The Dichotomy Between Western and Islamic Democracy: An Eagle View into The Thematic Tenets

Sheriff Ghali Ibrahim, PH.D and Aliyu Isa Muhammed

Department of Political Science and International Relations, University of Abuja, Abuja-Nigeria

sherfboy@yahoo.com

Abstract

The paper analyses the dichotomy between western and Islamic democracy, X-raying the thematic tenets as point of departure. Using the secondary method, the paper discovers that the dominant trend of monarchical or authoritarian governments in most Muslim states or because of certain events that have taken place within their borders, has been and is frequently used by the west especially to make the claim that Islamic law is not compatible with democracy and that democracy is even neglected in the provisions of the holy Qur'an. The paper concludes that Islamic law according to what can be traced to its primary sources (Quran and sunnah) does not only support democracy and people's participation in the state affairs, but even possesses provisions that command counseling and consultation , equality, accountability among others. The paper recommends that in this context, it is suggested that the contemporary Muslim scholars and the jurists must widen the parameters of their knowledge outside the Islamic realm, and must have deep understanding of the Qur'anic sciences in the light of the Sunnah of the prophet, his companion and changed context. They should be experts regarding the wording of the Qur'anic language. The general principles of the Quran are consisted of perfect wording and are universally suitable for all the nations of the world such as principle of equality, justice, public interest and principle to establish a welfare state.

Introduction

Islam has certainly become a main issue in today's world politics. Religion in general cannot deny political components, tendencies and Impacts. There has always been an interconnected relationship between the two fields of human social action with an interchanging predominance of each, driven very far sometimes, even as far as a complete absorption of one by the other. Islamic religion is often misconceived in relation to democracy; leading to rise in the debate on the compatibility of Islam and democracy in contemporary Islamic political and social thoughts. The debate about the compatibility between the two has been a major issue and a popular topic of serious discussion that has swept through the media, political and scholarly circles worldwide, in the West in particular (Tamimi, 2007). It is frequently argued that, Islamic law is not compatible with democracy and democracy is even neglected in the provisions of the holy Qur'an because many Muslim states are "dictatorial on monarchical (Abdulkadir 2016). Most analyses of Islam have always been presented with a cultural essentialist picture through which Islam is denied its capacity for change. After conceptualizing an ideal type, the essentialists try to reduce the whole Islamic world and history to their own construction. For instance, most western scholars have presented Islam as a new phenomenon which has no counterpart to compare with. While this may be in line with the literal meaning of Tauheed (oneness of Allah), this line of thinking, actually sees Islam as a philosophy, religion, social organization and ethical system fallen from heaven completely isolated from its historical, social and political context (Eliane, 2006).

Leading essentialists like (Huntington, 1984; Fukuyama, 1992 and Pipes, 2005), argue that Islamic tenets are hindrance to democratic forms of government and/or democratic values and ideals. These scholars argue for Islam's incompatibility with democracy on the grounds that democracy requires openness, competition, pluralism ZXand a tolerance of diversity, whereas Islam encourages intellectual conformity and uncritical acceptance of authority. They also stress that the Islamic tradition does not match with democratic ideals because it vests sovereignty in God, who is the sole source of political power and from whose divine law must emanate all regulations governing the community of believers (Tesseler 2002). On the contrary, Islamic law, according to what can be traced in its primary sources, not only supports democracy and people's participation in the state affairs but even possesses provisions in the Qur'anic verses which encourage

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counseling and consultation and some scholars deem that to be democratic representation (Abdulkadir, 2016). In fact, the Islamic religion is built on what is referred to as the basic principles of democracy except that its application varies from the western model. Historical facts have it that Islamic empire in Africa like the Sokoto Caliphate and Egypt before their contact with Europeans had thrived on democratic principles. Challenging the normative argument of the essentialists, scholars have cited sources in Islamic teaching which are consistent with a democratic system of governance, such as *shura* (consultation) and *ijma* (consensus) as legitimating source for Muslim versions of democracy. The chapter seeks to distinguish between liberal and Islamic contexts of democracy and to know the compatibility of Islamic with democracy using Africa as a case study.

Theoretical Framework

Political Islam

The concept of political Islam as used in the context of this paper connotes an ideology that believes in the simultaneous operation of democracy within an Islamic setting. Political Islamists believe that the principles of democracy can be observed in an Islamic state where politics and Islamic religion are rarely separated, but rather intertwined which provide the impression that both politics and Islam are inseparable. The attraction of political Islam increased as the governing elites failed to deliver on their promises of economic progress, political participation, and personal dignity to expectant populations emerging from colonial bondage. It is in this era, from the 1950s to the 1970s, that political Islam, as we know it today, came of age and Martin Kramer was one of the first scholars who used the term in 1980 (martin 1980). Guilian (2002) wrote on Islamism as "a form of instrumentalising Islam by individuals, groups and organizations that pursue political objectives. It provides political responses to today's societal challenges by imagining a future, the foundations for which rest on re-appropriated, reinvented concepts borrowed from the Islamic tradition (Guilain 2002).

The jurisdiction of the state is not limited only to religion and politics in Islamic state; it covers all aspects of human activities. This position was aptly represented in the words of Auda as cited by Olagunju (1993) by identifying principles of Islam, it meant those doctrines and theories inscribed into the Qur'an and established by the prophet. Adherents of political Islam believe that "Islam as a body of faith has something important to say about how politics and society should be ordered in the contemporary Muslim world and implemented in a fashionable way (Graham 2003). Dale (1996) notes that, politics becomes "Muslim" by "the invocation of ideas and symbols, which Muslims in different contexts identify as Islamic in support of organized claims and counterclaims (Dale 1996). Context has a way of reasserting itself over abstract theory when attempts are made to put theory into practice. This is exactly what has happened with Islamism. In practice, no two Islamisms are alike because they are determined by the contexts within which they operate. What works in Egypt will not work in Indonesia. What works in Saudi Arabia will not work in Turkey.

Origin and Development of Islam in Africa

The African continent prior to the coming of Islam was dominated by traditional religious worshipers, worshiping idols, spirits, caves, sculls of ancestors and living heroes etc. The presence and spread of Islam into Africa began in the early days of Islam, following the call to Islamic monotheism that began in Makkah by the last Messenger, Muhammad (SAWA) in the 17th Century. It is traced to the first migration (Hijra) made by a number of the early Muslims on the advice of Prophet Muhammad (SAW), who were facing persecution by the pre-Islamic inhabitants of Mecca to seek refuge across the Red Sea at the Court of Axum in Zeila under the rulership of Al-Najashi. These first Muslim migrants provided Islam with its first major triumph and the coastline of Eritrea became the first safe haven for Muslims and the first place Islam would be practiced outside of the Arabian Peninsula (Javad, 2014). While in Ethiopia, after interrogating them, the king gave the Muslims political asylum to stay in his land under his protection as long as they wished, with the permission to freely practice their new religion without molestation. It was related that during their stay in Ethiopia, some indigenous people did convert to Islam because by the time they were returning to meet the Prophet (SAW) in Madina, their population was said to have increased (Yahaya, 2014).

Trade was another medium trough which Islam penetrated into East Africa. By the 10th Century, it was said to be trade connection between East Africa and places like, Arabia, the Persian Gulf. In this trade, Zanzibar, Mogadishu, Mombassa and Kilwa etc played the most vital roles by the 14th Century. By 1498, Kilwa, one of the eastern coastal cosmopolitan towns was a trade centre where traders and scholars lived and carried out their activities. East Africa continued to house, spread and promote Islam and Islamic education up to the 16th Century before the coming of the Europeans (Hussein, 2008). The Muslim Moroccan geographer and traveler, Ibn Batuta was said to have, visited Mogadishu,Mombassa and Kilwa in the 14th century, where he found that the learned people and *'ulamaa'* (learned men) who mostly practiced the *Shafi'i fiqh* (jurisprudence), had correspondences with their counterparts in the Hijaz. This showed the level of Islamic intellectual activity that was prevalent in the area at that point in time. From the 12th to 14th centuries, urban settlements emerged as a result of commerce and Islamic scholarship. Consequently, all the new towns and cities were either market centers or scholarship or both (Javad 2014). This expansion of Islam in Africa not only led to the formation of new communities in Africa, but it also reconfigured existing African communities and empires to be based on Islamic principles.

To the north, the area formally referred (Maghreb) was under the rule of the Byzantine Empire under the Romans, with influence of Christianity and some traces of their (Berber) traditional religion; hence the Muslims faced resistance. However, the old commercial relation between the two peoples had facilitated conversions in parts of North Africa. In 639 CE seven years after the passing away of Prophet Muhammad (PBUH), It began specifically, with the conquest of Egypt by the Muslim force, under the command of Amr bn al-'As (RA) After the expedition in 640, other lands of the Byzantine empire along the Mediterranean, where the peoples had been exploited and non- Romans were reduced to second-class citizens in their lands while the city of Alexandria was captured and converted into the military base of the Muslims (Yahaya 2008). From 646-652, the Muslim expedition in Africa was taken over from Ibn Abi Sarh as a result of the death of 'Amr bn al-'As. During his campaign, he subdued Western Tunisia, Northern Algeria and most parts of the Sahara; he was also succeeded by Uqbah bn Nafi' in 652, after his death. Uqbah was credited for spreading the religion further in to Morocco and south into the Sahara up to the Lake-Chad area between the years 663- 643AH (Thamos,2011). The success of his Jihad led to the founding of the city of Qairawan. From there as a base, he extended his *Jihad* (holy war) against the Berbers and the remaining of Byzantine fortress until he was martyred in 682-3 CE (63AH) in a battle against a Berber chief Kusaila, who had earlier vowed to kill him.

Uqbah was succeeded by Hassan bn an-Nu'man and on the side of the Berbers; a woman prophetess al-Kahinah (the soothsayer) was then their leader. She challenged the Muslim conquest in a battle she remarkably and bravely fought the Muslim forces until when she lost her life near a place called Bi'r-al-Kahina,(a well named later after the 'prophetess'). With this defeat, the strong opposition force against the penetration or Islamisation of North Africa was no more and Nu'man drove the remaining Byzantines, the overloads of the Berbers; out of the area. From Egypt, Islamic influence extended in three directions, through the Red Sea to the eastern coastal areas, ups the Nile valley to the Sudan, and across the western desert to the Maghreb. In the eleventh century, Arab nomads drove southward from Egypt to the Sudan and westward across North Africa. These nomads contributed to the Islamisation and Arabization of the Sudan and North Africa. At the same time, Muslim seamen from Egypt and Arabia established commercial centers along the Red Sea and Africa's east coast. By the twelfth century, the last indigenous Christians disappeared from North Africa, and by the fifteenth century the Christian Coptic population of Egypt itself was reduced to a minority of some 15 percent (Nehemiah 2008).

After fortifying their position in the North as a result of breaking the strongholds of the Berber or Byzantine and Roman control, Islam entered into other parts of Africa.

Islam now spreads peacefully trough the natural course of trade and missionary activities of Islamic preachers and teachers. These ropes of people therefore continued their conversion of the people freely into the religion and training them on all aspects of Islam. Consequently, the Berbers who earlier on resisted and fought against Islam now became its flag bearers all over Northern Africa and later down South into the Sahara

through commercial activities and Itinerant scholarship (Rashidvash, 2011). There were so many trade routes that linked North and West Africa; these trade routes included those that linked Sijilmasa, Awdaghost, Taghaza, Taodeni and other areas of Morocco with ancient Ghana in the west. There was also the Tripoli-Kanem route which passed through Fezzan and Bilma in the eastern areas of the continent. Through these routes and many others, the religion was spread peacefully and automatically through social and economic intercourse. Islam reached Kanem and Bornu and became the major religion in Kanem in the l3th century and later in Bornu in the 15th Century during the Syfawa Dynasty (Nehemia , 2008).

Origin of Western Democracy in Africa

Democracy over the last decades have appeared to be the most popular form of government that all government, world over wants to be associated with it. The system has gained much popularity through the effort of her propagator   that citizens of modern states aspire for it irrespective of their living standard. Never the less, of great importance is the fact that DEMOCRACY just like many other social science concept has not definite definition that general accepted. Hence it means different things to different people even though there exist some basic principles (Bates, 2010). Democracy in the writings of Schumpeter (1950) has to do with political competition and, in particular, open competition among rival political parties. Others, such as Dahl (1971), argue that to be democratic, such competition must take place within a setting infused with attendant rights and freedoms such as the right to association, for free speech and such rights must be equally shared. Alvarez (2000) had insisted that a state could only be democratic when one party had surrendered power to another upon losing a national election. Drawing from the converging point of the writers of democracy which rally around the fact that it has to do with a form of government in which political power is employed to serve the interests of the public rather than of those that govern, we can note the democratic tendencies that infused pre-colonial societies in Africa.

Vansina (2005) argues that, there exist features of radical republicanism in the lineage systems of government and the efforts they exerted to elude domination by centralized governments. Others argued that even within centralized kingdoms, there existed prominent medium within which citizens could challenge the royals and their bureaucracies. For instance, in some, the office of the prime minister was reserved to the commoners. In others, commoner councils provided a check on the public administration while some secret societies like the Asafo, fully public, organized a defense for commoner interests. The origin of liberal democracy in Africa is traced to the 900s as a result of intensification in nationalist demands. The nationalist movements had drawn upon and renewed the democratic impulses that lay embedded in local political institutions and as such, the imperial powers also began to promote the forces of democratization. Bates (2010) observed that following World War II, the colonial masters were no longer able to dominate the course of events outside their European base such as law making and appointment of leaders, and so, sought to forge ways of shaping the outcomes what they hitherto control. Now they had to be satisfied with merely shaping the manner in which such leaders were chosen, as well as how they operate. For instance, legislation for Nigeria as a whole under the 1946 Richard constitution was now made by the legislative council (Nwabueze 1982).

At independence, the newly independent states continued with the political settings they inherited from their colonial masters. Hence most of the new state emerged as democratic states especially those that attained peaceful political freedom. unfortunately, the new indigenous leaders did little to improve the system, and retrogression was the order of the day as they have refused to endorse open political competition and the attendant rights of political expression and public assembly, through the imposition of single political parties or the rigging of elections and the resulting effect was a wave of coups and the formation of military regimes (Collier1982). This continued for decades until in the late 90s when under intense pressure from citizens at home and mounting pressures from creditors abroad, governments in Africa rapidly changed their political institutions.

Western Democracy

Democracy literally means rule or government by, or power of the people. Logically and historically, implicit in this is the notion of majority rule. Representative democracy is a form of democracy in which the people govern indirectly, through elected representatives, rather than directly governing themselves (Abdulkadir 2016). The principles of democracy have been identified by different scholars at different point, with some point of convergence in terms of these principles which are common to most democratic discussions. These include; rule of law, equality, Human Right, accountability, popular sovereignty and popular consultation, separation of power among others (Sudaro, 2001; Mark, 2000 and Austin and Willians, 1969). Popular sovereignty in the words of Michael (2001) is the idea that the people have the right to determine how they are governed. The people themselves, in other words are the source of the state's legitimacy; they are sovereign over their governing institutions and officials. They have the right to determine the type of governmental institutions they want, along with other aspects of their political system. They have the right to determine the actions and policies the government adopts as well as the right to hold their governing officials responsible for their actions. The notion of popular sovereignty is conveyed in such phrases as "government by consent of the governed" and Abraham Lincoln's famous characterization of democracy as "government of the people, by the people, and for the people" (Awofeso, 2016).

The rule of law is the supremacy of the constitution as against any form of arbitrariness in government. Professor A. V Dicey, who is christened to have popularized the concept, in his analysis of the rule of law based his explanation on the following (Sodaro, 2001):

i. Principles of impartiality

ii. Equality before the law

iii. Fundamental human rights of individuals.

The rule of law according to Sodaro (2001) "is the principle that the power of the state must be limited by law and that no one is above the law". It also means that the law of the land (i.e. the constitution) is supreme to any other law, either spiritual or temporal. Hence, the rule of law, according to him "is the fundamental bedrock upon which democratic government rests and unless it is routinely observed by governing officials, democracy may not survive." Equality before the law means equality of opportunity in the realization of individual capacities without regard to one's race, gender, ethnic background, religion or whatsoever (Matthias 2011). This denotes the fact everybody in the society is equal before the law, and so should be treated equally in times of reward as well as punishment irrespective of their status or any other variables. Accountability is when elected leaders or public officials have to answer to the common citizens regarding their actions, decisions or indecisions during the time they are or were occupants of the public offices. Those found to be performing to the required standards are rewarded by their continued stay in office while those found to be lacking in one way or another are punished. Unlike dictatorships, democracies strive to protect the rights and freedoms of their citizens from abuse. These rights include the right to life, the right to own property, the freedom of expression, the freedom to associate, and the freedom to assemble, among others. The individual rights such as: freedom of association and religion, freedom of thought, expression and belief, and others must be entrenched in the constitution and strictly observed by the governing officials

To be transparent means that leaders allow for public scrutiny of what they do while in public office. The citizens are allowed to attend public meetings and are free to obtain information on what happens in public offices, who makes what decisions and why. Transparency is a step towards accountability. Regular elections ensure that the Citizens are not stuck with bad leadership but that they have the opportunity to throw out incompetent leaders through free and fair elections. Free and fair elections give the citizens a chance to elect a leader of their choice as opposed to rigging elections that return often unwanted leaders to power. Elections are the main avenue for all citizens to exercise power by choosing their leaders and giving their vote to the candidate whom they wish. Separation of powers simply has to do with the division of powers and functions

between the three arms of government – the legislature, Executive and the Judiciary, and by ensuring the independence of the three. Another way is by creation of institutions such as the government ombudsman, which watches over the performance of government officials in relation to the agreed standards and ethics. A multiparty system is a set-up where there are more than two political parties contesting for power. The reasons for having multiple parties in a democracy are: to widen the pool for choice of the best candidate for political office; to offer alternative views to the government of the day as a result of the existence of an opposition; and to enable the opposition to act as a check on those in political office. One-party systems lead to a lack of alternatives for the citizens and concentration of power.

Democracy in the Light of Islam

Islamic religion and Muslim societies are often classified as undemocratic, especially the western scholars and media. However they always fail to understand the fact that democracy in western countries is not the prescribed proto-type as philosophically described. Hence it appears in different form or names, in different societies so long as it has some basic principles. Nazrul-islam and saidul-islam (2017) clarified that concepts, such as tauhid (monotheism), khilafah (vicegerency) and akhirah (hereafter), do not necessarily contradict democracy because Islam's established values and principles, such as Shura (consultation), Ijma (consensus), Adl (justice), equality, tolerance and accountability are attributed to the concept of democracy. The concept of democratic form of government has its origin in the struggle to establish a system based on the principles of equality, justice and to clarify the extent of the powers of the state. Hence democracy from the Islamic teachings can be understood by the following variables:

SHURA

The principle of *Shura* (generally translated as mutual consultation or consultative decision-making) in Islamic political thought refers to deliberations conducted with the aim of collecting and discussing different opinions on a particular subject in order to reach a decision. Both *Shura* and democracy arise from the central consideration that collective deliberation is more likely to lead to a fair and sound result for the social good than individual preference. Both concepts also assume that majority judgment tends to be more comprehensive and accurate than minority judgment. A thorough study of political system of Prophet Muhammad (pbuh) and of the first four caliphs reveals that the system was truly democratic in spirit because its political technique was common consultation and election of representatives and that in form it was representative (Sulaiman, 1999). In Islamic legal system, the Qurʾānic principles guide an Islamic government to decide the matters and issues of the national interest with consultation and mutual understanding. For instance, the text: "And those who answer the call of their Lord and establish worship and whose affairs are decided by counseling among themselves. (Qur'an:42 v 38). In another verse, Allah says: "And consults them (i.e., those around you) in (important) affairs. Then when you have taken a decision, put your trust in Allah" (Qur'an 3:159). The principle of counseling and consultation was adopted by the Prophet himself and it is narrated that nobody could excel the prophet (pbuh) in counseling with his companions (Ibn Hajar, 1375 A.H.).

Constitution

The objectives of a constitution are to frame the principles, objectives of national institutions regarding their function, to enable its people to order their lives according to their customs and beliefs and lastly, to describe rights and duties of its subjects (Wright, 1954). In Islamic legal system, Quran and Sunnah are Mutawatirah (authentic and proved through continues chain of narration) of the prophet both are considered as a Divine Constitution of the whole Muslim Ummah (Al-Suyūṭi, 1978). From the Sunnah, the Constitution of Medīnah was promulgated by the Holy Prophet (PBUH) as head of the state in 622 A.D. (Hussainy,1968).

Principle of Separation of Powers

In Islamic legal system, the theory of separation of power has its origin in the Qur'an. For instance, the verse: "O you who believe! Obey Allah and obey the messenger (Muhammad, pbuh) and those of you (Muslims) who

are in authority. And if you differ in anything amongst yourselves, refer it to Allah and His messenger, if you believe in Allah and in the last Day"(Qur'an: 4 V 59). This text establishes principle of separation of power as first portion of the verse directs to be loyal to Allah and His messenger and to the ruler in authority who exercises delegated power while the second portion of the verse directs the believers that if a dispute arises amongst themselves then refer the matter to Allah and His prophet and hear the words "those in authority are omitted."

Legislation

Legislation in Islamic legal system is normally initiated in the form of an opinion by a *mujtahid* who is to endeavor hard to comprehend the object and the intent of the Law-Giver. (Al-Shatibi,1341 A.H). The criterion of Islamic legislation is that every believer is not capable to legislate. This right belongs to expertise of the sciences of the Qur'an and Sunnah and Islamic jurisprudence known as mujtahid. There is no hard and fast rule regarding legislative process, the best way however, is that each Muslim state should have its own legislative body consisted of expertise as the earlier rulers of the Muslim state established (Numani, 1988).

Independence of Judiciary

In Islamic legal system, the judiciary is considered as an independent institution since its beginning and government has no authority to intervene with the power of the judiciary. It is stated in the Qurʾᾱn (4:58): "Verily, Allah commands you make over trust to their owners and that when you judge between men, you judge with justice." The first Caliph of Muslim Ummah Abu Bakr separated judiciary from executive and made it completely independent. He appointed 'Umar as chief justice of the Muslim state (Muhib Allah, 1384 A.H.).

Accountability

Miazi (2014) asserts that in an Islamic polity, the ruler cannot be a dictator. What we learn from the life-examples of the Prophet and his companions is that the rulers are, in each and every aspect of their rule, accountable to the ruled. A ruler is a khadem (service provider) of the masses, not a master to them according to Islamic philosophy. Accountability of the ruler to the masses is reflected in the inaugural address of Abu Bakr. While assuming the charges of caliph, he is reported to have said:

O people! Behold me charged with the cares of government, I am not the best among you; I need all your advice and all your help. If I do well support me; if I mistake, counsel me. To tell the truth to a person commissioned to rule is faithful allegiance; to conceal it, is treason. In my sight, the powerful and the weak are alike; and to both I wish to render justice. As I obey God and his Prophet, obey me; if I neglect the laws of God and the Prophet, I have no more right to your obedience (Hussain, 2002).

Although in Islamic system of governance, power is centralized, and the head of the state and government holds plenty of power, his power is checked and balanced by the very idea of accountability to Allah first, and the accountability to the people second which makes him more democratic in an Islamic administration than in Western democracy itself.

Ijma

Literally, the word ijma connotes "Assembly or consensus." As used in relation to Islamic jurisprudence, it means the consensus of Islamic scholars. *Ijma* is a consensus, expressed or tacit, on a question of law. Along with the Qur'an, Hadith and Sunnah, it is the basis which legitimizes law (Glasse, 1989). The foundation for the validity of *Ijma* is the often cited *hadith* (Prophetic saying) that Prophet Muhammad (pbuh): "Never will Allah make my Ummah (Community) agree on a wrong course" or "My Community will not agree upon an erro *al-Tirmidhi*:r" (Asad,1961).

Shura and *Ijma* (consultation and Consensus) are frequently seen as the basis for Islamic democracy in modern times. *Ijma* played a 'pivotal role' in the development of Islamic law and contributed significantly to the corpus of the law or legal interpretation (Esposito, 1991). Legitimacy of the state depends upon the extent to which state organization and power reflect the will of the Ummah, for as classical jurists have insisted, the "legitimacy of the state institutions is not derived from textual sources but is based primarily on the principle of

Ijma" (Safi, 1991).

Equality, rule of law

 The concepts of equality and rule of law in general, are central to Islamic philosophy. Everybody in the Islamic system is equal before ALLAH who is the major source of Islamic law irrespective of their status, race or lineage. ALLAH says in the Qur' an: "O humankind! We created you in pair of a male and a female, and made you into nations and tribes, that you may know each other (not that you may despise each other). Verily the most honored of you in the sight of Allah is (s/he who is) the most righteous of you" (Qur'an 49:13). From the above qur'anic verse, Allah is informing us of our status before him, noting that the only criteria of difference among human is their level of righteousness. Hence this implies that the leader and the follower in the Islamic setting are the same before the law. The above had been implemented by the prophet (pbuh) in words and actions. The Prophet, in his farewell address during his last pilgrimage informed the ummah that: "An Arab has no superiority over a non-Arab a non-Arab any superiority over an Arab; also a white has no superiority over a black nor does a black have any superiority over white except by piety and good action" (Cited in Mazrui 1997).

 When a woman of high rank was brought for trial for being involved in a theft, and it was recommended that she be treated leniently because of her rank, the Prophet replied "The nations that lived before you were destroyed by Allah because they punished the common man for their offences and let their dignitaries go unpunished for their crimes; I swear by Him (Allah) who holds my life in His hand that even if Fatima, the daughter of Muhammad, had committed this crime, then I would have amputated her hand" (cited in Williams and Zinkin, 2010).

Differences between Islamic and Western Democracy

Some of the areas through which Islamic democracy differ from western democratic composition are as follows:

(i) A major point of difference between Islamic and western democracy is the means of acquiring power. Democracy is a political system in which different groups are legally entitled to compete for power (Christiano 1996). While on the other hand, the Islamic democracy is solemnly built on **(SHURA)** mutual consultation. In fact an individual that demands for leadership position in Islamic system is to be denied even if he is qualified. This is to allow democratic values hold by people choosing who is best for the position. This is to avoid corruption and arbitrariness of leaders who ask people to vote for them.

(ii) The foundational principle of the Muslim's Constitution (Qur'an and Sunnah) are irrevocable and cannot be altered or amended by any means of legislation while the constitutions of the contemporary states are subject to change and amendment.

 (iii) Unlike Western legal system where the existing sovereign authority has immunity before law, the head of the Muslim state has no Royal prerogative or immunity before the law. He is just an administrator to administer law and justice in the light of the objectives of the legal system of Islam/Shari'ah.

 (iv) The Islamic legislative authority cannot supersede the limitations prescribed by the Qur'an and Sunnah while in Western legal system the legislative body has unlimited authority to legislate and to promulgate laws

what it considers appropriate or necessary in the light of the public demands and needs of the people and has no concern with their religious impact.

(v) Unlike common law, Islamic law is written law. The common-law and civil law under English-European legal system has its source in the Roman law and Catholic Canon law. On the other hand, Islamic law has its origin in the divine revelation of Qur'an and Sunnah.

(vi) Islamic law is defined as the command of the God sanctioned by revealed Book and Sunnah of the prophet by way of interpretation while law in Western legal system is defined as a command of a supreme political sovereign enforceable by political force has its origin in the custom and precedent.

(vii) Another difference is that any additional legislation or modification of any existing Islamic law must not contradict the precedent set by Qur'an and the Sunnah. Any piece of legislation contrary to these sources is not acceptable although against the so called welfare of the people. On the other hand, the Western concept of legislation is based on the welfare of the majority of the people, any piece of legislation enacted by the parliament can be modified and amended through legislative process and question of divine base does not arise.

(viii) In Western legal system, the issue regarding the discretionary powers of the judges is a hot issue to debate and to solve. Here, reasons play a vital role and the judge has a wide discretion to decide the case according to his own judgment as the discretion of a judge is the law of tyrants. Thus, the problem of interpretation and its application remains intact (Pound, 1953). Islamic legal system by contrast does not face this problem. No doubt reason plays an important role during the process of interpretation but the discretion of the judge is controlled by the limits and bounds of Shari'ah. It is duty of the judge to refer his opinion to the legislative intent of the Qur'an and the Sunnah.

(ix) In case of western law precedents are of great importance and are strictly followed in legal decisions and it is considered that apart from judicial decision there is no law in England at all. Judicial precedents on the other hand form a considerable part of Islamic law but have no binding force and do not form the whole structure of law.

(x) Unlike western concept of democracy where government and policy makers are bound to legislate according to the majority will though not in accordance with religious bond a Muslim government in an Islamic state cannot make any law based on the desire or want of the people just only to please them if such want is against the objectives of Shari'ah or legal system of Islam.

(xi) Unlike Western legal system where religion is considered as a private affair between man and God, Islamic law itself is based on the religion and hence, not entirely a private affair.

(xii) The law in Western legal system is based on the temporal objectives of the government having a particular political agenda. The priorities of one government may differ from another one while Islamic law is based on the eternal objectives of Shari'ah and changing in the government cannot disturb it. Islamic law and government are meant to establish good moral and ethical values in the society as guided by the Holy Qur'an. "Those who if we give them authority in the land, they enjoin five compulsory prayers, to pay Zakat and enjoin al-Ma'ruf (righteousness) and forbid from al-munkar (wrong doing)" (Q 22:41) .

Islam and Democracy in Africa

Calls for democratization of the African continent have increased in many countries since the 80s including Muslim dominated countries, questioning the incompatibility of democracy and Islam. Subsequently, there are those who believe that there is in fact no reason to believe that countries cannot become more democratic as well as more religious at the same time (Perthes 2012; Pupcenoks 2012). This was strengthened by the Arab Spring which generated the newest attempts at democratization in the Arab World of Middle East and Africa.

Following the successful ouster of autocratic leadership, Muslims of both Tunisia and Egypt have joined their fellows in countries like Nigeria who form more than half of the country's population to account for the highest Muslim population on the continent, to experience relatively free and fair elections, after decades of authoritarian rule (Ji-Hyang, 2012; Kienle 2012).

 A major concern has been the Islamists support for Sharia. The incorporation of Shari'a into the legal framework is considered to contrast democratic principles because of the envisioned supremacy of Shari'a over other laws (including international treaties); the status of women under Shari'a; "cruel" punishments prescribed by shari'a; and allege violations of human rights (Otto 2010; Pupcenoks, 2012). Policy areas in the public sphere that are affected by the application of Islamic principles include educational, social and economic policies (Pupcenoks 2012). In each of these policy areas the strict application of Islamic principles can be at odds with democratic principles, including human rights, pluralism, minority rights, freedom of expression and freedom of religion (Diamond 2008). However, whether they clash, largely depends on the degree to which Islamic principles are enforced. Islamization of education can manifest itself by strengthening religious schools, applying Islamic curricula and promoting Islamic religious doctrine in schools and segregating the classrooms between boys and girls (Pupcenoks 2012).

The Tunisian Experiment

Following turnovers and subsequent electoral victories in 2011, Ennahda in Tunisia has embarked on a process of democratization within an Islamic framework. The deterministic argument that they would disconfirm (or confirm) is the assessment that Islam is inherently incompatible with democracy. A secular pro-democracy movement spurred a revolt that led to the ouster of the ruling president and the abolishment of the ruling party. Subsequently, Islamist parties won the first free and fair elections in decades. During the election campaign, the party combined her conservative Islamic rhetoric with more progressive democratic rhetoric, and in so doing managed to thwart more puritan Islamist alternatives (Dupont and Passy 2011). The imperviousness of autocratic regimes waned in the beginning of 2011, when the successful overthrow of the longtime-dictator Ben Ali in Tunisia snowballed into widespread demonstrations across the Arab world, demanding an end to corruption and democratic governance. In a spark of optimism, these popular upsurges have been referred to as the 'Arab Spring', indicating an awakening from a long autocratic 'winter' (Shadid 2012). The most salient policy-areas where Islamic principles are prone to clash with democratic principles are education, social policies and economics (Pupcenoks 2012). The Islamization of education aims to educate new generations within the values and principles of Islam and instill them with an Islamic moral code. The following were witnessed:

(i) Pluralism

 The first element or event that took place which indicate there could be compatibility between Islam and democracy was the compromise for election by the islamist party as a means of attaining power and not insisting on the Islamic principle of **SHURA**, and further accepting the coalition arrangement. Following Ben Ali's ouster, Ennahda quickly reinserted itself in the public sphere where they quickly became the most credible movement for change. They won the elections with 37.0% of the vote, resulting in 89 of 217 seats in parliament. Ennahda subsequently formed a coalition with two secular parties, Ettakatol (20 seats) and Congress (29 seats) (Lusardi 2012).

(ii) Education

The educational system in Tunisia just like other sectors was markedly secular and geared toward individual freedom and tolerance for others, including modern scientific theories like evolution (Faour 2012). However without drastic reforms, subtle Islamization of education is taking place, the government opted for a clandestine support for societal forces that push for Islamization which is in line with their desire to bringing up children within Arab and Islamic values and character" (EEP 2011: 70). Islamic civil society organizations have increased Islamic teaching on their own, following the end of repression (Donker 2013; Prince 2013).

Nominally independent from Ennahda, these organizations are often run by *Nahdaoui*14. Some of these forces are more radical, such as the protesters at Manouba University, who were forcefully protesting for the right to wear a *niqab* in college. Ennahda first sympathized with their cause, but had to retract their support when the demonstrations turned ugly, as they were been extreme. The position of women in education is one of the best in the region, as Ennahdas supports the rights of girls to equal education (EEP 2011), with many girls in higher education (European Parliament Report 2012).

(iii) Rights of women

The issue of women's headdress is a larger social issue than the education sphere alone. Following Ennahda's overturn of the law banning religious symbol, Both the *niqab* and the *hijab* have made reappearance in Tunisian society (Giacalone 2012,Cook 2013). Ennahda frames this as a specific freedom of religious issue, ensuring that they will not force women to dress in a particular way (Chrisafis 2011). The parties programs emphases the important role of women in social, political and economic spheres even though they had also mentions that besides equality, women and men complement each other which was kicked against (EEP 2011). Never the less, the party's commitment was shown in the number of their female MP's (Dalmasso and Cavatorta 2014), and 42 out of the 49 women in the assembly represent Ennahda (Lawrence 2011).

(iv) Religious Freedom.

The leadership of the islamist party has repeatedly stated that religion is a personal matter that the state should not prescribe (Haugbolle and Cavatorta 2012). To complement the above position, they included "the right to freedom of faith and conscience and the rights of religious minorities" in their program and indeed, small Christian and Jewish minorities (2% of Tunisians) have been free to practice their religion (Freedom House 2014).

(V) Freedom of the press

As against the view of the essentialists, the party guaranteed the freedom of the press in their program (EEP 2011). Though the party is facing challenges in its bid to protect sacred value and ensure freedom of the press. Claiming that Islamic principles seem to outweigh democratic principles in this instance, critics alleged that the freedom of expression is under serious threat. The friction between freedom of expression and protection of sacred values became clear when a television broadcaster was arrested and put to trial for airing the film Persepolis, an animated film including a depiction of God. A public protest ensued at the TV station, which Ennahda publicly condemned while reassuring that they thought the film was considered a "violation of the sacred" (Shadid 2012).

(V) Economy

In the area of economy, the party did not embark on a vigorous process of Islamization, though again societal forces more openly push for adherence to Islamic principles. It promotes a fairly modern agenda, supporting a neo-liberal economic model and promotes trade relations with the EU (Lusardi 2012, Prince 2013 and Lippincott 2011). While the introduction of Islamic finance, Islamic banks and Islamic insurance, would form the basis of a social and economic system in line with Islamic principles (Hamida 2013). As a major source of income, restoring tourism is high on the political agenda, and the party refrains from restrictions on alcohol, pubs and bikini s but has opted to campaign against morally reprehensible behavior, but would not ban it (Dalmasso and Cavatorta 2013).

(VI) The judiciary

Contrary to western expectation, the courts are nominally independent (Freedom House 2014) However, however the party has attempted to gain control over certain appointments in the justice sector and this meddling has made some justices more agreeable to the conservative principles of the Islamists. In the quest

for a decent society, the broadcaster of Persepolis has been brought to trial, as well as two youths who posted cartoons of the prophet Mohammed (Middle East Online, 2012).

The Egyptian Project

Following Mubarak's ouster, the Muslim Brotherhood (MB) did not participate in the elections themselves because the constitution prohibited parties based on religion to participate. Instead, The Freedom and Justice party (FJP), the political wing of MB entered the elections. Nominally independent, the two entities operate in unity and observers seldom differentiate between the two (Jadaliyya 2011). Consequently, the FJP won the elections in Egypt with 37.5% of the vote, giving them 242 out of 498 seats in parliament as the A nur party acquired 27.8% of the vote (Wright 2012). Clinching on their victory at the parliamentary poll, MUHAMMAD MORSI of the FJP also won the presidential elections in June 2012 (Bechri, 2012).

(i)   Education

The FJP has deemed it not to make drastic changes in the educational system partly because the system is largely already in line with Islamist goals. The government had declared her supports for the role of women in education (Jadaliyya 2011). However, the restructuring of Egyptian school curricula in line with Islamic principles has stepped up pace since the Ministry of Education came under MB control (Tadros, 2013). With the aim to create a social base through education and socialization in Islam .Young people should be educated in the principles of Islam and chastity and modesty should be incorporated in school curricula (Kassem 2012). Rarefied changes occurred, such as the removal of unveiled women in schoolbooks, and the suggestion to segregate school classes to prevent sexual harassment (Dyer 2013).

(ii)   Women's right

 To reiterate their democratic tendency, the government avoided an outright or constitutional prescription of dressing code for the women. The veil is not constitutionally enforced, but strongly encouraged by the FJP (Dyer 2013). The FJP secretary, El-Katatni explains: "I cannot draft a law that says an unveiled woman will be forbidden, but I must make her feel that her punishment is in the afterlife" (Reuters 2011). Without infringing on any body's right, the veil is now more prominently present in public life, well-illustrated by the fact that most news anchorwomen now wear the veil (Al-Sayyad 2013).

(iii)   Freedom of religion

As expected of a democratic state, freedom of religion is constitutionally guaranteed. The FJP platform defends freedom of religion and bestows equal citizenship on both Muslims and Christians (Jadaliyya 2011). In the quest to protect the right of her Muslim population, the new constitution made a provision that prohibits the defamation of the prophet. Though, critics have claim that in practice this article can be utilized as a blasphemy law, limiting religious freedom of all non-Muslims (Tadros, M. 2013).

(iv)   Freedom of press

Under the leadership of the Islamists Freedom and Justice Party (FJP), the government formally subscribes to freedom of expression and freedom of the press as long as these are in line with public morality. Such immoralities that are capable of causing instability in the state, defamation of the prophet as well as the President were criminalized. This was vied as a limitation against freedom of expression as a number of TV hosts experienced this first-hand when they were charged after they publicly criticized president Morsi (Freedom House 2013). As a result, journalists and media figures have become quite reluctant to publicly criticize Islam, the MB, or the President (Al-Sayyad 2013; Freedom House 2013).

(v)   **Economy**

(vi)   The democratically elected freedom and justice party, in the quest to strengthen the economy, had to revitalize the tourism industry. Owing to the fact a large percentage of the country's income comes from truism, the FJP dedicates considerable attention in its program on tourism (Egypt Independent 2011). However Islamic values were not to be relegated. In line with their effort to regulate the moral standards of society, the tourism sectors and the film industry could be at the fore front and prominent would be to limit the use of alcohol and public indecency (Hamid 2011). Another effort to put the economy in line with Islamic principles came in the revival of the *waqf* system alongside the establishment of Islamic monetary institutions (Al-Arabiya 2012).

(vii)   Constitution

The most challenging area in the bid to demonstrate the compatibility of islam and democracy in Egypt has been on the constitutional and judicial maters. In its program, FJP devotes considerable attention to the independence of the judiciary. However, frequent clash between the FJP and the judges on constitutional and judicial matters is posing as a great threat to the process. The Supreme Constitutional Court declaration of the 2011 parliamentary elections as unconstitutional is said to have weakened the parts effort (Freedom House 2013). Hence the president was pushed to make himself and the Constituent Assembly to be immune from judicial review, while also usurping legislative and executive powers (Benstead et al. 2013; Laub 2014). This and other instances of administrative conflicts have made the relationship between institutions not cordial.

Islam and Democracy in Nigeria

The case of Islam and democracy being operated concurrently, has a good example in the Nigeria state which host about 180 milion population who are either Christians or Muslims with little traditional worshipers. As a democratic state, the constitution had made provision for the freedom of religion. Section 10 of the 1999 constitution, states that: "The government of the Federation or of a State shall not adopt any religion as State Religion as desired". The above provisions was strengthens by section 38 (1): Every person shall be entitled to freedom of thought, conscience and religion including freedom to change his religion or belief, freedom to manifest and propagate his religion or belief in worship, teaching, practice and observance (Olu,2016). While the non Muslims have interpreted the following provision to secularism where the state need to be separated from religion (Mclean,1996), the Muslims conceive secularity to mean a concession to multi – religion practice, which implies that, both Muslims and non- Muslims can fully practice their religions while some others even rejects secularism. Given the constitutional backing, the Muslim northern states embarked on the re implementation of Islamic principles in the region.

Implementation of Shari'a Law

Like the customary law, the Shari'a law is recognized by the 1999 constitution of the Federal Republic of Nigeria. Section 244 (1) states that: An appeal shall lie from decisions of a Shari'a Court of Appeal to the Court as of right in any civil proceedings before the Shari'a Court of Appeal with respect to any question of Islamic personal law, which the Shari'a Court of Appeal is competent to decide. On the other hand, section 315 adopts the penal code as the criminal aspect of the Shari'a legal system, while Sections 4(7), 6(4) & (5), 38,262 among others, serve as the legal frame work for an operation of shari'a legal system within the Nigerian state (Olu, 2016).

On 4th of October 1999, the people and government of ZANFARA declared the full re-implementation of shari'a law in the state through the announcement of Governor Ahmad Sani Yarima Bakura, an exercise which was soon followed by (11) eleven other northern states, Sokoto, Kaduna, kebbi, katsina, Niger, Kano,jigawa,Yobe, Gombe, Borno and Bauch (Rafatu,2017). Expectantly, the exercise did not go without criticism however, it was defended at different quarters. The Assembly has legislative competence to establish other courts in addition to existing ones; and Muslims in the state have expressed their overwhelming desire to submit to Shari'a beyond the 'personal law' confines (Yadudu, 2000). Abdul-Lateef responded to the criticism that; Zamfara State by seeking to expand Shari'a into the criminal sphere through the incorporation

of certain Shari'a offences, as well as by establishing Shari'a court of first instances, have not violated the constitution ... for, only the Shari'a court of Appeal of the state created by the constitution are restricted to Islamic penal law in the exercise of their jurisdiction. *(Adegbite, 2000)*. Section 4 of the 1999 constitution divides the legislative powers between the federal and state government. It also specifies in its second schedule the exclusive legislative list on which only the federation makes laws, and the concurrence legislative list, on which both the federation and the state may make laws (Olu, 2016). In addition, it empowers the state to make laws on any other matters not included in the two lists. It is argued that "Sharia fall within the residue and, consequently, a state has the constitutional power to make law relating to Sharia" (Bello, 2000). Both section 6 and 275 have also been quoted to justify the legality of the Sharia law in Nigeria. In this regard, Justice Mohammed Bello (rtd) contends that: Section 6 of the constitution empowers a state to establish courts to exercise jurisdiction on matters will respect to which the House of Assembly of a state may make laws. It is axiomatic, therefore, that a state may establish a Shari'a court of first instance. Section 275 specifically, empowers any state that requires it to establish its Sharia court of Appeal to hear appeals from the lower courts (Bello, 2000:11).

Conclusion and Recommendations

So far, the paper has discussed both theoretical and pratical issues, especially against the background of the compatibility of Islam and democracy**.** On the basis of this study it is concluded that a thorough study of the constitution of Muslim Ummah in the light of the characteristics and objectives of the modern constitutions, will show that it contains clear instructions regarding rights and duties of the citizens of a Muslim state, the inter-relations between Muslims and non-Muslims, the concept of joint responsibility of all citizens for defense and war, equality before law, and others; fundamental principles which provide a strong base for up to-date and modern system of governance. These and similar principles are progressive by nature and beneficial for all types of political systems, religious or secular and presidential or parliamentary etc. It is also concluded that the constitution of the Muslim Ummah provides fundamental principles of governance which do not oppose modern techniques and ways of governance if not against the spirit of Shari'a. It is also concluded that the logic behind gradual revelation of the Qur'an (twenty three years) was to establish a legal system and to make it able to fulfill the needs of the changed scenario with the changes of time and changed needs of the people and as such, the incompatibility theory of Islam and democracy is only a product of pre-conceived notions and an ethnocentric struggle of some western scholars because democracy in its literal form and meaning is rooted in Islam. To those Muslims who out-rightly reject democracy, their problem could be attributed to the misconception of the content of Quranic message.

In this context, it is suggested that the contemporary Muslim scholars and the jurists must widen the parameters of their knowledge outside the Islamic realm, and must have deep understanding of the Qur'anic sciences in the light of the Sunnah of the prophet, his companion and changed context. They should be experts regarding the wording of the Qur'anic language. The general principles of the Quran are consisted of perfect wording and are universally suitable for all the nations of the world such as principle of equality, justice, public interest and principle to establish a welfare state.

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