

Let me explain

Contributed by admin
Friday, 06 November 2009 18:18

My non-Muslim friends think that an Islamic State means you will now be stoned to death and your hands cut off. Some view Islamic laws the same way. Whether it is an Islamic State or Islamic laws they narrow it down to stoning and hand cutting. The Sharia is probably the most misunderstood word today and it is probably opportune that Malaysia Today enlightens our non-Muslim readers on what is meant by the Sharia or what we would normally call 'Islamic laws'.

NO HOLDS BARRED

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Sharia is an Arabic word meaning 'way' or 'path'. In Arabic, 'Shari'ah' (God's Law) is traditionally used not only by Muslims but also by Christians and Jews. The western world, however, often refers to the Sharia as an Islamic concept, meaning basically the wide body of Islamic religious law.

The Sharia deals with many aspects of day-to-day life -- politics, economics, banking, business, contracts, family, sexuality, hygiene, and social issues. So it is not, therefore, just about stoning or the cutting off hands which comes under Hudud, just one branch of the Sharia law. Therefore, the Sharia is more than just about Hudud or criminal law.

The Sharia is not a single code of laws but consists of four sources. The first two sources are the Quran and the Sunnah while the last two are consensus (ijma) and analogy (qiyas). For some Muslims, the Sharia consists of the Quran and Sunnah while for others it also includes classical fiqh (deep understanding), which is in turn derived from consensus and analogy. Mainstream Islam distinguishes between fiqh, which refers to the inferences drawn by scholars, and the Sharia, which refers to the principles that lie behind the fiqh.

Shi'a Muslims reject this approach and consider analogy as akin to innovations (bid'ah). They also reject consensus. So when Malaysian Muslims talk about the Sharia this does mean other Muslims accept this version as well.

The development of fiqh goes back to the time of the early Muslim communities. During this period jurists were more concerned with pragmatic issues of authority and teaching than with theory. Progress in theory happened with the coming of the early Muslim jurist, Muhammad ibn Idris ash-Shafi'i (767-820), who laid down the basic principles of Islamic jurisprudence in his book *Al-Risala*. This book details the four roots of Islamic law (the Qur'an, Sunnah, ijma, and qiyas) while specifying that the primary Islamic texts (the Qur'an and the hadith) be understood according to objective rules of interpretation derived from careful study of the Arabic language.

A number of important legal concepts and institutions were developed by Islamic jurists during the classical period of Islam, known as the Islamic Golden Age, dated from the 7th to 13th centuries.

According to Muslims, Sharia Law is founded on the teachings of Allah and the acts and sayings of Muhammad as found in the Qur'an and the Sunnah. However, the Sharia was not fully developed during the time of Muhammad but evolved around the various Muslim communities through which it would serve.

When the Sharia began its formation in the desert of Arabia 1,400 years ago a sense of community did not exist yet. Life in the desert was nomadic and tribal. Thus the only factor that tied people together into various tribes was through common ancestry. The Sharia was guided through its development by lifestyles of the tribes in which was initially absorbed into Islam.

After the death of Muhammad, the Sharia continued to undergo fundamental changes, beginning with the reigns of Abu Bakar (632-644) and Umar (634-644) in which many decision-making matters were brought to the attention of Muhammad's closest comrades who decided on the rulings.

In 662, during the reign of Muawiya b. Abu Sufyan ibn Harb, life ceased to be nomadic and undertook an urban

transformation, which in turn raised matters not originally covered by Islamic law. Every change of Islamic societies played an active role in developing the Sharia which branches out into Fiqh and Qanun respectively.

Before the 19th century, legal theory was considered the domain of the traditional legal schools of thought. The legal schools followed by most Sunni Muslims are Hanafi, Hanbali, Maliki or Shafi'i while most Shi'a Muslims follow the Ja'fari school of thought.

To conclude, I would dispute the argument that the Sharia already existed during the time of the Prophet. I stand by my argument that the Sharia developed over hundreds of years after the death of Prophet Muhammad. For example, if the Sharia is based on four sources (the Qur'an, Sunnah, ijma, and qiyas) how can the Sharia had been already fully developed at the time of the Prophet when three of the four sources came after the death of the Prophet?

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