

# Islamic law in saudi arabia sociology essay



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Islamic law, or Sharia (termed ‘ Syariah’ in Malaysia), refers to the sacred & holy laws of the Islamic religion. Sharia mingles with multiple fields addressed by secular law, which may include economics, crime, and politics, as well as personal matters such as hygiene and sexuality.

Sharia mainly derives from two sources, of which the 1st one would be the heavenly revelations in the Qur’an, and the 2nd being examples and sayings laid down by Prophet Muhammad within the Sunnah. In addition to the above mentioned sources, secondary sources are also adopted. One example of these secondary sources is the ijma of various prominent ulamas in the Islamic world.

In regards of the topic at hand, I shall explain how Islamic law is practiced in Saudi Arabia.

Before I go into explaining how Sharia is practiced in Saudi Arabia, I would like to point out that this essay will only touch on the developments and the ways in which Sharia is implemented in the Third State of Arabia, also known as the current Saudi Arabia.

Sharia was officially enforced in Saudi Arabia by the ‘ Basic Law’ in 1992.

The Basic Law of Saudi Arabia is a charter written in Arabic which bears marking resemblance to a constitution. It is divided into nine chapters, and consists of 83 articles. It is based on the Salafi school of understanding of Sharia and it does not bypass the fiqh.

In Chapter 1: Article 1 of the said charter, it is expressly written that, “ The Kingdom of Saudi Arabia is a sovereign Arab Islamic state with Islam as its

religion; Allah's Book and the Sunnah of His Prophet, Allah's prayers and peace be upon him, are its constitution, Arabic is its language and Riyadh is its capital".

In Saudi Arabia, criminal cases are tried under Sharia courts. These courts exercise authority over the entire population. In other words, people who are not of Islamic faith are still subjected to the criminal laws of Saudi Arabia. Cases which involve small penalties are adjudicated in Sharia Summary Courts, whilst more serious crimes are tried in Sharia Courts of Common Pleas. In events where either party finds the decision made was unsatisfactory, the said party can also appeal through the Court of Appeal.

For civil cases, it could also be tried in Sharia Courts, but with one exception: Muslim of the Shia denomination may try such cases in their own courts. Other civil proceedings, such as those involving claims against the Saudi Arabia government, and claims on the enforcement of foreign judgements, are held before a special panel in certain specialized administrative tribunals, such as the Board of Grievances, and Commission for The Settlement of Labor Disputes.

In strict adherence to the Saudi's sources of law, the system prescribes corporal penalty or capital penalty, which in the Sharia sense may include amputations of limbs for certain crimes such as homicide, rape, robbery, drugs trafficking, adultery, and homosexual/bisexual activities. It is to note that petty theft is also punishable by the means of amputation of the hand, although, it is rare for first-time offenders. For less serious crimes,

such as drunkenness, the courts may impose less severe punishments, such as floggings.

Under Saudi law, when someone commits murder, accidental death, and/or bodily harm, the said person is open or subject to punishment from the victim's family. Retribution may also be, and are usually, sought through the method of ' blood money'. It is to note that the blood money being payable for causing a woman's accidental death, or, that of a Christian male, is only half as much as that for a Muslim male. All the others (men or women of different faiths and believes other than Islam) are valued at 1/16th.

The main reasoning for this, according to the Sharia, men are expected by right to be providers for their families and thus are expected and assumed to earn more fiscally in their lifetimes. The blood money by a man would be expected to be enough to sustain his family, for at least a short period of time.

Honor killings are also not punished as severely as murder. This generally stems from the fact that honor killings are within a family, and done to compensate for some ' dishonorable' act committed.

Saudi Arabia is also the one and only country in the world where women are prohibited to drive on public roads. Women can only drive in off-road conditions and in private housing compounds, some of which extend to many square miles. The ban may be lifted soon, although with certain conditions.

The Saudi government regard its construction of Islamic law as its sole source of guidance on human rights, and Sharia has failed to evolve and

develop to ensure the rights of women are protected. In addition to prohibition on driving on public roads, women are not allowed to travel around without the permission, written or verbal, of their closest male kin. This resulted in women being restricted from travel by their sons and/or younger brothers. Divorcees are required by law to return to the home of their father, and any form of travel must then be approved the father. In other words, under Saudi's law, women of 30 or more years old cannot make independent decisions without the approval of male relatives.

..... MORE TO COME.

#### QUICK OVERVIEW OF THE PRACTICE OF HUMAN RIGHTS IN SAUDI ARABIA

Human rights in Saudi Arabia are based on sharia laws under the rule of the Saudi royal family. The Saudi Arabian government has also been known and criticized for its lack of regard for the religious & political minorities, homosexuality, and women. The Human rights of Saudi Arabia are specified in article 26 of the Basic Law of Saudi Arabia, the constitution of Saudi Arabia, as mentioned earlier. Then, in October 1997, the Kingdom of Saudi Arabia ratified the International Convention against Torture according to the Office of the UN High Commissioner for Human Rights. The first independent human rights organization in Saudi Arabia, the National Society for Human Rights, was established in 2004. In 2008, the Shura Council ratified the Arab Charter on Human Rights.

It is to note that Saudi Arabia, is one of around thirty countries in the world with that still practices judicial corporal punishment. For Saudia Arabia's judicial corporal punishments may include amputations of either limbs for

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robbery, and flogging for smaller crimes such as drunkenness. The exact number of lashes is vaguely prescribed by the law; it is varied in accordance to the judges' discretion, and may range from dozens of lashes to several hundred, which is usually applied over a period of weeks or months.

In 2004, the United Nations Committee against Torture criticized and deplored the Saudi Arabian law over the amputations and floggings it carries out under Sharia. The Saudi delegates, responded, unfazed, in the defence of " legal traditions" that has been held since the birth of Islam 1, 400 years ago, and rejected interference of any kind in its legal framework.

For serious law-offenders, Saudi Arabia also engage themselves in capital punishment, which in Sharia include the likes of public executions by beheading. Beheading is the punishment for rapists, armed robberers, drug traffickers and of course, murderers, according to strict interpretation of Islamic law. In 2005 there were 191 executions, in 2006 there were 38, in 2007 there were 153, and in 2008 there were 102.

To illustrate how serious is human rights infringement in Saudi Arabia, I would like to draw a simple reference to a spokesman for Saudi Arabia's National Society for Human Rights. He reasoned that numbers of executions are rising because crime rates are rising, that prisoners are treated humanely, and that the beheadings deter crime, saying, " Allah, our creator, knows best what's good for his people...Should we just think of and preserve the rights of the murderer and not think of the rights of others?"

#### WOMEN RIGHTS/GENDER ISSUES

Religion affects all aspects of life in Saudi Arabia, and Saudi women face discrimination in many aspects of their lives.

The Sunni Muslims in Saudi Arabia, which is about 90% of the population, are governed by strict conservative interpretations of Islam. Saudi Arabia is a patriarchal society in which women are treated and seen as 2nd class citizens only. And because of that, they continue to become victims of discrimination, everyday. They have lesser say than men in family matters; their freedom of movement is very limited; and their economic opportunities and rights are restricted. In addition, women's actions and choices depends on the permission or wishes of their mahram. Saudi Arabia also applies rules of strict gender segregation and unrelated men and women are separated in all public places. Women also, do not enjoy the freedom of dress, but are required to cover themselves completely from head-to-toe. The usual dress-code includes a jet black cloak-like garment (abaya) and a matching face veil (niqba). Women who deliberately choose to not cover or as they say, 'protect', themselves fully, which rates is increasing in certain parts of the country, run the risk of being provoked and harassed.

Although they make up 70% of those enrolled in universities, for social reasons, women make up just 5% of the workforce in Saudi Arabia, the lowest proportion in the world. These treatments of women has been referred by social scientists as " Sex segregation" and " gender apartheid". Even implementation of a government resolution supporting the expansion of employment opportunities for women, met strong resistance from within the labour ministry, from the religious police, and from the male citizenry.

In most parts of Saudi Arabia, it is thought that a woman's place in this world is in the home, tending for her spouse and family. Rooting from tradition, there is also segregation inside their own houses as some rooms have separate entrances for men and women.

Before 2008, women were not allowed to enter hotels and furnished apartments without a chaperon or mahram. With a 2008 Royal Decree, the one and only requirement needed nowadays to enable women to enter hotels are their national ID cards, but the hotel must let the nearest police station know of their length of stay and room reservation.

The driving ban for women was unofficial until 1990 when it was introduced as official legislation after 47 Saudi women drove cars through the streets of the Saudi capital, Riyadh. Even though illegal, women in rural areas and other areas outside cities do drive cars. It may sound made-up, but according to credible studies, many Saudis believe that allowing women to drive could lead to Western-style openness and an erosion of traditional values.

Women's rights calls for reform in Saudi Arabia – calls that are testing the Kingdom's political status quo. International, as well as local women's groups are also forcing the government to react, taking advantage of the fact that some rulers are eager to project a more progressive image to the West.

#### WOMEN/FAMILY LAW

While the Saudi Arabian law is silent on the legal age of marriage, the practice of forced marriages was prohibited by the country's religious



authority in 2005. Nevertheless, to be fair to the case, the level to which said bride is involved in decision-making in regards of her own marriage varies between families. According to Saudi's family law, the marriage contract is between the mahram of the bride and the husband-to-be. An estimated 16 percent of girls between 15 and 19 years of age are currently married, divorced or widowed in Saudi Arabia.

Polygamy is allowed under Sharia and a Muslim male could take as many as 4 wives, given that he can give equal support and treatment. The practice is reportedly on the decline, but both for demographic and economic reasons.

Women are discriminated against with regards to parental authority as, legally, children belong to their father. If divorced or widowed, a woman is normally granted custody of daughters until they reach the age of nine and sons until they reach the age of seven. Older children are often awarded to the divorced husband or the paternal grandparents. Women cannot confer citizenship to their children (if born to a non-Saudi Arabian father).

Female genital mutilation is not a general practice, but reports suggest that there is some occurrence of the practice among Shia Muslims in the Eastern Province, and possibly among some Bedouin groups.

Violence against women is common and there are no specific laws addressing the issue, nor any adequate protection for the victims. Incidents of domestic violence are rarely reported or even talked about publicly. For instance, the so-called 'honour crimes', whereby a woman is put to death or punished by male family members for having put disgrace to the family honour, are also prevalent. The suspicion alone of a woman's wrong-doing is

often enough for her to be subject to violence in the name of honour.

Women, as well as men, may be subject to harassment by the country's religious police, the mutawwa'in; torture (although outlawed); and physical punishments, often without having their case presented in court.

Islamic law provides for detailed and complex calculations of inheritance shares. A woman may inherit from her father, her mother, her husband, her children, and under certain conditions, from other members of her family, but her share is generally smaller than a man's entitlement. A daughter, for example, inherits half as much as a son. This is commonly justified by the fact that a woman has no financial responsibility towards her husband and children. Women, particularly in rural areas, are often deprived even of their entitled share as they are considered to be supported by their fathers or husbands.