



Knowledge Exchange Program

An **Exploration &**
Explanation
of **Sharia**

Higher Committee for program

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Speech by H. H Sheikh Saleh bin Abdul Aziz bin Mohammed Al Al Sheikh, Minister of Islamic Affairs, Endowments, Da'wah & Guidance,

General Supervisor of Knowledge Exchange Program

Praise be to Allah and prayers and peace be upon Allah's Prophet, Mohammed bin Abdullah, his family and companions. Calling for Allah, revealing the truth and refusing falsehood are included in the great mission assigned by Allah to Allah's greatest creating i.e. prophets and messengers, may Allah's peace be upon them and their followers. Almighty Allah once said, "And who is better in speech than him who prayeth unto his Lord and doeth right, and saith: Lo! I am of those who surrender (unto Him)" Surat Fussilat, Verse 33. The Ministry of Islamic Affairs, Endowments, Da'wah and Guidance is honored by being appointed by the Government of King Abdullah bin Abdul Aziz, The Custodian of the Two Holy Mosques, may Allah protect him, to fulfill, inter alia, this great mission. In continuance of efforts of the Ministry's Knowledge Program to communicate the followers of all other religions and civilizations and explaining Islamic facts to them, this set of books concerning the subjects of jihad, shari'a, woman, ethics and life in Islam. Due to the importance of such subjects, being the core of several questions and ambiguity, these publications came to handle the misunderstanding of such concepts. I pray to Allah this program will be useful and be one of the means of communication with the followers of all other religions and civilizations to explain the fact of Islam to them without exaggeration or default in order to achieve the understanding based on facts and fair based co – existence.

Finally, I would like to thank the program executive commission presided by **Dr. Abdullah bin Fahd Al Lohaidan** and the Consulting Tribunal for their work of producing these guiding manuals and I pray to Almighty Allah that the reader shall find his desired knowledge since knowledge, if properly grounded, is the base of all good.

"Allah's Peace, Mercy and Blessing be upon you."

**Saleh bin Abdul Aziz bin Mohammed Al Al Sheikh
Minister of Islamic Affairs, Endowments, Da'wah and Guidance**

Organizational Structure

His Eminence Shaikh Saleh Abd al-Aziz Al Al-shaikh, the Minister of Islamic affairs, Endowments, Da`wa and Guidance -- General supervisor.

Dr / Abdullah Ibn Fahd Al-Lhaidan / Executive Supervisor.

Dr / Adel ibn Ali Alshddi -- Member

Shaikh Abdullah ibn Saleh Al Al-shaikh -- Member

Mr / Khalid Almoshoh -- Member

Dr / Zeid Ad-Dkkan -- Member

Mr / dakhel abdulrahman al fonisan executive secretary

Advisory body:

Dr / Khalid Abalhassan

Dr / Mahmoud Moneer

Dr / Mohammed Bn Awad Al-Hart

Introduction

Sharia is now a familiar term to Muslims and non-Muslims. It can often be heard in news stories But what does Sharia mean?

In Arabic, Sharia means “the clear, well-trodden path to water.” Islamically, it is used to refer to the matters of religion that God has legislated for His servants. The linguistic meaning of Sharia reverberates in its technical usage: just as water is vital to human life, so the clarity and uprightness of Sharia is the means of life for souls and minds.

All aspects of a Muslim’s life are governed by Sharia. Sharia law comes from a combination of sources including the Qur’an (the Muslim holy book), the Hadith (sayings and conduct of the prophet Muhammad) and fatwas (the rulings of Islamic scholars). Many people, including Muslims, misunderstand Sharia. It’s often associated with the amputation of limbs, death by stoning, lashes and other punishments. Because of this, it is sometimes thought of as draconian. Some people in the West view Sharia as archaic and unfair social ideas that are imposed upon people who live in Sharia-controlled countries.

Many Muslims, however, hold a different view. In the Islamic tradition Sharia is seen as something that nurtures humanity. They see the Sharia not in the light of something primitive but as something divinely revealed. In a society where social problems are endemic, Sharia frees humanity to realize its individual potential.

The straight Path

“For each We have appointed a divine law and a traced-out way. Had God willed, He could have made you one community. But that He may try you by that which He has given you. So vie one with another in good

works. Unto God you will all return, and He will then inform you of that wherein you differ.” Qur’an, 5:48

For Muslims, life did not begin at birth, but a long time before that. Before even the creation of the first man. It began when God created the souls of everyone who would ever exist and asked them, “Am I not your Lord?” They all replied, “Yes.”

God decreed for each soul a time on earth so that He might try them. Then, after the completion of their appointed terms, He would judge them and send them to their eternal destinations: either one of endless bliss, or one of everlasting grief.

This life, then, is a journey that presents to its wayfarers many paths. For Muslims, only one of these paths is the straight. This path is the Sharia.

Divine guidance

Throughout history, God has sent messengers to people all over the world, to guide them to the straight path that would lead them to happiness in this world and the one to follow. All messengers taught the same message about belief, but the specifics of the divine laws varied according to the needs of their people and time. Sharia represents the ultimate manifestation of the divine mercy:

“Today I have perfected your way of life for you, and completed My favor upon you, and have chosen Islam as your way of life.”

The Prophet himself was told “We have only sent you as a mercy for all creation.”

Legal rulings

The Sharia regulates all human actions and puts them into five categories: obligatory, recommended, permitted, disliked, and forbidden.

Conclusion

The duty of an Islamic state is to promote the right and forbid the wrong. The state is responsible for the welfare of all its citizens - Muslims and non-Muslims alike. It must guarantee the basic necessities of life. All citizens of the Islamic state shall enjoy freedom of belief. Every citizen shall be free to develop his potential and improve his capacity.

The Islamic state shall ensure a fair distribution of wealth.

There is not a single perfect Islamic state in the world. There are many Muslim models. An Islamic state is based on the model of Prophet Muhammad’s state in Madinah while a Muslim state is one which has a majority Muslim population and some Islamic features.

However, organized efforts have been going on in many Muslim countries to establish truly Islamic states. Saudi Arabia, Pakistan, Malaysia and Egypt and other countries have been working for the establishment of God law.

Let us pray and hope that Muslims states will emerge and guide the world towards justice, fairness and peace.

Imagine a society where there is a sense of security. There would be no need to turn over your shoulder when walking the streets at night for fear of being assaulted, and no need to buy extra door locks for fear of being burgled. This is no fantasy - indeed it has been the case for centuries in many Islamic states.

Furthermore, Islam in its judiciary, upholds values that are downtrodden in society, for example honor. In Islam accusing someone of adultery is a punishable offense, whereas for newspapers today it is a source of revenue.

Sharia and Foreign Policy

Islam has its own unique view about foreign policy. The Khilafah's or Imam (leader of Islamic state) dealings with other states is not on the basis of securing 'national interests' as per Lord Palmerston's dictum. Rather its sole interest is to free man from slavery to another man, and look for the "common interest"

Obligatory actions must be performed and when performed with good intentions are rewarded. The opposite is forbidden action. Recommended action is that which should be done and the opposite is disliked action. Permitted action is that which is neither encouraged nor discouraged. Most human actions fall in this last category.

The ultimate worth of actions is based on intention and sincerity, as mentioned by the Prophet, who said, "Actions are by intentions, and one shall only get that which one intended."

Life under Sharia

Sharia covers all aspects of human life. Classical Sharia manuals are often divided into four parts: laws relating to personal acts of worship, laws relating to commercial dealings, laws relating to marriage and divorce, and penal laws.

Legal Principles

God sent prophets and books to humanity to show them the way to happiness in this life, and success in the hereafter. This is encapsulated in the believer's prayer, stated in the Qur'an, "Our Lord, give us good in this life and good in the next, and save us from the punishment of the Fire." 2:201

Islamic scholars explain that the aim of Sharia is to promote human welfare. This is evident in the Qur'an and teachings of the Prophet. According to scholars the welfare of humans is based on the fulfillment of necessities, needs, and comforts.

Necessities

Necessities are the matters which worldly and religious life depend upon. Their omis-

sion leads to unbearable hardship in this life, or punishment in the next. According to Islam, there are five necessities: religion, life, intellect, lineage, and wealth. These ensure individual and social welfare in this life and the hereafter.

Sharia protects these necessities in two ways: first by ensuring their establishment and second by preserving them as follows:

- To ensure the establishment of religion, God Most High has made belief and worship obligatory. To ensure its preservation, the rulings relating to the obligation of learning and conveying the religion were legislated.
- To ensure the preservation of human life, God legislated marriage, healthy eating and living, forbidding the taking of life and laid down punishments for doing so.
- God has permitted that intellect and knowledge be promoted, and forbidden whatever corrupts or weakens it, such as alcohol and drugs – which He also imposed preventative punishments to keep people away from – because a sound intellect is the basis of the moral responsibility that humans were given.
- Marriage was legislated for the preservation of lineage, and sex outside marriage was forbidden. Punitive laws were put in place in order to ensure the preservation of lineage and the continuation of human life.
- God has made it obligatory to support oneself and those one is responsible for, and placed laws to regulate the commerce and transactions between people, in order to ensure fair dealing, economic justice, and to prevent oppression and dispute.

Needs and comforts

Needs and comforts are things people seek in order to ensure a good life, though they

owners who claimed their right to slavery was based on the Bible.

As for the “violent” verses from the Qur’an that are cited by both extremists and critics of Islam--honest legal interpretation abhors quoting an excerpt as a means to understand the full law. Unfortunately, both extremists and critics refuse to adhere to this basic principle. In sum, Sharia law guides a Muslim’s relationship with God, just as the Old and New Testaments guide Jews and Christians in their relationships with God. These paths to life-giving water are nothing to fear

Islam and the Judiciary

One can expect to see some horrendous punishments in a public display, like cutting the hand of the thief, or the execution of murderers. These indeed are fearful sights, and will take place in open areas, leaving a lasting effect on the hearts and minds of the society; for society will witness the intense suffering of the criminal.

So in future anyone even thinking of committing such a crime will think twice. Even those who did not witness the event in future generations will think twice. For in fact such punishments are not meted out frequently at all, as by their nature they have such a powerful deterrent effect.

Furthermore, it is extremely difficult to cut the hand of the thief, for circumstantial evidence is not sufficient. Thus, the judiciary ensures that there would be no wrongful convictions, which seem more and more to be a sign of our times.

Severe punishments are not the only means to deter crime. Islam tackles the problems from all angles. The economic system secures the needs of people and cuts the want for stealing; the education system, through reminding society of accountability to the Creator, lowering the desire for stealing; and so on. All systems work in harmony.

Q3. If Muslims don't want Sharia to rule, then so what if it's banned?

First, Sharia is relationship between a Muslim and God. The democratic forbids from passing laws that restrict the free exercise of religion-. Second, if Sharia was banned, then American Muslims could not marry, inherit, write wills or choose to divorce per Islam's guidelines. If similar restrictions were imposed for other faith groups, then no Minister could conduct a marriage ceremony, no Catholic Bishop could read the last rites and no Rabbi could perform circumcision on an infant male Jewish child--because these are all Judeo-Christian religious laws. Even within western current legal system, American Jews regularly resolve civil matters through rabbinical courts known as beit din. Muslims simply want to enjoy their human rights.

Q4. What does Sharia say about other religions?

Sharia law champions absolute freedom of conscience and freedom of religion. For example, the Qur'an goes as far as to oblige Muslims to fight on behalf of Jews, Christians and people of other faiths and to protect their churches, synagogues and temples from attack. (22:41) Furthermore, Sharia holds that to be a Muslim, a person must testify to the truth of all past prophets, including Jesus, Moses, Abraham, and must respect their adherents. When Prophet Muhammad peacefully became the ruler of Madinah his primary condition for non-Muslims (and Muslims) to reside in Madinah was that they allow all people of all faiths to worship in peace and without oppression.

Q5. countries that oppress people and claim they follow Sharia?

Such countries have ignored the fundamental tenet of justice inherent in Sharia Law, and have instead used Sharia as an excuse to gain power and sanction religious extremism. In fact, most "Muslim country" in the world are allays with America, because America guarantees freedom of religion, which is a hallmark of Sharia Law. Those nations that oppress in the name of Sharia are as justified in their claims, as the slave

are not essential. The spirit of Sharia with regard to needs and comforts is summed up in the verses "He has not placed any hardship for you in religion," and, "God does not seek to place a burden on you, but that He purify you and perfect His grace upon you..."

Therefore, everything that ensures human happiness, within the spirit of Divine Guidance, is permitted in the Sharia.

How did Sharia start?

The Prophet Muhammad laid down the laws - some of them were direct commands stated in the revelation of the Qur'an, others grew based on the Prophet's own example and the various rulings he gave to cases that occurred during his lifetime. These laws are based on what's called the Sunnah - the Prophet's words, example, and way of life.

So, all the laws of Sharia are based primarily on Qur'an and then on Sunnah, and after that, if there was no information in those two sources, judges were free to use their intelligence to make analogies. As in most legal systems, cases could then be referred to by later judges.

The goals of Shari`ah

The ultimate aim of those who submit to Sharia is to express their submission to their Creator. But Sharia does bring benefit in this world too.

If the legal dimension of the Sharia gives Islam its form, the spiritual dimension is its substance. The Prophet explained spiritual excellence as being, "To worship God as though you see Him, and if you see Him not, know that He nevertheless sees you."

The spiritual life of Islam is a means to a realization of faith and a perfection of practice. It is to seek the water that the Sharia is the clear path to, water that gives life to souls longing for meaning.

It is this spiritual life, at its various levels, that attracts Muslims to their religion, its way of life, and to the rulings of Sharia.

Sources of the Sharia

The primary sources of the Sharia are the Qur'an and the Sunnah.

The Qur'an

Muslims believe that the Qur'an was revealed to the Prophet peace upon him gradually, over 23 years. The essence of its message is to establish the oneness of God and humanity's spiritual and moral need for God. This need is fulfilled through worship and submission, and has ultimate rewards in the Hereafter.

The Qur'an is the word of God. Because of its inimitable style and eloquence, and, above all, the guidance and legal provisions it came with, ensures the worldly and next-worldly welfare of humanity.

God Most High said, "There has come unto you light from God and a clear Book, whereby God guides those who seek His good pleasure unto paths of peace. He brings them out of darkness unto light by His decree, and guides them unto a straight path." 5:15

The Sunnah

The Prophet's role was expounded in the Qur'an – "We have revealed the Qur'an to

ingrained in Abrahamic tradition. Islamic Sharia is comprised of five main branches:

- adab (behavior, morals and manners)
- ibadah (ritual worship)
- i'tiqadat (beliefs)
- mu'amalat (transactions and contracts)
- and 'uqubat (punishments)

These branches combine to create a society based on justice, pluralism and equity for every member of that society.

Furthermore, Sharia forbids that it be imposed on non Muslims.

Additionally, the Qur'an does not promote any specific form of government, but requires that the form people choose must be based on adl or "absolute justice." The Qur'an says:

"Verily, Allah enjoins justice, and the doing of good to others; and giving like kindred; and forbids indecency and manifest evil and transgression." (16:91)

Q2. Do Muslims want Sharia to rule non-Muslim countries?

No. Sharia is a relationship between Muslim with his God. Prophet Muhammad, even as the de facto ruler of Arabia, wrote the Charter of Medina in which Muslims were held to Sharia Law, and Jews to the Law of the Torah. Not a single non-Muslim was held to Sharia because Sharia itself forbids compulsion. The Qur'an clearly says, "There is no compulsion in religion" (2:257). Furthermore, Sharia obliges Muslims to be loyal to their nation of residence.

The vast majority of women have never worn a burqa,. It is up to the woman what she chooses to wear given it covered her body and does not allow disrespect for her.
Sharia and food

Regarding food, it breaks down to those of haram (banned) and halal (allowed). Alcohol is always haram. All vegetable, fruit, grain and seafood are halal. Meat is halal providing it has been killed in the kindest possible way by a sharp instrument that pierces and kills, with the appropriate prayers said at its death.

Muslims may not eat any food that has been sacrificed to idols, but kosher is fine. They may not eat any pork product or flesh with blood undrained from it; most Muslims will not touch anything that has animal fat included - even a biscuit - in case it is pork lard or gelatin from an animal not killed in the halal manner. If Muslims eat haram food without realizing it (i.e. some butchers 'fake' their halal tickets), they are not held to blame, but judged by their intention.

In cases of necessity, Muslims may eat anything available, even pork, rather than suffer hardship.

Who makes decisions, under Sharia

The specific punishments are decided on by the legal authorities and legal scholars of the land, many of whom have been educated and trained both at home and in the west.

Questions & Answers Regarding Sharia

Q1. What form of Government required by Sharia?

Sharia is the law of Islam and literally means "A path to life giving water.". Sharia is

you that you may explain to people that which was revealed for them" – and this explanation was delivered through the Prophet's words, actions, and example.

Following the guidance and the example of the Prophet was made obligatory ("O you who believe, obey God and obey the Messenger") and the Prophet himself instructed, "I have left two things with you which if you hold on to, you shall not be misguided: the Book of God and my example."

Derived sources

There are three agreed-upon derived sources of Sharia: scholarly consensus (ijma') and legal analogy (qiyas) and public interest (Maslaha).

Scholarly Consensus

The basis for scholarly consensus being a source of law is the Qur'anic command to resolve matters by consultation: "Those who answer the call of their Lord, established prayer, and whose affairs are by consultation." Scholarly consensus is defined as being the agreement of all Muslim scholars at the level of juristic reasoning (ijtihad) in one age on a given legal ruling. Given the condition that all such scholars have to agree to the ruling, its scope is limited to matters that are clear according to the Qur'an and Prophetic example, upon which such consensus be based. When established, though, scholarly consensus is decisive proof prophet said "my nation will not consensus on wrong" .

Legal Analogy (Qiyas)

Legal analogy (Qiyas) is a powerful tool to derive rulings for new matters. For example, drugs have been deemed impermissible, through legal analogy from the prohibition of alcohol that is established in the Qur'an. Such a ruling is based on the common

underlying effective cause of intoxication.

Legal analogy and its various tools enable the jurists to understand the underlying reasons and causes for the rulings of the Qur'an and Sunna. This helps when dealing with ever-changing human situations and allows for new rulings to be applied most suitably.

Public Interest

Everything that ensures human interest, within the spirit of Divine Guidance, is permitted in the Sharia, and any thing that is proven to be harmful to people is prohibited

What is the authoritative source of Sharia today?

Just the same as outlined above. What is important, however, is that judges are highly educated in Islamic law and jurisprudence, and this is an area where some damage was done during the colonial periods when Islamic schools of law were closed down with a great loss of knowledge and expertise which is only now being repaired slowly. The problem is that it is all too easy for an individual judge to make some pronouncement or invoke some penalty without full knowledge of the background of Sharia and the spirit behind the various laws and penalties.

The Spirit of Sharia

The goal of Shariah to see the will of God done on earth as it is in Heaven. How can we possibly know this will? By study of the revealed scriptures and by choosing talented, intelligent and far-sighted merciful people of excellent character as our judges. The whole principle of God's will is to bring about compassion, kindness, generosity, justice, fairness, tolerance, and care in general, as opposed to tyranny, cruelty, selfishness, exploitation etc. All the rules of Sharia are towards those ends.

Why has Sharia become a synonym for cruelty and lack of compassion?

This is because of two things - ignorance of the reality of Sharia law, and much publicized cases where Muslims in positions of authority have been very poor Muslims, if not non-Muslims in Muslim disguise. For example, 100 years ago we had stories of brutal sultans, and people being rushed to blocks to have their hands cut off. The media picks out certain cases, focuses on them and blows them out of proportion to sell ad space. The Nigerian woman who was in danger of being stoned for adultery is a case in point; she might have been threatened with stoning by irate villagers, but after being taken into custody and judged by Sharia law she was given the opportunity to explain and appeal. In her case, if it is true that she was raped, she would most certainly not be sentenced to death.

Sharia promotes fair treatment of both sexes. In fact, the natural Islamic tendency is to consider women to be in need of care and protection, and comes down hard on the men who allow women relatives to get into difficulties.

Dress

First of all, Sharia does not require women to wear a burqa (the garment covering a woman's entire body and face). In fact there are all sorts of items of dress which are worn by Muslim women, and these vary all over the world. Burqas belong to particular areas of the muslim world, where they are considered normal dress. In other parts of the world the dress is totally different. The rule of dress for women is modesty; in fact the word hijab simply means 'covered'.

Some Muslim women feel that they should cover everything from neck to ankle, and neck to wrist. Others wear a head veil,. Finally, some choose to cover even their faces,.

Murder

Sharia law allows for the death penalty of murderers, but is kinder than western law in one respect - after judicial judgment has been made, appeals are then allowed to the family of the murdered victims, and they are begged to be merciful. In Islam, it is always regarded as the height of mercy to forgive a murderer, even though one have the right to take his/her life in reprisal.

In fact, there are far fewer executions in most Muslim countries than in the United States, for example.

Is Sharia the same in all countries?

The principles are exactly the same in whatever country they are applied, however judges have to take into account the different social customs and norms.

Individual rights vs. the needs of society

Basically in Islam the needs of society always come first, with the proviso that injustices should always be able to be taken to judges who are not corrupt. The old Islamic system allowed any person, no matter how humble, to take his/her case to the highest in the land personally. Islam brings a very strong sense of justice, and care of the oppressed and exploited.

Does Sharia make life easier or harder for the ordinary Muslim?

Much easier for those who strive to live the correct life pleasing to God and in kindness and peace with the neighbor; much harder for the one whom is selfish, callous, cruel, exploitative, dishonest etc. There is virtually no sympathy for such people - unless they really are mentally ill, in which case they are not regarded as culpable in Sharia. All those before the age of puberty, or not of sound mind, are not regarded as culpable.

The usual criticisms of Sharia - that it is cruel as regards execution, flogging and cutting off hands - totally ignores the extenuating circumstances that would lead to these penalties not being applied. They are known as hadd penalties, or the “extreme limit of the penalty.” In Sharia law, if a thief can prove he only stole because of need, Muslim society would be held at fault and made to supply that need, and there would be no hand-cutting.

The motivation, of course, is that the cutting of the hand for theft is a very powerful deterrent. But the Middle East is not full of one-handed people, as any traveler would tell you. Most Muslims have a true fear of dishonor; they would do anything rather than offend God, and they of course believe that God sees every single thing that is done.

Adultery

In the west, adultery has become so commonplace because of sexual freedoms; in Muslim societies, there is far less emphasis on sex - it is usually regarded as a weakness that can lead to all sorts of trouble. Family is far more important.

The penalty for adultery is clear, according to the Qur'an it's 100 lashes, and there were various rules for regulating how lashes were to be given. But the penalty is death if he or she is married.

In some Muslim societies, ignorant judges or populaces have stoned accused adulterers. In fact, Islam makes it virtually impossible to be sentenced to death for adultery: the couple had to be actually seen performing the physical act by four witnesses who were in a position to see the intercourse directly; this virtually ruled out the death penalty, since adultery is generally something not done in public.