

A few weeks ago in Iran, two men convicted of robbery were sentenced by the Iranian Supreme Court to have four fingers from their right hand amputated, shortly after judicial authorities upheld the selfsame ruling for four men.^{1,2} As Iran is a firm Islamic Republic, this method of amputation is authorized by Sharia, Islamic law, although it remains a relatively rare method of punishment. The Attorney-General of Iran, Mohammad Jafar Montazeri, has aired his grievances with the restricted application of such laws: “unfortunately, so as not to be condemned on human rights issues in the United Nations, we (Iran) have abandoned some of the divine laws.”

In July of 2008, UN Human Rights Council president Doru Costea issued a ruling prohibiting references to Sharia in the chamber.³ The debate leading up to this vote was sparked when an NGO representing human rights attempted to move the council to condemn countries in which women are stoned for alleged adultery, and the practice of female genital mutilation is effected despite calls from various human rights agencies to cease such practices.

Briefly, and ignoring distinctions of scope and application among various implementations throughout different regions, Sharia is law — usually alongside traditional legislation — dictated by Islamic code and arbitrated by muftis who issue fatwa, nonbinding legal opinions. Generally in modern times, the legislative scope of such systems of Islamic law have been relegated to familial matters and disputes, whereas the bulk of the country’s regulations mimic European frameworks.⁴ Some countries have reinterpreted Sharia to modernize the laws therein, whereas other more ardent Islamists have revived the full power of Islamic law, most notably (and brutally) hudud — mandated punishments including capital punishment and amputations.

Most controversial to some, is in countries whose inhabitants are varied in religious belief or practice. For example, apostasy, renunciation of Islamic faith, is punishable by the death penalty in some interpretations of Sharia.⁵ Furthermore, even for non-Muslims who live in Islamic republics or places in which Sharia is a core component of the larger legal system, the secular laws of such a country can be influenced and shaped by Sharia and can pose legal ramifications for those groups. To use LGBT rights as an example: four countries such as Qatar and Syria consider sodomy a criminal activity and punish it with prison sentences, while six other countries including Saudi Arabia and the United Arab Emirates mete the death penalty. In only eight countries is it legal.

Others contend that Sharia is not one system of law, but a flexible corpus of guidelines to be interpreted by religious leaders. Furthermore, the bulk of the laws therein are not proscriptive

¹ <https://iran-hrm.com/index.php/2020/10/08/two-brothers-sentenced-to-amputation-of-four-fingers-in-iran/>

² <https://irannewswire.org/iran-to-cut-off-4-fingers-of-3-young-men-as-punishment-for-theft/>³

<https://unwatch.org/un-decides-islamic-sharia-is-now-taboo/>

⁴ <https://web.archive.org/web/20170202054116/http://bridgingcultures.neh.gov/muslimjourneys/items/show/226>

national codes with harsh punishments ascribed, but religious prescriptions outlining personal religious observance.⁶ Additionally, prohibiting Sharia would be a form of religious suppression, no different than making the Jewish legal system of Halakha illegal. Purveyors of strict Islamic law also claim that punishments such as amputation are most effective at curbing theft.

In some regions such as Canada's Quebec (Quebec has a large Muslim population), there are explicit laws banning Sharia. In other countries, religious tradition cannot be the source of a law that applies unilaterally; in the United States this is mandated by the Establishment Clause of the United States Constitution. However, in the United States if two parties consent they may settle their dispute within the boundaries of their religion due to the Federal Arbitration Act of 1925. America, therefore, is an example of a middle ground. And obviously, states such as Iran are almost completely operated by Sharia or Islamic-influenced code.

Consider the following when researching and forming opinions on this topic:

1. Is it suppression of religion to prohibit Sharia outright? Or is it suppression to allow Sharia to be enforced? Consider Article 18 of the United Nations' Universal Declaration of Human Rights:
"Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance."
2. Is there a difference between general rules governed by Sharia and Hudud (God-defined punishments, including crucifixion and death)? How could distinctions be formed and formulated?⁷
3. In general, is it ethical to have laws dictated by religion or divine authority in a modern era defined by secular reasoning and legal rationale?
4. What would the scope of such regulations be? Is it subjective on a per-country basis? Who gets to decide definitions?
5. What strategies should the Middle East as a region employ to ensure that whatever policies are decided-upon are upheld by its recalcitrant neighbors?

It is noteworthy for me to mention that while I attempted to give a survey and overview of Sharia, obviously it is both incomplete and makes many assumptions and generalizations; it would be impossible to condense such a complex and nuanced topic into a few short paragraphs

⁶ https://www.americanprogress.org/wp-content/uploads/issues/2011/03/pdf/sharia_law.pdf

⁷(Warning: dense)

<https://web.archive.org/web/20141030223449/http://www.pewforum.org/files/2013/04/worlds-muslims-religion-politics-society-full-report.pdf>

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Middle East Summit

Topic: Sharia in the Modern Middle East

— this is intended as a jumping-off point from which you can begin your own exploration and analysis. I would also like to urge you all that it is of the utmost import to avoid racist and xenophobic tendencies when composing your topic paper, debating this issue, or are otherwise engaged in political discourse (or anytime, for that matter). And lastly, remember that you are representing your country's position, not your own.

Please bear in mind the rules set forth in the YUNMUN Student Handbook especially as they relate to plagiarism and academic integrity; all papers will be scanned for originality by Turnitin to detect plagiarism.

Feel free to contact me — bzuckier@mail.yu.edu — if you have any questions relating to this topic, the conference as a whole, or anything at all. I am really excited to hear all of your opinions and see your creativity, both in your topic papers and during the conference itself.

Best,

Ben Zuckier

Chair, Middle East Summit

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