Bar-Ilan University, December 14, 2010. François Facchini, Centre d'économie de la Sorbonne, axe institution, Paris 1, France.

ECONOMIE FREEDOM IN MUSLIM COUNTRIES

ABSTRACT

This article explains the level of economic freedom in Muslim countries through the theory of institutional path dependency. It starts with some facts; Islamic countries are generally not free and they have a poor record regarding property rights (*Heritage foundation*). To explain these realities we use the institutional history of Muslim countries. We define three steps: the Arab and Ottoman empires when Islamic law was of great importance, European colonisation and the contemporary era with its movement towards re-Islamisation. Islamic Law is not liberal. It restrains the development of property rights and explains why, in general, Muslim countries are generally not free. Colonisation radically changed institutional life in the twentieth century. British colonisation has proved to be better than French or Soviet colonisation. It explains why the Persian Gulf countries are rather more free. The collapse of the Soviet model explains the speed of liberalisation in the old socialist countries (Albania, Kyrgyz Republic and Kazakhstan, etc.). Nevertheless, the twentieth century was not just the century of westernisation. It was also the century of the revival of Islam. The article concludes that the history of the twentieth century does not explain the way in which Muslim countries are attracted by the ideal of the Muslim city. The revival of Islamic intellectual innovations and the evolution of Muslim opinion sustain this thesis. So, there is a dependency on the past and on an imagined future. Islam acts, like yesterday, on the world of institutional possibilities.

Key words: Economic Freedom, Institution, Islam, and Property Rights
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INTRODUCTION

The topic of this article is neither the relationship between Islam and economic performance (Noland, 2007, Noland and Pack, 2007) nor the democratic gap in Muslim countries (Barro, 1999; Fish, 2002; Karatnycky, 2002; Rowley and Smith, 2009). It is concerned with economic freedom in the Muslim world.

To evaluate the economic freedom in Muslim countries one can refer to the indexes of economic freedom proposed by a certain number of American non-profit organisations. In the 2009 report *Index of Economic Freedom* (from www.heritage.org) we learn that North America and Europe enjoy far greater levels of economic freedom than those who live in other regions of the world (Chapter 5, *Economic freedom by region*, p.47) (Table 1, Appendix).

The Middle East/North Africa region is Muslim. It has lower than average scores in five economic freedoms: monetary freedom, investment freedom, financial freedom, property rights and freedom from corruption. This region is slightly above the world average of 59.5, mainly due to a high degree of fiscal freedom that reflects low income and corporate tax rates (Chapter 5, *Economic freedom by region*, p.55). Also, there are some differences between the Muslim countries. Oman, Qatar, Kuwait, Jordan, UAE, Malaysia, Saudi Arabia, Albania, Kyrgyz Republic, Turkey at 61.6, and Kazakhstan at 61.6 are moderately free and Bahrain is fairly free (Table 3, Appendix). The Persian Gulf Countries have no fiscal system and their state sizes are small (Table 3, Appendix). They are not free in matters of investment freedom, financial freedom and ownership (Table 2, columns 1, 2, 3, 4, 5 and 10, Appendix). Their indicators of corruption are of bad quality. The global weakness of their indicator of property rights is interesting, because it is a means of distinguishing clearly the institutions of the religious area (Table 1). This weakness defines all the countries of the Islamic area in Sub-Saharan Africa and the Arab World.

If the argument that the security of property rights and economic freedoms are prerequisites conducive to material progress is correct, the question becomes: why are Muslim countries not more respectful of property rights, and more generally, why they do not put in place institutions that would improve the standard of living of their people? It is, in this way, that the New Institutional Economics (NIE) usually causes the problem (Shirley, 2004, pp.616–629). Shirley (2004) suggests several explanations: the settlement of natural resource endowment, political competition between the elites and for the definition of borders, and beliefs and norms, i.e., culture. If one insists on the cultural factors the general idea is that formal institutions translate the values and beliefs of a group. These beliefs and norms change slowly. They create an institutional path dependency.

Table 1

Property Freedom (average) and Religion (2009)

Protestant	Catholic Western Europe	Catholic Eastern and Central Europe	No majority	Orthodox	Buddhist	Islam Arab	Ex USSR	Black African Catholic	Black African Muslim
84.5	76.3	59.5	44.4	39.1	38.5	38.1	23.3	37.27	26.7

Sources : www.heritage.org, author's calculation of averages. Property Freedom.

When Douglass North (1990, pp.94–95) creates the concept of institutional path dependency he refers to, in particular, Arthur's (1985) article. This concept leads to the conclusion that even if the governments of Muslim countries felt that liberalism was the best solution for the prosperity of their countries, they would not adopt it. North (1990) also explains why institutions in general are stable over time. The preference for the status quo is explained not by the elites' taste for power, as in the model of public choices popularised by the work of Acemoglu and Robinson (2006), but by social cost of reform. The social cost of reform appears superior to the benefits, at least in the short term:

(1) Costs of reform represent, first of all, considerable implementation costs. An institutional graft such as capitalism imposes high initial investment cost. These costs are only profitable over a long period. This explains why states prefer to improve institutions rather than change them.

(2) After that come the learning costs. Individuals have acquired knowledge and know-how in the application of the institutional system which an institutional change would render obsolete. Adopting capitalism means imposing on all agents considerable learning costs as they lose all their know-how and the knowledge they have of the institutions of the income economy which has become useless.

(3) Finally there are the costs related to the risk of un-coordination and anticipation errors. Placed in a new institutional environment, individuals do not necessarily know whether the others conform to old norms or new ones. They anticipate less well reactions of the other members of their community. This limits the coordination qualities of the system.

The theoretical issue of the article is the existence of two institutional path dependencies: dependency on the past and addiction to the future through imagination of institutional possibilities. Dependence on the past does not only affect the cost of institutional change. It also has an effect on the imagination, or the definition of the world of institutional possibilities. Muslims possess in their world institutional possibilities, the choice of the *Shari'a*, the ideal of the Muslim city. They can imagine an Islamic future because they are converted to Islam. The institutional dependence path is dependent upon a world of possibilities. The past does not only determine the future, but the imagined futures. Christian or secular countries do not integrate into their world possible future choices of the *Shari'a*. They do not attempt to evaluate its chances of success or its value for the national community. The rules of Muslim countries and more generally the political elite judge the opportunity of such an alternative to capitalism or socialism. All Muslim area countries, despite their differences, share the same imagination. They are all different countries; their geography, their history, their population and their geopolitical situation distinguishes them one from another but they can all with their own Muslim sensitivity adhere to the project of the ideal Muslim city. It is this ideal which the institutional dependence path theory describes.

Islam plays, then, upon the world of institutional possibilities of the countries in the Muslim area in two ways: it influences Muslim law. It created a dependence path in the classical sense. The law and practices today are inspired by the law and practices of yesterday. Islam also plays upon the world of institutional possibilities. It acts upon the way in which Muslims imagine their future. The invention of modern radical Islam and Islamic finance are proof of the current presence of the ideal of the Muslim city in the institutional future of these countries that are now influenced by the ideal of the European secularised society and the ideal of the Muslim city, giving God his place in economic transactions. In any case, Islam is at the heart of the institutional dynamic of these countries.

This article is structured in three parts. The first describes the institutional trajectories of Muslim countries of the Islamic period to the end of the Turkish Empire. It shows how the norms and religious beliefs were enrolled in institutions of Arab and Turkish empires of the Muslim Civilisation. It explains how religion justified and legitimised a predation model that succeeded for a time to prosper, but which declined when liberal capitalism was invented in the West. The second part describes the effects of European colonisation and the Cold War on economic freedoms. Each country has a singular trajectory. It shows the consequence of French, Soviet and British colonisation on institutional design. It observes a movement of westernisation which limits the effects of Islam on the institutional design of Muslim countries. The third part shows, however that Islam has not been excluded during the last century. It is always the referent in definitions of the world of institutional possibilities. It is central in the institutional imagination of Muslims and their political elites. This last section then, shows that along with westernisation there was a movement of re-Islamisation in policy, economy and economic mentalities (*World Value Survey*, *Pew Research Center for the People and the Pres*). These evolutions replace the countries of this area on their institutional path dependency.

WHY ARE MUSLIM COUNTRIES GENERALLY NOT FREE AND DO NOT ENFORCE PROPERTY RIGHT?

Some facts were recalled in the introduction, which show that some Muslim countries, according to the economic freedom index, are not very free. If we follow the theory of institutional path dependency the institutional history explains this reality. The institutional base in this area is Islamic law.

Islamic law is not born from a political act as was the Napoleonic Code in France nor from a process of trial, error and stabilisation as was English Common Law. It is derived from an interpretation of sacred texts revealed to the Prophet by God. It commenced around AD 609–632 in the Arabian peninsula with the Prophet's revelations. The four main sources of Muslim law are the Koran, the *Sunnah*, the *Idjm*a and the *Kiyas* or *Akl* (Scully, 1987; Sait and Lim, 2006; Aldeeb Abu-Sahlieh, 2006).

The Koran is the first source of Muslim law. It is the sacred book of Muslims. This text is the word of God revealed to the Prophet. The Prophet is he who reveals information which originates from a beneficial (Allah) or evil (the devil) source (Aldeeb Abu-Sahlieh, 2006, p.60). The *Sunnah* is the tradition or the precedents of Islam. It is transmitted from generation to generation by Muslims amongst themselves. The Shiites reject the *Sunnah* companions of the Prophet but accept the *Sunnah* people of the house of the Prophet as a source of law (Aldeeb Abu-Sahlieh, 2006, pp.123–128). The *Idjma* is a body of doctrine or practices universally accepted by Muslims. The *Kiyas* is the result of jurists' logical analogue reduction on the origin of the law for Sunnites (not for Shiites). The judicial institutions, or the institutions responsible for applying the law, are without appeal and the sentences are always applied (Scully, 1987). It is important also to note that there is no independence of justice from the State. The judges are paid by the authorities and justice is a State instrument which promotes conformity of will to that of the government. Commercial and civil law are stricter and more influenced by religion than European law (Scully, 1987, p.602; Bassiouni, 1982, pp.3–53). The Koran assumes that men owe obedience to those who govern as long as they respect God's law.

The role of Islamic law (*shari'a*) in Muslim societies is the subject of contentious debate among Muslims (Brown, 1997, p.359). It was even suggested by Muslim law historian Schacht (1964, 1999, p.165) that the nature of Islamic law is largely determined by its history and this history is dominated by the contrast between theory and practice. However, Muslim law differs from the capitalist ideal, because it considers sacred a certain number of inequalities (Section 1.1 below), ruling over spoils (Section 1.2), promotes collective ownership of natural resources (Section 1.3) and restricts freedom of ownership on moral principles (Section 1.4) which are not those of the free market. Islamic law founds and justifies the formal institutions that are very different from free market institutions. This liberalisation is not in agreement with Muslim beliefs and social norms. The result is a high justification cost of legitimising economic freedom.

Unequal ownership

The protection of property is very pronounced in Islamic law (Schacht 1964, 1999, p.118), but it does not guarantee formal equality of citizens before the law.

From a general point of view, Muslim law recognises human, public and private rights. (Khadduri, 1946, pp.77–78; Habachy, 1962). The only difference between the West and the East concerns the basis of ownership. The West bases ownership on a secular basis while the East uses religious bases (Habachy, 1962, p.453). All human rights are God's privilege, as all authority comes from God. God is, according to this theory, indirectly at the head of the Islamic state (Khadduri, 1946, p.79). God dictates the law through the words of the Prophet. Human rights are the privilege of those who have full legal capacity. A man has full legal capacity if he is adult, free and of Muslim faith. It follows from this principle that the non-Muslims and slaves who live in a country governed by an Islamic state have rights which are only partly protected (Khadduri, 1946, p.79). Muslim law sanctifies three formal inequalities (Voigt, 2005, p.65): master-slave relationships which define the concept of freedom in Muslim society (Montgomery-Watt, 1968, 1995, Chapter III, 3, p.113; Lewis, 2005, pp. 919–933), male-female relationships, and relations between believers and non-believers.

Acquiring property with spoils

Islamic law legitimises, secondly, acquisition through spoils. Contrary to liberal tradition, a man can acquire property by conquest and spoils (Sura 8, *Koran*). Spoils do not essentially concern personal effects. It also allows appropriation of property such as land. This legal status of plunder is very important in order to understand the economic model of Arab and Turkish empires. It is associated with the concept of *Jihâd*. The Jihâd is a source of misunderstanding and even slander of Islam. The word *Jihâd* means "effort to achieve an objective" and this objective is to assure God's reign. The *Jihâd* is both an interior combat for each Muslim to attain holiness and a combat against enemies of Islam. Combating enemies of Islam justifies the spoils; it is the reward for conversion work which enables the conquest and the submission of non-believers to Muslim authority. The conquest serves the cause of Islam.

Islam legitimises the conquest and founds the economic model of predation of Arab and Turk models. A lot of works describe this model. Ibn Khaldûn's description of power in Islam shows clearly that the empire's economic model is mercantile where wealth and law are associated with holding power (Cheddadi, 1980, p.535). He who holds the power distributes the spoils.

(1) Khaldûn considers Islamic power based on the notion of *Jah*. *Jah* is the capacity of men to exercise their will over those who are their subjects. It is a social condition of exercising constraint which is considered necessary for life in society (Cheddadi, 1980, p.536). The *Jah* has two functions. Social well-being is a necessary function. Exploiting the work of others is an accidental function. The *Jah* is thus presented as a concept which competes with the concept of authority as a purely arbitrary function between men and application of divine law; a concept defended by the theologians and very present in the mind of Muslims. The *Jah* is meant to be a positive description of economic and social reality of power in Islam. What is interesting for the economist is to show that one of the main sources of wealth, aside from hunting, breeding, agriculture, arts and commerce is the exercise of authority. (Cheddadi, 1980, p.544). The *Jah* is a source of wealth because it provides the means to exploit the work of others. Passing from a tribal power to a central power in the *Magreb*, and before that in *Makrech*, under these conditions it aims at seizure of surplus by a small minority. This minority draws taxes, exploits the work of others and usurps property (Cheddadi, 1980, p.544–546). The *Jah* describes a predation model.

(2) Bozarslan (1988)[1], following Marx, finds the same model in the Ottoman Empire. The prosperity of this Empire is based on military expansion. Wars had two objectives; expand the territory on the one hand and pillage it on the other. War was in fact a war of colonisation. The central power was imposed on the Turks in order to implant themselves in new colonies to create unity.

(3) Max Weber develops a theory which is fairly similar when he upholds that if the Muslim civilisation did not discover capitalism it is because Islam transformed its original ascetic extra-social monotheism into the military ethic. It is this warrior ethic – and the patrimonial structures and prebend determined by it – which hindered the rise of the State's spirit of capitalism (Carré, 1986, p.141). Turner (1974) develops this thesis when he explains the way in which Medina society was structured. There were the warriors on the one hand and the mystics on the other.

[1] We can read on this subject Marx, K., Engels, F., Lénine, V.I. (1969), *Sur les Sociétés pré-capitalistes*, Paris.

> Such a world leaves little room for production as Man either prays to God or makes war in God's name. War also allowed the raising of taxes.

The spending of tax was the origin of the merchant wealth in the towns. The powerful (Arabs and then Turks) administered the empire and took the dividends. The Muslim Arabs occupied the territories by placing garrisons in the cities and differentiated between Muslim and non-Muslim taxation. They established separate camps, lived off the fruits of their conquest and the taxes paid by the non-Muslims, in exchange for their freedom and protection. They thus organised life for the believers and non-believers. They incited some to convert in order to benefit from the same fiscal advantages as the believers and others to remain Christian or Jewish in order to benefit from the possibility of offering services that the other beliefs could not propose. The Muslim presence became synonymous with the opportunity for exchange and led artists and merchants (Jews and Christians mainly) to offer their services in the garrison cities where the Arab aristocracy resided. This is how the large cities developed in Muslim areas. The triumph of commerce and the wealth of the merchants were based essentially on the spending of spoils acquired by the nobility, or the occupying force. This Muslim aristocracy disengaged revenues from the fiscal system of the land. It incarnated the power of the land owners (Benabdelali, 1999, p.183 and p.275) who lived off their land revenue and imposed the values of generosity and donation which predominated in society and were contrary to the diffusion of capitalist values of frugality and efficiency (Benabdelali, 1999). By socially dominating the merchants the aristocrats maintained a donation economy which recycled agricultural surplus and created a blooming urban production sector (Benabdelali, 1999, p.307). Schematically we could say that Muslim law incited the Arabs to become warriors or mystics and non-believers to do business. Thus the law organised these roles.

The history of the rise of Islam as a civilisation illustrates the observation that the descendants of societies who were the first to have centralised government and organised religion ended up dominating the modern world. The union of government operated with its resulting fruits, writing and technology, as one of the four main sets of immediate elements which gave history its general configuration (Diamond, 1997, 2000, p.272). The whole difficulty for these centralised regimes with a theocratic ideal based on predation revenue is to find the correct level of predation[2]. We then find ourselves in the configuration described by Baumol (1990) for the Chinese and Roman empires. The Empires of India, China or Germany in the Middle Ages, he says, collapsed because they asked too much from the producing people, more than they could pay. This explains the decline and their political helplessness. For without a solid economic base, political authorities cannot finance army or administration; its military power is reduced and corruption within the administration results. It is because a society progressively values predation more than production that it declines in relation to societies who invent a best institutional system to production. The economic superiority of one civilisation over another is relative. By inventing capitalism Europe discovers a more efficient means of controlling predators and gives itself the means to finance a powerful army which can itself engage in a logic of spoils : the logic *Arab-Muslim believer-non believer* is the story of a government model which suffocates entrepreneurial initiative, flatters the predators' ego and exhausts itself in military expansion, thus limiting its survival conditions once another area discovers a more efficient institutional system, or succeeds better than others in fighting parasitism and inciting cooperation (Zywicki, 2000, p.87).

Preponderance of collective ownership of natural resources

Islamic law legitimises, thirdly, the public and common ownership of land[3]. It prevents privatisation and realisation of liberal order where the individual rights are exclusive and transferable.

There exist several types of land ownership: State property, ownership of conquering Arabs and non-Arabs, ownership of non-Muslims, ownership of religious institutions (*Waqf*) and collective property (Linant de Bellefonds, 1959, p.121; Denoix, 1996). We find these forms of ownership in the Ottoman

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[2] The system of fiscal farms of the Ottoman Empire had the same effect. These fiscal farms (*Iltizam*), held for a short period, incited the owners to overexploit the peasants and ruin local agriculture (Brasseul, 2004, p.p.30).

[3] See Sylvie Denoix, special number of *Revue des mondes musulmans et de la Méditerranée*, Année 1996, volume 79, Nr 1, dedicated to "Biens Communs, patrimoines collectifs et gestion communautaire dans les sociétés Musulmanes".

Empire (Bozarslan, 1988). The Ottoman Empire possessed a mosaic of property ownership, State (*miri*) or private (*Seldjoudike*, *Wakf, etc.*).

(1) The first form of ownership was State property. It was built during the first caliphate of land possessed by the warriors who fought Islam. The State (Caliph) had the right to appropriate one fifth of the spoils after a conquest, the occupied land.

(2) The second form of ownership was the property of the Arab and non-Arab conquerors (as in Iran) who had adopted Islam as religion. They had to pay *Zakat* which represented 2.5% of goods and was destined for the poor.

(3) The third form of ownership was that of the non-Muslims. This ownership was the most profitable for the political authorities as they paid the *Kharäj*[4] (tax destined for the State and calculated in function of the surface exploited) and an annual tax per capita (*Jazieh*). The non-Muslims did not have the same freedom to use their revenue as a Muslim owner, soldier, public servant, etc.

(4) The fourth form of ownership was that originating from the *Waqf*, or the lands given to religious and charitable institutions. These lands were exonerated partially or totally from taxation. The property of religious institutions was the subject of great debate, as it was generally accepted that the *Waqf* (Shatzmiller, 2001; Cahen, 1961) was at the origin of behaviour unfavourable for economic development of countries in the Muslim area. The economists rapidly condemned immobilisation for perpetuity of vast expanses of land which excluded them from the market and represented mortmain property (Coulson, 1995, p.190).

(5) The fifth form of ownership was the existence of Muslim collective property. The existence of a collective or common property, the extent of which is difficult to determine in remote times and sometimes even today, is explained by two main *hadîths*[5], the third being of lesser magnitude (Linant de Bellefonds 1959, p.121). The non appropriable nature of land results not from its own nature (as there exist private pastures and appropriated forests) but from the principle consecrated by the Sunna that some things are a gift from God to which consequently everyone has an equal right (Linant de Bellefonds, 1959, p.123). These lands permanently became common *res*. They can no longer be anyone's property. Inevitably the common *res* represent a risk of destruction of natural pastures or forest patrimony (Linant de Bellefonds, 1959, p.114). This tragedy of common pasture exists for all natural resources: common land, water, grass and fire, but also deposits of asphalt or salt.

The importance of common and public ownership agrees with rent culture. The classical Islamic law is neither favourable to privatisation of natural resources (land, water, grass, asphalt or salt) nor individualism of rights. It does not predispose the advent of a free market of water[6] or land. It can prevent evolution of the law toward more liberal forms. It gives priority to morality over efficiency.

Restricted ownership

Muslim right, to conclude, does not give the owner free use of his property. The owner is forced to accept moral rules that apply to everyone. He has obligations toward the community as this is God's precept, in exchange for which he can exercise rights of private use over these possessions (Gardet, 1930, 1972, p.112). Ownership does not come first. It depends upon superior moral principles which include the submission of man to God and his principles. These principles restrain ownership rights in several ways.

Individual freedom, otherwise stated as the use of one's property, is limited by prohibition of use, obligation to pay tax for the poor (*Zakat*), succession rights, the absence of a legal entity, collective lands, the higher right of the State to the land, and the prohibition to appropriate water and grass for oneself. All these restrictions are the origin of institutions which are distinct from free market institutions.

(1) Primitively, loans with interest, financial trading, rental of capital, were formally condemned by Islam. Muslim jurists very soon found solutions to get around the law and resort to credit. Rather than

[4] According to Noël J. Coulson (1964, 1995, p.25) it is Umar, one of the four companions of the Prophet, who defined Muslim public finances and land tax (Kharäj) on the occupant, inaugurating a new statute for land.
[5] The *hadîths* are texts compiled which retrace the word or acts of Mohammed, and are generally referred to as the *Sunna* ("tradition").
[6] See for instance Caponera (1973, 2003).

lend money to buy a house, the bank bought the house and rented it. The result of this prohibition was to harm the development of a capitalist banking and financial system in the East.

(2) *Zakat* (Sura 21, v. 73) justifies redistribution and prepares Arab socialism.

(3) Succession rules in favour of non-division of Muslim lands, otherwise stated judicial situations where at least two persons have common title of the same nature exercised on the same property or set of properties without there being material division of their share. This also covers insecurity for non-Muslim lands. Non-division limits the concentration of wealth. More generally it threatens the succession of companies and all capital of one generation to another (Kuran, 2004a). It has the effect of the civil code on land division in France. Muslim succession rights fragmented fortunes and had the unintentional effect of limiting innovation (Kuran, 2003, 2004b, p.75). It reinforced the effect of absence of legal entity on the dynamic of land accumulation in Muslim lands.

(4) The absence of legal entity prevented the emergence of collective enterprise having legal rights distinct from those of individuals who finance it (*corporation*). Kuran (1995) thus explains why the finances of the Middle East before AD 1000 were made without banks and without a credit market in the modern sense of the term. The incertitude about the legitimacy of interest and the lack of corporate law led to contracts where the borrowers and lenders were individuals (Kuran, 1995, 2004b, p.73). This also had the effect of limiting investment and *in fine* innovation and growth. The rigidity of Muslim law prevented the countries submitted to it from developing large-scale enterprise capable of exploiting scale economy and developing new technology.

All these restrictions prevent the view that Muslim law is favourable to free market institutions. It is possible that this law evolved or that it was not entirely applied, but it created an economic ideal which is not the ideal of free liberal society. Muslim law, derived from the interpretation of the sacred texts of Islam, did not then predispose the Muslim civilisation to discover capitalist institutions. It created a non-capitalist attitude unfavourable to free markets. The religious justification of slavery, inequalities between men and women, and Muslims and non-Muslims, spoils, collective ownership of natural resources, prohibition of usury or speculation, solidarity obligations, inspired a non-capitalist model. This is a rent model where the government distributes the privileges among those who make allegiance to power. The ideal of the Muslim city had the effect of composing a non-capitalist economic model rather hostile to puritan values. It created conditions for the existence of a prosperous and advanced system but one which was not prepared for competition with an alternative economic model, capitalism. The history of the economic models of Muslim empires leads us then to conclude that Islam did not predispose Muslims to discover capitalism and its institutions.

WHY ARE SOME MUSLIM COUNTRIES FAIRLY FREE?

Neither the model of rent that dominated the economic organisation of Empires nor the restrictions on property rights listed in the classical Islamic law predisposed, therefore, Muslim countries to discover the institutions of economic freedom as an ideal economic order. It is possible that this right evolved or was not implemented, but it invented an economic ideal that is not the ideal of the free market. Islamic law derived interpretation from the sacred texts of Islam which did not predispose Muslim civilisation to adopt free market institutions (Facchini, 2010). It created a culture unfavourable to economic freedom. Nevertheless, there are some countries which are fairly free in the Muslim world (Table 1, Appendix). The contemporary history may, perhaps, enable explanation of these evolutions. The past is not only Islamic law and a rent model, it is also European colonisation. The colonisation caused the phenomena of cognitive dissonance and ideological inconsistency among Muslims who believed in the perfection of their social and economic model. They believe it was inspired by God and it could not be wrong.

The evolution of institutions in the Muslim world began with the decline of the Turkish Empire and colonisation mainly by the French and British. It shows both the importance of institutional competition in institutional design and the role of colonisation (violence).

The choice of institutions in a time of independence determined by the Cold War and the opposition between two models was between capitalism and Soviet socialism. In this period the ideals of the Islamic city compared themselves to foreign models. It should be said that Islam was compatible with liberal capitalism or socialism. This issue is the doctrinal translation of institution competition between capitalism and socialism. Then, three major events explain the link between Muslim countries and liberal capitalism in the nineteenth and twentieth centuries: the institution competition between the Ottoman Empire and Europe, colonisation and the choice of economic model at independence. These choices under constraints explain the various levels of economic liberalism among Muslim countries. They explain the existence of different institutional trajectories and the singularity of each country.

The crisis and institutional competition.

The institutional competition between West and East alters Islamic values. As in the new political economy, crisis plays a role in institutional change. In the nineteenth and twentieth centuries the Ottoman authorities and the colonising Europeans conceived Islam to be an obstacle to economic development and the adoption of capitalism. For this reason they tried to modernise Muslim law and practices. For Khadduri (1946), Turkish defeat by the Russians in 1774 was at the origin of thought about the possibility of introducing western concepts into the empires' institutions. This would lead later on (1839–1856, *Tanzimat*) to the Sultan instituting equality of rights of Muslims and Christians and the creation of civil courts. These measures were however never supported by the religious authorities. They announced liberal reform in 1909–1918 and later with the actions of Mustafa Kemal Atatürk, went so far as to impose western-style suits for men (law of 1925) (Kuran, 1997b, p.315) and to adopt the civil code. The Turks during this period tried to modernise law and morality in their country. We can suppose then that the Turkish presence was rather favourable towards liberalisation. It places the seed of freedom in the history of these countries, the idea of liberalisation. Iran had chosen the same strategy of modernisation from 1906 to 1979. In 1935 it banned the veil for women and forced men to wear western clothes. These choices explain the level of economic freedom in Turkey.

Colonisation

Judicial traditions of the colonists, also, play a role of incubator (Table 3). For instance, La Porta, Lopez-de-Silanes, Shleifer and Vishny (1998) considered the Islamic past less important than the influence of western colonialism. They place their legal system in four western-centric families: English Common Law, French Commercial Code, German or Scandinavian Commercial Code. In their sample the legal origin of Malaysia, Nigeria and Pakistan is English Common Law. The legal origin of Egypt, Indonesia, Jordan and Turkey is the French Commercial Code. The history of the economic models of Muslim countries is, under these conditions, the story of restricted institutional choices by realms of possibilities of a given age. There were the British with their Common Law tradition, the French, the German and Scandinavian traditions and the Russians who invented a new economic model and Soviet law in 1917. Behind these five traditions five economic models take form, Anglo-Saxon, French, German and Scandinavian capitalism and the Soviet model. The ideal of a westernised Muslim city in a liberalist or socialist sense can then only inflect the relationship which could exist between Muslim law issuing from the interpretation of the sacred texts and today's law. This inflexion, imposed or chosen, explains, in the framework of the institutional dependence path theory why some countries are more liberal than others.

Globally it is accepted that British colonisation bequeathed a more liberal judicial tradition than the French, Spanish and Russian (Soviet) continental traditions (Scully, 1987; La Porta, Lopez-de-Silanes, Shleifer and Vishny, 1998; North, 1990; Shirley, 2004, pp.617–618). Spain transplanted its centralised government and hegemonic property rights developed by the nobility to its colonies in Latin America. England brought its decentralised, limited government to its colonies. As a result the United States and Canada were better positioned to create good institutions for development than Latin America (Shirley, 2004, p.617). For Muslim countries British colonisation explains the high score of economic freedom in the Persian Gulf: Bahrain, Oman, Qatar, Kuwait, UAE, Malaysia, Saudi Arabia (Tables 2 and 3). Jordan is not an exception. Countries occupied by France are generally classed among the countries that are less free (Guinea, Senegal, Mali, Algeria, Djibouti, Mauritania, Niger, Syria, Chad, Lebanon, Tunisia and Morocco). Then, the colonisation heritage dominates the religious factor in the last century in explaining economic freedom. This fact is noted by Bin (2007, p.15[7]) regarding tax policy in Algeria. Nevertheless,

[7] Bin (2008, p.15) cites in note 26 of the thesis of Bouderbala, M.A. (2000), *La réforme fiscale en Algérie,* Thèse Paris 1, 2000, $ 3 et 4, pp.8–11.

countries colonised by the British are not always carriers of high level economic freedom. We can cite Pakistan, Sierra Leone, Bangladesh and Nigeria. So other factors exist to explain the institutional *design*.

Table 2
Economic Freedom 2009, Western Empires and Muslim Right

British Empire[8]			French Empire[9]			Soviet Empire[10]		
Average (total)	Average Muslim Countries	Average Non-Muslim Countries	Average (total)	Average Muslim Countries	Average Non-Muslim Countries	Average (total)	Average Muslim Countries	Average Non-Muslim Countries
60.57	60.75	60.59	**53.68**	53.85	53.73	**58.76**	54.86	61.35

The study of Soviet colonisation should be associated with the effect of the Cold War on institutional choices.

The Cold War: USA *versus* USSR

The Cold War had important effects on institutional choice at the moment of independency. The ideological and historical contexts are different in 1991 and after the Second World War. In the Cold War there were two global spheres: the USA influential sphere and the USSR sphere of influence. The Soviet model was, however, credible. In 1989 the model collapsed and was no longer an alternative. This was the victory of liberal capitalism and its model. The countries under the USSR's influence were Afghanistan, Algeria, Syria, Libya, Yemen, Mali, and Guinea. Albania was under Chinese influence. Kyrgyz Republic, Kazakhstan, Azerbaijan, Tajikistan, Uzbekistan, and Turkmenistan were in the USSR. The USSR influence pulls these countries away from the free market ideal. They built a socialist interpretation of Islam. The Soviet model referred to as *Third Worldly* originates in part from conceptions of one of Stalin's right hand men, who died in a camp, Mir Sayid Sultan Galiev. In particular Galiev developed the idea that the Koran was incompatible with capitalism, because it prescribes the absence of private ownership of land, water and forest, and prohibits lucre and usury. Islam was for him a collectivist and authoritarian religion which extended its directives to all sectors of social and private life (Bennigsen and Lemercier-Quelquejay, 1986). The Soviet influence explains the singular trajectory of Yemen relative to the other countries of the Persian Gulf and the choices of secular leaders after independence.

Leaders such as Kadhafi in Libya (Green Paper) or Boumediene in Algeria searched for a means of economic and social development for their countries in socialism. Talahite (2000), also, reports for Algeria that access to ownership of housing was hindered and discouraged for a long time. The threat of being nationalised or simply dispossessed of one's property by a ranking army officer or influential person weighed like the sword of Damocles over the ordinary citizen. This insecurity, which remains strong, leads to clandestine accumulation, escape abroad and under-investment. Only those individuals who have access to the State's machinery are protected by law, meaning the discretion of the powerful to whom one makes allegiance.

In the sample, the countries under US influence and the capitalist European countries were Morocco, Tunisia, Egypt, and Jordan. These countries chose feudal and vote-catching economies where the markets are controlled by a minority to whom the State gives a monopoly via exclusive rights, licences or other State-controlled privileges (Nienhaus, 1997). While socialism made the market disappear to be replaced by the plan, the income economy eliminates competition and substitutes a distribution and protection of income economy for it. These systems block productive activity of entrepreneurs and favour non-

[8] Botswana, South Africa, Uganda, Namibia, Swaziland, Kenya, Tanzania, Ghana, Zambia, Gambia, Nigeria, Malawi, Lesotho, Sierra Leone, Hong Kong, Australia, New Zealand, Malaysia, Fiji, Samoa, Pakistan, Sri Lanka, India, Tonga, Micronesia, Maldives, Bangladesh, Solomon Islands, Kiribati, Burma, Bahrain, Oman, Qatar, Kuwait, Jordan, UAE, Yemen, Guyana, Belize, Barbados, Bahamas, Saint Lucia, Trinidad and Tobago, Saint Vincent and the Grenadines (46 countries).

[9] Egypt, Senegal, Mali, Mauritania, Niger, Djibouti, Chad, Comoros, Tunisia, Morocco, Algeria, Syria, Guinea, Lebanon, Madagascar, Benin, Gabon, Ivory Coast, Cameroon, Togo, Central African Republic, Rep of Congo, Vanuatu, Cambodia, Vietnam, Laos (25 countries).

[10] Kyrgyz Republic, Kazakhstan, Azerbaijan, Tajikistan, Uzbekistan, Turkmenistan, Armenia, Belarus, Estonia, Georgia, Latvia, Lithuania, Moldavia, Russia, Ukraine (15 countries).

productive activity, predation. Here we find the exact income model of the empire. Independence, then, allowed the rebuilding of economies directed and controlled by small groups: families (Salad in Saudi Arabia, Chaykh Sa'ad in Kuwait), Putchist military groups in Egypt and an ethnic minority in Jordan.

Table 3

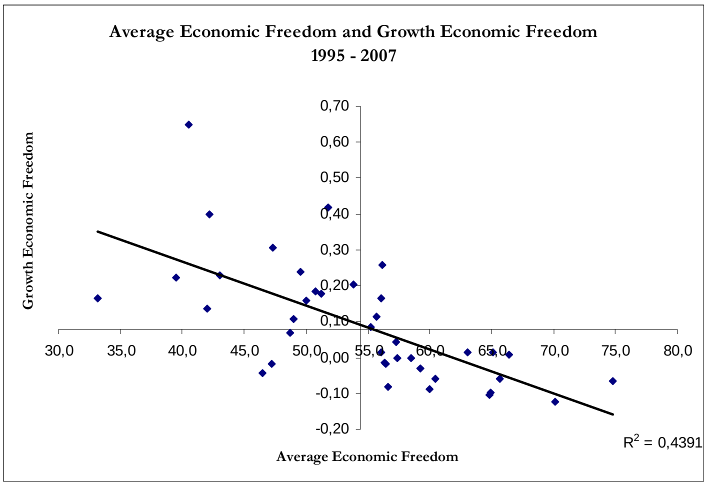
Path dependency

Countries	Pre-Islamic	Islam	Ottoman	Colonisation	Independency
1 Bahrain 74.8	Sassanid – Iranian	Empire Arab – 7th c.	yes	British	1971
2 Oman 67.0	Sassanid –Iranian	Empire Arab – 7th c.	1507 Portugal	British	1980
3 Qatar 65.8	Sassanid – Iranian	Empire Arab – 7th c.	yes (1872)	British	1971
4 Kuwait 65.6	Sassanid – Iranian	Empire Arab – 7th c.	yes	British	1961
5 UAE 64.7	Sassanid – Iranian	Empire Arab – 7th c.	yes	British	1971
6 Saudi Arabia 64.3	Sassanid – Iranian	Empire Arab – 7th c.	yes	British	1932
7 Jordan 65.4	Sassanid – Byzantium	Empire Arab – 7th c.	yes (16th – 19th c.)	British	1946
8 Turkey 61.6	Sassanid – Byzantium	Mercenaries of Abassid Caliphs	yes 1299 - 1923	Coalition	
9 Malaysia 64.6	Malacca Buddhist	1414 *via* China	no	Netherlands/RU	1957
10 Albania 63.7	Byzantium – Christian	Ottoman – 15th c.	yes	China	1991
10Kyrgyz Repub.61.8	Mongol	Mongol – 13th c.	no	Russia 1876 – Soviet	1991
11 Kazakhstan 60.1	Mongol	Mongol – 13th c.	no	Russia – Soviet	1991
12 Burkina Fasso 59.5	Ghana Empire	*via* Mali Empire	no	French	1958
13 Egypt 58.0	Byzantium – Christian	Empire Arab – 639	yes	British – French	1922
14 Lebanon 58.1	Byzantium – Christian	Empire Arab – 637	yes	French	1946
15 Tunisia 58.0	Byzantium – Christian	Empire Arab – 8th c.	yes	French	1956
16 Morocco 57.7	Byzantium – Christian	Empire Arab – 7th c.	no	French	1956
17 Pakistan	Sassanid – Iranian	10th c.	no	British	1947
18 Yemen 56.9	Sassanid – Iranian	Empire Arab – 7th c.	yes	Soviet – British	1969
19 Algeria 56.6	Byzantium – Christian	Empire Arab – 8th c.	yes	French (1830)	1962
20 Senegal 56.3	Songhai Empire	1050 Mali Empire	no	French	1960
21 Gambia 55.8	Songhai Empire	1050 Mali Empire	no	British	1960
22 Mali 55.6	Ghana Empire (750–1240)	1050 Mali Empire	no	French	1960
23 Nigeria 55.1	Songhai Empire	10th c. (Arab Merchant)	no	British	1954
24 Mauritania 53.9	Ghana Empire (750–1240)	7th c.	no	French	1960
25 Niger 53.8	Songhai Empire	1010 Mali Empire	no	French	1958
26 Indonesia 53.4	Hindus-Buddhist	15th – 16th c.	no	Netherlands/Japan	1945
27 Djibouti				French	1977
28 Syria 51.3	Byzantium – Christian	636	yes (1516)	French	1946
29 Maldives 51.3		1153 Sultana	no	British	1965
30 Guinea	Ghana Empire (750-1240)	10th c.	no	French	1958
31 Azerbaijan 58.0	Byzantium - Christian	667	yes	Soviet	1991
32 Tadjikistan 54.6	Kouchan Empire	8th c.	no, Russia	Soviet	1991
33 Uzbekistan 50.5	Sassanid – Iranian	712	no, Mongol	Soviet	1991
34 Sierra Leone 47.8		10th c.	no	British	1961
35 Bangladesh 47.5	Dynasty Buddhist	12th c. *(soufi)*	no	India-British	1971
36 Chad	Kingdom of Kanem	1085	no	French	1958
37 Guinea-Bissau	Ghana Empire	1050 Mali Empire	no	Portugal	1974
38 Iran 44.6	Sassanides	7th c. (637)	yes	British –USA	
39 Libya 43.5	Byzantium - Christian	Empire Arab - 632–661	yes	Italy	1951
40 Comoros 43.3	Asian – African	1676 Sultana	no	French	1974
41 Iraq n/a	Byzantium - Christian	Empire Arab – 7th c.	1534	British	1932
42 Sudan n/a	Christian (I°)	640	no	British	1956
43 Afghanistan n/a	Sassanid – Iranian	8th c.	yes	Soviet	1992 - 1996
44 Somalia n/a	Ethiopian Empire	13th c. Sultana	no	Italy	1941
45 Brunei	China	1520 Sultana	no	British (1888) – China	1984

The fall of the Berlin Wall

After the Second World War a political leader could choose socialism. With the fall of the Berlin Wall and the collapse of the Soviet model this choice created prohibitive justification costs for the political elite. The collapse of the Soviet model changed the ideological context and explains why people and political entrepreneurs can no longer believe in real socialism. No alternative exists. Choosing the status quo in these circumstances is a decision contrary to the sense of history and expectations of people. The market transition is almost obvious. The rich countries provided financial assistance to old countries under Soviet influence. So the political imagination in 1991 is very different from that prevailing in 1950 when many countries in our sample gained independence. It is, in this context, that we must explain the score of economic freedom in Albania, Kyrgyz Republic and Kazakhstan (moderately free, Table 2, Appendix) and in Uzbekistan, Azerbaijan, Tajikistan and Turkmenistan (not very free or not free).

Figure 1



Source : Table 4.

Table 4

Evolution of economic freedom in Muslim countries (1995 – 2007)

Liberalisation	Status quo	Socialisation
Uzbebistan + 65% (52.3)	Mali 4% (55.5)	Arab Emirates United Kingdom (-12%) (62.8)
Kazakhstan +42% (60.5)	Pakistan 2% (56.8)	Malaysia (-10%) (64.5)
Tajikistan +31% (54.5)	Qatar 1% (62.2)	Saudi Arabia (-10%) (62.8)
Albania +26% (63.3)	Kuwait 1% (68.3)	Morocco (-9%) (56.4)
Turkmenistan +23% (43.4)	Jordan 1% (63)	Guinea (-8%) (52.8)
Kyrgyz Republic +16% (61.1)	Senegal 0% (58.2)	Bahrain (-7%) (72.2)
Bangladesh +24% (44.9)	Turkey 0% (59.3)	Tunisia (-6%) (59.3)
Iran +22% (44.0)	Algeria (-1%) (55.7)	Oman (-6%) (67.4)
Egypt +20% (59.2)	Djibouti (-2%) (52.3)	Sierra Leone (- 6%) (48.9)
Libya +17% (38.7)	Indonesia (-2%) (53.9)	Lebanon (-3%) (60.9)
Syria +14% (46.6)		
Nigeria +18% (55.5)		
Mauritania +18% (55.0)		
Niger +16% (52.7)		
Chad +11% (47.7)		
Burkina Fasso +11% (55.6)		
Gambia +8% (56.6)		
Yemen 7% (52.8)		

Source : Economic Freedom, *www.heritage.org* : United Arab Emirates, Malaysia, Saudi Arabia, Morocco, Guinea, Bahrain, Tunisia, Oman, Sierra Leone, Djibouti, Indonesia, Algeria, Turkey, Senegal, Kuwait, Jordan, Qatar, Pakistan, Mali, Yemen, Gambia, Chad, Burkina Fasso, Syria, Niger, Kyrgyz Republic, Libya, Mauritania, Nigeria, Egypt, Iran, Turkmenistan, Bangladesh, Albania, Tajikistan, Guinea Bissau, Kazakhstan, Uzbekistan.

Table 4 presents the evolution of economic freedom in Muslim countries (1995 – 2007). It shows that the countries of the ex-Soviet empire are those which have liberalised the most during the last twelve years. Table 4 also gives the results of Pitlik (2008, p.274) and Gwartney, Lawson and Holcombe (1999). There is a dependence effect. The more liberal countries are those which liberalise the least. This effect can be explained by the choices of political entrepreneurs. A state which liberalises is a state which loses its power over trade and its capacity *in fine* to purchase its legitimacy. The opportunity cost of liberalisation of the economy for the elite in power is weaker in an economy where economic freedom is weaker than in a country which has started to make reforms in favour of the free market. Liberalisation in the initial phase cannot touch the interests of the political and administrative elite. It is when liberalisation begins to affect more than the peripheral public income that it becomes costly for the predator and the reformer (political entrepreneur) who initiates the reform. It is at this stage that the rhythm of reform slows and liberalisation becomes weaker (Figure 1).

In these conditions the institutional path dependency of Muslim countries is modified by colonisation, the choices of independence in the context of the Cold War and the fall of the Berlin Wall, i.e., the failure of the Soviet economic model. It is, in this context, that we must understand the movement of liberalisation initiated in the nineties under the influence of the International Monetary Fund. While it is undeniable that the twentieth century was the century of institutional convergence, it is unfair, however, not to remark that this century was also a century of the revival of Islam. This revival translates in both innovation and intense intellectual debate on the interpretation of sacred texts and words of the God Messenger.

Liberal capitalism did not acquire a monopoly of economic models. It remains in competition with other ideals. The ideal of the free market is not shared by many Europeans. It is also opposed by many Muslims who try to resolve inconsistencies and cognitive dissonance from colonisation through the formation of a development model, not secular but Islamic. This model will be more in agreement with the "natural" institutional path dependency of the Muslim world. Part three focuses on the revival of Islam and its economic doctrine. It shows the dependence on the future that never reproduces the institutions of the past, but resumes in integrating their future.

THE REVIVAL OF ISLAM AND INSTITUTIONAL CHOICES IN MUSLIM COUNTRIES TODAY

At this step of reasoning Muslim right (beliefs and norms) is just one factor among others to explain their score of economic freedom. Nevertheless there is a lot of dissatisfaction *vis-à-vis* globalisation, poverty, identity, etc. Westernisation creates cognitive dissonance and incoherence in the Muslim world. There is competition between western culture and the ideal of the Muslim city. As was stated in the introduction, dependence on the past does not only affect the cost of institutional change; it also has an effect on the imagination, the definition of a world of institutional possibilities. The Muslims possess in their world institutional possibilities the choice of the *Shari'a*, or new *Shari'a*, or the ideal of the Muslim city. Christian or secular countries do not integrate into their world possible future choices of the *Shari'a*. The dependence path theory of institutions to religion is not confined to thinking of culture as a factor of inertia. Future institutions are determined by the ideal of society which is at the origin of the principle of a common civilisation. The referent for the ideal in the Muslim world is Islam and the *Shari'a*. Several ideals exist, but all are inspired by the *Shari'a*, by an idealised past, a story which becomes utopia. The twentieth century was the century of westernisation on the one hand and the renewal of Islam, of its ideal city, on the other. Most of the debates within Muslim countries refer to what is said by or supposed to be said by Islam on the market, democracy or European modernity. Without having the aim of surveying all viewpoints, we can nevertheless see that the political and intellectual elite of Muslim countries propose very different diagnoses but all are focussed around the religious question.

The effects of Islam have probably declined in the twentieth century, but its role in the institutional imagination of Muslims has not disappeared. It might even succeed in idealising the past and restoring to Islam its utopian dimension. The twentieth century was the century of westernisation and in some countries of liberalisation. The twenty-first century may be one of re-Islamisation of formal institutions, i.e., the inventing of a different economic model of western liberal capitalism. Four facts support this possibility: the role of Islam in the definition of the world of institutional possibilities (Section 3.1); the revival of political regimes with religious foundations (Section 3.2); the development of Islamic finance (Section 3.3); and hostility to private property, employment of women, competition and more generally free market of Muslims (Section 3.4).

The revival of Islam and definition of institutional world *possibilities*

The question of institutional adaptation of Muslim countries to European modernity is not new. It gave birth to the forced secularisation policies of Reza Shah in Iran and Atatürk in Turkey, to the Islam political party in India (*Jama'ati Islam*) (Kuran, 1997b, p.304), and to westernisation without renouncement of Islam in Pakistan, Islam remaining the source of all truth and all authority. It is today the origin of multiple economic doctrines that rival each other to give a direction to future reforms. Modern Islam is the offer of ideology produced by ideological entrepreneurs for political entrepreneurs.

Without trying to be exhaustive, we can cite the Islamic libertarianism of the *Minaret of Freedom Institute*[11], moderate Islam and modern radical Islam of Muslim Brothers, Saudian *wahhabites* or the Iranian revolution.

Libertarian Islamics uphold that the Koran is profoundly liberal. Several Sura and verses are mobilised to show this. The Koran forbids any forced imposition of Islam (Sura 2, v. 256)[12], condemns all religious intolerance (Sura 10, v.108), blesses private property (Sura 2, v.188)[13], insists upon the respect of commitments (Sura 2, v.177 and Sura 5, v.1) and proposes a number of rules of commercial law (Sura 2, v. 282–283). The decline of the Muslim area is explained by state control which was devoted to the model of government of the first Caliphat. In fact it would be the European countries who would have inherited Muslim liberalism via the theologians of the school of *Salamanque* in Spain in the sixteenth century. There would not in this sense be the Muslim world and the West. The two worlds would be one, sharing the same liberal ideals.

Moderate Islam considers that the work of interpreting the sacred texts should be reopened in order to not enclose Islam in laws which are not adapted to the modernity of Muslim countries today. This means adapting Islam to the West's financial practices.

Modern radical Islam proposes, on the contrary, to adapt the West's financial practices to Islam. This originates from the creation of the group of Egyptian Muslim brothers created in 1928 by *Hasan al Banna* (Carré, 1983), in the *wahhabism* proselytes of Saudi Arabia and in the whole of reflections which led to the Iranian revolution of 1979. It was prepared by intellectual and political groups in countries such as Iran, Morocco, Libya, Egypt and Saudi Arabia who created references common to the Muslim elite who initially ignored the message of radical modern Islam (Bouba Nouhou, 2005, p.151). The starting point is that the decline of the Muslim world is explained by Muslims' bad observance of the *Koranic* precepts. The error of the independent elite is to have sought in the West economic and political solutions to the problems of Muslim countries. All these groups preach a return to the *Shari'a* for this reason, the ideal of the Muslim city. They divide after that on what means should be used to attain this objective. Conservative Islam rejects the West and wishes to defend the patriarchal model of traditional Islam based on community values, authority and stability. Reformist Islam wishes, rather, to reaffirm modernisation of faith together with westernism. It is this last which is at the origin of development of an Islamic economic theory and is capable of inspiring an alternative development model (Kuran, 1997b, p.315). Some doctrines justify violence (terrorism); others prefer the re-Islamisation of minds together with democracy such as majority rule.

One of the innovations of this modern Muslim radicalism is to propose an economic model as an alternative to capitalism (Kuran, 1997b, 2005). The return of the *Shari'a* does not only mean return to Muslim penal law. It also means the implementation of Islamic finance (Martens, 2001). Islamic finance requires that lenders and borrowers of capital do not define interest (prohibition of usury or *riba*), share profits and losses, do not speculate (prohibition of incertitude, *gharar*), rely on real goods or adjacent assets and do not finance illicit goods such as alcohol, tobacco, gambling or arms (Martens, 2001, p.10; Kuran 1997b, 2009; El Qorchi, 2005, pp.47).

Whatever the vision of the ideal Muslim city, the intellectual Muslim proposes legitimate ideological innovation because this is in agreement with the Prophet's word. These innovations use the imaginary perfect Muslim city to convince that they are well founded. The reforms are brought about by ideological

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[11] The President of *Minaret of Freedom Institute* is an American, Dean Ahmad. He tries through this organisation to diffuse liberal ideas in the Muslim world.

[12] *Le Coran*, Les éditions du Jaguar, p.53.

[13] "*Do not rob each other unjustly of your goods, using them then to corrupt judges and seizing cynically a good part of others' goods by this infamous method*" (Le Coran, édition du Jaguar, p.37, translation by the author).

entrepreneurs who perceive personal gain (notoriety, reputation) in the diffusion of the idea and the means of being in agreement with their concept of Good (axiological rationality). Their ideas once taken up by a political leader and/or the people are at the origin of institutional changes. The idea is the seed of change. It is embodied in men, choices, and *in fine* in the institutions. The dependence path does not produce only the status quo. It also brings to light men's dependence on their world of possibilities. The invention of a new Muslim city built upon idealisation of the past brings this theory out perfectly. The most influential model is that of fundamentalist or reformist Islam. Their innovations modified profoundly the world of institutional possibilities of most countries in the Muslim world. They make fiction (ideal Muslim city) a reality. They are incarnated in political movements, in people, in political leaders. They spread and progress in the minds of the political elite, the people and the judges.

Political re-Islamisation

The political elites accept re-Islamisation to keep their power and control over public finances and political power which their position at the head of state gives them. They try and reinforce their religious legitimacy by giving more room to Islam in their speeches and their legislative decisions. Their judges are also influenced in part by the return of Islamisation of Muslim companies (Dupret, 1996, 1997, p.137). They cannot ignore the development of identity discussions which appear in Muslim countries. For this reason, they will have to interpret the law in an Islamist direction instead of making judgments based on a more western conception of law. This return to the religious identity of Islam may be interpreted as a defence of individual interests in a limited sense (self interest) or as a fight for values (axiological rationality). The defence of religious identity for one's interest returns to the defence of social capital (Hardin, 1995, pp.34–37). It is also in this way that Kuran (2004a, 2009 analyses the invention of Islamic finance. Islamic economy does not look for efficiency but for a means to resist globalisation and defend its identity. This return to Islam is also the result of an apprenticeship effect. If westernisation and secularisation are associated with poverty and misery caused by socialist institutional models and/or vote catching, it is logical that the younger generation tries another alternative which gives value back to their social and religious capital and invents an alternative which hasn't yet been tried.

Modern radical Islam however was placed in check several times, but generally by force, which under the hypothesis of the Austrian transition theory does not allow us to think that the current situation will last. In Syria this movement inspired several popular uprisings (1964, 1973 then 1982). It came up against the Baas party which has held power until now. There was also the relative failure in Egypt of the socialist working party in the 1987 elections. In Indonesia the *Shari'a's* position in the institutions is a recurrent question since Netherlands colonisation (Madinier, 2005). Moreover there was the failure of the movement in Tunisia (Ennahdha). In all these countries, however, modern radical Islam is progressing. This obliges the political authorities to consider this in their decisions in order to reinforce their religious legitimacy.

Islamisation also had its successes. The *coup d'Etat* of 30 June 1989 in Sudan enabled the installation of the *Shari'a*. There was the success of the Hamas party of the Iranian Shiites in Palestine (Gaza) as well as the success of the Islamic Salvation Front (FIS) in Algeria which is not inspired by the doctrine of the Muslim Brothers but shares a number of its positions. This success of the FIS was cancelled out by the *coup d'Etat* of 11 January 1992 which re-established the authority of the power in place and its control of the hydrocarbon revenues. In Mauritania the objective of the *coup d'état* of 3 August 2005 was to institute democracy while giving a place to Islam and an Islamic party such as the Tawassoul party (National Assembly for Reform and Development) (Choplin, 2008). In October 1999 the governor of a state in the North of Algeria instituted the *Shari'a* (Bach, 2003). Somalia adopted the *Shari'a* on 18 April 2009 (www.lemonde.fr). In Saudi Arabia, the *Shari'a* in its *Wahhabite* form applies. In Iran it is applied in its Shiite form. In Iraq and Afghanistan, countries occupied by the West, the new constitutions recognise the preponderant role of the *Shari'a* in producing laws. A number of countries are thus inspired by modern radical Islam, because their population is seduced for axiological and/or identity reasons by Islamisation of the economy and more generally by the social order. Results of surveys of Muslim beliefs reinforce the robustness of this double dependence path phenomenon. A large number of Muslims idealise their past in order to prepare for the future. They develop, then, a hostility towards free market values.

Economic re-Islamisation

Without this being generalised yet, we observe that Islamic financial activity is growing strongly (www.lemonde.fr 17.12.07; El Qorchi, 2005; Silva, 2006). Islamic finance is developing at a remarkable pace (El Qorchi, 2005, p.46). The cross-border data remain scarce. According to *The Banker* (05/11/2007) only 42.1% of banks operating in this market publish data on their Islamic activities. So, the data underestimates the weight of Islamic finance. Estimates vary of the total size of assets held internationally under Islamic finance, ranging upwards from $800 billion and with growth rates of 10% to 15% annually over the past ten years (Oakley, Bond, O'Murchu and Jones, 2008). Islamic financial institutions developed initially in Malaysia in the thirties, then in Pakistan in the fifties and in Egypt in the sixties (Ariff, 1988). At the beginning of the 80s, two countries officially introduced large-scale practice of Islamic finance: Iran and Pakistan (Martens, 2001, p.2). Nevertheless, Islamic finance is concentrated in the Middle East and Southeast Asia. Saudi Arabia and Malaysia have led to the creation respectively of 25% and 23% of Islamic products. If we take just the Islamic obligation (*sukuk al ijara*[14]) their evolution is very quick.

Re-Islamisation in Muslim opinion

The progress of radical modern Islam and the millennium practices of classical Muslim law translate concretely into Muslim opinion. Globally Muslims are fairly hostile to capitalist institutions. Under the hypothesis of the Austrian transition theory this opposition to the values of freedom threatens the tenability and the durability of economic freedoms in Muslim countries. It makes the arrival of an Islamic economy credible, an alternative to capitalism inspired by the Koran. Surveys carried out on Muslim beliefs attest to this evolution. They show that Muslims are generally unfavourable to the values of free enterprise economy (Guiso and Sapienza and Zingales 2003; Zingales, 2004; Rajan and Zingales, 2004; Crosette, 2000; Inglehart, 2005). They generally exploit the results of surveys – *World Value Survey*. We present only the information which enables correspondence of Muslim law to Muslim economic beliefs. We observe that Muslims remain hostile to equality between men and women in the employment market, to competition, and private property. They are on the other hand more favourable to redistribution of wealth. This corresponds to ancestral judicial restrictions of Muslim law on private property and individual freedom as described in the first section (Facchini, 2010).

Muslim law does not guarantee strict equality between men and women. It does not give the same rights to men and women. Surveys show that despite the evolution of law in Muslim countries, mentalities remain attached to these unequal principles. All religions appear in fact rather hostile to women working, but it is Muslims who seem most opposed to this (Guiso and Sapienza and Zingales, 2003, p.228; Zingales, 2004, p.58). Generally religion tends to make believers hostile to women working. To the question "*when work is rare, should men have more right to work than women*?" believers answer "yes" more often than atheists (3% compared to average); Catholics and Protestants are close in this respect. Muslims are the most opposed to women's rights (10% compared to average).

This result concurs with Inglehart (2005) who observed that greater inequality between men and women existed in Islamic societies than in other societies (large difference in educational levels) and that this created a culture of domination, intolerance and social dependence (Inglehart, 2005, p.14). He recalled on this occasion work written by Inglehart and Norris in 2003[15] which found that Finland, Sweden, Germany, Canada and Norway were the countries most favourable to equality between men and women. While Morocco, Egypt, Bangladesh and Jordan were those where inequality was most accepted, for Inglehart and Norris (2003), religion and particularly Islam, is the main obstacle to women's emancipation. This result also concurs with the survey of the *Pew Research Center for the People and the Press* (2003, p.42) which shows that in more than half of Muslim countries surveyed individuals feel that women have no place other than

[14] Sukuk essentially amounts to commercial paper that provides the subscriber with ownership in the underlying asset: asset-backed note.
[15] Inglehart R. and Norris P. (2003). Conferences of Viennes (1993), Cairo (1994) Beijing (1996) recognised the rights of women and equality of the sexes. This movement is the result of the rising post-materialist values.

domestic work. At a comparable socio-economic level, Muslim societies appear then systematically less favourable to women's rights, as much in expressed attitudes as objective socio-economic indicators (education, salaries, responsibility, access to contraception, etc.) Free market entry for work for women is weakened.

Muslims are also hostile to free market institutions, in other words private property, competition and procedural justice. Private property guarantees free entry or the right to be competitive. It scrupulously respects then the principle of procedural justice. To believe that private property is desirable is also to not fear competition and to refuse the principles of distributive justice.

Generally, believing in God makes one favourable to free market. Religions differ however in their attitude in relation to private property (Guiso and Sapienza and Zingales, 2003; Zingales, 2004, p.59). To the question "*in business and industry should private property be favoured?*" it is the Buddhists, then the Catholics, Protestants and Hindus who most often answer "yes". Muslims are least favourable to private property. Muslims are also rather hostile to competition and have a more pronounced taste than others for redistribution. It is coherent with their hostility to private property and the rent model which appears throughout the economic history of countries in this area. Atheists are most favourable to equality of revenue than people brought up religiously and those who practise it. Muslims and Jews are clearly favourable to equality of revenue while Protestants, Hindus and Buddhists are more favourable to market distribution.

All these facts show that Islam is always present in the institutional imagination of Muslims. It plays a role in the institutional choices of Muslim countries, their business practices and their ways to justify their decisions. The hostility of opinion on the free market ethic, the application of *Shari'a* and the rise of Islamic ethics move Muslim countries away from ethics of free market. They reinforce the idea that religious ideology has an effect on institutional choices in the East. It is not, in this context, obvious that political elites have an incentive to liberalise their economies and protect property rights. The scepticism in the West regarding material progress and economic freedom is not in favour of liberalism in the Muslim world, under the principles of institutional competition.

CONCLUSIONS

This study has enabled us to bring to light the existence of a double institutional dependence path of the Muslim world to Islam. It has shown, firstly, on average, Muslim countries are not very free. We explained this situation by the history of the economic model of the Arab and Ottoman Empire. It also showed that Muslim countries had been subjected to influences other than Islam. The British influence has been good for economic freedom in the Persian Gulf. In the period of the Cold War, the US influence has, also, pulled some countries from the socialism model in Tunisia and Morocco. *A contrario,* the French influence and the Soviet influence have been less favourable to economic freedom. These influences explain the westernisation of the Muslim world.

The contemporary evolutions show, nevertheless, a re-Islamisation of Muslim opinion and intellectual debates. We predict, for this reason, that economic freedom in these countries will decline. The history of the twentieth century does not explain the natural trajectory of Muslim countries which are attracted by the ideal of the Muslim city (*Shari'a*, Islamic finance, etc.). Muslim people do not have as an ideal the free market. The success of modern radical Islam faced with alternatives such as a liberal or moderate Islam weakens the durability and sustainability of liberalisation in this civilisation area. Economic liberalism is not the ethical road of the Muslim world. This fact predicts also that liberalisation would not be an economic success. The cultural prerequisites of successful reforms are not met. To succeed, the government should invest in liberal propaganda to explain why liberalism and Islam are reconcilable. Liberalisation is not only hindered by political barriers. It also depends upon ethical values of the people and political elite. This ethic inspires the world of institutional possibilities and orients their choices. Human action is not only a consequence of the environment because it can make fiction a reality. So people's institutional imagination is as important as their experience.

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APPENDIX

Table 1

Economic Freedom by Region

North America	Europe	South and Central America/Caribbean	Middle East/North Africa[16]	World Average	Asia Pacific	Sub-Saharan Africa[17]
75.7	66.3	60.1	60.0	**59.5**	57.6	53.1

Source: heritage.org report 2009 (Chapter 5).

Table 2

Breakdown of indicators of economic freedom for Muslim countries by Region (2009)

Countries	2009	1	2	3	4	5	6	7	8	9	10
The whole	58.7	59.7	69.5	82.5	74.5	72.9	39.5	41.0	32.0	30.2	59.5
Arabs	58.7	63.4	69.8	86.3	70.1	73.4	43.9	45.0	38.1	36.6	60.3
Arabian Peninsula	**65.6**	**71.1**	**80.7**	**97.3**	**70.0**	**69.9**	**47.1**	**52.9**	**45.7**	**45.1**	**76.1**
Magreb and Marrakesh	54.5	59.9	64.0	79.6	69.1	74.9	42.5	39.2	32.9	30.7	52.5
Black Africa	52.1	46.8	65.2	72.0	78.2	75.4	40.0	37.8	26.7	23.8	54.7
Ex Communist	55.4	60.1	78.2	89.1	79.3	68.5	36.7	38.3	23.3	21.5	59.6
Asia	55.6	63.2	65.1	78.4	88.6	72.8	32.5	35.0	33.8	29.5	57.3
Iran	44.6	60.6	57.4	81.0	79.7	60.1	10	10	10	25	52.4
Turkey	61.6	69.9	86.6	73.2	83.4	71.1	50	50	50	41	40.3

Sources : www.heritage.org, author's calculation of averages: 1 Business Freedom; 2 Trade Freedom; 3 Fiscal Freedom; 4 Government Freedom (size of Government); 5 Monetary Freedom; 6 Investment Freedom; 7 Financial Freedom; 8 Property Freedom; 9 Freedom from corruption; and 10 Labour Freedom.

Table 3

Indexes of economic freedom in Muslim countries 2009 (45 countries)

FREE 80–100	FAIRLY FREE 70–79.9 (1 country)	MODERATELY FREE 60–69.9 (11 countries)	NOT VERY FREE 50–59.9 (21 countries)	NOT FREE 0–49.9 (11 countries)
	1 Bahrain 74.8	Oman 67.0 – Qatar 65.8 Kuwait 65.6 – Jordan 65.4 UAE 64.7 Malaysia 64.6 Saudi Arabia 64.3 Albania 63.7 Kyrgyz Republic 61.8 Turkey 61.6 Kazakhstan 61.6	Burkina Faso 59.5, Lebanon 58.1, Egypt 58.0, Tunisia 58.0, Azerbaijan 58.0, Morocco 57.7, Pakistan 57.0, Yemen 56.9, Algeria 56.6, Senegal 56.3, Gambia 55.8, Mali 55.8, Nigeria 55.1, Tajikistan 56.3, Niger 53.8, Indonesia 53.4, Djibouti 51.3, Syria 51.3, Maldives 51.3, Guinea 51.0, Uzbekistan 50.5	Sierra Leone 47.8, Bangladesh 47.5, Chad 47.5, Guinea-Bissau 45.4, Iran 44.6, Turkmenistan 44.2, Libya 43.5, Comoros 43.3 Afghanistan (n/a) Somalia (n/a) Sudan (n/a)

Source: economic freedom index, www.heritage.org, report 2009.

[16] Middle East/North African Countries : Bahrain, Israel, (score 67.6) Oman, Qatar, Kuwait, Jordan, United Arab Emirates, Saudi Arabia, Lebanon, Egypt, Tunisia, Morocco, Yemen, Algeria, Syria, Iran, Libya, Iraq.

[17] Sub-Saharan African countries : Mauritius, Botswana, South Africa, Uganda, Namibia, Madagascar, Cape Verde, Burkina Faso, Swaziland, Kenya, Tanzania, Ghana, Zambia, Senegal, Gambia, Mozambique, Mali, Benin, Nigeria, Gabon, Ivory Coast, Rwanda, Mauritania, Niger, Malawi, Ethiopia, Cameroon, Djibouti, Equatorial Guinea, Guinea, Lesotho, Burundi, Togo, Central African Republic, Liberia, Sierra Leone, Seychelles, Chad, Angola, Guinea-Bissau, Rep. Of Congo, Sâo Tomé and Principe, Comoros, Dem Rep of Congo, Eritrea, Zimbabwe, Sudan.