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Is Saudi Arabia a Theocracy? Religion and Governance in Contemporary Saudi Arabia

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In a recent study, historical anthropologist Madawi al-Rasheed defines the current Saudi monarchy as 'politically secular[1] and socially religious'.[2] The *de facto* separation between religion and politics in an otherwise highly Islamicized public sphere, she argues, has arisen as the official Wahhabi *'ulama'* (religious officials) have taken on the role of guardians of the social order, all the while relinquishing any political authority to the ruling family and state machinery. Hence, the use of the connotation 'theocratic unitarian state' in regard to Saudi Arabia by earlier generations of scholars is misleading, al-Rasheed stresses.[3] Her observations about (what she calls) the 'enigmatic duality' challenge long-standing notions about Saudi Arabia as a theocracy. Studies on the Saudi state often emphasize the fusion of religion and politics.[4] Saudi constitutional law and its judicial system rest on traditional Islamic legal principles; the *Qur'an* and *Sunna* form its constitution and Islamic *fiqh* supports the laws of the state.[5] Aharon Layish would even argue that Saudi theocracy is 'so great that it is not permitted to use terms connoting statutory legislation in a Western sense with all the attendant negative associations'.[6]

How can we account for al-Rasheed's statement about the 'enigmatic duality' in Saudi Arabia, when the Wahhabi religious point of view seems to dominate the country's political system? In other words, to what extent do the current Saudi monarchies accommodate theocracy?[7] To address these questions, I first examine contemporary Wahhabi theories of politics and governance, specifically the question of authority. Two fundamental Islamic principles will be addressed in this respect: (1) sovereignty (*hakimiyya*) and (2) authority-holders (*wulat al-umur*, sing. *walai al-amr*).[8] I then discuss the extent to which religion is practically involved in politics and governance by examining the mechanisms of domination, the actual relationships between religious scholars (*'ulama'*) and rulers (*umara'*), and the means by which authority is actually implemented.[9] The current Saudi regime, I would suggest, is best described as theo-monarchy, that draws power from long-standing religio-cultural norms. In this context, Wahhabi Islam seems to authorize a distinctive government paradigm, one not yet recognized by the relevant Islamic literature. Before expanding on these issues, let us begin, however, with an overview of the Islamic disputes in the matter of governance.

Muslim scholars and jurists throughout history often stressed the link between religion and government. The Shafi'i scholar al-Mawardi (d.1058), one of the most famous political thinkers of the Middle Ages, stated, for example, that 'God ... ordained for the community (*al-umma*) a leader through whom He protected the community (*al-milla*); and He entrusted to him authority (*al-siyasa*), so that the management of affairs should proceed (on the basis of) right religion (*din mashru'*).[10] In the same vein, Ibn Taymiyya (d.1328) insists that Islamic government is necessary and required to impose Islamic law, thereby ensuring justice within the community by means of the practice of the doctrine of 'commanding right and forbidding wrong' (*al-amr bil-ma'ruf wal-nahi 'an al-munkar*).[11] Ibn Taymiyya's pupil Ibn Qayyim al-Jawziyya (d.1350) went on to argue that politics is part of religion, since Islamic government is needed to protect religious values.[12]

However, the political theories propounded by the traditional scholars were greatly limited in scope, and only some issues, such as the duties and qualifications of a ruler, were addressed.[13] For example, Al-Mawardi identified the ruler's duties as follows: to maintain the religion, to execute judgments between claimants, to protect the House of Islam, to implement *shari'a*, to guard the frontiers, to undertake *jihad*, to appoint advisors, to collect taxes, to pay salaries, to oversee community affairs personally, to lead the Friday prayers, to perform pilgrimage, and to celebrate the religious festivals.[14] Al-Ghazali adds additional duties: to be commander of the Muslim army and to lead all formal religious observances.[15] Most importantly, however, the ruler must be, inter alia, a mature Muslim male, a just person, possessing religious knowledge and able to make independent judgments on points of law as instructed by the *shari'a*. In other words, *siyasa* or governance must accommodate *shari'a* (Islamic law), which is known in classical Islamic literature as *siyasa shar'iyya*.[16]

In modern, as in classical Arabic discourse, the term *siyasa* is defined as 'the proper administration of the subjects by political office-holders', whereby the practitioner is called *sa'is*, derived from the root s-y-s.[17] Ibn Khaldun defined *siyasa* as the *tadbir shu'un al-ra'iyya*, the administration of the affairs of subjects, executed by caring for their well-being and needs, their property and honour, and the dispatch of justice between and amongst them.[18] The term *shar'iyya* is derived from the root sh-r-' and is an expression of the application of *shar'i* practice. Thus, the compound *siyasa shar'iyya* describes administrative practice (*siyasa*) within the limits assigned to it by Islamic law (*shari'a*).

Al-Mawardi discussed Islamic political philosophy and referred to his work as the 'rules of governance' (*ahkam sultaniyya*).[19] He focused on Islamic government and the administration of the affairs of state by means of the *siyasa* doctrine. He defined the traditional *siyasa shar'iyya* doctrine as a *masdar tashri'i tab'i.* an ancillary legislative source, based on legal principles, such as striving for improved public welfare (*istihsan*); catering to the public interest (*al-maslaha al-'amma*); prohibiting the use of evasive legal devices (*sadd al-dhari'a*); following local customs ('*urf*); showing consideration for the practical outcomes (*i'tibar ma'alat al-af'al*); following the intentions of the *shari'a* and striving to find its correct interpretation (*maqasid al-shari'a*); and sensitivity to disagreements in *shari'a* matters (*mura'at al-khilaf*).[20]

In practice, these principles served most legal schools (*madhhabs*) as the basis for legitimizing the use of *siyasa shar'iyya*. For instance, the Malikis relied on the principle of *istislah* to define the authority vested in the ruler, allowing him to use his

mental faculties in developing legal procedures in accordance with contemporary public interests. This principle is expressed in the deliberations of Ibn Farhun (d.1397), who defined the activities of the ruler within the structure of the *siyasa shar'iyya* doctrine as being the *ikhraj al-haqq min al-mazalim*, the uncovering of grievances.[21] Ibn Farhun regarded revealing the truth to be the essence of *siyasa shar'iyya* and emphasized the activities of the ruler towards the deterrence and prevention of iniquity. For the Malikis, the ruler's decrees concerning matters of criminal justice of a *shari'a* nature were recognized within the three categories of punishment (*hudud, qasas*, and *ta'zir*), as opposed to the view of the Hanafi school, which limited the ruler's activities to discretionary punishment (*ta'zir*).[22] Al-Shatibi (d.1370), also a member of the Maliki school, supported conferring broad powers on the ruler within the structure of this doctrine, his main contention being that there was no imposition of obligation (*taklif*) without independent reasoning (*ijtihad*).[23] Al-Shatibi was of the opinion that the various innovations and challenges of the time require constant adjustment of the law. Thus, the creation of new *shari'a* methodology results from necessity and is a requirement when imposing *taklif* (personal obligation).[24]

The Shafi'is defined *siyasa shar'iyya* by the application of the principle of *maqasid al-shari'a*, the intentions of the *shari'a*. For instance, Ibn 'Abd al-Salam (d.1262) claimed that it is the obligation of the ruler or his appointee to seek out the intentions (*maqasid*) of the *shari'a* in order to reach the greatest common good.[25] Ibn 'Abd al-Salam's claim gained support among other Shafi'i scholars, whose position was backed by the practice of *ijtihad*, albeit they used *maslaha* instead of *siyasa shar'iyya*.[26]

The *siyasa shar'iyya* doctrine is also recognized by the Hanbali school, where it merges with the mechanisms of *maslaha*. Ibn 'Aqil (d.1119), for instance, supported the broad discretionary authority of the ruler within the *siyasa shar'iyya* doctrine. Ibn 'Aqil defined it thus: '*Ma kana fi'lan yakunu ma'ahu al-nas aqrab ila al-maslaha wa-ab'ad 'an al-fasad, wa-in lam yada'ahu al-rasul wa-la nazila bihi wahi*' ('Whatever draws people closer to justice and farther from corruption, even though it does not emanate from the Prophet or an angel').[27]

Indeed, Ibn Taymiyya (d.1328) was suspicious of the doctrine of *maslaha*, due to its proximity to those mechanisms based on reasoning. In due course, however, Ibn Taymiyya supported *maslaha*'s wide use, albeit in a limited fashion. He permitted its application to all fields, even in matters of worship (*'ibadat*), provided that no contradiction arises between the textual sources and the accepted legal legacy of the leading jurists. In his view, the role of the *imam* (ruler) is to enforce the *shari'a* and to require the moral behaviour of his subjects, who, in turn, should respond with appropriate obedience.[28]

Ibn Taymiyya's pupil, Ibn Qayyim al-Jawziyya (d.1350) followed in his master's footsteps, permitting the even wider use of the *siyasa shar'iyya* doctrine by means of the same mechanism, the principle of *maslaha*. Ibn Qayyim al-Jawziyya defined *siyasa shar'iyya* as milestones (*'alamat wa-amarat*) in the process in which Divine will and that of the Prophet are revealed.[29] It is worth noting that Ibn al-Qayyim's approach resembles that of Ibn Farhun in his book *Tabsirat al-hukkam*.

Modern-day Islamic discourse on governance attempts to elaborate on traditional principles regarding the relation between religion and politics. This is clearly indicated in the increasing debate over the question of '*fiqh siyasi*', the philosophy of governance in Islam.[30] Researchers identify very different contributory factors in the

quest for an Islamic model of governance. Bryan Turner argues, for example, that Islamism is a product of 'the failure of authoritarian nationalist governments and the socio-economic divisions that have been exacerbated by neo-liberal globalization'.[31] Other factors mentioned are: reactions to economic crises, social dislocations, and reactions to authoritarianism.[32] I would add that, for some Islamic political forces in the Arab/Islamic world, the provision of political programmes was vital as a pre-condition to becoming integrated into domestic politics and power. A good example of this may be the programme published by the Egyptian Society of Muslim Brothers in September 2007.[33] Islamic parties in the Arab world often found themselves heavily criticized, inter alia, for having no clear political, social and economic goals; hence, they failed to gain public support in elections.

However, the modern disputes over the question of Islam and governance are the most significant. We find a variety of answers when we study the Muslim scholars' attitudes toward Western democracy and whether and to what extent it accommodates Islamic law. Raghid El-Solh divided these attitudes toward democracy into three major groups:[34]

(1) those that reject democracy as a foreign concept that has been imposed by Westernizers and secular reformers upon Muslim societies. According to El-Solh, people holding such views are less likely to be the ones participating in elections and they mostly limit themselves to participating in intellectual debates in the media, remaining aloof from the political dynamics of their societies;

(2) those who believe that true Islam and democracy are compatible. This group argues that Islam is inherently democratic and all of the principles and practices of democracy are integral to it. Hence, the democratization and the Islamization of Muslim societies are more or less the same process. Among the Islamists who belong to this group is Hasan al-Turabi, the leader of the Islamic National Front in the Sudan;

(3) those who emphasize democracy in its representative forms. These seem to be less sceptical than the members of the first two groups regarding the possibility of implementing democracy in Islamic society. El-Solh names two prominent Egyptian proponents of this idea: Muhammad 'Amara, a well-known writer in Islamic affairs, and Shaykh Muhammad al-Ghazali, a leading thinker in the Egyptian Muslim Brotherhood.

To sum up, traditional and modern Muslim scholars believe in the inseparability of religion and state. Government is considered to be vital, due to its lofty duty to protect the religion and Islamic values. Yet both religion and state fall short in providing systematic mechanisms: for delineating the ruler's authority, for defining the relationship between the ruler and those being governed, and for providing a practical model of how an Islamic state should be. The following portion of this article will explore how Wahhabis stand in this respect, having practised religion and politics for more than two centuries.

A central feature of Wahhabi political thought is the total fusion of religion and politics. For the Wahhabis of all generations, Islam is not only a religion, it is a

comprehensive system for governing everything public, social and political, and Islamic law is a complete moral code that prescribes for every eventuality, including governance.[35] This is clearly indicated in the Wahhabi conceptualization of the question of authority and authoritativeness within an Islamic governmental system. Here, I focus on two fundamental principles of governance that offer insights into current Wahhabi perceptions of the duality of religion and politics: (1) sovereignty (*hakimiyya*) and (2) authority-holders (*wulat al-umur*).

It has been argued that Mawdudi and Qutb were the first to use the concept of God's sovereignty (*hakimiyya ilahiyya*), but this is clearly not the case. As early as the reign of 'Ali Ibn Abi Talib, the fourth Rightly Guided Caliph (656–661),[36] 'Ali responded to a group in his camp, called Khawarij, who opposed 'Ali's dissolution of a political dispute with a competing political faction (led by Mu'awiya, the founder of the Umayyad Dynasty, 661–750) by arbitration. According to the Khawarij, this act of arbitration represented the acceptance of the human dominion, rather than God's alone. These Khawarij followed the Islamic slogan: '*la hukm illa li-Allah*' (the judgment is God's alone) – meaning that all political decisions must be based solely on the words of God.[37] 'Ali responded by calling upon the people to gather around him, and brought a copy of the Qur'an, instructing it to speak to the people and inform them regarding God's law. The people were shocked and exclaimed: 'What are you doing? The Qur'an cannot speak, for it is not a human being!' 'Ali then explained that this was exactly his point – that the Qur'an is merely paper and ink and does not speak for itself. Instead, it is human beings who enact it, according to their limited judgements and opinions.[38]

This anecdote may best represent the beginnings of the initial Islamic controversies over the perceptions of sovereignty. Traditionalists often stress ultimate sovereignty as a feature of God. For example, Al-Ghazali stated the ultimate sovereignty of God, stressing that God's sovereignty is even more important than God's unity.[39] Ibn Taymiyya argued that the will of God was passed to Muhammad by means of a revelation and so Muhammad's legacy must be treated as a divine law with God as the sole Sovereign.[40] Ibn al-Muqaffa' (d.759) insisted that a government that does not implement the requirements revealed in the Qur'an and the Sunna does not merit obedience.[41]

Modern-day Islamists assert various perceptions of sovereignty ranging from the traditional ultimate sovereignty of God to a new modern view finding no conflict between divine and human sovereignty. Al-Mawdudi stated that God is the sole sovereign over all creatures,[42] and he was subsequently supported by Qutb, who insists on 'no sovereignty except God's, no law except from God, and no authority of one man over another, as the authority, in all respects, belongs to God'.[43] Íasan al-Turabi, a leading Sudanese activist and thinker, on the other hand, differentiates between God's *hakimiyya* and mankind's vice-regency (*istikhlaf*). According to al-Turabi, the proper political and social structures can be established on the basis of mutual contracts; since the Qur'an speaks to the individual consciousness, individuality should be maintained against any power of the state.[44]

The Wahhabis follow the traditional view, in which sovereignty ultimately rests with God, the source of all authority, the supreme law-maker, who has defined good and evil, the legal and the illicit (*al-halal wal-haram*). Members of the Muslim community (*umma*) are God's subjects; the community's laws are divine; all its property belongs to

God; its army is His and its enemy's are also His.[45] Moreover, this omnipotent sovereign assumes that divine legislature will regulate all human interactions. Ibn Baz argues, for example, that the term worship (*'ibada*) includes all human actions, both explicit and implicit. Accordingly, one must completely submit to God's will as it manifests itself particularly in the Qur'an and the Sunna. For this reason, the Qur'an is much more than just the highest source of the Islamic *corpus juris*; it is a constant source of inspiration. It constitutes an eternal constitution, appropriate for any time and place, and, as such, it contains all the basic principles of Islamic law and provides the platform for developing political, legal and moral norms.[46]

Hence, it is incumbent upon Muslims to obey the Qur'an and the Sunna's instructions exclusively. To substantiate his arguments, Ibn Baz draws on nine Qur'anic verses, all of which command obedience to God and His Prophet's instructions. One of these verses is: 'But no, by thy lord they can have no (real) faith, until they make Thee judge in all disputes between them, and find in their souls no resistance against Thy decisions, but accept them with the fullest conviction (4: 65)'. Another Qur'anic verse is: 'O ye who believe! Obey Allah, and obey the Messenger, and those charged with authority among you. If ye differ in anything among yourselves, refer it to Allah and His Messenger, if ye do believe in Allah and the Last Day: that is best, and most suitable for final determination (4: 59)'.[47]

All nine verses can be assimilated into the doctrine of allegiance and enmity in Islam (*al-wala' wal-bara'*), that is to say, Muslims must pledge allegiance only to God and His Prophet.[48] According to this logic, strictly secular political ideologies, such as communism and nationalism, must be rejected. Thus, Ibn Baz went on to declare that: 'He who thinks that human rules [are] better than those of God, or even resemble them [God's rules], thereby endorsing replacing them by positive rules or human orders, is an unbeliever'.[49]

However, God does not seek to regulate all human affairs. In the Qur'anic worldview, human beings are taken to be vice-regents of God, with abilities approaching the divine (the miracle of the human intellect), and thus are given considerable latitude in regulating their own affairs, as long as they observe certain standards of moral conduct, including the preservation and promotion of human dignity and well-being.[50] Indeed, Ibn Baz is morally committed to protect and preserve the integrity and dignity of mankind as a divine symbol. To this effect, he quotes from the Quran: 'Behold, thy Lord said to the angels: I will create a vice-regent on Earth.' They said: 'Wilt Thou place therein one who will make mischief therein and shed blood? Whilst we do celebrate Thy praise and glorify Thy holy (name)?' He said: 'I know what ye know not', Qur'an (2:30). Thus, for Ibn Baz, God's sovereignty has, from the beginning of Creation, taken the form of human agency. The Wahhabis associate this agency with authority-holders (*wulat al-umur*), who should be obeyed, as long as they perform according to the *shari'a*.

The question here is–who are the ideal authority-holders and what form should their domination take? It must be noted that in Saudi Arabia authoritarian power can be unwittingly drawn not only from religion/the sacred, but also from tribal or clan social structures and from long-standing cultural norms.[51] This resembles Weber's notions of 'traditional authority' and the dominance/subordination relationship. Religiously speaking, classical Wahhabi political theory is based on the premise that the purpose of government in Islam is to preserve the *shari'a* and to

enforce its dictates. To maintain and enforce the *shari'a*, a temporal ruler is needed and obedience to him is a religious obligation. However, this ruler must consult the *'ulama'*, who are designated as those most authorized to clarify the instructions of the *shari'a*.[52] Shaykh Muhammad Ibn 'Abd al-Wahhab (d.1792), the eponymous founder of Wahhabism, divided the ruling hegemony of the state between the *'ulama'* (religious officials; 'divines'), who were the authorities in matters of jurisprudence, and the *umara'* (political rulers), who ruled and presumably consulted the *'ulama'*. Accordingly, the *shari'a* needs the ruler's commitment and enforcement, while the state needs the *shari'a* for its legitimacy.[53] However, Ibn 'Abd al-Wahhab neither provided a precise model of cooperation between the *'ulama'* and the rulers, nor delineated the structure and functions of the Wahhabi state.

To a large extent, modern Wahhabis remain faithful to the classical authority formula of *'ulama'/umara'*. Ibn Baz often stressed that: 'the authority-holders are the *'ulama'* and the *umara'* of the Muslims, who must be obeyed on condition that their decrees match the will of God and do not contradict it'.[54] According to Ibn Baz, while the function of the *'ulama'* is to interpret God's will through analysis and exegesis of His word, the function of the *umara'* is to realize these interpretations.[55] However, little has been written by contemporary Wahhabis about the scope of the King's authority. The only treatises I found in this regard addressed the penalty on brigandage (*hiraba* or *muharaba*), defined as a *hadd* (criminal act).[56] In 1975, while reforming the *shari'a* courts and criminal law procedure, the Permanent Committee for Scientific Research and Legal Opinion (CRLO) (*Al-lajna al-da'ima lil-buhuth al-'ilmiyya wal-ifta'*),[57] issued a *fatwa* (Islamic religious ruling) determining that the court's authority consists of identifying the type of crime and proposing an appropriate punishment in accordance with the crime's severity.[58] The final decision regarding the punishment is within the King's purview, so that he may accept or reject the courts' recommendation, as he sees fit. It was furthermore established that the King should approve penalties for severe crimes, such as execution and dismemberment, and, in general, any physical punishment; the King is entitled, as the sole arbiter, either to approve the punishment, as determined by a court of law, or to instruct the relevant authority to revise or reconsider it.[59]

Although Wahhabis did not define the authority-holders' scope of authority, they expected the kingdom's subjects to obey them, as long as they did not contradict the *shari'a*. A pertinent example is the debate that Ibn Baz conducted in the Faysal Ibn Turki Mosque in Riyadh. There, he clarified his views about authority-holders and why they should be obeyed. His response to one of the questions asked at the debate: 'To whom does obedience to authority-holders (*wulat al-umur*) belong, *'ulama'* or *umara'*?' was the following:

> God, exalted may He be: 'O ye who believe! Obey Allah, and obey the Messenger, and those charged with authority among you. If ye differ in anything among yourselves, refer it to Allah and His Messenger, if ye do believe in Allah and the Last Day: that is best and most suitable for final determination (4: 59). The authority-holders are the *'ulama'* and the *umara'* of the Muslims ... they must be obeyed in doing good, for only in this way will peace and safety reign and will the usurped be saved from the usurper, while disobedience will cause anarchy so that the strong will usurp the weak.[60]

In prefacing his opinion on an interpretation of a Qur'anic injunction, he enjoins the believers to obey the kingdom's authorities. In this regard, he links submission to Allah and his Prophet with obedience to the temporal ruler. Here, submission paves the way to happiness in both this world and the next. Therefore, Ibn Baz based his arguments mainly on *maslaha* and *siyasa shar'iyya*, the two principles that appear as basic concepts in Wahhabi legal and political thought, by means of which the ruler's actions are legitimized. Basing himself on these principles, Ibn Baz requires obligatory obedience of all royal decrees and rulings, even those that are not covered in the *shari'a*, such as traffic regulations, road accidents, employer/employee relations and social norms, since all these address the well-being of the public.

Nevertheless, the believer is equally obliged to disobey a ruler or person of authority should his orders violate the *shari'a*: 'If . . . the decree issued counters the will of God, neither the *'ulama'* nor the rulers should be obeyed. An example would be a decree to drink wine or to deal with usury.'[61] Such decrees are to be considered as blatant blasphemy (*kufr bawwah*), one of the most severe transgressions in Islam. Such a transgressor must be excluded from the Islamic community.[62] All the same, open rebellion is forbidden: 'No opposition must be raised against the rulers, even when not fulfilling the *shari'a*, but rather they must be advised through ways of tranquillity.'[63]Opposing a ruler who fails to act in accordance with the *shari'a* must be done through non-confrontational reasoning, namely drawing the ruler's attention (*tanbih*) to the transgression and showing him how his actions are inconsistent with the *shari'a*. One means is to provide secret advice (*nasiha*) in writing to the ruler (*mukatabah*). Under no conditions should this advice be made public.[64]

Clearly, Wahhabis in all generations attributed authority to both the *'ulama'* and the political rulers. While the former were obliged to clarify the *shari'a*, the latter were expected to implement those instructions. The following pages are dedicated to an examination of the means by which this religious authority was rendered into practice.

Since the second half of the twentieth century, the *'ulama'/umara'* power relations have considerably changed as the *'ulama'* were incorporated into state apparatuses. The incorporation of the *'ulama'* into the state administration began with the establishment of the first official institution – the *Ifta'*, called the *dar al-ifta' wal-ishraf 'ala al-shu'un al-diniyya* (the Institution for the Issuance of Religio-Legal Opinion and the Supervision of Religious Affairs), under the chairmanship of the Grand Mufti. The *Ifta'* was reorganized in 1971 into two major, interrelated religious agencies, the Board of Senior Ulama (BSU) and the CRLO.[65] These changes in *'ulama'/umara'* relations stemmed from the increasing differentiation between the religious and the political spheres, on the one hand, and the increasing domination of state institutions in areas once exclusively the province of the *'ulama'*.[66]

There is no consensus on the new political setup between the divines and the rulers. Today, two main views have emerged: one maintains that the *'ulama'* have ceased to constitute an autonomous body, but continue to have some sway over royal policies and decisions; the other maintains that the *'ulama'* have lost their power in both the religious and the political spheres. Political scientist Ayman al-Yassini claims, for example, that 'the *'ulama'* lost many of their traditional functions and became a pressure group limited to exerting influence over the government's

activities and policies, but never acted as an autonomous center of power'.[67]
Likewise, Aharon Layish argues that modern Saudi '*ulama*' 'have ceased to be one of
the two foci of power alongside the *umara*', though they still belong to the political
elite and play an important role, especially in times of crises'.[68] Their decline resulted
from the bureaucratization of government activities in tandem with a more affluent
society, open to alternative forms of knowledge, especially exposed to new media.[69]
Al-Rawaf stressed that:

> The activities of the '*ulama*' are socially and not politically orientated. The
> '*ulama*' have exercised very little or no influence over major policies concerning
> foreign affairs, internal security, economic development, oil production and
> pricing, wealth distribution and regional allocation, or political participation.[70]

What emerges from recent studies of Saudi Arabia is the '*ulama's* non-involvement
in national politics. The author believes that analyzing the '*ulama*'/*umara*' power
structure in terms of predomination is somewhat problematic for at least three
reasons: first, there is little doubt that distinguishing position from influence is nearly
impossible, as Aharon Layish and Ayman al-Yassini argued. Secondly, the
distribution of power between '*ulama*'/*umara*' was never clear enough throughout
the more than two centuries of mutual relations. As mentioned above, neither the
modern nor the classical Wahhabi scholars ever delineated the limits of practical
authority of either party; it is quite difficult to distinguish the internal dynamics of
the power distribution between them. Thirdly, attributing the decline of the '*ulama*'
to their incorporation into state administration requires further consideration. It is
possible to assume that, via this incorporation, the '*ulama*' increased their influence
over official policies and governmental circles. In other words, by holding official
positions, the '*ulama*' became players from within the power structure. Had they
remained external to the government, their influence would have diminished.

In any event, the '*ulama*' maintained their cooperation with the ruler and
continued to exercise influence in several areas, including nearly all legal and
religious affairs. They even managed to increase their power over time by expanding
their control over other ministries and religious agencies, such as the Ministry of
Justice, the Ministry of Islamic Affairs and Endowments, Call and Guidance, the
Ministry of Pilgrimage, the Committee of Commanding Good and Forbidding
Wrong, Preaching and Guidance of Islam at Home and Abroad, the supervision of
girls' education, notaries public, the supervision of mosques and *awqaf* (charitable
trusts), and finally the World Muslim League and the World Assembly of Muslim
Youth.[71] Thus, in Saudi Arabia, the '*ulama*' continue to play a significant role, at
least in influencing social and internal policies, and in shaping the Saudi socio-
cultural facade. Moreover, in Saudi Arabia the religio-legal opinion (*fatwa*, pl.
fatawa) is still used, not only as a legitimizing basis for government policy, but also
as an instrument in its implementation, as witnessed in at least two different areas:
legislation and the endorsement of political decisions.

In Saudi Arabia, both political and religious institutions are main authorities in
the Saudi legal system. Technically, this system is divided into two components: one
based on the *shari'a* and one on political authority (*siyasa*). The first, grounded in the
application of the *shari'a*, is articulated primarily by *fatawa*, whereas the second

consists of royal decrees. Indeed, these two components complement each other, the latter deriving its legitimacy from the former. Royal decrees are issued directly by the King or his representatives, such as ministers and the Saudi *umara'*, who favour legislation or various political decisions, at times not in keeping with the tenets of the *shari'a*. In such cases, the *fatwa* serves as the most important instrument in rendering religious legitimacy to these policies, that must accommodate *shari'a* law.

It must be noted that in Saudi Arabia, *siyasa shar'iyya* is arguably the most important tool at the disposal of the monarch for conducting state matters under the aegis of the *shari'a*. Frank Vogel suggests that the religious definition of *siyasa shar'iyya* in Saudi Arabia offers the widest possible basis for royal legislation.[72] Moreover, the Saudi constitution (*al-nizam al-asasi*) of 1992 specifically states that royal authority is based on *siyasa shar'iyya*. For example, Article 55 states: 'The King shall undertake the governing [*siyasa*] of the nation based on *siyasa shar'iyya*, in accordance with *tibqan* [the rules] *ahkam* [of Islam].'[73] Similarly, Article 67 states: 'The regulatory authority shall have jurisdiction to enact *nizams* [regulations] and *lawa'ih* [bylaws] in order to attain welfare and avoid harm in the affairs of the state, in accordance with the general *qawa'id* [rules] of the Islamic *shari'a*.'[74]

Instances of involvement of the religious institutions in the legislative procedure can be found, especially regarding controversial issues such as criminal law procedures, ethical and moral issues, family law and ritual prescriptions. Substantive legislation was formulated with full interaction and cooperation between the religious and the political establishments. From a procedural perspective, this legislation is manifested in two differing, yet complementary, ways: lending legal validity to an existing *fatwa* or new legislation based on an existing *fatwa*.

The first (lending legal validity to an existing *fatwa*) manifests itself in the transformation of the *fatwa* itself into a state law by royal decree. We must point out that according to the *shari'a*, the *fatwa* is a non-binding regulation; its purpose is to be informative and non-obligatory, in contrast to the *qadi*s (judge's) decision, which is binding on the parties involved.[75] However, a royal decree can render a *fatwa* into binding law. It may be possible to distinguish a number of fatwas, particularly in the realm of morals and ethics, which later became laws by royal decree. For example, the *fatwa* that forbade locals to serve food to foreigners during the Ramadan fast, and that prohibited the latter to eat in public during the fast, was issued by the CRLO and became law through a royal decree.[76]

Another example was the *fatwa* that prohibits women from driving. This *fatwa* was issued by the CRLO in 1990 and was made into law by the Saudi Ministry of the Interior. It is based on quotations from the Qur'an and Islamic tradition, and its justification was that it prevented women from encountering dangerous situations that may result from being alone (*khalwa*) (while driving).[77] Another *fatwa* issued by the BSU, upon request of the King, pertained to the limitation of dowries. In Islamic law, at least in the Maliki School, a dowry constitutes one of the conditions of the '*aqd nikah* (marriage contract). However, the exact sums of money, not having been defined by Islamic law, are determined by the parties involved in the drawing up of the marriage contract, in accordance with the '*urf* (local custom). The BSU rationalized its *fatwa*, claiming that conditions should be conducive to the fulfilment of requirements for marriage – one of the most important prescriptions in Islam (in order to prevent negative phenomena, such as prostitution (*zina*)). Accordingly, the

BSU prohibited the rejection of marriage proposals on behalf of daughters or sisters for non-legitimate reasons. A long list of mitigating circumstances were established for youngsters requesting permission to marry,[78] some, for example, in the form of special, guaranteed government loans for young people, or a special fund set up by Shaykh Ibn Baz and supported by governmental sources, with the intention of aiding potential marriage partners.

The second method (legislation based on existing *fatwa*s), is implemented to provide a legal basis for governmental legislation. Extensive legislation exists based on existing *fatwa*s. For instance, the royal decree prohibiting women from engaging in certain professions, defining them as being 'inappropriate for her nature', or those which deal with encounters between men and women, such as might occur in the course of secretarial and various administrative work.[79] However, the implementation of this law was problematic, because it caused the cessation of existing positions for many women working in managerial and clerical jobs. In spite of the existence of a *fatwa* from 1979 dealing with the subject,[80] an additional and more detailed *fatwa* was issued on 10 September 1981, intended to clarify the *shari'a* stance on this matter. According to this *fatwa*, work is permitted for women outside their homes when two basic conditions are fulfilled: first, that no contact between a woman and an unrelated male is allowed in the workplace; second, that the occupation be 'appropriate to a woman's nature', defined as being similar to a woman's role and job within the home. The first condition is both central and crucial regarding the principle of women working outside the home, yet strict when considering women's freedom of movement; it results from a rigid, conservative interpretation of the legal term of *khalwa*, defined as a meeting between a woman and a man or men, whether in private or in public, without the presence of a *mahram* (a blood relation). Hence, the jobs that women hold in public service, involving encounters with male strangers, are prohibited by the *shari'a* definition of the legal term *khalwa*.

In any event, many decrees have been issued based upon existing *fatwa*s. For example, Saudi women are prohibited from appearing dressed in a manner not befitting the *shari'a*, as understood by the Wahhabis – so women must cover their entire bodies, including their faces, leaving only their eyes uncovered.[81] This regulation, too, is strict in comparison to other orthodox schools, which allow women to expose their faces. Foreign women are required to appear in appropriate attire and conform to the local customs and tradition.[82] This decree included instructions to foreign embassies, explaining the essence of this new legislation. It authorized the Commanding Right and Forbidden Wrong Committee to apply this rule by inspecting the markets, especially in respect to maintaining compliant behaviour, in the spirit of the *shari'a*.

Based upon the *fatwa* prohibiting the meeting of men and women, limitations were placed upon such meetings in many areas;[83] this included meetings in restaurants, where proprietors are compelled to provide separate spaces for families dining out.[84] Furthermore, women are prohibited from working in hotels, and services provided by men to women in these places are also prohibited.[85] In addition, new hairdressing establishments for women were forbidden to open, and it was decided that the existing ones should be closed down.[86] Women can visit clothing stores and tailors only when accompanied by *a mahram*, and stores and tailors are forbidden to have changing rooms, as is customary in such places. Music and singing parties are

prohibited, as well as the use of loudspeakers at weddings, although weddings can be celebrated according to the rules stipulated by the representatives of religion.[87]

Additional examples of social legislation concerned cinema. Thus, the showing of imported films, in which the content was defined as contradicting *shari'a*, are prohibited, and only documentary films, imported by official institutes for the purpose of education, studies, and culture are allowed.[88] This prohibition is valid both in public places and in private homes.[89]

As for academic studies, only certain students are selected to travel abroad, especially to the West, to complete their studies in various fields. A royal decree limits travel for the purposes of study to those disciplines that cannot be studied in Saudi Arabia.[90] This prohibition was mainly aimed at adolescent high-school graduates, ostensibly to prevent them from being exposed to permissive societies and cultures that differ widely from a conservative culture, such as that of Saudi Arabia.[91]

Such stringent, highly restrictive social legislation was undoubtedly intended to show the Saudi monarchy's adherence to the rule of the *shari'a*. This tendency was most visible in the late 1970s through the 1980s, a period recognized as the peak of modernization in the Saudi state.[92] It seems that the timing of this reform, in addition to its orthodox conservative purpose, was not coincidental, but was rather a part of the tacit agreement, based on the mutually 'compromising arrangement', between the religious and political establishments. Here we focus on the part of the *'ulama'* in this arrangement, by which they provide legitimacy to the Saudi regime's policy, chiefly in very sensitive situations.

The Saudi monarchy, consciousness of the state's religious façade, sought validation of political decisions, particularly in cases where such decisions were liable to contradict the *shari'a*. Below, I offer two famous examples in illustration: the first is a *fatwa* that affirmed the use of weapons in the *al-Haram al-Sharif* (the Ka'ba Sanctuary), while the second validated the landing of US troops in Saudi Arabia during the Gulf War. The first *fatwa* was issued on 24 November 1979 by the BSU, headed by Ibn Baz, and was intended to validate the use of physical force against a group of fundamentalists that had taken over the Ka'ba Mosque. This *fatwa* allowed the use of force and weapons by the authorities on the *al-Haram al-Sharif*'s premises, in contradiction to *shari'a* prohibitions. It was used to justify the blatant contradiction between the rebels' acts and the *shari'a*. Piscatori described this *fatwa* as 'renewed life' for the royal family's claim of legitimacy:

> Precisely because the *fatwa* made clear, in the first paragraph, the King's immediate interest in having the support of the *'ulama'* and because it made explicit the Islamic teaching on the need to defend the *Haram*, it helped the Saudis to address some of the speculation on the value of their guardianship and, hence, their stability. By calling on them to rescue the holiest place of Islam, the *fatwa* gave renewed life to their primary claim to legitimacy. But it did not remove the causes of the revolt, and, as a result, the longevity of that claim remains in doubt.[93]

Note that the BSU provided legitimacy for political measures to be taken by the royal house, by means of significant usage of classical terms such as 'the leader of the Muslims' and the oath of allegiance to the ruler (*bay'a*). However, the *'ulama'*

showed no qualms regarding the difference between the nature of that state and the Saudi one. No special explanation was given for the use of these terms that could have explained the suitability of their purposes to the existing political reality of the Saudi state.

Analysis of the content of the second *fatwa* (the landing of US troops in Saudi Arabia), shows the extensive use by the '*ulama*' of the principle of *maslaha*.[94] The '*ulama*' emphasize the authority and even religious duty of the ruler, being the leader of the nation, of the *Imam* (who is the King) to take measures that maintain the welfare of the public. Since the State is in danger, and it is the duty of the *Imam* to remove that danger, he is entitled to take any steps necessary in order to fulfil his duty, even to the extent of requesting the aid of non-Muslim foreigners. The BSU again defines the authority of the King according to the classical Muslim theory of absolute authority of the Islamic leader (*imam*). In this case, the '*ulama*' not only recognize the great authority of the King in defending the nation, but they stress that it is a religious obligation.

Identifying the current Saudi monarchy as being a 'theocratic unitarian state', in terms of divine power that governs an earthly human state, is misleading. Saudi politics is not theocratic, because of the, inter alia, secondary role that Wahhabi clergy play in politics and governance. This is clearly indicated in both the theoretical and the practical authority in modern Saudi Arabia. Wahhabis, in all generations, divide the ruling hegemony of the state between the '*ulama*', who are the authorities with regard to interpreting the *shari'a* law and advising the political rulers, and the *umara'* (rulers), who are expected to implement the *shari'a* stipulations, as interpreted by the '*ulama*'. Yet the '*ulama's* functions seem to be beyond mere advice, and they often function in the social, rather than the political sphere.

All the same, the 'enigmatic duality' between the 'religious society' and the 'secular polity', as pointed out by Madawi al-Rasheed, is not appropriate to the Saudi reality. Political and religious authorities often perform in a cooperative and even synchronized manner, as evident in legislation and the validation of political decisions. It is difficult, if not impossible, therefore, to make a dichotomization between the 'social' and the 'political', and to negate the mutual influence of these two aspects.

Therefore, the Saudi monarchy is neither theocratic nor secular in the Western sense. Moreover, it is not enough to assume that the Saudi monarchy relies entirely on Wahhabi or Islamic polemics regarding governance, because these fall short in describing how an Islamic state should be and function, as indicated in the first portion of this study. The Saudi monarchy, I would suggest, is a genuine monarchy that accommodates Islam. It is best described as a 'theo-monarchy' shaped by religion and long-standing religio-cultural norms. It is based on an ongoing compromise between the two major authorities, the existing religious institutions and Saudi monarchy. In other words, throughout their cooperation, the '*ulama*' maintained a central role in preserving the religious feature of the state, not only in the social realm, but also in the political one, thus contributing to the theocratic façade of the state. The King, on the other hand, continued to consider the '*ulama's* opinions, consulting them and taking note of their interests. These 'compromising' relationships, which led to the Saudi theo-monarchy, still demand further investigation, beyond the limits of this article.

Notes

1. Secularism is defined here as the separation between religion and politics or between governmental practices/institutions and religious beliefs. See 'Introduction' by M. King, *Secularism: The Hidden Origins of Disbelief* (Cambridge: J. Clarke, 2007).
2. M. Al-Rasheed, *Contesting the Saudi State: Islamic Voices from a New Generations* (Cambridge: Cambridge University Press, 2007), p.57.
3. Ibid., p.58.
4. See, for example, A. Bligh, 'The Saudi Religious Elite ('Ulama') as Participant in the Political System of the Kingdom', *International Journal of Middle East Studies*, Vol.17 (1985), pp.37–50; A. Al-Yasini, *Religion and State in the Kingdom of Saudi Arabia* (Boulder, CO and London: Westview Press, 1985); J. Kechichian, 'The Role of the 'Ulama' in the Politics of an Islamic State: The Case of Saudi Arabia', *International Journal of Middle East Studies*, Vol.18 (1986), pp.53–71; A. Layish, "Ulama' and Politics in Saudi Arabia', in M. Heper and R. Israeli (eds.), *Islam and Politics in the Modern Middle East* (London and Sydney: Croomhelm Press, 1984), pp.29–63; J. Nevo, 'Religion and National Identity in Saudi Arabia', *Middle Eastern Studies*, Vol.34 (1998), pp.34–53; M.G. Nehme, 'Saudi Arabia 1950–1980: Between Nationalism and Religion', *Middle Eastern Studies*, Vol.30 (1994), pp.930–43.
5. On the Saudi legal and jurisprudence systems, see F. Vogel, *Islamic Law and Legal System: Studies of Saudi Arabia* (Leiden: E.J. Brill, 2000), pp.169–221.
6. A. Layish, 'Saudi Arabian Legal Reform as a Mechanism to Moderate Wahhabi Doctrine', *Journal of the American Oriental Society*, Vol.107, No.2 (April–June 1987), p.279.
7. Here, I refer to the *Catholic Encyclopedia* which presents theocracy as: 'form of government in which divine power governs an earthly human state, either in a personal incarnation or, more often, via religious institutional representatives (i.e., a church), replacing or dominating civil government'. See *New Catholic Encyclopedia* (New York: McGraw-Hill, 1967), Vol.XIV, p.13.
8. Given the breadth of the topic, my theoretical analysis will draw on the deliberations of the 'Board of Senior 'Ulama'' (BSU) (*hay'at kibar al-'ulama'*), which, since its establishment in 1971, is at the top of the religious pyramid and issues the definitive decrees on *shari'a*. Emphasis will be placed on the writings and teachings of Shaykh 'Abd-al 'Aziz Ibn Baz (d.1999), the head of BSU and the most senior of the Saudi '*ulama*' between 1975 and 1999. Ibn Baz, one of the most authoritative Sunni religious scholars in the twentieth century, held many important religious functions, most notably Grand Mufti of the Kingdom from 1993 until his death at the age of 89. A sustained discussion of Ibn Baz and the BSU can provide insights into the dynamic relationship between religion, politics and governance in contemporary Saudi Arabia. See M.S. al-Shuway'ir, *Majmu' Majmu' Fatawa wa-Maqalat Mutanawwi'a* (Riyadh: Maktabat al-Ma'arif, 1997), 13 vols., p.1:9.
9. The term '*ulama*' will be approached in a broad sense, to include scholars who somehow linked to the religious functioning in Saudi Arabia. *Umara',* on the other hand, includes rulers mainly from within the Saudi House.
10. Cited in A.K.S. Lambton, *State and Government in Medieval Islam* (Oxford: Oxford University Press, 1981), p.85.
11. A.I. Taymiyya, *al-Siyasa al-Shar'iyya fi Islas al-Ra'i wal-Ra'iyya* (Dimashq: Maktabat Dar al-Bayan, 1985), p.176. On the doctrine of commanding right and forbidding wrong in Islam, see, M. Cook, *Commanding Right and Forbidding Wrong* (Cambridge: Cambridge University Press, 2000).
12. I.Q. al-Jawziyya, *al-Turuq al-Hukmiyya fi al-Siyasa al-Shar'iyya* (Beirut: Dar al-Arqam, 1999), pp.39–40.
13. Y. al-Qaradawi, *Min Fiqh al-Dawla* (Cairo: Dar al-Shuruq, 1997), p.7.
14. Lambton, *State and Government*, pp.91–2.
15. Ibid., p.111.
16. Many important works, some entitled *Siyasa shar'iyya*, have been published on this. Amongst those are *Siyasa shr'iyya* by Ibn Taymiyya and Ibn Qayyim al-Jawziyya. For further accounts, see the Introduction in Lambton, *State and Government*.
17. I. Manzur, *Lisan al-'Arab* (Beirut: Dar al-Sadir, 1956), p.108.
18. I. Khaldun, *Muqaddimat Ibn Khaldun* (Alexandria: Dar Ibn Khaldun, 1982), p.213.
19. Al-Mawardi, *al-Ahkam al-Sultaniyya wal-Wilayat al-Diniyya* (Cairo: al-Matba'a al-Mahmudiyya al-Tijariyya, n.d.); see also Ibn al-Farra', *al-Ahkam al-Sultaniyya* (Indonesia: Maktabat Ahmad b. Sa'd b. Nubayhan, 1974).

20. A'. Amru, *al-Siyasa al-Shar'iyya fi al-Ahwal al-Shakhsiyya* ('Amman: Dar al-Nafa'is, 1998), pp.5, 31; M. al-Qadi, *al-Siyasa al-shar'iyya: Masdar lil-Taqnin bayna al-Nazariyya wal-Tatbiq* (Cairo: [?], 1989), pp.34, 116–17; Y. al-Qaradawi, *al-Siyasa al-Shar'iyya fi Daw' Nusus al-Shari'a wa-Maqasiduha* (Cairo: Maktabat Wahbah, 1998), p. 73; see for example A. Zahra, *Usul al-fiqh* (Cairo: Dar al-Fikr al-'Arabi, 1957), pp.251–91.
21. I. Farhun, *Tabsirat al-Hukkam fi Usul al-Aqdiya wa- Manahij al-Ahkam* (Beirut: Dar al-Kutub al-'Ilmiyya, n.d.), vol.2, p.137.
22. Ibid., pp.138–40.
23. Al-Shatibi, *al-Muwafaqat fi Usul al-Ahkam* (Cairo: Maktabat Muhammad 'Ali Sbih, 1969), vol.4, p.60.
24. Ibid.
25. I.'A. al-Salam, *Qawa'id al-Ahkam fi Masalih al-Anam* (Beirut: Dar al-Jil, 1980), vol.2, p.189.
26. Al-Dimashqi, *Kifayat al-Akhyar fi Hal Ghayat al-Ikhtisar* (Beirut: Dar al-Khayr, 1991), p.48; al-Shirazi, *al-Muhadhdhab fi Fiqh al-Imam al-Shafi'i* (Beirut: al-Dar al-Shamiyya, 1996), pp.220, 234; al-Mawardi, *al-Ahkam al-Sultaniyya*, p.192.
27. I.Q. al-Jawziyya, *al-Turuq al-Hukmiyya fi al-Siyasa al-shar'iyya* (Beirut: Dar al-Jil, 1998), p.19.
28. I. Taymiyya, *al-Siyasa al-Shar'iyya fi Islah al-Ra'i wal-Ra'iyya* (Bierut: Dar al-Kutub al-'Arabiyya, 1966), p.6.
29. I.Q. al-Jawziyya, *al-Turuq al-hukmiyya*, pp.5–7.
30. See, for example, al-Qaradawi, *Min Fiqh al-Dawla* (Cairo: Dar al-Shuruq, 1997); H. al-Turabi, *Nazarat fi al-Fiqh al-Siyasi* (Umm al-Fahm: Markaz al-Dirasat al-Mu'asira, 1997); F. al-Wahidi, *al-Fiqh al-Siyasi wal-Dusturi fi al-Islam* (Gazza, Matba'at al-Hay'a al-Khayriyya, 1988); A. Salim, *al-Fiqh al-Siyasi lil-Hasana al-Diblumasiyyah* (Amman: Dar al-Nafa'is, 2005).
31. B.S. Turner, 'Class, Generation and Islamism: Towards a Global Sociology of Political Islam', *British Journal of Sociology*, Vol.54, No.1 (2003), p.140.
32. J. Esposito, *Islam the Straight Path* (Oxford: Oxford University Press, 1998), p.160.
33. The full version of the Ikhwan's election programme may be seen in their official website: http://www.ikhwanonline.com.
34. R. El-Solh, 'Islamist Attitudes Toward Democracy: A Review of the Ideas of Al-Ghazali, Al-Turabi, and 'Amara', *British Journal of Middle Eastern Studies*, Vol.20, No.1 (1993), p.58.
35. See, for example, I. Baz, '*Wujub Tahkim Shar' Allah wa-Nabdh ma Khalafahu*', in M.S. al-Shuway'ir, *Majmu' Fatawa*, Vol.1, p.72. See also, A.U. Jan, *The End of Democracy* (Ottawa, Canada: Pragmatic Publishing, 2003), p.148.
36. al-Qaradawi, *Min fiqh al-dawla*, pp.61–5.
37. M. Watt, *Islamic Political Thought: The Basic Concepts* (Edinburgh: Edinburgh University Press, 1968), p.54.
38. See M. al-Shawkani, *Nayl al-Awtar Sharh Muntaqa al-Akhbar* (Cairo: Dar al-Hadith, n.d.), vol.7, p.166; I.H. al-'Asqalani, *Fath al-Bari bi Sharh Sahih al-Bukhari* (Beirut: Dar al-Fikr, 1993), vol.14, p.303; K.A. El Fadl, *Speaking in God's Name* (Oxford: One World, 2001), p.23.
39. Lambton, *State and Government*, p.109.
40. Ibid., p.145.
41. Ibid., p.53.
42. Al-Mawdudi, *The Islamic Law and Constitution* (Lahore: Islamic Publications, 1969), p.204.
43. Qutb, *Milestones*, p.26.
44. A.S. Moussalli, 'Hasan al-Turabj's Islamist Discourse on Democracy and *shura*', *Middle Eastern Studies*, Vol.30, No.1 (1994), p.61.
45. I. Baz, '*Wujub Tahkim Shar' Allah*, vol.1, p.72; See also B. Lewis, 'Politics and War', in J. Schacht and C.E. Bosworth (eds.), *The Legacy of Islam* (Oxford: Clarendon Press, 1974), p.159.
46. I. Baz, '*al-Radd 'Ala man Ya'tabiru al-Ahkam al-Shar'iyya Ghayr Mutanasiba ma' al-'Asr al-Hadir*', in al-Shuwa'ir, *Majmu' Fatawa*, vol.1, p.415; idem, '*Hukm al-Islam fi man Za'ama anna al-Qur'an Mutanaqid aw Mushtamil 'ala Ba'd al-Khurafat aw Wasafa al-Rasul bi-ma Yatadammanu Tanaqqusahu aw al-Ta'n fi Risalatihi*', in al-Shuwa'ir, *Majmu' Fatawa*, vol.1, pp.82–8.
47. Al-Shuwa'ir, *Majmu' Fatawa*, vol.1, pp.268–9; other Qur'anic verses cited by Ibn Baz were: 42:10; 5:44, 45, 47, 50, 51; 9:23.
48. On the doctrine of *wala' wa-bara'* in contemporary Wahhabi legal and theological thought, see A. al-Dawish, *Fatawa al-Lajna al Da'ima lil-Buhuth al-'Ilmiyya wal-Ifta' wal-Da'wa wal- Irshad*, vol.2, pp.41–89.

49. I. Baz, '*Wujub tahkim shar' Allah*', in al-Shuwa'ir, *Majmu' Fatawa*, Vol.1, p.79.
50. A. El Fadl, 'Islamic and the Challenge of Democratic Commitment', in J. Cohen and D. Chasman (eds.), *Islam and the Challenge of Democracy* (Princeton: Princeton University Press, 2004), p.68.
51. On different types of authority, see Max Weber, *Economy and Society: An Outline of Interpretive Sociology* (New York: Bedminster Press, 1968), pp.215–45.
52. For further account on authority in Islam, see, A. El Fadl, *Speaking in God's Name*, pp.31–85.
53. A. Al-'Uthaymin, *Ibn 'Abd al-Wahhab: Hayatuhu wa-Fikruhu* (Riyadh: Dar al-'Ulum, 1987), p.136.
54. Al-Shuway'ir, *Majmu' Fatawa*, vol.7, pp.115–22. See also al-*Sharq al-Awsat*, 5 May 1993.
55. Al-Shuway'ir, *Majmu' Fatawa*, vol.7, pp.115–22.
56. A class of crimes defined as to content and penalty in Qur'an and Sunna, pl. *hudud*.
57. The CRLO is a branch of the BSU, both directly subordinate to the Grand Mufti.
58. Royal Decree No.8/1849 of 5 June 1982 based on the BSU's fatwa No.85 of 10 Sept.1981. See also, I. Zafir, *al-Ijra'at al-Jina'iyya fi Jara'im al-Hudud* (Riyadh: Maktabat Fahd al-Wataniyya, 1999), vol.2, p.393.
59. Ibn Zafir, *al-Ijra'at al-Jina'iyya*, p.393.
60. Due to the length of the response, only an excerpt is quoted. The full response may be found in al-Shuway'ir, *Majmu' Fatawa*, vol.7, p.115.
61. al-Shuway'ir, *Majmu' Fatawa*, vol.7, p.115.
62. Ibid., vol.8, pp.205–7.
63. Ibid.
64. Ibid. On the substantial differences between *nasiha* and Western forms of criticism, see Talal Asad, 'The Limits of Religious Criticism in the Middle East: Notes on Islamic Public Argument', *Genealogies of Religion: Discipline and Reason of Power in Christianity and Islam* (Baltimore, MD: Johns Hopkins University, 1993), pp.200–236.
65. See *Umm al-Qura*, 26 Dec. 1952; Kingdom of Saudi Arabia, *Nizam wa-La'ihat Sayr al-A'mal fi Hay'at Kibar al-'Ulama'*, Royal Decree 1/137 of 29 Aug. 1971, pp.3–8; Royal Decree A/4 of 9 July 1993 in *Umm al-Qura*, 15 July 1993.
66. Al-Yassini, *Religion and State*, p.59.
67. Ibid.
68. Layish, "Ulama' and Politics', p.53.
69. The rest of the reasons can be found in Layish, "Ulama' and Politics', pp.54–5. See also his 'Saudi Arabian Legal Reform as Mechanism to Moderate Wahhabi Doctrine', p.292; M. Abir, *Saudi Arabia in the Oil Era: Regime and Elites; Conflict and Collaboration* (London and Sydney: Croom Helm, 1988), p.29; and S.S. Huyette, *Political Adaptation in Saudi Arabia: A Study of the Council of Ministers* (Boulder, CO: Westview Press, 1985), p.117.
70. O.Y. Al-Rawaf, 'The Concept of Five Crises in Political Development: Relevance to the Kingdom of Saudi Arabia' (Ph.D. thesis, Duke University, 1981), p.527, cited in Abir, *Saudi Arabia in the Oil Era*, p.29.
71. Al-Yassini, *Religion and State*, p.68.
72. Frank Vogel, *Islamic Law and Legal System: Studies of Saudi Arabia* (Leiden: E.J. Brill, 2000), pp.169–70, 341–3.
73. Kingdom of Saudi Arabia, '*al-Nizam al-asasi lil-hukm*', May 1992, p.15.
74. Ibid.
75. B. Messick, 'The Mufti, the Text and the World', *Man*, Vol.21 (1986), p.111. On ifta' and qada', see for example M. al-Ashqar, *al-Futiyya wa-manahij al-ifta'* ('Amman: Dar al-Nafa'is, 1993); A.K. Reinhart, 'Transcendence and Social Practice: Muftis and Qadis as Religious Interpreters', *Annales Islamoloqigues*, Vol.27 (1994), pp.5–28; J. Sherman, *Islamic Law and the State: The Constitutional Jurisprudence of Shihab al-Din al-Qarafi* (Leiden and New York: E.J. Brill, 1996), pp.201–17.
76. I. Zafir, *al-Ijra'at al-Jina'iyya fi Jara'im al-Hudud*, vol.1, p.99; Fatwa No.850 of 16 March 1978 became law under Royal Decree No.4/174277.
77. *Khalwa*: Islamic legal term which means 'valid privacy with the wife'.
78. I. Zafir, *al-Ijra'at al-Jina'iyya fi Jara'im al-Hudud*, vol.1, p.85; Fatwa No.52 of 4 April 1977 became law under regulation 12/133, issued by the Minister of Justice of 4 June 1981; see the fatwa in *MBI* No.1 (1979), pp.95–100; al-Shamma'i, *Fatawa Islamiyya*, vol.2, pp.395–409.
79. I. Zafir, *al-Ijra'at al-Jina'iyya fi Jara'im al-Hudud*, vol.1, p.99; Royal Decree No.8/1226 of 18 May 1980.

80. This *fatwa* may be found in al-Shuway'ir, *Majmu' Fatawa*, vol.1, pp.418–27.
81. Royal Decree No.4/30820 of 21 Dec. 1976. See relevant *fatwa* in al-Shamma'i, *Fatawa Islamiyya*, pp.256–66 and al- Shuway'ir, *Majmu' Fatawa*, vol.3, pp.354–6.
82. al- Shuway'ir, *Majmu' Fatawa*, vol.3, p.95; Royal Decree No.8/1858 of 23 Oct. 1979.
83. See the *fatwa* in al- Shuway'ir, *Majmu' Fatawa*, vol.3 pp.19–20.
84. Royal Decree No.80/1631 of 30 July 1980. On the Saudi muftis' positions on meetings between the genders see al-Shuway'ir, *Majmu' Fatawa*, vol.5, pp.236–41.
85. Royal Decree No.3/27746 of 12 Oct. 1980.
86. Royal Decree No.16/4582 of 18 Jan. 1979. See relevant fatwa in al-Shamma'i, *Fatawa Islamiyya*, vol.2, pp.237, 239.
87. Al-Shamma'i, *Fatawa Islamiyya*, vol.2, pp.97–8; Royal Decree No.14340 of 24 Oct. 1967. On the rules governing weddings as determined by the 'ulama', see al-Shuway'ir, *Majmu' Fatawa*, vol.4, pp.120, 122.
88. al-Shuway'ir, *Majmu' Fatawa*, vol.5, p.111; Royal Decree No.4/12368 of 4 May 1978.
89. Royal Decree No.25351 of 8 March 1964.
90. Royal Decree No.19851 of 1 July 1981, revised by Decree No.438/8 of 11 Dec. 1984. See relevant Fatwa in *MBI*, No.6 (1983), pp.466–7; al-Shuway'ir, *Majmu' Fatawa*, vol.4, p.195.
91. al-Shuway'ir, *Majmu' Fatawa*, Vol.4, p.153.
92. For further accounts of the 'modernization' of the Saudi state, see T. al-Hamad, 'Political Order in Changing Societies: Saudi Arabia: Modernization in a Traditional Society' (Ph.D. thesis, University of Southern California, 1985), pp.12–18, 152–171; Abir, *Saudi Arabia in the Oil Era*, pp.19–34, 69–94; al-Farsy, *Modernity and Tradition: The Saudi Equation*; idem, *Saudi Arabia: A Case Study in Development*; J.H. Thompson and R.C. Reischauer (eds.), *Modernization of the Arab World* (Princeton, NJ: Van Nostrand, 1966); G. Lenczowski, 'Tradition and Reform in Saudi Arabia', *Current History*, Vol.52, No.306 (Feb. 1967), pp.98–104; R. Looney, *Economic Development in Saudi Arabia: Consequences of the Oil Price Decline* (Greenwich, CT: Jai Press, 1990); A. al-Sadhan, 'The Modernization of the Saudi Bureaucracy', in A. Beling (ed.), *King Faysal and the Modernization of Saudi Arabia* (London: Croom Helm, 1980), pp.75–124.
93. J. Piscatori, 'The Role of Islam in Saudi Arabia's Political Development', in J. Esposito (ed.), *Islam and Development: Religion and Sociopolitical Change* (Syracuse: Syracuse University Press, 1980), pp.135–6. More on this fatwa in Kechichian, 'The Role of the 'Ulama' in the Politics of an Islamic State', pp.60–63.
94. al-Shuway'ir, *Majmu' Fatawa*, vol.7, pp.359–61.