
Noting that the Welfare Party had pledged to set up a regime based on sharia law, the Court found that sharia was incompatible with the fundamental principles of democracy as set forth in the Convention. It considered that “sharia, which faithfully reflects the dogmas and divine rules laid down by religion, is stable and inviolable. Principles such as pluralism in the political sphere or the constant evolution of public freedoms have no place in it”. According to the Court, it was difficult to declare one’s respect for democracy and human rights while at the same time supporting a regime based on sharia, which clearly diverged from Convention values, particularly with regard to its criminal law and criminal procedure, its rules on the legal status of women and the way it intervened in all spheres of private and public life in accordance with religious precepts.

Source: “Annual Report 2003 of the European Court of Human Rights, Council of Europe”

Copy of the report from the ECHR website [http://www.echr.coe.int/Documents/Annual_report_2003_ENG.pdf] [1]
ECR Judgement Summary: "sharia law is incompatible with democracy and human rights"

Noting that the Welfare Party had pledged to set up a regime based on sharia law, the Court found that sharia was incompatible with the fundamental principles of democracy as set forth in the Convention. It considered that “sharia, which faithfully reflects the dogmas and divine rules laid down by religion, is stable and invariable. Principles such as pluralism in the political sphere or the constant evolution of public freedoms have no place in it”. According to the Court, it was difficult to declare one’s respect for democracy and human rights while at the same time supporting a regime based on sharia, which clearly diverged from Convention values, particularly with regard to its criminal law and criminal procedure, its rules on the legal status of women and the way it intervened in all spheres of private and public life in accordance with religious precepts.

Source: “Annual Report 2003 of the European Court of Human Rights, Council of Europe”

Copy of the report from the ECHR website: http://www.echr.coe.int/Documents/Annual_report_2003_ENG.pdf

French/français [19], German/Deutsche [20] and Dutch/Nederlandse [21] translations of the above judgement summary can be found at the bottom of the article.

The precise areas that sharia is incompatible with the human rights convention are spelt out here in this Council of Europe resolution 2253 (adopted by the UK government January 2019)[22]:

The Assembly considers that the various Islamic declarations on human rights, adopted since the 1980s, while being more religious than legal, fail to reconcile Islam with universal human rights, especially insofar as Sharia is their unique source of reference.

... The Assembly recalls that the European Court of Human Rights has already stated in Refah Partisi (The Welfare Party) and others v. Turkey that the institution of Sharia law and a theocratic regime are incompatible with the requirements of a democratic society. The Assembly fully agrees that Sharia rules on, for example, divorce and inheritance proceedings are clearly incompatible with the Convention, in particular its Article 14, which prohibits discrimination on grounds such as sex or religion, and Article 5 of Protocol No. 7 to the Convention (ETS No. 117), which establishes equality between marital partners. Sharia law is also in contradiction with other provisions of the Convention and its additional protocols, including Article 2 (right to life), Article 3 (prohibition of torture or inhuman or degrading treatment), Article 6 (right to a fair trial), Article 8 (right to respect for private and family life), Article 9 (freedom of thought, conscience and religion), Article 10 (freedom of expression), Article 12 (right to marry), Article 1 of the Protocol to the Convention (ETS No. 9) (protection of property) and Protocols Nos. 6 (ETS No. 114) and 13 (ETS No. 187) abolishing the death penalty.

... In this context, the Assembly regrets that despite the recommendation it made in its Resolution 1704 (2010)[23] on freedom of religion and other human rights for non-Muslim minorities in Turkey and for the Muslim minority in Thrace (eastern Greece), asking the Greek authorities to abolish the application of Sharia law in Thrace, this is still not the case. Muftis continue to act in a judicial
capacity without proper procedural safeguards. The Assembly denounces in particular the fact that in divorce and inheritance proceedings – two key areas over which muftis have jurisdiction – women are at a distinct disadvantage.

Several other points to note here are:


   - **Sharia law is understood as being ‘the path to be followed’, that is, the ‘law’ to be obeyed by every Muslim.**
   - **In this study I shall be looking at the general principles of Sharia law in relation to the European Convention on Human Rights**
   - **In Islamic family law, men have authority over women. Surah 4:34 states: ‘Men have authority over women because God has made the one superior to the other, and because they spend their wealth to maintain them. Good women are obedient. They guard their unseen parts because God has guarded them. As for those from whom you fear disobedience, admonish them and forsake them in beds apart, and beat them. Then if they obey you, take no further action against them. Surely God is high, supreme.’**
   - **For division of an estate among the heirs, distinctions are made according to the sex of the heir. A male heir has a double share, whereas a female heir has a single share. 20 The rights of a surviving wife are half those of a surviving husband.**
   - **In criminal cases, cruel, inhuman and degrading punishments are authorised by Sharia law, including death by stoning, beheading and hanging, amputation of limbs, and flogging**
   - **Apostasy results, firstly, in the apostate’s civil death, with the estate passing to the heirs, and, secondly, in the apostate’s execution if he or she does not recant.**
   - **non-Muslims do not have the same rights as Muslims in civil and criminal law. [Admin: In our opinion this is functionally similar to the Nazi Nuremberg laws against the Jews!]**

2. The above resolution 2253 also states:

   The Assembly is also concerned about the “judicial” activities of “Sharia councils” in the United Kingdom.

Similar Judgement from UK:

This judgement from the House of Lords (acting in a judicial capacity) produced a similar ruling in the UK. This was of more limited scope due to the nature of the case heard.

The fact is however that Shari'a law as it is applied in Lebanon was created by and for men in a male dominated society. The place of the mother in the life of a child under that system is quite different under that law from that which is guaranteed in the Contracting States by article 8 of the Convention read in conjunction with article 14. There is no place in it for equal rights between men and women.


The Council of Europe [27] have instigated an inquiry into the compatibility of being a signatory to the Cairo Declaration on Human Rights [28] (based on sharia law and signed by 57 Islamic countries) and being a member of the ECHR: http://www.assembly.coe.int/Committee/JUR/ajdoc282016.pdf [24]

The legal definition of sharia by lawyers for the Council of Europe [27] (The Foreign Office represents the UK government on this body) bears quoting in full here:

2.1. Sharia law

5. For the purposes of this study, it is essential to define Sharia law, its sources, its legal force and its problematic aspects in terms of the European Convention on Human Rights.

6. Sharia law is understood as being ‘the path to be followed’, that is, the ‘law’ to be obeyed by every Muslim. It divides all human action into five categories – what is obligatory, recommended, neutral, disapproved of and prohibited – and takes two forms: a legal ruling (hukm), designed to organise society and deal with everyday situations, and the fatwa, a legal opinion intended to cover a special situation. Sharia law is therefore meant in essence to be positive law enforceable on Muslims. Accordingly, it can be defined as ‘the sacred Law of Islam’, that is, ‘an all-embracing body of religious duties, the totality of Allah’s commands that regulate the life of every Muslim in all its aspects’.

2.1.1. Sources

7. The prescriptions of Sharia law originate in the Qur’an, held to be a work that is ‘perfect and unchangeable’. The Qur’an constitutes the primary source of law and consists of 114 surahs or chapters, themselves divided into 6,219 verses, which are sentences or groups of sentences expressing one or more revealed thoughts. However, an Islamic exegesis (tafsir) of the Qur’an is necessary for abstruse passages, and this has given rise to a number of schools.

8. The Sunna, the traditions and practices of the Prophet, is another original source, relating the religious deeds and sayings of the Prophet Muhammad as narrated by his disciples (Sunni branch) or by the imams (Shia branch).

9. In addition to these two basic texts of Islamic law there are secondary sources such as consensus (ijma’), analogical deduction (qiyas) and individual reasoning based on the general principles of Islam (ijtihad), which have produced a plethora of interpretations. Added to these are spontaneous sources such as local custom (‘urf) and judicial practice (‘amal).
10. Fiqh, the temporal interpretation of the rules of Sharia law, brings together all the rules that had been systematised by the end of the fifth century after the Hijra. There are various schools of Islamic jurisprudence. They include the four Sunni schools: the Hanafi school of Abu Hanifa, the Maliki school of Malik ibn Anas, the Shafi’i school of Muhammad ibn Idris al-Shafi’i and the Hanbali school of Ahmad ibn Hanbal. There are at least two main Shia schools: the Ja’fari and the Zaydi.

2.1.2. Legal nature

11. While most States with Muslim majorities have inserted a provision referring to Islam or Islamic law in their constitutions, the effect of these provisions is symbolic or confined to family law. Admittedly, these religious provisions may have a legal effect if raised in the courts and a political effect if they intrude into institutional attitudes and practices. However, the authority of Sharia law is derived directly from the Qur’an, and traditional Islamic law contains no effective provisions concerning its position in the pyramid of norms.


12. In this study I shall be looking at the general principles of Sharia law in relation to the European Convention on Human Rights and particularly Article 14, which prohibits discrimination on grounds such as sex or religion and Article 5 of Protocol No. 7 to the Convention, which establishes equality between spouses in law. In this context, reference should also be made to other provisions of the Convention and its additional protocols – such as Article 2 (right to life), Article 3 (prohibition of torture or inhuman or degrading treatment), Article 6 (right to a fair trial), Article 8 (Right to respect for private and family life), Article 9 (freedom of religion), Article 1 of Protocol No. 1 (protection of property) and Protocols Nos. 6 and 13 prohibiting the death penalty. Here we shall find some problematic features that warrant further analysis.

13. In Islamic family law, men have authority over women. Surah 4:34 states: ‘Men have authority over women because God has made the one superior to the other, and because they spend their wealth to maintain them. Good women are obedient. They guard their unseen parts because God has guarded them. As for those from whom you fear disobedience, admonish them and forsake them in beds apart, and beat them. Then if they obey you, take no further action against them. Surely God is high, supreme.’ While wives clearly have a duty of fidelity, husbands do not. In Sharia law, adultery is strictly prohibited. Legal doctrine holds that the evidence must take the form of corroborating testimony from four witnesses to prove an individual’s guilt. These witnesses must be men of good repute and good Muslims. The punishment is severe and degrading, namely ‘a hundred lashes’. In the case of rape, which is seldom committed in public before four male witnesses who are good Muslims, punishing the rapist is difficult if not impossible. In practice, this obliges women to be accompanied by men when they go out and is not conducive to their independence. While divorce by mutual consent is enshrined in Islamic law, the application has to come from the wife, since the husband can repudiate his wife at any time. There is also the question of equal rights with regard to divorce arrangements such as custody of children.

14. For division of an estate among the heirs, distinctions are made according to the sex of the heir. A male heir has a double share, whereas a female heir has a single share. The rights of a surviving wife are half those of a surviving husband.

15. In criminal cases, cruel, inhuman and degrading punishments are authorised by Sharia law, including death by stoning, beheading and hanging, amputation of limbs, and flogging. Apostasy results, firstly, in the apostate’s civil death, with the estate passing to the heirs, and, secondly, in the apostate’s execution if he or she does not recant. Lastly, non-Muslims do not have the same rights as Muslims in civil and criminal law, which is discrimination on
the ground of religion within the meaning of Article 14 of the Convention.

http://www.assembly.coe.int/Committee/JUR/ajdoc282016.pdf [24] A copy can also be found here [29]

The Council of Europe also issued a call for sharia law to be abolished in Thrace (Greece) in 2010 which was reiterated in January 2019 in resolution 2253 (2019):

In this context, the Assembly regrets that despite the recommendation it made in its Resolution 1704 (2010) [23] on freedom of religion and other human rights for non-Muslim minorities in Turkey and for the Muslim minority in Thrace (eastern Greece), asking the Greek authorities to abolish the application of Sharia law in Thrace, this is still not the case. Muftis continue to act in a judicial capacity without proper procedural safeguards. The Assembly denounces in particular the fact that in divorce and inheritance proceedings – two key areas over which muftis have jurisdiction – women are at a distinct disadvantage.


Supporting Evidence:

Reports on Sharia:

Report by ShariaWatch UK: Sharia Law - Britain's Blind Spot Read online here » [30] Download PDF here » [31]

This report complements the ruling above from the European Court of Human Rights [32] and provides a small selection of examples about why Sharia Law should not be allowed in Britain.

Another report by One Law For All also highlights the discriminatory nature of Sharia Law and the manner in which it operates within the UK.


Examples of Sharia Law being practiced by various Islamic states.

Abu Dhabi: Woman sentenced to death by stoning for adultery (2014)

http://emirateswoman.com/woman-sentenced-death-stoning-abu-dhabi/ [34]
https://7days.ae/expat-faces-death-stoning-admitting-court-cheating-husband [35]

Sudan: 2nd woman sentenced to death by stoning


Sudan: Amputations carried out by Govt

http://www.upi.com/Top_News/World-News/2013/03/12/Official-Sudan-will-continue-amputations/UPI-83841363096550/ [38]
Pregnant woman sentenced to hang for apostasy

Iran hanging a schoolgirl for ‘immoral behaviour’
http://news.bbc.co.uk/1/hi/5217424.stm [40]

Iran regime amputates hands of two prisoners

Iran: Unveil machine to amputate fingers of thieves
http://www.telegraph.co.uk/news/worldnews/middleeast/iran/9831727/Iran-unveils-finger-amputating-machine-for-use-on-thieves.html [42]

Iran to gouge out man's eye under literal interpretation of Sharia law

Nigeria: Sharia Court Sentences Nine to Death for Blasphemy

Another death sentence for blasphemy

Indonesia: Screaming in agony, a woman collapses as she and a man are caned under Sharia law in Indonesia merely for being ‘seen in close proximity’ to each other without being married

Research indicates that most Muslims want Sharia law [47] and at least 40% of Muslims in the UK want Sharia Law [51].

One claim that is often made is that many Muslims do not support some or all of the harsher aspects of Sharia law and there are certainly a few voices raised against aspects of Sharia. However, in common with all legal
systems, Sharia law isn't a 'pick and mix' system so until there is a mass movement by all the major Islamic sects to change Sharia such claims need to be treated with extreme caution. Whilst there are claims that hudud punishments (stoning, amputation etc) "are an embarrassment to the many Muslims who consider them barbaric" [52] there is little in the way of mass protest against them from the Islamic community. This may well be because as Tariq Ramadan says, most Islamic scholars "are of the opinion that these penalties are on the whole Islamic [because of textual references]..."

So when Ramadan called for a moratorium [53] on corporal punishment, stoning and the death penalty in the Islamic world in 2005, some non-Muslims criticised him for not going further. Why didn't he say the hudud laws should just be discarded or repealed?

He explained this by pointing out that most of the authorities "are of the opinion that these penalties are on the whole Islamic [because of textual references] but that the conditions under which they should be implemented are nearly impossible to re-establish.

To my mind, relying on 'conditions not being right' is an extremely flimsy line of defence against the barbarities of Sharia law as conditions can change. Also as the examples above and below indicate the 'conditions aren't right' line seems a little hollow given that two more Islamic states are moving towards implementing Sharia law to join those already implementing it. The examples above also didn't include Saudi Arabia and given that they implement a very strict version of Sharia and are major financiers of mosques and madrassas around the world, the prognosis seems a great deal less rosy than Ramadan implies. Either the governments implementing Sharia law are foisting it on unwilling Muslim populations or the PEW Foundation research is broadly correct and a majority of Muslims do desire to live under Sharia law. Given the lack of protests against Sharia from Muslim communities around the world, it would seem those communities at best accept Sharia law and Ramadan's claim that many Muslims find them an embarrassment is based on shaky foundations. In my opinion, any embarrassment is more related to the damage being done to the reputation of Islam than the punishments themselves.

As this article says we ignore the small battles at our peril [54].

The real problem, I think, is the way moderates both here and in Pakistan tolerate the "smaller" stuff. You know, the way that we turn a blind eye to young girls being "pushed" into marriages they don't really want; the way that "cultural differences" are invoked to legitimise the burka. These little retreats may seem tolerant and enlightened, a way of embracing people who hold different views; a classic liberal fudge. But they are nothing of the sort. They embolden and shore up fundamentalism.

You want to know the true meaning of fundamentalism? The 2008 Iranian Penal Code mandated that the stones used to kill adulterers should "not be large enough to kill the person by one or two strikes — nor should they be so small that they could not be defined as stones". You see the point, here? Too big and the victim might die too quickly. Too small, and you might waste an entire day completing a capital punishment. Iran has recently claimed to have dropped its fetish for stoning, but it still goes on in enclaves around the world committed to Sharia.

Islam in Europe:

These are a few examples of the attitudes that exist amongst Muslims in Europe:
TV 2 reveals Danish imam: Teaches Muslims stoning and flogging: Note the change between what is said for public consumption by non-Muslims and the private teachings.

For rolling cameras says the chairman of the mosque Grimhøjvej in Aarhus that the mosque meets all Danish rules and encourages its Muslim guests to take an active part in society.

But now TV 2 using hidden camera to document how the Danish imam from the mosque on Grimhøjvej in Aarhus, teach Muslims about the Islamic rules of stoning and flogging.

http://nyheder.tv2.dk/samfund/2016-02-28-tv-2-afsloerer-dansk-imam-underviser-muslimer-om-stening-og-pisk [55] (You will need to use Google translate or similar unless you speak Danish)

UK: Muslim radio station fined for saying gay ppl should be tortured [56]

UK: Islamic radio channels continue to broadcast hate messages [57]

UK: TV/radio station fined for allowing preacher to incite murder [58]

So far as is known, no criminal prossections for hate speech have followed in the UK for any of the above. Only OFCOM has acted for the breach of broadcasting rules but it is believed the channels are all still broadcasting. This contrasts sharply with the prosecution and jailing of people leaving bacon near mosques.

Overall, the desire in the Islamic world for changes to Sharia law seems to be sadly lacking and if anything, the momentum is in the opposite direction with both Brunei and the Malaysian state of Kelantan moving to implement Sharia law in the face of international outrage. There seem to be no reports of Muslims protesting against Sharia law being pushed through in these places.

- Brunei adopts sharia - international outcry: http://edition.cnn.com/2014/05/01/world/asia/brunei-sharia-law/ [60]

The 57 states of the Organisation of Islamic Cooperation also signed up to the Cairo Declaration basing their version of the UN Declaration of Human Rights (UNDHR) on Sharia law. The way that the Cairo Declaration subverts the intentions of the UNDHR ha been exposed by an organisation of ex-Muslims in this document:


How Sharia Law is Applied in the UK


This is the conclusion of a four year study into Sharia courts in the UK by an expert in Islam who is also a Muslim.

THE Islamic law propagated by some sharia courts in the UK is more antiquated and extreme than in parts of Pakistan, according to a new book that claims they are prepared to condone wife-beating, ignore marital rape and allow a father to annul his daughter’s marriage if he dislikes her choice of groom.
High Profile British Imam Praises Muslim Who Murdered Pro-Christian Politician: [63]

Further aspects relating to sharia can be found at: [64]

This judgement upheld a ban by Turkey in the 1990s on a political party that wanted to make Sharia law official Turkish law.

ECHR judgement summary in other languages (via Google translate):

French/français:

Relevant qu’en l’espèce le Parti de la Prospérité s’était notamment donné pour but d’instaurer un régime basé sur la charia, la Cour a estimé que celle-ci était incompatible avec les principes fondamentaux de la démocratie, tels qu’ils résultent de la Convention. En effet, « la charia, reflétant fidèlement les dogmes et les règles divines édictés par la religion, présente un caractère stable et invariable. Lui sont étrangers des principes tels que le pluralisme dans la participation politique ou l’évolution incessante des libertés publiques ». D’après la Cour, « il est difficile à la fois de se déclarer respectueux de la démocratie et des droits de l’homme et de soutenir un régime fondé sur la charia, qui se démarque nettement des valeurs de la Convention, notamment eu égard à ses règles de droit pénal et de procédure pénale, à la place qu’il réserve aux femmes dans l’ordre juridique et à son intervention dans tous les domaines de la vie privée et publique conformément aux normes religieuses.

Dutch/Nederlandse:

Erop wijzend dat de Welfare partij had beloofd om het opzetten van een regeling op basis van de sharia, de Rekenkamer vast stelde dat de sharia onverenigbaar is met de fundamentale beginselen van de democratie, zoals uiteengezet in het verdrag. Geoordeeld dat “sharia, die getrouw weerspiegelt de door religie vastgelegd dogma’s en goddelijke regels, is stabiel en onveranderlijk. Beginselen, zoals het pluralisme in de politieke sfeer en de constante evolutie van de openbare vrijheden hebben geen plaats in it “. Volgens het Hof, was het moeilijk om zijn respect voor de democratie en de mensenrechten te verklaren, terwijl op hetzelfde moment ter ondersteuning van een regeling op basis van de sharia, die duidelijk afweken van Convention waarden, met name wat betreft zijn strafrecht en strafprocesrecht, zijn regels inzake de rechtspositie van vrouwen en de manier waarop het ingegrepen op alle gebieden van private en publieke leven in overeenstemming met de religieuze voorschriften.

German/Deutsche:

Angesichts der Tatsache, dass die Wohlfahrtspartei sich verpflichtet hatte, ein auf dem Scharia-Recht basierendes Regime zu schaffen, stellte der Gerichtshof fest, dass die Scharia mit den in der Konvention festgelegten Grundprinzipien der Demokratie unvereinbar war. Es betrachtete, dass “die Scharia, die die Dogmen und göttlichen Regeln, die durch die Religion festgelegt sind, treu widerspiegelt, stabil und unveränderlich ist. Grundsätze wie der Pluralismus im politischen Bereich oder die ständige Entwicklung der