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Islam vs terror: Islamic law expert on understanding sharia in the modern world

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A Catholic with a Hindu father and a Buddhist wife talks to Diana Wichtel about the perils of teaching sharia law.

“There’s a lot of silly scuttlebutt that goes around,” says Raj Bhala, associate dean and law professor at the University of Kansas. “There were rumours circulated by some officials that the purpose of my class was to convert students to Islam. The reporters asked them, ‘You do know he’s Catholic, right?’”

We’re sitting in a common room at the University of Auckland’s School of Law, discussing the perils of teaching sharia law in the American Midwest. Bhala also teaches sharia to Special Operations forces at Fort Leavenworth. His detractors don’t much like that, either. “They said, ‘He might be weakening them.’ Do you really think that a skinny guy like me is going to be able to affect them?”

His course is designed to help with the part of their work that involves development, community engagement, education. “How do you sit down as a non-Muslim – ‘You’re from where? The United States?’ – and explain that there are different ways of looking at this passage on the hijab or on terrorism, on violence? That’s the challenge we’re facing. It starts with educating ourselves.”

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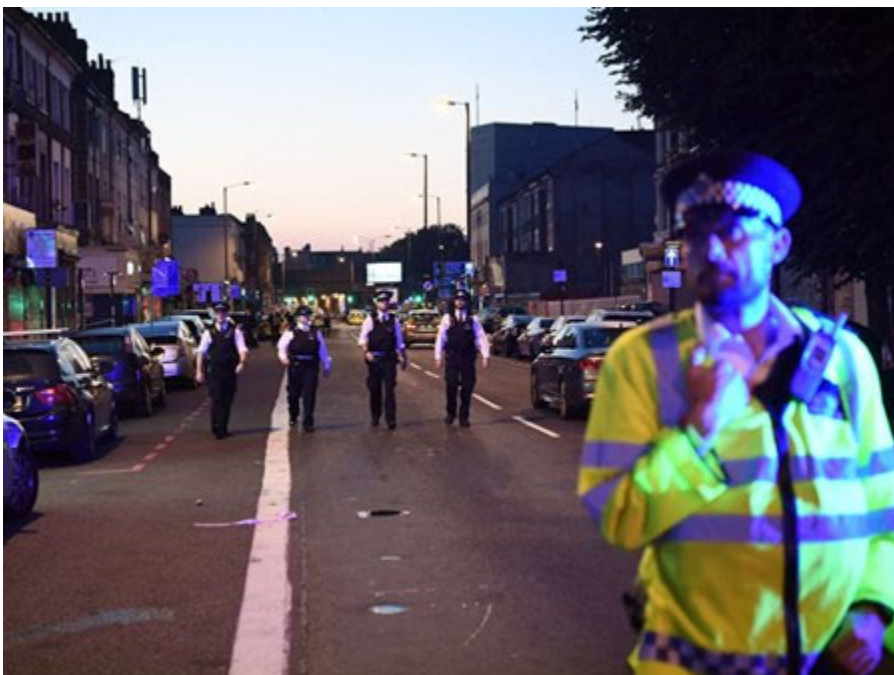




When it comes to diversity, Bhala has a lot of bases covered. He is an Indian American immigrant. His mother is a Scottish Irish Canadian, raised Presbyterian; his father is Hindu. His wife, Kara, is Malaysian Chinese Buddhist. He is a Catholic convert. He voted for Hillary Clinton. He teaches sharia law. In Kansas.

His wife spent 25 years working on New York's Wall Street. He worked for the Federal Reserve Bank. "My wife lost 187 colleagues in the World Trade Center. We wanted a simpler life, outside of the Beltway."

An expert in international trade law, he took a job at the Law School of the University of Kansas. "At that time, the icons were Senator Robert Dole, who was an engaged internationalist. The governor was Kathleen Sebelius, a Democrat President Obama later picked as his health and human services secretary. We never would have foreseen – I'm not sure anyone could have – how radical to the right the shift would be."



Waiting for better policies

As a Catholic, he struggled with Clinton's pro-choice position but voted for her because of her stance on social justice. "I really wanted, for my daughter's sake, a woman president. I'd grown up in the era of Indira Gandhi. I hasten to add I want this president to succeed. The presidency matters and the country matters to me a lot." Is he optimistic? "No. You keep waiting for better policies, greater empathy, more inclusiveness and many of us are not seeing it yet."

Bhala writes columns with such titles as "Defining 'America First' in the Trump Raj" for India's *BloombergQuint*. He'll talk about anything, with the disclaimer that his views are his own and not those of his university.

"Getting ideas out into the public domain and, where appropriate, getting engaged in advocacy scholarship can be important. We've seen that with people involved in immigration law and the President's orders that are going through the courts on immigration into the US." Lawyers have worked to counter Trump's travel ban of six Muslim-majority countries.

"Putting aside the law, the optics of a Muslim ban and the humanity of it are horrible. Who wants to be part of a system where religious bigotry is evident in the immigration process? We've always stood in our Constitution for freedom of religion. That's what the founders embraced, so it's antithetical to who we are as Americans to think that there might be a ban grounded on religion."

In February, two Indian men were gunned down in Olathe, Kansas, by a man who, witnesses say, shouted, "Go back to your country." One of the victims died. In an episode of the series *Welcome to the United States of Anxiety: Culture Wars*, made by New York public radio station WNYC, Bhala spoke of a world in which concealed weapons can be brought into his classroom. His wife spoke of no longer feeling her husband was safe. The man's murder shook the community. "His widow asked the question,

‘Do we belong here?’, and that question resonated with a lot of us. I don’t mean necessarily Indian Americans and Asian Americans. Because there’s no necessary connection between skin colour and blood line and cosmopolitan thinking,” he says.

“Culturally, we’re at a crossroads in the heartland. One path is to think of us as we were in the 1950s. The other is to see the more modern society that we have and to embrace that. Demographically, that might be inevitable, but if there are enough extremist events, from shootings to defacement of synagogues, then it threatens to drive many of us out.”



No decline in extremism

It’s a complicated world in which to be the first non-Muslim American scholar to write a book on sharia. (*Understanding Islamic Law* was published in 2011.) “I thought, finishing off the last chapter of the first edition with Al Qaeda and the death of Osama bin Laden, that when we came to the second edition, we’d be talking about the decline of extremism. Lo and behold, we had to write a whole new section on Isis.”

The word “understanding” is key, he says. “The book is neither an

apology for nor an attack on the sharia. It's trying to understand and critically appraise it."

The project arose when he was teaching a comparative law class in Washington. Students from India, Pakistan and Bangladesh, both Hindu and Muslim, wanted to know more about Islam. There were business as well as cultural reasons. "How do we become more understanding and tolerant of cultures and religions, so we're comfortable making investments and doing trade deals?"

When Bhala moved to Kansas, the university agreed. "So I took some courses in Islamic law. It's an absolutely fascinating, enthralling field, a very different way of thinking from what we're used to in a secular system. What was very much a second field for me has taken on a life of its own."

His own history is one motivation for promoting tolerance. His father's family went through the hell that was the Partition of India in 1947. "And my wife growing up in Malaysia saw first-hand as a Chinese the religious race riots in 1969 and 1970. I don't want my daughter and your kids to suffer that kind of communalism and to live through those wars that my father's generation had to."

The problem with any religious text as a basis for law, surely, is that it's inevitably static, unable to respond to a changing world. "This is a similar debate we've seen in our Supreme Court between people who think that the way to interpret the US Constitution is using the original intent of the founders, that it is a dead document and should be dead, and others who think it is living and breathing and we need to be flexible and adapt it to modern conditions. What we see in our Supreme Court is something that Muslim scholars have been debating for a thousand years. There's nothing new in Washington."





Bhala also teaches literature and law. Texts – treaties, statutes, the *Bible* – are “literary acts” and open to interpretation. “The literary theory techniques – structuralism, historical criticism, feminism, LGBTQ theory – all can and should be brought to bear when you view law as a species of literature.” It’s not necessarily inconsistent with faith.

“One of the very common remarks of the Prophet and in the *Koran* is that reason is a gift from God. We’re supposed to use it. Should we still be stoning people for adultery? One of the things we can do in using our reasoning is point out that that punishment isn’t even in the *Koran*. It actually comes rather indirectly from the hadith [a collection of traditions containing sayings of the Prophet Muhammad].”

And there are always questions no ancient text can answer. “Is it permissible for a Muslim couple to use IVF? Is it permissible for a Muslim to not only fly to outer space but maybe be part of the first mission to Mars? To go back to what was thought in the 600s doesn’t help, even if you stretch analogies. The vast majority of clergy and lawyers in the Muslim world are saying yes, we do need to interpret a little bit more flexibly our sacred sources.”

When it comes to something like the veiling of women, I tell Bhala, I find it difficult to reconcile that with notions of equality. I wouldn't want that imposed on my daughter.

“Right, understood, and I know the same feeling with my own daughter.” She and Bhala's wife accompanied him on a trip to Saudi Arabia. “To our very pleasant surprise, the Saudi host said, ‘No, you don't have to wear the headscarf.’ And you've seen that now with Melania Trump; she didn't even have to wear the abaya covering her body. At the same time, it was troubling. Saudi women didn't have that same choice.

“But tolerance is understanding. It's not necessarily agreement. And there's a very good sharia basis for you to have that problem.” The relevant passage is open to interpretation, he says. “It may send shudders down the spine of some really extremist conservative cleric who is insisting on the same interpretation of that passage since 610 AD.”





To veil or not to veil

This is a topic he covers in one of his lectures here. “Whether or not women really do need to veil under Islamic law – and obviously the answer has to be there is some flexibility, because we see flexibility. It’s a lot different in Beirut on the beach with bikinis.”

We live in a world where two men in Aceh, Indonesia, have each received 85 lashes for the crime of gay sex. Strictly traditional interpretations can lead to such outcomes, says Bhala. “Domestic violence, terrorism, discrimination against LGBTQ communities – outcomes that were not what God probably would have intended.”

We don’t hear much about the Muslim scholars working on these things, says Bhala. “They are working on ways of interpreting texts that are consistent with modern human rights law and sensibilities.” Such work can require courage. “How many leaders have been assassinated or journalists been imperilled in Pakistan and other countries for blasphemy, which is not even listed as a specific offence under the sharia?”

We get onto the controversy over sharia councils. “Kansas and 20 other states have anti-sharia laws,” says Bhala. “The public have not learnt about the history, and we think the project here must be that they’re trying to undermine the constitution, that it’s creeping sharia. This is based on prejudice and ignorance.”

He cites India, where personal and family disputes can go first to religious courts. “If the outcome is unconstitutional – for example, if it

involves some kind of disinheritance of the woman – then that goes to the Indian courts.” There are practical reasons for the arrangement. More than 22 million cases are pending in India’s district courts, the *Guardian* reported last year.

And things are changing in terms of human rights. There’s a movement in India for Muslim women to take charge of Islamic law and end misogynistic practices. “There’s nothing in Islamic law that prevents women from being judges and arbitrators. I’m not saying it’s perfect or that the lot of Muslim women in India is fantastic. It’s not, but it’s a really potentially cool development.”



As for whether sharia councils and courts should be allowed in Western countries, “that depends on the local law, the constitution, the community sentiment. Let’s appreciate that it does work in certain countries and communities. But if we say no to it, at least let us know what we’re saying no to.”

Just after our conversation comes news of the terrorist attack in Manchester. “Even after all these years since 9/11, I remain naive. I still cannot believe such evil exists in the world,” says Bhala by email. “My

own daughter had just attended a concert in Kansas City. I thought of her and all teenagers like her: kind, gentle, intelligent, hardworking young girls going out for a fun evening.”

So how should we respond when such a cruel act is claimed to be for religious ends? “The claim, in truth, is bogus. Nothing in Islam commands, or even encourages, the taking of innocent lives, least of all innocent women and children,” writes Bhala. “Such extremists . . . are criminals who style themselves as soldiers in a war they have concocted and in a battle they misperceive as defensive. They distort important concepts in the sharia, like jihad – which means struggle in the principal sense of ‘struggling peacefully to discern the will of God and follow it through doing good works, avoiding temptations and being kind’ – and pervert that struggle into a holy war of their own making against an enemy they create.”

There’s a minority of people, he says, who are susceptible to indoctrination. “They are marginalised. They do not know the teachings of their own true faith. Frustrated and uneducated, they are vulnerable to vile stupidity in its most evil form.” What’s needed is to “decouple” the label Islam from terrorism. “This challenge is both immediate and long term, and the indispensable tool in it is education.”

Bhala rejects the notion that he’s an expert in Islamic law. “I’m a student of it.” He’s aware of the limits to what an American scholar can or should do when it comes to change in another religion.

“We can’t do it from the outside. It’s not like US lawyers or New Zealand lawyers, particularly being Christian, are going to come in and make the necessary change. All we can do is support them.

“The way to a better future isn’t to dig in our heels and say no to everything and shut down education. It’s to learn and share the

knowledge.” It’s a start. “Right, it’s a start.”

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