

# **A Concise Summary of the Evolution of Islamic Law (Sharia)**

## **From its Inception to the Present**

### **Introduction**

Strictly speaking, the Quran as compiled did not actually contain a comprehensive legal code. Nor did the Quran provide express answers to all the problems that are intrinsic to an organized society. (In this regard, it does not differ from holy books of other religions.) In the era of the Prophet, most of the legal injunctions of the Quran were basically pre-Islamic tribal custom given an Islamic sensibility and moral legitimacy. This circumstance helps to explain why so much of sharia (Islamic law) is customary ('urf).

Only about 80 Quranic verses are concrete legal pronouncements. But those verses did introduce significant amelioration of existing tribal customary rules as regards, for example, various criminal offences, polygamy, and divorce, and the standing of women was, to a degree, improved in such areas as rights of inheritance (thereby giving women a formal legal status). On the other hand, there is no attempt to deal comprehensively with any single legal issue or problem. Generally, tribal influences remained, but were softened and Islamicized. For all practical purposes, law in the Quran was, and remains, mostly a set of moral guidelines for behavior and the settlement of disputes. Nevertheless, Islam as embodied in the Quran, did transform the political and social underpinnings of tribal customary law, such as it was during Muhammad's life, both conceptually and pragmatically. This was, perhaps, the fundamental mutation in the rules of tribal life wrought by Islam. That alteration of form led to the organization of Islamic jurisprudence. From the inception of Islam to the present, the essential prescripts of Islamic law — expounded and variously interpreted by legal philosophers and religious scholars (ulama) — are justice, equity, and an array of morally defined individual rights that include freedom.

### **The Medina Epoch**

After the death of Muhammad in 632, the first generation of Muslims established the order of succession by caliphs (caliph meant deputy, or successor of Muhammad, i.e., his successor as the secular leader of the community), the first three of whom—Abu Bakr, 'Umar, and 'Uthman retained the seat of authority in Medina, created a small, nascent Islamic polity, and expanded that polity beyond the Arabian Peninsula into the Byzantine territories of the Syrian littoral in eastern basin of the Mediterranean Sea. As the result of the assassination of the third caliph 'Uthman and the disputed claim of 'Ali to be the fourth caliph ('Ali was both kin and son-in-law of the Prophet) a civil war erupted. That conflict was ultimately settled by the assassination of 'Ali, with the consequence that Islam fractured into two components - sunni and shi'i, The latter were the followers of 'Ali. (Despite the challenge to 'Ali's claim and his murder, he is nevertheless regarded by both sunnis and shi'is as one of the “Rightly Guided” Caliphs, i.e., the first four successors of Muhammad. (For more on the shi'is, see p. 6 below; for a full treatment of these events, please refer to the summary on “Sunnism and Shi'ism”.)

It should be noted that during the Medina epoch (632-661), the men who had been close companions of the Prophet and became his caliphs assumed the task of applying sharia, such as it was. Their rulings were largely ad hoc, but they were, for the most part, consistent with the principles enunciated by Muhammad, particularly those of proportionality and fairness in matters of inheritance. From the time of these “Rightly Guided” Caliphs, it can be said that a Muslim society has been defined as one that adheres to sharia.

### **The Umayyad Era and the Organization of Islamic Law**

Mu'awiya, who had fought 'Ali and became the fifth caliph, established the Umayyad dynasty (661-750), moved its capital to Damascus, and changed the Islamic polity fundamentally. He expanded its civil and religious order well beyond the borders of the Arabian Peninsula, launching what was to become under his successors, a prodigious Arab-Islamic imperial caliphate that would, ultimately, encompass most of the Byzantine and all of the Persian empires and the former lands of the Roman Empire in North Africa and Spain—during which process Islam as a religio-political movement was urbanized. These events created a new, highly complex, imperial Muslim society that was an amalgam of many cultures and customs within its

enlarged realm, and whose converts soon greatly outnumbered the original Arab Muslim community. This circumstance created a new cultural and religiously defined dichotomy within the Muslim community. The Umayyad Arab ruling group ameliorated the problem by allowing non-Arab Muslims to attach themselves to Arab tribes, thereby acquiring certain socio-economic advantages and tribal protection. These developments required a commensurate legal regime with novel structures, institutions, and authorities through which sharia, in the absence of the Prophet, could be applied in ways that were still, generally, in accord with the perceived will of God. This was a huge task that the Umayyads succeeded in undertaking with a combination of common sense and flexibility while retaining core Muslim principles.

A strong central government with an attendant bureaucracy and a sophisticated system of administration and communications had to be put into place if a multi-cultural empire with distant provinces were to be governed successfully. Also requisite to making the scheme work was an equally sophisticated juridical regime with an expanded systematic arrangement of laws (not yet quite codified) that was applied through newly created legal authorities and institutions. Enter the qadi, i.e., judge. In the beginning, the qadi was a representative of a local governor and his main task was to arbitrate disputes. In the course of time, the post of qadi became increasingly involved with various legal matters so that a qadi's official function became that of a judge and, accordingly, he rose in prestige and rank among public officials. The qadi's authority and duties diversified as the empire evolved. The qadi oversaw the functions of the muhtasib, inspector of the markets, and the sahib ash-shurta, roughly, the chief of police. Taken together, these three legal offices were at the formative core of the urban institutions of the Muslim city as it took shape in the first century after the Prophet's death. The Umayyad authorities were quite active in the field of public law, particularly regarding fiscal matters (taxation) and the status of non-Muslim subjects.

Non-Muslim subjects who were Jews and Christians were given a legal status under sharia as dhimmis. that is, a people who worshiped the same god as Muslims. They were permitted to worship in their temples and churches without interference under their own clergy and spiritual hierarchy. They paid special taxes, were expected to do nothing that was an offence to Islam or violated sharia. While their status was in many ways inferior to that of their Muslim neighbors, and though there were instances of persecution, dhimmis were, by and large, able to live in security with freedom of worship under Muslim rule and to contribute to and share in the culture, economies, and learning of successive Muslim empires. From the 18th century, as Europe began to conquer Ottoman territories and to dictate treaties to the sultans, some countries assumed the role of protectors of Christian sects, but not of the Empire's Jews.

The caliphs and provincial governors soon made qadis the chief instruments for injecting law into their edicts and sanctioning their implementation. In matters of private law the qadis were allowed personal discretion in their application of law. This behavior opened a venue for Umayyad qadis to make their peculiar contribution to the development of Islamic law in the greater Muslim community. Essentially, the qadis ruled on the basis of local customary law-'urf. As the empire was a patchwork of cultures, each with its own received notions of what constituted correct behavior or practice, the qadis favored local custom in their rulings. They thereby unintentionally reinforced the preservation of local traditions while simultaneously introducing considerable diversity into the application of Islamic law. The cities of Medina in the Arabian Peninsula and Kufa in Iraq offer contrasting examples. The Medinans, who hewed faithfully to the traditions of Arab tribal law, did not allow a woman to contract a marriage on her own; only her guardian - a father, brother, or uncle - could give her hand in marriage. Conversely, in Kufa, whose population was a mix of ethnicities and whose ambiance was more Persian and urbane than tribal, a woman could arrange her own marriage contract without the participation of a guardian. It was through the medium of such practices by Umayyad qadis that aspects of Byzantine (Roman) and Persian (Sassanian) law came to be integrated into Islamic legal practice. But qadis were, normally, pious Muslims who based their rulings on the Quran. There is evidence that they tried consistently to infuse customary law with the spirit of the Quran or at least to give it a Quranic patina, thereby coating it with the legitimacy of holy law. The result was a great diversity of legal practice throughout the Umayyad Empire within which religious specificity was secondary.

Inevitably, there was a reaction to what was perceived by Muslim traditionalists as the loss of religious ethos in Islamic jurisprudence. That reaction was one of the causes for the downfall of the Umayyad dynasty in 750, which was replaced by that of the Abbasids, who built Baghdad as their capital. Like the Umayyad, the Abbasid dynasty (750-1258) had a profound impact on the historic course of sharia, and equally, on the governance of the Islamic community. It was under Abbasid rule that the early schools of Islamic law originated, and it was the influence of these schools that reformed the Islamic scheme of government, state, and society.

### **The Advent of Schools of Law, Sunna, and Hadith**

Even in the early phases of Islam's advancement, there developed many "schools" of sharia—"schools" only in the loosest sense. More accurately, they were the adherents of ideas propagated by individual scholars of law whose theories were derived from a combination of the particular way they parsed the Quran and their views about customary tribal and social traditions. This was a matter of personal reasoning - *ra'y* - that often led, in time, to consensus on dogma among 'ulama (religious scholars, theologians) in a given locale. In this way, legal doctrine was formulated and schools of thought based on particular theories, doctrines, and interpretations emerged. While the movement toward the formulation of permanent named schools - what became known as *madhahib* (sing. *madhhab*) - occurred without deliberate direction or design, it did proceed, roughly, in stages. As the body of legal ideas of a given school crystallized, those doctrines were attached to the individual religious scholar or theologian ('alim, plural 'ulama) who formulated them and thus gave his name to the particular school. The closer that 'alim could be traced to the time of the Prophet or to Muhammad himself or his companions, that greater authority would be attached to his ideas and pronouncements and, by extension, to the school based on his teachings. But for formal schools of law to take root and be effective, there had to be a compendium of its philosophy and doctrines that would ensure consistency of application and would serve as the source for teaching the school's principles. That event had to await the outcome of a new controversy. During the time of both the Umayyad and Abbasid dynasties, the practice of *ra'y* (personal reasoning) remained widespread. Those 'ulama who advocated making the Medina period the ground root of legal interpretation came to oppose the practice of *ra'y*. They argued that the only true source of law was, first, the Quran then the words, actions, and precedents of the Prophet, that is, his *sunna* (habitual practices and actions) and *hadith*, (traditions/sayings). They also insisted that the best authorities for those truths were Muhammad's companions and the most upright among his immediate contemporaries. The *sunna* and *hadith* of the Prophet were and are still today regarded as the only genuine source of Islamic law other than the Quran.

The advocates of *hadith*, in the long course of their doctrinal wrangle with the practitioners of *ra'y*, produced a prodigious number of fabricated *hadith* in their effort to make traditionalist dogma the standard jurisprudence throughout the Islamic realm. It was in the midst of this controversy that a scholar of Medina named Malik ibn Anas, who died in 796, composed the first compendium of Islamic law, the *Muwatta'*. The *Muwatta'* was little more than a manual of jurisprudence that contained the known precedents that Malik interpreted using *ra'y* and the traditions of Medina. This was the foundation on which the first of the four dominant schools of Islamic jurisprudence—the Maliki *madhhab* (or Medina School)—rested. (The other three schools were the Shafi'i, Hanafi, and Hanbali.) As Islam became an urban movement in the course of its expansion, this same phenomenon was reflected in the evolution of its jurisprudence. Most of the developments in Islamic law occurred in urban settings. Consequently, sharia and its institutions, as they were formed and re-formed, increasingly mirrored urban culture and sensibilities, despite some continuing influence of tribal traditions. The implication of this situation was that it would have been much more difficult, if not impossible, for the caliphs to administer their complex, multi-cultural realms without the advantages offered by cities. It was cities that produced the literate and skilled manpower, the schools, mosques, communications, centers of learning and training, bureaucracies and other institutions essential for the creation and governance of empires. Cultures coalesced in cities. In cities, scholars in many fields of learning gathered, studied, researched and experimented, debated, and propagated and exchanged ideas. It was in cities that the various Islamic schools of law were created.

## Shafi'i's Classical Paradigm of Sharia

It was in Cairo that Shafi'i formulated the fundamental paradigm for Islamic law in his seminal treatise (risala) composed between the years 815 and 820, the year of his death. Shafi'i came to be acknowledged as one of the greatest philosophers of Muslim jurisprudence-for some, the greatest among them, perhaps in part because he claimed to trace his lineage back to the Prophet's family. The madhhab, or school of law, that bore his name became highly influential. His aim was to put an end to what he perceived as deviate approaches to sharia with their consequent blasphemies. His method was to establish a single maxim as the authoritative source of law, thereby unifying the law itself.

He argued that absolute certain knowledge of God's divine law comes exclusively from the divine revelations given to Muhammad directly by God and that these are enshrined in the Quran. Other than the Quran, that left only one legitimate source of law: the divinely inspired dictums and prescriptions of the Prophet himself. Because Muhammad was the chosen purveyor of God's word, his own words and actions were thereby made infallible. Only he, therefore, could stand as the unquestionable source of law in matters that are not clearly explicated in the Quran. Shafi'i believed that trustworthy reports and traditions of the Prophet and reliable reports of his conduct-the hadith and the sunna-were, logically, imbued with the same aura of divinity as Muhammad and so could be used to explain or clarify the Quran or be used as its auxiliary as a source of divine law. In essence, sunna was placed on a par with the Quran in that regard.

Above all, Shafi'i believed there was a single genuine Islamic tradition and attacked the notion of diversity in this line of thought. For this reason he constantly inveighed against Persian and Roman influences, particularly the latter for its rationalism that he believed had infected some existing doctrines of law. His aim was to eliminate the diversity of legal theory and practice that derived from local or limited consensus. Nevertheless, Shafi'i did understand that there could be legal issues that could not be resolved exclusively by reference to the Quran or sunna. In such instances he believed reasoning by analogy (qiyas) was necessary. But such reasoning was not to compromise uniformity.

### Shafi'i's Legacy: New Concepts, New Schools of Law

Reactions to Shafi'i's doctrine of the sunna emerged in direct ratio to the spread of his influence. One of the earliest of these responses was the collection and categorization of hadith (traditions and sayings of the Prophet) accompanied by a new body of related literature concerned with the chain of transmission (isnad) of the hadith. The isnad determined the authenticity, and thus the quality, of a particular hadith and that, in turn, relied on the dependability of each individual transmitter or reporter. The authenticity of a given hadith was determined by how close it could be traced back to the time of Muhammad or to Muhammad himself. Inevitably, this circumstance generated a vast number of false hadith-perhaps only about 20 percent of hadith are authentic. Many compilations of hadith appeared, but only a few were considered to be reliable. Prior to the advent of Shafi'i's doctrine, two schools of law existed-the Maliki and Hanafi. Then adherents to Shafi'i's tenets, who were a minority among legal scholars, formed a third school. However, Shafi'i's doctrine of legal unity based on the authority of the hadith and sunna inadvertently produced more diversity than uniformity. After the enunciation of his doctrine and creation of his madhhab, two more schools of law came into being. Those schools, one founded by Ahmad ibn Hanbal (d.855)-the Hanbali School-and the other by Dawud ibn Khalaf (d.883)-the Zahiri School-were even more adamant in their rejection of any human reasoning whatever, including reasoning by analogy (qiyas). They espoused the belief that every legal finding had to be rooted exclusively in the Quran and sunna, and in their literal and evident meaning (zahir). Ibn Hanbal collected 80,000 hadith in his Musnad (manual).

Theorists of the previously established schools, the Maliki and the Hanafi, found ways to compromise with Shafi'i's dogma by a combination of interpretation and the application of legal principles they claimed could override the authority of the hadith. Those principles were, for the Hanafis, the cogency of "juristic preference" (istihsan) and, for the Malikis, the believability of "the consensus of the Medina scholars." Eventually, the Hanbalis accepted the reality that analogy was a jurisprudential necessity, while the Zahiris refused any alterations to their system and ultimately suffered extinction. The surviving four schools of

sharia, Maliki, Hanafi, Shafi'i, and Hanbali, continue today to constitute the principal varied approaches to sunni Islamic law.

In this context, it is useful to point out that the Hanafi school of law was generally preferred by most Muslim rulers, particularly the Ottoman sultans who adopted that madhhab as the Empire's dominant body of jurisprudence because the Hanafi system of law tended to give them greater leeway in exerting their authority. This quality was embedded in the Hanafi treatment of human judgment (ijtihad). Rather than insisting on rigid application of analogy, Hanafi jurists permitted modest pliancy in the use of human reasoning or judgment in the interpretation of the Quran and the application of sharia. The Issues of Divine Perfection, Reason, and Consensus in Islamic Law The aforementioned disjunction between the utter perfection of God's assertions and the imperfect ability of the human mind always to grasp their true meaning with certainty brought to the forefront the issue of independent human reasoning (ijtihad). Inevitably, no single doctrinal formula such as Shafi'i's could remain the standard for very long, owing mainly to the necessity of applying sharia across very widely situated lands with variegated cultural and religious traditions that had been Islamicized with various degrees of success.

While the process of reasoning had to be used, it was expected to follow a particular order in the solution of legal problems. First recourse was to the Quran, then to reasoning by analogy (qiyas), then to independent judgment (ijtihad). Because the very notion of human reasoning used in conjunction with the divine word caused considerable argument, it led ultimately to the acceptance of a new fundamental adjunct to classical Islamic legal theory, the doctrine of ijma'-the consensus of qualified jurists (fuqaha) in a given time and place. Such consensus was believed to be infallible. By the end of the 10th century, independent judgment (ijtihad) ceased to be accepted practice. The passing of ijtihad and the universal implantation of consensus wiped out the bases of Shafi'i's doctrine-traditional customs ('urf) and independent judgment or reasoning by individual jurists. The implications of this development were that Islamic law, having come from God, was changeless and sacrosanct, that true moral behavior and values were beyond the concoctions of mere human thought or experience. Only God could designate what was good or evil as was revealed to Muhammad, the last of the true prophets. Consequently, after the death of the Prophet, the divine will could, hypothetically, no longer be communicated to humankind. However, such rigidity in the application of sharia was incompatible with the demands of governing a multi-cultural, politically variegated Islamic empire. The caliphs and sultans consequently devised ways to inject degrees of flexibility into the system of sharian jurisprudence, often through the instrumentality of what might be called creative misinterpretation — but with authority.

## Sharia and Shi'ism

As previously indicated, not long after Muhammad's death, Islam experienced significant fissures in its polity over the issue of political authority. The majority sunnis believed that sovereignty passed to those caliphs who were companions of the Prophet and elected from the leadership of the Quraysh, the Prophet's tribe. But others, those who became the shi'a Muslims, insisted that 'Ali, Muhammad's nephew and son-in-law, was the rightful caliph and that rulership should pass after 'Ali to the children born of his wife Fatima, the Prophet's daughter. Shi'is believed that 'Ali's and Fatima's direct kinship to Muhammad established the only rightful line of succession. Those shi'i imams (leaders of the community) descended from the union of 'Ali and Fatima were also considered to be descended from the Prophet. Included in the belief of this particular hereditary transmission of authority was divine inspiration that, in turn, was thought to endow the imams with sovereignty by divine right.

Shi'ism eventually separated into three factions, the Zaidis (the smallest group, located mainly in Yemen), the Ismailis (who recognize the leadership of the Agha Khan and are found primarily in Pakistan, India, and East Africa), and the Ithna 'Asharis, or Twelvers (representing the great majority of shi'is who are concentrated chiefly in Iran and Iraq). Each sect devised its own version of sharia. The Ithna 'Asharis are so called because they believe that the Twelfth Imam became occult, i.e., became the hidden imam who will one day return to establish an exquisitely ideal holy leadership. Although Twelver shi'is share with sunnis the basic notion that the Quran and the sunna constitute the fundamental source of divine revelation, the Twelvers imbue sharia with other characteristics that sharply distinguish it from sunni perceptions of law.

The Ithna 'Asharis compiled their own body of hadith and only those hadith transmitted through one of their recognized imams are taken to be valid. They reject the idea that human reason, qiyas, and ijma', consensus, have a place in the application of Islamic law. Only the divinely inspired imams, who combine in themselves supreme religious and political authority, have the right to interpret and adjudicate sharia. Nevertheless, the Twelvers, like conservative sunnis, came to recognize, out of practical necessity, that human intellect ('aql), or reason, had to be accepted and legitimized as a practice.

### **Sharia and Leadership of the Muslim Polity/State**

Other differences between sunni and Twelver shi'i jurisprudence concern matters of customary law ('urf) and theories of the polity cum state. For the sunnis, the Quran tacitly approved pre-Islamic tribal customs unless they were explicitly repudiated. The Ithna 'Asharis held the exact opposite view, i.e., pre-existing customary laws were implicitly rejected unless clearly endorsed by the Quran. This policy is an expression of the Twelvers determination that there be a sharp juridical break with the pre-Islamic past.

These issues carry over into the sunni-Twelver shi'i variances in their respective theories of state and governance. In the Twelver conception of the theocratic state, religious, political, and legal authority is unitary in nature and purpose and that all three of those elements are expressions of the same divine will. As such, their functions must be signified through a leader who is similarly imbued with divinely rooted authority traced to the Prophet, namely the imams. Only in this way can the community of true believers be rightly guided and the state, law, and government receive moral legitimacy. Twelvers, who reject all pre-Islamic practices and customs, believe that reform began with the spiritual mission of the Prophet.

For Sunnis too, the Islamic state, was a theocracy, but a mix of pre-Islamic tribal customs and hierarchies and Islamic doctrine, with the ruler and his actions subject to the requirements of sharia, i.e., to the word of God. Sunnis perceived the Islamic state and government under sharia as a transformation from a pre-existing system with some aspects that could be Islamicized to one that conformed with the ideal state created and ruled by the Prophet and continued by the first four "Rightly Guided" caliphs. However, sunnis did not attach divine qualities to a ruler or imam. Throughout his prophetic mission Muhammad emphasized that God had not bestowed on him any such godlike attributes.

### **The Two Faces of Islamic Law**

Under the sunni scheme, both supreme power and judicial authority were vested in the caliph (or, later, sultan). The principal legal authorities, the qadis, who were the adjudicators of sharia and spiritual guides of the community, did not constitute an independent judiciary. Their judgments were subject to review by the caliphs who appointed them, who enforced their decisions (or not), who paid them, and who could dismiss them. Sharia courts were the domain of the caliph. Consequently, when the interests of the caliph clashed with the authority of the sharia courts, the limitations of those courts became apparent.

As the Islamic realm expanded and grew more complex, Shafi'i's doctrine of classical sharia, grounded as it was in Arab tribal society, became alien to Muslims in other parts of the Islamic world. Their own pre-existing customs-'urf-and attitudes had to be accommodated by the prevailing sharian system of law in any given region. Moreover, the rigidity of sharia, the handiwork of legal theorists, increasingly limited its capacity to deal with the realities of social conditions in the variegated cultures under its purview, and particularly with the moral compromises that political conduct demanded. Consequently, the caliphs (and later the sultans), out of necessity, devised supplemental instruments for their juridical establishments. Primary among them were the mazalim courts that began as courts presided over by the sovereign to hear complaints (mazalim) against high officials. They evolved into jurisdictions where matters of political interest, criminal cases, and land law were adjudicated. Qadis did not preside over the mazalim courts; that official was the sahib al-mazalim (loosely, the overseer or superintendent of the court), appointed by the sovereign.

Thus, in retrospect, it becomes clear that sharia never actually became the sole, changeless, dogmatic law that most medieval theorists intended it to be. Ultimately, under the Ottoman sultans (13th to the

20th centuries) the legal cosmos of Islam came to have two faces, religious and secular-sharia and kanun or kanunname, (sultanic law), respectively. Kanun was adjudicated through mazalim courts by which the government largely conducted its day-to-day business. Religion, however, was not entirely distilled from these adjunct legal entities; neither kanun nor the mazalim courts were ever purely secular. The presiding jurists applied sharia as far as the nature of a case would allow, or at least maintained the spirit of sharia in their rulings. Their decisions could not blatantly violate sharia; otherwise, without at least the traces of sharia attached to their adjudications, the individual Muslim litigant or the umma at large could rightly ignore them.

Still, the mazalim sahibs were the creatures of the sovereign and it was his interests they protected. Indeed, in the Islamic legal culture, centered as it has been on the spiritual salvation of the individual, it is highly doubtful that the greatest Muslim empire, that of the Ottomans, could have been created and maintained without the systems of mazalim courts and kanun, underpinned by the principles of *usul al-fiqh* (jurisprudence) and *maslaha* (reform). This system persisted until the modernizing reforms of the Ottoman sultans during the 19th and early 20th centuries. Those reforms brought the Empire into the European state system and ultimately transformed the Muslim world. New communications that included new roads, the telegraph, railroads, steamships and aviation (in 1909, the first flying machine flew over Istanbul and in February of 1910 Egypt held the first air meet at Heliopolis outside of Cairo); the creation of a modern military establishment and of domestic public security forces based on European models; the Europeanization and reorganization of government that gave the sultans greater centralized power; the secularization of education; and the introduction of a new secular code of law, the *mecele* (or *mejele*) of 1858 that was patterned after Belgian and French codes, some aspects of which were retained by the first Turkish Republic in 1924. In the course of these events, European ideas of nationhood and nationalism were implanted among the various Muslim Christian subjects of the Ottoman sultans in southeastern Europe and the Arab Middle East that culminated in the creation of new nations in the course of the 20th century.

Throughout these changes, made remarkable for having been telescoped into only a few years more than a century, sharia continued to function in the new Muslim successor states of the Ottoman Empire along side the secular codes. In some nations, such as Saudi Arabia and Sudan sharia has remained the exclusive source of law. In Iran, under the rule of the mullahs, the Twelver shi'i version of sharia is the overriding law. Even among secularized Arab Muslim nations such as Egypt and Tunisia, sharia courts may adjudicate issues of family law such as marriage, divorce, and inheritance, and sharia is acknowledged in the degree to which their secular codes display sharian sensibilities. With the proliferation of moderate, radical, and extremist Islamic political movements throughout the Islamic world, sharia has again come to the fore among Muslim communities. Rightly or wrongly, sharia has been made an integral part of their ideologies because without sharia, they can have no legitimacy. It is interesting to note that all Muslim nations, even those where sharia is the sole rule of law, are members of the United Nations and subscribe to its charters and procedures and conduct their foreign relations in accordance with the prescriptions of general international law.

Finally, although Islamic law remains religious, as it has evolved in the modern era it has some characteristics that are not dissimilar to western codes. It is positive law and, strictly speaking, requires credible evidence, witnesses, and testimony. It changes through judicial precedents particularly in those sharia courts that are perceived to carry special authority, and through new jurisprudence especially those analyses made by eminent sharia scholars at the most prestigious centers of Islamic learning, such as al-Azhar University in Cairo and, regarding shi'i law, the preeminent madrasas such as those in Qum, Iran.