

Shariah 101: What is it and why do states want to ban it?

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WASHINGTON (RNS)—North Carolina lawmakers recently approved a bill to prohibit judges from considering “foreign laws” in their decisions, but nearly everyone agrees “foreign laws” really means Shariah, or Islamic law.

North Carolina now joins [six other states](#)—Oklahoma, Arizona, Kansas, Louisiana, South Dakota and Tennessee—to pass a “foreign laws” bill. A similar bill passed in Missouri, but Gov. Jay Nixon [vetoed it](#), citing threats to international adoptions.



Anti-Shariah

demonstrators rally against a proposed mosque near Ground Zero in New York. (RNS Photo courtesy Asterio Tecson)The bills all cite “foreign laws” because two federal courts have ruled that singling out Shariah—as Oklahoma voters originally did in 2010—is unconstitutional.

So what’s the big deal with Shariah?

Many Americans think of Shariah as an Islamic legal system characterized by misogyny, intolerance and harsh punishments. Some anti-Islamic activists warn Muslims are trying to sneak Shariah into the American legal

system in ways that do not reflect U.S. legal principles or beliefs.

Many Muslim Americans insist Shariah is essential to belief, and any harsh punishments or unconstitutional aspects associated with Islamic law either have been exaggerated, abrogated or are superseded by American law.

Muslims around the world have varying views about what Shariah entails, and its role in personal and public life. So what exactly is Shariah? Here are five facts that might help make sense of this complex and often misunderstood term.

- **What is Shariah?**

Shariah is an Arabic word that literally means “a path to be followed” and also commonly refers to “a path to water.” The term is broad, encompassing both a personal moral code and religious law.

There are two sources of Shariah—the Quran, which many Muslims consider to be the literal word of God, and the “Sunnah,” the divinely guided tradition of Islam’s Prophet Muhammad.

The interpretation of Shariah is called fiqh, or Islamic jurisprudence. Because fiqh is man-made, it can be changed. Shariah, for many Muslims, is divine and cannot be changed.

Some Muslims use the term “Shariah” to apply to both the injunctions in the Quran and Sunnah, and the interpretation of the Quran and Sunnah. Islamic law consists of Shariah and fiqh.

- **What does Shariah cover?**

While often thought of as a legal system, Shariah covers personal and collective spheres of daily life, and it has three components—belief, character and actions. Only a small portion of the action component relates to law. In fact, only about 80 of the Quran’s 6,236 verses are about specific

legal injunctions.

The belief component of Shariah commands Muslims to believe in God, the angels, prophets, revelation, and other metaphysical and physical aspects of the faith.

In terms of character, Shariah commands Muslims to strive for traits like humility and kindness, and to avoid traits such as lying and pride.

Actions include those relating to God, such as prayer, fasting and pilgrimage, as well as actions relating to other humans, such as marriage, crime and business.

Some actions relating to other humans can be regulated by the state, while actions relating to God, as well as belief and character, are between an individual and God. Nevertheless, some Muslim-majority countries have criminalized violations of the belief, character and action components of Shariah.

- **Who is qualified to issue rulings on Shariah?**

Shariah was systematized between the eighth and 10th centuries, about 200 to 300 years after Muhammad claimed he received his first revelation. Many people believe by the end of the 10th century the core components of Shariah had been exhaustively debated. That said, changes in Islamic society force scholars to look at Shariah anew, with new interpretations expressed in fatwas, or religious edicts, and legal opinions.

Interpreting Shariah is done by jurists known as fuqahaa, who look at the practicality of both time and place regarding how a ruling can be applied. In places where Shariah has official status, it is interpreted by judges known as qadis. Fiqh interpretations divide human behavior into five categories—obligatory, recommended, neutral, discouraged and forbidden.

Over the centuries, Islamic legal analyses and opinions were compiled in books judges used in deciding cases. Secular courts and Shariah courts coexisted in Islamic lands, with the Shariah courts often taking responsibility for family law matters. With the arrival of European colonization, many of these legal opinions were codified into civil law.

- **Where is Shariah the law of the land?**

Jan Michiel Otto, professor at the Leiden University Law School in the Netherlands, divides legal systems of Muslim countries into three categories—classical Shariah systems, secular systems and mixed systems.

In countries with classical Shariah systems, Shariah has official status or a high degree of influence on the legal system. It covers family law, criminal law and, in some places, personal beliefs, including penalties for apostasy, blasphemy and not praying. These countries include Egypt, Mauritania, Sudan, Afghanistan, Iran, Iraq, the Maldives, Pakistan, Qatar, Saudi Arabia, Yemen and certain regions in Indonesia, Malaysia, Nigeria and the United Arab Emirates.

Mixed systems are the most common in Muslim-majority countries. Generally speaking, Shariah covers family law, while secular courts will cover everything else. Countries include Algeria, Comoros, Djibouti, Gambia, Libya, Morocco, Somalia, Bahrain, Bangladesh, Brunei, Gaza Strip, Jordan, Kuwait, Lebanon, Malaysia, Oman and Syria.

In several Muslim-majority countries, Shariah plays no role—Burkina Faso, Chad, Guinea, Guinea-Bissau, Mali, Niger, Senegal, Tunisia, Azerbaijan, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, Uzbekistan, Albania, Kosovo and Turkey.

Some countries have Islamic family law courts available for their Muslim minorities—Eritrea, Ethiopia, Ghana, Kenya, Tanzania, Uganda, India, Israel, Singapore, Sri Lanka, Thailand and the United Kingdom.

In the United States, there are no Islamic courts, but judges sometimes consider Islamic law in their decisions. For example, a judge may recognize the validity of an Islamic marriage contract from a Muslim country in order to grant a divorce in America.

Some Islamic scholars argue true Islamic belief cannot be coerced by the state and therefore belief in Shariah should only come from the individual and not be codified by the state.

• **Does Shariah really prescribe harsh punishments like stoning adulterers?**

Yes, but experts in Islam insist many of these punishments have been taken out of context, abrogated or require a near-impossible level of evidence to be carried out. For someone to be convicted of adultery, for example, there must be four witnesses to the act, which is rare. The Quran also prescribes amputating the hands of thieves, but not if the thief has repented.

Other Shariah scholars say such a punishment system can only be instituted in a society of high moral standards and where everyone's needs are met, thereby obviating the urge to steal or commit other crimes. In such a society, the thinking goes, corporal punishments would be rarely needed.

That said, corporal punishments have been used by Islamic militant groups in places like Afghanistan, Somalia and Syria, and governments in Iran, Saudi Arabia and the Aceh state in Indonesia.