). Revealingly, Tocqueville's notes are contemporaneous with the publication of the second volume of *Democracy in America*, the part of that work focused most explicitly on the relationship between democratic ideas and democratic government. And as Christopher Kelly has noted, Tocqueville's interest in Algeria's Muslims extended to "their ability to accept the European democratic political principles and way of life" (Kelly, 846).

Tocqueville's findings? In addition to providing a legal code demanding political establishment, Islam is less hospitable to democracy because the two powers—"les deux puissances"): the prince and the high priest—are inextricably confounded and intermingled ("complètement confondu et entremêlé"). Religious diktat mandates the combination, which, when established, prevents separations of authority in the society, the very separations that keep government in the West free.

In stark contrast, Tocqueville makes much of the fact that Puritanism in America was "as much a political theory as a religious doctrine." He is particularly impressed that New England settlers believed it a religious duty to "combine [themselves] together into a civil body politick" for the sake of governing themselves under "just and equal laws"

determined in common (p. 35). In America, religious authority actually supported government of the people by the people by the people's lights. Tocqueville goes on to observe that for this reason, New England "more and more offered the new spectacle of a society homogenous in all its parts. Democracy such as antiquity had not dared to dream of sprang full-grown and fully armed from the midst of the old feudal society" (p. 35). The Catholic clergy in the United States, he later notes, was also uniquely supportive of the establishment of limited participatory government for having embraced the notion that "God had abandoned" temporal political concerns "to the free inquiries of men" (pp. 276-277). He explains, furthermore, that vitally important democratic virtues, independence and equality, were taught in great measure by American Protestantism and Catholicism respectively.

The Koran, in contrast, endows a representative of the Prophet, a Caliph, with temporal power to enforce His, and only His, laws. The result: laws that stand in the way of independence of mind and action:

Islam is the religion that has most completely confounded and intermingled the two powers: in such manner that the high priest is necessarily the prince, and the prince the high priest, so that more or less every aspect of civil and political life is subject to the religious law (*Oeuvres Complètes*, III, pp. 174-175).

Moreover, all the regime's prominent men—its priests, its rulers, its lawyers, its doctors—are steeped in, and loyal first and foremost, to the same religious beliefs. According to sacred convictions, their vocations depend for their legitimacy on fidelity to holy writ, and so the professional class (which is to say society's elite) performs its social and political functions guided by the same prevailing loyalties. In other words, actors beholden to the same set of religious commandments perform virtually all of society's important temporal functions. (Imagine what a difference it would make to the Anglo-American judicial system were jurors, lawyers and judges loyal first and foremost to Old Testament religious commandments.) The human intellect is not freed for the sake of self-government as in America and the West; it is tethered to revealed and unalterable laws. The emphasis placed on submission—of mind and in action—in Islam has no corollary in New Testament Christianity. Islam, on Tocqueville's understanding, thereby disseminates sacred beliefs and *mores* that tend toward the concentration of authority in an elite that is inevitably a religious elite whatever their specific political roles (*Oeuvres*, pp. 174-175).

This tends ultimately toward despotism because the national character thereby established does not conduce—does not permit!—divisions and separations durably sustained by conflicting opinions and loyalties. It also contributes to weakness insofar as the people’s productive and creative capacities cannot be harnessed absent considerable freedom. In Tocqueville’s words,

This concentration and confusion of the two powers established by Mohammed... is the primary cause of despotism and social immobility that has, almost always, characterized Muslim countries and accounts for the fact that these countries always finally succumb to those that have embraced the opposite arrangement. (*Oeuvres Complètes*, III, p. 174).

Even justice takes on a different meaning:

Religion and justice have always been intermixed in Muslim countries, just as ecclesiastical tribunals attempted to mix the two in Christian Europe during the Middle Ages. Determining what is just is not within a king’s rights, but left to God much more than to the prince. Rules of state are not the purview of civil law, but derived from the Koran and its commentaries (*Oeuvres Complètes*, III, pp. 181).

That there is no distinction in Islam between what we might today call political (or procedural) justice, and morality or divine justice (“religion and justice have always been intermixed”) may be the most important impediment to liberal democracy in the Islamic world. The separation of church and state in the West is sustained by the widespread conviction that matters of conscience are for the most properly part private affairs. It would be rare to find someone who believes everything that is legal (just in one sense) is also right (just in another, arguably higher, sense). We believe it is *right—required* by the dictates of political justice—to tolerate a variety of moral outlooks, even those with which we do not entirely agree, and in many cases, even those with which we emphatically disagree. A person can believe that certain behaviors are simultaneously legal (and properly so), even if he is certain the behavior in question is repugnant, immoral, base, ugly, worthless, and wrong. To take a concrete example, a man of profound religious faith cannot be a judge in a liberal democracy if he is unwilling or unable to subordinate the moral demands of his faith to the laws of state it is his first duty to uphold. Laws with nothing behind them but the confidence of the (fickle, selfish, shortsighted, unenlightened) majority determine what is just from the perspective of the state even when they come into conflict with laws (an individual believes are) given by God. Minimizing our expectations of political justice—the standards of right enforced by the regime through its

laws—to a set of rules and procedures applied equally to all, *and that allow a generous space for private action, belief, and worship*, is a perquisite of religious toleration.

Tocqueville underlines the fact justice had a very different meaning in Algeria. Divine law—derived from a literal reading of the Koran and its commentaries—determined political laws, and forbade a separation of the sort that is a first requirement of establishing a considerable space for free action according to an individual's freely defined pursuit of happiness. There can be no disjuncture between what is legal and what is just; both are determined by laws revealed by God alone. Moreover, Islamic law justifies (even *demand*s) state interference and subjects' obedience in spheres we believe are properly private in the West. Tocqueville goes so far as to compare the situation he was observing in the Muslim world to the situation in the Christian world during the Middle Ages, throughout which state sovereigns claimed divine authority to issue punishments according to their interpretation of God's law and declare war in His name. It was the dethronement of politicized Christianity accomplished by the diffusion of Enlightenment opinions among a population tired of religious extremism that made possible tolerant participatory government devoted to freedom in the West. This revolution in psychic outlook has not occurred in the Islamic world.

### ***Modern Trends in Islamic Political Theology***

In fact, in the Middle East, diametrically countervailing ideational trends are today discernable, the result of ominous winds that have been gathering for the better part of a century. Whereas Enlightenment thinkers marshaled the authority of Christianity in support of liberal democracy, the most influential modern Islamic theorists have conspired with the political turbulence of the twentieth century (in which the West has had more than a hand) to radicalize and politicize Islam among a small but vocal, growing, and sometimes violent, segment of the population. It is worth noting, as Mark Lilla has recently pointed out, that the dis-integration of political theology from political theory accomplished in the West—which has made secular, tolerant, government possible today—is the historical anomaly. Lilla goes so far as to suggest this audacious departure from the historical norm, which this paper argues is the precondition of modern liberal democracy, has imparted to Western civilization an intellectual and moral fragility only superficially concealed by its military might (Lilla, 2007).

Nor can it cannot be overemphasized that from a political perspective, the prevailing interpretation of a civilization's holy works is of much greater political consequence than the words one finds written in their pages. It should go without saying that Islam in America is

perfectly compatible with liberal democracy; any religion is provided its practitioners are fully committed first and foremost to the sacred opinions liberal democracy requires of its citizenry—to the extent of subordinating, in practice, the religious convictions that conflict. To the extent every student of history understands that the Bible was, in the hands of power-hungry princes used to countenance great crimes and terrible cruelty, and in other times the spur to ubiquitous acts of tolerance and charity, students of history also tacitly acknowledge the high importance of Biblical criticism and commentary. Thus, Tocqueville recognized on his visit to Algeria that its sedentary, commercial, and non-Arab Muslim group was better suited to liberal democracy precisely because its practice of Islam was more moderate (*Oeuvres*, pp. 172-173; c.f. Kelly, p. 846).

It may, nonetheless, be true, as Tocqueville expressly observes, that Islam is a totalitarian legal code in theory to a greater degree than any other major religion. The state exists uniquely to enforce revealed religious laws (and cannot in theory step beyond them), and its tenets and decrees reach deeply into the lives of communities, families, and the lives of individuals. In most places, and for the better part of Islam's history, however, a compromise relationship endured between Islamic law in theory, and the manner it was typically practiced. As Joseph Schacht explains in his classic exposition on the subject,

a balance established itself in most Islamic countries between legal theory and legal practice; an uneasy truce between the '*ulama*' ('scholars'), the specialists in religious law, and the political authorities came into being. The '*ulama*' themselves were conscious of this; they expressed their conviction of the ever-increasing corruption of contemporary conditions (*fasad al-zaman*), and, in the absence of a dispensing authority, formulated the doctrine that necessity (*darura*) dispensed Muslims from observing strict rules of the Law. Whereas traditional Islamic governments were unable to change it by legislation, the scholars half sanctioned the regulations which the rulers in fact enacted, by insisting on the duty, already emphasized in the Koran (sura iv. 59, 83, and elsewhere), of obedience to the established authorities. As long as the sacred Law received formal recognition as a religious ideal, it did not insist on being fully applied in practice (Schacht, 84).

This toleration of a disjuncture between the demands of Islamic law in theory and the practice of actual governments made the governance of a massive, diffuse, and very complicated political communities possible. It would have been impossible to govern the Ottoman Empire according to the laws laid down, and only the laws laid down, by a Prophet who legislated for a quasi-nomadic warrior people in the desert of Arabia centuries earlier. (Similarly, it is impossible to effectively govern Afghanistan or Al-Anbar today uniquely according to *sharia*).

Moreover, the tolerance of practices and laws not sanctioned by Islamic law literally construed made possible modernizing reforms—in the Ottoman Empire in the 150 years leading up to the emergence of modern Turkey, in Egypt in the early part of the twentieth century, in Indonesia over the course of its history, and in many other places besides.

Two points must be acknowledged in this regard, both of which are illuminated by a brief consideration of Turkey's emergence as a republic from the ashes of the Ottoman Empire, then the titular seat of Islamic civilization. First, as Schacht points out, "Modernist legislation does not, generally speaking, arise out of a genuine public demand" (105). It tends to occur, rather, when modernizers—oftentimes lawyers, military officers, and bureaucrats who had been schooled in the ways of the West—gain real influence over government. Generations of Ottoman and Turkish elites culminating with Atatürk, many of them educated in Paris and by disciples of Rousseau and Montesquieu, quite effectively (and entirely deliberately) ripped Turkey from Islamic civilization by working to transform the way Turks understood themselves and the purposes of their government. Liberal interpretations of Islam were promulgated in the century leading up to the abolition of the Caliphate; religious organizations, practice, and association were prohibited; the country's history was rewritten; a secular educational infrastructure was erected; the alphabet was altered and words removed from the language; brutal wars were fought to establish nationalism in the place of religious identity—all to build a new social character and to sever Turks so far as possible from their Ottoman-Islamic past. Many today would use the term "indoctrination" to describe the means utilized to build the people Turkey today organizes according to constitutional principles.

Second, as Noah Feldman persuasively argues, the division of authority—between the Sultan or civil authority, and the Caliph and ulama or religious authority—yielded relatively decent and somewhat limited (though certainly not democratic) government in the Ottoman Empire so long as this misalignment held in a way that rendered the scholars, by way of their claims to ecclesiastical authority, a check on the Sultan's worldly authority (Feldman, 2007; c.f., Schacht, p. 90). Feldman builds on Bernard Lewis's earlier argument that it was the marginalization of the scholars (by codifying the laws they had previously interpreted on an *ad hoc* basis) that permitted the power of Ottoman Sultans claiming increasingly uncontested religious authority to increase dramatically and dangerously (Lewis, 1979, pp. 71, 97). The Ottoman Empire's most despotic days followed this amalgamation of prince and high priest. As Feldman explains, this development in the Ottoman Empire had lasting consequences throughout the Arab world:

It opened the possibility of secular government; but simultaneously, the removal of the one meaningful check on executive authority cleared the way for autocratic and absolute power—which soon became, in much of the Muslim world, the dominant mode of government for most of the twentieth century (Feldman, 2007, p. 60-61).

Unfortunately, rather than seeking to reestablish this salutary division, the most prominent Islamic theorists of the twentieth century have sought instead to reunify the two powers in the service of a very conservative brand of Islam. Purists have always existed in the Islamic world (as they have in the Christian world). They have not always been particularly influential, however. Ibn Taymiyya (1263-1328), whose thought inspired today's most important radical Islamist movements—sought to reconcile theory and practice by, in Schacht's words, abolishing the “double system of administration” that had allowed princes to make laws not sanctioned by God. On this view, the state is tasked with a single, exclusive, focus: the enforcement of Islamic law or *sharia* construed as literally as possible (Schacht, 86). Prominent during his lifetime, Taymiyya's teachings had faded almost into obscurity until relatively recent developments on the Arab Peninsula, most importantly, the founding of Saudi Arabia by men dedicated to reviving them. The Wahhabi and Salfist strains of Islam so powerful today are devoted to the rehabilitation (and political enactment) of his ideas.

It must be acknowledged that fundamentalist Islam is the product of great minds and noble intentions. Theorists of formidable intellect and learning devoted their lives to reviving and purifying Islam in order to build just and pious political communities. Hasan al-Bana is an important early leader of the modern revival. An Egyptian schoolteacher by profession, and active politically during the early twentieth century, his most important legacy is the organization he founded in 1928, the Muslim Brotherhood. He conceived of its project in expressly anti-Western terms, as a direct response to, and repudiation of, the moral-political outlook of the North-Atlantic states. In the name of fidelity to Islam's founding tenets, al-Bana explicitly rejects virtually every distinctive feature of liberal democracy: nationalism, state sovereignty on a secular basis, the confinement of religion to a limited political sphere, unfettered capitalism, a constitutional separation of powers, the notion that social and political equality mandate government according to consent in which participation is widespread, the primacy of the individual and his rights, the notion that individuals are entitled to pursue happiness as they themselves define it within a very generous sphere protected by law.

The Islamic revival he sought to catalyze would, he believed, exceed in scope both the French and Russian Revolutions (Rosen, 2008, p. 117). Al-Bana aimed not simply to lay down



new organizing laws; he sought nothing less than to bring Egypt's moral, intellectual, and political life into harmony with a purified interpretation of Islamic law, which is to say, to subordinate all aspects of life to strict religious decrees. In an essay entitled "Our Mission," al-Bana explains that "Islam is an all- embracing concept which regulates every aspect of life, adjudicating on every one its concerns and prescribing for it a solid and rigorous order" (al-Bana, 2006, p. 61). He envisioned building an Islamic state on the most solid foundation possible: millions of hearts and minds dedicated to the literalist species of Islam he sought to rehabilitate. For al-Bana recognized (in direct contradistinction to those who led the U.S. endeavor to build a liberal democracy in Iraq!) that the possibility of successful political reform rests first and foremost on soul-craft: where the opinions and social habits internalized by the citizens (or subjects) of the regime do not support it, no form of government can persist except by repression and force. For this reason he emphasized education and the importance of widespread proselytizing. The Muslim Brotherhood, an organization of global reach today, was explicitly tasked with the "shaping of fully Islamic personalities"—of shaping souls now to prepare society for *bottom-up* political reform in time (Rosen, 2008, p. 118). On its (Arabic-language) website, the Brotherhood's "Reform Initiative," launched in March 2004, expresses the organization's ultimate goal in these terms:

We have a clear mission—to implement Allah's law, on the basis of our belief that it is the real, effective, way out of all our problems—domestic or external, political, economic, social or cultural. That is to be achieved by forming the Muslim individual, the Muslim home, the Muslim government, and the state which will lead the Islamic states, reunite the scattered Muslims, restore their glory, retrieve for them their lost lands and stolen homelands, and carry the banner of the call to Allah in order to bless the world with Islam's teachings (Altman, 2007, 32).

Thanks to virtually limitless Saudi funding, schools and mosques inspired by the Brotherhood's aims (and often beholden to its leadership) exercise a near-monopoly over the education of young Muslims in vast communities throughout the Islamic world, its reach extending even to neighborhoods in London, Paris, and Toronto. Issam al-Aryan, one of the group's leaders, recently explained that "reforming the Muslim individual, the Muslim home and the Muslim society" leads to "restoring the international entity... and ends with being masters of the world through guidance and preaching (Altman, 33).

Syed Qutb, a prominent member of the Muslim Brotherhood in Egypt mid-century, did more than any other individual to radicalize Al-Bana's teachings. He was imprisoned and later executed in 1966 by Nasser's regime for his political activities and the extremist views his

popular works were popularizing. Though Qutb's political influence during his lifetime was impressive, his ideas have exerted a much greater effect in the decades since his death. He influenced Al-Qaeda's top leaders directly: Ayman Zawahiri was one of his students, and through the latter's mentorship, Qutb's thought exerted a deep influence on Osama Bin Laden as well. Like al-Bana, Qutb worked for the establishment of an Islamic state or states governed entirely according to *sharia*. Triumphant assertions that Islam is a totalitarian legal code litter Qutb's works: Muslims should "arrange [their] lives solely according to... the Book of God"; "From [the Koran] we must also derive our concepts of life, our principles of government, politics, economics, and all other aspects of life"; "people should devote their entire lives in submission to God, should not decide any affair on their own" (Qutb, pp. 11-15, 41). As such, there can be no separation of Church and state, no freedom of action for individuals. Laws not derived from sacred books can never be legitimate: "The basis of the message is that one should accept the Shari'ah without any question and reject all other laws in any shape of form. This is Islam" (p. 30). Confidence in the human intellect and the endeavor to free minds from received dogma, everything the Enlightenment achieved in the West, has no place in Qutb's Islam. Speaking of "the way [religion] is to be founded and organized," he emphasizes the importance of "implanting belief and strengthening it so that it seeps into the depths of the human soul"; or as he later puts it, "belief ought to be imprinted on hearts and rule over consciences" (pp., 26, 29). What can only be called indoctrination is, according to Qutb, "essential for its [religion's] correct development" (p. 26). The aim: complete intellectual submission. Freedom as we understand the term is anathema to Qutb's Islam; in his words, "the spirit of submission is the first requirement of the faith. Through this spirit of submission the believers learn the Islamic regulations and laws with eagerness and pleasure" (p. 27).

What the Reformation accomplished in the West is, similarly, dismissed out of hand: Islam "abhors being reduced" to an individual's private relationship with God; "it cannot come into existence simply as a creed in the hearts of individual Muslims, however numerous they may be" (p. 34). On the contrary, Islam's laws must be established in practice exactly as they were revealed (p. 2). Qutb dismisses the endeavor to modernize and liberalize Islam as "a vulgar joke," the dangerous fruit of contemporary Godlessness (p. 37). Toleration of other religions on equal terms is expressly prohibited: God "made Islam a universal message, [and] ordained it as the religion for the whole of mankind"; non-Muslims must therefore convert, submit to Muslim rule and pay a tax, or find themselves at war (pp., 9, 48). He even explains why the Koranic verse "there is no compulsion in religion" does not prohibit working to

“annihilate all those political and material powers which stand between people and Islam” (p. 51).

Everything that stands in the way of Islam’s establishment—including the West—must be destroyed as the precondition of widespread submission to Islamic law. If it is not sufficiently clear that this brand of Islam is not an appropriate ideational support for liberal democracy, Qutb explains that what the West values above all, freedom, is actually worthless on a proper understanding of the term. Furthermore, far from preserving the rights and liberties of the citizenry, democratic government is the worst form of tyranny and slavery insofar as it represents universal enslavement to laws made by vain and selfish human beings acting as tyrants on earth. Submission to divine law, on the other hand, “is really a universal declaration of the freedom of man from servitude to other men and from servitude to his own desires, which is also a form of human servitude” (p. 51). Freedom does not require the relaxation of religion’s influence in the political sphere or widespread political participation in government to which the citizens willingly consent. On the contrary, true freedom demands the annihilation of the distinction between religion and politics, because, in Qutb’s words, “the implementation of the Shari’ah of God,” a totalitarian religious code instantiated by force on earth, is the real prerequisite of “freeing people from their servitude to other men” (p. 52).

Qutb agrees with al-Bana that education is of utmost importance. Unlike al-Bana, however, he also perceived a pressing urgency that justified more extreme measures. He taught that the contemporary Middle East could be declared *jahilliya*—plagued by a ubiquitous ignorance reminiscent of Arabia before the Prophet Muhammad, a condition the Prophet himself had first to alleviate before fully Islamic communities could be built. The West’s corruption of everything—the ubiquitous nihilism and materialism spread by economic and military conquest without historical precedent—constituted a powerful impediment to the proselytizing approach al-Bana preferred; in fact, it represents, for Qutb, an imminent threat to Islamic civilization. For this reason, Qutbists fiercely oppose the region’s corrupt rulers as well as virtually all modern Koranic interpretation and commentary. That the Islamic world has fallen into a condition of barbarity and ignorance justifies armed *jihad* against Arab states and their rulers (for despoiling Islam by adopting the outer trappings of modernity), foreign powers operating on holy soil (for supporting the corruption), even adherents to apostate strains of Islam and members of other religions (for the crime of spreading disbelief). They believe that contemporary conditions mandate *jihad* insofar as the prevailing barbarism makes a return to wholesome Islamic life impossible by gentler means; it becomes a religious duty to remove impediments to the

dissemination of a purified Islam. The traditional seat of Islamic civilization is the first concern. Ultimately, however, Islam “strives... to abolish all those systems and government which are based on the rule of man over men,” chief among these, the Western democracies (p. 54).

The revival has been a tremendous success. It cannot be overemphasized that only a minority of Muslims ascribe to Qutb’s Islam. Unfortunately, their fanaticism is sufficient to stand in the way of meaningful democratization in the Middle East. Samuel Huntington’s observation that this “Islamic Resurgence” is an event “at least as significant” as the French, Russian, and American Revolutions is perhaps the most important, if little appreciated, observation contained in his seminal *The Clash of Civilizations* (p. 109). Why does fundamentalist Islam resonate today? Contemporary modes of communication have contributed. As Ayatollah Khomeini incited the Iranian Revolution from Paris by cassette tape, so have Sunni Islamists disseminated their views as widely as they have thanks to the indispensable help of modern technologies, most importantly, satellite television and the internet’s infinite reach. More important, perhaps, are more than two centuries of economic stagnation and humiliating military defeats at the hands of Israel, America, and the West. Just as the sociological factors Tocqueville identifies in *The Old Regime* prepared European and American minds for the ideas presented by Reformation and Enlightenment thinkers, so has the ignominious weakness of the contemporary Arab-Islamic world increased the power of fundamentalist Islam over hearts and minds in the region. As Fouad Ajami explains, memories of the Crusades, Ataturk’s betrayal of Islam, the Six Days War (and more recently, American intervention in Iraq and support for Israel) have, taken together, “created a deep need for solace and consolation, [for which] Islam provided the needed comfort” (Ajami, 1992, p. 71). Islamic fundamentalists have leveraged persistent Arab angst masterfully to make “an eloquent and moving case” that the Arab world has declined so far from its apogee “because [Arabs have] lost their faith and bearings” (p. 61). These painful humiliations, coupled with what is widely perceived to be a military triumph of historic proportion—the Mujahedin resistance to the Soviet invasion of Afghanistan is credited in the Arab world with the ruination of a world superpower—increase the appeal and resonance of a purer, militant, Islam dramatically. It alone can speak to the Arab world’s children of pride.

Much of this has been discovered at incredibly high cost in Iraq. The same basic truths have always been present in the pages of Tocqueville.

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