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Five myths about sharia

Asifa Quraishi-Landes
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Myth No. 1

Sharia is “Islamic law.”

After the March terrorist attack in Brussels, Trump said that European Muslims “[want to go by sharia law](#).” In May, Rep. Joe Heck (R-Nev.) [claimed](#) that Muslims in Michigan “have tried to implement their version of sharia law in the United States.” Talk-show host Mark Levin [says](#), “We already have creeping sharia law in this country.” Listening to these voices, you might think the West is on the verge of switching to a whole new legal system.

But sharia isn’t even “law” in the sense that we in the West understand it. And most devout Muslims who embrace sharia conceptually don’t think of it as a substitute for civil law. Sharia is not a book of statutes or judicial precedent imposed by a government, and it’s not a set of regulations adjudicated in court. Rather, it is a body of Koran-based guidance that points Muslims toward living an Islamic life. It doesn’t come from the state, and it doesn’t even come in one book or a single collection of rules. Sharia is divine and philosophical. The human interpretation of sharia is called “fiqh,” or Islamic rules of right action, created by individual scholars based on the Koran and hadith (stories of the prophet Muhammad’s life). Fiqh literally means “understanding” — and its many different schools of thought illustrate that scholars knew they didn’t speak for God.

Fiqh distinguishes between the spiritual value of an action (how God sees it) and the worldly value of that action (how it affects others). Fiqh rules might obligate a devout Muslim to pray, but it’s not the job of a Muslim ruler to enforce that obligation. Fiqh is not designed to help governments police morality in the way, say, Saudi Arabia does today. According to classical fiqh scholarship, a Muslim ruler’s task was to put forth another type of law, [called siyasa](#), based on what best serves the public good. The most vivid [example](#) of this was the recognition of incestuous (mother-son, brother-sister) marriages practiced by some non-Muslim minorities living under Muslim rule, dating back at least to the 14th century, despite the abhorrence, generally, of such marriages to Islam. In other words, sharia doesn’t hold that everything objectionable to Islam should be outlawed.

Myth No. 2

In Muslim countries, sharia is the law of the land.

Last year, Saudi Arabia's ambassador in London [demanded](#) that British officials respect his country's legal system "based on sharia law." An [analysis](#) of deepening religiosity in Indonesia by the Gatestone Institute, a foreign affairs think tank, said the country was "leaning more and more towards . . . Sharia laws."

While it's true that sharia influences the legal codes in most Muslim-majority countries, those codes have been shaped by a lot of things, including, most powerfully, European colonialism. France, England and others imposed nation-state models on nearly every Muslim-majority land, [inadvertently joining the crown and the faith](#). In pre-modern Muslim lands, [fiqh authority was separate](#) from the governing authority, or siyasa. Colonialism centralized law with the state, a system that carried over when these countries regained independence.

When Muslim political movements, such as Jamaat-e-Islami in Pakistan or the Muslim Brotherhood in Egypt, have looked to codify sharia in their countries, they have done so without any attention to the classical separation of fiqh and siyasa, instead continuing the legal centralization of the European nation-state. That's why these movements look to [legislate](#) sharia — they want centralized laws for everything. But by using state power to force particular religious doctrines upon the public, they would essentially create Muslim theocracies, contrary to what existed for most of Muslim history.

Myth No. 3

Sharia is anti-woman.

Ayaan Hirsi Ali, a Somali American, former member of the Dutch parliament and one of the most visible critics of Islam, [says](#) that Islamic law "is inherently hostile to women" because of its marriage laws, among other reasons. Many Westerners see Muslim women's headcover as a kind of oppression. This year, for instance, French Prime Minister Manuel Valls endorsed his country's effort to ban the hijab on university campuses, calling it a symbol of the "[enslavement of women](#)." There is a verse in the Koran that holds that men are the "[protectors](#)" of women, but many contemporary scholars [dispute](#) the notion that this suggests women must obey men or that women are inferior.

While it's true that many majority-Muslim societies have laws that treat women unfairly, many of these laws, like Saudi Arabia's ban on female drivers, have no basis in fiqh. In instances where there is a fiqh origin for modern legislation, that legislation often cherry-picks certain rules, including more woman-affirming interpretations. And on a range of issues, Islam can fairly be described as feminist. Fiqh scholars, for instance, [have concluded](#) that women have [the right to orgasm](#) during sex and to fight in combat.

(Women [fought alongside the prophet Muhammad](#) himself.) Fiqh can also be interpreted as pro-choice, with certain scholars positing that although abortion is forbidden, [first-trimester abortions are not punishable](#).

Fiqh doctrine says a woman's property, held exclusively in her name, cannot be appropriated by her husband, brother or father. (For centuries, this stood in stark contrast with the property rights of women in Europe.) Muslim women in America are sometimes shocked to find that, even though they were careful to list their assets as separate, those [can be considered joint assets](#) after marriage.

To be sure, there are patriarchal rules in fiqh, and many of these are legislated in modern Muslim-majority countries. For example, women in Iran [can't run for president](#) or [attend men's soccer matches](#). But these rules are human interpretations, not sharia.

Myth No. 4

Islam demands brutal punishments.

The faith's reputation for savagely punishing lawbreakers — with stoning, flogging, etc. — is so prevalent that even Disney's 1992 film "Aladdin" [made light](#) of cutting off thieves' hands. It doesn't help that the Islamic State routinely kills innocents for all sorts of perceived transgressions, despite the Koran's [prohibition](#) of wanton violence: It [forbids attacks](#) on civilians, property, houses of worship and even animals.

In the same way that the Ku Klux Klan's tactics are a poor representation of Christian practice (despite its [claims](#) to be a [Christian organization](#)), the Islamic State is the worst place to look to understand what sharia says about punishment and the treatment of innocents and prisoners. It's true that sharia permits harsh corporal punishment, including amputation of limbs, but fiqh restricts its application. Theft, for example, doesn't include anything stolen out of hunger or items of low value. (That piece of fruit Jasmine "stole" in "Aladdin" certainly wouldn't qualify.) Adultery? Yes, corporal punishment for extramarital sex is Koranic in origin, but it comes with an extremely high evidentiary burden of proof: four eye-witnesses. It's a sin but not one that is the business of the state to punish.

Myth No. 5

Sharia is about conquest.

In 2010, as he was preparing for his presidential campaign, former House speaker Newt Gingrich gave a speech [stating](#): "Stealth jihadis use political, cultural, societal, religious, intellectual tools; violent jihadis use violence. . . . They're both seeking to impose the same end state, which is to replace Western civilization with a radical imposition of sharia." His remarks reflect a widely held view that Muslims are bound to wage war against non-Muslims.

But no such duty exists. The Koran [repeatedly](#) commands Muslims to [keep promises](#) and [uphold covenants](#). That includes treaties among nations and extends to individuals living under non-Muslim rule. Muslims have lived as minorities in non-Muslim societies since the beginning of Islam — from Christian Abyssinia to imperial China. And fiqh scholars have always insisted that Muslims in non-Muslim lands [must obey the laws of those lands](#) and do no harm within host countries. If local law conflicts with Muslims' sharia obligations? Some scholars say they should emigrate; others allow them to stay. But [none advocate violence or a takeover](#) of those governments.