

ISLAMIC LAW AND POLITICAL REPRESSION: SAUDI ARABIA IN THE CONTEXT OF MENA

Maki Shimada

INTRODUCTION

85% of the total population in the Middle East and North Africa (MENA) are politically repressed by their governments, deprived of political rights and civil liberties that they are supposed to enjoy according to the Universal Declaration of Human Rights (Freedom in the World 2016, 10). From the fact that more than 90 percent of the total population in the MENA are Muslims, many academics point to the religion of Islam as the culprit of poor freedom ratings in MENA (Mapping, 16). I would propose, however, that lower freedom in the the MENA cannot be explained by the presence of Islam per se. The bigger factor turns out to be the degrees to which states integrate Islamic law, *Sharia*, with their political, legal and social institutions.

The evidence shows that freedom scores for Muslim majority countries are higher if they are politically secular, lower if they adopt Islam as their state religion and even lower if they are theocracies. It is likely that Islamic theocracies are traditionally structured to promote monopoly of power and state institutions that are abusive of political and civil rights. The absolute authority *Sharia* gives to the ruler allows him to enforce exclusionary policies against ethnic/religious minorities and women. With a main focus on Saudi theocracy, one of the worst human rights abusers in the world, this paper will address the relationship between *Sharia* and political repression in the MENA.

DATA ANALYSIS

I built a hypothesis that the more *Sharia* is extensively and intensively applied to state institutions, the more repressive a state becomes. By “extensively and intensively applied,” I meant that *Sharia* was adopted strongly in vast areas of governance as well as citizens’ lives such

as legislations, constitutions, judicial systems and social norms. In order to investigate the effect of *Sharia* on the repressiveness of a regime, I first compiled a set of data on aggregate freedom scores (with a range of 0-least free to 100-freest) as well as polity scores (with a range of -10 to 10 in democratic standard) of Islamic countries in the MENA extracted from the Freedom House (FH)'s latest Freedom Report of 2016 and the Center for Systemic Peace' annual report from 2015 respectively.

A study by the U.S. Commission on International Religious Freedom distinguishes Muslim majority countries based on their constitutional provisions: those that declare themselves as Islamic states, those that declare Islam as their state religion, and those that declare themselves as secular states. They are stated as “Islamic States,” “State Religion” and “Secular State” respectively in Figure 1 and 2 in this paper as major groups of Muslim majority countries with different affiliations to Islam. There is actually another group in the study, which declare themselves neither as Islamic nor as secular states and do not have any official state religion, either (Lebanon, Syria, Comoros, Djibouti, Gambia, Sierra Leone, Somalia, and Sudan). I deliberately excluded this group from my sample because this group is ambiguous about its affiliation with *Sharia* and I wanted to use a sample of countries that clearly define what their relationships are with *Sharia*. Also, even though Israel is located in the MENA, I did not include it in the sample since it is a predominantly Jewish country.

Figure 1 demonstrates the average aggregate freedom scores for the three major groups of the MENA countries that integrate Islam into their constitutions differently (each country within each group is listed below Figure 1 with its score from the Freedom Report of 2016 in parenthesis). By classifying my sample as such, I could determine the degrees to which each group incorporates Islam into their legal and social codes. In addition to that, my sample

excludes Muslim majority countries that are not grouped into the MENA by the FH such as those in Central Asia, South Asia, Southeast Asia and Eurasia. There are some debates over whether Afghanistan and Turkey should be included in the Middle East or not, so I made the distinction based on the U.S. Department of State's assignment, and excluded them.

The reasons that I omitted these countries from my sample were that, for one, the FH scores vary too widely by each region. Eurasia, Southeast Asia and South Asia generally have moderately high freedom scores, classified by the FH as *Partly Free*, with Brunei and Afghanistan being the only *Not Free* countries. On the other hand, Central Asia scores exceptionally bad with only Kyrgyzstan attaining the *Partly Free* status. So their inclusion would severely distort the final outcome.

Secondly, I limited my sample to the MENA because I believe that despite the fact that all the aforementioned countries commonly have a sizeable number of Muslims, distinct regional characteristics exist in political, social and cultural structures. I had to consider all those characteristics to determine the real effect of *Sharia* on politics. Since the country that I wanted to focus on was Saudi Arabia, I had to consider the context that surrounded it. Saudi Arabia belongs to the MENA and the MENA tend to be grouped as one region sharing historical roots and state structures, acknowledged by most organizations including the U.S. Department of State and the FH that I use for categorizing each region. By limiting my sample to the MENA and the MENA only, the outcome would be less affected by regional variations in state institutions than when I included the entire set of Muslim majority countries across continents.

What I did with my sample to find a trend in political freedom was to calculate the average score that each major group achieved in the latest FH report for 2016. From the FH report, I used the aggregate freedom scores in my calculation to gauge the overall standards in

protecting political rights and civil liberties. So my dependent variable is average aggregate freedom score and my independent variable is affiliation to Islam by each major group (affiliation is strongest in “Islamic States,” moderately strong in “State Religion,” and weak in “Secular States”). Consequently, I got a pretty consistent outcome that aligned with my hypothesis that a country where *Sharia* is extensively and intensively applied to its legal and social codes tend to be politically repressive, frequently violating its citizens’ political and civil rights.

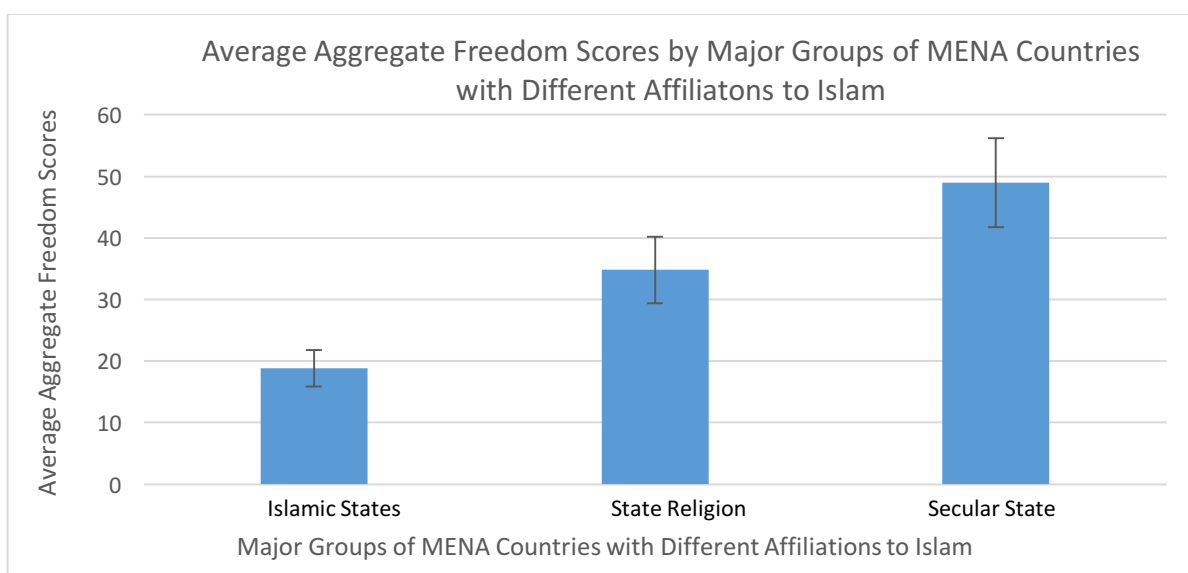


FIGURE 1

* aggregate freedom score ranges from 0-100

**Islamic States*: Bahrain (14), Iran (17), Mauritania (30), Oman (25), Saudi Arabia (10), Yemen (17); *State Religion*: Algeria (35), Egypt (27), Iraq (27), Jordan (36), Kuwait (36), Libya (20), Morocco (41), Qatar (27), Tunisia (79), United Arab Emirates (20); *Secular States*: Burkina Faso (59), Chad (20), Guinea (40), Mali (45), Niger (52), Senegal (78)

*numerical numbers within parentheses are aggregate freedom score for each state in 2016

All of the six countries that declare themselves as “Islamic States” are regarded as *Not Free* by the FH with an average aggregate freedom score of 18.8. Seven out of ten countries that declare Islam as their “State Religion” are *Not Free* with an average score of 34.8. And finally,

only one country that declare itself as “Secular States” out of six is *Not Free*, and on average those six countries score 49.0. In fact, aside from the only *Not Free* Chad, the rest of the countries are all *Partly Free* in “Secular States”. In Figure 1, “Islamic States” that most strongly affiliate themselves to Islam have the lowest average score whereas “Secular States” whose affiliation to Islam is weakest have the highest score, freest from political repression. With “Islamic States” and “Secular States,” there is a large difference in their average freedom scores: the former is approximately 2.6 times lower than the latter.

Additionally, the range of standard errors (SE) by each group is small; 3.005 for “Islamic States,” 5.391 for “State Religion,” and 7.242 for “Secular States.” The slight rise in SE for “State Religion” compared to the “Islamic States” is caused by Tunisia, the only country classified as *Free* among “States Religion,” with a freedom score of 79 (the average score for this group when I remove Tunisia is 29.9). Similarly, the slightly higher SE for “Secular States” compared to “State Religion” is due to Senegal, again a *Free* country, with a score of 78 (the average score for this group when I remove Senegal is 43.2). Also, Chad is pulling down the score for “Secular States” immensely with a score of 20. When we take into account these outliers, the SE for each group will have less variations with each other. In other words, the statistical accuracy of my outcome is quite high.

I obtained an almost identical result by repeating the same process, this time using the Polity scores, as my first data analysis using the FH scores. The average Polity score is about -6.2 for “Islamic States,” -2.1 for “State Religion,” and 4.3 for “Secular States” (Fig.2). The difference between the average score of “Islamic States” and “Secular States” is about 10.5, which is quite large considering the scale of Polity scores (-10 to 10). This indicates that the democratic standards for “Islamic States” are significantly lower than “Secular States” due to

“Islamic States” strong affiliation to Islam. Lastly, the SE for each group is approximately 1.72, 1.82 and 1.33 for “Islamic States,” “State Religion,” and “Secular States” respectively. Chad, again, distorts the number quite a bit for “Secular States” with its score of -2 where the remaining five states score 5.6 on average. Yet, there is not much variance to the SE for all groups, and as you can observe in Figure 2, the SE are not overlapping at all for “Islamic States” and “Secular States” as is with Figure 1. Therefore, the statistical accuracy for my second data analysis is as high as my first one.

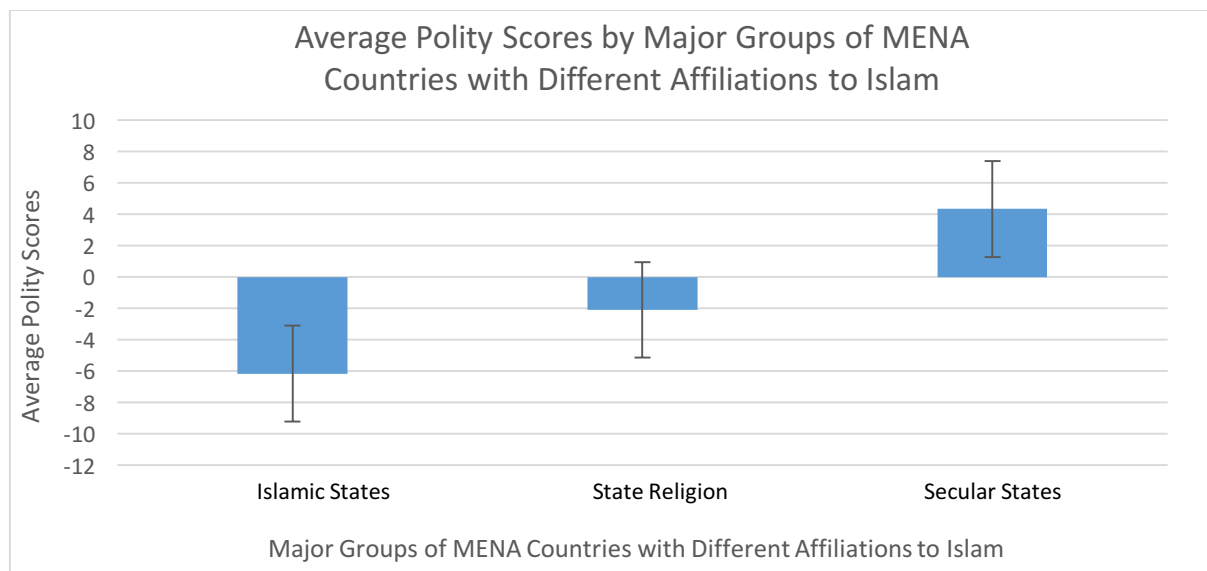


FIGURE 2

**polity score ranges from -10 to 10*

Islamic States: Bahrain (-10), Iran (-7), Mauritania (-2), Oman (-8), Saudi Arabia (-10), Yemen (0);

State Religion: Algeria (2), Egypt (-4), Iraq (6), Jordan (-3), Kuwait (-7), Libya (0), Morocco (-4), Qatar (-10), Tunisia (7), UAE (-8); Secular States: Burkina Faso (6), Chad (-2), Guinea (4), Mali (5), Niger (6), Senegal (7)

**numerical numbers within parentheses are polity score for each state in 2015*

Combining all these results and considerations, it is highly likely that *Sharia* has a significant negative effect on freedom when extensively and intensively applied to state institutions. “Islamic States” have the highest tendency for *Sharia* being the core value in politics

and societies while such tendency is much less observed in countries that only declare Islam as their “State Religion” and least observed in “Secular States.”

In fact, Saudi Arabia, known to be the most theocratic state in MENA, ranks the worst among “Islamic States,” scoring 10 out of 100 in aggregate freedom score and -10 on the scale of -10 to 10 in Polity score (Otto). I chose Saudi Arabia as my case study since it is a poster child country whose repressiveness correlates with its extensive and intensive implementation of *Sharia* on political, legal, and social levels. From now on, I am going to discuss how strongly the case holds for Saudi Arabia, highlighting its intolerance for religious pluralism and its low respect for women’s rights.

POLITICAL REPRESSION IN SAUDI ARABIA

Among “Islamic States” that do worst in protecting freedom in Muslim majority countries, Saudi Arabia is the worst of the worst. The citizens’ voices are not reflected in Saudi politics, and they are not free to organize and to form civil organizations. The Saudi media are under among the heaviest censorships in the world (Otto). It is common that government critiques get imprisoned and prisoners are tortured and ill treated. Anti-terrorist laws introduced in 2014 have intensified repression by the government especially against dissenting groups and individuals. (Smith et al 5). In addition to that, Saudi Arabia has particularly low tolerance for religious pluralism and women’s rights. These two are not only the results of the repressive governance but also the factors that make the state more repressive, less democratic.

According to Calfano et al’s findings, Muslim majority countries with high religious pluralism (presence of non-Muslim religious groups within a state) have higher political rights than those with less religious diversity (2008). They reason it that countries with high religious

pluralism need to at least provide institutional forms of democratization—political rights—to religious minorities to peacefully satisfy their sociopolitical demands.

On the contrary, intra-Islamic diversity (presence of Islamic religious groups that practice a different branch of Islam other than the one officially sanctioned by the state) deteriorates freedom. Calfano et al explain that Islamic diversity tends to produce political parties and movements based on religioethnic allegiances that stand in opposition to the dominant religiopolitical preferences of the governing elites. To summarize these two findings, Muslim majority countries with high religious pluralism and low Islamic diversity are likely to be more democratic than those that do not meet these conditions.

Saudi Arabia fails to meet those conditions: its level of ethno-religious homogeneity is quite high, and an Islam minority group coexist with the dominant group whose ethno-religious identity coincides with the one officially recognized by the state. Aside from 10 to 15 % of the Shiite population, Saudi Arabia is composed of Sunni Arabs who embrace the fundamentalist Wahhabi beliefs (Smith et al 35). Religious pluralism is absent from Saudi Arabian context, and the political and civil rights of the Shiite minority are severely curtailed.

Shiites are the most prominent minority in Saudi Arabia that experiences the highest level of political repression by the Saudi state. It does not mean at all that Sunni Saudis' political rights and civil liberties or their human rights in general are protected soundly, but on statistical terms, Shiites' standards of living are lower on average than Sunnis' and a higher number of Shiites are executed than Sunnis (Otto). The public executions of the leading Shiite preacher Nimer al-Nimer along with 46 others in 2014 were a part of a campaign by the Saudi authorities to crush all dissent. There is a great discrepancy in the access to government services and funding between the Shiites and Sunnis, which has been leading to Shiites' reduced ability to

close the socio-economic gap between them and Sunnis and to overcome their repressed status in Saudi society.

The social and political persecutions against religious minorities have been reinforced over the course of Saudi history through educational indoctrination. A research published by the FH has identified discriminatory discourse against religious and ethnic minorities, which has been repeatedly mentioned in educational materials in Saudi Arabia. A Royal Saudi Study Group admits that, “the Kingdom’s religious study curriculum encourages violence toward others, and misguides the pupils into believing that in order to safeguard their own religion, they must violently repress and even physically eliminate the ‘other’” (Saudi Arabia’s Curriculum of Intolerance 12). In spite of that, the Saudi government continues to promote an ideology of hatred that deplores tolerance at schools. The FH has also noted the incidence in which a Saudi schoolteacher was fired from his job and sentenced to financial penalty as well as 3.5 years of prison term for making positive comments about non-Muslims (17). In sum, religious and ethnic minorities do not have the freedom of religion as well as the freedom from discrimination.

Moving on to women’s rights in “Islamic States,” Steven Fish holds the low station of women accountable for their democratic deficits. He found significant differences in literacy rates, number of women in government, and the Gender Empowerment Measure (GEM) between Catholic and Muslim countries (2002). The GEM is a comprehensive measure of women’s income, status in the workplace and presence in the legislature in a country conducted by the United Nations. The results for Muslim women are far worse than Christian women.

Women in Saudi Arabia are generally seen as subservient to men and their ways of life are strictly restricted by the patriarchal social structure. Under the male guardian system, women need to seek permissions from male family members in order to vote, work, travel and own

property. Some women have been arrested for defying the traditional institution that bans them from driving. It is a social taboo if a woman does not wear a long robe, a head scarf, and gloves, while the police turns a blind eye to men's violations of their appropriate dress code. The judicial system is heavily prejudiced against women as it counts a woman's testimony as half of a man's. Women have way more hurdles to file a divorce whereas men can choose to divorce by simply declaring to do so without giving any reason or evidence. Saudi authorities are often neglectful of domestic violence against women, and many of their appeal to court regarding the moral and physical abuse by their husbands have been dismissed (Mtango).

Saudi Arabia has not ratified most of the international human right treaties regarding women's rights, and thus is not legally bound by their provisions. Therefore, Saudi government does not hold itself accountable to human rights claims by its female citizens. The veiling, isolation (physical and social), and other systematic denials of rights including the freedom to travel and equal access to education and employment (for instance, women's schools and workplaces are segregated from men's and those are usually of lower quality; and women cannot hold an occupation where contact with men may occur) have negative consequences on women's lives such as lower income, lack of opportunities, and loss of independence, all of which reinforce the patriarchal system in Saudi Arabia and further lead to low political rights and civil liberties for women.

As with both cases of intolerance against ethnic/religious minorities and male domination over female citizens in Saudi Arabia, the notion of equality before the law is lacking in most spheres of Saudi life. The consequence of such a highly exclusive social structure is the severe lack of basic political freedom and civil liberties. To make the matters worse, in order to preserve this structure, Saudi leaders abuse their power to repress any opinions that are not supportive of

the government. While all Saudi citizens are subject to the oppressive treatment by the state, the second-class citizens as well as non-citizens including ethnic/religious minorities and women experience even harsher human rights violations as political and legal discriminations on the basis of race, ethnicity, religion and sex.

I have to note that Saudi Arabia's case cannot be entirely generalized to all "Islamic States." The contexts in which the six "Islamic States" exist, of course, are not identical. However, they resemble in very important ways, which deserve to be taken into consideration in the discussion of political repression. First, they exist in the same geopolitical realm—most of them are oil-producers, theocracies or monarchies, and have similar diplomatic relations and historical experiences (i.e. colonialism, wars). More importantly, *Sharia* is the main source of their national legal systems, which is unique even in the context of MENA composed of Muslim majority countries. These characteristics "Islamic States" have in common must have some implications for their repressive governance. In the next section, I am going to explicate what *Sharia* means to "Islamic States" and their citizens, why *Sharia* renders "Islamic States" more repressive than others, and how *Sharia* structures the state behavior.

SHARIA AND MONOPOLY OF POWER

Fish (2002) found out a strong relationship between Islamic religious tradition and low freedom in his statistical analysis. Then what is an Islamic religious tradition? It is the state institutions and people's lives that are closely correlated with *Sharia*. In "Islamic States," *Sharia* dictates both the national law and the personal law (i.e. law of succession, religious endowment, and marital affairs). What is written in the Islamic text, the *Quran*, is absolute. Rejecting it equals turning away from society, and it will lead to the automatic loss of citizenship and to persecutions (Nasir). However, the interpretations of the *Quran* vary by each royal family ruling

over a state. Those interpretations become the definitive divine law, which in turn shapes its citizens' perceptions of what is legally and socially correct and moral. The ruling elites employ that logic to gain and maintain their monopoly of power.

Saudi Arabia has traditionally retained an absolute monarchy whose Constitution articulates the need for the King to rule by *Sharia*. The King is entitled with the whole right to appoint and chair the Council of Ministers. The Council operates on the rule of majority vote, but its decisional outcomes are subject to royal approval. So the King's authority practically reigns over the government and its decision-making. Also, political parties are not permitted and elections are restricted to municipal councils whose power is, in effect, close to none (Al-Atawne). These highly restrictive political structure all comes down to the royal ruling by *Sharia*.

Sharia makes it relatively easy for the ruler to remain in power and use that power for his own gain because he derives his legitimacy from the *Quran*, which is thought to be the living words of God. Muslims are religiously mandated to follow God's commands believed to be stated in the *Quran*. The rulers in "Islamic States" are the human versions of God who are supposed to lead the state towards a better Islamic nation as God envisages. So Muslims have the religious obligation to obey the rulers as long as they do not contradict *Sharia*. And, the political and social structures in "Islamic States," which are believed to have been established based on the *Quran*, stand on the consent of those who are ruled. As long as the government operates on *Sharia*, or at least, *seem* to be operating on *Sharia*, the ruler is almost guaranteed to absolute power and authority without any democratic constraints.

So *Sharia* empowers the ruler with supreme legitimacy and the increased ability to maintain a monopoly on the means of coercion. Normally, a leader should *earn* his legitimacy by

producing good political outcomes as higher economic growth. In the case of rulers in “Islamic States,” however, they can gain legitimacy even without much political achievement because they rule in place of God. In Saudi Arabia, the Wahhabi thought that advocates the total fusion of the state and Islam dominates its political ideology, so *Sharia* has utmost respect nationwide (Al-Atawneh). Furthermore, the high legitimacy of the ruler enables him to centralize power and repress oppositions that challenge his authority.

Eva Bellin (2004) argues that the costs of repression are low for Islamic states. The highest cost of repression for a state is the loss of legitimacy and the consequent collapse of the regime. *Sharia* disallows open rebellion, mentioning that “[n]o opposition must be raised against the rulers, even when not fulfilling the shari’a, but rather they must be advised through ways of tranquility” (Al-Atawneh 9). Islamic rulers are free from checks and balances since they govern within the limited circles of their relatives and ‘acquaintances’ that would unanimously agree with nearly every decision they make. And their divine status reduces the citizens’ inclination to disobey or rebel against them because it would mean the same thing as going against *Sharia* (which is considered to be extremely immoral). Consequently, “Islamic States” enjoy high degrees of political stability due to their high capacity to repress oppositions without fearing the loss of legitimacy (unless they are failed states that cannot provide basic public goods).

Another important influence of *Sharia* on “Islamic States” is that, with its ultimate sanctity, it degrades the significance of other forms of law and ideology, especially the Western democracy. In Saudi Arabia, any Western influence is perceived as a foreign concept imposed by Westernizers and secular reformers that would corrupt the sacred Islamic values (Al-Atawneh). By identifying the enemies, the state will be able to unify its population and promote loyalty to the state. Such mechanism of fostering nationalism can be facilitated through the glorification of

the *Sharia* ruling. Muslim elites sensationalize the negative image of the West in order to suppress any chances of democracy taking root in “Islamic States,” thereby raising the prospect of their monopolizing power. To sum up my arguments, the rulers in “Islamic States” interpret *Sharia* on their own terms and enforce those interpretations to engage in repressive governance in order to remain in power.

So, how do rulers in “Islamic States” create a repressive regime for their own sake exactly? As in Saudi Arabia’s case, countries whose constitutions and legislations are based on *Sharia* allow discrimination of religious minorities since their status is stipulated as inferior to that of Muslims. According to *Sharia*, religious minorities or non-Muslims are “Unbelievers” who do not deserve the citizenship of the state (An-Na’im 11). Only those who devote themselves to God’s words as faithful Muslims have the right to participate in public affairs, practice their faith publicly, and hold decent social status. Moreover, what is unique about Saudi Arabia among “Islamic States” is that it employs Wahhabism in its political ideology, which is an extreme interpretation of Islam that acknowledges Sunni devotees as the true monotheists who are obliged to fight Muslim deviants, polytheists and infidels (Al-Atawneh). Using these *Sharia* and Wahhabi narratives, Saudi rulers have historically excluded religious minorities from public spheres.

However, Shiites experience the most severe forms of discrimination even though they are Muslims because they adhere to a different version of Islam from Sunnis. Such group of Muslims pose the greatest risks to the governing elites; those groups tend to hold the highest dissatisfaction against the government that is ruled by those who have different religiopolitical preferences from theirs. And Sunni elites know that Shiites are the most likely group to rebel since they have oppressed Shiites for over a century since Saudi Arabia’s independence. That

knowledge in turn motivates the Saudi government to further repress the Shiite minority, and it is easy to justify their discrimination by calling them ‘the heretics’ that do not follow the true *Sharia*.

The same rationale can be applied to women’s rights in Saudi Arabia. The Council makes a false statement that equality between men and women are against God’s law even though in reality *Sharia* promotes gender equality to a great extent. The Saudi officials claim that the women’s inherent inferiority is dictated by the law of nature, which God acknowledges in the *Quran*. They make an unsubstantiated argument that the transformation of the current social system based on God’s law will render the society into “perversion” (Mtango 5). Because Saudi leaders benefit from the status quo where they enjoy monopoly of power, they are concerned with the potential expansion of human rights that may result from increased female participation in the political and social realms. They base their claims against women’s rights on *Sharia* in order to gain public support for the patriarchal system where women continue to be oppressed for the benefit of the male elites.

What should be addressed lastly is that *Sharia* itself is not an oppressive institution. It is the erroneous and egoistic interpretations of *Sharia* by those in power that make it a dangerous tool. Depending on the leader who interprets it and how he adopts his interpretations in politics, *Sharia* can either promote human rights and personal redemptions or become a powerful and effective tool to oppress the whole society. Islam itself does not turn a person or a state violent. It is totally opposite to that; a person or a state makes Islam violent. As my data shows, not all Muslim majority countries are as repressive as “Islamic States” like Saudi Arabia. *Sharia* turns into a violent ideology when religious elites use it to systematically create intolerant social system for the purpose of empowering themselves and themselves only.

CONCLUSION

Although Muslim majority countries are commonly considered to relate to *Sharia* in most aspects of state life, how strongly and in what areas of state life *Sharia* is implemented varies greatly in each country. “Islamic States,” states that declare Islam as their “State Religion,” and “Secular States” score much differently in both the FH and the Polity reports (Fig.1, Fig.2). Therefore, it is wrong to draw a hasty conclusion that all undemocratic elements in Muslim majority societies should be attributed to Islam per se; it is instead the degrees to which Islam is adopted in states’ legal and social codes that determine the repressiveness of the regime.

Saudi Arabia is a typical example of a highly repressive Muslim majority country with a strong state affiliation to *Sharia*. Its tolerance for religious pluralism and women’s rights is extremely weak, which leads to undemocratic practices such as discrimination on the grounds of ethnicity/religion and sex. Such exclusionary policies are the result of the wide and strict implementations of *Sharia* considered to be the most divine, moral and correct form of law. The interpretations of *Sharia* by the ruling elites—who are widely believed to have inherited the God’s authority to lead the state based on *Sharia*—becomes the absolute law of the country regardless of how inaccurate or arbitrary they could be. It is in the best interest of the ruler to take advantage of *Sharia* to eliminate possibilities of oppositions that may risk his status through thorough restrictions of political rights and civil liberties imposed on citizens. As this paper has illustrated, *Sharia* can be a tool for political repression depending on how the political leaders interpret and enforce it within the state.

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