



Progressive Islam in Practice

SHARI'A & ISLAMIC FAMILY LAW PT 4

By Professor Abdullahi Ahmed An-Nai'm
Adapted for MPV by Tynan Power



@mpvusa | #IslamsJustice

IS THERE A REASON PEOPLE RESIST CHANGING FAMILY LAW IN ISLAMIC COUNTRIES? I

Yes. Family law has been used as a “token” that rulers could offer to religious leaders, so that religious leaders wouldn’t object to secular laws, such as those concerning business or banking. Colonial powers often controlled everything except family law and now Muslim rulers often leave this area of law to scholars as a way to keep the peace and gain political support.



IS THERE A REASON PEOPLE RESIST CHANGING FAMILY LAW IN ISLAMIC COUNTRIES? II

For that reason, IFL has become a symbol of Muslim religious identity. Even when IFL is unjust toward women, some Muslims feel that giving it up will mean the end of Islam. The battle over IFL has become a battle for Muslim identity, rather than a battle for what is right in principle—or what is truly Islamic.



IS THE STATUS OF WOMEN PARTICULARLY AFFECTED BY POLITICS IN ISLAMIC COUNTRIES?

Yes. Because family law has become symbolic in its association with Islam, it is often used to enunciate the differences between different demographic groups. People have used the status of women as an example of what they believe in—for example: forcing women to wear headscarves, forcing them not to, or allowing them to choose; giving women the right to vote or giving only men the right to vote; providing schools for girls, allowing girls to attend mixed-gender schools, or forbidding girls from attending school.



IS THE STATUS OF WOMEN PARTICULARLY AFFECTED BY POLITICS IN ISLAMIC COUNTRIES? II

Some have argued that it is necessary to stop, or reverse, any movement towards equality for women because they believe it is contradictory to IFL. They feel IFL should not be abandoned in any area where it is still used. Others have argued that abandoning IFL is necessary to make Islamic societies more equitable for all. Yet these arguments make the mistake of assuming that IFL is the same thing as *Shari'a*, therefore Divine Islamic teachings when in fact, it is all human interpretation.



IS THERE A NEED TO TRANSFORM FAMILY LAW IN ISLAMIC COUNTRIES?

Yes. Some people fiercely hold on to IFL as symbolic of their faith, with the mistaken idea that IFL is *Shari'a*. As we have stated multiple times, this is a false assumption because current IFL cannot be called *Shari'a*. Applying *Shari'a*, as an enforceable law changes its divine nature, and applying only certain parts of *Shari'a* causes social problems, such as human rights violations. IFL in Islamic countries today should be guided by fair social policies, as well as Islamic principles that do not distort the Qur'an, instead holding up its equitable and just teachings.



COULD ISLAMIC COUNTRIES TODAY APPLY SHARI'A LAW ACROSS THE BOARD AS LAW?

No—and they shouldn't. There are several reasons for this. First, *Shari'a* is a set of guidelines for living a responsible moral life. It covers how a person can relate to God and to others ethically. It is open-ended and flexible, while law is not. Making *Shari'a*, law, and into a legal system distorts its true nature. Second, the principles of *Shari'a* do not provide everything needed for a legal system to be complete in our modern society.



COULD ISLAMIC COUNTRIES TODAY APPLY SHARI'A LAW ACROSS THE BOARD AS LAW? II

Third, Islamic countries today are part of a world system. This affects political, economic and social relationships within Islamic nations. By using this model, Islamic countries take on national and international obligations. Some international treaties, such as those concerning human rights, reflect the teachings of the Qur'an and the Hadith. However, they are applied under the authority of international law, not under the authority of Islam.



COULD ISLAMIC COUNTRIES TODAY APPLY SHARI'A LAW ACROSS THE BOARD AS LAW? III

What's more, these agreements are legally binding, even if some provisions violate *Shari'a* law. If Islamic societies were to reject this world system in order to try to live completely in accordance with *Shari'a* law, it would require changing everything and would isolate these societies from the rest of the world, economically, socially, and politically, which is unsustainable given the globalized nature of our world.

