Public debates on and attempts at reintroduc- ing Islamic law have become characteristic of post-Soviet Muslim and non-Muslim areas, and are especially vivid in the North Caucasus. In recent years, the so-called ‘sharia courts’ in these regions were established de facto by reopened mosques in a number of villages and towns in Dagestan, Chechnya, Ingushetia, North Ossetia-Alania, Karachay-Cherkessia and Kabardino-Balkaria. The majority of mosques are located in Northern Dagestan and Southern Chechnya. They settle small inheritance and criminal cases including divorce, theft, drinking alcoholic beverages, and the like. The decisions of these courts are final and not subject to appeal. They usually impose both fixed sharia and non-Isamic penalties. Dagestani chairman of village and district administrations often call upon local gobs to settle family and land trials.

Articles 212 and 235 of the Soviet criminal code of the Russian Federation prohibiting the application of sharia norms regarding marriage and inheritance practices were abolished in its new version passed in 1996. But sharia courts have not been legalized in post-Soviet Russia with the exception of Chechnya and Ingushetia. In December 1994, the Chechen Republic of Ichkeria officially proclaimed itself ‘the Islamic Republic of Chechen-Abkhazia’. The former Dagestani Mufti, in an interview with ‘Ivnecha’ just before his assassination in August 1998, was reported to have said: ‘. . . do you remember the recent execution of the death sentence imposed by the sharia court in Chechnya? And such trouble and harrowing reminiscences made of it? Even those who had agreed with this sentence hesitated, their souls having been haunted. But let’s think of a quite another thing. The problem is what we should do with those who deal in kidnapping and trade the captured, turned into living goods, or with those who kill their victims and sell their cadavers. I consider sharia court as a preventive measure against such crimes. It is amazing, that most Moscow journalists and academic scholars, quite unfamiliar with Islam, also support re-enacting the sharia law in the North Caucasus. They believe that it is the only means to maintain order and to prevent Chechnya and neighbouring Cau- casian republics from anarchy. As a former member of the Soviet Union Communist Party Central Committee and now political scientist, A.S. Tugus, put it: ‘Let’s take a sober view of the things. The sharia laws pro- tecting the Chechens from self-degradation are much more progressive than other laws and culture (i.e. neo-liberal) stipulating destruction of the people’. This view is wide- spread among Moscow intellectuals. A jour- nalist, A. Fedin, expressed it as follows: ‘The Chechen society is still quite pre-state and traditional. It is based on the unwritten cus- tomary law. . . .’ Public executions sentenced by the sharia court appear to be the begin- ning of the state-building of Chechnya, which is to be an inevitably bloody affair.

Owning views. There is also an opposite notion of sharia as a barbarous remnant of the middle ages that ‘judges brutality in the Chechen man- ner’ associated with public flogging, cutting off of hands, throwing stones, and therefore quite unsuit for the modern law and soci- ety. This view is shared by the top-offi- cials of the Russian and Modern media. One such person as K.M. Tsagolov, a deputy to a former minis- ter of nationalities of the Russian Federation, and the majority of Western and European Cau- casian authorities. They accuse adherents of the sharia courts of working for Chechen ter- rorists. Part of the Moscow mass media sided with the Putin’s statement propagated such a negative vision of ‘Shariatism’. As an- other minister of the Russian Federation, Ra- mzan Abdulatipov, pointed in August 1999: ‘Against a background of the war in Dages- tan and the aggravated situation in the North Caucasus, an impression has been spread in Russia that every Muslim is an Is- lamic extremist’.

Paradoxically, both of these antagonistic visions of sharia have a common core. The first striking thing is the almost total absence of knowledge of Islamic law among the majority of adherents and oppo- nents of re-enacting Islamic courts. In their view is sharia reduced to some elementary norms of criminal and family law. No one can dispute the Shari’ite legal school, tradition- ally dominant on the territory of Dages- tan, Chechnya and Ingushetia, from the Hanafi one prevailing among the other Cau- casian and Russian Muslims. Due to such ig- norance, the Chechen authorities adopted the Sudanese sharia code based on the Ma- likite madhhab. The majority of participants in the debates are unable to judge numer- ous deviations from the classic Islamic doctrine. They were attached in the work of re-en- acted sharia courts in the last decade.

It is noteworthy that no Muslim judges or even academic legal theorists specializing in Islamic law take part in this public de- bate. Its participants are mainly journalists, politicians and academic scholars including political scientists, historians and anthropo- logists. The only exception is Prof. L.R. Syukiyaynen from the Institute of State and Law in Moscow. Syukiyaynen is Russia’s lead- ing expert on Islamic law, although his opin- ion is uncommon and much more realistic. Recognizing the great advantages of sharia in resolving social problems and in re- lacing local tensions in present-day North Caucasus, he argues that there has not yet been a true and adequate application of Islamic law in this region.

Myth-making about the sharia is charac- terized of both opposing sides of the debate. The concepts of both are more or less di- versified from reality. ‘Highland Muslim tradi- tionalism’ is seen as the key to the nature of the North Caucasian law and society. This notion does not take into account the radical social and legal changes that have been inevitably caused by drastic state reforms in this region for more than a century (from the 1860s); the mass resettlement of Muslim highlanders to the plain, and even forcible deportation of entire groups that took place under the Soviet rule. Moreover, the authors of ‘Shariatism’ completely ignored the fact that the criminal laws of the sharia were not applied in the pre-modern Russia. Histori- cal analysis of the law of the North Caucasus and the period pre-Soviet Russia with the exception of the Caucasian War of 1920, shows that the Southern Cauca- san Muslims, as a rule, adhered to the criminal laws including divorce, theft, drinking alcoholic beverages, and the like.

Another aspect of the discourse on sharia courts is the vision of Islamic law as a natural antagonist of the Russian state. Par- ticipants of these debates argue that in the past sharia was the collapse of the Soviet state and political resistance of the North Caucasian highlanders, first to the Russian conquest and then to the Chechen rebellion. They consider sharia courts. They conclude that restored sharia courts must undermine Russian law in the present day Caucasus. This mythology has a long his- tory, embodied in the colonial policy of late Imperial Russia, which considered Islamic law unfavourable. After the Caucasian war of 1917, the Chechen and Ingush mountains of Dagestan and Ingushetia were given in Grozny in April 1997, vigorous de- bates on sharia begun in the North Cau- casian regions. In December 1997 the Ingush president Ruslan Aushev stated: ‘Why should we include into our constitution the article as “a barbarous remnant of the middle ages”’? The distinct flavour of this view was captured by Sayyid-Muhammad Abubakarbabov, the former Dagestani Mufti, in an interview with ‘Ivnecha’.

The discourse on re-enacting Islamic law in the post-Soviet North Caucasus has begun in Grazny in April 1997, vigorous de- bates on sharia began in the North Cau- casian republics; from anarchy. As a former competing two competing attitudes towards this issue. The majority of Muslim clergy are in favour of introducing Islamic law, regards it as a tool of national liberation and social mod- ernization. They consider sharia as the magic solution to the problem of growing criminality and social instability caused by the collapse of Soviet rule. This mythology had much influenced legal and social development of the North Cau- casian Muslims in the 20th century. First, it led to the introduction of sharia courts after the Revolution of 1917 and the collapse of the Russian empire. These courts were en- actuated by revolutionary decrees passed by the First Congress of the Highland Peoples of the Caucasus and the Terek Party in 1917-1918. They worked under different political rules including the early Soviet one and were abolished only by 1925- 1927. For the second time, the idea of ‘Is- lamic resurgence’ was realized in the North Cauca- sus following the break-up of the Soviet Union. Sharia courts were introduced here again. But the social and legal situation in the region had completely changed.

One should assume that there is a trend toward higher education and growing criminalization of power and soci- ety in the region.