



SHARIA LAW

Legalized Misogyny

Secular Democracy *versus* Sharia Theocracy

- In Western democracies, religion is viewed as a personal matter—a *moral* code that cannot be imposed on any other person.

Law, on the other hand, is a public matter—a societal *governance* code that is imposed on all who live in a democratic society, regardless of their personal religious beliefs.

In our democratic form of governance, personal religion is respected by, yet explicitly separated from, public governance laws. The First Amendment of the U.S. Constitution states, “*Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; ...*”

The religion of Islam is unique among major world religions today in that it inextricably intertwines its moral code for believers with a legal governance code, called *sharia law*, that sets rules and consequences for a full range of social, individual, family, civil, economic, and criminal activities and behaviors.

As such, sharia represents a theocratic form of governance that is wholly incompatible with secular Western democratic governance systems.

In nations, regions, communities, and enclaves where sharia law is formally or informally adopted, women and girls suffer demonstrable injustice and prejudicial treatment by Western democratic standards, particularly in the area of family law and individual liberty.

This booklet has three purposes:

- to highlight, from a Western democratic governance and equal rights perspective, some of the ways that sharia law is legalized misogyny in its archaic perception and treatment of women;
- to highlight the effort by some to misuse the term “Islamophobia,” as French philosopher Pascal Bruckner recently noted, to gain “a status of exemption” from criticism and from secular governance laws that is “denied to other spiritual systems;” and
- to illustrate why—*if the liberty and equal rights of all women are to be safeguarded and preserved*—no aspect of sharia can be tolerated either formally or informally in the United States.

*Democracy's
Individual Liberty
versus
Sharia's
Male Guardianship*

In modern Western democratic societies, guardianship of both sexes ends at the age of 18 when a person is considered a free, independent adult with full legal rights and responsibilities.

In sharia-governed societies, males are liberated, but women remain under partial or total male guardianship throughout their lives.

Sharia's Male Guardianship

In sharia-governed societies, females remain under male guardianship throughout much of their lives.

"Men are the guardians of women, since Allah has been more generous to one than the other..." [Quran 4:11; p42.1, Reliance of the Traveller].

In Saudi Arabia, for example, a female is personally and legally under male control *from cradle to grave*.

The male guardian—her father or grandfather, her husband, or another male relative such as her brother or her father's brother—makes many critical decisions on her behalf and must give his consent, for example, for her to marry, choose where to live, apply for a passport or national ID card, and travel outside the country.

Moreover, women subject to sharia are not permitted to leave their home without the consent of their male guardian, or to be alone with any man who is not her unmarried kin. In many sharia-governed societies, a woman cannot get a job without permission.

This ancient male guardianship system is a tremendous barrier to women's economic progress today, since it denies women the ability to pursue an independent, self-sustaining life.

According to the 2015 *Global Gender Gap Report* by the World Economic Forum, seven of the 10 worst countries for gender equality are predominately sharia-governed: Saudi Arabia, Algeria, Malaysia, Iran, Turkey, Egypt, and Jordan.

Sharia Marriage & Divorce

Democracy's Marriage & Divorce

versus

Sharia's Marriage & Divorce

In Western democratic societies, marriage and divorce are always civil acts, governed by secular laws. They may or may not be religious acts.

In sharia-governed societies, marriage and divorce are always religious acts, governed by ancient Islamic religious traditions and laws.

Marriage—A sharia marriage is a contract of offer and acceptance between a bride and groom, and it outlines the rights and responsibilities of each party in the marriage.

The contract can be written or spoken in the presence of two witnesses on each side, and it requires the agreement of the bride's male guardian [m3.4, *Traveller*].

The husband enjoys an elevated status in sharia marriages, scholars say, based on this Quran verse:

“Men are in charge of women by [right of] what Allah has given one over the other and what they spend [for maintenance] from their wealth.”

Quran 4:34 (Surah An-Nisa - The Women)¹

Divorce—Under sharia law, a man may divorce his wife by simple verbal declaration and cast her out of the home with nothing. A woman, however, must petition and plead her case for divorce before a council, which may or may not grant her a divorce from her husband.

“Due to the financial responsibilities which he has to bear, the right to divorce in Islam is primarily given to the husband.”

Islamic Sharia Council, London²

Sharia Marriage — Husband's Rights

A husband has the right to have more than one wife (polygamy), may use captured female slaves for his sexual gratification, and may marry pre-pubescent girls.

In a sharia marriage, the husband is entitled to these basic rights:

- obedience from his wife (*"But those [wives] from whom you fear arrogance - [first] advise them, [then if they persist], forsake them in bed; and [finally] strike them"* [Quran 4:11].)
- sexual submission—the wife is forbidden to refuse sex to her husband under any circumstances
- 'home rule'—the wife is not permitted to have anyone in his house that her husband does not like
- wife's home confinement—the wife is not permitted to leave the house without her husband's permission
- service—wife to serve her husband by preparing his meals and undertaking other household chores

"Conditions that Entitle a Wife to Support"

"The husband is only obliged to support his wife when she gives herself to him or offers to, meaning she allows him full enjoyment of her person and does not refuse him sex at any time of the night or day.

She is not entitled to support from her husband when:

- (1) she is rebellious even if for a moment;*
- (2) she travels without his permission, or with his permission but for one of her own needs;*
- (3) she assumes ihram [i.e., pilgrim sanctity] for hajj or 'umra; or*
- (4) when she performs a voluntary fast without her husband's permission."*

[m11.9, Traveller]

Must a Wife Always Obey Her Husband?

% of Muslims who completely or mostly agree that a wife must always obey her husband



^ Interviews conducted with Muslims in five southern provinces only.

PEW RESEARCH CENTER Q78.(2013)

Sharia Marriage — Wife's Rights

A wife may not have more than one husband, and the punishment for adultery by a married woman is death by stoning.

A sharia wife's basic rights are:

- financial maintenance & residence — the husband must provide her food, drink, clothing, general care, and a suitable home
- kindness
- patience & tolerance — the husband *"must make allowances for women's nature, which is obviously different from that of men"* ["Marriage in Islam"]
- spending the night with her at least once every four days
- defending her honor
- fulfilling conditions stipulated in their marriage contract

Sharia Divorce — Husband

Under sharia, a husband may divorce his wife (*'talaq'*) by simply declaring, verbally or in writing, that he divorces her. Although it is not necessary, Sharia Councils recommend this be done in the presence of two witnesses.

Following the husband's pronouncement of divorce, he must allow her to remain in the home, untouched, for a period of three months (*'iddat'* or three menstrual cycles), for the divorce to become final. At that time, the divorced wife must leave the matrimonial home immediately.

During the *'iddat'*, the husband has the prerogative to take his wife back by declaration or sexual relations. However, after three divorce pronouncements on three different occasions, he may not take her back again without her intervening marriage to another man.

Custody of children generally age six and older is awarded to the husband. Children under age six are awarded to the divorced wife, although the husband has daytime custodial rights for the children's religious training.

Upon final divorce, the husband no longer has a financial obligation to support the divorced wife.

Sharia Divorce — Wife

A wife may divorce her husband (*'khula'*) either (a) with her husband's consent, or (b) by successfully petitioning a Sharia Court to dissolve the marriage contract.

The most common grounds for divorce are physical, financial, or emotional harm from the husband.

Upon final divorce, the wife must leave the family home immediately, return the marriage dowry (*'mahr'*) if given one by her husband, and lose custody of children age 6 and over.

Wives Vulnerable & Dependent

By patriarchal design, women in sharia marriages are not co-equal partners; rather women are vulnerable and utterly dependent upon the day-to-day benevolence of their husbands for their basic daily needs of food, clothing and shelter.

Without personal income or independent pre-marital wealth, a sharia wife may feel extraordinary pressure to endure emotional and physical abuse from her husband knowing that, if she divorces, she will receive no financial or material support from him.

Worse, the divorced wife may not find support from her blood family either, since divorce is often viewed as shameful to her blood family's honor.

Sharia's Dress Code

Democracy's Public Dress Code

versus

Sharia's Public Dress Code

In Western democratic societies, women are free to wear the clothing of their choice, whether a hijab or a bikini. If societal laws governing public attire are enacted, they generally must apply equitably to both males and females.

In sharia-governed societies, women are expected to cover their body, hair, and in the extreme, their face to avoid arousing desire in men other than their husband.

Sharia's dress code finds its authority in Islam's Quran (33:59): "O Prophet! Tell your wives and daughters and the believing women that they should draw over themselves their jilbab [outer garments] [when in public]; this will be more conducive to their being recognized [as decent women] and not harassed." ³

Women who break sharia's dress code often face more than harassment.

In Iran, Muslim and non-Muslim women are subject to Iran's Islamic Penal Code (1991), which states, "women who appear in public without a proper hijab should be imprisoned from ten days to two months or pay a fine of 50,000 to 500,000 Ryal." ⁴

In December 2016, a Saudi Arabian woman was arrested after tweeting a photo of herself in public without the required hijab (head covering) and abaya (cloak covering).

What Style of Dress is Appropriate for Women in Public?

% who say woman is dressed most appropriately



	Woman 1	2	3	4	5	6
Tunisia	1%	2%	3%	57%	23%	15%
Egypt	1%	9%	20%	52%	13%	4%
Turkey	0%	2%	2%	46%	17%	32%
Iraq	4%	8%	32%	44%	10%	3%
Lebanon	2%	1%	3%	32%	12%	49%
Pakistan	3%	32%	31%	24%	8%	2%
Saudi Arabia	11%	63%	8%	10%	5%	3%
MEDIAN	2%	8%	8%	44%	12%	4%

Source: the Middle Eastern Values Study, University of Michigan Population Studies Center

Sharia-Inflamed Harassment Spreads West

Males instilled in sharia's patriarchal system have become outraged at Western-dressed women in Western societies, perceiving the women to be immoral and deserving of sharia-permissible public harassment, sexual molestation, rape, or even death.

Following the 2015 mass migration of predominantly Muslim refugees from African, Asian, and Middle Eastern nations into Europe, harassment and sexual assault of European women exploded. In Cologne, Germany, according to official reports, an estimated 2,000 men harassed, groped, sexually molested, or raped Western women on New Year's Eve in 2015.

By early 2016, documented migrant assaults in Sweden, Finland, Germany, Austria, and Switzerland caused fears of rape to spread as European women were warned not to go out alone at night.

Denmark reported a 196 percent increase in rapes, according to a 2017 Ministry of Justice report, with *"a clear overrepresentation of immigrants from non-western countries when looking at the statistics of convicted rapists."*⁵ Sweden reported that 92 percent of violent rapes were committed by migrants and refugees.

Fatal assaults against women in Western dress have also occurred in Europe. In southern France, a 37-year-old Moroccan man stabbed 3 girls (ages 8, 12, and 14) and their 46-year-old mother in a resort village in the Hautes Alpes region because he believed the young girls, dressed in shorts and T-shirts, were "inappropriately dressed."

Culture Clash

NORWAY OFFERS MIGRANTS COURSES IN RESPECTING WOMEN

Norway is offering asylum seekers courses in how to interpret morals in a country that may seem astonishingly liberal to them.

It is hoped the course will help prevent violence against women.

Questions are also being raised about how to integrate men from patriarchal societies into Europe, where women dress skimpily, drink alcohol and party.

'Our aim is to help asylum seekers avoid mistakes as they discover Norwegian culture,' explained Linda Hagen of Hero, a private company that runs 40 percent of Norway's reception centres for asylum seekers.

'There's no single cultural code to say what is good or bad behaviour because we want a free society,' she said.

'There has to be tolerance for attitudes that may be seen as immoral by some traditional or religious norms.'

Source: UK Daily Mail, 2016

Sharia Honor Violence

Very few statistics are available on honor violence in the U.S., since such crimes are often categorized simply as domestic violence. However, most victims of honor violence are young women, and several factors set honor violence apart from domestic violence: religious coercion/motivation; multiple family perpetrators who don't view their actions as criminal; and victims shunned—not supported—by their family.

A 2016 Honor Violence Measurement Study prepared for the Department of Justice identified four types of honor violence:

1. **Forced marriage**—the victim is forced to marry by a threat of violence from her family.

2. **Honor-based domestic violence**—the family perceives its honor threatened by the victim's behavior, which can include defying parental authority, becoming too westernized, rejecting or abandoning a marriage, or abusing drugs or alcohol. In upstate New York, 19-year-old Fauzia Mohammed survived being stabbed 11 times by her older brother for wearing "immodest clothing."

3. **Honor killing**—the victim is murdered in a pre-planned family-arranged killing to repair the dishonor the victim brought on the family. Under sharia, "*retaliation is obligatory against anyone who kills a human;*" however, "*not subject to retaliation*" is "*a father or mother for killing their offspring, or offspring's offspring*" [o1.1, o1.2(4), *Traveller*].

4. **Female Genital Mutilation (FGM)**—the victim has all or part of her external female genitalia removed to uphold the family honor by preserving the female's virginity until marriage and controlling her sexuality before and after marriage.

Female Genital Mutilation (FGM)

Under sharia, circumcision is obligatory for men and women [*"... for women, removing the prepuce of the clitoris..."* e4.3, *Traveller*].

World health professionals refer to female cutting as Female Genital Mutilation (FGM).

It is a barbaric practice that has no health benefits for women and can lead to recurrent infections, urination and menstrual disorders, infertility, or fatal bleeding. Most of the young female victims are never publicly known, however, since the practice is usually perpetrated by the victim's family with the aid of like-minded religious health care givers.

The United Nations estimates that over 200 million females living today in 30 African and Middle Eastern countries have undergone the procedure.

Between April 2015 and March 2016, according to government reports, 8,660 cases of FGM were recorded in the United Kingdom.

Although the practice was outlawed in the United States in 1997, more than 500,000 females in the U.S. are estimated to have undergone FGM.

In April 2017, several Detroit, Michigan, physicians were arrested for performing FGM on as many as 100 girls over the course of 12 years. One female physician, Dr. Jumana Nagarwala, is considered a flight risk and has been denied bail. If convicted, she faces life in a federal prison.

Sharia's Handling of Rape

In sharia law, sex outside of marriage is classified as either 'fornication' or 'adultery', and it is a *Hadd*' crime (that is, both the crime and the punishment are spelled out in the Quran):

"The woman and the man guilty of adultery or fornication — flog each of them with a hundred stripes. Let not compassion move you in their case, in a matter prescribed by Allah, if ye believe in Allah and the Last Day: and let a party of the Believers witness their punishment." Quran 24:2 ⁶

Rape is treated as 'fornication' under sharia, and both the rapist **and his victim** are subject to punishment.

Moreover, Sharia Courts' investigative and trial procedures in rape/fornication cases are not uniform, and procedures may further vary depending upon whether the female victim is a believer or a non-believer.

The United Nation's *Convention on the Elimination of All Forms of Discrimination Against Women* (CEDAW)—in force since September

ISIS Enshrines a Theology of Rape

Viewed as the most fundamentalist of Islamic Sharia followers, the Islamic State (ISIS) claims Quran approval for the rape of non-Muslim women and girls. "The systematic rape of women and girls from the Yazidi religious minority has become deeply enmeshed in the organization and the radical theology of the Islamic State in the year since the group announced it was reviving slavery as an institution," reported the New York Times.

Using it as a recruiting tool, ISIS developed "sales contracts notarized by the ISIS-run Islamic courts" for marketing captured Yazidi Christians as sex slaves in conquered regions of Iraq and Syria.

—"ISIS Enshrines a Theology of Rape," New York Times, Aug. 14, 2015

3, 1981—today has 99 nation-state signatories. A 2015 statement by *Human Rights Now* (a non-governmental advocacy organization) on legal provisions regarding adultery and rape to the UN General Assembly suggests customary sharia-based legal processes are hard to change:

"Under this convention, state parties agreed to ensure gender equality and end gender-based discrimination. Article 2(g) of CEDAW obliges state parties to repeal all national penal provisions that constitute discrimination against women. However, many states, including many state parties of CEDAW, have failed to implement the domestic legislation and enforcement reforms necessary to comply with this obligation...

"Many states also use custom-based courts in their legal systems. These courts worsen the situations of women accused under adultery and fornication laws or women who were victims of rape. Such practices seriously violate women's rights under international law and they work as an effective tool to control the lives of women." ⁷

Human Rights Now cites this example of inequitable treatment of women and men: Under Maldives' sharia law, an unmarried pregnant woman could be punished by public flogging even without witnesses to her sexual act. However, a man accused of rape still cannot be convicted—even with solid forensic evidence—without his confession or sufficient third-party witness testimony.

As an example of progress, Pakistan passed the *Protection of Women (Criminal Laws Amendment) Act of 2006* requiring rape cases to be brought under the Pakistan Penal Code, not under sharia law. The Pakistani legislature went further in 2011, passing the *Prevention of Anti-Women Practices Bill* to criminalize acts committed against women in the name of traditional practices.

Sharia Courts & Councils

Secular Courts

versus

Sharia Courts

In Western societies, secular courts arbitrate and adjudicate disputes, and they apply the same laws equitably to all—males and females alike.

In sharia-governed societies, religious courts arbitrate and adjudicate disputes, and they apply sharia law according to the jurisprudence of the particular Islamic sect that developed it. All sharia jurisprudence, however, originates from the same Islamic religious authority.

Sharia Councils, or Courts, have been permitted in some Western nations to arbitrate and adjudicate intrafaith family and financial disputes within the Muslim community.

Sometimes called a “parallel legal system,” Sharia Councils represent the greatest threat to women’s equality in Western societies, since they permit Muslim women to be treated inequitably—that is, by sharia religious standards rather than democratic civil standards—in Western societies.

Great Britain’s Experience

Permitted in Great Britain since the 1980s, Sharia Councils have no enforcement powers, and their rulings have no legal standing. Instead they rely solely on the religious weight of their rulings within the Muslim community—a weight that is heavily discriminatory to women, particularly in the areas of marriage, divorce, custody, and inheritance.

Following growing reports of discriminatory practices against women, Prime Minister Theresa May launched a government inquiry into Sharia Councils in May 2016. Britain’s Home Affairs Committee

followed with an inquiry of its own and has been taking testimony.

British officials now face surprising pushback from an unexpected source: Muslim women. They argue that sharia wives—i.e., women who signed a religious contract in an Islamic marriage—would have no way to terminate that religious contract if Sharia Councils are abolished.

Other Western Nations

Other nations have moved to prevent what some referred to as “sharia creep” in their legal systems.

Canadian officials explicitly banned sharia law in Quebec in a unanimous vote of the National Assembly in 2005. In 2006, the province of Ontario, Canada, banned arbitration of family law disputes under any body of laws except Ontario law.

Recognizing that all women in America deserve to have equal legal protections, several states in the U.S. in recent years have considered or enacted legislation to bar judges from applying foreign laws if doing so would violate fundamental human rights protected by U.S. and state constitutions.

Did You Know?

- If a man rapes a woman, *she* is considered to have dishonored herself and her family under sharia law. But if she *marries* her rapist, the dishonor to herself and her family is removed.
- A woman’s testimony is worth half that of a man’s in property disputes; if testimony concerns marriage or legal penalties, then only male witnesses may testify [Quran 2:282; *Traveller* o24.7, o24.8].
- A daughter receives 1/2 of a son’s share of inheritance from a parent [Quran 4:11].
- Widows (women) receive only a 1/4 share of the husband’s estate if there are no children, while widowers (men) receive a 1/2 share of the wife’s estate if there are no children [L6.3, L6.4, *Traveller*]. “None of the economies in the Middle East and North Africa, except Malta, grant widows the same inheritance rights as widowers,” noted a 2015 World Bank Group report.
- Under sharia, creating any pictures or images is forbidden. “Every maker of pictures will go to the fire, where a being will be set upon him for each picture he made, to torment him in hell” [p44.1(1), *Traveller*].
- Under sharia, wigs and tattoos are forbidden. “Allah curse women who wear false hair or arrange it for others, who tattoo or have themselves tattooed, who pluck facial hair or eyebrows or have them plucked...” [p59.1, *Traveller*]
- Prior to 2006, a rape victim under sharia law in Pakistan was guilty of adultery unless she produced four male witnesses to the rape assault. With the enactment of Pakistan’s *Protection of Women Act of 2006*, rape cases must now be brought under the Pakistan Penal Code rather than sharia law.

A Word About “Islamophobia”

Some label any criticism of sharia as Islamophobia. It is not. As French philosopher Pascal Bruckner recently noted, “*With its fluid meaning, the word ‘Islamophobia’ amalgamates two very different concepts: the persecution of believers, which is a crime; and the critique of religion, which is a right*” in Western societies.

Americans who oppose sharia law neither fear or hate Islam, nor seek to persecute its believers. Rather, they reject Islamic sharia in favor of their own secular Constitution and Bill of Rights as the sole law of the land.

Others brand opposition to sharia as “silly.” In a June 2017 *New York Daily News* op-ed entitled, “*The Silly American Fear of Sharia*,” Kuwaiti American Sufi cleric and activist Feisal Abdul Rauf argued,

“...nobody in the United States should be worried about the incorporation of Islamic law, sharia, into the legal system or should be protesting it. ... Let’s be clear: America could never have state-sanctioned religious courts.”⁸

No doubt British citizens believed there could never be state-sanctioned religious courts in Great Britain, but Sharia Councils—which are unquestionably unique religious courts for Islamic believers only—now exist in England to the detriment of many women and girls living there.

Imam Rauf ended his article asking why there couldn’t be “*a safe, protest-free path for sharia*” in the U.S.

It is not coincidental that Imam Rauf used the term, “*path for sharia*,” in his argument to allow sharia law to influence American jurisprudence.

A 2014 Council on Foreign Relations’ (CFR) report, “*Islam: Governing Under Sharia*,” provides this background on Sharia law and the “*movement to allow sharia*” in the West:

*Also meaning “path” in Arabic, sharia guides all aspects of Muslim life, including daily routines, familial and religious obligations, and financial dealings. It is derived primarily from the Quran and the Sunna—the sayings, practices, and teachings of the Prophet Mohammed. Precedents and analogy applied by Muslim scholars are used to address new issues. The consensus of the Muslim community also plays a role in defining this theological manual.*⁹

The report further notes:

*A movement to allow sharia to govern personal status law, a set of regulations that pertain to marriage, divorce, inheritance, and custody, is even expanding into the West. “There are so many varying interpretations of what sharia actually means that in some places, it can be incorporated into political systems relatively easily,” says CFR’s Steven A. Cook. Sharia’s influence on both personal status law and criminal law is highly controversial. ... The debate is growing as to whether sharia can coexist with secularism, democracy, or even modernity... [emphasis added]*¹⁰

At a time when the United Nations is actively seeking to end religious and ancient custom discrimination against women and girls in sharia-governed societies, it would be foolhardy for the U.S. to permit any “path for sharia” in the American legal system.

As with all other religious groups in the U.S., Muslims have a right to embrace their faith. No religious group, including Muslims, however, has a right to carve out for itself and its believers an alternative set of societal governance rules and laws.

Endnotes:

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- 3 “American ‘Fear of Sharia’ is Anything but ‘Silly,’” A. Z. Mohamed, Gatestone Institute, <https://www.gatestoneinstitute.org/10575/sharia-fear>
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- 10 *Ibid*

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