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[Template:Islam](/wiki/Template:Islam) [Template:Basic forms of government](/wiki/Template:Basic_forms_of_government)

**Sharia**, **Islamic sharia** or **Islamic law** ([Template:Lang-ar](/wiki/Template:Lang-ar) ([Template:IPA-ar](/wiki/Template:IPA-ar)) for law) is the religious legal system governing the members of the Islamic faith.[[1]](#cite_note-1) It is derived from the religious precepts of Islam, particularly the [Quran](/wiki/Quran) and the [Hadith](/wiki/Hadith). The term *sharia* comes from the [Arabic language](/wiki/Arabic_language) term *sharīʿah*, which means a body of [moral and religious law](/wiki/Religious_law) derived from religious [prophecy](/wiki/Prophet), as opposed to human legislation.[[2]](#cite_note-2)<ref name=shariaeoi>[Template:Cite book](/wiki/Template:Cite_book)</ref>[[3]](#cite_note-3) Sharia deals with many topics, including [crime](/wiki/Islamic_criminal_jurisprudence), [politics](/wiki/Political_aspects_of_Islam), marriage contracts, trade regulations, religious prescriptions, and [economics](/wiki/Islamic_economic_jurisprudence), as well as personal matters such as [sexual intercourse](/wiki/Islamic_sexual_jurisprudence), [hygiene](/wiki/Islamic_hygienical_jurisprudence), [diet](/wiki/Islamic_dietary_laws), [prayer](/wiki/Salat), everyday etiquette and [fasting](/wiki/Sawm). Adherence to sharia has served as one of the distinguishing characteristics of the Muslim faith historically.<ref name=WahhabiIslam>[Template:Cite book](/wiki/Template:Cite_book)</ref> In its strictest definition, sharia is considered in Islam as the infallible law of [God](/wiki/God_in_Islam).[[4]](#cite_note-4)[Template:Verification failed](/wiki/Template:Verification_failed)

There are two primary [sources of sharia](/wiki/Sources_of_sharia): the Quran and the Hadiths (opinions and life example of [Muhammad](/wiki/Muhammad)).[[5]](#cite_note-5) For topics and issues not directly addressed in these primary sources, sharia is derived. The derivation differs between the various sects of Islam ([Sunni](/wiki/Sunni) and [Shia](/wiki/Shia) are the majority), and various jurisprudence schools such as [Hanafi](/wiki/Hanafi), [Maliki](/wiki/Maliki), [Shafi'i](/wiki/Shafi'i), [Hanbali](/wiki/Hanbali) and [Jafari](/wiki/Ja'fari_jurisprudence).<ref name=hmr/>[[6]](#cite_note-6)[Template:Page needed](/wiki/Template:Page_needed) The sharia in these schools is derived hierarchically using one or more of the following guidelines: [Ijma](/wiki/Ijma) (usually the consensus of Muhammad's companions), [Qiyas](/wiki/Qiyas) (analogy derived from the primary sources), [Istihsan](/wiki/Istihsan) (ruling that serves the interest of Islam in the discretion of Islamic jurists) and [Urf](/wiki/Urf) (customs).<ref name=hmr/>

Sharia is a significant source of legislation in many Muslim countries where some countries apply a majority or some of the sharia code, and these include [Saudi Arabia](/wiki/Saudi_Arabia), [Sudan](/wiki/Sudan), [Iran](/wiki/Iran), [Iraq](/wiki/Iraq), [Afghanistan](/wiki/Afghanistan), [Pakistan](/wiki/Pakistan), [Brunei](/wiki/Brunei), [United Arab Emirates](/wiki/United_Arab_Emirates), [Qatar](/wiki/Qatar), [Yemen](/wiki/Yemen) and [Mauritania](/wiki/Mauritania). In these countries, sharia-prescribed punishments such as [beheading](/wiki/Beheading), [flogging](/wiki/Flogging) and [stoning](/wiki/Stoning) continue to be practiced judicially or extra-judicially.[[7]](#cite_note-7)[Template:Page needed](/wiki/Template:Page_needed)[[8]](#cite_note-8)[Template:Page needed](/wiki/Template:Page_needed) There has been controversy over what some perceive as a movement by various [Islamist](/wiki/Islamist) groups to introduce and implement sharia throughout the world, including in [Western countries](/wiki/Western_world),[Template:Citation needed](/wiki/Template:Citation_needed) but attempts to impose sharia have been accompanied by controversy,[[9]](#cite_note-9) violence,[[10]](#cite_note-10) and even warfare.[[11]](#cite_note-11)[Template:Or](/wiki/Template:Or) Most countries do not recognize sharia; however, some countries in Asia (such as [Israel](/wiki/Israel)[[12]](#cite_note-12)), Africa and Europe recognize parts of sharia and accept it as the law on divorce, inheritance and other personal affairs of their Islamic population.[[13]](#cite_note-13) In Britain, the [Muslim Arbitration Tribunal](/wiki/Muslim_Arbitration_Tribunal) makes use of sharia family law to settle disputes, and this limited adoption of sharia is controversial.[[14]](#cite_note-14) The concept of crime, judicial process, justice and punishment embodied in sharia is different from that of secular law.[[15]](#cite_note-15) The differences between sharia and [secular law](/wiki/Secular_law) have led to an ongoing controversy as to whether sharia is compatible with secular forms of [government](/wiki/Government), [human rights](/wiki/Human_rights), [freedom of thought](/wiki/Freedom_of_thought), and [women's rights](/wiki/Women's_rights).<ref name=naim96/><ref name=hajjar2004>Hajjar, Lisa. "Religion, state power, and domestic violence in Muslim societies: A framework for comparative analysis." Law & Social Inquiry 29.1 (2004); see pages 1–38</ref>[[16]](#cite_note-16)[Template:Page needed](/wiki/Template:Page_needed)

## Contents

* 1 Etymology and origins[[edit](/index.php?title=(none)&action=edit&section=1)]
* 2 History[[edit](/index.php?title=(none)&action=edit&section=2)]
* 3 Definitions and disagreements[[edit](/index.php?title=(none)&action=edit&section=3)]
  + 3.1 Sources of sharia law[[edit](/index.php?title=(none)&action=edit&section=4)]
    - 3.1.1 Quran versus Hadith[[edit](/index.php?title=(none)&action=edit&section=5)]
    - 3.1.2 Disagreements on Quran[[edit](/index.php?title=(none)&action=edit&section=6)]
  + 3.2 Islamic jurisprudence (''Fiqh'')[[edit](/index.php?title=(none)&action=edit&section=7)]
  + 3.3 Areas of Islamic law[[edit](/index.php?title=(none)&action=edit&section=8)]
  + 3.4 Objectives of Islamic law[[edit](/index.php?title=(none)&action=edit&section=9)]
* 4 Application[[edit](/index.php?title=(none)&action=edit&section=10)]
  + 4.1 Application by country[[edit](/index.php?title=(none)&action=edit&section=11)]
  + 4.2 Enforcement[[edit](/index.php?title=(none)&action=edit&section=12)]
  + 4.3 Legal and court proceedings[[edit](/index.php?title=(none)&action=edit&section=13)]
* 5 Support and opposition[[edit](/index.php?title=(none)&action=edit&section=14)]
  + 5.1 Support[[edit](/index.php?title=(none)&action=edit&section=15)]
    - 5.1.1 Extremism[[edit](/index.php?title=(none)&action=edit&section=16)]
  + 5.2 Opposition[[edit](/index.php?title=(none)&action=edit&section=17)]
* 6 Criticism[[edit](/index.php?title=(none)&action=edit&section=18)]
  + 6.1 Compatibility with democracy[[edit](/index.php?title=(none)&action=edit&section=19)]
  + 6.2 Human rights[[edit](/index.php?title=(none)&action=edit&section=20)]
  + 6.3 Freedom of speech[[edit](/index.php?title=(none)&action=edit&section=21)]
  + 6.4 Freedom of thought, conscience and religion[[edit](/index.php?title=(none)&action=edit&section=22)]
  + 6.5 LGBT rights[[edit](/index.php?title=(none)&action=edit&section=23)]
  + 6.6 Women[[edit](/index.php?title=(none)&action=edit&section=24)]
    - 6.6.1 Domestic violence[[edit](/index.php?title=(none)&action=edit&section=25)]
    - 6.6.2 Personal status laws and child marriage[[edit](/index.php?title=(none)&action=edit&section=26)]
    - 6.6.3 Women's right to property and consent[[edit](/index.php?title=(none)&action=edit&section=27)]
* 7 Parallels with Western legal systems[[edit](/index.php?title=(none)&action=edit&section=28)]
* 8 See also[[edit](/index.php?title=(none)&action=edit&section=29)]
* 9 References[[edit](/index.php?title=(none)&action=edit&section=30)]
* 10 Sources[[edit](/index.php?title=(none)&action=edit&section=31)]
* 11 Further reading[[edit](/index.php?title=(none)&action=edit&section=32)]
* 12 External links[[edit](/index.php?title=(none)&action=edit&section=33)]

## Etymology and origins[[edit](/index.php?title=(none)&action=edit&section=1)]

Scholars describe the word *sharia* (/ʃɑːˈriːɑː/, also shari'a, šarīʿah) as an archaic [Arabic](/wiki/Arabic) word denoting "pathway to be followed" (analogous to the Hebrew term [Halakhah](/wiki/Halakha) ["The Way to Go"]),<ref name=haqq>Abdal-Haqq, Irshad (2006). *Understanding Islamic Law – From Classical to Contemporary* (edited by Aminah Beverly McCloud). Chapter 1 *Islamic Law – An Overview of its Origin and Elements*. [AltaMira Press](/wiki/AltaMira_Press). p. 4.</ref> or "path to the water hole".[[17]](#cite_note-17)[[18]](#cite_note-18) The latter definition comes from the fact that the path to water is the whole way of life in an arid desert environment.<ref name=weiss1998>Weiss, Bernard G. (1998). *The Spirit of Islamic Law*. Athens, Georgia: [University of Georgia Press](/wiki/University_of_Georgia_Press). p. 17. ISBN 978-0-8203-1977-3.</ref>

The etymology of *sharia* as a "path" or "way" comes from the [Quranic verse 45](/wiki/Al-Jathiya):18:[[19]](#cite_note-19) "Then we put thee on the (right) *Way* of religion so follow thou that (Way), and follow not the desires of those who know not."[[20]](#cite_note-20) [Malik Ghulam Farid](/wiki/Malik_Ghulam_Farid) in his [*Dictionary of the Holy Quran*](/wiki/Dictionary_of_the_Holy_Quran), believes the "Way" in 45:18 (quoted above) derives from *shara'a* (as prf. 3rd. p.m. sing.), meaning "He ordained". Other forms also appear: *shara'u* as (prf. 3rd. p.m. plu.), "they decreed (a law)"; and *shir'atun* (n.) meaning "spiritual law".[[21]](#cite_note-21)[[22]](#cite_note-22)[[23]](#cite_note-23)[[24]](#cite_note-24) The Arabic word *sharīʿa* has origins in the concept of ‘religious law’; the word is commonly used by Arabic-speaking peoples of the Middle East and designates a prophetic religion in its totality. Thus, sharīʿat Mūsā means religious law of Moses (Judaism), sharīʿat al-Masīḥ means religious law of Christianity, sharīʿat al-Madjūs means religious law of Zoroastrianism.<ref name=shariaeoi/>

The Arabic expression شريعة الله (God’s Law) is a common translation for תורת אלוהים (‘God’s Law’ in Hebrew) and νόμος τοῦ θεοῦ (‘God’s Law’ in Greek in the New Testament [Rom. 7: 22]).[[25]](#cite_note-25) In contemporary Islamic literature, sharia refers to divine law of Islam as revealed by prophet Muhammad, as well as in his function as model and exemplar of the law.<ref name=shariaeoi/>

Sharia in the Islamic world is also known as [*Template:Transl*](/wiki/Template:Transl) ([Template:Lang](/wiki/Template:Lang)).[Template:Citation needed](/wiki/Template:Citation_needed)

## History[[edit](/index.php?title=(none)&action=edit&section=2)]

In Islam, the origin of sharia is the Qu'ran, and traditions gathered from the life of the Islamic Prophet [Muhammad](/wiki/Muhammad) (born ca. 570 CE in [Mecca](/wiki/Mecca)).[[26]](#cite_note-26) The formative period of [*fiqh*](/wiki/Fiqh) stretches back to the time of the early Muslim communities. In this period, jurists were more concerned with pragmatic issues of authority and teaching than with theory.[[27]](#cite_note-27) Sharia underwent fundamental development, beginning with the reigns of [caliphs](/wiki/Caliph) [Abu Bakr](/wiki/Abu_Bakr) (632–34) and [Umar](/wiki/Umar) (634–44) for Sunni Muslims, and Imam [Ali](/wiki/Ali) for Shia Muslims, during which time many questions were brought to the attention of Muhammad's closest comrades for consultation.[[28]](#cite_note-28)[Template:Page needed](/wiki/Template:Page_needed) During the reign of [Muawiya](/wiki/Muawiyah_I) b. [Abu Sufyan ibn Harb](/wiki/Abu_Sufyan_ibn_Harb), ca. 662 CE, Islam undertook an urban transformation, raising questions not originally covered by Islamic law.[[28]](#cite_note-28)[Template:Page needed](/wiki/Template:Page_needed) The [Umayyads](/wiki/Umayyad) initiated the office of appointing [*qadis*](/wiki/Qadi), or Islamic judges. The jurisdiction of the *qadi* extended only to Muslims, while non-Muslim populations retained their own legal institutions.[[29]](#cite_note-29) Under the Umayyads Islamic scholars were "sidelined" from administration of justice and attempts to systematically uphold and develop Islamic law would wait for Abbasid rule.[Template:Citation needed](/wiki/Template:Citation_needed) [Al-Mansur](/wiki/Al-Mansur) (the first [Abbasid](/wiki/Abbasid_Caliphate) caliph) felt a "pressing obligation -- to make good on the promise to govern according to the sharia" and in 771 found "a respected member of the ulama" to serve as the head of the Egyptian judiciary, and to swear "to uphold the shari'a alone".[Template:Citation needed](/wiki/Template:Citation_needed) The *qadis* were usually pious specialists in Islam. As these grew in number, they began to theorize and systemize Islamic jurisprudence.[[30]](#cite_note-30) The Abbasid made the institution of *qadi* [independent from the government](/wiki/Separation_of_powers), but this separation wasn't always respected.[[31]](#cite_note-31) Since then, changes in Islamic society have played an ongoing role in developing sharia, which branches out into [fiqh](/wiki/Fiqh) and [Qanun](/wiki/Qanun_(law)) respectively. Progress in theory was started by 8th and 9th century Islamic scholars [Abu Hanifa](/wiki/Abu_Hanifa), [Malik bin Anas](/wiki/Malik_bin_Anas), [Al-Shafi'i](/wiki/Al-Shafi'i), [Ahmad ibn Hanbal](/wiki/Ahmad_ibn_Hanbal) and others.<ref name=hmr/>[[32]](#cite_note-32) [Al-Shafi‘i](/wiki/Al-Shafi‘i) is credited with deriving the theory of valid norms for sharia (*uṣūl al-fiqh*), arguing for a traditionalist, literal interpretation of Quran, Hadiths and methodology for law as revealed therein, to formulate sharia.<ref name=baber1/>[[33]](#cite_note-33)[Template:Qn](/wiki/Template:Qn)

A number of legal concepts and institutions were developed by Islamic jurists during the classical period of Islam, known as the [Islamic Golden Age](/wiki/Islamic_Golden_Age), dated from the 7th to 13th centuries. These shaped different versions of sharia in different schools of Islamic jurisprudence, called [fiqhs](/wiki/Fiqh).[[34]](#cite_note-34)<ref name=Gamal>[Template:Harv](/wiki/Template:Harv)</ref><ref name=Makdisi-2005>[Template:Harvnb](/wiki/Template:Harvnb), [Template:Harvnb](/wiki/Template:Harvnb)</ref>

Both the Umayyad caliph [Umar II](/wiki/Umar_II) and the Abbasids had agreed that the [caliph](/wiki/Caliph) could not legislate contrary to the Quran or the sunnah. Imam [Shafi'i](/wiki/Shafi'i) declared: "a [tradition from the Prophet](/wiki/Hadith) must be accepted as soon as it become known...If there has been an action on the part of a caliph, and a tradition from the Prophet to the contrary becomes known later, that action must be discarded in favor of the tradition from the Prophet." Thus, under the [Abbasids](/wiki/Abbasid) the main features of sharia were definitively established and sharia was recognized as the law of behavior for Muslims.<ref name=Khadduri60>Khadduri and Liebesny (1955), p. 60-1</ref>

In modern times, the Muslim community has divided points of view: secularists believe that the law of the state should be based on secular principles, not on Islamic legal doctrines; traditionalists believe that the law of the state should be based on the traditional legal schools;[[35]](#cite_note-35) reformers believe that new Islamic legal theories can produce modernized Islamic law[[36]](#cite_note-36) and lead to acceptable opinions in areas such as women's rights.[[37]](#cite_note-37) This division persists until the present day (Brown 1996, Hallaq 2001, Ramadan 2005, Aslan 2006, Safi 2003, Nenezich 2006).

There has been a growing religious revival in Islam, beginning in the eighteenth century and continuing today. This movement has expressed itself in various forms ranging from wars to efforts towards improving education.[[38]](#cite_note-38)[[39]](#cite_note-39)

## Definitions and disagreements[[edit](/index.php?title=(none)&action=edit&section=3)]

Sharia, in its strictest definition, is a [divine](/wiki/God_in_Islam) law, as expressed in the Quran and [Muhammad's example](/wiki/Sunnah) (often called the *sunnah*). As such, it is related to but different from [fiqh](/wiki/Fiqh), which is emphasized as the human interpretation of the law.[[40]](#cite_note-40)[[41]](#cite_note-41) Many scholars have pointed out that the sharia is not formally a code,[[42]](#cite_note-42) nor a well-defined set of rules.[[43]](#cite_note-43) The sharia is characterized as a discussion on the duties of Muslims[[42]](#cite_note-42) based on both the opinion of the Muslim community and extensive literature.[[44]](#cite_note-44) Hunt Janin and Andre Kahlmeyer thus conclude that the sharia is "long, diverse, and complicated."[[43]](#cite_note-43) From the 9th century onward, the power to interpret law in traditional Islamic societies was in the hands of the scholars ([ulema](/wiki/Ulema)). This separation of powers served to limit the range of actions available to the ruler, who could not easily decree or reinterpret law independently and expect the continued support of the community.[[45]](#cite_note-45) Through succeeding centuries and empires, the balance between the ulema and the rulers shifted and reformed, but the balance of power was never decisively changed.[[46]](#cite_note-46) Over the course of many centuries, imperial, political and technological change, including the Industrial Revolution and the French Revolution, ushered in an era of European world [hegemony](/wiki/Hegemony) that gradually included the domination of many of the lands which had previously been ruled by Islamic empires.[[47]](#cite_note-47)[[48]](#cite_note-48) At the end of the Second World War, the European powers found themselves too weakened to maintain their empires as before.[[49]](#cite_note-49) The wide variety of forms of government, systems of law, attitudes toward modernity and interpretations of sharia are a result of the ensuing drives for independence and modernity in the Muslim world.[[50]](#cite_note-50)[[51]](#cite_note-51) According to Jan Michiel Otto, Professor of Law and Governance in Developing Countries at [Leiden University](/wiki/Leiden_University), "[a]nthropological research shows that people in local communities often do not distinguish clearly whether and to what extent their norms and practices are based on local tradition, tribal custom, or religion. Those who adhere to a confrontational view of sharia tend to ascribe many undesirable practices to sharia and religion overlooking custom and culture, even if high-ranking religious authorities have stated the opposite." Otto's analysis appears in a paper commissioned by the [Netherlands Ministry of Foreign Affairs](/wiki/Ministry_of_Foreign_Affairs_(Netherlands)).[[52]](#cite_note-52)

### Sources of sharia law[[edit](/index.php?title=(none)&action=edit&section=4)]

[Template:Main](/wiki/Template:Main) According to human notions of sharia, there are two sources of sharia (understood as the divine law): the Quran and the [Sunnah](/wiki/Sunnah). The Quran is viewed as the unalterable word of God. It is considered in Islam to be an infallible part of sharia. The Quran covers a host of topics including God, personal laws for Muslim men and Muslim women, laws on community life, laws on expected interaction of Muslims with non-Muslims, [apostates](/wiki/Apostasy) and ex-Muslims, laws on finance, morals, [eschatology](/wiki/Islamic_eschatology), and others.[[53]](#cite_note-53)[Template:Page needed](/wiki/Template:Page_needed)[[54]](#cite_note-54)[Template:Page needed](/wiki/Template:Page_needed) The Sunnah is the life and example of the Islamic prophet Muhammad. The Sunnah's importance as a source of sharia, is confirmed by several verses of the Quran (e.g. [Template:Quran-usc](/wiki/Template:Quran-usc)).[[55]](#cite_note-55) The Sunnah is primarily contained in the [hadith](/wiki/Hadith) or reports of Muhammad's sayings, his actions, his tacit approval of actions and his demeanor. While there is only one Quran, there are many compilations of hadith, with the most authentic ones forming during the [sahih](/wiki/Sahih) period (850 to 915 CE). The [six acclaimed Sunni collections](/wiki/Six_major_Hadith_collections) were compiled by (in order of decreasing importance) [Muhammad al-Bukhari](/wiki/Muhammad_al-Bukhari), [Muslim ibn al-Hajjaj](/wiki/Muslim_ibn_al-Hajjaj_Nishapuri), [Abu Dawood](/wiki/Abu_Dawood), [Tirmidhi](/wiki/Tirmidhi), [Al-Nasa'i](/wiki/Al-Nasa'i), [Ibn Majah](/wiki/Ibn_Majah). The collections by al-Bukhari and Muslim, regarded the most authentic, contain about 7,000 and 12,000 hadiths respectively (although the majority of entries are repetitions). The hadiths have been evaluated on authenticity, usually by determining the reliability of the narrators that transmitted them.[[56]](#cite_note-56) For Shias, the Sunnah include life and sayings of [The Twelve Imams](/wiki/The_Twelve_Imams).[[57]](#cite_note-57)

#### Quran versus Hadith[[edit](/index.php?title=(none)&action=edit&section=5)]

Muslims who reject the [Hadith](/wiki/Hadith) as a source of law, sometimes referred to as [Quranists](/wiki/Quranism),[[58]](#cite_note-58)<ref name=neal85-89/> suggest that only laws derived exclusively from the Quran are valid.[[59]](#cite_note-59)[Template:Page needed](/wiki/Template:Page_needed) They state that the hadiths in modern use are not explicitly mentioned in the Quran as a source of [Islamic theology](/wiki/Islamic_theology) and practice, they were not recorded in written form until more than two centuries after the death of the prophet Muhammed.[[58]](#cite_note-58) They also state that the authenticity of the hadiths remains a question.[[60]](#cite_note-60)[[61]](#cite_note-61) The vast majority of Muslims, however, consider [hadiths](/wiki/Hadith), which describe the words, conduct and example set by Muhammad during his life, as a source of law and religious authority second only to the Qur'an.<ref name=aymq>Aisha Y. Musa, [The Qur’anists](http://www.academia.edu/1035742/The_Quranists), Florida International University, accessed May 22, 2013; Quote - "Stories relating the words and deeds of the Prophet Muhammad, known as Hadith in Arabic, have long been esteemed by the vast majority of Muslims as a source of law and guidance second only to the Qur’an in authority."</ref> Similarly, most Islamic scholars believe both Quran and [sahih](/wiki/Sahih) hadiths to be a valid source of sharia, with Quranic verse 33.21, among others,[[62]](#cite_note-62)<ref name=mqz>Muhammad Qasim Zaman (2012), Modern Islamic Thought in a Radical Age, Cambridge University Press, ISBN 978-1107096455, pp. 30-31</ref> as justification for this belief.<ref name=neal85-89>Neal Robinson (2013), Islam: A Concise Introduction, Routledge, ISBN 978-0878402243, Chapter 7, pp. 85-89</ref>

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For vast majority of Muslims, sharia has historically been, and continues to be derived from both the Quran and the Hadiths.<ref name=neal85-89/><ref name=aymq/><ref name=mqz/> The Sahih Hadiths of Sunni Muslims contain *isnad*, or a chain of guarantors reaching back to a companion of Muhammad who directly observed the words, conduct and example he set – thus providing the theological ground to consider the hadith to be a sound basis for sharia.<ref name=neal85-89/><ref name=mqz/> For [Sunni](/wiki/Sunni) Muslims, the *musannaf* in [Sahih Bukhari](/wiki/Sahih_Bukhari) and [Sahih Muslim](/wiki/Sahih_Muslim) is most trusted and relied upon as source for Sunni Sharia.[[63]](#cite_note-63)[Template:Page needed](/wiki/Template:Page_needed) [Shia](/wiki/Shia) Muslims, however, do not consider the chain of transmitters of Sunni hadiths as reliable, given these transmitters belonged to Sunni side in Sunni-Shia civil wars that followed after Muhammad's death.<ref name=moojan/> Shia rely on their own chain of reliable guarantors, trusting compilations such as [Kitab al-Kafi](/wiki/Kitab_al-Kafi) and [Tahdhib al-Ahkam](/wiki/Tahdhib_al-Ahkam) instead, and later hadiths (usually called *akhbār* by Shi'i).<ref name=wcc512/>[[64]](#cite_note-64) The Shia version of hadiths contain the words, conduct and example set by Muhammad and Imams, which they consider as sinless, infallible and an essential source of sharia for Shi'ite Muslims.<ref name=moojan>Moojan Momen (1987), An Introduction to Shiʻi Islam: The History and Doctrines of Twelver Shiʻism, Yale University Press, ISBN 978-0300035315, pp. 173-175</ref>[[65]](#cite_note-65) However, in substance, the Shi'ite hadiths resemble the Sunni hadiths, with one difference – the Shia hadiths additionally include words and actions of its Imams (*al-hadith al-walawi*), the biological descendants of Muhammad, and these too are considered an important source for sharia by Shi'ites.<ref name=wcc512>William C. Chittick (1981), A Shi'ite Anthology, SUNY Press, ISBN 978-0873955102, pp. 5-12</ref>[[66]](#cite_note-66)[Template:Page needed](/wiki/Template:Page_needed)

#### Disagreements on Quran[[edit](/index.php?title=(none)&action=edit&section=6)]

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Authenticity and writing of Quran

Some scholars such as John Wansbrough have challenged the authenticity of the Quran and whether it was written in the time of Muhammad.[[67]](#cite_note-67) In contrast, Estelle Whelan has refuted Wansbrough presenting evidence such as the inscriptions on the Dome of the Rock.[[68]](#cite_note-68)[[69]](#cite_note-69) John Burton states that medieval era Islamic texts claiming the Quran was compiled after the death of the Prophet were forged to preserve the status-quo.[[70]](#cite_note-70) The final version of the Quran, states Burton, was compiled while the Prophet was still alive.[[71]](#cite_note-71) Most scholars accept that the Quran as is used for Sharia, was compiled into the final current form during the caliphate of Uthman.[[72]](#cite_note-72)[[73]](#cite_note-73)

Abrogation and textual inconsistencies

From the founding of Islam, the Muslim community has also debated the authenticity of compiled verses and the consistency within the Quran.<ref name=hmot>Harald Motzki (2006), in The Cambridge Companion to the Qur'ān, Editor: Jane Dammen McAuliffe, Cambridge University Press, ISBN 978-0521539340, pp. 59-67</ref>[Template:Nonspecific](/wiki/Template:Nonspecific)[[74]](#cite_note-74)[Template:Qn](/wiki/Template:Qn) The inconsistencies in deriving sharia from the Quran, were recognized and formally complicated by verses 2.106 and 16.101 of the Quran, which are known as the "verses of abrogation (*Naskh*)".<ref name=wbha/>

The principle of abrogation has been historically accepted and applied by Islamic jurists on both the Quran and the Sunnah.<ref name=hmot/><ref name=wbha>Wael B. Hallaq (2009), Sharī'a: Theory, Practice, Transformations, Cambridge University Press, ISBN 978-0521861472, pp. 96-97</ref> Sharia is thus determined through a chronological study of the primary sources, where older revelations are considered overruled by later revelations.<ref name=wbha/>[Template:Failed verification](/wiki/Template:Failed_verification)[[75]](#cite_note-75) While an overwhelming majority of historical and modern Islamic scholars have accepted the principle of abrogation for the Quran and the Sunnah, some modern scholars disagree that the principle of abrogation necessarily applies to the Quran.[[76]](#cite_note-76)

### Islamic jurisprudence (''Fiqh'')[[edit](/index.php?title=(none)&action=edit&section=7)]

[Template:Main](/wiki/Template:Main) *Fiqh* (school of Islamic jurisprudence) represents the process of deducing and applying sharia principles, as well as the collective body of specific laws deduced from sharia using the fiqh methodology.<ref name=hmr>Hisham M. Ramadan (2006), [Understanding Islamic Law: From Classical to Contemporary](https://books.google.com/books?id=5ZS7EaHTQX8C&pg=PA6), Rowman Altamira, ISBN 978-0759109919, pp. 6-21</ref> While Quran and Hadith sources are regarded as infallible, the fiqh standards may change in different contexts. Fiqh covers all aspects of law, including religious, civil, political, constitutional and procedural law.<ref name=R57>Ramadan (2006), p.5-7</ref> Fiqh deploys the following to create Islamic laws:<ref name=hmr/>

1. Injunctions, revealed principles and interpretations of the Quran (Used by all schools and sects of Islam)
2. Interpretation of the Sunnah (Muhammad's practices, opinions and traditions) and principles therein, after establishing the degree of reliability of hadith's chain of reporters (Used by all schools and sects of Islam)

If the above two sources do not provide guidance for an issue, then different fiqhs deploy the following in a hierarchical way:<ref name=hmr/>

1. [Ijma](/wiki/Ijma), collective reasoning and consensus amongst authoritative Muslims of a particular generation, and its interpretation by Islamic scholars. This fiqh principle for sharia is derived from Quranic verse 4:59.[[77]](#cite_note-77) Typically, the recorded consensus of [Sahabah](/wiki/Sahabah) (Muhammad's companions) is considered authoritative and most trusted. If this is unavailable, then the recorded individual reasoning ([Ijtihad](/wiki/Ijtihad)) of Muhammad companions is sought. In Islam's history, some Muslim scholars have argued that *Ijtihad* allows individual reasoning of both the earliest generations of Muslims and later generation Muslims, while others have argued that *Ijtihad* allows individual reasoning of only the earliest generations of Muslims. (Used by all schools of Islam, Jafari fiqh accepts only Ijtihad of Shia Imams)<ref name=hmr/>[[78]](#cite_note-78)# [Qiyas](/wiki/Qiyas), analogy is deployed if *Ijma* or historic collective reasoning on the issue is not available. *Qiyas* represents analogical deduction, the support for using it in fiqh is based on Quranic verse 2:59, and this methodology was started by [Abu Hanifa](/wiki/Abu_Hanifa).[[79]](#cite_note-79) This principle is considered weak by Hanbali fiqh, and it usually avoids Qiyas for sharia. (Used by all Sunni schools of Islam, but rejected by Shia Jafari)<ref name=hmr/><ref name=mm221/>
2. [Istihsan](/wiki/Istihsan), which is the principle of serving the interest of Islam and public as determined by Islamic jurists. This method is deployed if Ijtihad and Qiyas fail to provide guidance. It was started by Hanafi fiqh as a form of Ijtihad (individual reasoning). Maliki fiqh called it *Masalih Al-Mursalah*, or departure from strict adherence to the Texts for public welfare. The Hanbali fiqh called it *Istislah* and rejected it, as did Shafi'i fiqh. (Used by Hanafi, Maliki, but rejected by Shafii, Hanbali and Shia Jafari fiqhs)<ref name=hmr/><ref name=baber1>Baber Johansen (1998), Contingency in a Sacred Law: Legal and Ethical Norms in the Muslim Fiqh, Brill Academic, ISBN 978-9004106031, pp. 23-32</ref><ref name=mm221/>
3. Istihab and [Urf](/wiki/Urf) which mean continuity of pre-Islamic customs and customary law. This is considered as the weakest principle, accepted by just two fiqhs, and even in them recognized only when the custom does not violate or contradict any Quran, Hadiths or other fiqh source. (Used by Hanafi, Maliki, but rejected by Shafii, Hanbali and Shia Jafari fiqhs)<ref name=hmr/><ref name=mm221>Muḥammad K̲ālid Masud et al, Dispensing Justice in Islam: Qadis And Their Judgements, Brill Academic, ISBN 978-9004140677, p. 221</ref>

Schools of law

[Template:Main](/wiki/Template:Main) [thumb|300px|Map of the Muslim world with the main schools of Islamic law (*madhhab*)](/wiki/File:Madhhab_Map3.png) A Madhhab is a [Muslim](/wiki/Muslim) school of law that follows a [*fiqh*](/wiki/Fiqh) (school of religious [jurisprudence](/wiki/Jurisprudence)). In the first 150 years of [Islam](/wiki/Islam), there were many madhhab. Several of the [*Sahābah*](/wiki/Sahaba), or contemporary "companions" of [Muhammad](/wiki/Muhammad), are credited with founding their own. In the Sunni sect of Islam, the Islamic jurisprudence schools of [Medina](/wiki/Medina) (Al-Hijaz, now in [Saudi Arabia](/wiki/Saudi_Arabia)) created the Maliki *madhhab*, while those in [Kufa](/wiki/Kufa) (now in [Iraq](/wiki/Iraq)) created the Hanafi *madhhab*.[[80]](#cite_note-80) [al-Shafi'i](/wiki/Al-Shafi‘i), who started as a student of Maliki school of Islamic law, and later was influenced by Hanafi school of Islamic law, disagreed with some of the discretion these schools gave to jurists, and founded the more conservative Shafi'i *madhhab*, which spread from jurisprudence schools in [Baghdad](/wiki/Baghdad) (Iraq) and Cairo ([Egypt](/wiki/Egypt)).[[81]](#cite_note-81) [Ahmad ibn Hanbal](/wiki/Ahmad_ibn_Hanbal), a student of al-Shafi'i, went further in his criticism of Maliki and Hanafi fiqhs, criticizing the abuse and corruption of sharia from jurist discretion and consensus of later generation Muslims, and he founded the more strict, traditionalist [Hanbali](/wiki/Hanbali) school of Islamic law.[[82]](#cite_note-82) Other schools such as the [Jariri](/wiki/Jariri) were established later, which eventually died out.[[83]](#cite_note-83) Sunni sect of Islam has four major surviving schools of sharia: [Hanafi](/wiki/Hanafi), [Maliki](/wiki/Maliki), [Shafi'i](/wiki/Shafi'i), [Hanbali](/wiki/Hanbali); one minor school is named [Ẓāhirī](/wiki/Ẓāhirī). Shii sect of Islam has three: [Ja'fari](/wiki/Ja'fari) (major), [Zaydi](/wiki/Zaidiyyah) and [Ismaili](/wiki/Isma'ilism).[[84]](#cite_note-84)[Template:Page needed](/wiki/Template:Page_needed)[[85]](#cite_note-85)[[86]](#cite_note-86)[Template:Page needed](/wiki/Template:Page_needed) There are other minority fiqhs as well, such as the [Ibadi](/wiki/Ibadi) school of [Khawarij](/wiki/Khawarij) sect, and those of Sufi and Ahmadi sects.<ref name=R57/>[[87]](#cite_note-87)[Template:Page needed](/wiki/Template:Page_needed) All Sunni and Shia schools of sharia rely first on the Quran and the sayings/practices of Muhammad in the [Sunnah](/wiki/Sunnah). Their differences lie in the procedure each uses to create Islam-compliant laws when those two sources do not provide guidance on a topic.[[88]](#cite_note-88) The [Salafi](/wiki/Salafi) movement creates sharia based on the Quran, Sunnah and the actions and sayings of the first three generations of Muslims.[[89]](#cite_note-89) The [Hanafi](/wiki/Hanafi) school spread with the patronage and military expansions led by Turkic Sultans and Ottoman Empire in West Asia, Southeast Europe, Central Asia and South Asia.[Template:Sfn](/wiki/Template:Sfn)<ref name=jle1>Nazeer Ahmed (2001), Islam in Global History, (Xlibris) ISBN 978-0738859620.</ref>[Template:Page needed](/wiki/Template:Page_needed) It is currently the largest [madhhab](/wiki/Madhhab) of Sunni Muslims.<ref name=unc1>[Jurisprudence and Law - Islam](http://veil.unc.edu/religions/islam/law/) Reorienting the Veil, University of North Carolina (2009)</ref>[Template:Page needed](/wiki/Template:Page_needed) The [Maliki](/wiki/Maliki) school is predominantly found in West Africa, North Africa and parts of Arabia.<ref name=unc1/>[Template:Page needed](/wiki/Template:Page_needed) The [Shafii](/wiki/Shafii) school spread with patronage and military expansions led by maritime Sultans, and is mostly found in coastal regions of East Africa, Arabia, South Asia, Southeast Asia and islands in the Indian ocean.[[90]](#cite_note-90)[Template:Page needed](/wiki/Template:Page_needed) The [Hanbali](/wiki/Hanbali) school prevails in the smallest Sunni *madhhab*, predominantly found in the Arabian peninsula.<ref name=unc1/>[Template:Page needed](/wiki/Template:Page_needed) The [Shiite](/wiki/Shiite) [Jafari](/wiki/Jafari) school is mostly found in Persian region and parts of West Asia and South Asia.[Template:Citation needed](/wiki/Template:Citation_needed)

Categories of law

Along with interpretation, each fiqh classifies its interpretation of sharia into one of the following five categories: [fard](/wiki/Fard) (obligatory), [mustahabb](/wiki/Mustahabb) (recommended), [mubah](/wiki/Mubah) (neutral), [makruh](/wiki/Makruh) (discouraged), and [haraam](/wiki/Haraam) (forbidden). A Muslim is expected to adhere to that tenet of sharia accordingly.[[91]](#cite_note-91)

* Actions in the [fard](/wiki/Fard) category are those mandatory on all [Muslims](/wiki/Muslims). They include the five daily prayers, fasting, articles of faith, obligatory giving of [zakat](/wiki/Zakat) (charity, tax) to zakat collectors,[[92]](#cite_note-92)[[93]](#cite_note-93) and the [hajj](/wiki/Hajj) pilgrimage to [Mecca](/wiki/Mecca).[[91]](#cite_note-91)\* The [mustahabb](/wiki/Mustahabb) category includes proper behaviour in matters such as marriage, funeral rites and family life. As such, it covers many of the same areas as civil law in the West. Sharia courts attempt to reconcile parties to disputes in this area using the recommended behaviour as their guide. A person whose behaviour is not mustahabb can be ruled against by the judge.[[94]](#cite_note-94)\* [Mubah](/wiki/Mubah) category of behaviour is neither discouraged nor recommended, neither forbidden nor required; it is permissible.[[91]](#cite_note-91)\* [Makruh](/wiki/Makruh) behaviour, while it is not sinful of itself, is considered undesirable among [Muslims](/wiki/Muslims). It may also make a [Muslim](/wiki/Muslim) liable to criminal penalties under certain circumstances.[[94]](#cite_note-94)\* [Haraam](/wiki/Haraam) behaviour is explicitly forbidden. It is both sinful and criminal. It includes all actions expressly forbidden in the Quran. Certain Muslim dietary and clothing restrictions also fall into this category.[[91]](#cite_note-91)

The recommended, neutral and discouraged categories are drawn largely from [accounts](/wiki/Hadith) of the life of [Muhammad](/wiki/Muhammad). To say a behaviour is [sunnah](/wiki/Sunnah) is to say it is recommended as an example of the life and sayings of Muhammad. These categories form the basis for proper behaviour in matters such as courtesy and manners, interpersonal relations, generosity, personal habits and hygiene.[[91]](#cite_note-91)

### Areas of Islamic law[[edit](/index.php?title=(none)&action=edit&section=8)]

[Template:Main](/wiki/Template:Main) [Template:Fiqh](/wiki/Template:Fiqh) The areas of Islamic law include:[Template:Citation needed](/wiki/Template:Citation_needed)

* [**Hygiene and purification laws**](/wiki/Islamic_hygienical_jurisprudence), including the manner of cleansing, either [wudhu](/wiki/Wudhu) or [ghusl](/wiki/Ghusl).
* [**Economic laws**](/wiki/Islamic_economic_jurisprudence), including [Zakāt](/wiki/Zakāt), the annual [almsgiving](/wiki/Almsgiving); [Waqf](/wiki/Waqf), the religious endowment; the prohibition on interest or [Riba](/wiki/Riba); as well as [inheritance laws](/wiki/Islamic_inheritance_jurisprudence).
* [**Dietary laws**](/wiki/Islamic_dietary_laws) including [Dhabihah](/wiki/Dhabihah), or ritual slaughter.
* [**Theological obligations**](/wiki/Islamic_theological_jurisprudence), including the [Hajj](/wiki/Hajj) or pilgrimage, with its rituals such as [Tawaf](/wiki/Tawaf), [Sa'yee](/wiki/Sa'yee) and the [Stoning of the Devil](/wiki/Stoning_of_the_Devil); [salat](/wiki/Salat), formal worship; [Salat al-Janazah](/wiki/Salat_al-Janazah), the funeral prayer; and celebrating [Eid al-Adha](/wiki/Eid_al-Adha).
* [**Marital jurisprudence**](/wiki/Islamic_marital_jurisprudence), including [Nikah](/wiki/Nikah), the marriage contract; and [divorce](/wiki/Divorce_(Islamic)), known as [Khula](/wiki/Khula) if initiated by a woman.
* [**Criminal jurisprudence**](/wiki/Islamic_criminal_jurisprudence), including [Hudud](/wiki/Hudud), fixed punishments; [Tazir](/wiki/Tazir), discretionary punishment; [Qisas](/wiki/Qisas) or retaliation; [Diyya](/wiki/Diyya) or blood money; and [apostasy](/wiki/Apostasy_in_Islam).
* [**Military jurisprudence**](/wiki/Islamic_military_jurisprudence), including [*jus in bello*](/wiki/Islamic_military_jurisprudence#Ethics_of_warfare) and [*casus belli*](/wiki/Islamic_military_jurisprudence#Legitimacy_of_war); [Hudna](/wiki/Hudna) or truce; and rules regarding [prisoners of war](/wiki/Prisoners_of_war_in_Islam).
* [**Dress code**](/wiki/Islam_and_clothing), including [hijab](/wiki/Hijab).
* Other topics include [customs and behaviour](/wiki/Islamic_etiquettical_jurisprudence), [slavery](/wiki/Islamic_views_on_slavery) and the status of [non-Muslims](/wiki/Dhimmi).

[Template:Islamism sidebar](/wiki/Template:Islamism_sidebar)

Other classifications

Shari'ah law has been grouped in different ways, such as:[[95]](#cite_note-95)[Template:Page needed](/wiki/Template:Page_needed)[[96]](#cite_note-96) Family relations, Crime and punishment, Inheritance and disposal of property, The economic system, External and other relations.

"[Reliance of the Traveller](/wiki/Reliance_of_the_Traveller)", an English translation of a fourteenth-century CE reference on the Shafi'i school of fiqh written by [Ahmad ibn Naqib al-Misri](/wiki/Ahmad_ibn_Naqib_al-Misri), organizes sharia law into the following topics: Purification, prayer, funeral prayer, taxes, fasting, pilgrimage, trade, inheritance, marriage, divorce and justice.[Template:Citation needed](/wiki/Template:Citation_needed)

In some areas, there are substantial differences in the law between different schools of fiqh, countries, cultures and schools of thought.[Template:Citation needed](/wiki/Template:Citation_needed)

### Objectives of Islamic law[[edit](/index.php?title=(none)&action=edit&section=9)]

[Template:Main](/wiki/Template:Main) A number of scholars have advanced "objectives" (مقاصد *maqaṣid al-Shariah* also "goals" or "purposes") they believe the Sharia is intended to achieve. Abu Hamid [Al-Ghazali](/wiki/Al-Ghazali) argued that they were the preservation of Islamic religion, and in the temporal world the protection of life, progeny, intellect and wealth of Muslims.<ref name=shah-16>[Template:Cite book](/wiki/Template:Cite_book)</ref><ref name=Chapra\_2000\_118>Chapra, Muhammad Umer (2000), *The Future of Economics: An Islamic Perspective*, Leicester: The Islamic Foundation, p.118, ISBN 978-0-86037-2752</ref> Yazid et al state that objective of sharia in Islamic finance is to provide rules and regulations from the Quran and Sunnah.<ref name=yazid>[Template:Cite journal](/wiki/Template:Cite_journal)</ref>

## Application[[edit](/index.php?title=(none)&action=edit&section=10)]

### Application by country[[edit](/index.php?title=(none)&action=edit&section=11)]

[Template:Main](/wiki/Template:Main)

[300px|thumb|Use of Sharia by country:](/wiki/File:Use_of_Sharia_by_country.svg)[Template:Legend](/wiki/Template:Legend) [Template:Legend](/wiki/Template:Legend) [Template:Legend](/wiki/Template:Legend) [Template:Legend](/wiki/Template:Legend)

Most Muslim-majority countries incorporate sharia at some level in their legal framework, with many calling it the highest law or the source of law of the land in their constitution.<ref name=tjmas>[Islam: Governing under Sharia](http://www.cfr.org/religion/islam-governing-under-sharia/p8034) Toni Johnson and Mohammed Aly Sergie, Council on Foreign Relations (2013)</ref>[[97]](#cite_note-97)[Template:Page needed](/wiki/Template:Page_needed) Most use sharia for personal law (marriage, divorce, domestic violence, child support, family law, inheritance and such matters).[[98]](#cite_note-98)[[99]](#cite_note-99)[Template:Page needed](/wiki/Template:Page_needed) Elements of sharia are present, to varying extents, in the criminal justice system of many Muslim-majority countries.<ref name=nabiad/>[Template:Page needed](/wiki/Template:Page_needed) [Saudi Arabia](/wiki/Saudi_Arabia), [Yemen](/wiki/Yemen), [Brunei](/wiki/Brunei), [Qatar](/wiki/Qatar), [Pakistan](/wiki/Pakistan), [United Arab Emirates](/wiki/United_Arab_Emirates), [Iraq](/wiki/Iraq), [Iran](/wiki/Iran), [Afghanistan](/wiki/Afghanistan), [Sudan](/wiki/Sudan) and [Mauritania](/wiki/Mauritania) apply the code predominantly or entirely while it applies in some parts of [Indonesia](/wiki/Indonesia).<ref name=nabiad>Nisrine Abiad (2008), Sharia, Muslim States and International Human Rights Treaty Obligations, British Institute of International and Comparative Law, ISBN 978-1905221417</ref>[Template:Page needed](/wiki/Template:Page_needed)<ref name=janotto>[Template:Cite book](/wiki/Template:Cite_book)[Template:Dead link](/wiki/Template:Dead_link)</ref>[Template:Page needed](/wiki/Template:Page_needed)

Most Muslim-majority countries with sharia-prescribed [hudud](/wiki/Hudud) punishments in their legal code, do not prescribe it routinely and use other punishments instead.<ref name=tjmas/><ref name=rightto>[Template:Cite web](/wiki/Template:Cite_web)</ref> The harshest sharia penalties such as stoning, [beheading](/wiki/Beheading) and the death penalty are enforced with varying levels of consistency.[[100]](#cite_note-100) Since the 1970s, most Muslim-majority countries have faced vociferous demands from their religious groups and political parties for immediate adoption of sharia as the sole, or at least primary legal framework.[[101]](#cite_note-101) Some moderates and liberal scholars within these Muslim countries have argued for limited expansion of sharia.[[102]](#cite_note-102) With the growing Muslim immigrant communities in Europe, there have been reports in some media of "no-go zones" being established where sharia law reigns supreme.[[103]](#cite_note-103)[[104]](#cite_note-104) However, there is no evidence of the existence of "no-go zones", and these allegations are sourced from anti-immigrant groups falsely equating low-income neighborhoods predominantly inhabited by immigrants as "no-go zones."[[105]](#cite_note-105)[[106]](#cite_note-106)

### Enforcement[[edit](/index.php?title=(none)&action=edit&section=12)]

[Template:Main](/wiki/Template:Main) Sharia is enforced in Islamic nations in a number of ways, including *mutaween* and *hisbah*.[Template:Citation needed](/wiki/Template:Citation_needed)

The [mutaween](/wiki/Mutaween) ([Template:Lang-ar](/wiki/Template:Lang-ar) [*Template:Transl*](/wiki/Template:Transl))[[107]](#cite_note-107) are the government-authorized or government-recognized religious police (or clerical [police](/wiki/Police)) of [Saudi Arabia](/wiki/Saudi_Arabia). Elsewhere, enforcement of Islamic values in accordance with sharia is the responsibility of *Polisi Perda Syariah Islam* in Aceh province of [Indonesia](/wiki/Indonesia),[[108]](#cite_note-108) [Committee for the Propagation of Virtue and the Prevention of Vice (Gaza Strip)](/wiki/Committee_for_the_Propagation_of_Virtue_and_the_Prevention_of_Vice_(Gaza_Strip)) in parts of Palestine, and [Basiji](/wiki/Basij) Force in Iran.[[109]](#cite_note-109) [thumb|Official from the](/wiki/File:Taliban_beating_woman_in_public_RAWA.jpg) [Taliban](/wiki/Islamic_Emirate_of_Afghanistan) beating a woman in [Afghanistan](/wiki/Afghanistan) for violating local interpretation of sharia.[[110]](#cite_note-110)[[111]](#cite_note-111) [Hisbah](/wiki/Hisbah) ([Template:Lang-ar](/wiki/Template:Lang-ar) *ḥisb(ah)*, or hisba) is a historic Islamic doctrine which means "accountability".<ref name=sz>Sami Zubaida (2005), Law and Power in the Islamic World, ISBN 978-1850439349, pages 58-60</ref> Hisbah doctrine holds that it is a religious obligation of every Muslim that he or she report to the ruler (Sultan, government authorities) any wrong behavior of a neighbor or relative that violates sharia or insults Islam. The doctrine states that it is the divinely sanctioned duty of the ruler to intervene when such charges are made, and coercively "command right and forbid wrong" in order to keep everything in order according to sharia.<ref name=lv>Lorenzo Vidino (2013), [Hisba in Europe?](http://www.css.ethz.ch/publications/pdfs/Hisba_in_Europe.pdf), European Foundation for Democracy, Switzerland</ref>[[112]](#cite_note-112)[[113]](#cite_note-113) Some Salafist suggest that enforcement of sharia under the Hisbah doctrine is the sacred duty of all Muslims, not just rulers.<ref name=lv/> The doctrine of Hisbah in Islam has traditionally allowed any Muslim to accuse another Muslim, ex-Muslim or non-Muslim for beliefs or behavior that may harm Islamic society. This principle has been used in countries such as Egypt, Pakistan and others to bring blasphemy charges against [apostates](/wiki/Apostasy_in_Islam).[[114]](#cite_note-114) For example, in [Egypt](/wiki/Egypt), sharia was enforced on the Muslim scholar Nasr Abu Zayd, through the doctrine of Hasbah, when he committed [apostasy](/wiki/Apostasy_in_Islam).[[115]](#cite_note-115)[[116]](#cite_note-116) Similarly, in Nigeria, after twelve northern Muslim-majority states such as [Kano](/wiki/Kano_State) adopted sharia-based penal code between 1999 and 2000, hisbah became the allowed method of sharia enforcement, where all Muslim citizens could police compliance of moral order based on sharia.[[117]](#cite_note-117) In Aceh province of Indonesia, Islamic vigilante activists have invoked Hasbah doctrine to enforce sharia on fellow Muslims as well as demanding non-Muslims to respect sharia.[[118]](#cite_note-118) Hisbah has been used in many Muslim majority countries, from Morocco to Egypt and in West Asia to enforce sharia restrictions on [blasphemy](/wiki/Blasphemy) and criticism of Islam over internet and social media.[[119]](#cite_note-119)[[120]](#cite_note-120)

### Legal and court proceedings[[edit](/index.php?title=(none)&action=edit&section=13)]

[Template:Anchor](/wiki/Template:Anchor) [thumb|Syariah Court in](/wiki/File:Malacca_State_Syariah_Court.JPG) [Malacca](/wiki/Malacca), [Malaysia](/wiki/Malaysia).

Sharia judicial proceedings have significant differences from other legal traditions, including those in both [common law](/wiki/Common_law) and [civil law](/wiki/Civil_law_(legal_system)). Sharia courts traditionally do not rely on lawyers; [plaintiffs](/wiki/Plaintiffs) and [defendants](/wiki/Defendants) represent themselves. Trials are conducted solely by the judge, and there is no jury system. There is no pre-trial [discovery](/wiki/Discovery_(law)) process, and no [cross-examination](/wiki/Cross-examination) of witnesses. Unlike common law, judges' verdicts do not set binding [precedents](/wiki/Precedents)[[121]](#cite_note-121)[[122]](#cite_note-122) under the principle of [*stare decisis*](/wiki/Stare_decisis),[[123]](#cite_note-123) and unlike civil law, sharia is left to the interpretation in each case and has no formally [codified](/wiki/Codification_(law)) universal statutes.[[124]](#cite_note-124) The [rules of evidence](/wiki/Rules_of_evidence) in sharia courts also maintain a distinctive custom of prioritizing oral testimony.[[125]](#cite_note-125) Witnesses, in a sharia court system, must be faithful, that is Muslim.<ref name=av1>Antoinette Vlieger (2012), Domestic Workers in Saudi Arabia and the Emirates, ISBN 978-1610271288, Chapter 4</ref> Male Muslim witnesses are deemed more reliable than female Muslim witnesses, and non-Muslim witnesses considered unreliable and receive no priority in a sharia court.[[126]](#cite_note-126)[[127]](#cite_note-127) In civil cases in some countries, a Muslim woman witness is considered half the worth and reliability than a Muslim man witness.<ref name=unicef2011/><ref name=mfdl1/> In criminal cases, women witnesses are unacceptable in stricter, traditional interpretations of sharia, such as those found in [Hanbali](/wiki/Hanbali) madhhab.<ref name=av1/>[Template:Page needed](/wiki/Template:Page_needed)

Criminal cases

A confession, an oath, or the oral testimony of Muslim witnesses are the main evidence admissible, in sharia courts, for hudud crimes, that is the religious crimes of adultery, fornication, rape, accusing someone of illicit sex but failing to prove it, [apostasy](/wiki/Apostasy_in_Islam), drinking intoxicants and theft.[[128]](#cite_note-128)[Template:Nonspecific](/wiki/Template:Nonspecific)[[129]](#cite_note-129)[[130]](#cite_note-130) Testimony must be from at least two free Muslim male witnesses, or one Muslim male and two Muslim females, who are not related parties and who are of sound mind and reliable character. Testimony to establish the crime of adultery, fornication or rape must be from four Muslim male witnesses, with some [fiqhs](/wiki/Fiqh) allowing substitution of up to three male with six female witnesses; however, at least one must be a Muslim male.[[131]](#cite_note-131) [Forensic evidence](/wiki/Forensic_identification) (*i.e.*, fingerprints, ballistics, blood samples, DNA etc.) and other [circumstantial evidence](/wiki/Circumstantial_evidence) is likewise rejected in [hudud](/wiki/Hudud) cases in favor of eyewitnesses, a practice which can cause severe difficulties for women plaintiffs in rape cases.[[132]](#cite_note-132)[Template:Qn](/wiki/Template:Qn)[[133]](#cite_note-133) Muslim jurists have debated whether and when coerced confession and coerced witnesses are acceptable.[Template:Citation needed](/wiki/Template:Citation_needed) In the Ottoman Criminal Code, the executive officials were allowed to use torture only if the accused had a bad reputation and there were already indications of his guilt, such as when stolen goods were found in his house, if he was accused of grievous bodily harm by the victim or if a criminal during investigation mentioned him as an accomplice.[[134]](#cite_note-134) Confessions obtained under torture could not be used as a ground for awarding punishment unless they were corroborated by circumstantial evidence.[[134]](#cite_note-134)

Civil cases

Quran recommends written contracts in the case of debt-related transactions, and oral contracts for commercial and other civil contracts.<ref name=mfdl1>M Fadel (1997), Two women, one man: knowledge, power, and gender in medieval Sunni legal thought, International Journal of Middle East Studies, 29(02), pp. 185-204</ref>[Template:Nonspecific](/wiki/Template:Nonspecific)[[135]](#cite_note-135) Marriage is solemnized as a written financial contract, in the presence of two Muslim male witnesses, and it includes a brideprice ([Mahr](/wiki/Mahr)) payable from a Muslim man to a Muslim woman. The brideprice is considered by a sharia court as a form of debt. Written contracts are paramount, in sharia courts, in the matters of dispute that are debt-related, which includes marriage contracts.[[136]](#cite_note-136) Written contracts in debt-related cases, when notarized by a judge, is deemed more reliable.<ref name=remes1/>

In commercial and civil contracts, such as those relating to exchange of merchandise, agreement to supply or purchase goods or property, and others, oral contracts and the testimony of Muslim witnesses triumph over written contracts. Sharia system has held that written commercial contracts may be forged.<ref name=remes1>Reem Meshal (2014), Sharia and the Making of the Modern Egyptian, Oxford University Press, ISBN 978-9774166174, pp. 96-101 and Chapter 4</ref><ref name=timku1>Timur Kuran (2012), The Long Divergence: How Islamic Law Held Back the Middle East, Princeton University Press, ISBN 978-0691156415, pp. 246-249 and Chapter 12</ref> [Timur Kuran](/wiki/Timur_Kuran) states that the treatment of written evidence in religious courts in Islamic regions created an incentive for opaque transactions, and the avoidance of written contracts in economic relations. This led to a continuation of a "largely oral contracting culture" in Muslim nations and communities.<ref name=timku1/>[[137]](#cite_note-137) In lieu of written evidence, oaths are accorded much greater weight; rather than being used simply to guarantee the truth of ensuing testimony, they are themselves used as evidence. Plaintiffs lacking other evidence to support their claims may demand that defendants take an oath swearing their innocence, refusal thereof can result in a verdict for the plaintiff.[[138]](#cite_note-138) Taking an oath for Muslims can be a grave act; one study of courts in Morocco found that lying litigants would often "maintain their testimony 'right up to the moment of oath-taking and then to stop, refuse the oath, and surrender the case."[[139]](#cite_note-139)[Template:Page needed](/wiki/Template:Page_needed) Accordingly, defendants are not routinely required to swear before testifying, which would risk casually profaning the Quran should the defendant commit perjury;[[139]](#cite_note-139)[Template:Page needed](/wiki/Template:Page_needed) instead oaths are a solemn procedure performed as a final part of the evidence process.

Sentencing

[Template:Main](/wiki/Template:Main) Sharia courts treat women and men as unequal,[Template:Citation needed](/wiki/Template:Citation_needed) with Muslim woman's life and blood-money compensation sentence ([Diyya](/wiki/Diyya)) as half as that of a Muslim man's life.[[140]](#cite_note-140)[[141]](#cite_note-141) Sharia also treats Muslims and non-Muslims as unequal in the sentencing process.<ref name=ame1/> Human Rights Watch and United States' Religious Freedom Report states that in sharia courts of Saudi Arabia, "The calculation of accidental death or injury compensation is discriminatory. In the event a court renders a judgment in favor of a plaintiff who is a Jewish or Christian male, the plaintiff is only entitled to receive 50 percent of the compensation a Muslim male would receive; all other non-Muslims [Buddhists, Hindus, Jains, Atheists] are only entitled to receive one-sixteenth of the amount a male Muslim would receive".[[142]](#cite_note-142)[[143]](#cite_note-143)[[144]](#cite_note-144) Saudi Arabia follows the Hanbali madhab, whose historic jurisprudence texts considered a Christian or Jew life as half the worth of a Muslim. Jurists of other schools of law in Islam have ruled differently. For example, [Shafi'i](/wiki/Shafi'i) sharia considers a Christian or Jew life as a third the worth of a Muslim, and [Maliki's](/wiki/Maliki) sharia considers it worth half.<ref name=ame1/> The legal schools of Hanafi, Maliki and Shafi'i Sunni Islam as well as those of twelver Shia Islam have considered the life of polytheists and atheists as one-fifteenth the value of a Muslim during sentencing.<ref name=ame1>Anver M. Emon (2012), Religious Pluralism and Islamic Law: Dhimmis and Others in the Empire of Law, Oxford University Press, ISBN 978-0199661633, pp. 234-235</ref>

## Support and opposition[[edit](/index.php?title=(none)&action=edit&section=14)]

### Support[[edit](/index.php?title=(none)&action=edit&section=15)]

[Template:Multiple image](/wiki/Template:Multiple_image) A 2013 survey based on interviews of 38,000 Muslims, randomly selected from urban and rural parts in 39 countries using area probability designs, by the [Pew Forum on Religion and Public Life](/wiki/Pew_Forum) found that support for making sharia the official [law of the land](/wiki/Law_of_the_land) is very high in many countries with a high proportion of Muslims: Afghanistan (99%), Iraq (91%), Niger (86%), Malaysia (86%), Pakistan (84%), Morocco (83%), Bangladesh (82%), Egypt (74%), Indonesia (72%), Jordan (71%), Uganda (66%), Ethiopia (65%), Mali (63%), Ghana (58%), and Tunisia (56%).<ref name=pewssp15/> In Muslim regions of Southern-Eastern Europe and Central Asia, the support is less than 50%: Russia (42%), Kyrgyzstan (35%), Tajikistan (27%), Kosovo (20%), Albania (12%), Turkey (12%), Azerbaijan (8%). However, fewer supported harsh punishments, interpretations of some aspects differed widely, and mostly found Sharia only should be applied to the Muslim populations.<ref name=pewssp15>[Template:Cite book](/wiki/Template:Cite_book)</ref>

In Muslim-majority countries and among Muslims who say sharia should be the law of the land, a percentage between 74% (Egypt) and 19% (Kazakhstan) want sharia law to apply to non-Muslims as well.[Template:Sfn](/wiki/Template:Sfn)

A 2008 YouGov poll in the United Kingdom found 40% of Muslim students interviewed wanted sharia in British law.[[145]](#cite_note-145) Polls demonstrate that for Egyptians, the 'Shariah' is associated with notions of political, social and gender justice.[[146]](#cite_note-146) Since the 1970s, the [Islamist](/wiki/Islamist) movements have become prominent; their goals are the establishment of Islamic states and sharia not just within their own borders; their means are political in nature. The Islamist power base is the millions of poor, particularly urban poor moving into the cities from the countryside. They are not international in nature (one exception being the [Muslim Brotherhood](/wiki/Muslim_Brotherhood)). Their rhetoric opposes western culture and western power.[[147]](#cite_note-147) Political groups wishing to return to more traditional Islamic values are the source of threat to Turkey's secular government.[[147]](#cite_note-147) These movements can be considered neo-Sharism.[[148]](#cite_note-148)

#### Extremism[[edit](/index.php?title=(none)&action=edit&section=16)]

[Fundamentalists](/wiki/Islamic_fundamentalism), wishing to return to basic Islamic religious values and law, have in some instances imposed harsh sharia punishments for crimes, curtailed civil rights and violated human rights. Extremists have used the Quran and their own particular version of sharia to justify acts of war and terror against Muslim as well as non-Muslim individuals and governments, using alternate, conflicting interpretations of sharia and their notions of jihad.<ref name=aenexeter/>[[149]](#cite_note-149) The sharia basis of arguments of those advocating terrorism, however, remain controversial. Some scholars state that Islamic law prohibits the killing of civilian non-combatants; in contrast, others interpret Islamic law differently, concluding that all means are legitimate to reach their aims, including targeting Muslim non-combatants and the mass killing of non-Muslim civilians, in order to universalize Islam.<ref name=aenexeter/> Islam, in these interpretations, "does not make target differences between militaries and civilians but between Muslims and unbelievers. Therefore it is legitimated ([sic](/wiki/Sic)) to spill civilians’ blood".<ref name=aenexeter/> Other scholars of Islam, interpret sharia differently, stating, according to Engeland-Nourai, "attacking innocent people is not courageous; it is stupid and will be punished on the Day of Judgment [...]. It’s not courageous to attack innocent children, women and civilians. It is courageous to protect freedom; it is courageous to defend one and not to attack".<ref name=aenexeter>Anisseh Engeland-Nourai, [THE CHALLENGE OF FRAGMENTATION OF INTERNATIONAL HUMANITARIAN LAW REGARDING THE PROTECTION OF CIVILIANS - AN ISLAMIC PERSPECTIVE](https://ore.exeter.ac.uk/repository/bitstream/handle/10036/3417/VanEngeland_THE%20CHALLENGE%20OF%20FRAGMENTATION%20OF%20INTERNATIONAL%20HUMANITARIAN%20LAW.pdf?sequence=6) School of Law, University of Bedfordshire, pp. 18-25</ref>[[150]](#cite_note-150)

### Opposition[[edit](/index.php?title=(none)&action=edit&section=17)]

[Template:Further](/wiki/Template:Further) In the post-[9/11](/wiki/September_11_attacks) non-Muslim [Western world](/wiki/Western_world), sharia has been called a source of "hysteria",[[151]](#cite_note-151) "more controversial than ever", the one aspect of Islam that inspires "particular dread".<ref name=kadri-267-8>[Template:Cite book](/wiki/Template:Cite_book)</ref> On the Internet, "dozens of self-styled `counter-jihadis`" emerged to campaign against Sharia law, describing it in strict interpretations resembling those of Salafi Muslims.<ref name=kadri-267-8/> Several years after 9/11, fear of sharia law and of "the ideology of extremism" among Muslims reportedly spread to mainstream conservative [Republicans](/wiki/Republican_Party_(United_States)) in the United States.<ref name=TPM-9-23-2010>[Template:Cite news](/wiki/Template:Cite_news)</ref> As of 2014, seven states in the US have "banned Sharia law", or passed some kind of ballot measure that "prohibits the states courts from considering foreign, international or religious law."<ref name=governing>[Template:Cite web](/wiki/Template:Cite_web)</ref>[[152]](#cite_note-152) Former [House Speaker](/wiki/Speaker_of_the_United_States_House_of_Representatives) [Newt Gingrich](/wiki/Newt_Gingrich) won ovations calling for a federal ban on sharia law.<ref name=TPM-9-23-2010/> In 2015, the [governor](/wiki/Governor_(United_States)) of [Louisiana](/wiki/Louisiana) ([Bobby Jindal](/wiki/Bobby_Jindal)) warned of the danger of purported "no-go zones" in European cities allegedly operating under sharia law and where local laws are not applicable.<ref name=GRAHAM>[Template:Cite journal](/wiki/Template:Cite_journal)</ref> The issue of "liberty versus Sharia" was called a "momentous civilizational debate" in at least one conservative editorial page.[[153]](#cite_note-153)In 2008 in Britain, the future Prime Minister ([David Cameron](/wiki/David_Cameron)) declared his opposition to "any expansion of Sharia law in the UK."<ref name=BBC-26-3-2008>[Template:Cite news](/wiki/Template:Cite_news)</ref> In Germany, in 2014, the Interior Minister ([Thomas de Maizière](/wiki/Thomas_de_Maizière)) told a newspaper ([*Bild*](/wiki/Bild)), "Sharia law is not tolerated on German soil."<ref name=dw>[Template:Cite news](/wiki/Template:Cite_news)</ref>

## Criticism[[edit](/index.php?title=(none)&action=edit&section=18)]

[thumb|left|A protester opposing the](/wiki/File:Ground_Zero_Mosque_Protesters_11.jpg) [Park51](/wiki/Park51) project, carries an anti-sharia sign.

### Compatibility with democracy[[edit](/index.php?title=(none)&action=edit&section=19)]

[Template:Further](/wiki/Template:Further) Ali Khan states that "constitutional orders founded on the principles of sharia are fully compatible with democracy, provided that religious minorities are protected and the incumbent Islamic leadership remains committed to the right to recall".[[154]](#cite_note-154)[[155]](#cite_note-155) Other scholars say sharia is not compatible with democracy, particularly where the country's constitution demands separation of religion and the democratic state.[[156]](#cite_note-156)[[157]](#cite_note-157) Courts in non-Muslim majority nations have generally ruled against the implementation of sharia, both in jurisprudence and within a community context, based on sharia's religious background. In Muslim nations, sharia has wide support with some exceptions.[[158]](#cite_note-158) For example, in 1998 the [Constitutional Court of Turkey](/wiki/Constitutional_Court_of_Turkey) banned and dissolved Turkey's [Refah Party](/wiki/Welfare_Party) on the grounds that "Democracy is the antithesis of Sharia", the latter of which Refah sought to introduce.[[159]](#cite_note-159)[[160]](#cite_note-160) On appeal by Refah the European Court of Human Rights determined that "sharia is incompatible with the fundamental principles of democracy".[[161]](#cite_note-161)[[162]](#cite_note-162)[[163]](#cite_note-163) Refah's sharia-based notion of a "plurality of legal systems, grounded on religion" was ruled to contravene the [European Convention for the Protection of Human Rights and Fundamental Freedoms](/wiki/European_Convention_on_Human_Rights). It was determined that it would "do away with the State's role as the guarantor of individual rights and freedoms" and "infringe the principle of non-discrimination between individuals as regards their enjoyment of public freedoms, which is one of the fundamental principles of democracy".[[164]](#cite_note-164)

### Human rights[[edit](/index.php?title=(none)&action=edit&section=20)]

Several major, predominantly Muslim countries have criticized the [Universal Declaration of Human Rights](/wiki/Universal_Declaration_of_Human_Rights) (UDHR) for its perceived failure to take into account the cultural and religious context of non-[Western](/wiki/Western_world) countries. Iran declared in the UN assembly that UDHR was "a [secular](/wiki/Secularism) understanding of the [Judeo-Christian](/wiki/Judeo-Christian) tradition", which could not be implemented by Muslims without trespassing the Islamic law.[[165]](#cite_note-165) Islamic scholars and Islamist political parties consider 'universal human rights' arguments as imposition of a non-Muslim culture on Muslim people, a disrespect of customary cultural practices and of Islam.<ref name=as1999>A. SAJOO (1999), Islam and Human Rights: Congruence or Dichotomy, Temple International and Comparative Law Journal, vol. 4, pp. 23-34</ref>[[166]](#cite_note-166) In 1990, the [Organisation of Islamic Cooperation](/wiki/Organisation_of_Islamic_Cooperation), a group representing all Muslim majority nations, met in Cairo to respond to the UDHR, then adopted the [Cairo Declaration on Human Rights in Islam](/wiki/Cairo_Declaration_on_Human_Rights_in_Islam).[[167]](#cite_note-167)[[168]](#cite_note-168)[Template:Page needed](/wiki/Template:Page_needed)

[Ann Elizabeth Mayer](/wiki/Ann_Elizabeth_Mayer) points to notable absences from the Cairo Declaration: provisions for democratic principles, protection for religious freedom, freedom of association and freedom of the press, as well as equality in rights and equal protection under the law. Article 24 of the Cairo declaration states that "all the rights and freedoms stipulated in this Declaration are subject to the Islamic *shari'a*".<ref name=mayer>Ann Elizabeth Mayer, *Islamic Law and Human Rights: Conundrums and Equivocations*, chapter 14 in Carrie Gustafson, Peter H. Juviler (eds.), *Religion and human rights: competing claims?*, Columbia University seminar series, M.E. Sharpe, 1999, ISBN 0-7656-0261-X.</ref>[Template:Page needed](/wiki/Template:Page_needed)

In 2009, the journal [*Free Inquiry*](/wiki/Free_Inquiry) summarized the criticism of the Cairo Declaration in an editorial: "We are deeply concerned with the changes to the [Universal Declaration of Human Rights](/wiki/Universal_Declaration_of_Human_Rights) by a coalition of Islamic states within the [United Nations](/wiki/United_Nations) that wishes to prohibit any criticism of religion and would thus protect Islam's limited view of human rights. In view of the conditions inside the Islamic Republic of Iran, Egypt, Pakistan, Saudi Arabia, the Sudan, Syria, Bangdalesh, Iraq, and Afghanistan, we should expect that at the top of their human rights agenda would be to rectify the legal inequality of women, the suppression of political dissent, the curtailment of free expression, the persecution of ethnic minorities and religious dissenters — in short, protecting their citizens from egregious human rights violations. Instead, they are worrying about protecting Islam."[[169]](#cite_note-169) [H. Patrick Glenn](/wiki/H._Patrick_Glenn) states that sharia is structured around the concept of mutual obligations of a collective, and it considers individual human rights as potentially disruptive and unnecessary to its revealed code of mutual obligations. In giving priority to this religious collective rather than individual liberty, the Islamic law justifies the formal inequality of individuals (women, non-Islamic people).[[170]](#cite_note-170) Bassam Tibi states that sharia framework and human rights are incompatible.[[171]](#cite_note-171) Abdel al-Hakeem Carney, in contrast, states that sharia is misunderstood from a failure to distinguish *sharia* from *siyasah* (politics).[[172]](#cite_note-172)

### Freedom of speech[[edit](/index.php?title=(none)&action=edit&section=21)]

[Template:See also](/wiki/Template:See_also) [Blasphemy in Islam](/wiki/Islam_and_blasphemy) is any form of cursing, questioning or annoying God, Muhammad or anything considered sacred in Islam.<ref name=khan>

* Siraj Khan, Blasphemy against the Prophet, in Muhammad in History, Thought, and Culture (Editors: Coeli Fitzpatrick and Adam Hani Walker), ISBN 978-1610691772, pp. 59-67
* R Ibrahim (2013), Crucified Again, ISBN 978-1621570257, pp. 100-101</ref>[[173]](#cite_note-173)[[174]](#cite_note-174) The sharia of various Islamic schools of jurisprudence specify different punishment for blasphemy against Islam, by Muslims and non-Muslims, ranging from imprisonment, fines, flogging, amputation, hanging, or beheading.<ref name=khan/>[[175]](#cite_note-175)[[176]](#cite_note-176) In some cases, sharia allows non-Muslims to escape death by converting and becoming a devout follower of Islam.[[177]](#cite_note-177)

Blasphemy, as interpreted under sharia, is controversial.[[178]](#cite_note-178) Muslim nations have petitioned the United Nations to limit "freedom of speech" because "unrestricted and disrespectful opinion against Islam creates hatred".[[179]](#cite_note-179) Other nations, in contrast, consider blasphemy laws as violation of "freedom of speech",[[180]](#cite_note-180) stating that freedom of expression is essential to empowering both Muslims and non-Muslims, and point to the abuse of blasphemy laws, where hundreds, often members of religious minorities, are being lynched, killed and incarcerated in Muslim nations, on flimsy accusations of insulting Islam.[[181]](#cite_note-181)[[182]](#cite_note-182)

### Freedom of thought, conscience and religion[[edit](/index.php?title=(none)&action=edit&section=22)]

According to the United Nations' Universal Declaration of Human Rights,[[183]](#cite_note-183) every human has the right to freedom of thought, conscience and religion; this right includes freedom to change their religion or belief. Sharia has been criticized for not recognizing this human right. According to scholars<ref name=naim96>Abdullahi Ahmed An-Na’im, Islamic Foundations of Religious Human Rights, in RELIGIOUS HUMAN RIGHTS IN GLOBAL PERSPECTIVE : RELIGIOUS PERSPECTIVES, pp 351-356 (John Witte Jr. & Johan D. van der Vyver eds., 1996).</ref>[[184]](#cite_note-184)[[185]](#cite_note-185)[Template:Page needed](/wiki/Template:Page_needed) of Islamic law, the applicable rules for religious conversion under sharia are as follows:

* If a person converts to Islam, or is born and raised as a Muslim, then he or she will have full rights of citizenship in an Islamic state.<ref name=aaanaim352/>
* Leaving Islam is a sin and a religious crime. Once any man or woman is officially classified as Muslim, because of birth or religious conversion, he or she will be subject to the death penalty if he or she becomes an [apostate](/wiki/Apostasy_in_Islam), that is, abandons his or her faith in Islam in order to become an atheist, agnostic or to convert to another religion. Before executing the death penalty, sharia demands that the individual be offered one chance to return to Islam.<ref name=aaanaim352/>
* If a person has never been a Muslim, and is not a [kafir](/wiki/Kafir) (infidel, unbeliever), he or she can live in an Islamic state by accepting to be a [dhimmi](/wiki/Dhimmi), or under a special permission called *aman*. As a dhimmi or under aman, he or she will suffer certain limitations of rights as a subject of an Islamic state, and will not enjoy complete legal equality with Muslims.<ref name=aaanaim352/>
* If a person has never been a Muslim, and is a kafir (infidel, unbeliever), sharia demands that he or she should be offered the choice to convert to Islam and become a Muslim; if he or she rejects the offer, he or she may become a dhimmi. Failure to pay the tax may lead the non-muslim to either be enslaved, killed or ransomed if captured.<ref name=aaanaim352>Abdullahi Ahmed An-Na’im (1996): pp. 352-353</ref>

According to sharia theory, conversion of disbelievers and non-Muslims to Islam is encouraged as a religious duty for all Muslims, and leaving Islam (apostasy), expressing contempt for Islam (blasphemy), and religious conversion of Muslims is prohibited.[[186]](#cite_note-186)[[187]](#cite_note-187) Not all Islamic scholars agree with this interpretation of sharia theory. In practice, as of 2011, 20 Islamic nations had laws declaring apostasy from Islam as illegal and a criminal offense. Such laws are incompatible with the UDHR's requirement of freedom of thought, conscience and religion.[[188]](#cite_note-188)[[189]](#cite_note-189)[Template:Page needed](/wiki/Template:Page_needed)[[190]](#cite_note-190)[[191]](#cite_note-191) In another 2013 report based on international survey of religious attitudes, more than 50% of Muslim population in 6 out of 49 Islamic countries supported death penalty for any Muslim who leaves Islam (apostasy).[[192]](#cite_note-192)[[193]](#cite_note-193) However it is also shown that the majority of Muslims in the 43 nations surveyed did not agree with this interpretation of sharia.

Some scholars claim sharia allows religious freedom because a Shari'a verse teaches, "there is no compulsion in religion."[[194]](#cite_note-194) Other scholars claim sharia recognizes only one proper religion, considers apostasy as sin punishable with death, and members of other religions as kafir ([infidel](/wiki/Infidel));[[195]](#cite_note-195) or hold that Shari'a demands that all apostates and kafir must be put to death, enslaved or be ransomed.[[196]](#cite_note-196)[Template:Qn](/wiki/Template:Qn)[[197]](#cite_note-197)[Template:Page needed](/wiki/Template:Page_needed)[[198]](#cite_note-198)[Template:Page needed](/wiki/Template:Page_needed)[[199]](#cite_note-199)[Template:Page needed](/wiki/Template:Page_needed) Yet other scholars suggest that Shari'a has become a product of human interpretation and inevitably leads to disagreements about the “precise contents of the Shari'a." In the end, then, what is being applied is not sharia, but what a particular group of clerics and government decide is sharia. It is these differing interpretations of Shari'a that explain why many Islamic countries have laws that restrict and criminalize apostasy, proselytism and their citizens' freedom of conscience and religion.[[200]](#cite_note-200)[[201]](#cite_note-201)[Template:Page needed](/wiki/Template:Page_needed)

### LGBT rights[[edit](/index.php?title=(none)&action=edit&section=23)]

[Template:Main](/wiki/Template:Main) Homosexual intercourse is illegal under sharia law, though the prescribed penalties differ from one school of jurisprudence to another. For example, some Muslim-majority countries impose the [death penalty](/wiki/Capital_punishment) for acts perceived as [sodomy](/wiki/Sodomy) and homosexual activities: [Iran](/wiki/Iran),[[202]](#cite_note-202) [Saudi Arabia](/wiki/Saudi_Arabia),[[203]](#cite_note-203) and in other Muslim-majority countries such as [Egypt](/wiki/Egypt), [Iraq](/wiki/Iraq), and the [Indonesian](/wiki/Indonesia) province of [Aceh](/wiki/Aceh),[[204]](#cite_note-204) same-sex sexual acts are illegal,[[205]](#cite_note-205) and LGBT people regularly face violence and discrimination.[[206]](#cite_note-206)

### Women[[edit](/index.php?title=(none)&action=edit&section=24)]

[Template:Main](/wiki/Template:Main)

#### Domestic violence[[edit](/index.php?title=(none)&action=edit&section=25)]

Many claim Shari'a law encourages domestic violence against women, when a husband suspects [*nushuz*](/wiki/Nushuz) (disobedience, disloyalty, rebellion, ill conduct) in his wife.[[207]](#cite_note-207) Other scholars claim wife beating, for *nashizah*, is not consistent with modern perspectives of the Quran.[[208]](#cite_note-208)[Template:Page needed](/wiki/Template:Page_needed)

One of the verses of the Quran relating to permissibility of domestic violence is Surah 4:34.[[209]](#cite_note-209)[[210]](#cite_note-210) Shari'a has been criticized for ignoring women's rights in domestic abuse cases.[[211]](#cite_note-211)[[212]](#cite_note-212)[[213]](#cite_note-213)[[214]](#cite_note-214)[Template:Page needed](/wiki/Template:Page_needed) [Musawah](/wiki/Musawah), [CEDAW](/wiki/Convention_on_the_Elimination_of_All_Forms_of_Discrimination_Against_Women), KAFA and other organizations have proposed ways to modify Shari'a-inspired laws to improve women's rights in Islamic nations, including women's rights in domestic abuse cases.[[215]](#cite_note-215)[[216]](#cite_note-216)[[217]](#cite_note-217)[[218]](#cite_note-218)

#### Personal status laws and child marriage[[edit](/index.php?title=(none)&action=edit&section=26)]

Shari'a is the basis for personal status laws in most Islamic majority nations. These personal status laws determine [rights of women](/wiki/Women's_rights) in matters of marriage, divorce and child custody. A 2011 [UNICEF](/wiki/UNICEF) report concludes that Shari'a law provisions are discriminatory against women from a human rights perspective. In legal proceedings under Shari'a law, a woman’s testimony is worth half of a man’s before a court.<ref name=unicef2011>[Template:Cite web](/wiki/Template:Cite_web)</ref>

Except for Iran, Lebanon and Bahrain which allow child marriages, the civil code in Islamic majority countries do not allow [child marriage](/wiki/Child_marriage) of girls. However, with Shari'a personal status laws, Shari'a courts in all these nations have the power to override the civil code. The religious courts permit girls less than 18 years old to marry. As of 2011, child marriages are common in a few Middle Eastern countries, accounting for 1 in 6 all marriages in Egypt and 1 in 3 marriages in Yemen. [UNICEF](/wiki/UNICEF) and other studies state that the top five nations in the world with highest observed child marriage rates — Niger (75%), Chad (72%), Mali (71%), Bangladesh (64%), Guinea (63%) — are Islamic-majority countries where the personal laws for Muslims are sharia-based.[[219]](#cite_note-219)[[220]](#cite_note-220) Rape is considered a crime in all countries, but Shari'a courts in Bahrain, Iraq, Jordan, Libya, Morocco, Syria and Tunisia in some cases allow a rapist to escape punishment by marrying his victim, while in other cases the victim who complains is often prosecuted with the crime of [*Zina*](/wiki/Zina) (adultery).<ref name=unicef2011/>[[221]](#cite_note-221)[[222]](#cite_note-222)

#### Women's right to property and consent[[edit](/index.php?title=(none)&action=edit&section=27)]

Sharia grants women the [right to inherit property](/wiki/Right_to_property) from other family members, and these rights are detailed in the Quran.[[223]](#cite_note-223) A woman's inheritance is unequal and less than a man's, and dependent on many factors.[Template:Quran-usc](/wiki/Template:Quran-usc)<ref name=davidpowers/> For instance, a daughter's inheritance is usually half that of her brother's.[Template:Quran-usc](/wiki/Template:Quran-usc)<ref name=davidpowers>David Powers (1993), Islamic Inheritance System: A Socio-Historical Approach, The Arab Law Quarterly, 8, p 13</ref>

Until the 20th century, Islamic law granted Muslim women certain legal rights, such as the right to own property received as [Mahr](/wiki/Mahr) (brideprice) at her marriage.[[224]](#cite_note-224)<ref name=Feldman>[Template:Cite news](/wiki/Template:Cite_news)</ref> However, Islamic law does not grant non-Muslim women the same legal rights as the few it did grant Muslim women. Sharia recognizes the basic inequality between master and women slave, between free women and slave women, between Believers and non-Believers, as well as their unequal rights.<ref name=blbr>

* Bernard Lewis (2002), What Went Wrong?, ISBN 0-19-514420-1, pp. 82–83;
* Brunschvig. 'Abd; Encyclopedia of Islam, Brill, 2nd Edition, Vol 1, pp. 13-40.</ref>[[225]](#cite_note-225) Sharia authorized the institution of slavery, using the words *abd* (slave) and the phrase *ma malakat aymanukum* ("that which your right hand owns") to refer to women slaves, seized as captives of war.<ref name=blbr/>[[226]](#cite_note-226) Under Islamic law, Muslim men could have sexual relations with female captives and slaves.[[227]](#cite_note-227)<ref name=alik>Ali, K. (2010). Marriage and slavery in early Islam. Harvard University Press.</ref>

Slave women under sharia did not have a right to own property or to move freely.[[228]](#cite_note-228)[[229]](#cite_note-229) Sharia, in Islam's history, provided a religious foundation for enslaving non-Muslim women (and men), but nevertheless encouraged the manumission of slaves. However, manumission required that the non-Muslim slave first convert to Islam.<ref name=pl1/>[[230]](#cite_note-230) A non-Muslim slave woman who bore children to her Muslim master became legally free upon her master's death, and her children were presumed to be Muslims like their father, in Africa<ref name=pl1>[Template:Cite book](/wiki/Template:Cite_book)</ref> and elsewhere.[[231]](#cite_note-231) Starting with the 20th century, Western legal systems evolved to expand women's rights, but women's rights under Islamic law have remained tied to the Quran, hadiths and their fundamentalist interpretation as sharia by Islamic jurists.<ref name=alik/>[[232]](#cite_note-232)

## Parallels with Western legal systems[[edit](/index.php?title=(none)&action=edit&section=28)]

Elements of Islamic law have influenced western legal systems. As example, the influence of Islam on the development of an international law of the sea can be discerned alongside that of the Roman influence.<ref name=Tai>[Template:Cite journal](/wiki/Template:Cite_journal)</ref>

Makdisi states Islamic law also influenced the legal scholastic system of the West.<ref name=G-Makdisi/> The study of legal text and degrees have parallels between Islamic studies of sharia and the Western system of legal studies; for example, the status of [*faqih*](/wiki/Faqih) (meaning "[master of law](/wiki/Master_of_Laws)"), [*mufti*](/wiki/Mufti) (meaning "professor of [legal opinions](/wiki/Fatwā)") and *mudarris* (meaning "teacher") were later translated into [Latin](/wiki/Latin) as [*magister*](/wiki/Magister_(degree)), [*professor*](/wiki/Professor) and [*doctor*](/wiki/Doctor_(title)), respectively.<ref name=G-Makdisi>[Template:Cite journal](/wiki/Template:Cite_journal)</ref>

There are differences between Islamic and Western legal systems. For example, sharia classically recognizes only [natural persons](/wiki/Natural_persons), and never developed the concept of a [legal person](/wiki/Legal_person), or [corporation](/wiki/Corporation), i.e., a legal entity that [limits the liabilities](/wiki/Limited_liability) of its managers, shareholders, and employees; exists beyond the lifetimes of its founders; and that can own assets, sign contracts, and appear in court through representatives.[[233]](#cite_note-233) Interest prohibitions imposed secondary costs by discouraging record keeping and delaying the introduction of modern accounting.[[234]](#cite_note-234) Such factors, according to Timur Kuran, have played a significant role in retarding economic development in the Middle East.[[235]](#cite_note-235)

## See also[[edit](/index.php?title=(none)&action=edit&section=29)]

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* [Arabization](/wiki/Arabization)
* [Topics in sharia law](/wiki/Topics_in_sharia_law)
* [Ban on sharia law](/wiki/Ban_on_sharia_law)
* [Dīn](/wiki/Dīn)
* [Glossary of Islam](/wiki/Glossary_of_Islam)
* [Guardianship of the Islamic Jurists](/wiki/Guardianship_of_the_Islamic_Jurists)
* [Imam Nawawi's Forty Hadith](/wiki/Imam_Nawawi's_Forty_Hadith), a brief collection of forty *hadith* by the founder of the [Shāfiʿī](/wiki/Shafi'i) school, each used to illustrate a fundamental of *shariah*.
* [Islam and the arts](/wiki/Islam_and_the_arts)

[Template:Multicol-break](/wiki/Template:Multicol-break)

* [Islamic republic](/wiki/Islamic_republic)
* [Islamic Sharia Council](/wiki/Islamic_Sharia_Council), a court in the United Kingdom with no legal authority.
* [Islamic theology](/wiki/Islamic_theology)
* [Ma'ruf](/wiki/Ma'ruf)
* [More danico](/wiki/More_danico) a law system that is applied according to group rather than territoriality.
* [Octaware Technologies](/wiki/Octaware_Technologies) India's first Sharia compliant company approved to be listed on [BSE](/wiki/Bombay_Stock_Exchange)
* [Rayani Air](/wiki/Rayani_Air) a Malaysian airline that's following sharia.
* [Religious law](/wiki/Religious_law)
* [Theonomy](/wiki/Theonomy)
* [Hudud](/wiki/Hudud)
* [Halakha](/wiki/Halakha)

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