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# Criminalizing the LGBT Community and the Long Arm of the Religious State

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# Criminalizing the LGBT community and the long arm of the religious state

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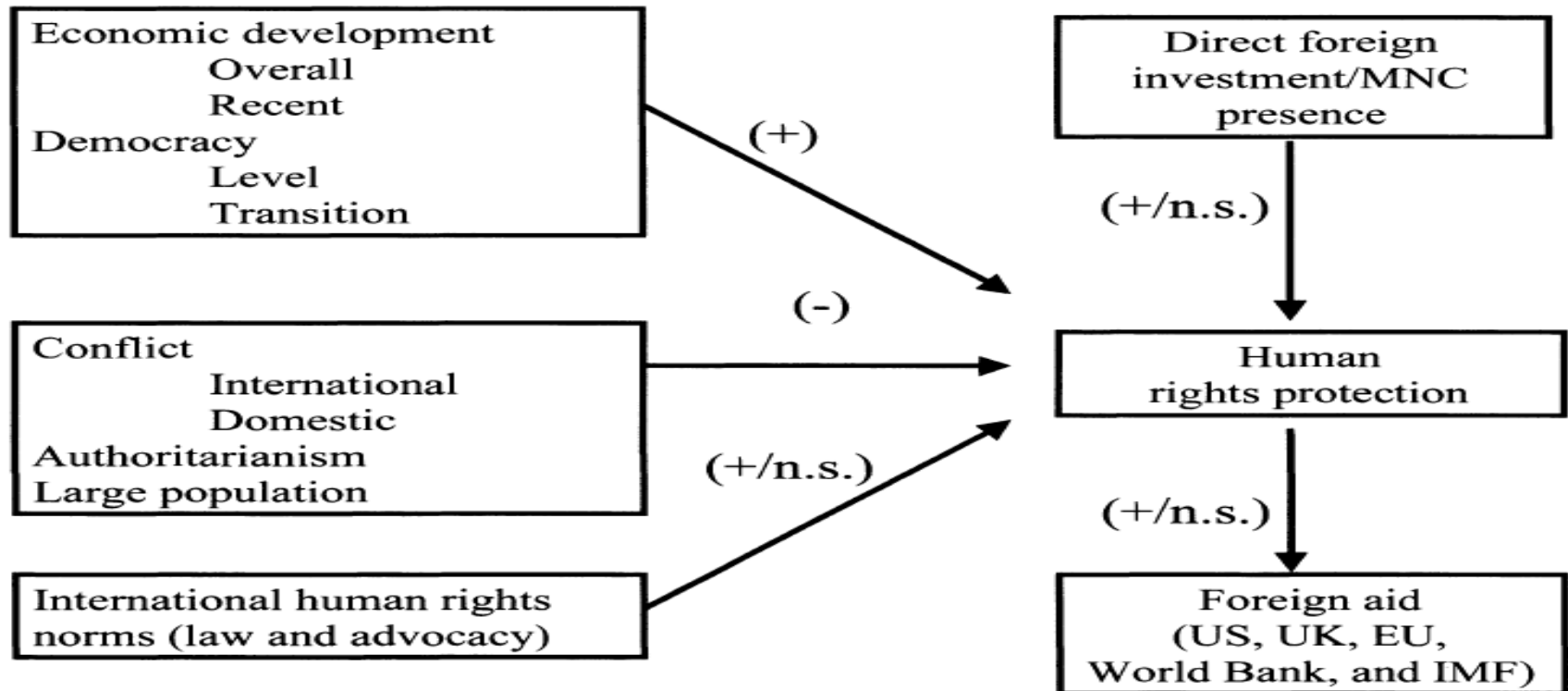
**Presenting work done with Udi Sommer**

# Should I arrest – or kill these people?



- What might make a country more likely to do so?

# Why should people be discriminated against? Existing literature on Human Rights



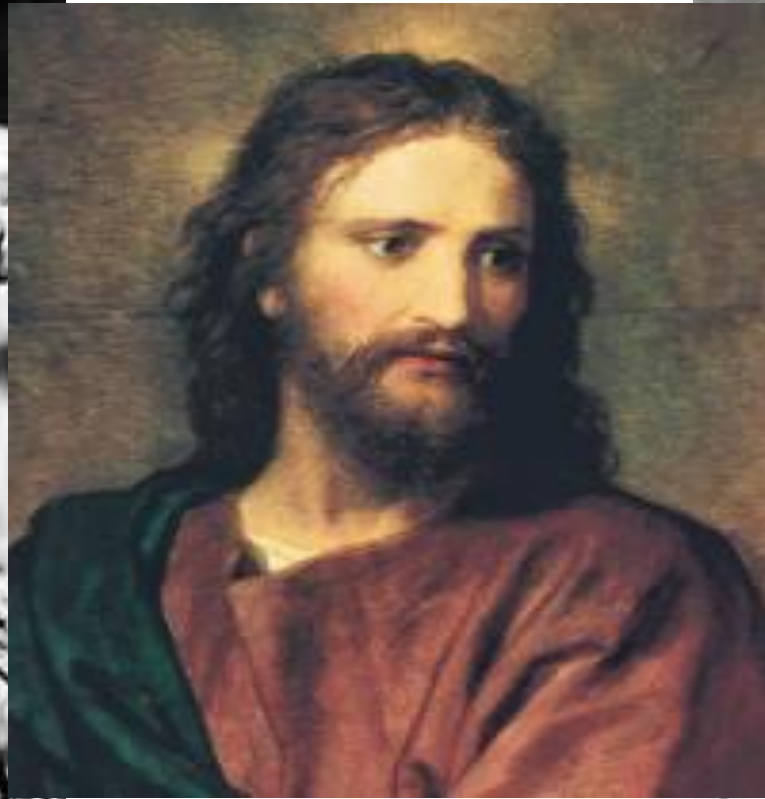
- What is missing?

# Missing

- **Almost no quantitative work done on the rights of sexual minorities cross nationally (especially outside of the west)**
- Very little accounting for possible impact of religion
- Very little accounting for possible impact of colonial legacy or legal code

# Why religion?

- Drew on my research looking at political violence
- And on the one class I enjoyed in my one year in law school

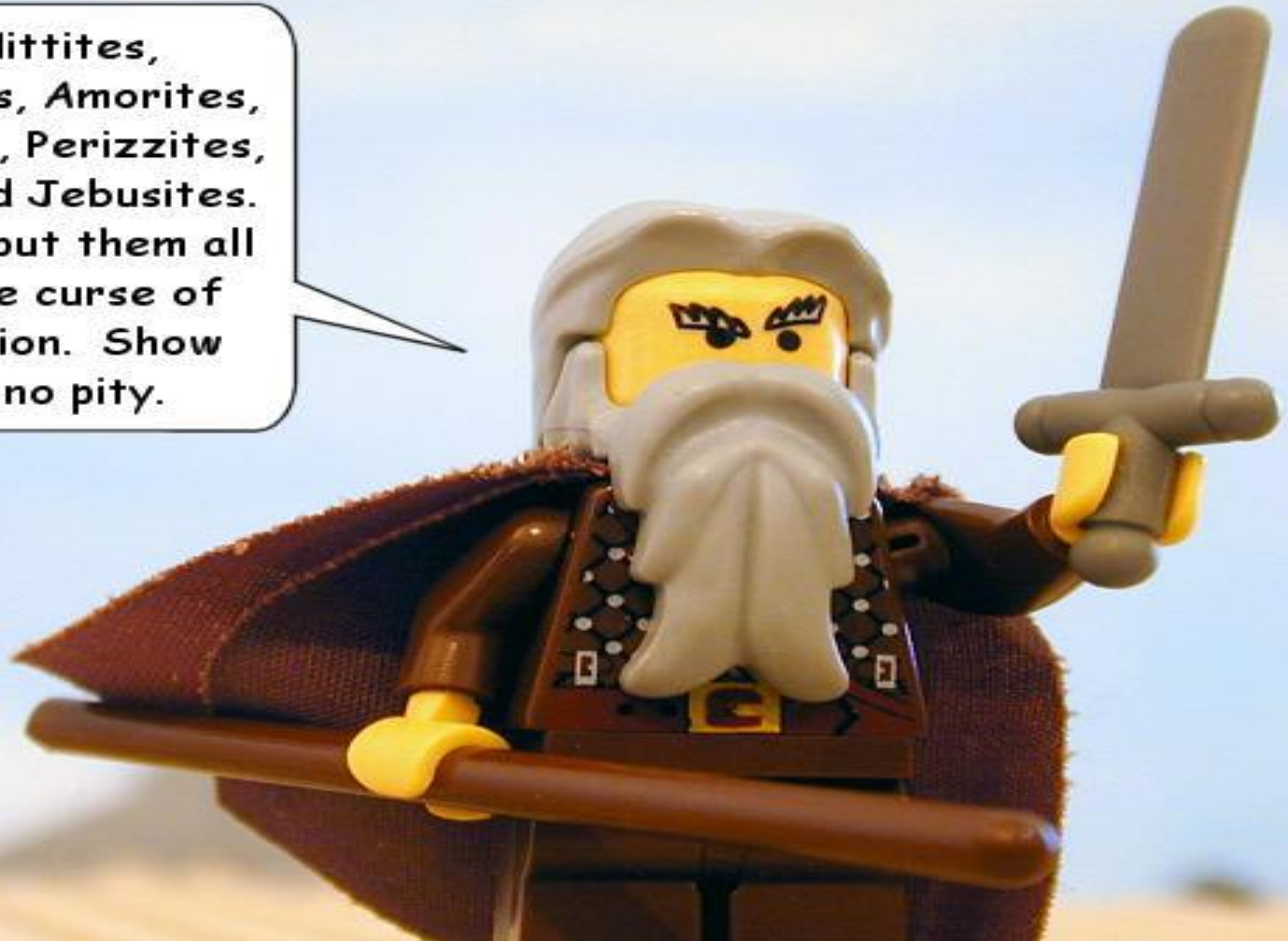


- Many individuals who have been motivated by religion have preached acceptance
- On the other hand ....



# Many examples in text and in action of...

The Hittites,  
Girgashites, Amorites,  
Canaanites, Perizzites,  
Hivites, and Jebusites.  
You must put them all  
under the curse of  
destruction. Show  
them no pity.





# And Joshua certainly follow up



And they utterly destroyed all that was in the city, both man and woman, young and old, and ox, and sheep, and ass, with the edge of the sword. (Joshua 6/21)

<http://www.thebricktestament.com/>

# Why should religion have power

- To make you willing to die?
- Willing to kill people for who they find attractive?

# Juergensmeyer's Argument about terrorism

- A divine audience
  - If it is part of God's apocalyptic plan then it is ok right?
- The Power of Othering: Cosmic War
  - The enemy is evil
  - If they are not human then killing them is not wrong.
- **Revelation 6:8**

I looked, and there appeared a pale horse. The rider was death, and Hell followed him. A quarter of the earth was put into their power, to kill with the sword, by famine, by violence, and through the wild beasts of the earth.

# Is this applicable to state behavior?

- Note most countries that have an official state religion today are Islamic and that is the way we measure it BUT this is because of current power structure not Islam specifically- see: Anglican Church in Nigeria Archbishop Akinola contends:
  - “In recent times, we have been told that the issue of homosexuality is relative. We believe it is not a relative matter. In the context of our part of the Church and society, we see it as a behaviour that is expressly forbidden and roundly condemned in scripture.
  - For instance, Leviticus 18.22 commands: ‘Thou shalt not lie with mankind, as with womankind: it is abomination (...) ....

# But ...

- Yes being a religious state is having an impact
- But many of the countries that throughout the 20<sup>th</sup> century discriminated against the LGBT community and criminalized sodomy were not religious states ... so who is religion having the widest impact?
- Might religion have had a path dependent impact on countries over the long haul?

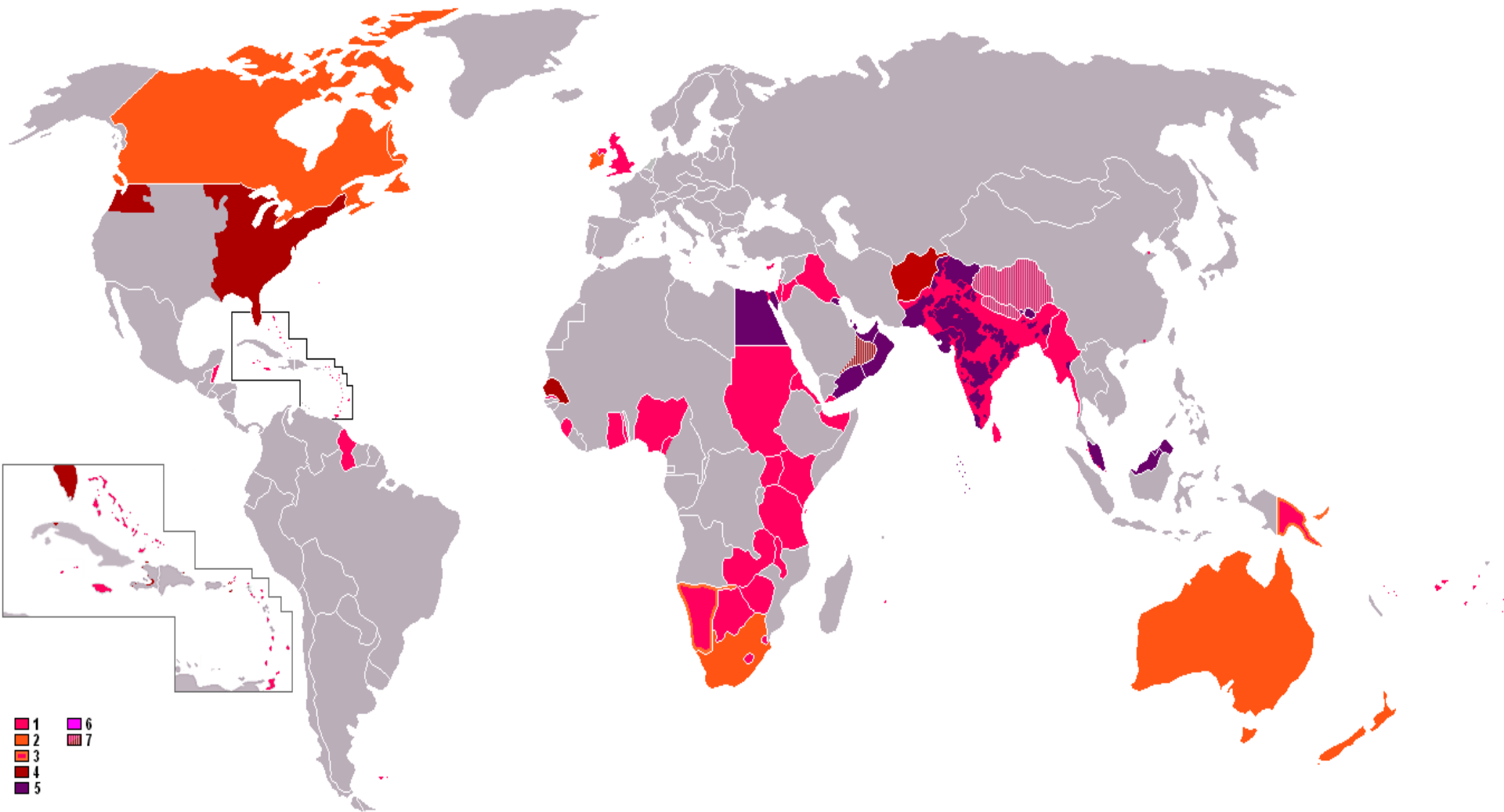
# Thomas Cromwell Enemy of Buggery



- **Buggery Act of 1533**
- **Anyone convicted of sodomy:**
  - the offenders being hereof convicted by verdict confession or outlawry shall suffer such pains of death.... (not lifted in UK till 1861)

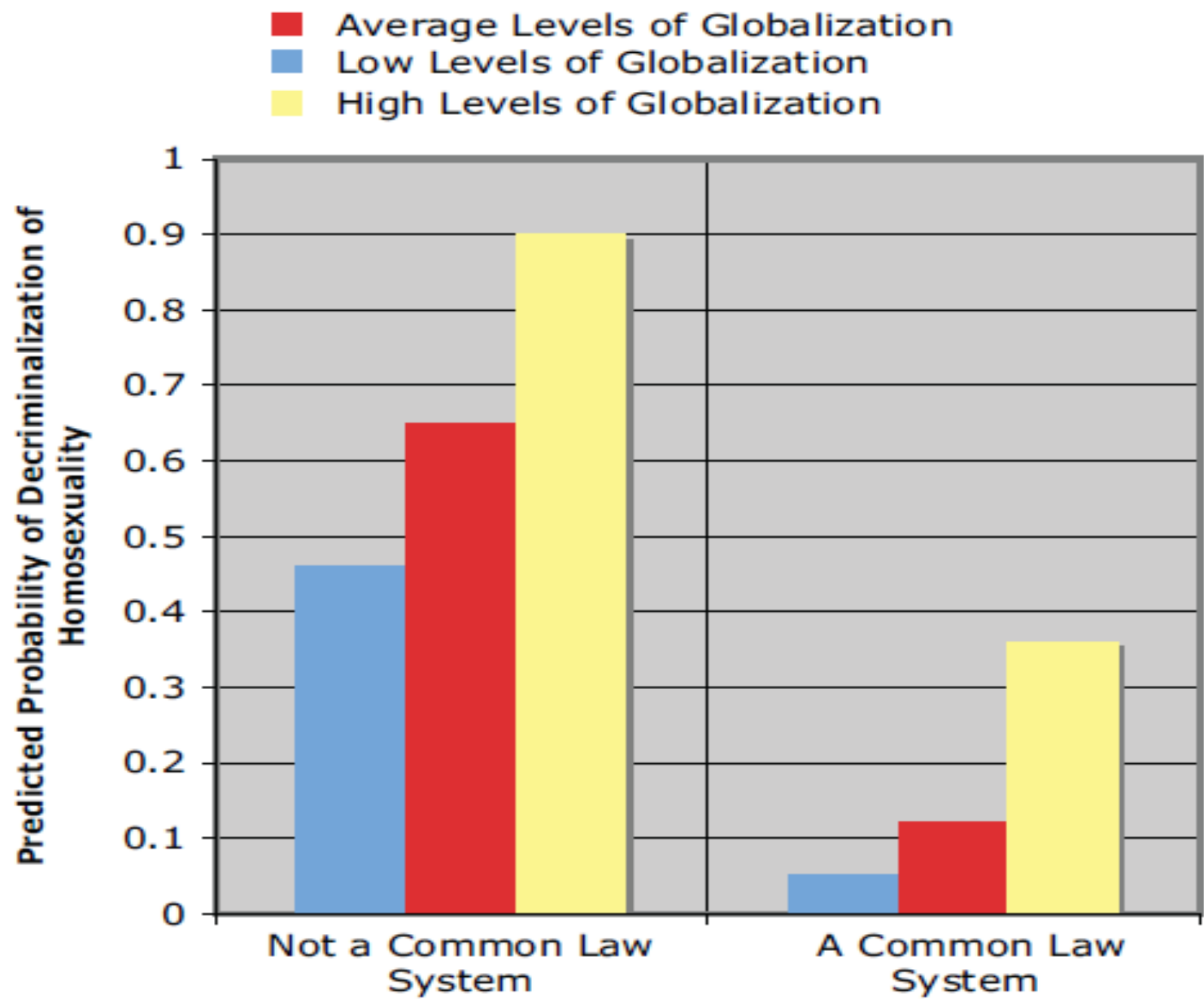


And they went out and conquered  
(much of) the world



# The power of the Common Law

- When countries decolonized they had Common Law countries had sodomy laws on the books as part of their established law code
- Most Civil Law countries did not
- Combine this with the impact of globalization and you get ...



**Figure 3. Predicted Probabilities: Combined Effects of Type of Legal System and Globalization**

# In Some countries though religion still drives the state

- in some of these states members of the LGBT community are killed by the state for being LGBT

# The Death Penalty

- In 1980 there were 6 countries in the world where consensual homosexual sex was punishable by death
- In 2008 there were 7. US funded NGOs are working to add Uganda to the list.
- Today it is 10, Afghanistan, Iran, Mauritania, Nigeria, Qatar, Saudi Arabia, Somalia, Sudan, UAE, Yemen



# If you control for other factors

<u>Variable</u>	<u>Predictors of Death Penalty (general)</u>	<u>Predictors of Death Penalty (for sodomy)</u>
Globalization	Negative	Not Significant
GDP per capita	Negative	Not Significant
% Catholic	Not Significant	Not Significant
<u>Religious State</u>	<u>Not Significant</u>	<u>POSITIVE</u>
Democratic Conditions	Negative	Not Significant
Cultural Diversity	Not Significant	Not Significant
Ethnic Diversity	Not Significant	Not Significant
Religious Diversity	Not Significant	Negative
<u>Origins in Common Law</u>	<u>POSITIVE</u>	<u>POSITIVE</u>



# Limitations of our research

- Our data has allowed us to examine only legal prohibitions and protections – societal matters a lot as well
- “During the 1980s and 1990s, the Australian authorities now say, gangs of teenagers in Sydney hunted gay men for sport, sometimes forcing them off the cliffs to their deaths. But the police, many of whom had a reputation for hostility toward gay men, often carried out perfunctory investigations that overlooked the possibility of homicide, former officials and police officers say.” New York Times – INNIS JAN. 30, 2017

# Next steps

- Very little empirical cross national data on societal treatment of the LGBT community
- Next step is to try and collect societal discrimination and analyze
- What makes it worse
- What can make it better

Questions?

# Appendix

# Koran on Homosexuality

- The Koran is explicit in its condemnation of what it calls “...*qaum Lut*” (Lot’s people) referring to the prophet Lot who preached against homosexuality in the cities of Sodom and Gomorra.
- Mohammad singles out sodomy either with a woman, a man or a boy as leading to a direct route to hell. Yet, there is no explicit punishment identified in the Koran for such an act (Kligerman 2007).
- That said, most schools of Islamic legislative thought prescribe death. Some suggest stoning, others execution with a sword, and others still leave the method of execution of the offender to the court (Abiad 2008, 24-25).