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LEGISLATIVE ROLE OF RELIGION IN THE CONTEMPORARY ISLAMIC STATES

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Introduction

This paper examines the origins of the modern political systems in Saudi Arabia and Iran based on the historical and theological accounts legitimating each political system. These accounts establish them as "Islamic states," built on a theocracy and the rejection of secularization.

For present purposes, "theocracy" shall specifically refer to the establishment of religion as *the source* of norms and laws. "Secularization" will refer to non-religious forces having an *increasing influence* over the operation of society (thus an *ideal type* of a secular society would be one devoid of any religious influence in matters of the state).¹ In this regard, it is worth noting that "secularization" is *not* synonymous with "democracy", "freedom", or any similar modernist term. Indeed, some versions of secular society are potentially as restrictive and totalitarian as the strictest theocracy (e.g., the USSR or Maoist China); secularism is not a synonym for liberty.

This paper distinguishes the 'sacred' from the 'secular' in the state structures of Saudi Arabia and Iran, and links the contemporary sacred politics to the Islamic heritage based on the Sunni and Shia interpretations of the legitimate leadership. In this case, *theocracy* refers to *Sharia* law. On the other hand, *secularism* in predominantly Islamic countries recalls *irreligious*, modern ways of thinking affecting Muslim societies, such as socialism, modernist liberalism, and nationalism. In this regard, Saudi Arabia and Iran are the best cases for studying the "theocracy" end of the continuum, as they apply *Sharia* as derived from the Islamic text. Thus, readers need to be aware of the context of the concept of authority in the Muslim world in terms of its theology, jurisprudence and history. This

¹ According to *The New Dictionary of Cultural Literacy*,

1. Theocracy: "A nation or state in which the clergy exercise political power, and which religious law is dominant over civil law" (2002: 327).

2. Secularization: "refers to the declining influence of religion and religious values within a given culture" (2002: 109).

context forms a considerable part of this paper, as the whole debate of Islam and politics, in Saudi Arabia and Iran in particular, is built on this context. Thus, a reader needs to be aware of the Islamic understanding of sovereignty and authority.

The term "sovereignty" as applied in the Western social sciences does not exist in the Islamic literature. Instead, *Hakimiah* (the best translation is "governance") is the Islamic term which refers to the right to rule and make laws. Abu Hamid al-Ghazali (1960) described *Hakimiah* as "obedience to Allah and obedience to those whose obedience is duty according to Allah" (*c.f.* Quran 4/59). Therefore, Allah is the source of *Hakimiah*; nobody enjoys it except from Him and everyone must obey Him as a duty. The term *wali al-amr*—which means the "guardian" or Muslim religious ruler—refers to the person whose authority in Muslim society is absolute. Where the relationship between the state and religion is concerned, *Hakimiah* supports the efforts of Islamic reformers to revise constitutions, and aims to link the "nation state" to "Islamic thoughts" (Oumlil 1985: 167-169).

Much like "sovereignty", the term "authority" in the Western social sciences has no place in Islamic literature. Similarly, the terms *wilayah* and *amr*² may be difficult to translate, but generally refer to the governing of the *Ummah*.³ Since the term *wilayah* means guardianship and *amr* means affairs, the term *wali al-amr* refers to the Muslim religious ruler, and therefore these terms—*Hakimiah* and *al-amr*—do not just hold political significance. In fact, they have been accepted as part of the adherent's daily religious beliefs. Thus, the applications of these terms differ according to various Muslim sects.

The Bases of Authority in the Islamic Heritage

While Shia Muslims believe in the divinity of the succession of the Prophet Muhammad, Sunni Muslims do not believe that God has chosen particular successors ("caliphs"). These theological interpretations explain much of the variation of the clergy's power over the masses within each Islamic school. From the Shia perspective, the successors of the Prophet are the twelve Imams he listed in his *Hadiths*. The last *Imam*—named al-Mahdi—has been withdrawn by Allah "into a miraculous state of occultation (hiddenness) in 939 C.E." (Nasr 2007:67). He will remain in his occultation until Allah calls him again to return as the saviour ("messiah") of this world. According to the Shia literature, Al-Mahdi left a testament to his followers referring them to the religious scholar with the greatest knowledge of the religion. Thus, Shias believe in the clergy as the successors of their Imams. On the other hand, Sunnis do not believe in such a divine assignment of rulers. They believe in the stability of Muslim nations under a single strong ruler, regardless of his level of religiosity. As long as he does not abrogate any principles of Islam, all Muslims—including the clergy—must obey him. Therefore, the clergy plays a secondary role in politics and governance in Saudi Arabia, as their role is limited to legitimizing the royal rule and interpreting *Sharia* law (Al-Atawneh 2009).

During the early history of Islam, that is right after the death of the Prophet Mohammed (632 AD), a number of Muslims supported Ali bin Abi-Talib as the successor of the Prophet based on the Prophet's

² Approximate meanings to the Arabic word *amr* would include: order, ordinance, affair, decree, and instruction

³ The Arabic word meaning is "nation" or "community". For example, the term *al-Ummah al-Islamiah* means the whole Muslim nations or communities in the global perspective. Similarly, *alUmmah al-arabyah* which means the entire Arab world.

4 January 2018

testament.⁴ Another group of Muslims met before burying the Prophet to discuss the next step and selected Abū Bakr aṢiddīq from Mecca as the first Caliph. Since then, Sunnis believe in the *de facto* rule, either through selection by the circle of decision-making⁵ or through appointment by the former ruler like what happened with the second Caliph Umar ibn Al-Khattāb. The *de facto* rule became a norm with the Umayyad Caliphate (661–744 AD), the first Muslim Monarchy.

The group that advocated for Ali bin Abi-Talib still identify him as the legitimate successor of the Prophet, and consider those who proclaimed themselves Caliphs as non-legitimate rulers. Even when Ali was selected to be the fourth Caliph (656–661 AD) based on the Sunni norm, his adherents did not view this method of selection as a source of legitimacy. They argued that he finally earned "his right" and led the Islamic state. However, some figures—who are well respected in the Sunni literature—fought Ali until they attained *de facto* rule and established their monarchy. Ali's eleven descendants enjoy—according to Shias—the same status of Ali as the legitimate guardians of Muslims. Shias believe that early Muslims ignored the Prophet's testament and failed to support the legitimate leader Ali and his 11 descendants. From the Shia point of view, rejecting the rightful Imams and Caliphs meant denying the divine grace. For Shias, the ideal guardian of Muslims is a man of piety and religious knowledge, and if he could not rule politically, good Muslims should stick to him to learn the true way of Islam until he—or one of his successors—rule over the nation of Islam.

The point is that the bases of legitimacy in Sunni and Shia sects are different: the '*de facto* ruler' *versus* the 'pious teacher'. In modern history, the successors of the *de facto* ruler would be the political leaders, (i.e., monarchs and presidents) regardless of their levels of religiosity. On the other hand, the successor of the pious teacher would be the *mullah* "clergy", regardless of their political history and knowledge. Therefore, the leading clergy enjoy the divine legitimacy as *wali al-amr* among Shias, while for the Sunnis, this legitimacy is reserved for the political ruler.⁶

Islamism vs. Secularism

As mentioned earlier, the terms "authority" and "sovereignty" have no place in the Muslim sacred texts. Rather, we find such other terms as *Hakimiah*, *wilayah*, and *amr*. Islam, as a religion, is also a source of norms that governs not only the daily life of a Muslim but the political and legal spheres of a society. These political terms belong to the theocratic conception of what Islamists wish to have as an

⁴ The testament was in Ghadir Khumm, where Prophet Muhammed gave a speech that considered by Shia the testament appointing Ali as his successor, while Sunni see this as no more than a sign of high esteem and affection. Both sects recognize the verbal part of the Hadith, however, they interpret it in different ways. This story occurred 632 AD 3 months before Prophet Muhammed passed away.

⁵ In Arabic, Pronounce *Ahl al-Hall wa al-Aqd*, which means people who enjoy power within the nation and can affect the political decision.

⁶ According to S. H. Naser, 67: The understanding of the term *imam* therefore differs greatly in Sunnism and Shi'ism. In Sunni Islam the term has many uses, but it is never used in the mystical and esoteric sense given to it in Shi'ism. In Shi'ism, the Imam, like the prophets, is inerrant (*ma's.um*) and protected from sin by God. He possesses perfect knowledge of both the Law and the Way, both the outer and inner meaning of the Quran. He also possesses the power of initiation (*walayah/wilayah*) and is the spiritual guide par excellence, like the Sufi masters within their orders. In fact, the first eight Shi'ite Imams are also central spiritual authorities or poles of Sufism and appear in the initiatic chain of nearly every Sufi order.

'Islamic state'. Thus, based on Islamic theocracy, it is the Muslims' duty to make the world better by bringing society closer to God and applying Sharia law. Ibn Khaldūn claims that "Islam is the only religion whose religious leaders involve politics and lead the nation, ... the person in charge of religious affairs in (other religious groups) is not concerned with power politics at all." (Ibn Khaldun 2005: 212-216, 1958: 473). Ibn Khaldūn compares Islam and the Quran with Christianity and the Bible. He then concludes that the Islamic text includes laws and rules, while the Christian text merely focuses on stories and general ethics.

However, right after the death of the Prophet Muhammad, his successors launched a series of wars seeking the extension of their territories. Despite the long debates regarding the moral necessity of these wars (many Muslims consider these wars as non-religious actions but merely territorial), the reality is that Islam was the religion of strong states. This was the case, at least until 1922 when the Ottoman Empire in Turkey was abolished. During this long history, the theocratic philosophy of politics grew in terms of the concepts of *state* and *society*, which of course affects contemporary Muslim socio-political thought. Therefore, it is not surprising to find *secularization* to be considered a significant challenge to religion in the contemporary era. Just as how a number of Islamic concepts are misunderstood in the West (e.g., "Islamist" = "fundamental Islamic jihadist"), I would argue that the reverse is equally clear—that many contemporary Islamic scholars misunderstand the various religious effects of Western secularization. For example, Mohammed Imara⁷ compares an *ideal hypothetical* Islam in the Middle East with the *empirical* secularization in Europe. Yet, it is inconsistent to deal with a certain sect—even the largest one—and attempt to suggest it covers the entire religion; Imara needs to explicitly state whether he is considering Christianity (in general) or specifically referring to Catholicism. In addition, comparing Islam (in general) with Catholicism as the reason for the Western notion of seeking a non-religious way of life reveals an ignorance of the diversity of concepts found in Christianity and its many various sects. For example, when discussing challenges to the Catholic church's authority in Europe, one needs to start with the Protestant movement as led by Martin Luther in 1517. It was he who established a *rational* critique of the Catholic church, including his strong rejection of the selling of "indulgences" as the way to gain pardon from God's punishment for sin. As the literature repeatedly shows, Martin Luther's Protestantism had a great influence upon Western secularization in that it criticized the Catholic hierarchy that was based on theocracy.

Furthermore, Imara shows his ignorance of non-Sunni Islamic thought as he argues that only in Shia Islamic thought is the doctrinal authority of the clergy an accepted principle. Yet, in Sunni Islam, the doctrinal authority of the rulers can also be found within Shia Islam; the only difference being that the Sunni ruler controls the Sunni clergy who must obey him, as he is recognized as the guardian (*wali al-amr*). Imara further fails to define what he means by the "true Islam" he wants Muslims to turn to. He emphasizes the importance of the Islamic state without offering further details of his view of its structure.

Case Studies

⁷ Cited by Najjar, I have reviewed Imara's original text titled *Secularism and our modern renaissance [Almaniyya wa Nahdatuna al-Haditha]*, Cairo: Dar al-Shoroq 1987.

When speaking of a "theocracy", this essay refers to Islamic *Sharia* law; secularism in predominantly Islamic nations will mean irreligious, modern ways of thinking affecting Muslim societies, such as socialism, liberalism, and nationalism. To this end, Saudi Arabia and Iran are the best cases for studying Islamic theocracy as they have declared their application of *Sharia* as derived from Islamic texts in *Sunni* and *Shia* versions respectively. In this regard, the problem of formal and religious censorship upon individual freedoms is one of the primary topics of debate in the Muslim world, and thus an excellent indicator of where a nation stands in the secular-theocratic continuum.

The close relationship between state and religion has been discussed in Arabic heritage. In *The Muqaddimah*, Ibn Khaldūn (1332–1406) allocated a chapter titled "Arabs can obtain royal authority only by making use of some religious colouring, such as prophecy, or sainthood, or some great religious event in general" (Ibn Khaldun 2005: 140, 1958: 305). He argued that Arabs would not subordinate themselves to each other due to tribal pride and the intertribal struggles for leaderships. They would therefore respect religious authority as sacred authority. If we consider the historical context of *The Muqaddimah*, that is the 14th century, I argue that Ibn Khaldūn meant the statehood in general, not merely the monarchy. In that period, the terms "Arab" and "Muslim" contained a shared heritage and identity and were almost synonyms; there were virtually no conflicts between them (Al-Jabiri 1992). Therefore, the theocracy is the most important political concept among Arabs in pre-colonization times.

The aforementioned leads to a discussion of examples of Muslim states and societies in the Middle East. Saudi Arabia represents the theocracy of Sunni Islam and Iran represents the theocracy of Shia Islam. This discussion necessitates a description of each state's structure and impact upon society.

Table 1. *The Islamic Ruling in Saudi Arabia and Iran*

Country	Muslim Sect	Religious Elite	Beliefs Regarding <i>wali al-amr</i>
Saudi Arabia	Sunni	<i>Wahhabism</i>	The head of the nation is the Imam "King" who is accepted by elites OR who establishes rule by the sword and he does not have to be a cleric. Nobody has the right to challenge him, but if some do and succeed, he becomes the new Imam and must be obeyed.
Iran	Shia	<i>Vilayat-e Faqih</i>	The "Absolute Guardianship of the Jurist" means that the <i>faqih</i> /Jurist is the guardian who takes care of all responsibilities and the positions of the Prophet and the Twelve Imams, including governance of the country as the <i>wali al-amr</i> of the Muslims. The supreme leader must be a "Faqih" Jurist who is elected by the elites of the Jurists (clergy and religious lawyers).

Saudi Arabia

4 January 2018

The Saudi Arabian political model adheres to the Caliph-Dynasty model of the Sunni Islamic state within Islamic civilization history (e.g., *Umayyads*, *Abbasids*, and *Ottomans*). The Caliph/ King is the religious leader that everybody must obey and pay homage to. Any challenge to the King is considered a sin and an attempt at temptation. However, if someone succeeds in overthrowing the King, he automatically becomes the legitimate guardian of 'Muslims' and inherits all features of the position. This model was applied most recently to the Saudi state in 1932 when Ibn Saud unified the territories under his rule, and named the state after his last name—just as in the traditional Islamic monarchy.

The royal family oversees the political and economic spheres of the country. The closer you are to the royal family, the greater your opportunity to gain power. The King is the head of the government, and most of the sovereign ministries are headed by royals. The non-royal privileged groups are the Najdis and Wahhabis, who belong to the provincial and religious sect of the royal family. According to Pascal Menoret and Abdullah al-Otaibi (2010: 77-90), the royal family and their entourage (i.e., the powerful families) control economic life in Saudi Arabia. Hence, Saudi citizens are not equal in terms of citizenship level. Economic power helps such regimes to privilege their loyal political clientele and award them with continuous elite rotation (Albrecht and Schlumberger 2004).

Browsers and Kurzman (2004: 128) cite Western scholars who present Wahhabism in a positive light as an Islamic reform movement similar to Lutheran-Protestantism in Christianity. This may well be accurate from a Western perspective, especially given the Wahhabi revolt in the early 20th century against the shared Muslim enemy of the Christian West, the Ottoman Empire. They maintain that this favour to the Saudi monarchy goes beyond the objective of defeating that empire, since even the very limited margin of freedom in Saudi Arabia has been seen as positive progress in some academic studies. An article dealing with reform in the Arab world considers introducing a written basic code – for the first time in history after 60 years of founding the kingdom– and establishing the Consultative Council (*Majlis Al-Shura*); this is seen in the same positive light as other Arab reforms, including the parliamentary elections in other Arab countries. The authors do not consider that this Consultative Council is fully appointed by the King (Albrecht and Schlumberger 2004).

The Saudi state, which hosts the holy sites of Mecca and Medina, insists on being an Islamic state that applies Islamic law and strengthens its image as a country leading the Islamic global struggle against Western attacks on Muslim ethics (Fandy 1999: 3-5). As a result, the religious institutions⁸ invest their efforts in convincing people to accept the sacredness of the monarchy through a specific religious doctrine known as "Wahhabism". This includes presenting the royal family as the guardian of the Sharia law. Comparing Saudi (Sharia) society with Orthodox Jewish (Talmudic) communities, Souryal (1987) emphasizes that Saudi society is obsessed with sacredness/ "religion." He argues that "the Sharia [*sic*] is primarily designed as a moralizing instrument as well as a preventive agent" (Souryal 1987: 432).

Theocracy in Saudi Arabia rejects any secular challenge to the state including an elected parliament or any other serious public participation in the public sphere. Generally, any title other than "true Islam"

⁸ Which is appointed by the King and controlled by the Wahhabi clergy.

is also rejected. Mai Yamani (2008) recalls the Saudi conflict with the former Egyptian leader Nasser (1918-1970), the charismatic leader who was admired by a considerable majority of the Arab masses. This mass support represented a threat to the other Arab regimes of that time, especially monarchies which Nasser considered as reactionary regimes. Thus, the Saudi monarchy employed a Wahhabi discourse couched in a puritanical interpretation of Islam to challenge Nasser's secular discourse of Pan-Arabism. That is to say, Islam over nationalism was prioritised as the source of unity in Saudi Arabia.

Iran

Iran hosts the second most important school of Shia jurisprudence in the city of Qum.⁹ Thousands of Shia clergymen —nationals and immigrants— live within the Iranian territories, including a significant number of *Ayatollahs* and the *Marja's*.¹⁰ Each of these *Marja's* is considered by his followers to be the deputy of the hidden Imam and enjoys the benefits of this position, including collecting the religious taxes known as *Khums*, issuing fatwas, and teaching the highest level of jurisprudence. Despite the large number of these Grand Ayatollahs, the new theocracy created a system to elect an individual Grand Ayatollah to be the Supreme Leader.

Since the monarchy and Caliphate models are not legitimized in the Shia jurisprudence, Iranian mullahs employ an old theory of governing called *Vilayat-e Faqih*,¹¹ which translates from Arabic as "the Guardianship of the Islamic Jurists." In this theocratic scheme, the Supreme Leader, or *Vali-ye faqih*, enjoys the authority of the holy Imam¹² until the Imam returns, which means the leader has the custodianship over people and they must obey him based on his sacred status. Such a development in Shia Muslim thinking does not reflect the history of Shia political history, as they do not believe in an Islamic state without the "Imam" (Nasr 2007). Today, a great number of Shia Muslims reject the Islamic-theocratic-state. However, the dominant Iranian clergy have a different view of the system of *Vilayat-e Faqih*.¹³

The Iranian theocracy is controlled directly by the clergy, a product of Islamic revivalism. In this regard, Hoover argues that the 1979 Iranian revolution parallels the rise of evangelicalism as a political force in North America as "events that seriously confronted prior assumptions about religious reticence, quietude and secularism" (Hoover 2011: 613).

The revolutionary Islamic republic formulates a strategy and develops policies to *Islamize* Iranian society. The focus here is on successive attempts to morally police the behaviour of young people in public places in the cities (Khatam 2010). Imposing the *Hijab*, prohibiting alcohol and pre-marital

⁹ The first is Najaf, Iraq

¹⁰ They are also called Grand Ayatollahs.

¹¹ It is pronounced *Wilayat al Faqih*. in German language, in Persian-Iranian- language "W" is pronounced like "V" in English.

¹² I mentioned earlier to the 12 holy Imams in Shia religion and the 12th "al-Mahdi" one who has been hidden under the rule of Allah and he will come back when Allah lets him.

¹³ The theory emerged during the Qajar rule by Ahmad Naraqi (1771-1829) who claimed the authority of jurist to be in the same level of the holy prophet and his successors, the 12 Imams.

sexual relationships are examples of enforcing authority in the name of Allah, just as is done by the Saudi authorities. However, Iran used to be a Western-styled state before the 1979 Islamic revolution, leaving a portion of the population unsatisfied with such theocratic restrictions. Thus, the Iranian diaspora increased after the 1979 revolution. In addition, the popularity of the regime depends on the lower economic class as they tend to support it (Sohrabi-Haghighat 2011). It is not a surprise to see poor Iranians -the "pious poor"- treating the former president Ahmadinejad like "a rock star" when he visits their poor villages (Peterson 2010: 325).

The Islamic republic tries to integrate Western democracy with Shia Islamic theocracy. The highest position –the Supreme Leader– is held by a cleric who is elected by the Assembly of Experts, a deliberative body of well-educated Islamic scholars who elect and remove the holder of this position and supervise his activities. The Assembly comprises a body of 86 senior clerics who are responsible for monitoring Iran's supreme leader and choosing his successor (Rahimi 2007: 287). The membership of the assembly is not a life term; it consists of eight-year terms (Ehteshami and Zweiri 2006). On the other hand, the president—who heads the government—is elected for a four-year term, with a limit of two terms. The positions of the ‘Supreme Leader’ and the ‘Assembly of Experts’ are religious and candidates come only from the clergy, while the president and members of parliament can come from any background, assuming their political attitudes do not clash with the precepts of an ‘Islamic’ republic.

Conclusion

To conclude, the political structures of Saudi Arabia and Iran can be explained by their differing interpretations of Islam in terms of its jurisprudential content. The differences in Sunni and Shia jurisprudence dictate how Saudi Arabia and Iran seek to govern their populations, be it through an unelected absolute monarchy or a Supreme Leader that is divinely ordained. Between Saudi Arabia and Iran, it is the latter that allows for its citizens a greater democratic space where presidential elections are conducted every four years. The favourable attitude towards democracy can be explained by Iran’s history of constitutional monarchy under Shah Reza Pahlavi where parliamentary elections were the norm. Nevertheless, the Supreme Leader, that is after 1979, assumes his position by bypassing the democratic process, solely overseeing the political affairs of the country. In Saudi Arabia, democracy is practically non-existent with no legislative elections. Since its inception in 1932, Saudi Arabia has never experienced more than one form of governance, that is, monarchical rule.

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