

## EDITORIAL

### *Sharia and the Public Debate*

It would be no exaggeration to say that over the last few years Islam has made more global headlines than any other world faith. The issues such as the Danish cartoon crisis, the full veiling of women in public, the outcry concerning the fate of schoolteacher Gillian Gibbons, who fell foul of the law in the Sudan because she had permitted one of her pupils to call the class teddy bear “Mohammed,” are just a few of the debates that have gripped the imagination of both the public and the media. Against the background of the global “war on terror,” the recent airport attacks in Glasgow and the frenzied debates about multiculturalism, for many people the debate about religion and society is essentially a debate about Islam and society. Despite efforts by academics and public figures to inject a little more sophistication into many of these polarised debates, for many people, in the West in particular, Islam is seen as much of a social and political threat as it is seen as a world faith.

And so it came as little surprise that when Archbishop Rowan Williams delivered the Foundation Lecture for the Temple Church at the Royal Courts of Justice in February 2008 entitled, “Islam in English Law,” both his lecture and the earlier radio discussion provoked a blistering backlash against the Primate. For the leader of the 77 million-strong Anglican Communion to be talking of a “constructive accommodation” of sharia within the civil laws of the UK was too much for many in British politics and the media to digest. For a largely Western audience whose general understanding of sharia goes little beyond the application of draconian and barbaric penal laws, the idea that a liberal democracy could make space for such oppressive laws left many silently squirming and some openly outraged. Even those who had listened to his speech or appreciated the complexity and nuance of the text could do little to placate the hysterical reaction of many who could only hear alarm bells. Why was an archbishop even contemplating a place for other religious laws when what he should be espousing was a more robust Christian moral vision for the UK? One could legitimately ask, did the archbishop not anticipate that any serious consideration of sharia and its possible place in Britain would

be construed by many as a threat, both to British society and its Christian heritage?

The problem with starting any conversation on sharia is exactly where do you start? Misleadingly but commonly translated as Islamic law, the term has become synonymous with penal law, stripped of its broader ethical dimensions and the fluidity of juristic reasoning. As contemporary Muslim scholars attempt to contextualize the debates on Islamic law and ethics, they are constantly battling against the bloodymindedness of some Muslim states, which refer to sharia as God's law but only as a tool for self-interest and political expediency. For these authorities, God's law is understood as divine in its essence, an inalienable aspect of Muslim identity, a tool for defining all that is anti-Western, simple in its deontic message and applicable for all time. Unfortunately this sentiment is also rife amongst many Muslims in the UK who feel that all aspects of sharia can and must be applied without due consideration of time, place and individual moral agency.

But the argument is even more complex than that. Many people may now even have learnt that sharia is a complex process, not a simple code of ethics or law to be implemented on society least of all on a non-Muslim society. If the sharia aims to be all encompassing, then the archbishop is right to say that aspects of sharia are already in place in the UK, and where some aspects are accepted—even encouraged—others are condemned for disregarding individual human dignity. For example, if sharia covers all aspects of a believer's life from worship, to dietary laws, to marriage contracts, then it should not come as any great surprise that Muslims observe many of these practices in their daily life. The prohibition on pork, abstinence from alcohol, five times ritual prayers and fasting in Ramadhan are all aspects of sharia. When observed, no violation of the civil law takes place. In fact some aspects of sharia, such as sharia-compliant financial packages, while regarded by many Muslims as little more than a wordplay on the term interest, are nevertheless on the increase and the UK Prime Minister Gordon Brown sees the lucrative fallout from such religious convictions, as London fast becomes the financial epicentre for such ventures. In the area of personal law, most Muslims marry according to their religious law and register their marriage under the civil law of the land. For decades the two systems have existed side by side and there is nothing here that contradicts the law of the land; no principle is being violated.

The problem is not in the existence of religious law but in the nebulous status of certain aspects of religious culture, especially when it comes to personal status. For example, if arranged marriages are premised on adult consent, forced marriages ignore this premise, crushing individual consent and should be seen as nothing less than a crime against the state

and the individual. Many in the legal profession are aware that Islamic divorce proceedings must be done in the framework of both religious and civil law. However, they are also aware of the dangerous position this leaves women who become victims caught between two legal systems. Two different conversations must be held here. Firstly, how can an Islamic process be aligned with a civil process, which would be both possible and desirable on all sides.

A second more important conversation is about those who administer and run the religious sharia institutions. These are mostly men for whom women still bear the burden of honour in society. While some, like the Islamic sharia Council in London, claim that the majority of their rulings are on divorce and about releasing women from bad or forced marriages, these sharia courts know that their rulings have no basis in law—participants abide by them voluntarily. But one could question what kind of religious morality underpins their pronouncements and whether it is sufficiently aware of the complexities of modern life. Let's be honest here. Whether or not sharia courts or informal arbitration councils are effective in some areas, they should never be seen as an alternative authority to the civil courts. The simple reason being that it is women who would be left even more vulnerable than they already are, trapped between two legal systems.

Laws are not made in a vacuum; there is always a social and moral context. The issue here is whether we are prepared to make *value* judgments about cultures and practices that are different, or to be more precise, are not liberal. We value liberalism in the UK and beyond, because at the heart of liberalism is the principle that one must not harm or intimidate another in the name of culture or religion. But liberalism also demands that others be liberal. We struggle to have an honest discussion about the potential of sharia in the UK because there is too much ignorance or abuse of the system and very little will to align religious practices with the civil process. This is a pity because the perception of Islamic law as rigid and oppressive has overshadowed its essence, which is flexibility and fluidity to changing circumstances. Furthermore, as suggested in the Archbishop's speech, should the secular domain be the only domain, the only reference point, in which the internal religious systems of society are tested? My problem with this twin polarization of religion and secularism is that it sets them both up as conflicting and opposite entities, when in fact the discourses of both secularism and religion often cross boundaries in our deepest human concerns. But seen within the current debates between religious identity and secular liberalism, it is hardly surprising that religious legal systems are viewed with suspicion. The human rights debate, in all its various forms, demands that there is no contravention of

recognized individual liberties; in theory the goal is to trump religious particularisms, especially if they lead to abusive practices. However religious bodies already enjoy certain exemptions from secular law. For example, they can choose whether or not to employ women or gay priests. On issues of sexual morality, reproduction or contraception, the individual conscience of the believer can determine loyalty to a faith tradition. For many people of faith, religious differences are simply not to be tolerated; they must function as a legitimate voice amongst many in the competing moralities of the public sphere.

At a time when the UK appears to be going through an identity crisis of what it means to be English, Scottish, Christian, secular or multi-faith, the relationship between religious ethics and the law is a timely debate, even if painful for some. It is after all the intersection between different religious ethics and public life that has created much of the furor over the increasing visibility of religion in society, but there is no one religious ethics. Diversity is often applauded as our global context, an expression of Divine goodness; but diversity is not inherently a good thing. Diversity succeeds when it is negotiated through multiple voices and competing claims. It is often only the secular context that allows for this kind of discourse as a fundamental expression of good democracies. For its part, the State cannot talk about equality for its citizens but exclude minorities for its own convenience; rather it has a moral duty to view all its citizens as equals and to engage all in constructive debates that are not just reactionary but visionary. If this means questioning certain entrenched ways of thinking then we have to be honest about what is repressive within our faiths as well as what is liberating. We are all accountable for our deeds, and the faith we practise is not a private matter; it has a public face and a public impact.

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