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Medieval

Islamic law observed in the West

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San Mateo County Times

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Sharia is observed in most Muslim countries, but expanding in the West.

Known as Islamic law, it is a set of regulations that pertain to marriage, divorce, inheritance and custody.

When a crime is committed, Sharia is used to justify cruel punishments such as amputation and stoning, as well as the unequal treatment of women in inheritance, dress and independence.

The debate has reached the United States as to whether Islamic law can coexist with secularism, democracy and the modern world.

First, here's a little history: Sharia is primarily derived from the Quran and the Sunna — the sayings, practices and teachings of the Prophet Muhammad.

Muslims scholars collect the hadith, or enactment of the Prophet. The literature is developed into the Sunni schools, Hanbali, Maliki, Shafi'i, Hanafi; and the Shiite school, Ja'fari.

These five schools of thought engulfed the whole Islamic empire. Even today they have a very distinctive impact on the everyday life of a Muslim — religious or secular.

While flogging, stoning, amputation, exile, or executions are not enforced, they remain on the books. Now, in modern times, Islamic societies are greatly influenced by Western laws and secularism.

The majority of Muslims feel that democracy has a basis in the Quran since "mutual consultation" among the people is commended (42:38 Quran).

Many Muslim countries have a dual system in which the government is secular, but Muslims can choose to bring familial and financial disputes to sharia courts. The exact jurisdiction of these courts varies from country to country, but usually includes marriage, divorce, inheritance, and guardianship.

Western countries are also exploring the idea of allowing Muslims to apply Islamic law in familial and financial disputes.

In 2008, Britain officially allowed Sharia tribunals to make legally binding decisions if both parties agreed.

The new system is in line with separate mediation allowed for Anglican and Jewish communities in England.

Criminal law remains under the gavel of the existing legal system. "There is no reason why principles of Sharia law, or any other religious code, should not be the basis for mediation," said Britain's top judge, Lord Nicholas Phillips.

In Muslim countries where Islam is the official religion listed in the constitution — Saudi Arabia, Kuwait, Bahrain, Yemen and the United Arab Emirates — Sharia is declared to be a source, or the source, of the laws.

In Pakistan, Egypt, Iran, Iraq, and others, it is forbidden to enact legislation that is antithetical to Islam.

Saudi Arabia employs one of the strictest interpretations of Sharia. Women are not allowed to drive, they are under the guardianship of male relatives at all times, and must be completely covered in public.

Elsewhere, governments are much more lenient. Non-Muslims are not expected to obey Sharia and, in most countries, they are the jurisdiction of special committees and adjunct courts under the control of the government.

In these Muslim countries — Azerbaijan, Tajikistan, Chad, Somalia, and Senegal — government is secular in the constitution. Islamist parties occasionally run for office in these areas and Sharia often influences local customs.

In Turkey, there is a general consensus to bring the modernized version of the Sharia. Turks who want to be secular in politics also want a balance between Islam, democracy, secularism and modernism.

Change will take some time.

Iftekhar Hai is president of United Muslims of America Interfaith Alliance and a resident of South San Francisco.

Next Week: Michael O'Berg

**This was my original article before editing done by the editors of the San
Mateo Times
Sharia, Islamic Law
By Iftekhhar Hai**

Sharia, or Islamic law is observed in most Muslim countries. Usually it pertains to a set of regulations that pertain to marriage, divorce, inheritance and custody, is even expanding into the West. "There are many variations of Sharia laws. The criminal laws are used to justify out-moded punishments such as amputation and stoning as well as unequal treatment of women in inheritance, dress, and independence. The debate has reached USA as to whether Sharia can coexist with secularism, democracy, or even modernity.

Sharia is derived primarily from the Quran and the Sunna--the sayings, practices, and teachings of the Prophet Mohammed.

Muslims scholars collected what is known as the *hadith or enactment of Prophet*. *Hadith* literature developed into Sunni schools, Hanbali, Maliki, Shafi'i, Hanafi; and the Shiite school, Ja'fari.

These five schools of thought engulfed the whole Islamic empire and even today they have a very distinctive impact on the everyday life of a Muslim, religious or secular.

In most cases --flogging, stoning, amputation, exile, or execution are not enforced although they remain on the books from the days of monarchy.

In modern times Islamic societies have been greatly influenced by Western laws and Secularism. Majority of Muslims feel that democracy has a basis in the Quran since "mutual consultation" among the people is commended (42:38 Quran).

Many majority Muslim countries have a dual system in which the government is secular but Muslims can choose to bring familial and financial disputes to Sharia courts. The exact jurisdiction of these courts varies from country to country, but usually includes marriage, divorce, inheritance, and guardianship.

Western countries are also exploring the idea of allowing Muslims to apply Islamic law in familial and financial disputes. In late 2008, Britain officially allowed Sharia Tribunals governing marriage, divorce, and inheritance to make legally binding decisions if both parties agreed. The new system is in line with separate mediation allowed for Anglican and Jewish communities in England.

Criminal law remains under the gavel of the existing legal system. "There is no reason why principles of Sharia law, or any other religious code, should not be the basis for mediation" said Britain's top judge, Lord Nicholas Phillips.

In those Muslim countries where Islam is the official religion listed in the constitution, Sharia is declared to be a source, or the source, of the laws. Examples include Saudi Arabia, Kuwait, Bahrain, Yemen, and the United Arab Emirates, where the governments derive their legitimacy from Islam.

In Pakistan, Egypt, Iran, and Iraq, among others, it is also forbidden to enact legislation that is antithetical to Islam.

Saudi Arabia employs one of the strictest interpretations of Sharia. Women are not allowed to drive, are under the guardianship of male relatives at all times, and must be completely covered in public. Elsewhere, governments are much more lenient, as in the United Arab Emirates, where alcohol is tolerated.

Non-Muslims are not expected to obey Sharia and in most countries, they are the jurisdiction of special committees and adjunct courts under the control of the government.

Muslim countries where the government is declared to be secular in the constitution include Azerbaijan, Tajikistan, Chad, Somalia, and Senegal. Islamist parties run for office occasionally in these countries and Sharia often influences local customs.

In Turkey too there is a general consensus to bring the modernized version of the Sharia. Turks who want to be secular in politics also want a balance between Islam, democracy, secularism and modernity. Some changes are in the wings but it will take some time.

Under Taliban's rule the version of Sharia is totally mixed with tribal laws - full of male dominated interpretation. Women and people of other faiths are treated as it was in medieval times. It is far away from the actual teachings of the Quran and is opposed by Muslims globally.

Islamic banking is growing at the rate of 15% annually – but they are far behind Western banking. The major point in Islamic banking is the charging of usury. Muslims say that religiously speaking, Judaism and Christianity also are against the modern “usury laws” governing the Western Banking system.

I see, in the future something like “Abraham Banking” will evolve where investments in speculative practices will cease and more Sharia-compliant investments will increase. Investments in Halal and Kosher products will increase.

Also where interest would mean reimbursement of loan based on inflationary rates. This way the lender truly gets its money back and the borrower is not burdened multiple times when borrowing money for business enterprise.

Global economic realities are forcing big banks like Citigroup, HSBC and Deutsche Bank into Sharia-compliant investments. Islamic businesses are required to avoid transactions related to forbidden products, such as weapons, alcohol, tobacco, gambling, pornography, pork etc. Investors are guaranteed that their money won't end up financing those industries.

Governments are also looking to get a piece of the pie: Malaysia is the largest issuer of Sharia-compliant bonds and Indonesia launched its own in January 2009.

I see the change coming rather slowly.

Iftekhhar Hai is president of UMA Interfaith Alliance and lives in South S.F. CA.