Islam as a Formal Institution:

The Comparative Islamic Constitutions Database (1861-2022)

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Abstract

The Islamic Constitutions Index, developed by Ahmed and Gouda (2015), remains the only dataset to systematically code Islamic constitutional provisions. However, its initial scope was limited to the enacted national constitutions of the 56 member countries of the Organization of Islamic Co-operation (OIC) as of 2014. This study significantly builds on this foundational work by investigating and codifying all historical and current constitutions of OIC member states, starting with the Tunisian Constitution of 1861—recognized as the first constitution of a Muslim-majority country—and extending to those in force as of 2022. To create a comprehensive Islamic Constitutions Database, I modify and reorganize the 30 "Islamic clauses" identified by Ahmed and Gouda (2015), using them as benchmarks to encompass the full spectrum of Islamic provisions inspired by the 1978 Al-Azhar Constitution. A detailed survey instrument was developed to codify these clauses systematically. The resulting Comparative Islamic Constitutions Database enables the examination, ranking, and comparison of Muslim-majority countries' constitutions based on their degree of "Islamicity." This resource allows researchers to trace trends and patterns of Islamic constitutionalism over time and across regions. More importantly, it facilitates the exploration of the determinants of Islamic constitutionalism and its impact on legal, political, economic, and social outcomes.

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I. Introduction

Over the past century and a half, the relationship between Islamic law and constitutions has evolved from a niche concern of the educated and economic elite to a central political issue addressed across many Muslim-majority societies (Brown & Revkin, 2015). This development is unsurprising, as polls have consistently shown that most Muslims support a greater role for Islam in shaping politics and laws (ASDA'A BCW Arab Youth Survey, 2023; Pew Research Center, 2022; 2013). With the introduction of constitutions in several Muslim-majority countries during the nineteenth century, intellectuals and policymakers made significant efforts to establish parallels between Islamic legal heritage and emerging European ideas of constitutionalism. However, this task was challenging, given the substantial differences in the historical development of constitutional principles and Islamic law at that time.

While certain elements of the Islamic tradition can be seen as early expressions of an indigenous approach to constitutionalism, their prominence in contemporary debates stems more from modern reinterpretations of Islamic law to meet the requirements of constitutionalism than from rigid historical precedents (Grote & Röder, 2011, p. 3). As Kamali (2012, p. 19) observes, "constitutional law is one of the most under-developed areas of Islamic law and jurisprudence." These efforts reflect a dynamic interaction between Islamic law and constitutionalism, characterized by reinterpretation and accommodation rather than static adherence to historical frameworks.

Numerous scholars have examined the gradual "Islamization" of constitutions in Muslim-majority states and the development of jurisprudential theories to ensure Sharia compatibility (Brown, 2002; Fadel, 2013; Moustafa, 2007; Lombardi, 2006). Ahmed and Ginsburg (2014, p. 635) highlight that Islamic constitutional clauses have significantly proliferated since the mid-twentieth century, appearing in the constitutions of approximately 40% of Muslim-majority countries by 2014.

Stahnke and Blitt (2005) found that out of 44 Muslim-majority countries, 22 recognized a constitutional role for Islamic law, principles, or jurisprudence. This includes 18 of the 22 countries where Islam is declared the state religion, as well as four predominantly Muslim countries that, while not declaring Islam as the state religion, identify themselves as Islamic states. Together, these 22 states represented 58%—or just over 600 million—of the 1 billion Muslims living in predominantly Muslim countries as of 2005.

March (2015) observes that nearly all Muslim-majority states include some formal commitment to Islam and Islamic law in their constitutions. In some cases, this stems from strong ideological commitments to Islamization, as seen in Pakistan, Sudan, and Iran. In most cases, however, it serves a more symbolic purpose or is strategically adopted to neutralize the demands of Islamist opposition movements, as in the case of Egypt. In countries where a constitutional role for Islam is established, the extent of that role varies significantly. In some cases, it is restricted to specific matters such as personal status laws or the establishment of religious councils tasked with reviewing the Sharia compliance of legislation and advising the government on religious matters (Stahnke & Blitt, 2005).

The prevalence and impact of Islamic constitutional provisions are crucial for constitutional design in Muslim-majority countries. For example, a clause stating that "the principles of Islam are a chief source of legislation," as in the Egyptian constitution, tends to have a less significant impact on the Islamization of legislation and adjudication than a clause declaring that any law contrary to Islam is void, as in the constitution of the Maldives. Both types of clauses, however, can have profound societal consequences. Constitutional drafters are acutely aware of the relevance and subtle differences between such provisions and carefully consider them when designing constitutions for Muslim societies. For instance, in explaining why Tunisia avoided including a clause declaring "Islam as a source of law" in its 2014 constitution, Rachid al-Ghannouchi, the founder of the local Islamist party Ennahdha, cited Afghanistan's high level of Islamic constitutionalism as a negative precedent.

The rise of Islam's role in constitutions often correlates with significant changes in economic, political, and legal outcomes. Gouda and Gutmann (2021) highlight the case of Abdul Rahman, an Afghan convert to Christianity, to illustrate the potential repercussions of Islamic constitutional clauses. In 2006, Abdul Rahman faced the death penalty for his conversion, despite Afghanistan's criminal code not explicitly criminalizing apostasy. The presiding judge argued, "In this country, we have the perfect constitution, it is Islamic law, and it is illegal to be a Christian and it should be punished" (The Times, 2006). The prosecutor supported this reasoning, calling for the death penalty.

This case underscores the inconsistencies within Afghanistan's 2003 democratic constitution, which simultaneously guarantees religious freedom and enshrines the supremacy of Islam. The actual implementation of Islamic constitutional provisions, however, depends on a variety of factors, including the level of state control, the system of government, judicial independence, the extent of democracy, access to the courts, and the enforcement of judicial remedies (Stahnke & Blitt, 2005). Such complexities reveal the nuanced ways in which Islamic constitutional clauses shape economic and political outcomes, highlighting the challenges in balancing religious principles with constitutional rights.

Efforts to harmonize Islamic law with constitutional principles occasionally influenced Western scholarship on Islamic law as the field began to take shape, though this focus remained relatively marginal until recently. With growing scholarly interest in understanding and analyzing constitutional texts, the body of legal literature addressing the incorporation of Islam in constitutions, often referred to as "Islamic constitutionalism," has expanded significantly over the past few decades (Abou El Fadl, 2011; Brown & Revkin, 2015)

Despite this progress, institutional economics literature has primarily focused on Islam as an informal institution, emphasizing its role in shaping norms, values, and social coordination rather than its formal codification in legal systems. North's (1990) foundational framework on institutions underscores the significant influence of informal institutions—unwritten rules and shared norms—in shaping economic behavior and performance. A substantial body of research examines the relationship between religiosity among Muslims and economic attitudes (Guiso, Sapienza, & Zingales, 2003;

Trautmann, 2022). For instance, Lo Turco and Maggioni (2018) explore how Islamic values foster community-based trust networks, which often serve as substitutes for weak formal institutions in developing economies.

Institutional economics literature examining Islam as a formal institution remains relatively limited. However, Timur Kuran's work provides critical insights into the historical role of Islamic laws in shaping the economies of Muslim-majority societies. Kuran (2011) argues that Islamic inheritance laws, which require the division of wealth among numerous heirs, fragmented capital and impeded the formation of large-scale enterprises. Similarly, the structure of Islamic partnerships, which dissolved upon the death of a partner, hindered the development of durable corporate entities capable of competing with Europe's joint-stock companies. Additionally, the prohibition of interest (*riba*) delayed the adoption of modern financial systems in Muslim societies, further exacerbating the economic gap between Muslim-majority countries and Europe (Kuran, 2004). Lattanzio (2022) further demonstrates that the institutionalization of Sharia law within a country's legal system imposes material economic costs.

Recent empirical literature suggests that Islamic constitutional provisions have a significant impact on several key outcomes, including gender equality (Gouda & Potrafke, 2016), rule of law (Gouda, 2013; Gutmann & Voigt, 2015; 2018), the protection of religious minorities' rights (Gouda & Gutmann, 2021), and democracy (Gouda & Hanafy, 2022). Most studies in this field focus on two critical aspects of Islamic constitutionalism: whether Islam is identified as a source of legislation and the degree of its supremacy within the constitutional framework. However, a significant limitation of this literature is its restricted temporal scope, typically covering the period between 1990 and 2014 (Gouda & Gutmann, 2021; Gouda & Hanafy, 2022). This narrow timeframe often results in minimal variation in the constitutional provisions studied, thereby constraining the robustness of causal inferences regarding the effects of Islamic constitutional provisions on various outcomes.

Almost all the studies investigating the consequences of Islamic constitutionalism rely on the Islamic Constitutions Index developed by Ahmed and Gouda (2015). Utilizing the framework of the Comparative Constitutions Project by Elkins et al. (2009), the Islamic Constitutions Index measures the degree of Islamization in constitutions. This is achieved through utilizing a unique model Islamic constitution, developed in 1978 by Al-Azhar University (Gouda, 2013), as a point of reference to identify a set of 30 distinctive Islamic characteristics of constitutions.

Al-Azhar constitution is an exemplary draft constitution developed Al-Azhar university of Cairo in 1978 with the purpose of making it "available to any country that wishes to model itself after the Islamic Sharia" (An-Na'im, 1990; Gouda, 2013). Referred to as the "chief centre of Arabic literature and Islamic learning in the world" (Encyclopædia Britannica, 2012), Al-Azhar university is one of the oldest and most respected Sunni religious institutions in the world. It is known as the voice of moderate Islam and has a major influence across the Muslim Sunni sphere (Zakaria, 2004, p. 9).

Al-Azhar constitution remains the best example of model Islamic constitution for several reasons; First, it is the only modern constitution that is fully developed by a religious entity. Second, as Al-Azhar is considered by many as the most sought-for moderate entity in the Islamic world (Bano, 2015), this constitution represents a moderate version of contemporary Islamic thought. Third, through its 93 constitutional clauses, Al-Azhar constitution sums up Islamic legal thought on government and state. Lastly, according to its preamble, Al-Azhar constitution aims at converging various legal schools of Sunni and Shiite Islam to the maximum, thus becoming a 'median' thesis of Islamic Sharia (Gouda, 2021).

The Islamic Constitutions Index remains the only dataset that systematically codes and specifically categorizes Islamic constitutional provisions. However, its scope has been limited to the enacted national constitutions of the 56 member states of the Organization of Islamic Cooperation (OIC), with data available only for the year 2014 (Ahmed & Gouda, 2015). The closest comparable study to this work is that of Stahnke and Blitt (2005), which also examines Islamic constitutional provisions but lacks the comprehensive, systematic coding approach found in the Islamic Constitutions Index. Focusing on Muslim majority countries, the authors analyze the constitutional provisions enacted concerning the relationship between religion and the state, freedom of religion or belief, and related human rights, albeit limited to the year 2005. The Religion and State dataset presents a set of measures that systematically gauge the intersection between government and religion. This dataset contains 154 variables which measure the presence of religion clauses in constitutions of 177 states in the period 1990 to 2022 (Fox, 2023). Unfortunately, this limited time period makes it hard to examine historical trends in Islamic constitutionalism.

This study significantly expands on the work of Ahmed and Gouda (2015) by investigating and codifying all historical and current constitutions of OIC member states, starting with the Tunisian Constitution of 1861—widely regarded as the first constitution of a Muslim-majority country—and extending to constitutions in force as of 2022. To create an Islamic Constitutions Database, I modify and reorganize the 30 "Islamic clauses" identified by Ahmed and Gouda (2015), which capture the full spectrum of Islamic constitutional provisions based on the Al-Azhar Constitution. A survey instrument was constructed to systematically codify these clauses, resulting in an extended dataset comprising more than 270,000 data points, as 30 benchmarks are analyzed across the constitutions of approximately 57 countries over a period of 162 years.

The Comparative Islamic Constitutions Database enables researchers to examine, rank, and compare the constitutions of Muslim-majority countries based on their degree of "Islamicity." This resource allows for the identification of trends and patterns in Islamic constitutionalism across time, countries, and regions. It provides the ability to chronologically trace the evolution of various Islamic constitutional clauses from their origins to the present day (2022). Most importantly, the dataset offers opportunities to explore the determinants of Islamic constitutionalism and assess the impact of Islamic constitutional provisions on legal, political, economic, and social outcomes.

The next section provides a brief overview of the relationship between constitutionalism and Islam in the Muslim world. Section three introduces our empirical methodology.

Section four presents our preliminary findings on the trends and patterns of Islamic constitutionalism. Section 5 concludes and discusses potential areas of research.

II. Islam in constitutions: A brief chronology

Islamic constitutionalism is the most frequent type of theocratic constitutionalism (Thio, 2012). Islamic constitutionalism has many variants and differs significantly across places and time periods (Ali, 2016; Grote & Röder, 2011). Arjomand (2007, p. 116) argues that the conception of the place of Islamic Sharia in the constitutional order is essential in defining Islamic constitutionalism. The differences among models of Islamic constitutionalism due to variations in Sharia role in the constitution impacted the conceptual understanding of this contested concept. For instance, Rabb (2008) postulates that Islamic constitutionalism usually involves the incorporation of Islamic principles within a constitutional scheme of limited powers, where the constitutional text identifies religious law—itself an internally diverse category—as a source of state law. On the other hand, Sultany (2014) defines Islamic constitutionalism as the "constitutionalization of religious law in a largely liberal constitution through empowering constitutional court judges to review the validity of laws on the grounds of their compatibility with Islamic law" (p. 350). Ali (2016, p. 49) offers a more comprehensive definition of Islamic constitutionalism, "it declares Sharia as the (or a) principal source of the constitutional text; it subjects officials exercising governmental powers to the limitations of Sharia; it includes repugnancy clauses in constitutional texts requiring all laws to be in consonance with Sharia."

Moreover, the origins of Islamic constitutionalism remain a contested issue among scholars. Some argue that Islamic constitutionalism can be traced back to the experience of the original Muslim community, established by the prophet Muhammad in Medina after he left Mecca in 622 CE (Ahmed & Gouda, 2015; Faruki, 1971). According to Serjeant (1978), the constitution of Medina of 627 CE instituted a number of rights and responsibilities for the Muslim, Jewish, Christian and pagan communities of Medina bringing them within the fold of one community (Ummah) and essentially framing the conceptual model for future political leadership, or Caliphate, in the Islamic state.

The charter of Medina has been interpreted in wildly different ways. Some scholars claim that this document is the first constitution in the history of humanity (Abdillah, 2008, p. 53; Al-Abdin, 1983; Ende, 2008, p. 29; Hamidullah, 1986; Khan, 2006). Such assertion fundamentally ignores much earlier constitutions that were developed in Greece and Rome (Mcllwain, 2008, p. 25). Other scholars view the constitution of Medina as a mere municipal charter (Wellhausen, 1889) or as a unilateral proclamation by Muhammad (Lewis, 2002). Emon (2001) argues that this charter was presented as a constitutional document due to twentieth-century politics in the Muslim world rather than anything inherent in the text.

In any case, no attempts were made to develop the Madinah Charter into a more fully developed set of constitutional foundations for the state and its institutions in any period of Islamic history (Arjomand, 2009). When the ideas of modern constitutionalism started

to gain traction in parts of the Muslim world, particularly in Tunisia, Egypt, and the Ottoman Empire, in the latter half of the nineteenth century, it did so under European influence without any reference to the Charter of Madinah (Grote & Röder, 2011).

Scholars argue that the Muslim world witnessed waves of Islamic constitutionalism from the 19th century up till now (Arjomand, 2007; 2008b; Longo, 2019). Following Arjomand (2007), we identify three waves:

- *First wave of Islamic constitutionalism*

The first wave saw the adoption of constitutions inspired by colonial powers and influenced by Western (liberal) legal codes (Hashmi, 2016). This early constitutionalism which Arjomand (2007) considers implicitly Islamic or proto-Islamic, was developed in the late nineteenth century and the first half of the twentieth when most of the Muslim majority countries were subject to direct colonization or milder forms of protectorate.

Tunisia promulgated the first constitution in the Muslim world in 1861. Described as "an attempt to develop a constitutionalist system that is Islamic but not democratic" (Brown & Sherif, 2004, p. 58), the Tunisian constitution included Islamic vocabulary and introduced accountability of the ruler to the Sharia and to an elite that oversee public interest (Brown, 2002). Nevertheless, Brown (2017) argues that this constitution did not present itself as Islamic in any explicit way. This constitutional experiment lasted but three years, collapsing in 1864 in the wake of popular demonstrations (Hashmi, 2016).

The Ottoman constitution of 1876 was a major embodiment to the first wave of Islamic constitutionalism. Drafted by a group of leading officials and members of the Muslim clergy (*'Ulama*), the Ottoman constitution fully integrated Islam as institutionalized in the Ottoman Empire, establishing it as the state religion in various institutional and symbolic ways (Brown & Sherif, 2004). It declared the person of the sultan as sacrosanct and entrusted him with the enforcement of the ordinances of the Sharia and the state law (kanun). The council of ministers included the highest religious official of the empire, the Shaykh al-Islam, and the judiciary power consisted of both the religious or Sharia and civil or state law systems (Arjomand, 2007).

Still, this constitution provoked some debate regarding the role of Islam in Ottoman governance. The constitution seemed partly designed to further legal equality between Muslims and non-Muslim minorities. Consequently, and even before the constitution was made official, many of the *'Ulema* were against it because they deemed it to be going against Sharia (Devereux, 1963). Indeed, some members of the *'Ulama* so bitterly and publicly opposed the entrance of non-Muslims into the Parliament that they were exiled (Brown & Sherif, 2004, p. 59). Similar to the Tunisian constitution, it was suspended after only a short period of operation. In the longer term, however, it served as the basis for most Arab constitution writing in the twentieth century, especially when it comes to the controversies surrounding the specific role of Islam in politics and governance (Brown, 2002; Brown & Sherif, 2004).

According to Arjomand (2007), the emergence of Islamic constitutionalism proper dates from the Iranian Constitutional Revolution (1906–1911). It resulted from the first serious constitutional debates about Islam's role in the constitution. High-ranking Shiite jurists

were arrayed on both sides of the debate, producing some of the most complex and sophisticated works of modern Islamic political thought. Not only did they prefigure the debates after the 1979 Islamic revolution in Iran, but also much of twentieth century Sunni thought (March, 2020, p. 60).

Most importantly, Article 2 of the 1907 supplementary law called for the establishment of a Council of Clerics – an Islamic review mechanism –that make sure that ratified laws could not be at variance with the Sharia – "a repugnancy clause". It should be noted however that the supplementary law of 1907 only says that the laws must not be against Islam, but not that the laws have to be Islamic. The format of repugnancy clause has since been utilized in over a dozen Arab constitutions since (Ahmed & Ginsburg, 2014). Arjomand (2012) goes on to state that the defining features of Islamic constitutionalism during the first decade of the twentieth century bore the distinctive mark of Shiism. Although the Iranian Constitution remained in force (albeit with numerous amendments) until 1979, it however failed to ensure accountable constitutional government in practice (Grote & Röder, 2011).

In the first wave of Islamic constitutionalism, some concepts of Western constitutionalism were partly granted: the principles of popular sovereignty, separation of powers, federalism, citizenship and citizenship rights (Longo, 2019). Sharia appeared more as a limitation to government and legislation than as an ideology. In other words, there was never a presumption that it should be the basis of the constitution itself. In this period, Islam was usually considered a part of the larger issue of constitutional governance and not as the basis of the constitution (Arjomand, 2007, p. 119).

- *Second wave of Islamic constitutionalism*

The second constitutional wave was developed following the declarations of independence of many Muslim majority countries after World War II. Its distinctive feature has been mainly the ideological treatment both of Islam and of the constitution, entailing a gradual rejection of foreign models (Arjomand, 2007; Longo, 2019). This corresponded with the concentration of power in the hands of an executive (mostly tyrannical) and the suppression of key fundamental rights, significantly derogating likelihoods to establish fundamental democratic institutions, including the principle of separation of powers. With the rejection of political pluralism in favor of one-party dominance, this constitutional wave marked a clear departure from the liberal paradigm that had inspired many of the early constitutional experiments in the Islamic world (Grote & Röder, 2011).

According to March (2020), the 1949 constitution of Pakistan was the first modern constitution with a distinctly Islamic character, embodying the concepts of this wave of Islamic constitutionalism. The fundamentalist movement in Pakistan called for an Islamic constitution, aiming for establishing an ideological state based on the sovereignty of God and not on the sovereignty of the people (Binder, 2021). They succeeded in incorporating this concept into the Objectives Resolution of 1949, which later developed into the preamble of the 1956 Constitution of the Islamic Republic of Pakistan, the first state ever to be so designated.

The Resolution recognizes the Almighty God as the ultimate source of the authority. It declares that the adherence of the Republic to essential principles such as democracy, freedom, equality, and social justice should be "as enunciated by Islam." Similar to the Iranian constitution of 1907, Art. 198 of the 1956 constitution provided that no law should be enacted which was repugnant to the injunctions of Islam as laid down in the Qur'an and the Sunnah and that existing laws should be brought in conformity with these sanctions (Grote & Röder, 2011).

Beginning with the Syrian constitution of 1950, Many Muslim-majority countries including Saudi Arabia, Bahrain, Yemen, and the United Arab Emirates, have adopted constitutions that entrenched Islam or Islamic Sharia as a source, a primary source or the primary source for legislation (Lombardi, 2013). This constitutional provision exerted a significant effect on many social, political and legal outcomes (Gouda & Gutmann, 2021; Gouda & Hanafy, 2022; Gouda & Potrafke, 2016). According to Brown and Sherif (2004, p. 63), these provisions set up a very different basis for the legal order. Rather than the constitution sanctioning Islam as an official religion and observing Sharia in specific legal areas, these provisions make Sharia itself stands prior to the positive legal order-including, potentially and by implication, the constitution itself if the Sharia is a primary source-or even the primary source-of legislation. Consequently, it becomes possible to argue that sharia forms the fundamental legal framework, since its supremacy is higher than that of the constitution.

It is thus not surprising that these constitutional provisions have encouraged Islamic political movements that seek the Islamization of the political order. At the same time, these political movements had a clear interest in seeking more role for Islam within the constitutions of their given states. For example, In Kuwait's 1962 constitution, Article 2 states that "the religion of the State is Islam and Islamic Law shall be a main source of legislation." Several attempts by Islamic political powers were made in order to amend the Kuwaiti constitution to make the Islamic Sharia *the* rather than *a* primary source of legislation. However, these attempts remain unsuccessful so far.[1]

Interestingly, the reference to Islam both as religion of the state and as a source of legislation in the early post-independence constitutions of Muslim-majority countries was tempered by the fact that these countries often embraced socialism, a distinctively secular ideology, as the official ideology of the state (e.g. Algeria, Egypt, Iraq, Libya, Sudan, and Syria) (Grote & Röder, 2011, p. 7). According to Longo (2019), Muslim-majority states embracing socialism rejected political pluralism in favor of one-party dominance and supported the centralization of bureaucracy and economy, with the executive power exceeding that of the judiciary or the legislative.

Mixing socialism with Islamic ideology in constitutional texts failed to provide the necessary foundations for the establishment of a modern state based on wide political participation and successful economic and social reform (Brown, 2002). Beginning in the

[1] It is notable that Kuwaiti constitutional system was among the pioneers in adopting an Islamic identity. For instance, the Islamic term for a Muslim political community (*umma)* had made its first modern appearance in the five-article 1938 Constitution of Kuwait, provisioning that the powers of the government are derived from the *umma* (Arjomand, 2008a).

1980s, the references to socialism started to disappear from the constitutions of most, although not all, Muslim-majority countries (Grote & Röder, 2011).

In the second wave of Islamic constitutionalism, Islam became a state ideology, limiting popular sovereignty and legislative power. The epitome of this form of constitutionalism was two documents that both were created in 1979: the post-revolution Iranian constitution, and Al-Azhar constitution. Regarding the former, the Islamic Revolution of 1979 turned Shī'ite doctrine and law from a limitation enforced on constitutional government into the very foundation of the constitutional and legal order. It did so mainly by transforming the theocratic concept of Mandate of the Jurist (velāyat-e faqīh) introduced by Ayatollah Khomeini at the beginning of the 1970s into the centerpiece of the new constitution (Arjomand, 2012).

In 1978, Al-Azhar constitution was an exemplary draft constitution developed Al-Azhar university of Cairo in 1978 with the purpose of making it "available to any country that wishes to model itself after the Islamic Sharia" (An-Na'im, 1990; Gouda, 2013). Referred to as the "chief centre of Arabic literature and Islamic learning in the world" (Encyclopædia Britannica, 2012), Al-Azhar university is one of the oldest and most respected Sunni religious institutions in the world. It is known as the voice of moderate Islam and has a major influence across the Muslim Sunni sphere (Zakaria, 2004, p. 9).

On 5th of January 1978, Grand Sheikh of Al-Azhar issued a decree, where a High Committee is formed of Islamic Research Academy (IRA) members and external experts for the purpose of drafting an Islamic constitution. After almost one year of the initial idea, the final version of this constitution was published in the autumn of 1979 in Al-Azhar official magazine. The final version consists of a preamble and nine sections, encompassing 93 clauses.

Coinciding with the rise of the second wave of Islamic constitutionalism, few other attempts to draft a model Islamic constitution, most notably are that of Hizb ut-Tahrir in 1963 (Hizb ut-Tahrir, 2010) and Aly Grisha in 1984 (Grisha, 1998). However, Al-Azhar constitution remains the best example of model Islamic constitution for several reasons; First, it is the only modern constitution that is fully developed by a religious entity. Second, as Al-Azhar is considered by many as the most sought-for moderate entity in the Islamic world (Bano, 2015), this constitution represents a moderate version of contemporary Islamic thought. Third, through its 93 constitutional clauses, Al-Azhar constitution sums up Islamic legal thought on government and state. Lastly, according to its preamble, Al-Azhar constitution aims at converging various legal schools of Sunni and Shiite Islam to the maximum, thus becoming a 'median' thesis of Islamic Sharia (Gouda, 2021).

Before the IRA session could be held in 1979, most participants from Arab states boycotted Egypt as they rejected the Egyptian Israeli peace treaty of 1978 (Schulze, 1995). The assassination of the Egyptian president Sadat in 1981 who supported "Islamizing" the constitution significantly diminished any interest in Al-Azhar constitution. Consequently, this constitution received little attention from policy makers in Islamic countries as well as legal scholars worldwide. Only after Arab Spring did some influential Islamic political movements and public figures in Egypt announce their desire

to use this constitution as their proposed model for the now-obsolete 2012 Egyptian constitution (Gouda, 2013).

The vision of the Islamic ideological state whose primary function was the execution of Divine Law, as demonstrated by the second wave of Islamic constitutionalism, was implemented directly by Khomeini in Iran and by Generals Zia ul-Haq and Omar El-Bashir as the ideological disciples of Mawdudi and Turabi in Pakistan and the Sudan, respectively. Few would uphold the Islamization of Pakistan as a shining example of success, whereas the Sudanese general has reverted to a multiparty pluralistic constitution. The Shiite theocracy with a subordinate elected president and Majles flourishes in Iran

- *Third wave of Islamic constitutionalism*

The contemporary wave of Islamic constitutionalism is characterized by a more pluralistic and participatory approach to governance. The primary objective of this phase is to develop an Islamic framework that addresses modern political and legal concepts, including democracy, human rights, the rule of law, and gender equality. One of the most influential figures in this intellectual movement was the late legal scholar Ahmed Kamal Abu-Elmajd, who significantly contributed to the development of the concept of "constitutional (Islamic) jurisprudence". This approach focuses on three critical dimensions: the role of Sharia in constitutional law, the limits of state authority in an Islamic system, and the interaction between Islamic law and democratic governance. Abu-Elmajd notably compared Sharia to natural law in the American constitutional tradition, advocating for the establishment of independent judicial institutions to limit legislative power and ensure that laws remain consistent with the principles of Sharia (Rutherford, 2006)

Abu-Elmajd was part of a group of influential Egyptian scholars and Islamists—including Yusuf al-Qaradawi, Muhammad al-Ghazali, and Tariq al-Bishri—who sought to harmonize Islamic principles with modern democratic ideals. This movement emphasized that concepts such as shura (consultation) and ijma (consensus) in Islam are compatible with democratic governance, advocating for a political system that integrates democracy, political pluralism, and free elections. Their collective efforts have significantly influenced contemporary Islamic political thought, promoting the idea that an Islamic state could uphold a social contract based on democratic values while maintaining its religious foundations. However, Rutherford (2006) highlights a key concern: although this intellectual movement promotes democratic governance, it also underscores the Islamic obligation to "promote good and forbid evil". This raises the possibility that the envisioned Islamic state could evolve into a totalitarian system, utilizing all available means to create a "pious" citizenry.

The desire to integrate democracy with Islamic constitutionalism materialized in the political programs of the Muslim Brotherhood (MB) in 2004 and 2005 (Arjomand, 2007). The 2004 MB platform introduced a "national covenant", calling upon all political and ideological factions to uphold democratic values, including popular sovereignty, free elections, and freedom of expression and religion (Hamzawy & Brown, 2010). However, while these political programs emphasized democratic principles, debates persisted regarding their actual commitment to political pluralism and equal rights, particularly

concerning women and religious minorities. These discussions highlight the inherent complexities of integrating Islamic governance with modern democratic ideals.

Until the early 2000s, Islamic constitutionalism was predominantly characterized by limited political pluralism and a top-down approach to implementing Islamic law. The 2011 Arab Spring significantly altered this trajectory, as popular uprisings advocated—at least in principle—for democracy, political pluralism, and expanded civic rights within an Islamic framework. However, the initial democratic enthusiasm quickly gave way to a resurgence of authoritarianism, leading to a state-controlled approach to Islam. As a result, Islamic constitutionalism largely reverted to its pre-Arab Spring status, with Islam retaining its central role in constitutional frameworks. Even in Muslim-majority countries that have prioritized modernization, the role of Islam in constitutional law has remained largely unchanged. For instance, Saudi Arabia, under its Vision 2030 initiative, has implemented modernization efforts aimed at reducing the influence of religious authorities in public life, yet it continues to uphold Sharia as the foundation of its legal system (Grabowski, 2021). Thus, it could be argued that the interplay between democratic values and Islam was considerably introduced in this stage and that Islamic constitutional provisions were not significantly altered as well (El Fadl, 2014).

This section demonstrated the difference waves of Islamic constitutionalism through time and space. This motivates efforts to empirically study these trends, especially as it expands to more than 160 years and encompasses tens of Muslim countries.

III. Methodology

To identify the defining characteristics of Islamization in constitutions, Ahmed and Gouda (2015) use the Al-Azhar Constitution as a template. The authors identify and extract every “Islamic” clause from this constitution—defined as any clause referencing Islam or rooted in a religious framework.

Through their analysis, they identify 30 “Islamic clauses” that encapsulate the universe of Islamic constitutional provisions found in the Al-Azhar Constitution. These clauses explicitly aim to embed Islamic features within the constitution. Ahmed and Gouda (2015) categorize these clauses into seven groups: General Characteristics (14 clauses), Rights (2 clauses), Executive (3 clauses), Legislation (3 clauses), Judiciary (3 clauses), Economy (3 clauses), and Other Issues (2 clauses).

In this study, we adopt the same 30 clauses represented in the Islamic Constitutions Index but revise their categorization to better reflect their contextual significance. The updated categories include GENERAL CHARACTERISTICS (6 clauses), RIGHTS (3 clauses), EXECUTIVE (6 clauses), LEGISLATIVE (4 clauses), JUDICIARY (4 clauses), ECONOMY (3 clauses), and ISLAMIC SOCIAL NORMS (4 clauses). Table 1 presents a detailed list of these 30 clauses/questions, representing the universe of Islamic constitutionalism, along with their corresponding articles in the Al-Azhar Constitution.

Our sampling pool consists of the constitutions of the OIC member states. Founded in 1970, the OIC is the second-largest intergovernmental organization after the United

Nations, comprising 57 member states spanning four continents. The OIC includes virtually all Muslim-majority countries and serves as "the collective voice of the Muslim world, ensuring to safeguard and protect the interests of the Muslim world in the spirit of promoting international peace and harmony among various people of the world" (Organisation of Islamic Cooperation, 2023)[2]. Table 2 presents the countries covered in our analysis.

To collect the constitutions of these countries for coding, we utilized constitutional texts from Constitute, a project by Google and the Comparative Constitutions Project (CCP), which catalogs the formal contents of historical and in-force constitutions worldwide (Elkins, Ginsburg, & Melton, 2023). Additionally, we employed HeinOnline World Constitutions Illustrated, an extensive online library that provides information on the constitutional and political development of every country. This resource is particularly valuable as it includes both historical and current constitutions in multiple languages, as well as relevant legal documents. In most cases these databases provided English language translations of constitutions not written in English, usually academic or official government translations.

These constitutions were translated using both Google Translate, as well as ChatGPT 4o. To test the accuracy of these tools, several constitutions for which translations were available were compared to a translation of the original document by Google Translate and ChatGPT 4o. This approach is similar to that followed by Fox (2023) in coding the RAS Dataset. In almost all cases, we never find significant differences that would impact the coding. Moreover, the coding team consisting of the author as well as a research assistant are fluent in several language among themselves, including Arabic, French, and Persian. Thus, the team could also read many constitutions in their original language.

We analyzed the constitutions and amendments of each of the 57 OIC member states. Our coding includes all constitutions and amendments in the period 1861 to 2022. CCP dataset includes years of suspension of constitutions. We used their coding for suspension years and left these years blank in our database. Using the 30 Islamic clauses as benchmarks, the constitutions of OIC-member states were coded by two independent coders. The coding process was cross-checked to ensure consistency and accuracy, ultimately forming the Comparative Islamic Constitutions Database. All clauses were coded on a binary scale, assigning 1 point for the presence of a specific Islamic feature and 0 otherwise.

The only exception to the binary coding methodology is the Islamic feature related to the degree of supremacy of Islam in a constitution, categorized under the "legislative" domain. For this specific provision, we developed a nuanced scoring system. If the supremacy clause explicitly refers to Islam, Islamic law, or Sharia, 2 points are awarded. A reference to the "principles" of Islam, Islamic law, or Sharia earns 1 point, as we argue that a direct mention of Islam or Sharia carries more weight than references to general principles, which might include broad concepts such as justice, equality, and modesty. Additionally, an extra point is granted if the clause states that Islam (or its principles) is

[2] Although several OIC member states are not Muslim-majority countries, we use the terms "Muslim countries" and "OIC member states" interchangeably throughout this study for the sake of simplicity.

“a” source of law or if Islamic law applies in the absence of other governing laws. Two points are added if Islam is designated as “a primary,” “basic,” or “foundational” source of law. Finally, 3 points are awarded if the clause declares that Islam (or its principles) is “the” source or the sole source of law.

This categorical scoring approach captures the nuances of making Islam a source of legislation. To adjust the distribution of this indicator, we subtract one point from the total score in the “supremacy” category, ensuring the range is between 0 (when no supremacy clause exists) and 4 points (when Islam, Islamic law, or Sharia is the sole source of legislation). In contrast, the previous version ranged from 0 to 5 points but did not allow for a clause to score a single point. This adjustment ensures a more balanced and consistent evaluation of the supremacy clause.

The rationale behind this scoring approach is based on the premise that supremacy clauses—which mandate that laws must comply with Islam or designate Islam as a primary source of legislation—carry the greatest weight in terms of Islamicity, even more so than state religion clauses. According to Feldman (2008, p. 123), supremacy clauses empower courts to conduct an "Islamic judicial review," ensuring that legislation is not only constitutionally compliant but also aligned with Islamic laws and values. This mechanism effectively guarantees that legal frameworks remain consistent with Islamic principles.

Similarly, Brown and Sherif (2004, p. 63) argue that even the weakest formulation of a supremacy clause—stating that Islam is merely “a” source of law—can create an authoritative basis for interpreting Islam as a fundamental component of the legal system. Given the significance of these provisions, we introduce a primary indicator, the Islamic Constitution Index (ICI), to quantify the extent of Islamic constitutional provisions across countries over time.

The ICI is calculated by summing the categorical value of the supremacy clause, which ranges from 0 to 4, along with the total values of 29 binary clauses found in a country’s constitution for a given year. If a constitution lacks Islamic provisions, does not exist, or is suspended in a particular year, the ICI score is recorded as zero. This approach provides a systematic measure of Islamic constitutionalism, facilitating comparative analysis across different legal systems.

IV. Stylized Facts

In this section, I present stylized facts on the historical development of Islamic provisions in the constitutions of OIC member states, analyzing their evolution across both time and space.

a. Categorical Analysis

Figure 1 highlights two key trends: (1) the total number of constitutions in existence, and (2) the number of constitutions containing Islamic provisions over time. It is evident that Islamic constitutional provisions have developed alongside the broader expansion of constitutional governance in Muslim-majority countries.

The number of constitutions in Muslim countries has steadily increased since the late 19th century, reflecting the rise of modern nation-states and the formalization of governance structures. A significant surge in constitutional drafting occurred between the 1950s and 1970s, coinciding with post-colonial independence movements, which led many OIC member states to establish new constitutional frameworks. This trend continued into the late 20th century, before stabilizing around 2000–2010, indicating that by this time, most Muslim-majority countries had institutionalized their constitutional systems.

In contrast, Islamic constitutional provisions were largely absent before the 20th century, as governance in Muslim societies was traditionally based on Islamic legal principles that did not rely on codified constitutions—as seen in the Ottoman Caliphate and other historical Islamic governance models. A gradual increase in Islamic provisions began in the early 1900s, as emerging nation-states sought to balance modern legal structures with Islamic identity, marking the first wave of Islamic constitutionalism. However, the most dramatic rise in Islamic provisions occurred from the 1970s onward, aligning with the second wave of Islamic constitutionalism. This period saw a stronger emphasis on Sharia within constitutional frameworks, largely in response to the rise of political Islam and efforts to reaffirm Islamic identity in governance. Notable examples include Pakistan's 1973 Constitution, which incorporated Islamic legal principles, The Iranian Revolution of 1979, which established an Islamic Republic, Egypt's 1980 constitutional amendment, which declared Sharia as "the main source of legislation."

One of the most notable observations is that the number of Islamic constitutional provisions had stabilized by the late 20th century. This suggests that Islamic constitutionalism had reached a point of entrenchment, where states were no longer introducing new Islamic provisions but were instead modifying, reinforcing, or reinterpreting existing ones. This stabilization is particularly evident in the post-Arab Spring era, where debates on democracy and governance have centered more on implementation and interpretation rather than the introduction of new constitutional provisions.

ICI, presented in Figure 2, measures the presence and extent of Islamic provisions in national constitutions over time. The graph illustrates a clear upward trend in the integration of Islamic constitutional elements from 1861 to 2022, reflecting historical, political, and ideological shifts in the Muslim world. From 1861 to the early 20th century, the index remained relatively low, with minimal constitutional references to Islamic provisions. The first notable increase occurred in the early 1900s, as Muslim-majority countries—particularly those experiencing colonial rule or early independence movements—began adopting constitutional structures that incorporated Islamic principles.

A significant rise in the index is observed from the 1950s onward, coinciding with post-colonial state formations and the emergence of Islamic identity politics. The transition from colonial governance to independent nation-states in the Middle East, North Africa, and South Asia played a key role in constitutional developments. Countries such as Pakistan (1973) and Egypt (1971, 1980) made constitutional amendments to emphasize the role of Sharia as a source of legislation. The sharp increases during these years

suggest a growing trend of constitutional Islamization, influenced by both domestic pressures and regional ideological movements.

The 1970s and 1980s marked another wave of Islamic constitutionalism, reflected in the rapid rise of the ICI. The Iranian Revolution (1979) significantly impacted this wave, inspiring countries across the Muslim world to reassert Islamic identity in their legal and political systems. Similarly, Pakistan's Islamization under General Zia-ul-Haq in the 1980s further reinforced this trend, solidifying the constitutional role of Islam.

By the 1990s and early 2000s, the index continued to rise, albeit at a more moderate pace, indicating that many countries had already incorporated Islamic provisions into their constitutions. The Arab Spring (2011) and subsequent constitutional revisions in Tunisia (2014), Egypt (2012, 2014), and other states reinforced this trend. However, despite democratization efforts, the role of Islam in constitutions remained largely unchanged, reflecting its entrenched status in governance frameworks.

Figures 3 and 4 provide complementary insights into the evolution of Islamic constitutional provisions over time. Figure 3 presents the absolute count of provisions across various categories, while Figure 4 illustrates the percentage of occurrences of these provisions relative to the total number of Islamic constitutions—defined as those containing at least one Islamic provision. Together, these figures reveal two key trends: the shifting emphasis on different legal categories and the stabilization of provisions in the modern era. Notably, different constitutional categories evolved at different rates. Additionally, Figure 4 highlights a significant peak in the percentage of Islamic provisions in 1906. This spike is attributed to the introduction of the Iranian Constitution of 1906 and the Ottoman Constitution of 1908, both of which exhibited considerable Islamic characteristics. At that time, these were the only existing constitutions among the surveyed countries until the Albanian Constitution was introduced in 1914.

The GENERAL CHARACTERISTICS category, which encompasses six provisions—including the designation of Islam as the state religion, the unamendability of Islamic provisions, and whether the source of authority is derived from religious principles—experienced the steepest increase, particularly from the 1950s onward (Figure 3). This rapid rise coincided with the formation of newly independent Muslim-majority states, which sought to affirm their Islamic identity within their constitutional frameworks. The percentage of Islamic constitutional provisions within this category remained the highest from the mid-1970s until the late 1990s, when it was surpassed by the LEGISLATIVE category (Figure 4). The increase in the GENERAL CHARACTERISTICS category was primarily driven by a high number of occurrences of AUTHORITY and PREAMBLE clauses (Figure 5). This category continued to expand into the late 20th and early 21st centuries, ultimately appearing in approximately 40% of all Islamic constitutions by 2022.

The LEGISLATIVE and EXECUTIVE categories followed similar trajectories, expanding during periods of Islamic resurgence and efforts to integrate Sharia into national governance. Since the 1960s, the LEGISLATIVE category—which includes four provisions, such as whether Islam is the source of legislation, the degree of its supremacy, and whether laws can be repugnant to Islam—has experienced significant growth, ranking second after the GENERAL CHARACTERISTICS category. This surge was primarily driven by a sharp increase in the *Supremacy* clause, which began in the 1960s

(Figure 8). Another notable rise in the *Supremacy* clause occurred in the late 1990s and early 2000s, as a few countries strengthened the role of Islamic law as a source of legislation. These countries included Brunei, Kuwait, Pakistan, the Maldives, and Sudan. The LEGISLATIVE category has maintained the highest relative percentage of occurrences since the early 2000s, surpassing all other categories, and by 2022, it was present in approximately 45% of all Islamic constitutions (Figure 4).

Similarly, the EXECUTIVE category experienced a growing trend from the 1960s onward. Constitutional provisions requiring the head of state or government to be Muslim (*HDMuslim*) and those mandating a religious advisory council (*Advisory*) were the most common in this category (Figure 7). This is unsurprising given the traditional values prevalent in post-independence Muslim societies. However, the percentage of occurrences of EXECUTIVE category provisions has significantly declined over time, with only 20% of OIC member state constitutions including such provisions by 2022 (Figure 4).

Interestingly, the percentage of JUDICIARY category provisions was highest between 1929 and 1956, appearing in approximately 50% of OIC state constitutions in 1949 and 1952 (Figure 4). This trend coincides with the transition between the first and second waves of Islamic constitutionalism, underscoring the pivotal role of Islamic constitutional provisions in establishing Sharia-based judicial systems as a core feature of governance structures. Within this category, a provision requiring the judiciary to apply Sharia or refuse to enforce laws that contradict it (*Judiciary*) was particularly prevalent. Another notable provision stipulated that judges of the highest court must possess Islamic legal knowledge (*JDKnowledge*) (Figure 9). In recent years, provisions within the JUDICIARY category have seen a resurgence in OIC constitutions. Their frequency nearly doubled between 2000 and 2022, with these provisions appearing in 29 constitutions by 2022 (Figure 3).

Figures 3 and 4 indicate that the ECONOMY category has experienced a gradual increase, reflecting the progressive incorporation of Islamic economic principles such as Zakat (Islamic taxation), the prohibition of interest (riba), and the promotion of Islamic finance. The expansion of this category aligns with the global rise of Islamic banking and finance, which gained momentum in the 1990s and 2000s. This trend highlights how economic governance in OIC member states has been influenced by Islamic principles, particularly in financial regulations and wealth distribution policies. Among these provisions, those recognizing or organizing alms, charity, zakat, or waqf (ALMS) were the most prominent (Figure 10).

The ISLAMIC SOCIAL NORMS category has also seen steady growth, particularly from the 1980s onward. This includes provisions referencing unity or association with the Muslim world or Ummah (*Unity*) and those mandating the state to provide Islamic (or religious) education (*Education*) (Figure 11). Even provisions related to Jihad, or the defense of faith (*Jihad*) witnessed a considerable increase starting in the 1990s. The latest data from 2022 indicates that five countries—Afghanistan, Bahrain, Saudi Arabia, Iran, and Yemen—explicitly reference jihad (or the defense of faith) in their constitutions.

The RIGHTS category, which includes three provisions—individual rights and freedoms subject to Sharia requirements (*Rights*), gender rights (*Women*), and religious liberties

(*CTZMuslim*)—has grown at a significantly slower pace compared to other categories (Figures 3 and 4). This suggests that while governments have actively expanded Islamic legal and governance structures, the development of constitutional rights within an Islamic framework has been more contested and gradual. The trajectory of this category reflects ongoing debates over how Islamic constitutionalism interacts with modern human rights frameworks, particularly regarding civil rights, democratic freedoms, and the rights of religious minorities. The RIGHTS provision remains the most prevalent in this category.

Only two OIC countries—the Maldives and Mauritania—stipulate in their constitutions that their citizens must be Muslim. Additionally, no constitution explicitly states that women are required to serve their husbands or that their primary role is to serve the family (Figure 6).

b. Regional Analysis

Figures 12 and 13 provide a comparative regional view of the evolution of Islamic constitutionalism across different regions over time, using both absolute and average ICI values from 1861 to 2022. Together, these graphs highlight regional variations in the adoption and intensity of Islamic provisions in national constitutions.

In Figure 12, which displays the absolute ICI values by region, Western Asia and Southern Asia emerge as the dominant regions with the highest cumulative levels of Islamic constitutional provisions. Western Asia, in particular, experienced substantial growth from the 1950s, as ICI reached its peak of over 100 points by 2020, reflecting its sustained and extensive incorporation of Islamic provisions. This is not surprising, considering the religious nature of the countries covered by this category, including Saudi Arabia, Bahrain, Yemen, and Iraq (Figure 14).

Southern Asia follows closely, with consistent growth beginning around the same period and peaking just below 90 points. These trends align with significant political and ideological transformations, including post-colonial state formation and the rise of Islamic identity movements. This pattern is expected, given the central role of Islam in shaping both formal and informal institutions in this group of countries, which includes Afghanistan, Bangladesh, Iran, Maldives, and Pakistan (Figure 15).

In contrast, Northern Africa demonstrates a more moderate trajectory, with its ICI score beginning to rise in the 1960s and reaching its peak of 47 points between 2014 and 2018. However, a noticeable decline has occurred in recent years, with the ICI score dropping to 38 points in 2022. This decline is largely attributed to the ratification of the 2019 Sudanese Constitutional Charter, which contains no Islamic provisions, in contrast to the 2005 Sudanese Interim Constitution, which had a significant Islamic character and was assigned an ICI score of 9 points (Figure 16). Other regions such as South-Eastern Asia, Western Africa, Eastern Africa, and Southern Europe display lower and more gradual increases.

Figure 13, which presents the average ICI values by region, offers deeper insights into the intensity of Islamic constitutionalism relative to the number of constitutions within each region. Interestingly, Southern Asia consistently holds the highest average ICI, reflecting

the region's deep integration of Islamic provisions into its constitutions over time, despite having fewer countries than some other regions. This indicates not only the presence of Islamic clauses but also their significant weight within the constitutional texts. In contrast, Western Asia, despite its high absolute values, shows more variation and lower average values, suggesting that while many provisions exist across multiple constitutions, the intensity per constitution is more distributed. Northern Africa and South-Eastern Asia cluster around similar average levels, reflecting moderate but steady incorporation of Islamic elements. Eastern Africa, Western Africa, and Southern Europe remain minimal, suggesting that Islamic constitutionalism has remained largely marginal or symbolic in these regions.

It is interesting to note that some regions have never included any Islamic provisions in their national constitutions. More specifically, throughout the entire period covered, the constitutions of all OIC member states from South America, Central Asia, and Middle Africa have consistently lacked any Islamic references. This absence highlights the clear regional variation in the adoption of Islamic constitutional provisions, even among countries that are formally part of the OIC.

The fact that certain countries have maintained an ICI score of zero from 1861 to 2022 indicates a complete absence of Islamic constitutional provisions in their national charters. This group of countries, which includes Azerbaijan, Indonesia, Kazakhstan, Lebanon, and several West African and Central Asian nations, suggests a diverse set of historical, political, and legal contexts that have influenced their constitutional frameworks. One possible explanation is the secular nature of governance in many of these states. Countries such as Azerbaijan, Kazakhstan, and Uzbekistan have followed explicitly secular constitutional models, largely influenced by Soviet-era legal structures, which emphasized state neutrality in religious matters. Similarly, Lebanon, despite having a complex sectarian power-sharing system, has never codified Islamic law into its constitution, maintaining a pluralistic legal framework instead.

In West African and Central African countries like Benin, Burkina Faso, Guinea, and Cameroon, the secular constitutional approach can be attributed to colonial legacies, particularly the French legal tradition, which strongly enforces state secularism (Laïcité). Although some of these nations have significant Muslim populations, their constitutions have refrained from integrating Islamic principles at the constitutional level.

Perhaps the most surprising inclusion on this list is Indonesia, which has the largest Muslim population in the world yet has consistently scored zero in the ICI. This reflects Indonesia’s constitutional commitment to Pancasila, a national ideology that embraces religious pluralism rather than Islamic governance. Similarly, Senegal and Mali, despite having predominantly Muslim populations, have also avoided Islamic constitutional provisions, opting instead for secular, multi-religious legal systems.

Overall, the zero scores in the ICI for these countries highlight the divergence between religious demographics and constitutional design. This also underscores that Islamic constitutionalism is not uniformly adopted across all Muslim-majority or OIC member states. Instead, its presence is closely shaped by the local historical context, political developments, and societal structures of each region.

c. Between and Within Country-level Analysis

The Comparative Islamic Constitutions Database provides unique data on the historical trajectory of Islamic constitutional provisions in all OIC member states. Figure 17 illustrates the changes in the Islamic Constitutions Index (ICI) for the ten highest-ranked countries by average between 1861 and 2022.

It is evident that, except for a brief period between 1973 and 1976, Iran has historically maintained the highest ICI score across all its constitutions. This is particularly notable given the significant increase in Iran's ICI value following the Islamic Revolution in 1979. The 1989 constitutional amendment further pushed Iran's ICI score to 28 points, significantly surpassing the runners-up, Saudi Arabia and Pakistan, both of which have maintained an ICI score of 22 for the last three decades. Saudi Arabia, in particular, saw a significant ICI increase with the adoption of its 1992 constitution.

By contrast, Afghanistan and Yemen exhibit fluctuating trends in their integration of Islamic provisions, likely reflecting periods of political transition, constitutional amendments, and ideological shifts. Meanwhile, Malaysia and Qatar have seen no changes in the number of Islamic constitutional provisions, suggesting a more stable and measured approach to integrating Islamic principles into their constitutional frameworks. Overall, these trajectories indicate that the incorporation of Islamic principles into national constitutions has varied significantly, even among the top-ranking countries. While some nations have maintained stable and consistent approaches, others have experienced periodic fluctuations due to political instability, reforms, or ideological shifts.

The Comparative Islamic Constitutions Database also offers a detailed analysis of Islamic constitutional provisions within individual countries. Figure 18 illustrates the historical evolution of Iran's Islamic constitutional provisions. The y-axis represents the normalized score of each category, calculated as the actual score divided by the maximum possible score for that category. For example, a category with a score of 1 indicates that all possible Islamic provisions within that category were incorporated into the constitution in a given year. This figure allows for a comparative assessment of how different constitutional dimensions have evolved in terms of Islamic provisions over time.

A major shift is noticeable around 1906, coinciding with the Constitutional Revolution of Iran, where LEGISLATION, JUDICIARY, and EXECUTIVE provisions saw an increase. However, a more profound transformation occurred after the 1979 Islamic Revolution, as nearly all categories experienced a sharp rise in Islamic provisions, marking the shift toward a theocratic governance model. The JUDICIARY category reached its maximum score during this period, underscoring the central role of Islamic jurisprudence in Iran's legal system. Similarly, LEGISLATION and GENERAL CHARACTERISTICS saw significant increases, further reinforcing the ideological foundation of governance based on Islamic principles.

Interestingly, the RIGHTS category has maintained a relatively stable trajectory, suggesting that despite constitutional changes, the Islamic framing of rights has remained consistent over time. Meanwhile, ISLAMIC SOCIAL NORMS only became prominent after the Islamic revolution, reflecting the growing institutionalization of

Islamic values in Iranian governance. The EXECUTIVE and ECONOMY categories also exhibit substantial increases following the Islamic Revolution, further embedding Islamic principles into governance and economic policies.

Overall, Iran's constitutional evolution has been deeply shaped by political events, with major increases in Islamic provisions aligning with key historical turning points. The figure effectively illustrates how different aspects of governance have been Islamized at varying rates, highlighting the critical role of ideological shifts, revolutions, and constitutional reforms in shaping the Islamic nature of Iran's legal and political framework.

V. Conclusion and Discussion

Western scholars and policymakers have long debated the role and impact of incorporating Islam into constitutional frameworks. Similarly, within Muslim-majority societies, Islamists and militants have frequently called for the Islamization of constitutional governance. Despite the persistence of these discussions on both sides, the empirical (quantitative) study of constitutional Islamization has remained limited. While the topic holds significant analytical potential, there has been little systematic measurement or comprehensive investigation into the scope and extent of Islamic constitutional provisions.

This article seeks to address this gap by providing empirical measurements of constitutional Islamization, or the incorporation of Islamic clauses within national constitutions globally. Its primary and novel contribution lies in introducing the Comparative Islamic Constitutions Database—the first comprehensive ranking of all constitutions and constitutional amendments in Muslim-majority states based on their degree of Islamicity.

Significantly expanding on previous limited research which covered only few years, this database provides a comprehensive historical analysis of Islamic constitutional provisions across OIC member states from 1861 to 2022. By systematically codifying 30 Islamic constitutional provisions, this database enables a quantitative and qualitative assessment of how Islamic principles have been integrated into constitutional frameworks over time.

Through tracing the historical trends of incorporating Islamic provisions in the constitutions of Muslim countries, our analysis shows that constitutional Islamization witnessed several waves since mid-19th century, an observation suggested by previous studies (Arjomand, 2007; 2008b; Longo, 2019). The data is most closely related to the three waves of Islamic constitutionalism suggested by Arjomand (2007). The first wave (19th–early 20th century) was characterized by implicit or proto-Islamic constitutionalism, where early constitutions included Islamic references but did not explicitly establish Sharia as a foundation for governance. The second wave (post-World War II to the late 20th century) saw the politicization of Islamic constitutionalism, where many post-colonial states institutionalized Islamic supremacy clauses, either as a primary or the source of legislation. The third wave (late 20th century–present) reflects a more pluralistic but entrenched Islamic constitutionalism, where most Muslim-majority

countries continue to uphold Islam within their constitutional frameworks, though with varying degrees of rigidity.

The Comparative Islamic Constitutions Database provides several levels of analysis, including a categorical analysis of Islamic constitutional provisions, revealing that GENERAL CHARACTERISTICS, LEGISLATION, and JUDICIARY provisions have expanded significantly, especially since the mid-20th century. Conversely, Rights-related provisions (such as gender equality and civil liberties) have remained limited and contested, reflecting the inherent tension between Islamic constitutionalism and modern human rights frameworks.

From a regional perspective, Western Asia and Southern Asia have historically exhibited the highest cumulative levels of Islamic constitutional provisions, followed by South-Eastern Asia and North Africa. Regarding the country-level analysis, since the adoption of the 1906 constitution up until the latest observations in 2022, Iran has consistently maintained the highest Islamic Constitutions Index (ICI) score, particularly following its post-1979 theocratic transformation. Similarly, Saudi Arabia and Pakistan have upheld consistently high levels of Islamic constitutional provisions, reinforcing their strong integration of Sharia-based governance. Other countries that have maintained a high ICI score in the examined period include Maldives, Afghanistan, Yemen, and Bahrain. Interestingly, several OIC countries constantly had an ICI score of zero from 1861 to 2022. This includes Azerbaijan, Indonesia, Kazakhstan, Lebanon and Uzbekistan. A notable case is Türkiye, which, following a 1928 constitutional amendment that removed the clause declaring Islam as the state religion, has held a constant score of zero ever since.

This study makes several contributions to Islamic constitutionalism research. First, it significantly expands the temporal scope, extending the analysis back to 1861 rather than focusing on the 1990–2014 period, as previous studies have done. Second, it introduces a systematic measurement approach, significantly improving and refining the Islamic Constitutions Index (Ahmed & Gouda, 2015) to create a more comprehensive and comparative dataset. Third, the database enables cross-country and regional comparisons, offering new insights into the determinants and consequences of Islamic constitutionalism. Finally, by categorizing Islamic constitutional clauses, this research provides valuable implications for policymakers, legal scholars, and political analysts studying the role of Islam in governance, judiciary, and civil rights.

Despite its contributions, this study has certain limitations that must be acknowledged. One key challenge is the contextual interpretation of Islamic provisions: while the database offers quantitative indicators, the application and enforcement of these clauses vary widely across countries. Some provisions may be symbolic in nature rather than legally enforceable, highlighting the need for further analysis of judicial decisions and case law to differentiate between de jure constitutional text and de facto legal practice. In this regard, the Comparative Constitutional Compliance Database (Gutmann, Metelska-Szaniawska, & Voigt, 2024) presents an opportunity for integration. By combining information on constitutional rules with measures of governmental compliance, researchers can better evaluate how Islamic provisions are implemented—or bypassed—in practice. Additionally, regional and doctrinal variations in Islamic constitutionalism are not fully captured by the current dataset, particularly the

differences between Sunni and Shia-majority states and between monarchical and republican governance systems.

Several avenues for future research emerge from this study. A critical next step is to analyze the causal impact of Islamic provisions on democracy, economic growth, and human rights. Additionally, further research could examine judicial interpretations of Islamic clauses, particularly how constitutional courts in Muslim-majority countries interpret and apply Islamic supremacy clauses. Another important area of study is the role of Islamic constitutionalism in political transitions, particularly in states affected by uprisings such as the Arab Spring. Finally, comparative constitutionalism could be explored by examining non-OIC countries that integrate Islamic provisions into their legal systems, such as Nigeria, India, or countries influenced by Islamic legal traditions.

In fact, one understudied area of research that could utilize this database is the notion of diffusion of constitutional provisions across Muslim countries. Previous research on the diffusion of constitutional provisions has explored how legal ideas and institutional frameworks spread across countries through processes such as imitation, emulation, and learning. Scholars like Elkins, Ginsburg, and Melton (2009) have identified global patterns in constitutional design, showing that countries often draw on regional peers or colonial legacies when crafting their own constitutions.

Perhaps the article by Goderis and Versteeg (2014) is the most well-known work on the diffusion of constitutional rights. The authors examine all post-WWII constitutions and document the presence of 108 constitutional rights. Using quantitative modelling, they show that the decision of countries to adopt a certain constitutional right is correlated with past adoption by their former colonizer, countries with the same legal origin, the same religion, the same former colonizer, and the same aid donor. In the context of Islamic constitutionalism, Stilt (2015) and Lombardi (2013) highlight the role of transnational religious and political networks in shaping the diffusion of Islamic legal provisions. However, up to our knowledge, there is no quantitative research that traces the diffusion of Islamic constitutional provisions among Muslim countries. Thus, our database could be of considerable assistance in this respect.

Our database could be integrated with several other prominent datasets to explore the multidimensional nature of Islamic legal institutions in Muslim-majority countries. For instance, the Comparative Constitutions Project (Elkins, Ginsburg, & Melton, 2009) provides comprehensive data on the content and structure of national constitutions worldwide. Linking our database with this resource would enable comparative analysis of how Islamic constitutional provisions align or diverge from broader constitutional trends, including rights protections, judicial independence, and institutional design.

Additionally, the Religion and State dataset (Fox, 2023) offers detailed coding of the relationship between religion and the state in over 190 countries. This would allow researchers to assess how constitutional Islamization correlates with actual state-religion dynamics, including religious discrimination, official support for Islam, and legal enforcement of religious norms.

Finally, the Muslim Family Law Index (Sezgin, 2023a; 2023b) focuses specifically on the status of Muslim family law across countries, including divorce, inheritance, and gender equality. When combined with our database, it could help uncover whether and how

constitutional Islamic provisions translate into specific areas of substantive law, particularly in domains where Islamic legal principles have historically been most entrenched. Together, these datasets offer a rich opportunity to investigate the institutional, legal, and social implications of Islamic constitutional provisions, and how they interact with broader patterns of legal development, democratization, and state-religion relations.

This study demonstrates that Islamic constitutionalism is neither monolithic nor static—it evolves in response to historical shifts, political movements, and legal transformations. By constructing the Comparative Islamic Constitutions Database, this research provides an essential tool for scholars, policymakers, and legal experts seeking to understand the complex interplay between Islam, law, and governance. As Islamic constitutionalism continues to shape legal and political landscapes, future research should focus on its real-world implications, ensuring that constitutional design aligns with both Islamic traditions and contemporary governance needs.

References

Abdillah, M. (2008). Ways of Constitution Building in Muslim Countries: The Case of Indonesia. In B. Krawietz, & H. Reifeld, *Islam and The Rule of Law: Between Sharia and Secularization* (pp. 51-64). Berlin: Konrad-Adenauer-Stiftung e.V.

Abou El Fadl, K. (2011). The Centrality of Sharī'ah to Government and Constitutionalism in Islam. In R. Grote, & T. Röder, *Constitutionalism in Islamic Countries: Between Upheaval and Continuity* (pp. 35-62). New York, NY: Oxford University Press.

Ahmed, D., & Ginsburg, T. (2014). Constitutional Islamization and Human Rights: The Surprising Origin and Spread of Islamic Supremacy in Constitutions. *Virginia Journal of International Law, 54*(3), 1-82.

Ahmed, D., & Gouda, M. (2015). Measuring constitutional Islamization: Insights from the Islamic Constitutions Index. *Hastings International and Comparative Law Review, 38*(1), 1–76.

Al-Abdin, A.-T. Z. (1983). The Political Significance of the Constitution of Madina. In R. L. Bidwell, & G. R. Smith, *Arabian and Islamic studies : articles presented to R.B. Serjeant on the occasion of his retirement from the Sir Thomas Adam's Chair of Arabic at the University of Cambridge* (pp. 146-152). New York: Longman.

Ali, S. S. (2016). *Modern Challenges to Islamic Law.* Cambridge: Cambridge University Press.

An-Na'im, A. A. (1990). *Towards an Islamic reformation: civil liberties, human rights, and international law.* New York: Syracuse University Press.

Arjomand, S. A. (2007). Islamic Constitutionalism. *Annual Review of Law and Social Science, 3*(1), 115–40.

Arjomand, S. A. (2008a). Introduction. In S. A. Arjomand, *Constitutional Politics in the Middle East: With special reference to Turkey, Iraq,* (pp. 1-10). Oxford: Hart Publishing.

Arjomand, S. A. (2008b). Islam and Constitutionalism since the Nineteenth Century: the Significance and Peculiarities of Iran. In S. A. Arjomand, *Constitutional Politics in the Middle East: With special reference to Turkey, Iraq, Iran and Afghanistan* (pp. 33-62). Oxford: Hart Publishing.

Arjomand, S. A. (2009). The Constitution of Medina: A Sociolegal Interpretation of Muhammad's Acts of Foundation of The Umma. *International Journal of Middle East Studies, 41*(4), 555–575.

Arjomand, S. A. (2012). The Kingdom of Jurists: Constitutionalism and the Legal Order in Iran. In R. Grote, & T. Röder, *Constitutionalism in Islamic Countries: Between Upheaval and Continuity* (pp. 147–170). New York: Oxford University Press.

ASDA'A BCW Arab Youth Survey. (2023). *Arab Youth Survey: Charting a new course.* Dubai, UAE: ASDA'A BCW Arab Youth Survey. Retrieved March 13, 2023, from https://arabyouthsurvey.com/en/

Bano, M. (2015). Protector of the "al-Wasatiyya"-Islam: Cairo's al-Azhar university. In M. Bano, & K. Sakurai, *Shaping Global Islamic Discourses: The Role of Al-Azhar, Al-Madinah and Al-Mustafa* (pp. 73-90). Edinburgh: Edinburgh University Press.

Binder, L. (2021). *Religion and Politics in Pakistan*. Berkeley, CA: University of California Press.

Brown, N. J. (2002). *Constitutions in a Nonconstitutional World: Arab Basic Laws and the Prospects for Accountable Government*. Albany, NY: State University of New York Press.

Brown, N. J. (2017). Islam and Constitutionalism in the Arab World: The Puzzling Course of Islamic Inflation. In A. Ü. Bâli, & H. Lerner, *Constitution Writing, Religion and Democracy* (pp. 289–316). Cambridge: Cambridge University Press.

Brown, N. J., & Revkin, M. (2015). Islamic Law and Constitutions. In A. M. Emon, & R. Ahmed, *The Oxford Handbook of Islamic Law* (pp. 779-818). Oxford: Oxford University Press.

Brown, N. J., & Sherif, A. O. (2004). Inscribing the Islamic shari'a in Arab constitutional law. In Y. Y. Haddad, & B. F. Stowasser, *Islamic Law and the Challenge of Modernity* (pp. 55–80). Walnut Creek, CA: AltaMira.

Devereux, R. (1963). *The First Ottoman Constitutional Period: A Study of the Midhat Constitution and Parliament*. Baltimore: The Johns Hopkins Press.

El Fadl, K. A. (2014). *Reasoning with God: Reclaiming Shari` ah in the Modern Age*. Lanham, MD: Rowman & Littlefield.

Elkins, Z., Ginsburg, T., & Melton, J. (2009). *The Endurance of National Constitutions*. Cambridge: Cambridge University Press.

Elkins, Z., Ginsburg, T., & Melton, J. (2023). *Constitute: The World's Constitutions to Read, Search, and Compare*. Retrieved May 15, 2023, from constituteproject.org

Emon, A. (2001). Reflections on the Constitution of Medina: An Essay on Methodology and Ideology in Islamic Legal History. *UCLA Journal of Islamic and Near Eastern Law, 1*, 103.

Encyclopædia Britannica. (2012, April 4). *al-Azhar University*. Retrieved April 4, 2012, from Britannica Academic Edition: http://www.britannica.com/EBchecked/topic/46851/al-Azhar-University

Ende, W. (2008). Justice as a Political Principle in Islam. In B. Krawietz, & H. Reifeld, *Islam and The Rule of Law: Between Sharia and Secularization* (pp. 19-34). Berlin: Konrad-Adenauer-Stiftung e.V.

Fadel, M. (2013). Judicial institutions, the legitimacy of Islamic state law and democratic transition in Egypt: Can a shift toward a common law model of adjudication improve the prospects of a successful democratic transition? *nternational Journal of Constitutional Law, 11*(3), 646–665.

Faruki, K. (1971). *The Evolution of Islamic Constitutional Theory and Practice from 610 to 1926*. Karachi: National Publication House.

Feldman, N. (2008). *The Fall and Rise of the Islamic State*. Princeton: Princeton University Press.

Fox, J. (2023, September 21). *The Religion and State Project- Constitutions Dataset, 1990-2022*. Retrieved from The Association of Religion Data Archives (ARDA): https://thearda.com/data-archive?fid=RAS3CONS

Goderis, B., & Versteeg, M. (2014). The Diffusion of Constitutional Rights. *International Review of Law and Economics, 39*, 1-19.

Gouda, M. (2013). Islamic constitutionalism and rule of law: a constitutional economics perspective. *Constitutional Political Economy, 24*(1), 57-85.

Gouda, M. (2021, February 16). *The 1978 Al-Azhar's Project for an Islamic Constitution*. Retrieved from SSRN: https://ssrn.com/abstract=2437590

Gouda, M., & Gutmann, J. (2021). Islamic constitutions and religious minorities. *Public Choice, 186*, 243–265.

Gouda, M., & Hanafy, S. (2022). Islamic Constitutions and Democracy. *Political Research Quarterly, 75*(4), 994–1005.

Gouda, M., & Potrafke, N. (2016). Gender equality in Muslim-majority countries. *Economic Systems, 40*(4), 683-698.

Grabowski, W. (2021). Beyond tradition and modernity: challenges of transformation in Saudi Arabia. *Rocznik Orientalistyczny, 2*, 82-97.

Grisha, A. (1998). *Islamic constitutional declaration [in Arabic].* Cairo, Egypt: Dar Al-Wafaa for printing and publishing.

Grote, R., & Röder, T. J. (2011). Introduction. In R. Grote, & T. J. Röder, *Constitutionalism in Islamic Countries: Between Upheaval and Continuity* (pp. 3-15). New York, NY: Oxford University Press.

Guiso, L., Sapienza, P., & Zingales, L. (2003). People's Opium? Religion and Economic Attitudes. *Journal of Monetary Economics, 50*(1), 225–282.

Gutmann, J., & Voigt, S. (2015). The Rule of Law and Constitutionalism in Muslim Countries. *Public Choice, 162*(3), 351–380.

Gutmann, J., & Voigt, S. (2018). The rule of law and Islam. In C. May, & A. Winchester, *The Edward Elgar handbook on the rule of law* (pp. 345–356). Cheltenham & Northampton: Edward Elgar Publishing.

Gutmann, J., Metelska-Szaniawska, K., & Voigt, S. (2024). The Comparative Constitutional Compliance Database. *The Review of International Organizations, 19*(1), 95–115.

Hamidullah, M. (1986). *The First Written Constitution in the World.* Chicago, IL: Kazi Publications.

Hamzawy, A., & Brown, N. J. (2010, March 9). *The Egyptian Muslim Brotherhood: Islamist Participation in a Closing Political Environment.* Retrieved from The Carnegie Endowment for International Peace: https://carnegie-production-assets.s3.amazonaws.com/static/files/muslim_bros_participation.pdf

Hashmi, S. H. (2016). 'Constitutionalism'. In E. o. World, *Martin, Richard C* (pp. 463-465). New York, NY: Gale.

Hizb ut-Tahrir. (2010). *The Draft Constitution or the necessary evidences for it.* Beirut, Lebanon : Dar al-Ummah Publishing House.

Kamali, M. H. (2012). Constitutionalism in Islamic Countries: A Contemporary Perspective of Islamic Law. In R. Grote, & T. J. Röder, *Constitutionalism in Islamic countries: between upheaval and continuity* (pp. 19-34). New York: Oxford University Press.

Khan, A. (2006). The Medina Constitution. *Understanding Islamic Law, Available at SSRN: http://ssrn.com/abstract=945458*, 1-7.

Kuran, T. (2004). Why the Middle East is economically underdeveloped: historical mechanisms of institutional stagnation. *Journal of Economic Perspectives, 16*(3), 71–90.

Kuran, T. (2011). *The Long Divergence: How Islamic Law Held Back the Middle East.* Princeton: Princeton University Press.

Lattanzio, G. (2022). Beyond Religion and Culture: The Economic Consequences of the Institutionalization of Sharia Law. *Emerging Markets Review, 52*, 100918.

Lewis, B. (2002). *Arabs in History.* London, England: Oxford University Press.

Lo Turco, A., & Maggioni, D. (2018). Effects of Islamic religiosity on bilateral trust in trade: The case of Turkish exports. *Journal of Comparative Economics, 46*(4), 947-965.

Lombardi, C. B. (2006). *State Law as Islamic Law in Modern Egypt.* Leiden, The Netherlands: Brill.

Lombardi, C. B. (2013). Constitutional Provisions Making Sharia 'A' or 'The' Chief Source of Legislation: Where Did They Come from? What Do They Mean? Do They Matter? *American University International Law Review, 28*(3), 733-772.

Longo, P. (2019). *Theory and Practice in Islamic Constitutionalism: From Classica Fiqh to Modern Systems.* Piscataway, NJ, USA: Gorgias Press.

March, A. F. (2015). Political Islam: Theory. *Annual Review of Political Science, 18*(1), 103–123.

March, A. F. (2020). The theoretical framework of modern Islamic constitutionalism. In S. Mancini, *Constitutions and Religion* (pp. 59–74). Cheltenham, UK: Edward Elgar.

Mcllwain, C. H. (2008). *Constitutionalism: ancient and modern.* Indianapolis, Indiana: Liberty Fund, Inc.

Moustafa, T. (2007). *The Struggle for Constitutional Power: Law, Politics, and Economic Development in Egypt.* Cambridge: Cambridge University Press.

North, D. C. (1990). *Institutions, Institutional Change and Economic Performance.* Cambridge: Cambridge University Press.

Organisation of Islamic Cooperation. (2023). *History*. Retrieved May 15, 2023, from Organisation of Islamic Cooperation: https://www.oic-oci.org/page/?p_id=52&p_ref=26&lan=en

Pew Research Center. (2013). *The World's Muslims: Religion, Politics and Society.* Washington, D.C.: Pew Research Center.

Pew Research Center. (2022, December 21). *Key Findings From the Global Religious Futures Project*. Retrieved March 13, 2023, from Pew Research Center:

https://www.pewresearch.org/religion/2022/12/21/key-findings-from-the-global-religious-futures-project/

Rabb, I. (2008). "We the Jurists": Islamic Constitutionalism in Iraq. *University of Pennsylvania Journal of Constitutional Law, 10*(3), 527-555.

Rutherford, B. K. (2006). What Do Egypt's Islamists Want? Moderate Islam and the Rise of Islamic Constitutionalism. *The Middle East Journal, 60*(4), 707–31.

Schulze, R. (1995). Citizens of Islam- The institutionalization and internationalization of Muslim legal debate. In C. Toll, & J. Skovgaard-Petersen, *Law and the Islamic World: past and present: papers presented to the joint seminar at the universities of Copenhagen and Lund, March 26th-27th, 1993* (pp. 167-185). Copenhagen: Det Kongelige Danske Videnskabernes Selskab.

Serjeant, R. B. (1978). The Sunnah Jāmi'ah, pacts with the Yathrib Jews, and the Taḥrīm of Yathrib: analysis and translation of the documents comprised in the so-called 'Constitution of Medina'. *Bulletin of the School of Oriental and African Studies, 41*, 1-42.

Sezgin, Y. (2023a). A Global and Historical Exploration: Legislative Reform in Muslim Family Laws in Muslim-majority versus Muslim-minority Countries. *Law & Policy, 45*, 110–136.

Sezgin, Y. (2023b). Muslim Family Law Reform: Understanding the Difference between Muslim-Majority and Muslim-Minority Jurisdictions. *Journal of Law, Religion and State, 10*(2-3), 218-251.

Stahnke, T., & Blitt, R. C. (2005). The Religion-State Relationship and the Right to Freedom of Religion or Belief: A Comparative Textual Analysis of the Constitutions of Predominantly Muslim Countries. *Georgetown Journal of International Law, 36*, 1-106.

Stilt, K. (2015). Contextualizing constitutional Islam: The Malayan experience. *International Journal of Constitutional Law, 13*(2), 407–433.

Sultany, N. (2014). Religion and Constitutionalism: Lessons from American and Islamic Constitutionalism. *Emory International Law Review, 28*, 345-424.

The Times. (2006, March 21). *Anger over Christian convert in Kabul who faces death*. Retrieved from The Times: https://www.thetimes.co.uk/article/anger-over-christian-convert-in-kabul-who-faces-death-cfzdwfsdq0s

Thio, L.-A. (2012). Constitutionalism in Illiberal Polities . In M. Rosenfeld, & A. Sajó, *The Oxford Handbook of Comparative Constitutional Law* (pp. 133-152). Oxford: United Kingdom: Oxford University Press.

Trautmann, S. T. (2022). Religion and Economic Preferences. In K. F. Zimmermann, *Handbook of Labor, Human Resources and Population Economics* (pp. 1-15). Cham: Springer International Publishing.

Wellhausen, J. (1889). Muhammads Gemeindeordnung von Medina. In J. Wellhausen, *Skizzen und Vorarbeiten* (Vol. IV, pp. 1-284). Berlin: Reimer.

Zakaria, F. (2004). Islam, Democracy, and Constitutional Liberalism. *Political Science Quarterly, 119*(1), 1-20.

Appendix

Table 1: Constructing the Comparative Islamic Constitutions Database

Benchmarks	**Al-Azhar Constitution**
A. GENERAL CHARACTERISTICS	
Q1. [*Preamble*]- Does the Preamble reference Islamic idiom?	Preamble
Q2. [*Calendar*]- Does the constitution reference an Islamic calendar and/or holidays?	Article 15
Q3. [*StateRel*]- Does the constitution declare Islam as the state religion?	Article 1b
Q4. [*Oath*]- Does it include Islamic references in the presidential, ministerial, or parliamentary oath?	Article 48
Q5. [*Amendment*]- Are provisions related to Islam unamendable?	Preamble, Article 1b
Q6. [*Authority*]- Does the source of authority or power stem from religious principles?	Articles 55, 56, 57
B. RIGHTS	
Q7. [*Rights*]- Are any rights or freedoms subject to Sharia requirements?	Article 29
Q8. [*CTZMuslim*]- Does the constitution require all citizens to be Muslim?	No mention of non-Muslims
Q9. [*Women*]- Does the constitution declare that women should serve their husband or that serving the family is their priority?	Article 8
C. EXECUTIVE	
Q10. [*Duty*]- Does the head or state/government have some religious duties or symbolic obligations?	Article 47
Q11. [*HDMuslim*]- Must the head of state/government be Muslim?	Article 47
Q12. [*HDKnowledge*]- Is Islamic knowledge a prerequisite for the head of state/government?	Article 47
Q13. [*Accountability*]- Is the government accountable for ruling in accordance with Islam?	Article 7
Q14. [*Pledge*]- Is the head of state/government appointed through a pledge of allegiance (bai‘ah)?	Article 48
Q15. [*Advisory*]- Does the constitution establish a religious advisory council?	Article 83
D. LEGISLATIVE	
Q16. [*Source*]- Is Islam identified as a source of legislation?	Article 1b
Q17. [*Supremacy*] - What is the degree of Islamic supremacy in legislation? Code the intensity (Only asked if Q16 is answered “Yes”)	Article 1b
Q18. [*Repugnance*]- Does the constitution prohibit laws that contradict Islam?	Articles 83, 92

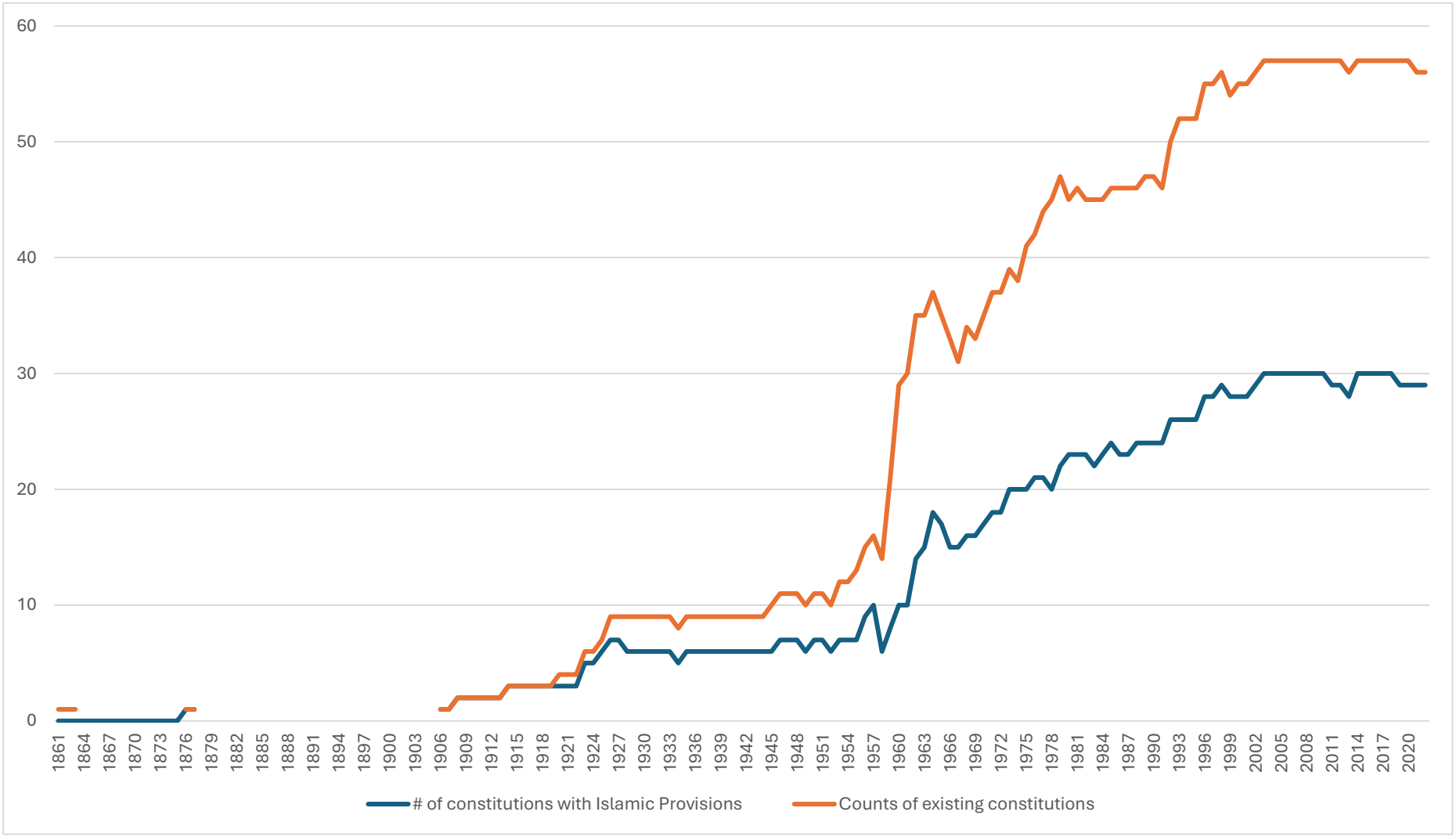
Q19. [*Crime*]- Does the constitution explicitly provide for the implementation of Islamic criminal penalties (e.g., amputations, stoning)?	Articles 56, 59, 69, 71, 72, 79
E. JUDICIARY	
Q20. [*Judiciary*]- Is there a provision requiring the judiciary to apply Sharia or reject laws contradicting it?	Article 81
Q21. [*JDMuslim*]- Must judges of the highest court be Muslim?	Articles 61, 65
Q22. [*JDKnowledge*]- Must judges of the highest court have Islamic legal knowledge?	Article 65
Q23. [*Compliance*]- Does the constitution establish a religious council or judicial court to review legislation for Sharia compliance?	Article 83
F. ECONOMY	
Q24. [*Economy*] - Does the constitution mandate that economic activities, trade, or banking adhere to Islamic principles?	Article 23
Q25. [*Interest*]- Does the constitution prohibit interest (riba)?	Article 23
Q26. [*Alms*]- Does the constitution provide for the recognition or organization of alms, charity, zakat, or waqf?	Article 26
G. ISLAMIC SOCIAL NORMS	
Q27. [*Moral*]- Are Islamic morals given a constitutional foundation?	Article 7
Q28. [*Education*]- Does the constitution mandate the provision of Islamic (or religious) education?	Articles 10, 11
Q29. *[Unity*]- Does the constitution reference unity with the Muslim world or the concept of Ummah (Islamic political community)?	Article 1-3
Q30. *[Jihad*]- Does the constitution reference jihad or the defense of faith?	Article 56

Table 2: Regions and Countries covered

Region	Countries
Central Asia	Kazakhstan, Kyrgyz Republic, Tajikistan, Turkmenistan, Uzbekistan
Eastern Africa	Comoros, Djibouti, Mozambique, Somalia, Uganda
Middle Africa	Cameroon, Chad, Gabon
Northern Africa	Algeria, Egypt, Libya, Morocco, Sudan, Tunisia
South America	Guyana, Suriname
South-Eastern Asia	Brunei, Indonesia, Malaysia
Southern Asia	Afghanistan, Bangladesh, Iran, Maldives, Pakistan
Southern Europe	Albania
Western Africa	Benin, Burkina Faso, Cote D'Ivoire, Gambia, Guinea, Guinea-Bissau, Mali, Mauritania, Niger, Nigeria, Senegal, Sierra Leone, Togo
Western Asia	Azerbaijan, Bahrain, Iraq, Jordan, Kuwait, Lebanon, Oman, Palestine, Qatar, Saudi Arabia, Syria, Türkiye, United Arab Emirates, Yemen

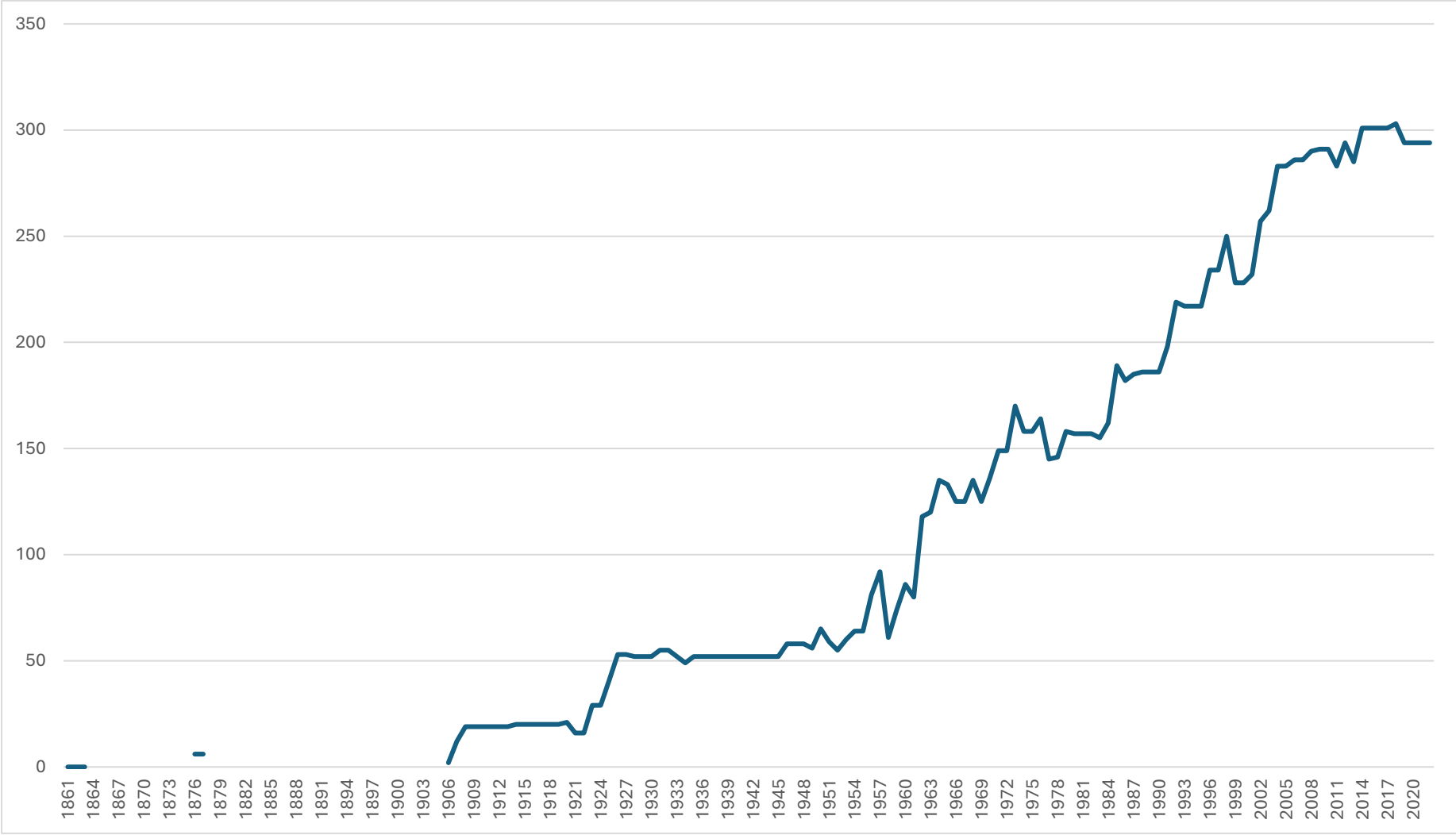
Source: United Nations Statistics Division (2025), Standard country or area codes for statistical use (M49). https://unstats.un.org/unsd/methodology/m49/

Figure 1: Islamic Constitutional Provisions (1861-2022)



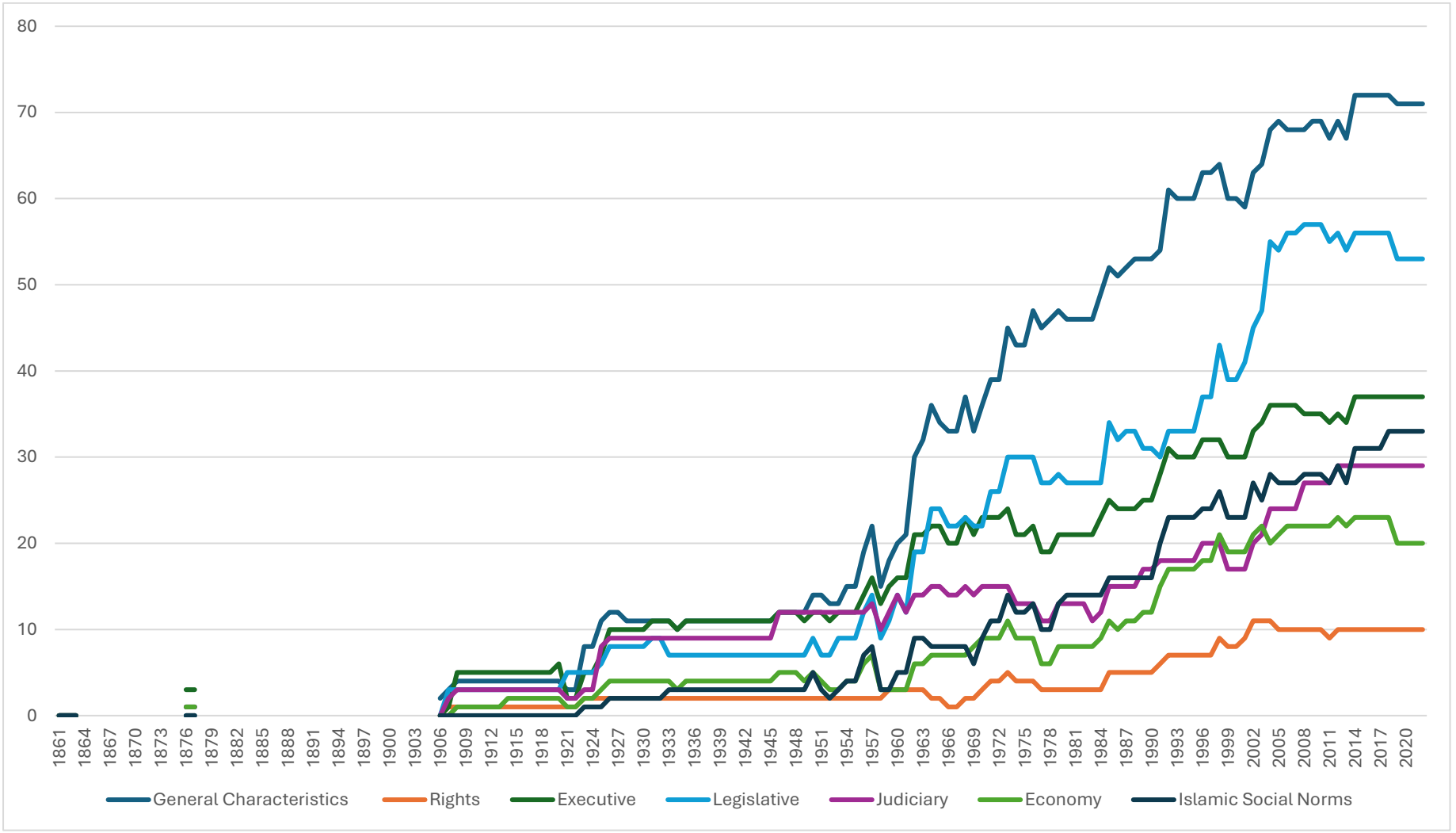
Source: Author's calculations

Figure 2: ICI v.2 (1861-2022)



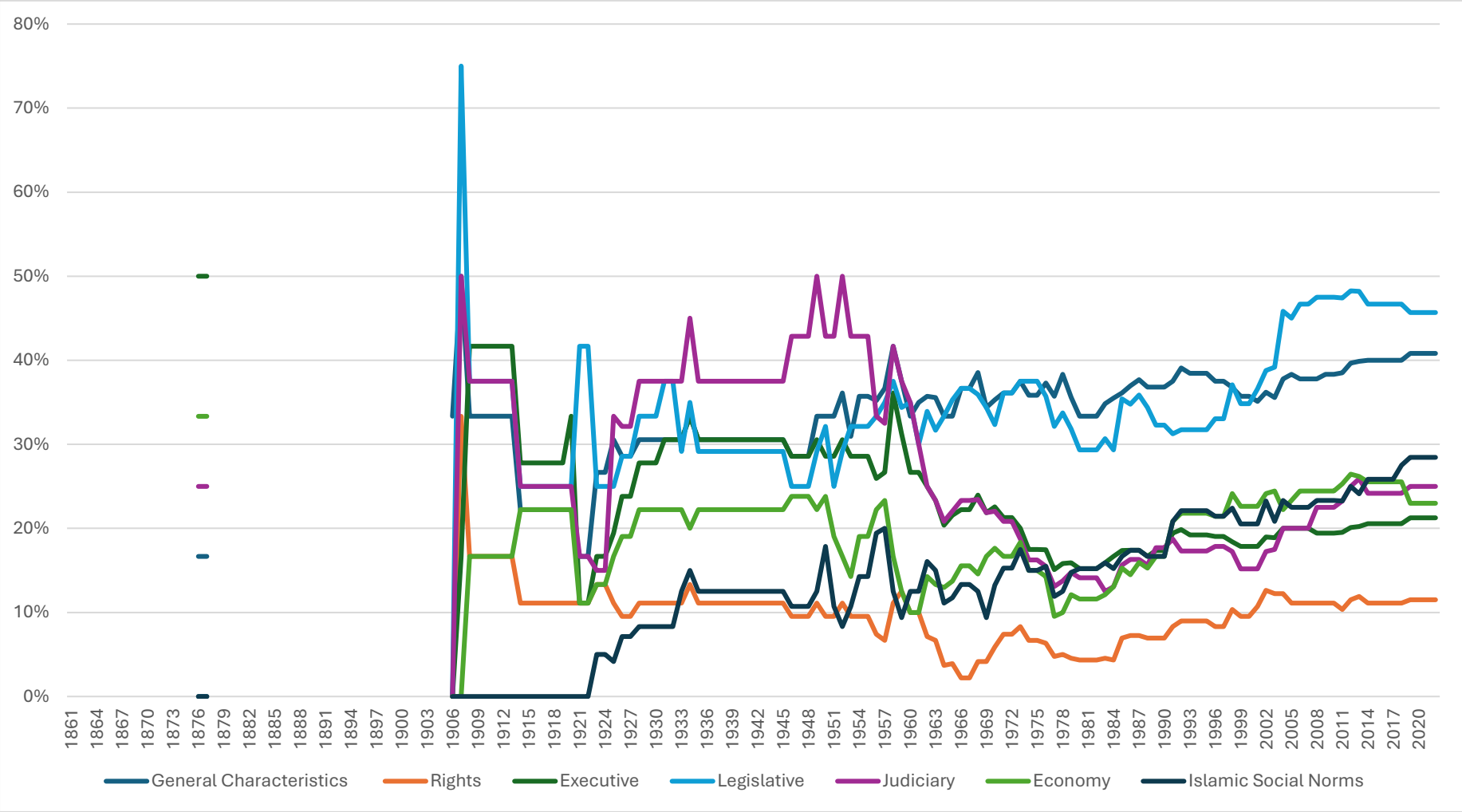
Source: Author's calculations

Figure 3: Counts of Islamic constitutional provisions (by category)



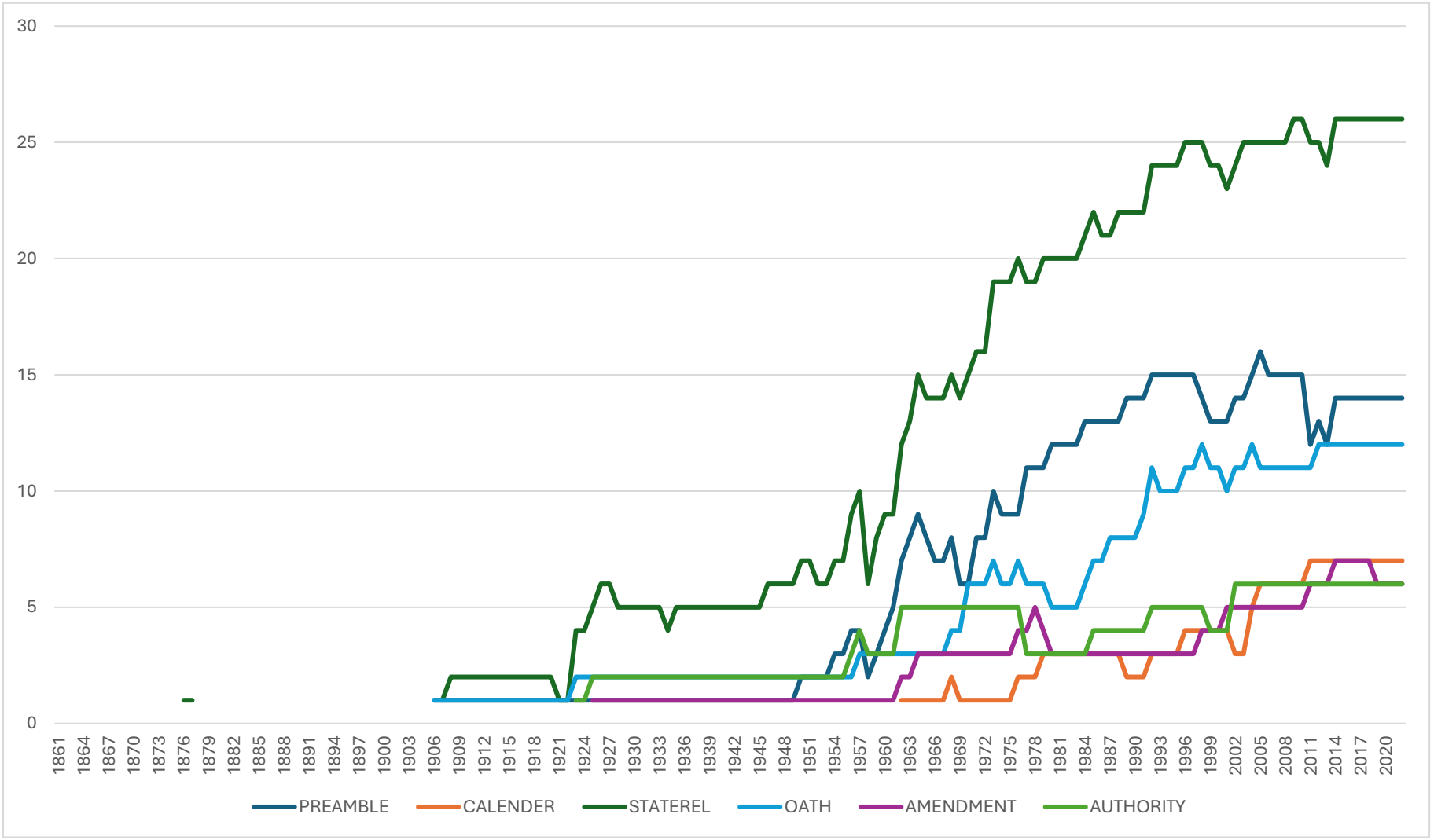
Source: Author's calculations

Figure 4: Percentage of occurrences of Islamic provisions in Islamic constitutions (by category)



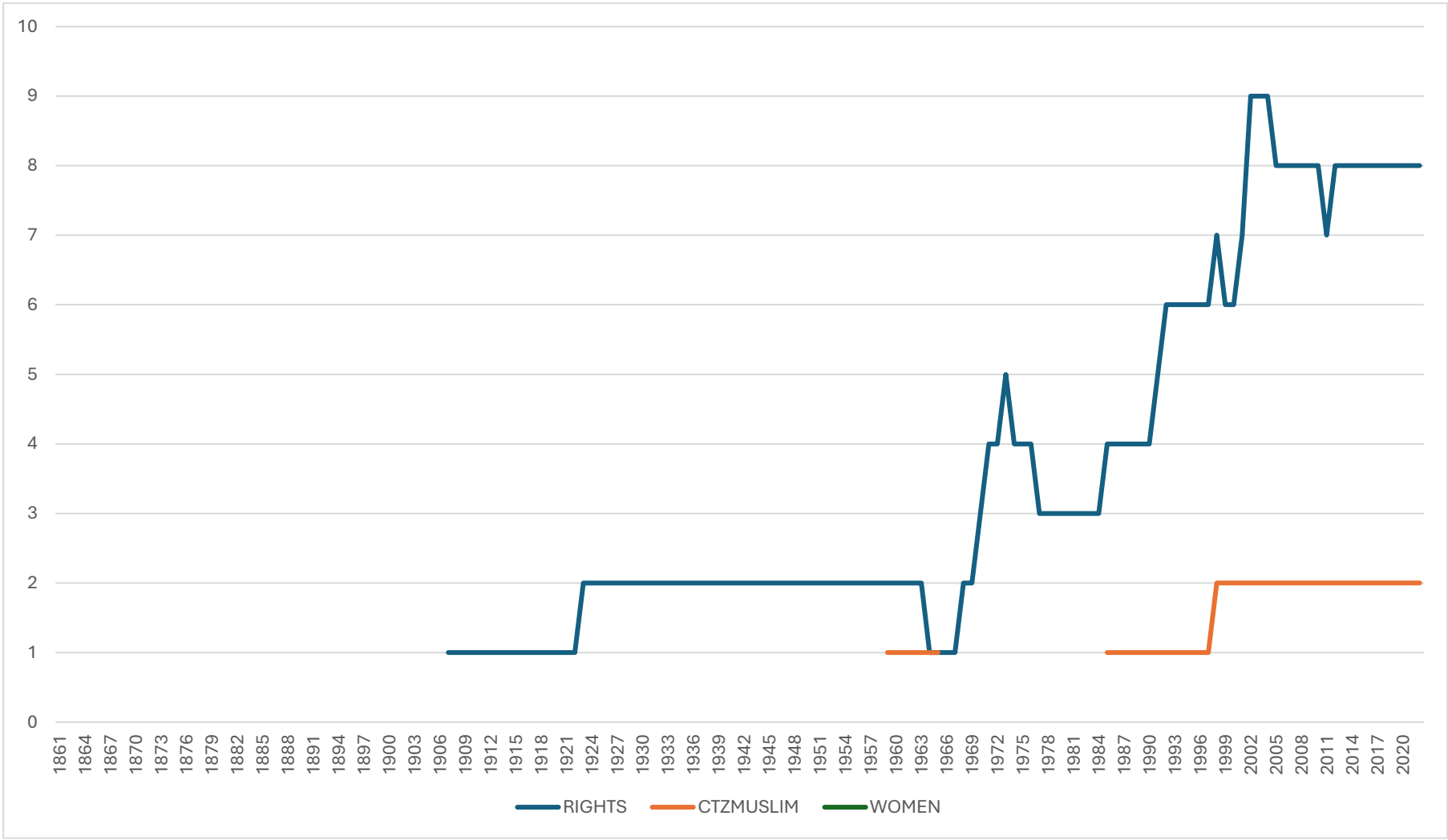
Source: Author's calculations

Figure 5: Counts of Islamic Constitutional provisions (Category: GENERAL CHARACTERISTICS)



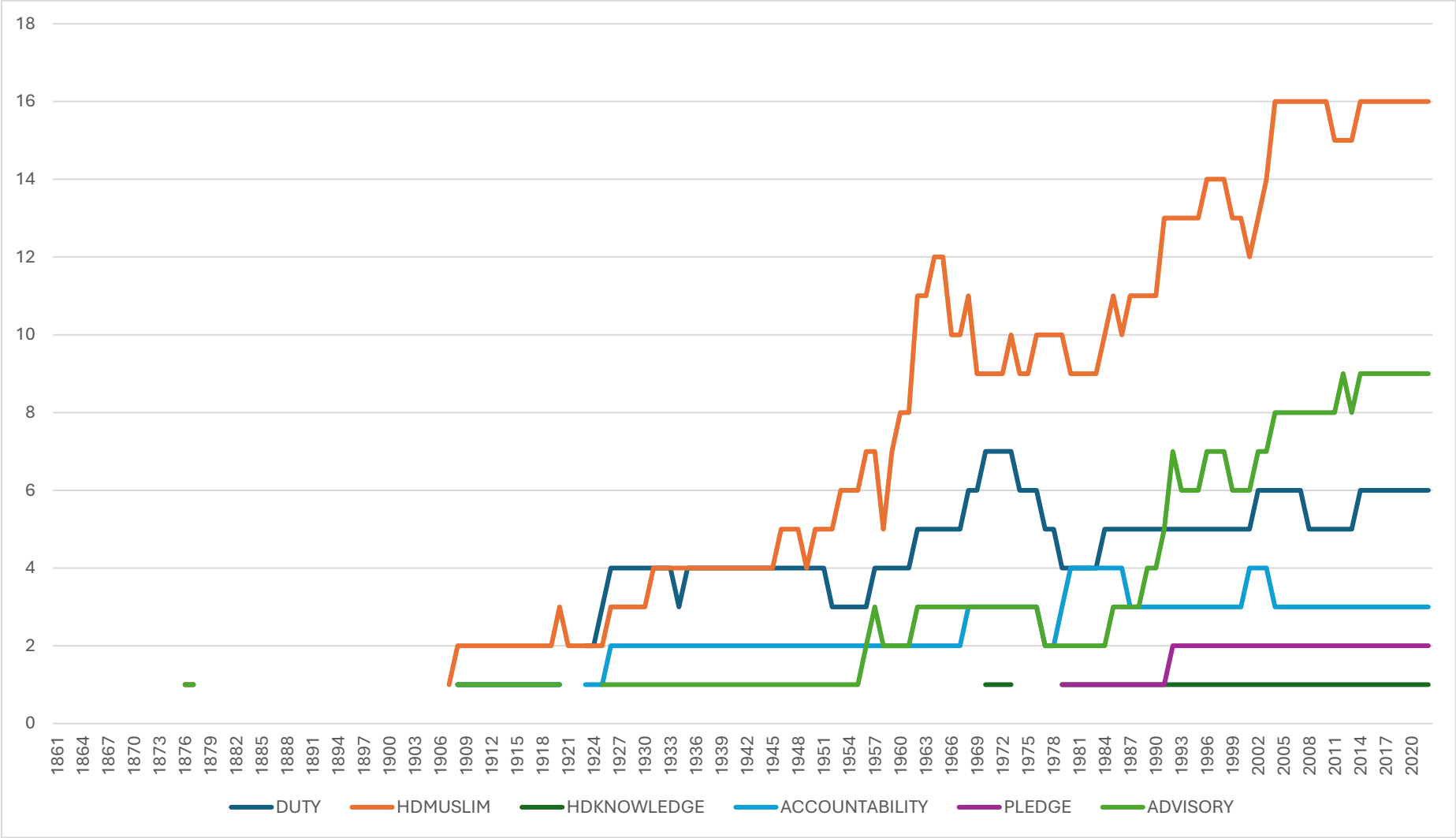
Source: Author's calculations

Figure 6: Counts of Islamic Constitutional provisions (Category: RIGHTS)



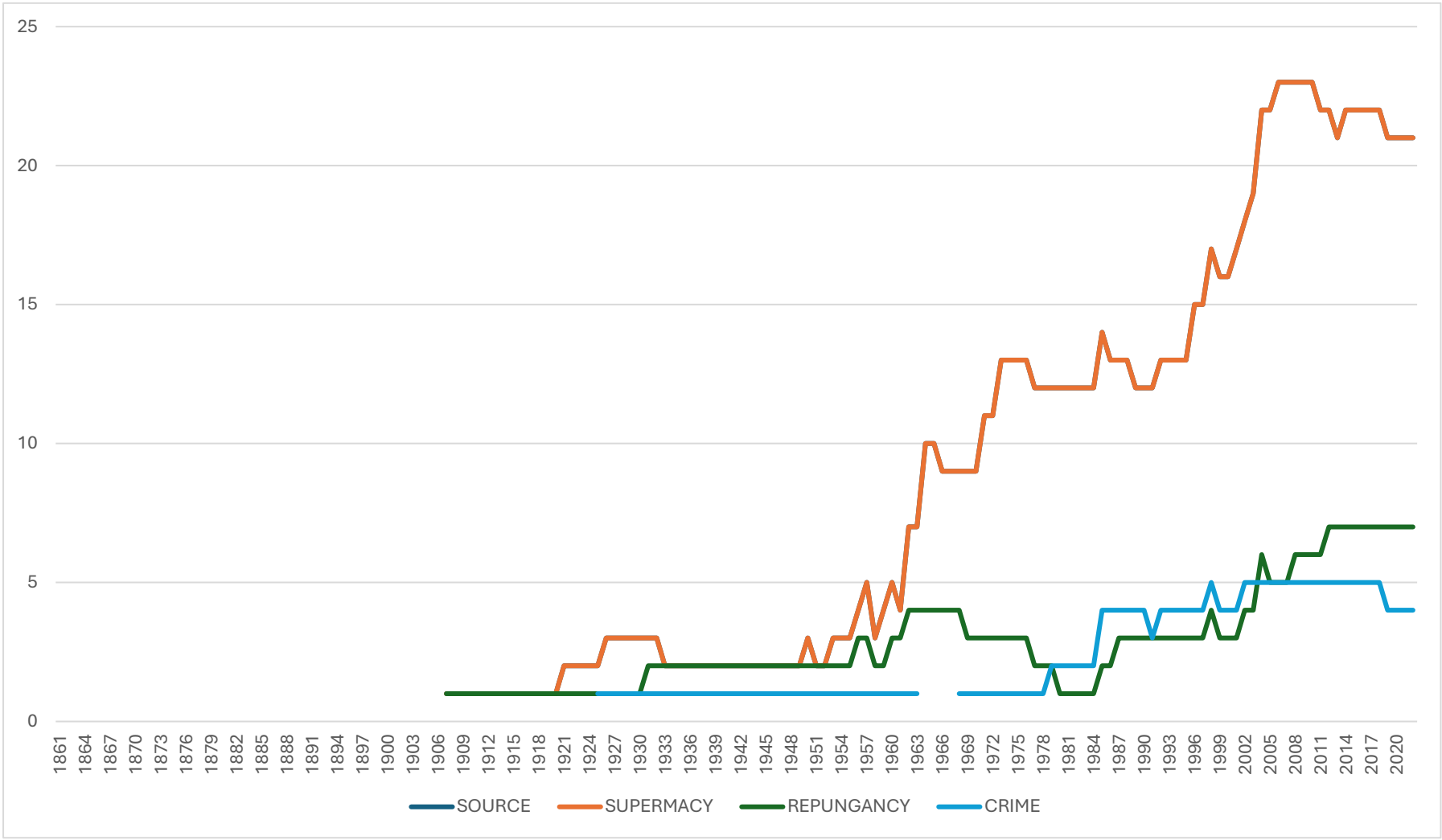
Source: Author's calculations

Figure 7: Counts of Islamic Constitutional provisions (Category: EXECUTIVE)



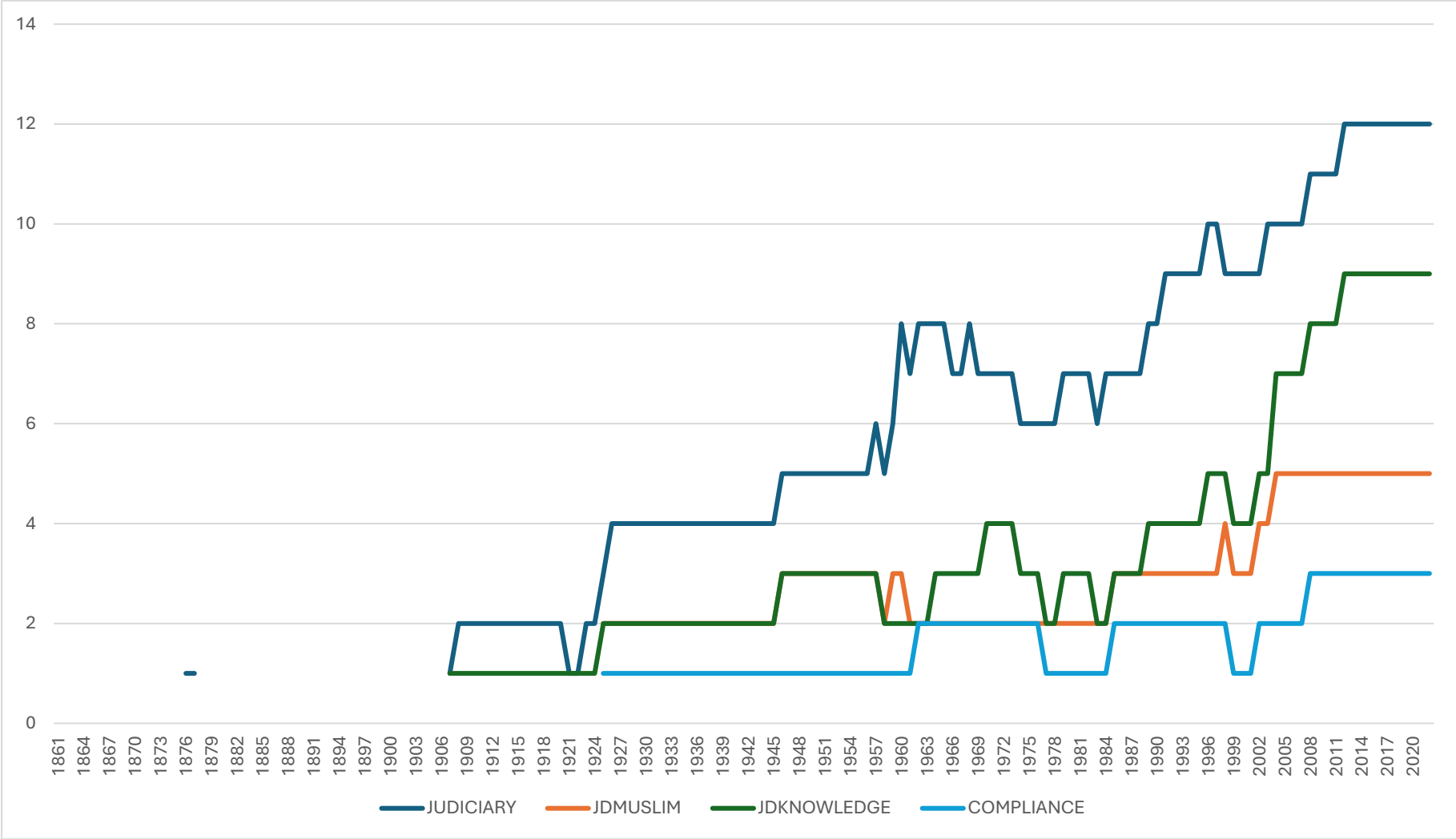
Source: Author's calculations

Figure 8: Counts of Islamic Constitutional provisions (Category: LEGISLATIVE)



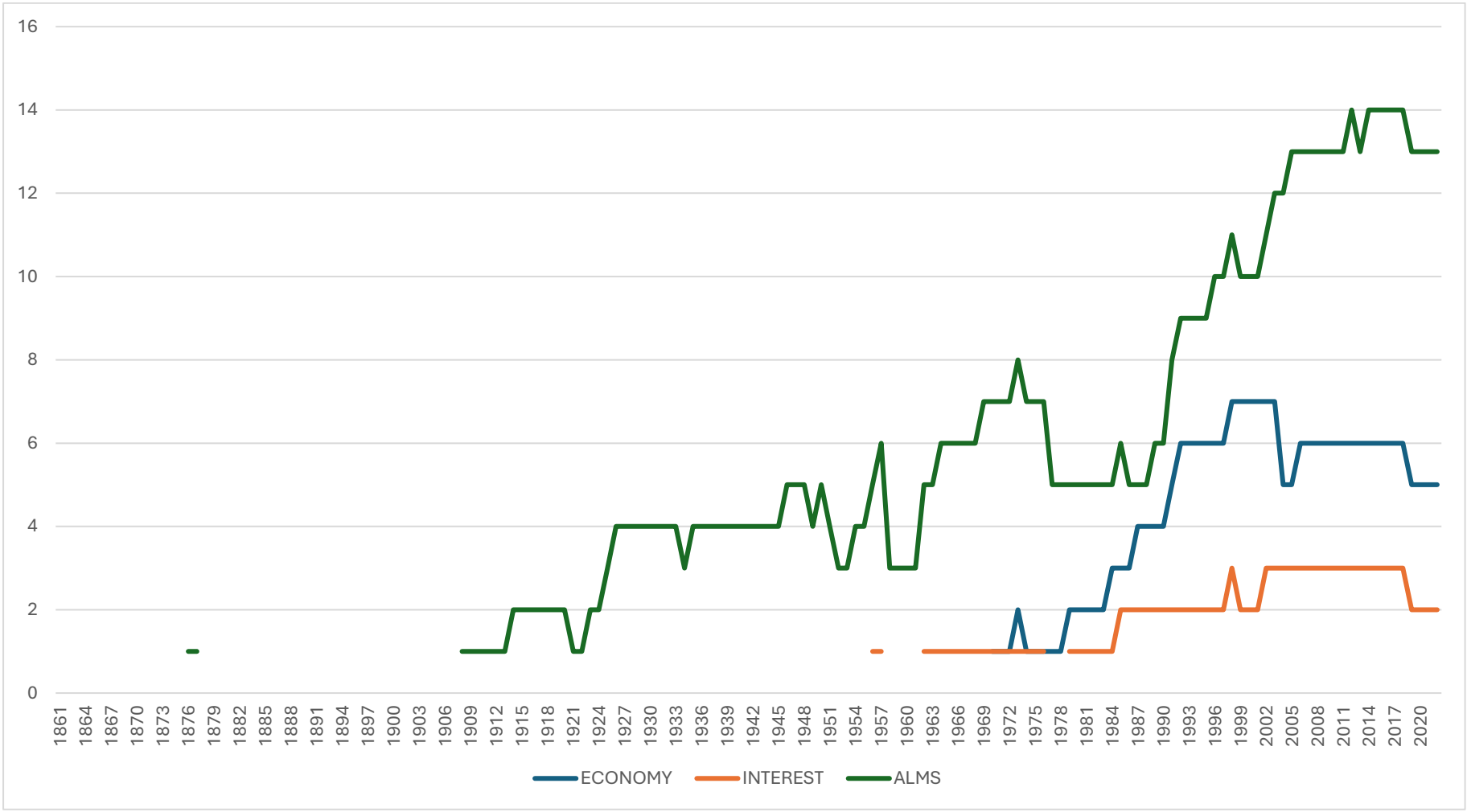
Source: Author's calculations

Figure 9: Counts of Islamic Constitutional provisions (Category: JUDICIARY)



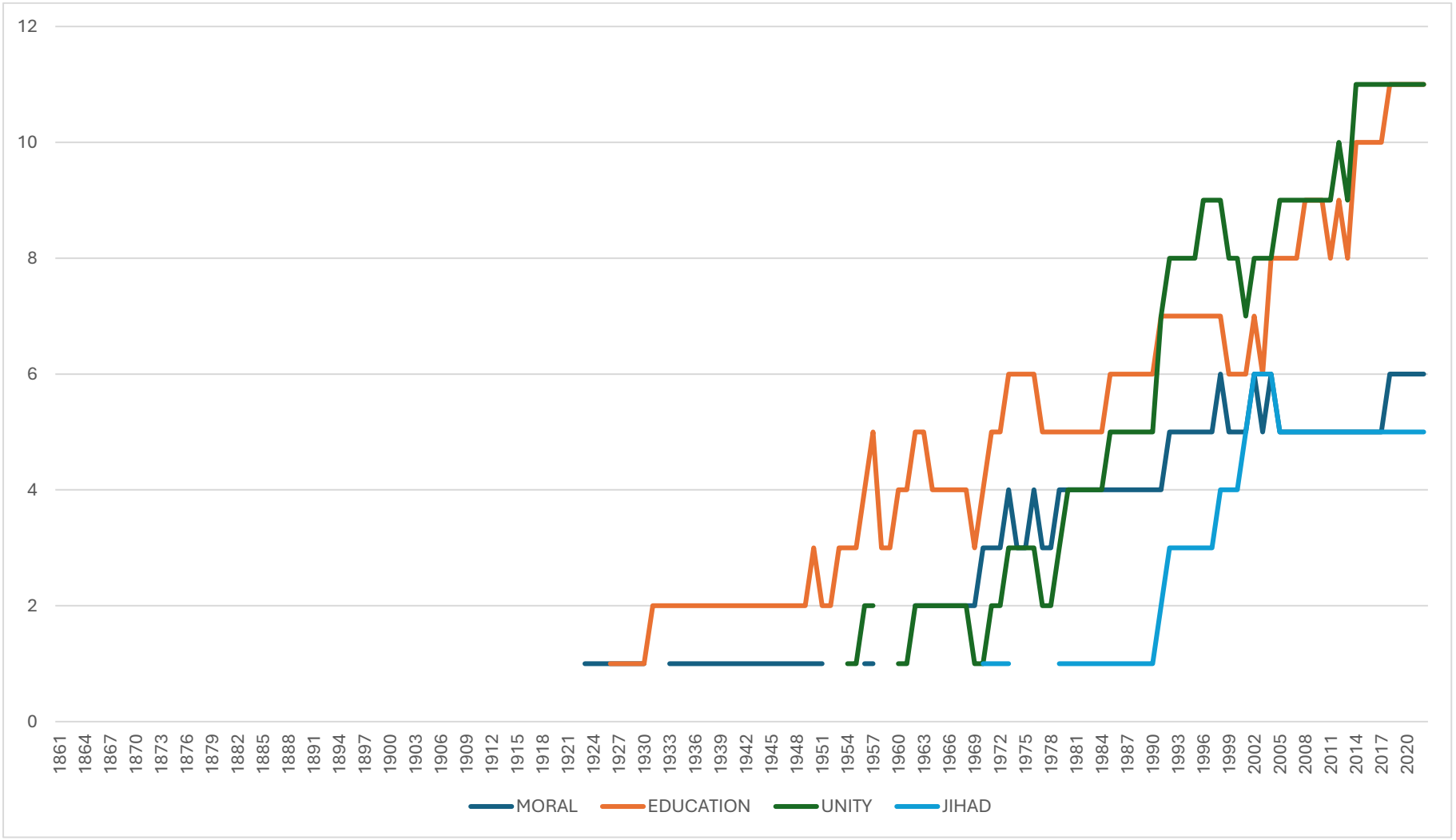
Source: Author's calculations

Figure 10: Counts of Islamic Constitutional provisions (Category: ECONOMY)



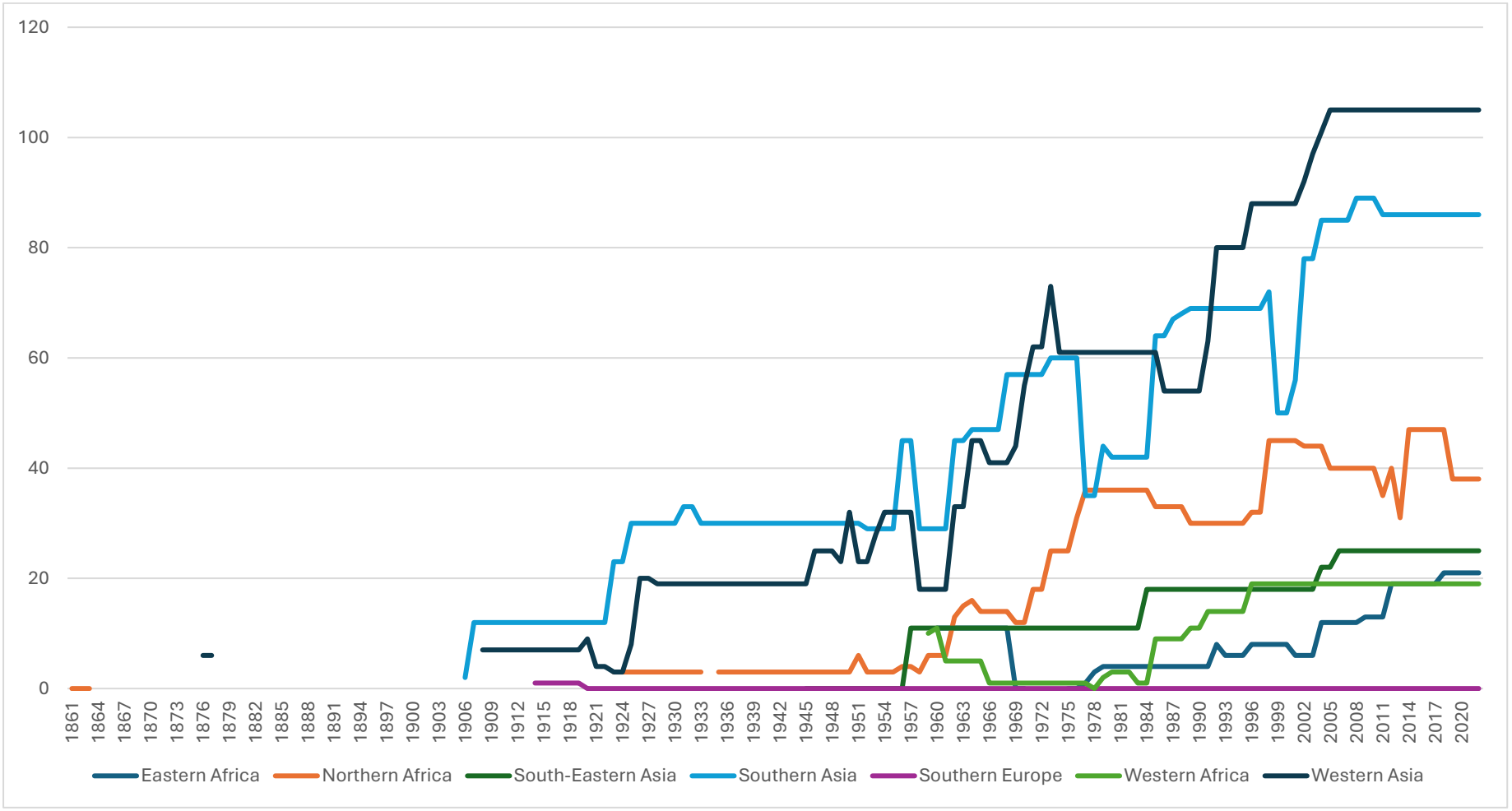
Source: Author's calculations

Figure 11: Counts of Islamic Constitutional provisions (Category: ISLAMIC SOCIAL NORMS)



Source: Author's calculations

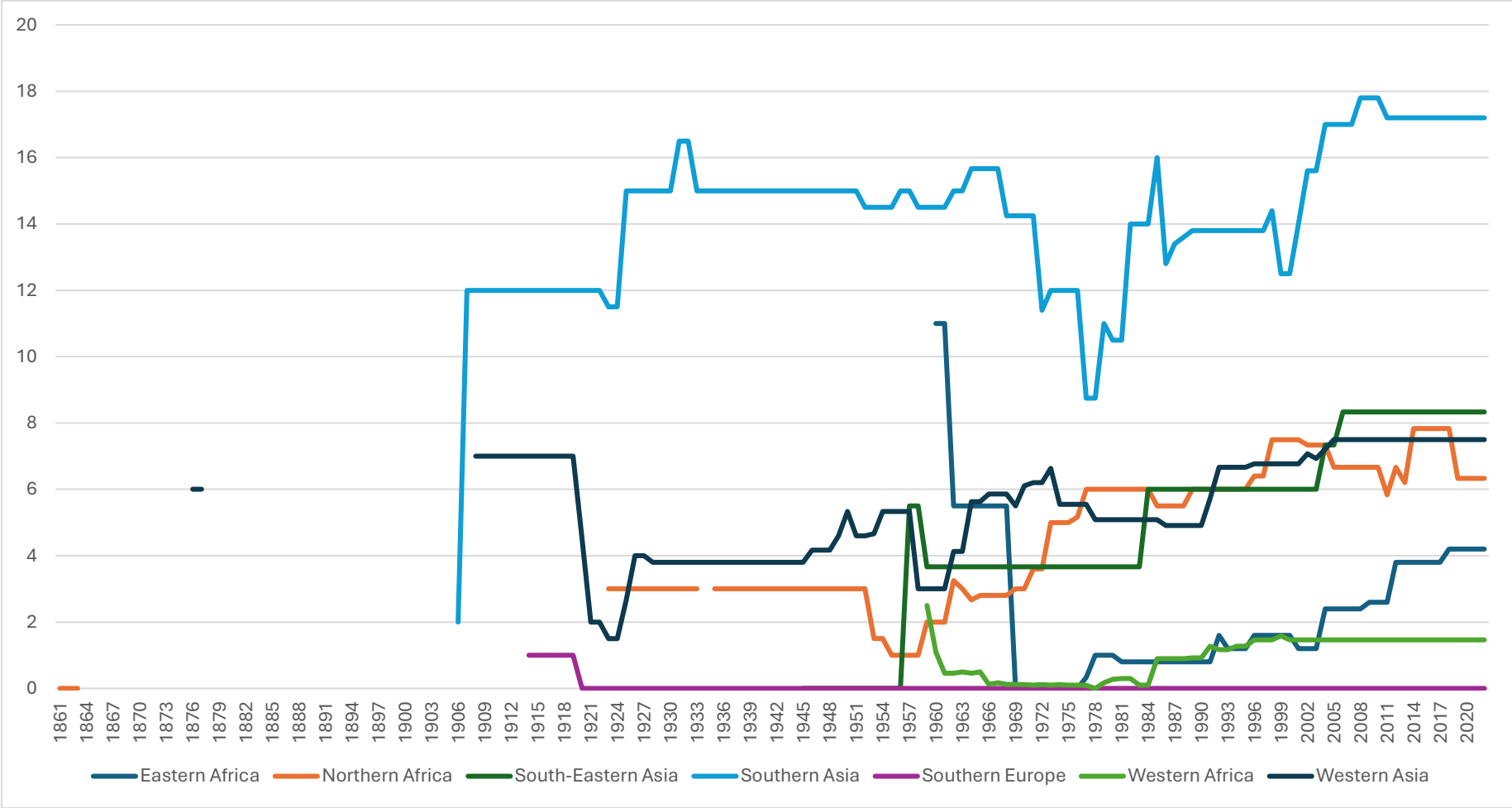
Figure 12: ICI by Region (Absolute values)



Regions scoring zero: South America, Central Asia, and Middle Africa

Source: Author's calculations

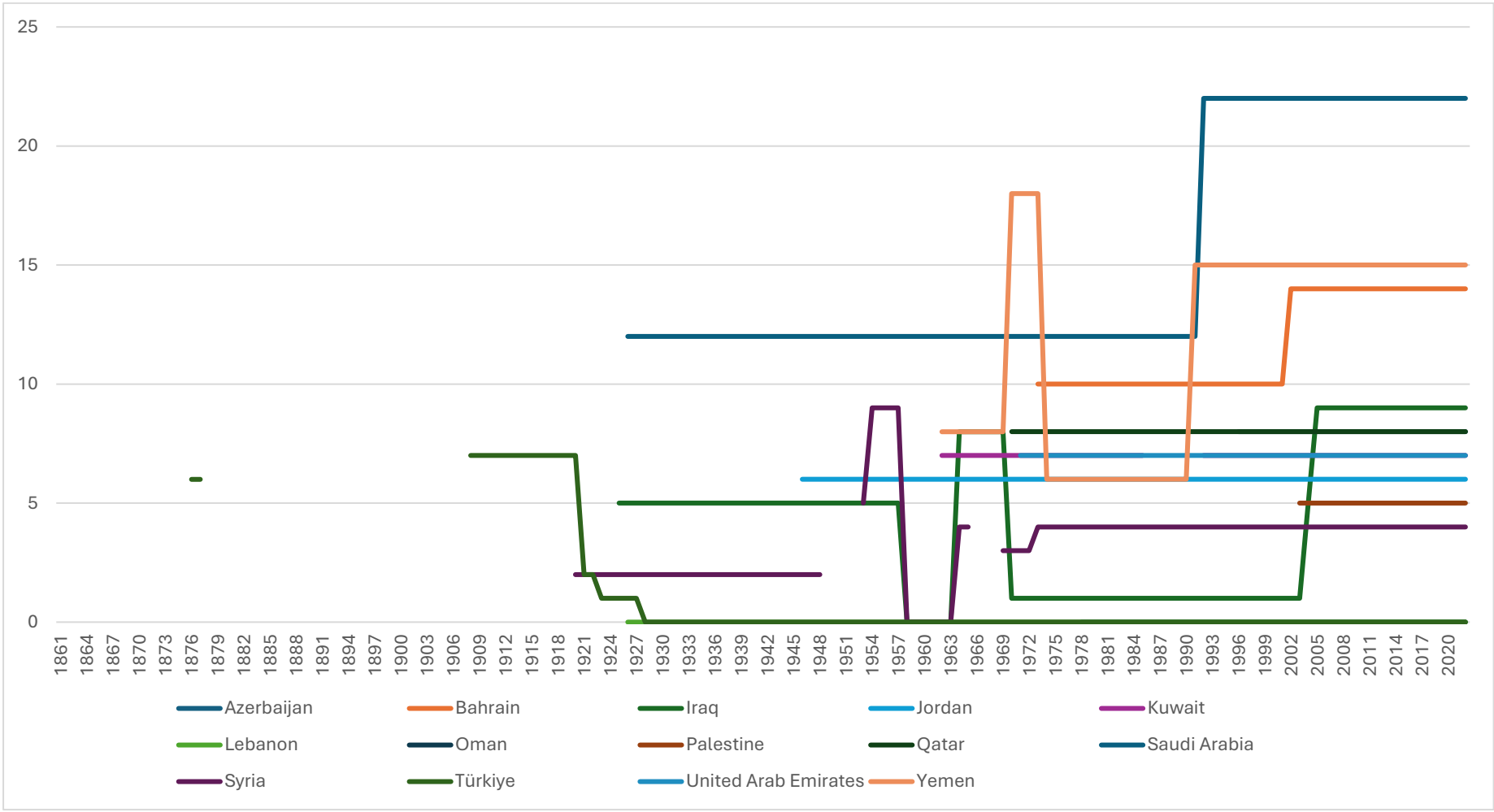
Figure 13: ICI by Region (Average values)



Regions scoring zero: South America, Central Asia, and Middle Africa

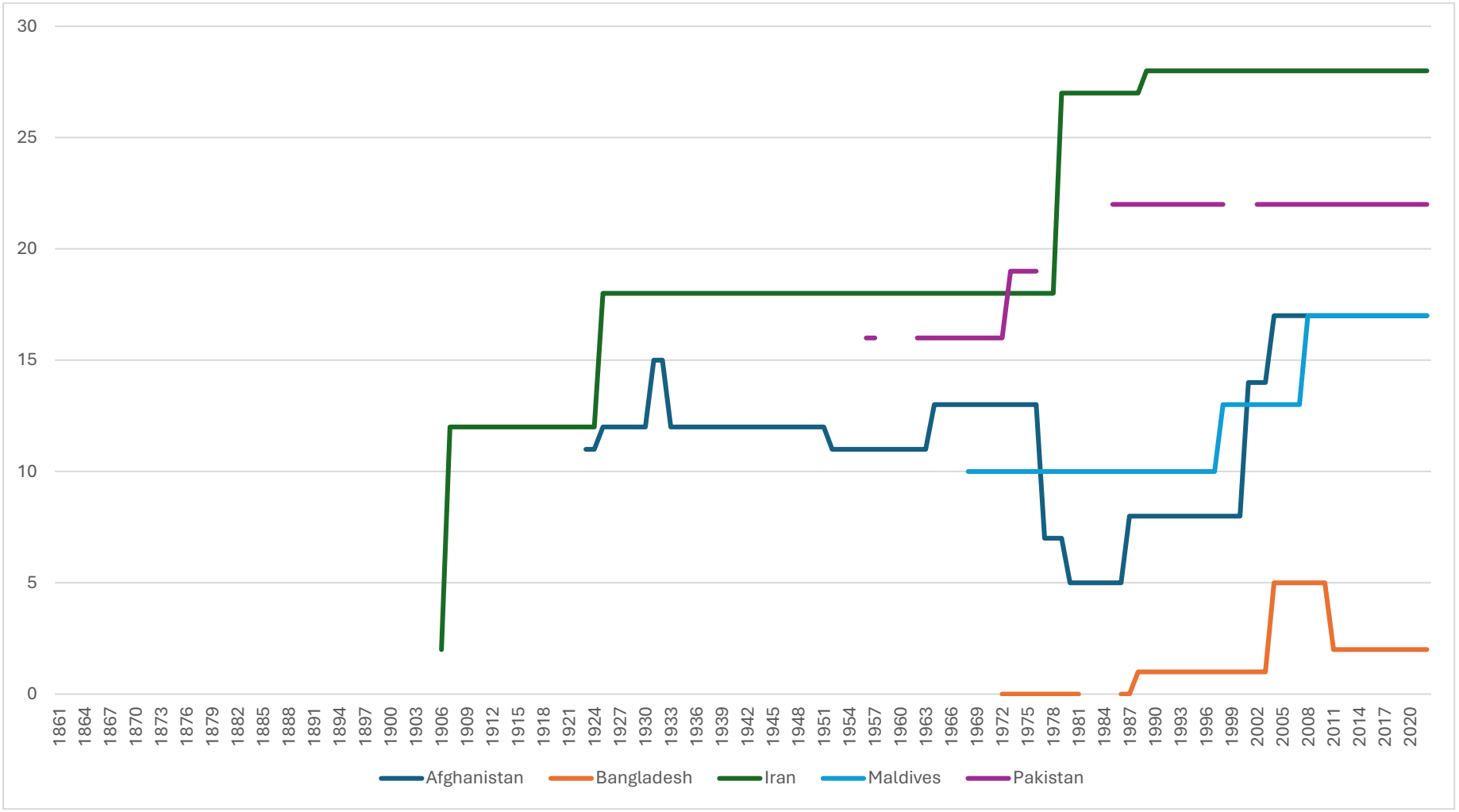
Source: Author's calculations

Figure 14: ICI by Region (Western Asia)



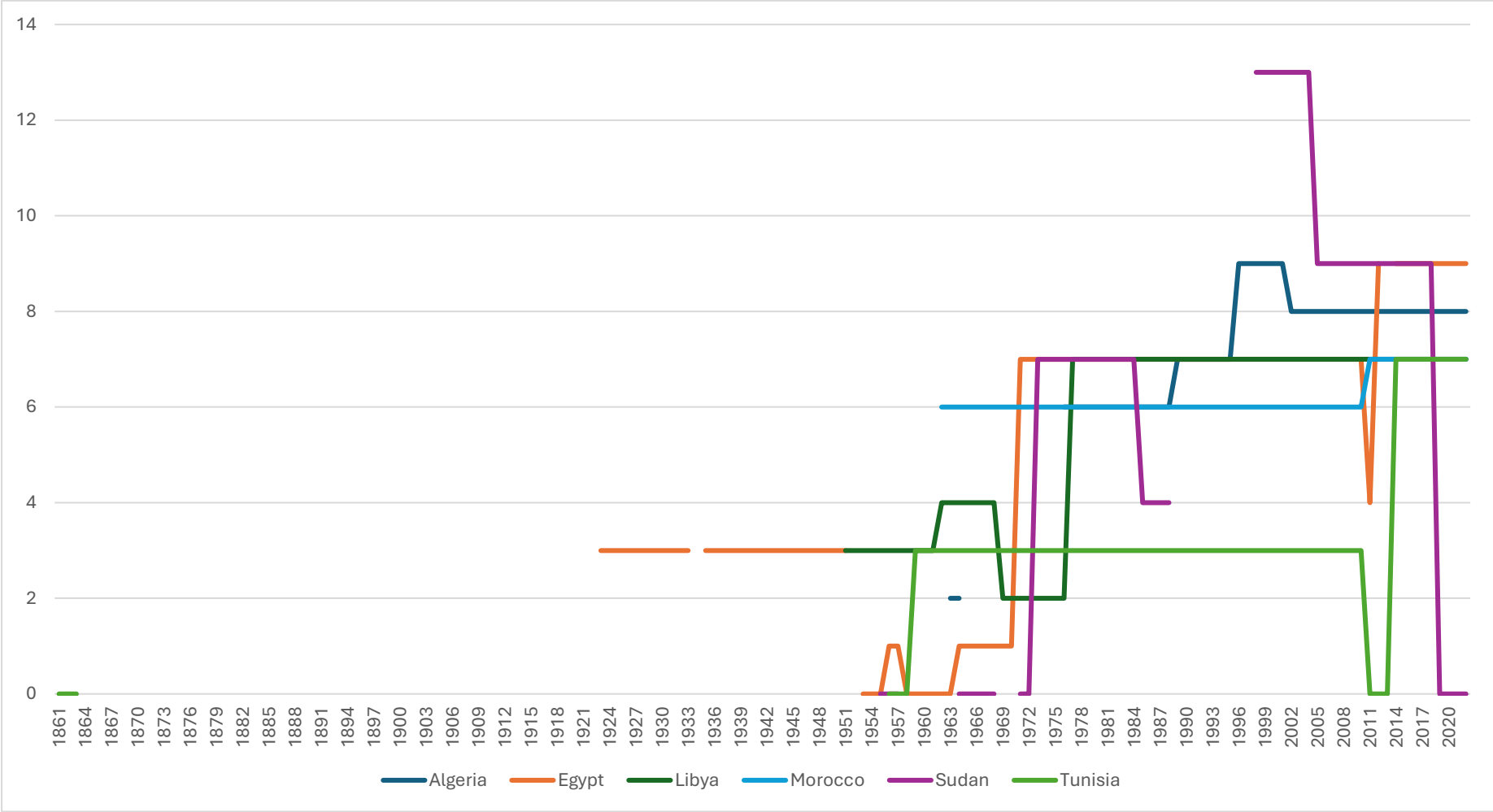
Source: Author's calculations

Figure 15: ICI by Region (Southern Asia)



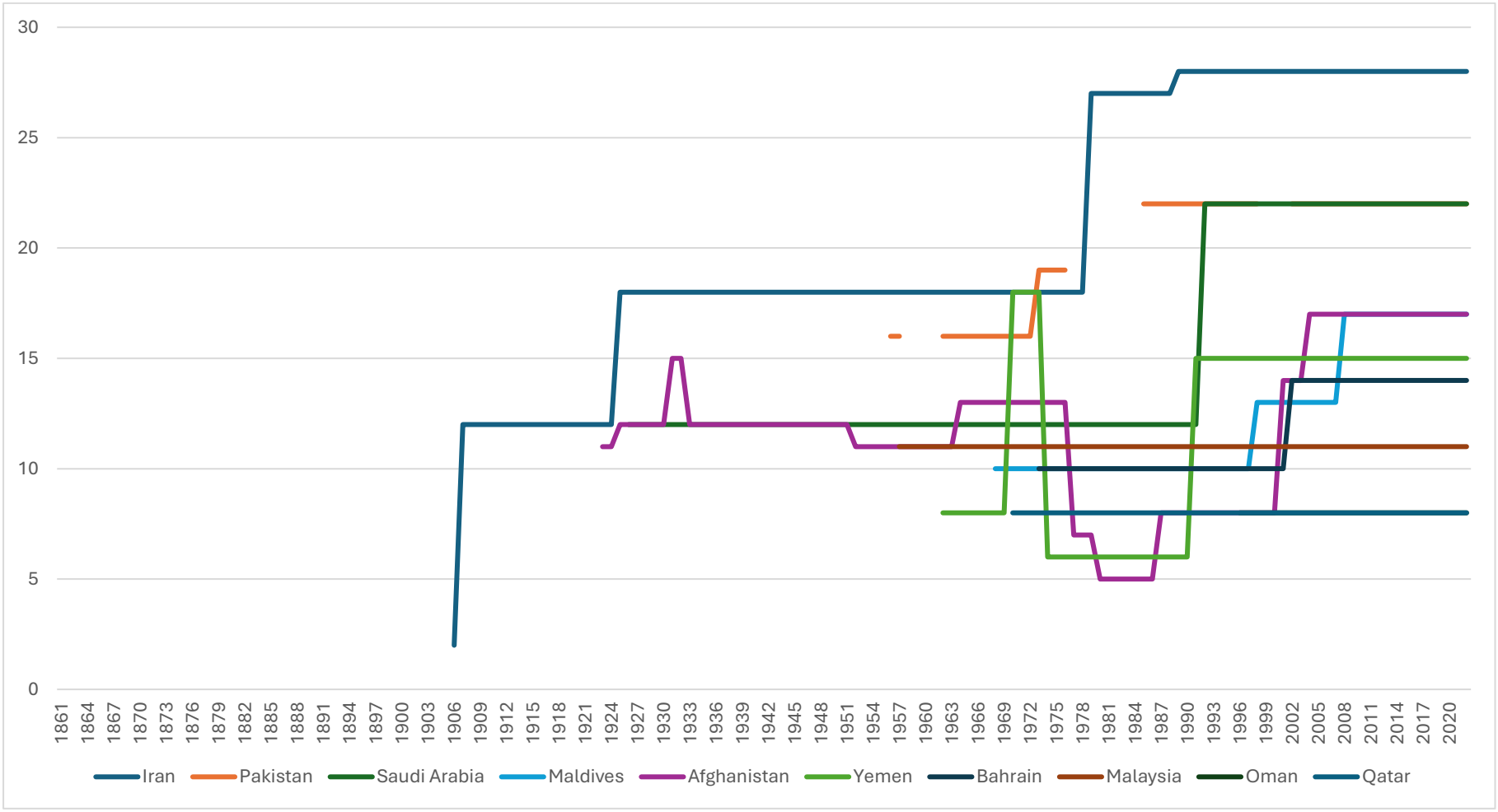
Source: Author's calculations

Figure 16: ICI by Region (Northern Africa)



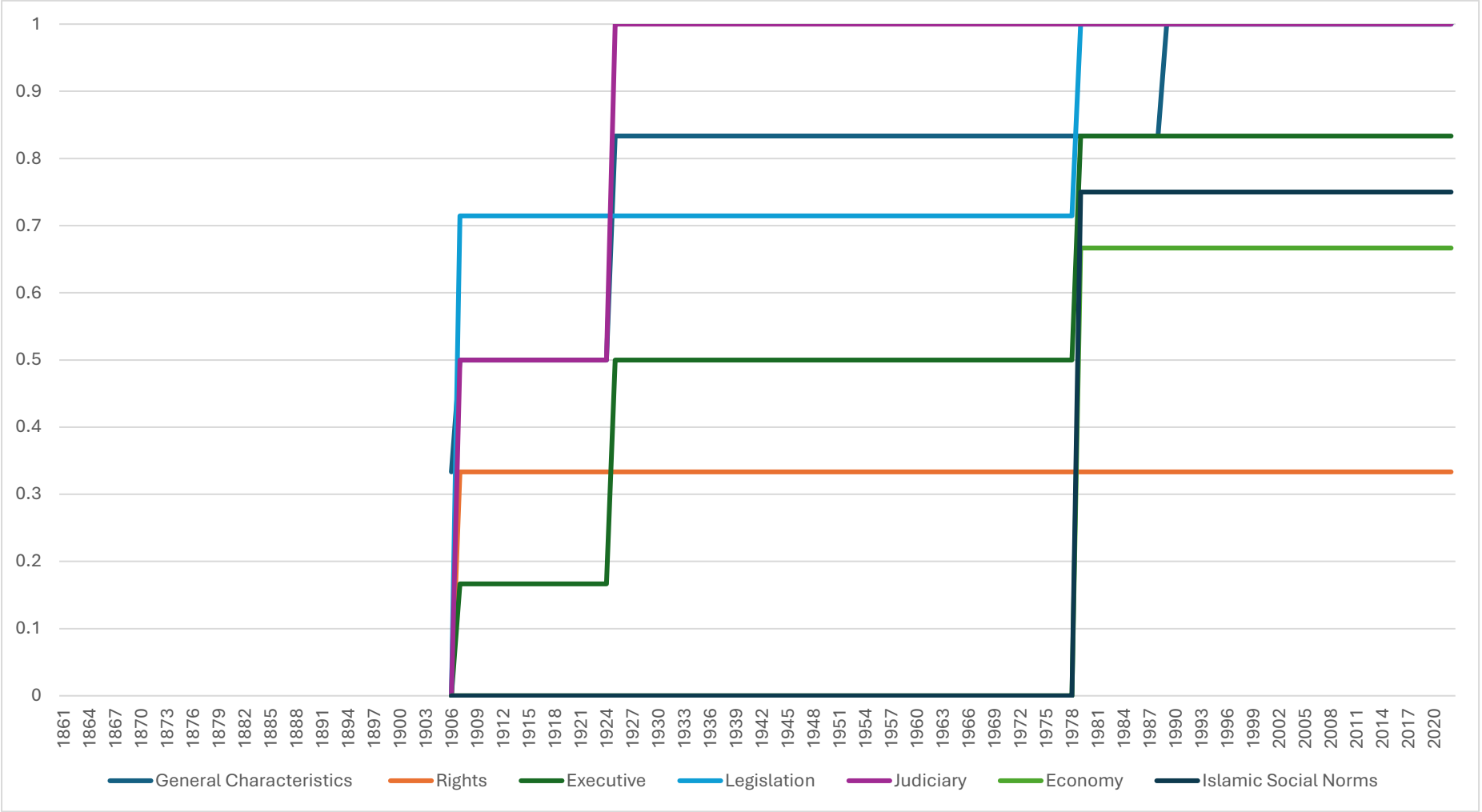
Source: Author's calculations

Figure 17: Tracing the Islamicity of 10 highest ICI countries by overall average.



Source: Author's calculations

Figure 18: Iran's Islamic Constitutional Provisions (by CIDC Category) 1861-2022



calculations: The actual score of each category is divided by the maximum score in each category

Source: Author's calculations