

## **Living by Separate Laws: Halachah, Sharia and America** ***Shabbat Chukkat 5777***

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Rabbi Barry H. Block

In 1960, when John F. Kennedy ran for President, many Americans questioned whether our country should have a Catholic President. Though the question sounds odd to us, many asked: Would he obey the laws of the land, or would he defer to the laws of the Church, the dictates of the Pope in Rome? Kennedy famously met with a group of Protestant ministers in Houston that year, and declared that, in America, the highest law of the land is our Constitution, not the dictates of any Church or religious leader.

Today, though, many Americans and more than a few of our leaders seek to impose the teachings of one religion upon our entire nation. They seek to enshrine their version of Christianity in American law, restricting women's reproductive liberty or advocating for a constitutional amendment to outlaw same-sex marriage. While they often win in the Arkansas General Assembly and elsewhere, federal courts frequently strike down state laws crafted on the basis of religious mandates, as judges uphold the Constitution as the highest law of this land.

God bless America.

And thank God we live in America.

People living in most Muslim-majority nations are not so fortunate. There, Sharia, Islamic law, is the law of the land. In Saudi Arabia, a man convicted of theft can be punished by the amputation of his hand. In much of the Muslim world, the law requires women to wear a head covering, and in some, a garment that covers her completely, from head to toe, exposing only her hands and part of her face.

No wonder, then, that many Americans have been swept up in a crusade to assure that Sharia does not come to be enforced here in America. At least seven states, as well as counties and cities have adopted statutes to "ban Sharia law" or "prohibit courts from considering foreign, international, or religious law." Though the latter type of legislation is crafted to pass constitutional muster by not mentioning Sharia specifically,

campaign rhetoric makes clear that Islamic law is their target. Their claim: American Muslims seek to establish Sharia as the law of the land here in the United States.

The trouble is, while many Americans have heard the redundant term “Sharia law” thrown around on the media, most of us don’t know what Sharia is.

Educated Jews would best understand Sharia by a comparison to Halachah, or Jewish law. Halachah is derived from the Torah, but not only from the scroll of five books. Halachah is distilled from centuries of rabbinic debate, much of it recorded in the Talmud, and from a body of case law. Halachah is not monolithic. Jews from different parts of the world observe a variety of customs, and Halachah developed over time. Today, Reform, Conservative, and Orthodox Judaism treat Halachah differently.

Halachah covers a diverse array of human experience. It addresses religious matters, of course, like observance of Shabbat and holy days. And yet, Judaism doesn’t recognize any distinction between what we modern Americans consider the “religious” domain and what our culture tells us to regard as civil matters. Therefore, Halachah covers criminal law, marriage and divorce, what we eat, what we should wear, and even sexuality. Jewish law includes the purification ritual of the red heifer, which opens this week’s Torah portion. The word Halachah means “path,” as Halachah is traditional Judaism’s path for living in accordance with God’s teaching.

You may be interested to know that Sharia is an Arabic word meaning “path.” Sharia is Islam’s path for living in accordance with the will of Allah as expressed in the Koran. However, not all of Sharia’s dictates are found in the Koran, as a body of oral tradition and case law has added to Muslim jurisprudence.

Sharia, we know, covers criminal matters and discusses what people should wear. In addition, Sharia describes the way of life for the religious Muslim in all matters: personal, business, religious, and otherwise.

In other words, Halachah and Sharia are similar structures.

The most significant difference between Halachah and Sharia is that the only Jewish State in the world today, Israel, does not, for the most part, impose Halachah as the law of the land. In Israel, matters of marriage and divorce, for Jews, are assigned to religious authorities. For Jews, the religious authority is the Chief Rabbinate, which is Orthodox; and Halachah is opposed on Israeli Jews in matters of marriage and divorce, whether they like it or not. However, Halachah is not imposed upon Muslim, Christian, and Druze Israelis, as their own religious authorities control marriage and divorce. In other words, Sharia is the law of the land for Muslims in the State of Israel with respect to matters of marriage and divorce.

This difference between Halachah and Sharia is not a minor one. The majority of Israeli citizens would be as upset at the notion of being ruled by Halachah as many Americans are at the supposed prospect of being ruled by Sharia. No, Halachah does not prescribe cutting off the hand of a thief, and Orthodox women's dress is a bit less restrictive than the most extensive regulations require of Muslim women.

Still, lest we be triumphalist, Halachah can be perverted as badly as Sharia is in most of the Muslim world. This week, the Jewish world has focused on the Israeli government's craven acquiescence to ultra-Orthodox refusal to permit a new section of the Western Wall, where women and men could worship together. On other occasions, Halacha has been misused even to justify murder.

Now, let's be clear: Murderous perversion of Jewish law is the exception, not the rule. Sharia, on the other hand, is regularly twisted and abused by leaders across the world, ranging from Taliban warlords and Iranian Ayatollahs to Saudi princes. Perverse applications of Sharia are responsible for terrorist attacks in Israel and form the basis of the 9/11 massacre and others on our own soil and in Europe. While we have no reason to fear Sharia itself, we do have reason to oppose the way it is applied in too much of the Muslim world, and to fight that kind of Sharia vigorously.

What we do not have reason to fear is Sharia in America. Though most American Muslims are immigrants or their children, Muslims have been in America since colonial days. Muslim immigrants to the United States resemble Jewish immigrants of an earlier era. As they pursue

opportunity in this land of the free, the vast majority of Muslim Americans seek to preserve their religious traditions while assimilating to American life. Sound familiar? The number of Muslims serving in our Armed Forces exponentially exceeds those who might be called Islamists.

Should a Muslim American's observance of Islam's dietary laws be illegal in America? What about a Muslim woman's choice to wear a hijab? Such laws would make practicing Islam illegal in America. Thankfully, federal judges would quickly invalidate those restrictions.

No, our fear ought not to be what any minority might like to impose upon us. Instead, we should be concerned about those in the majority who seek to restrict minority religious rights. Unfortunately, not only extremist Christians but a fringe element of Jews, too, is sounding the false alarm about Sharia in the United States today. The supposed controversy over Sharia's violent elements is but a smokescreen. This group seeks nothing short of the curtailment of the free exercise of religion guaranteed in our Constitution, at least so far as Muslims are concerned.

Jews should be particularly concerned. Our history has taught us the hard way. Haman was the first, but hardly the last, to call for our destruction on the basis of our heeding the dictates of our own faith. Hear now Haman's words from the Book of Esther: "There is a certain people scattered broadly and dispersed among the peoples in all the provinces of your kingdom; and their laws are different from those of every other people; neither do they keep the king's laws; therefore, the king does not profit by tolerating them." We could easily translate this despicable claim into the words of anti-Muslim extremists in America today.

In 1790, the new President of the new United States, George Washington, wrote a letter to the Jewish community of Touro Synagogue in Newport, Rhode Island. America would do well to embrace Washington's words today. He made clear that no one religion's way of life should be imposed upon the nation. At the same time, he exalted America as a nation where no religious group should be shunned or persecuted. Today, as we embark on our Independence Day weekend, we Jews are secure in America, thank God and thank the Constitution; thank the men and women who protect our liberty. Our Muslim neighbors today are less secure, like those Rhode Island Jews 227 years ago. I close with the words of George

Washington, and with the prayer that all Americans would heed his words today:

“The Citizens of the United States of America have a right to applaud themselves for giving to Mankind examples of . . . a policy worthy of imitation. All possess alike liberty of conscience and immunities of citizenship. It is now no more that toleration is spoken of, as if it was by the indulgence of one class of people that another enjoyed the exercise of their inherent natural rights. For happily the Government of the United States, which gives to bigotry no sanction, to persecution no assistance, requires only that they who live under its protection, should demean themselves as good citizens.”

Amen.