



## **LESSON: SHARIA**

### **EXCERPTS**

*Akbar Muhammad, Associate Professor of history and Africana studies at Binghamton University in New York:*

#### **Can you tell me what the fundamentals of Islam are?**

The fundamentals of Islam – if you mean that, the “five pillars of Islam,” they are the shahada, which is an affirmation that there is no deity except Allah and that Muhammad is his prophet, his messenger. That constitutes the first pillar, or fundamental.

The second is prayer, salat, and then the fasting, according to some, which is sawm, or the fast of Ramadan; and the payment of what I call a social tax, which is called zakat. Others call it charity; I call it social tax. It is 2.5 percent of what one has had, what one has owned of certain kinds of wealth for a period of one year.

The fifth is pilgrimage, the hajj. The pilgrimage to the Kaaba – not to Mecca per se – but to Kaaba, which is in Mecca. Those are the five pillars or the five fundamentals.

#### **So what does it take to be Muslim? Is it believing that first principle?**

According to widely accepted authoritative hadiths, or sayings of the prophets, Islam is built on five pillars. It's those five pillars we just mentioned. Once one accepts those five principles, one is considered a Muslim. In fact, upon pronouncing the shahada, which is only the first of those principles, a person is considered a Muslim. So it's easy to become a Muslim. It's easier than joining the Republican or Democratic Party. It's very easy to become a Muslim. Technically, it [only] takes seconds to become a Muslim.

#### **But do you have to do all those other things the rest of your life?**

To stay a Muslim, I would say, yes, all of those are important. How important those things are, is really, in my view, an academic, a scholarly argument. Why do I say that? Because in a social context, a person may be taken for a Muslim who does not pray; who does not pay any zakat; who does not do many or all of the other four principles of Islam. In other words, there is such a thing as socio-cultural Muslim, a public Muslim. Then there is another kind of Muslim, I would say, who is technically a Muslim, who is legally a Muslim, I'd like to say. And [who] therefore follows the law... .

*Imam Feisal Abdul Rauf of Masjid al-Farah, New York, New York:*

**What are the fundamentals of Islam? What does it take to be a Muslim?**

The fundamental idea which defines a human being as a Muslim is the declaration of faith that there is a creator, whom we call God – or Allah, in Arabic – and that the creator is one and single. And we declare this faith by the declaration of faith, [shahada] where we ... bear witness that there is no God but God, and that we are accountable to God for our actions.

**Could you just explain to us the key things that Islam, Christianity and Judaism have in common – what they share?**

They share geography. They share Jerusalem, which is important to all. We share a common ancestor, Abraham, who was really the founder and the patriarch of all of us. And I think if we can revert back to the Abrahamic foundation, that is [where] we will find our common ground. Our languages are very similar – Arabic and Hebrew and Aramaic... . The ideas are very similar; and the fundamental impulse of belief in God, that God is the creator, that we are obliged to act in a way that is ethical and just and right. These are certainly among the important aspects of kinship between these three faith traditions. And I would even go further and say – apart perhaps from some differences in the notion of God – but as far as the idea of the common good, the idea of social justice – [that] is shared with all faith traditions.

**[Who decides the rules of Islamic jurisprudence?]**

The thing about the Islamic situation is we don't have a church. We don't have an ordained priesthood, which makes it a little complicated. But we do have a tradition of scholarship, and rules of scholarship. It's very much like any field of knowledge.

Take any field of knowledge, like physics or biology or chemistry. Anybody can become a chemist or a biologist or a physicist. But there are rules [developed], and a kind of a growing consensus of opinion on how one should think correctly to arrive at what would be deemed a right, a correct decision.

Analogously, there is, in Islam, a tradition of theological interpretation, of [juridical] understanding and knowledge. And as long as you abide by these, the consensus of understanding on how you arrive at a decision, certain differences of opinion are considered equally valid. ...

**Can you define "hadith" for an American audience?**

The word "hadith" means any report of something the prophet either said or did. That's hadith with small "h". Hadith with capital "H" is the collection of all these reports.

### **Which have been carefully substantiated or authenticated?**

There are all kinds of grades of hadith, from the most authentic to those that have been forged, and various degrees in between. Islamic hadith scholarship actually is a very fascinating study, because through the hadith collection, you get a slice of Islamic history. The politics of what happened at different periods of time are all manifest in the hadith.

### **And the Sunna, similarly.**

The word "Sunna" is used to mean the normative practice of the prophet. In fact, the jurists have defined the general Sunna of the prophet to mean everything the prophet did or said. The hadith is the report of the Sunna. And of the practice of the prophet, there's a certain class of actions that are normative for Muslims to follow, Sunna which has ... legal value, has a precedent value. And there is Sunna which has no Sharia value. For instance, the prophet prayed a certain way. This has Sharia value, we're supposed to pray that way. The prophet went to hajj on a camel. Doesn't mean that we have to ride a camel from Medina to Mecca for our hajj to be valid. We can take a car. We can take a plane, because that Sunna has no Sharia value.

### **Can you explain that, Sharia?**

The word "Sharia" is the term given to define the collectivity of laws that Muslims govern themselves by. And there is a presumption that these laws recognize all of the specific laws mentioned in the Quran and in the practice of the prophet, and do not conflict with that. So any law, anything studied in the Quran or the hadith, is definitely [Sharia]. The idea is that it is divinely legislated, that the creator also has legislated certain things for us.

But then in the community of Muslims, it was recognized very early on that the Quran and the hadith do not speak to all issues. And there are many issues which are not necessarily addressed in the Quran and the hadith, that the Quran is silent on... . There is a recognition in the [science] of Islamic jurisprudence that there are issues which have to be obtained by analogy, by consensus, and other [subsidiary] sources of jurisprudence. But as long as they don't conflict with the Quran and hadith of the prophet, it's considered to be, quote, unquote, "Sharia."

### **The flexibility built in there, you know, the using of your own common sense, is that what allows different places to apply Sharia differently?**

Well, I wouldn't phrase it quite that way. The correct phrasing would be that, when people think about Islamic law, there's a presumption that all of Islamic law is Quranic, or emanates from the Quran and the hadith. The truth of the matter is, what really defines Islamic law [is] the sum total of Islamic law as has been practiced by Muslims throughout the last 14, 15 centuries ... . The Quran and the hadith are a limiting factor and a shaping

factor. But any body of laws that includes and embodies the specific commandments and prohibitions mentioned in the Quran and the hadith, that does not violate any of these things, has been considered as Sharia, as Islamic. And this allows a lot of variation of opinion, in things which the Quran and the hadith are relatively silent on as long as the principles are maintained, of justice, et cetera.

**My understanding of [the Sharia] rules about punishment for matrimonial infidelity [is that] you have to have four eyewitnesses, or several eyewitnesses to the [act] in order to demand the death penalty. It's almost inconceivable to me that you could ever produce that kind of eyewitness or evidence. But we hear that these kinds of punishments are meted out fairly regularly. Is the law being followed the way it's set [out]?**

You cannot judge a whole body of law by one instance of criminal law. When people think about Sharia law, they often think about the penalties for certain crimes. They don't think about the sum total of Islamic law and its jurisprudence, which means the underlying structure and philosophy and understanding of how you arrive at what we call the Islamically correct decision. You do not define Sharia law by just a couple of penalties. ...

Islamic law has a few penalties for certain crimes. But the rules of evidence, as you mentioned in the case of adultery, require either the free confession by the individual and/or the existence of four witnesses who are of sound mind and who fit the description of qualified witnesses, which is very rare to obtain.

Much of what we see when we hear of events that apply Sharia law, what we see in Nigeria, for instance, or even in Pakistan, is a desire by much of the people to see the general principles of justice followed. ... It is a desire by the people to see their system of laws be more equitable. It is a call for correction of the overall system of social justice, of economic justice, which the Quran calls for; and the example of the prophet calls for.

You see, Muslims have an ideal. Part of their ideal is to follow what they call the example of the prophet, the Sunna of the prophet. So at an individual level, and a human being who wants to perfect himself or herself looks to the tradition of the prophet, his individual practice, and tries to emulate the prophet as much as possible.

There is also a collective subliminal ambition that Muslims have, that at a collective level, they also embody the ideals of the community that the prophet developed in Medina. So when Muslims today speak of the attempt to establish an Islamic state, what they are really saying is that they would like to have a community that lives in accordance with the ideals, the relationships, the social contract, which the prophet had developed in Medina with his companions and how they had this amongst each other. ...

*Akbar Muhammad, Associate Professor of history and Africana studies at Binghamton University in New York:*

...Islam is a very flexible system, and it has been very flexible for centuries. What I mean by that is that differences of opinion have been accepted within Islam and given legitimacy by some of the highest authorities in Islam. Thus in certain areas of the Sharia, one country may differ from another country. One community may differ from another community, even in the same country. We interpret the Sharia in the South, let's say, in Alabama, in this particular area of marriage and divorce or whatever, in this way. You people in New York, in New Jersey, and elsewhere, you interpret it differently. We are all correct. And we have agreed on that.

But that is not strange. Why should it be? Divorce law in various states of the United States differ. The acceptance of homosexuality, legal acceptance of, permission, et cetera, differ from one state to the other. So we can have a national, we can have a federal state, but there are differences within those states. I'm saying, similarly, Islamic law is not one thing. It's not monolithic, as American law is not monolithic, as Western law is not monolithic. So we should be very careful about saying, "Well, this is a violation of the Sharia."

**Do those differences come from the cultures?**

Yes. Absolutely. The Sharia is definitely affected by local cultures, regional cultures. We cannot really talk about national cultures. But we can talk about regional cultures, and we can talk about local cultures. There are different schools of thought within the Sharia. ...