



In Search of Islamic Justice

In 2008 human rights lawyer Sadakat Kadri began a journey to understand the history and the meaning of Islamic law. His travels took him to Syria, Pakistan, and Egypt, and to his father's birthplace in India. Kadri recounts this odyssey in his 2012 book *Heaven on Earth: A Journey Through Shari'a Law from the Deserts of Ancient Arabia to the Streets of the Modern Muslim World*. In May, Kadri spoke with *California Lawyer* editor Martin Lasden. Here are edited excerpts from that videotaped discussion.



Sadakat Kadri

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Legally Speaking is a series of in-depth interviews with prominent lawyers, judges, and academics, coproduced by *California Lawyer* and UC Hastings College of the Law.

Q: As with Judaism and Christianity, Islam has its intellectuals, its mystics, its progressives, and, of course, its hardliners. But let's suppose for a moment that I'm a Muslim hardliner and I want to make the strongest case possible, based on Shari'a law, that it's OK to fly a jetliner into a skyscraper to kill as many people as possible. What Quranic verses would I cite? What hadiths would I quote? And what figures in Islamic history would I refer to?

Well, according to one hadith, when the Prophet Mohammed was on his deathbed he said that two religions shouldn't exist on the Arabian Peninsula; that Islam should reign supreme. So after Desert Storm, when the Americans established what were apparently permanent bases on the peninsula, Al Qaeda used that hadith as a justification. There are also verses in the Quran that express hostility toward Christians and Jews, just as there are verses in the Quran that express support for Christians and Jews. And in Islam there's the concept of necessity. So you could argue that because it's impossible to fight combatants on the battlefield in the United States, it's OK to board a

plane and kill 3,000 innocent people. That would be the argument.

And what's the Islamic argument for not flying airplanes into skyscrapers?

You start with the Quranic verse that says to kill one person is to kill all of humanity. And indeed, the verses that justify war and violence in the Quran are vastly outnumbered by the verses that talk about mercy and compassion. So you cite those verses. And then, as far as the argument of necessity goes, you would say of course this isn't necessary.

Back in the Middle Ages when Christians were still burning "witches" at the stake, Islamic judges were light years ahead in their jurisprudence. They presumed people to be innocent until proven guilty, and they made a practice of discounting confessions made under duress. So what caused the atrophy of this extraordinary sophistication within the Muslim world?

One easy answer is that these Muslim societies were destroyed, either by [military] occupation or the terms of trade. As a consequence you had peo-

ple, often in very difficult situations, picking and choosing the traditions that would most effectively galvanize their communities. But you know history doesn't move in a straight line; it doubles back on itself. It does all sorts of strange things. So yes, there are certain ways in which I would regard Muslim societies today as being brutal. I don't think there's any other word to describe the practice of chopping someone's hand off or stoning a young woman to death for alleged adultery. But that doesn't mean that things can't change again. And I think they will change again.

You've described yourself as a Muslim. You also describe yourself as a secularist. Do you see any tension between the two?

Definitely. If one is trying to work out what one believes and where one

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stands in relation to the world, there's always a tension. The people who don't have tension are very frightening people in my opinion, because they are just absolutely sure about where they're going.

In Saudi Arabia, how difficult would it be for the king to just get up one day and issue an edict that would allow women to drive themselves in cars?

It would be difficult, but not impossible. One of the interesting things about Saudi Arabia is that there is this tension between the executive and the judiciary. The judges claim to apply Shari'a—that is to say, God's law—directly, and therefore they tend to be very conservative. So what that leads to is a legal system that, from a Western perspective, can be very arbitrary.

In your book you note that after the Islamic revolution of 1979, Iran became something of a mecca for sex-change operations. I don't think many people in the United States are aware of that. How did that happen?

In the early 1960s no less a figure than Ayatollah Khomeini issued a fatwa in which he said that if people are trapped in the wrong sex, they should be enabled to realize their true identity. So after 1979, it not only became legal to have sex-change operations, but the state actually began to subsidize them. The latest figures I've seen suggest that seven times as many sex-change operations are performed in Iran than in the entire European Union. But it's got to be remembered as well that Iran makes homosexuality potentially punishable by death.

Also in Iran, arguments have been made over the years that changing one's religion should be punishable by death. So in this country you are actually encouraged to change your sex if you want to, but if you want to change your religion, you run the risk of execution.

That's rather paradoxical, is it not?

Rather paradoxical, indeed. 

Watch the full interview at www.callawyer.com.