Applying Islamic norms in Europe: is Bosnia a good example?

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I. The ‘return’ of Shari’a to Europe

Did Shari’a or the Islamic legal code ever leave Europe in the first place? We know for a fact that when Grenada, the last bastion of Islamic Iberia, fell into the hands of Christian armies in 1492, the presence of Islam was already tangible in southeastern parts of the old continent, the Balkans. We can, though, speak of a lull in the application of Shari’a during the communist rule (1945-1990). Up till the communist takeover following the end of World War II, Shari’a courts functioned in the Kingdom of Serbs, Croats and Slovenes (later the Kingdom of Yugoslavia). The ‘lull’ in the application of and even scholarly interest in Shari’a started with the abolition of Shari’a courts in Yugoslavia in 1946. By the 1990s and with the collapse of communism, Balkan Muslims were showing signs of renewed interest in the study of Shari’a and in its informal application (mostly when it comes to marriage). Likewise, Muslims immigrants in Western parts of Europe were already showing signs of interest in having some segments of Shari’a applied (either formally or informally) in their states of domicile. Many of those Muslim immigrants came from south Asian and North African countries which applied certain aspects of Shari’a, usually personal status law but also Shari’a criminal law. Since Shari’a regulated much of their daily lives back home, some asked themselves the inevitable question: what is the relevance of Shari’a for Muslims living in Western Europe?

To be more thought provoking we can go one step further and ask: can a Muslim living in Europe be punished by other Muslims for premarital sexual relations? Can an apostate from Islam living in Europe be killed? Can a Muslim living in Europe borrow money from a bank charging interest? Can Muslims have Shari’a marriages only, instead of civil marriages?

As Muslim immigrants in Western Europe and the United States are relatively recent communities who have been more concerned with making a living and providing for their families back home, they have not yet been able to develop their own, original Islamic thought. For this reason it is to be expected that there is much confusion and disagreement among the many different Muslim religious authorities, representing different immigrant communities, in Western Europe and the United States.

In this work, I will try and demonstrate that my understanding of Shari’a is that of a broad, complex, and multilayered legal system that includes religious, ethical, moral and legal norms. I will also try and demonstrate that many of these norms may be adhered to in Europe without clashing with the existing, mostly secular, legal system so long as that system guarantees religious freedoms. The second part of my work will focus on an under-studied autochthonous European Muslim community, that of Bosnian Muslims, who were driven or rather coerced into developing their own, distinct, Islamic thought under a staunchly secularist communist regime (1946-1990). This essay will only analyze the legal opinions (fatwa) issued by the official Islamic Community in Bosnia and Herzegovina (henceforth ‘Islamic Community’) whose interpretation of Islam is predominant in the country.
This essay will try to identify *Shari’a* norms that are most important for Bosnian Muslims living in a secular state today. It will do so by looking at the questions posed by Bosnian Muslims and the *fatwas* issued by the Islamic Community. The answers provided by the Islamic Community pertaining to the normative aspects of *Sharia* will provide answers to four questions. First, which norms are of most relevance to Bosnian Muslims living in a secular state? Which norms can be freely applied within the scope of state-guaranteed religious freedoms? Which norms can be applied parallel to secular state laws? Finally, which norms cannot be applied?

### II. Differentiating between Islamic law from Islamic norms

The literal meaning of *Shari’a* is ‘the way to the watering place’ or the path of those ‘seeking felicity and salvation’.¹ According to Muhammed Hashim Kamali, a renowned scholar of *Shari’a*, the word appears only once in the Qur’an and is used in contradistinction with *hawa* (whimsical desire).² The Qur’anic verse where this word appears is:

‘Thus we put them on the right path (*shari’atan*) of religion. So follow it and follow not the whimsical desire (*hawa*) of those who have no knowledge.’ (45:18)

Abdullah Yusuf Ali explains this verse as referring to the ‘right way of religion’³ and being the path to religion (Islam), Islamic norms hold an esteemed position for Muslims. In fact, Islamic norms provide obligations and recommendations for every aspect of a Muslims way of life and they are the core component of Islam.

Contemporary scholars of *Shari’a* have adopted an approach of differentiating the various norms which comprise *Shari’a*. Here we will just mention four of them to illustrate this fact. Ahmad Hasan, for instance, in his *Principles of Islamic Jurisprudence* states that *Shari’a* comprises beliefs (*‘aqa’id*), rituals (*‘ibadat*), civil and social transactions (*mu’amelat*), and ethics (*akhlaq*).⁴ Another well known scholar, Asaf A.A. Fyzee, in his *Outlines of Muhammadan Law* described *Shari’a* as ‘a doctrine of duties, a code of obligations. Legal considerations and individual rights have a secondary place in it; above all, the tendency towards a religious evaluation of all the affairs of life is supreme’.⁵ Joseph Schacht, a well known Western scholar of *Shari’a* in his *An Introduction to Islamic Law* states that ‘…the whole of the law is permeated by religious and ethical considerations; each institution, transaction, or obligation is measured by the standards of religious and moral rules…’⁶ Finally, Muhammad Hashim Kamali in his *An Introduction to Shari’a* adopts a similar approach and divides *Shari’a* norms into two categories – norms dealing with *‘ibadat* (devotional matters) and norms dealing with *mu’amat* (civil transactions). Within the first category he also includes moral recommendations.⁷

Here it is illustrative to mention that during the Prophet Muhammad’s twelve and a half year residence in Mecca (while Muslims were a tiny minority), verses dealing with *Shari’a* revealed to him were mostly focused on belief and moral advancement. After the Prophet’s migration to Madinah where Muslims established a new community and government, the bulk of verses pertaining to *Shari’a* were revealed over the following ten year period (an estimated 350 out of 6,200 verses in the Qur’an). Here it is additionally worth stressing that *hudud* (penal rulings) were revealed only in the last two years of the Prophets life.⁸ This gradual mode of revelation is instructive as it points out to devotional

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2 Muhammad Hashim Kamali, p.2.
3 Ibid.
8 Kamali, p.3.

http://downloads.akademie-rs.de/interreligioeser-dialog/131115_karcic_islamic-norms.pdf
and moral primacy over legal norms. It also tells us that in countries where Muslims are a minority (i.e. as in the early Mecca) devotional and moral norms are accentuated while legal norms are only stressed upon (and enforced) if there is a Muslim majority and an Islamic government (i.e. as in the case of Madinah).

My understanding of Shari'a, based on the earlier cited works of eminent scholars, is that it is a code made up of religious, moral-ethical, and legal norms. Further to that, religious norms (belief, prayer) form the basis of this legal system. From these religious norms, moral-ethical norms are extracted and serve to regulate mostly inter-personal relations (family, neighbors, and friends). Since religious and moral-ethical norms do not suffice to ensure that everyone will behave justly in a society, legal norms are derived from them. Legal norms serve to ensure public safety and moral and can only be implemented by an (Islamic) government. In the absence of such a government, legal norms are not 'in power' (i.e. they are not enforceable) but religious and moral norms remain are enforceable by the individual believer.

In the European Union, due to the constant flow of immigrants along with migrations from within the Union, there is a great deal of cultural fluidity and intellectual exchange. When it comes to applying religious norms, there has been significant confusion when it comes to what exactly Muslims want to apply. Sensationalist media outlets will definitely opt for the term "Shari'a" while academics and researchers seem to be more apt on using the term 'Islamic legal norms', 'Muslim norms' or simply 'Muslim values' to define the application of religious norms in the daily lives of European Muslims. Perhaps due to the emerging body of scholarship on legal pluralism, the terms "law" and "legal system" seem to be increasingly applied to non-state norms as well. Advocates of this theory say that for a legal system to be recognized as such there does not necessarily have to be state recognition for it to be valid.

However, Maleiha Malika in her article *Muslim legal norms and the integration of European Muslims* makes a convincing case for differentiating Islamic legal norms from Shari'a.

"One way of capturing the nature of Muslims demands is to avoid the use of the generic term Shari'a in favor of use the category Muslim legal and ethical norms. The term Muslim legal and ethical norms (or Muslim norms) also captures the fact that some Muslims are calling for the accommodation of norms that derive from their understanding of their religion. These include not only standards derived from the sharia and fiqh but also general ethical principles derived from Islamic religious culture. In the European context, therefore, it is more accurate to categorize 'Islamic law', 'sharia' and 'fiqh' as aspects of religious 'norms' or 'values' rather than 'law'. This approach makes clear that the accommodation of Muslim norms is subject to the ultimate regulation of national constitutional and legal systems rather than operating as a separate "parallel" legal system."

In a similar tone, Abdullah Al-Naim, a well known opponent of the state's application of religious norms, expresses his argument for this distinction:

'I therefore call for a distinction between state law and religious norms as two different and separate types of systems that should not be confused by calling both of them “law.” Norms regulating family relations can be religious as long as they are not enforced through state law, but once enforced, they become simply state law rules, regardless of their perceived religious sources.'

In the work that follows, I will use the term Shari'a or Islamic law when speaking about the application of Islamic law as part of a country's legal system or if a state has explicitly recognized the civil effects of some Shari'a norms. Otherwise, when speaking about norms that are not recognized by the

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state and are adhered to on a personal-voluntary basis, I use the term *Islamic norms* – which can be religious, moral-ethical and legal.

**III. Islamic law in Europe today**

I was able to identify three models of applying Islamic law in Europe: as part of the existing legal system; through explicit recognition of certain religious acts; and by means of international private law.

The first mode is when the state explicitly recognizes Islamic law as part of its legal system. This is for instance the case in Greece, particularly in Western Thrace, where substantial numbers of ethnic Turks and Pomaks live. As a result of the Treaty of Lausanne signed by Greece and Turkey dating back to 1923, Muslims living in Greece enjoy unique legal and religious independence. Islamic law is applied in Western Thrace muftiates of Komotini, Xanti, and Didimoticho.¹¹ Ethnic Turks and Pomaks living in Western Thrace are in a way 'exempted' from the jurisdiction of Greek courts in issues pertaining to the private sphere, that is, to issues dealing with family law (marriage, divorce, alimony, *mehr*, inheritance, guardianship, child custody). The power to deal with these issues is vested in the hands of the mufti. This is because Greek law recognizes the mufti's judicial competence when it comes to adjudicating family disputes. To the best of my knowledge, this is the only such case within the European Union.

The second mode is if the state explicitly recognizes the legal effects of only certain segments of Islamic law, such as marriage. As an example we can point to the Spanish state which in 1992 decided to recognize *Shari'a* marriages as equivalent to civil marriages. This was because the Spanish state signed an agreement with the Spanish Islamic Commission (*Comision Islamica de Espana*) which was later ratified by the Spanish parliament.¹² The Agreement covers important areas pertaining to the protection of mosques, pastoral care in public centers and establishments, teaching Islam in schools, celebrating Islamic religious festivals, and giving civil effects to marriages celebrated in accordance with Islamic rites.¹³ Another example is Lithuania which also recognizes the civil effects of Islamic marriages so long as they are properly registered. Inheritance according to *Shari'a* principles is also recognized by the state if all the parties agree to it.¹⁴ Sweden too recognizes the civil effects of *Shari'a* marriages as long as they are celebrated by a licensed *imam*.¹⁵

The third mode is by applying Islamic law through international private law. Namely, in countries such as Germany and the Netherlands, state courts have applied the law of the state of origin of individuals who are not German citizens but reside in Germany. For example, if an Egyptian man and an Egyptian woman, married in Egypt according to the Egyptian family code and currently residing in Germany, decided to divorce, then the German state court would refer to and apply the Egyptian family code to divorce them. Since the Egyptian family code is based on *Shari'a*, the German court would thus be applying *Shari'a*.¹⁶ A number of such cases have occurred in the past. A federal court in Kassel referred to *Shari'a* and ruled that a widow had to share her deceased husband’s pension with his second wife. A court in Koblenz granted residency to the second wife of an Iraqi man. In both cases the courts explicitly recognized polygamous marriages conducted outside of Germany and in accordance with *Shari'a*. In another case, a court in Cologne ruled than an Iranian man had to pay 600 gold coins

¹³ Ibid.
¹⁵ Goran Larsson, ‘Svedska’ in *Muslimani u Evropi*, p.516.
as *mehr* upon divorcing his wife and cited the *Shari’a* as applied in Iran.\textsuperscript{17} All these are cases of German courts applying the *Shari’a* for foreign nationals residing in Germany. To what extent foreign law is applied varies from country to country. Germany, for example, has signed many bilateral and international conventions concerning the application of foreign law for foreign nationals. That is the reason why foreign law, *Shari’a* included, is applied more often in Germany than in some other European countries.

IV. Islamic norms in Europe today

If Islamic religious acts do not have any civil effects but still carry religious significance for their believers, then I not longer use the term ‘Islamic law’ but ‘Islamic norms’ instead. Hence, European Muslims *adhere* to these norms on a personal and voluntary basis. There is not compulsion. We can even use the term ‘apply’ as in – a Muslim individual in Europe can *apply* Islamic norms upon him/herself, but without any legal effects. This is the case in many European countries, Bosnia included. Here I will take Bosnian Muslims as a case in point and analyze how they adhere to Islamic moral, ethical, and legal norms in their country.

V. Bosnia and Herzegovina: case study

Due to the absence of a population census since 1991, there are no official statistics as to the number of Bosniaks, Serbs, Croats and "others" in the country. Oft cited figures are the CIA’s World Fact book which estimated Bosniaks to comprise 48%, Serbs 37.1%, Croats 14.3% and 0.6% others.\textsuperscript{18} The religious makeup somewhat follows the ethnic composition – Muslims make up 40%, Orthodox 31%, and Roman Catholics 15%, and "others" 14%.\textsuperscript{19} Bosnian Muslims adhere to the Hanafi School of Islamic thought and follow a moderate interpretation of Islam. More recently, with the advent of globalization, different interpretations of Islam (neo-Salafi, Sufi, Shi’ite) have appeared.\textsuperscript{20}

Generally, the post-communist period has seen a revived interest in religion. Churches, both catholic and Serb Orthodox, have mushroomed throughout the country. Mosques have also been built, but in most cases on the grounds of mosques destroyed during the war.

Bosnia and Herzegovina is a secular state without a state religion which guarantees religious freedoms. The state’s relationship with the various religious communities is regulated via the Law on Freedom of Religion and Legal position of Churches and Religious Communities in Bosnia and Herzegovina adopted in 2004.\textsuperscript{21} The law guarantees religious freedom, protects from religious discrimination and regulates the legal status of each religious community. After the law was passed, the Catholic Church signed a concordat with the Holy See in 2006 which greatly improved the legal position of the Catholic Church and of catholic believers in the country. The Serbian Orthodox Church signed a similar agreement with the state of Bosnia and Herzegovina in 2008. The Islamic Community in Bosnia and Herzegovina initially hesitated and is yet to sign such an agreement with the state.\textsuperscript{22}

The Islamic Community in Bosnia and Herzegovina is the main Islamic organization in the country. It refers to itself as the ‘one and only community of Muslims in Bosnia and Herzegovina, of Bosniaks

\textsuperscript{17} http://www.spiegel.de/international/germany/crossing-borders-with-shariah-the-role-of-islamic-law-in-german-courts-a-722477.html

\textsuperscript{18} https://www.cia.gov/library/publications/the-world-factbook/geos/bs.html

\textsuperscript{19} Ibid, CIA World Factbook.

\textsuperscript{20} See my previous works: Globalization and its impact on Islam in Bosnia and Herzegovina; Islamic Revival in Bosnia and Herzegovina.


\textsuperscript{22} Bosna i Hercegovina, ‘Muslimani u Evropi’, str.109.
outside of their homeland and of other Muslims who accept it as theirs’. The Islamic Community in Bosnia and Herzegovina is recognized by the State as the traditional representative of Islam in the country. It enjoys independence in carrying out its activities, which include Islamic education, wealth-tax collection, maintaining mosques and providing religious services, publishing activities, managing its property and endowments, and humanitarian work. The Islamic Community is self-financed but it does get some financing from the state especially when it comes to reconstructing mosques destroyed by Serb and Croat forces during the war or financing religious high schools. But that too is mostly on an ad hoc basis and such financing is not regular. The Tariqat Center in Sarajevo belongs to the Islamic Community and supervises the activities of dervishes, most of who belong to the Qadiriya and Naqshbandi orders.

The Islamic Community has its Fatwa Council which was established in 2005 and tasked with issuing fatwas. Until them, it was individual imams, muftis or the fetva-i-emin who issued fatwas. The latter is still the leading figure when it comes to issuing day-to-day fatwas which are published online on the website of the Islamic Community and subsequently printed in the Islamic Community’s newspaper Preporod.

VI. The legal framework for the manifesting religion in Bosnia and Herzegovina

Three legal frameworks ought to be considered in order to understand the position of religion vis-à-vis the state in Bosnia and Herzegovina. On top of the hierarchy is the European Convention for the Protection of Human Rights and Fundamental Freedoms and its protocols. This is followed by the Constitution of Bosnia and Herzegovina, and lastly by the Law on the Freedom of Religion and the legal status of Churches and Religious communities in Bosnia and Herzegovina. These three establish the right to religious freedom in both the private and public sphere which, as I will point out later, paves the way for some Islamic norms to be freely adhered to.

VII. The Islamic Community in Bosnia and Herzegovina and its Fatwa Council

According to their official website, the Islamic Community describes itself as ‘the basic, autochthonous, authentic and only legitimate and legal religious institution of Bosnian Muslims.’ Furthermore, the Meshihats (an administrative branch of the Islamic Community) of the Islamic Community in Croatia, of the Islamic Community in the Sanjak region of Serbia, and of the Islamic Community of Slovenia all constitute parts of the Islamic Community in Bosnia and Herzegovina.

In recent decades, and with large numbers of Bosnian diaspora abroad, the Islamic Community has been extended to included jamaats (‘congregations’) in many West European countries, United States, Canada, and Australia. It should be stressed that in Bosnia and Herzegovina the Islamic Community encompasses Muslims regardless of ethnic identity that recognize the Islamic Community as theirs. Outside the borders of Bosnia and Herzegovina, however, the Islamic Community is made up mostly of ethnic Bosniaks.

The Islamic Community prides itself in having autonomy to carry out its activities and in handling its property without any foreign interference. The main duties of the Islamic Community are to ensure that all its members live life in accordance to Islamic norms, and this is to be achieved by promoting virtue and deterring vice. One of the major duties of the Islamic Community is providing its members

23 Muslimani u Evropi, str.109.
24 http://www.znaci.com/serijatsko_pravo/fetve/art527_0.html
26 Ibid.
VIII. What Bosnian Muslims think of Shari’a

For many years, there has been a discrepancy in the study of normative Islam and Islam in practice. This is especially the case when studying Balkan Muslims. Some progress was, however, made in 2012 and 2013 with the poll results and analysis conducted by the Pew Research Center. The study that I will refer to in this work is the Pew Center’s The World’s Muslims: Religion, Politics and Society – particularly the section dealing with beliefs about Shari’a. The survey was conducted between 2008 and 2012 in a total of 39 countries and involved more than 38,000 face-to-face interviews in more than 80 languages and dialects. In countries where the Pew Research Center considered that Muslims were a minority, such as in Russia and Bosnia and Herzegovina, it employed over-samples to ensure adequate representation (1,000 Muslims were interviewed in both Russia and Bosnia and Herzegovina).

According to the survey, an overwhelming number of Muslims around the globe want Shari’a to be the official law of the land where they live. Many agree that Shari’a should only apply to their country’s Muslims population and most want it to regulate family and property issues, while fewer support its implementation in criminal cases (hudud).

Generally looking at the results of the survey, support for Shari’a is lowest among Central Asian and Balkan Muslims, as opposed to African, Middle Easterners and South Asian Muslims. In Bosnia and Herzegovina 52% of Bosnian Muslims say that Shari’a is the revealed word of God, while 39% say that Shari’a was developed by men but based on God’s word. Muslims differ on whether there should be only one or multiple interpretations of Shari’a. In Bosnia and Herzegovina, 56% of those interviewed said there should be only a ‘single interpretation’ of Shari’a, while 35% said there should be ‘multiple interpretations’.

Support for making Shari’a the official law of the land is often higher in countries where the constitution or its basic laws favor Islam over other religions. For instance, support for Shari’a as the law of the land is 91% in Iraq and 86% in Malaysia. Support for it is generally weaker in Central Asia and in the Balkans. In Bosnia and Herzegovina, only some 15% of those interviewed say they favor making Shari’a the official law of their country. Among those interviewed, Muslims with higher levels of religious

27 Ibid.
29 Član 13, p.416.
31 Ibid, p.38.
32 Ibid, p.42.
33 Ibid, p.44.
commitment tend to express higher support for Shari’a. Some 29% of those who say that they ‘pray more’ supported making Shari’a the law of the land, while 12% of those who ‘pray less’ expressed the same support.  

Among those Muslims around the world who support making Shari’a the law of the land, most do not believe that it should be applied to non-Muslims. In Bosnia and Herzegovina, of those who say that Shari’a should be the law of the land, 61% say that Shari’a should apply to ‘Muslims only’ while 29% say that it should apply to ‘all citizens’. 

When Muslims around the world express their support for Shari’a as the law of the land, they do not always share a common vision of how that should look like in practice. Overall, among Muslims around the world who support making Shari’a the law of the land, most want it to adjudicate domestic disputes and few support its handling of criminal issues. The survey finds even lower support for executing apostates.

Among Bosnian Muslims who want Shari’a as the law of the land, 24% of Bosnian Muslims say religious judges should have power to decide family law (marriage, divorce, inheritance) and property disputes. Among those who support making Shari’a the law of the land, 32% of Bosnian Muslims say they favor corporal punishments for theft. Among those who support making Shari’a the law of the land, 21% of Bosnian Muslims say they favor stoning as a punishment for adultery. Among those who support making Shari’a the law of the land, 15% say they favor the death penalty for those abandoning Islam.

Many Muslims around the world say their country’s laws do not follow Shari’a. In Bosnia and Herzegovina, 23% of those interviewed say that their country’s laws ‘somewhat closely’ follow Shari’a. On the other hand, some 68% of those interviewed say their country’s laws do not closely follow Shari’a. Among those Bosnian Muslims who say that their country’s laws do not closely follow Shari’a, 50% say that it is a ‘good’ thing while 29% consider it a ‘bad’ thing.

When it comes to women’s issues, Bosnian Muslims take the global lead. Some 92% of those interviewed in Bosnia think that a woman should personally decide if she wants to wear the veil, as opposed to Afghanistan where only 30% think the same. Some 45% of those interviewed in Bosnia think that a woman should always obey her husband, as opposed to 96% of those interviewed in Malaysia. Bosnian Muslims also take the world lead when it comes to a woman’s right to divorce. Some 94% of those interviewed in Bosnia say that a woman should have the right to divorce her husband, as opposed to only 8% in Malaysia. When it comes to inheritance, some 79% of those interviewed in Bosnia and Herzegovina say that sons and daughters should have equal inheritance rights, as opposed to Tunisia where only 15% think the same. Muslims around the world are also divided on the issue of polygamy. Some 85% of Bosnian Muslims interviewed say that polygamy is morally wrong, while only 4% say it is morally acceptable. For comparison sake, 87% of those interviewed in Niger consider polygamy morally acceptable, while only 5% consider it morally wrong.

34 Ibid, p.21.
36 Ibid, p.50.
37 Ibid, p.52.
38 Ibid, p.54.
40 Ibid, p.57.
41 Ibid, p.58.
42 Ibid, p.92.
43 Ibid, p.93.
44 Ibid, p.94.
46 Ibid, p.84.
Muslims around the world strongly reject violence in the name of Islam. In Bosnia and Herzegovina, 96% of those interviewed say suicide bombings in the name of Islam are ‘rarely/never justified’ while only 3% say they are ‘often/sometimes justified’. ⁴⁷ For comparison sake, 40% of those interviewed in Palestine consider suicide bombings ‘often/sometimes justified’. ⁴⁷

**IX. How Bosnian Muslims ‘apply’ Islamic norms in their daily lives – the normative aspect**

In order to understand the domains of Islamic norms in a secular country such as Bosnia and Herzegovina, we can refer to the religious decrees (*fatawa*) issued by the Islamic Community.

The questions posed by Bosnian Muslims to the Islamic Community are very diverse and include questions pertaining to belief, prayer, fasting, alms tax, *hajj*, moral, interpersonal relations, economy, criminal law, copyright law, *waqf*, inheritance, and marriage. In order to better understand how Islamic norms have been incorporated into the lives of Muslims living in a secular state, we will observe three different cases. First, we will look at cases where Islamic norms can be freely observed within the scope of religious freedoms guaranteed by the state. Next, we will look at cases where Islamic norms are applied parallel to secular state norms without clashing with the latter (although only state norms are legally binding). Third, we will look at cases where Islamic norms are not at all enforceable.

Among the types of questions most often posed by Bosnian Muslims to the Islamic Community it is worth mentioning that questions pertaining to prayer, purification, fasting, wealth-tax, and prohibitions made the top of the list. This was followed by questions pertaining to marriage, funeral rites, bank loans and interest, women’s rights and abortion, pilgrimage, work and income, inter-personal relations, economy and trade, inheritance law, morals, and lottery games. The questions of least interest were about (Islamic) criminal law and Islamic endowments.

From the above we can deduce the division of Islamic norms according to their importance which almost exactly fits the theoretical division mentioned earlier in this work. Namely, Islamic religious norms (prayer, purification, fasting, zakat, pilgrimage) are at the top of the hierarchy with the highest number of questions and highest number of viewer hits. ⁴⁸ Next in line are Islamic moral/ethical norms (work ethics, trade, lottery games, and inter-personal relations). Lastly, the questions of least interest pertained to Islamic legal norms (criminal law, Islamic endowments, marriage).

1. Applying Islamic norms within the scope of religious freedoms

Within the framework of laws guaranteeing freedom of religion and belief in Bosnia and Herzegovina, Islamic religious as well as moral norms can be freely applied. Although there are numerous examples, we will illustrate just a few examples. Among Islamic religious norms, first and foremost, we can include the five basic pillars of Islam and what every Muslim is required to perform in order to be a Muslim. These include the testimony of faith (*shahadah*), prayer (*salat*), paying the wealth-tax (*zakat*), fasting the month of Ramadan (*sawm*), and pilgrimage to Mecca (*hajj*). These five obligatory Islamic religious norms can be adhered to by Muslims without any restrictions, so long as the state firmly guarantees religious freedoms. Although the performance of these religious obligations is an individual duty, in Bosnia and Herzegovina it is made easier with the existence of the Islamic Community as an institution which provides locally trained imams to lead prayers in mosques, collects the wealth-

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⁴⁷ Ibid, p.29.
⁴⁸ During my first research on this topic in 2011, the number of questions in each category was available along with the number of viewer hits; hence it was easy to deduce what viewers were interested in. However, during the writing of this work in 2013, figures representing the number of questions in each category along with the number of viewer hits have been removed.
tax and alms into a special fund known as the Beytul-mal\(^{49}\) and also organizes the annual pilgrimage to Mecca (hajj).

Islamic religious norms pertaining to birth and death can also be applied. For instance, religious practices performed after the birth of a child (aqida) and the circumcision of male children can be freely practiced in Bosnia and Herzegovina and can be conducted with the help of imams from the Islamic Community. Likewise Islamic religious norms pertaining to funeral prayers (janaza) are conducted by Islamic Community’s imams and the deceased are buried in Muslim cemeteries which are under the jurisdiction of the Islamic Community.\(^{50}\)

Islamic religious norms pertaining to dietary needs can also be adhered to without any state restrictions. In Bosnia and Herzegovina the Islamic Community has established its own Agency for Halal Quality Certification in 2006 with the aim of testing and certifying food products to meet halal standards set forth by the Islamic Community.\(^{51}\) Prior to that, there were individual butchers which slaughtered animals in accordance with Islamic religious norms, but without any official certificates or stamps. The Agency, however, has made matters much easier for Bosnian Muslims who can now find halal certified food products, although still in humble (but rising) quantities in major supermarkets.

As for the sacrifice of animals (qurban) during the Muslim religious holiday of ‘Aid al-Adha, a practice which has on a number of occasions come under criticism in the West from animal rights groups, it can be performed freely in Bosnia and Herzegovina as it is allowed under Article 16 and 17 of the Law on the Protection and Wellbeing of Animals which explicitly allows animals to be slaughtered for religious purposes.\(^{52}\)

Islamic religious norms regulating dress code for both males and females can also be adhered to without any restriction in Bosnia and Herzegovina. Regarding the dress code for women, the Islamic Community stated that women are required to wear loose clothes which do not reveal their body shape and that their hands, face, and feet below the ankle do not need to be covered.\(^{53}\)

A good example of an Islamic moral norm is related to tobacco consumption. The Islamic Community stated that, although there are different opinions among Islamic scholars whether the consumption of tobacco is mekruh (lit. disliked) or haram (forbidden), it should be avoided altogether because of the obvious harm it inflicts upon one’s health. A second example of an Islamic moral norm is attending social events where alcohol is served. The Islamic Community stated that a Muslim should not attend weddings or any other social event where alcohol is served and where other activities contrary to Islamic religious and moral norms are practiced.

From the few examples illustrated by the Islamic Community we can see that Islamic religious and moral norms retain their validity in a secular state. Although in some countries enforcing Shari’a law, eating in public during Ramadan or failing to attend the Friday prayers may result in the state agencies (mutava’een) taking disciplinary measures against the individual; this is certainly not the case in Bosnia and Herzegovina. In a secular state such as Bosnia and Herzegovina, it is upon the individual to adhere to Islamic religious and moral norms. The failure to adhere to these norms is not subject to any state sanction but only to moral reprimand and, in Muslims belief, Divine justice in the hereafter.


Here we must also state that based on the fatwa we can only see the Islamic Community’s normative interpretation of Shari’a. To what extent they actually are adhered to by Bosnian Muslims is not visible from the above, unless a thorough research poll is carried out.

Case 2: Parallel application of Islamic legal norms and secular state law

I was able to identify 8 areas where Islamic legal norms may be applied parallel to secular state law without clashing with each other. These include marriage, divorce, mehr, mediation, Shari’a compliant banking, inheritance, establishing a waqf, and adoption.

Marriage

A Shari’a marriage by itself is not valid in Bosnia and Herzegovina, but Article 7 of the Family Law of the Federation of Bosnia and Herzegovina explicitly states that religious marriages can be conducted after the civil marriage.54 The Islamic Community has made it very clear that its inams will not perform a Shari’a marriage ceremony in a mosque if the couple has not performed a civil marriage first.55 Although there have been cases, especially among some Salafi groups, of performing the Shari’a marriage only, the fetwa-i-emin of the Islamic Community has stressed the necessity of performing a civil marriage first so that marriage rights, especially for women, can be secured.56 Here it is interesting to note that another Shari’a moral norm – that of no physical contact between the partners before marriage – is also stressed by the fatwa-i-emin since he recommended that the placing of the ring on the finger of the maiden should take place after the Shari’a wedding ceremony although it is a common practice to be done after the civil marriage ceremony.57 A similar adherence to Shari’a norms is noticeable in the fatwa regarding witnesses (shahid) in a Shari’a wedding ceremony: the fetwa-i-emin stated that only Muslims of good character and those who do not publicly commit sins which expel a Muslim from Islam can be witnesses in a Shari’a marriage.58

Although the Family Law of the Federation of Bosnia and Herzegovina clearly states that the three necessities for marriage are that the partners are of different sex, that they voluntarily accept marriage, and that their concurrence to marriage is stated before the municipality’s book-keeper, the law does not place any restrictions with regard to the religious affiliation of the partners.59 Although it is well known that Shari’a law allows for Muslim men to marry Christian and Jewish women, and that the same is not the case for Muslim women, the Islamic Community in Bosnia and Herzegovina forbids (to both Muslim men and women) marriage with partners of different religion. They based this decision on a 1938 fatwa citing that such marriages are against the public interest (maslahah) of then Yugoslav/today Bosnian Muslims.60 Hence although the secular law places no restrictions for marriage with partners of different religions and beliefs, Bosnian Muslims wishing to adhere to this Shari’a norm do so by avoiding marriage with non-Muslims.

56 Ibid.
59 Article 8 of the Porodichni Zakon Federacije Bosne i Hercegovine, cited above.
Divorce

The Islamic Community does not have a system in place to conduct a divorce according to Islamic principles. Interestingly enough, although the Islamic Community insists on Bosnian Muslims conducting the Shari’a marriage, they do not insist on a Shari’a divorce – simply because they do not have a system in place to conduct this. Hence, looking at the fatwas issued by the Islamic Community, they recognized a marriage dissolved by secular state courts. This means that if a couple was wed in accordance with both Islamic and civil law, only a civil divorce is enough to dissolve both the civil as well as the Islamic marriage.\(^1\) The Islamic Community is firm that after a marriage has been dissolved by a secular state court and the period of waiting (’iddah) has expired, a Muslim woman is allowed to be wed again according to Shari’a. The lack of a mechanism of dissolving Shari’a marriages gets somewhat more complicated when a Shari’a marriage has been conducted abroad. For example, there was a case when a Bosnian Muslim woman married a Lebanese man. They conducted a Shari’a marriage before a local imam, and not a civil marriage, in Lebanon. After the emergence of some marital disagreements, the two decided that they could not longer live together. They ended up living in two different countries, and when the wife decided to get married to another man, she realized that she could not conduct a new Shari’a marriage before dissolving the first one. She contacted her ex-husband and asked him to divorce her (to proclaim the talaq), but he refused. Hence, she was stuck in a deadlock known as el-mu’alleka as Shari’a commands a woman to dissolve her marriage before conducting a new one. The fetwa-i-emin admitted that ‘we do not have a solution to your problem’.\(^2\) The problem of el-mu’alleka occurs in basically two ways: when there is a de facto dissolution of a Shari’a marriage only due to the fact that the husband is either absent, in an unknown location, or simply refuses to agree to a divorce. The second scenario is when there is a civil divorce but not an Islamic one that the wife is insisting to have but her husband is refusing to grant.\(^3\) Although the Islamic Community does not possess the internal mechanism for divorcing a Shari’a marriage, a decision was made that the Islamic Community can grant a sort-of ‘divorce certificate’ to a couple seeking it if the following conditions are met: (a) if the divorcing couple has proof of a Shari’a marriage conducted by a representative of the Islamic Community; (b) if they provide a verdict from a local state court proving that their civil marriage was dissolved; (c) the husbands written statement regarding the divorce; (d) proof that the mehr has been paid out to the divorced wife.\(^4\) The Islamic Community insists that this is not an alternative to a civil divorce, but merely a religious verification of an already dissolved marriage. It is also the position of the European Council on Fatwa and Research who concluded that a marriage dissolved before a secular state court is valid from an Islamic point of view since the legal system of the country where the Muslim is residing must be respected in order to avoid anarchy.

Mehr

Another component of a Shari’a marriage practiced in Bosnia and Herzegovina is the mehr – the bridal gift agreed upon before the wedding. According to the fetwa-i-emin of the Islamic Community the mehr is a contractual obligation and must be paid by the husband if he initiates the divorce.\(^5\) On the other hand, if the wife initiates the divorce, then the husband has the right to ask to be exempted from paying.


\(^{4}\) Begović, p. 41


http://downloads.akademie-rs.de/interreligioeser-dialog/131115_karcic_islamic-norms.pdf
ing the mehr, or having it returned in case he already paid the amount.\textsuperscript{66} The duty to pay the mehr depends on the personal piety and moral integrity of the husband and the state cannot enforce it. There is, however, a possibility for the wife to use the state mechanism in order to enforce this religious norm. This can be done if the husband and wife incorporate a stipulation into their civil marriage contract, stating that compensation (equivalent to the mehr) is to be paid by the husband to the wife in case of a marriage breakdown initiated by the husband.\textsuperscript{67} However, this option is rarely practiced in Bosnia and Herzegovina.

Mediation

The Islamic Community in Bosnia and Herzegovina does not have any institutionalized means of mediation or arbitration comparable such as the Muslim Arbitration Tribunal in the United Kingdom. The closest they get are informal, ad-hoc mediation councils. This was clearly suggested by the Islamic Community in a fatwa issued to husband whose wife was insisting on a divorce as the couple were going through a marriage crisis. The fetwa-i-emin stated that the Shari‘a commands the creation of a mediation council, made up of a representative from both the husband’s and wife’s side. The council would find out the circumstances that created the marriage crisis, establish the facts, and attempt to reconcile the two sides. Should their efforts at reconciling fail, they can dissolve the marriage, but clearly acknowledging whose fault resulted in the marriage breakdown. In case it was the husbands fault the marriage broke down, his wife will have the right to a full mehr. On the other hand, in case it was the wife’s fault, she loses her right to mehr. In case the wife refuses the reconciliation council and insists on the state court dissolving her marriage, it is the Islamic Community’s opinion that she would be committing a sin and lose her right to her mehr. Once the state court dissolves her marriage, it shall be considered that her Shari‘a marriage is dissolved as well.\textsuperscript{68} In two other questions posed to the Islamic Community, the fetwa-i-emin recommended the creation of a mediation council in order to solve the points of content among the marital partners. The mediation council should ideally bring about a decision based on Shari‘a principles. However, all this seems to be on a very informal level.\textsuperscript{69}

Shari‘a compliant banking

Although Islamic banking in Bosnia and Herzegovina has still not been regulated by law, within the framework of the law on Banks of the Federation of Bosnia and Herzegovina\textsuperscript{70} the Bosnia Bank International (BBI) has been practicing Shari‘a compliant banking. The BBI is based on a number of Shari‘a principles. First, since Shari‘a law absolutely prohibits interest, the BBI bank does not charge any interest to its clients. It makes profit through the so called ‘profit margin’ and through commercial or partnership deals with its clients.\textsuperscript{71} The BBI also practices a method known as murabaha. For example, the usual procedure for taking a loan for purchasing a commodity is followed by a down payment or a number of years along with the interest rates added to the original price of the commodity. In Shari‘a compliant banking, since interest is forbidden, the solution for this is that the bank purchases the commodity on behalf of the client and then re-sells it to the client on a pre-arranged higher price. The


\textsuperscript{68} http://www.rijaset.ba/index.php?option=com_content&view=article&id=6674:konflikt-meu-suprunica&catid=142:bra-pravo&Itemid=218


\textsuperscript{70} Zakon o Bankama, (“Sl. novine Federacije BiH” broj 39/98, 32/00, 48/01, 27/02, 41/02, 58/02, 13/03, 19/03 i 28/03)

\textsuperscript{71} Muhamed Emšo, Načela na kojima počiva Islamsko bankarstvo I, BBI Academy, p.2.
client down pays this exact (higher) sum over the next period of years without any interest rate. Second, while the conventional approach to financing is that it is backed by money or ‘value papers’, BBI’s Shari’a compliant banking calls for any financing to be backed by real value (i.e. property, gold reserves). Third, the business partners must share the profits or losses arising out of the enterprise in pre-determined amounts. This principle is specifically practiced in business partnerships (mushareka, mudareka). And lastly, investments should only support practices or products that are not forbidden under Shari’a law (such as alcohol, casinos, pork).

Apart from the Shari’a compliant banking system described above, solutions have been found by the fetva-i-emin for Bosnian Muslims who opt to save money in banks which do not practice Shari’a complaint banking. For example, if a person saves money in a bank and receives interest fees on his savings, the fetva-i-emin stated that it is allowed for the person to donate this sum earned (as a result of interest rate) to charity. Similarly approach was taken by the fetva-i-emin regarding the taking of a loan from a bank which, during its down payment, would be subject to interest rates. The fetva-i-emin suggested that in case of dire necessity and if there is no other option then this approach is allowed.

For those residing in Bosnia and Herzegovina, in number of cases he recommended the BBI bank as a form of an interest-free Shari’a compliant banking.

**Inheritance**

The Law of Inheritance dating back to the era of the Federal Republic of Bosnia and Herzegovina is still in force and although it regulates the patterns of inheritance, one of its articles allows for inheritance to be regulated through a civil testament. The other mode of dividing inheritance, in case no testament has been left, is for the inheritors to agree among themselves. Regarding the testament, as it is already well known, Shari’a law considers it the husband’s religious duty to provide maintenance for his family. From this arises the need for a greater start-up capital for a male child compared to the female child, and thus the division of inheritance 2:1 (male: female). This rule has been applied by the fetva-i-emin in cases where Bosnian Muslims sought to have their property divided according to Islamic principles. However, the fetva-i-emin also stated that in case parents only have daughters, then all the daughters would receive equal shares of inheritance. A Bosnian Muslim can also allocate his inheritance to someone other than his biological heirs, but this is limited to only 1/3 of his prop-

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74 Muhamed Emšo, Načela na kojima počiva Islamsko banarstvo I, BBI Academy, p.2.
75 Muhamed Emšo, Načela na kojima počiva Islamsko banarstvo II, BBI Academy, p.1.
79 ‘Službeni list SRBiH’ br. 7/80 i 115/80.

http://downloads.akademie-rs.de/interreligioeser-dialog/131115_karcic_islamic-norms.pdf
The fetva-i-emin further stated that more than 1/3 of the inheritance can be allocated to an inheritor but only with the full consent of the remaining inheritors.

In the other case, that is, in case no civil testament has been left by the deceased, then the fetva-i-emin suggested that the inheritors agree upon themselves and divide the inheritance according to Shari'a principles. Once the inheritance divisions are agreed upon among the inheritors, a civil court can be approached and thus the inheritance divisions according to Shari'a will be sanctioned by secular state law.

**Founding a waqf**

Bosnian Muslims who wish to establish a waqf or an endowment can do so in Bosnia and Herzegovina without any obstacles. There are two types of endowments they can establish – a monetary waqf and a real estate waqf. The first one is treated as a donation to the Islamic Community and the person donating the money is issued a waqfnama, a document proving that a donation for a particular cause has been made. The Islamic Community’s Waqf Directorate has a subsection where all the latest monetary contributions to the Islamic Community are listed. The monetary contributions are diverse and include donations made for the constructions of a mosque all the way to donations for repairing a mosque’s heating system and buying a new chandelier. The second form of endowment that is practiced in Bosnia and Herzegovina is a real estate endowment. This is slightly more complex than the monetary waqf a required a number of legal steps to be made. First, the person wishing to endow a piece of real estate needs to provide the Islamic Community with all the necessary legal documents proving that he/she is indeed the owner of that property. The second step is for the person wishing to establish an endowment to write up a request, clearly stating that he/she is acting according to his/her own free will as well as listing the endowments conditions, purposes and usages. This request has to be handed over, along with all the necessary legal documentation, to the Islamic Community’s Waqf Directorate. Once approved, the real estate property officially becomes an endowment or a waqf and the person who made the donation becomes an endower (waqif). At that point, the property has according to Islamic law become an endowment. The next step is to make it an endowment in the eyes of the secular state. This is done through a simple step: the endower composes a ‘Gift contract’ in accordance with civil law whereby he gives away his real estate to the Islamic Community (which is treated by Bosnian law as a legal entity). After that, the endower and the Islamic Community representative go to a local notary and sign in the Islamic Community as the new owner of that real estate. Once this is completed, all the necessary conditions – both according to Islamic law as well as civil law – have been fulfilled and an endowment has been established. The real estate property becomes a waqf according to Islamic law and a property of the Islamic Community according to civil law and thereupon the Islamic Community’s Waqf Directorate manages it.

**Adoption a child**

Just like Jewish law, Islamic law does not allow the adoption of a child. Only caretaking is allowed and is considered a very good deed. This is because Islamic law pays great attention to the maintenance of biological hereditary lines and full adoption, including accepting the surname of the adoptive parents, being treated legally as their son or daughter, and being entitled to equal inheritance rights as the biological children of the adoptive parents would disrupt this system. This is also the official

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84 For a list of all the donations made, see http://vakuf.ba/uvakuflenje/pregled-uvakufljenja/1/p33
stance of the Islamic Community and they suggest that the caretaker parents should treat the child as a ward and not as an adopted child.

Article 91.2 of the Family Law of the Federation of Bosnia and Herzegovina stipulates that adoption can be carried out either ‘completely’ or ‘partially’. In the case of ‘partial’ adoption, Islamic legal norms regarding caretaking can fit in without clashing with civil law. The adoptive parents can ‘partially’ adopt the child, retain the child’s name and surname (if he/she has one, if not they can give and surname, and act as the child’s custodians until the child’s legal maturity. This is because Article 118 of the above mentioned law states that the adoptive parents can decide on the name of the adoptee, while the adoptee takes the surname of his/her adoptive parents, or retains his/her surname (if known). The other option is for parents to opt for the ‘guardianship’ option also stipulated within the Family Law (Article 160).

However, in the ‘guardianship’ option, it is the local social services who decide to whom a child shall be given to. The Islamic Community states that as long as the adopted child or ward is not treated legally as the biological child of his/her adoptive parents, the act of partial adoption or guardianship is in accordance with Islamic legal principles. They also insist that the adopted child should be aware that he/she is not the biological child of his adoptive parents. However, the Islamic Community does not have any special document that needs to be filled in order for the partial adoption or guardianship to be valid according to Islamic law. This is again left upon the consciousness of the adoptive parents or guardians. In both the case of ‘partial adoption’ and ‘guardianship’, Islamic concept of caretaking may be fitted into ‘partial adoption’ as provided by civil law in Bosnia and Herzegovina, so long as the parents and the adopted child are well aware that the child is not legally treated as their biological child and that this is clearly stated in his personal documents.

The adoptee can also inherit from him adoptive parents. Article 119 of the above cited law states that the adoptee can inherit from his/her adoptive parents. Islamic law also allows a ward to inherit property from his guardians, but not equally as would biological children inherit, rather by means of a testament composed by the adoptive parents. According to Islamic law, adoptive parents as testators may distribute up to one third of their property through a testament to their adopted child or ward.

Case 3: Cases where Islamic legal norms are not enforceable

Apart from the Islamic religious and moral norms which can be enforced by individuals upon themselves without any obstacles and apart from the few cases where both Islamic legal norms and secular state law can be applied in parallel, in all other cases Islamic legal norms are not enforceable. This is because the secular state of Bosnia and Herzegovina has its own legal system and its own set of positive norms which are in force. A few questions have been posed to the Islamic Community regarding punishments under Islamic criminal law for various criminal offenses. I have selected a few examples of crimes in order to illustrate how these offenses, which would normally be subject to corporal or disciplinary punishment by law enforcement agencies in states enforcing Islamic criminal law, are not punishable in Bosnia and Herzegovina.

The first example we can look at here is apostasy (irtida) or the abandonment of Islam. Freedom of religion and belief, including the freedom to choose a new religion and abandon a previous one, is guaranteed by law in Bosnia and Herzegovina. As it is also well known, apostasy or abandoning Islam, in classical Islamic legal thought is punishable by death, especially if the apostate had switched sides and joined an enemy state. In the case of Bosnia and Herzegovina, the Islamic Community very

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87 Član 118, p.19.
replied to a question on apostasy stating first that views on apostasy differ among Islamic scholars, and second, that Islamic criminal law is not even applied in Muslim countries, let alone in Bosnia and Herzegovina. The fatwa ended with the note that any further debate on this question was useless.89

A second example of a hudud crime is zina. Adultery and premarital relations (zina) are offenses punishable according to Islamic criminal law. However, since these are not criminal offences under the secular state laws of Bosnia and Herzegovina, such crimes are not punishable. According to the Islamic Community, committing zina is a still a crime, and if the person committing it is married, then it is a far more serious crime than if the person were unmarried.90 In their opinion, the only option for an offender is to repent and seek forgiveness from God and a firm decision not to commit such a crime in the future. This example illustrates that zina is both a sin and a crime under Islamic law. If there is an Islamic state, then the offender is punished for his crime. If there is no Islamic state, then the offender is not punished for his crime but his sin still remains.

A third example of a hudud crime is the consumption of alcohol. Alcohol consumption is also a punishable offense according to Islamic criminal law and the punishment for this offense in a country enforcing Islamic criminal law is whipping in public. However, in the case of Bosnia and Herzegovina, there is no punishment for such an offense. According to the Islamic Community, Bosnian Muslims who had consumed alcohol can only repent for their crime and seek forgiveness from God.91 Here, we again see how the violation of an Islamic legal norm is not punishable in a secular state but nevertheless still remains a sin.

A fourth example of a hudud crime punishable in a country enforcing Islamic criminal law is theft. In the case of Bosnia and Herzegovina, however, the Islamic Community stated that a person who has confessed to committing the crime should return the stolen good, ask for forgiveness from its owner, and repent to God.92 Just like in the previous examples, here we too see that the violation of this Islamic legal norm is not punishable in a secular state but nevertheless still remains a sin.

X. Conclusion

From this expose we can conclude that Islamic norms are of three kinds: religious, moral-ethical, and legal. A bulk of these norms is aimed at the individual, and many are of religious and moral-ethical nature. Only a small portion are legal and even a smaller portion, especially those aimed at securing public moral and safety, are for criminal offenses and are under the jurisdiction of the state. In an Islamic state where Shari'a is enforced, Islamic religious, moral-ethical, and legal norms are in force.

In a secular state such as Bosnia and Herzegovina, as we have seen from the fatwa issued by the Islamic Community, we can first conclude that Islamic religious and moral-ethical norms are of utmost importance to Bosnian Muslims and that both types of norms can be freely adhered to within the scope of religious freedoms provided by a liberal democracy. Second, we can conclude that certain Islamic legal norms such as those pertaining to marriage, inheritance, adoption, waqf, and banking can be enforced parallel to and without conflicting with the existing secular state laws. The decision whether or not to adhere to these norms depends upon the free will of the individual.

Third, we can conclude that although Islamic legal norms pertaining to *hudud* crimes are not enforceable by the state, violating them still remains a sin. Here we can draw upon the conclusion reached by Bosnia’s leading Islamic scholar, Fikret Karčić, and his differentiation of the religious (*diyaneten*) aspect of an Islamic legal norm in contradistinction to its juridical (*qada’en*) aspect. The religious aspect of a norm is always in force while its juridical aspect is only in force if there is an Islamic government to enforce it. In the absence of an Islamic government to punish the violation of Islamic norms, the only punishment that a Muslim violator can face is moral reprimand from fellow Muslims and, in Islamic belief, Divine justice in the hereafter.