

BOOK REVIEWS

Muslim Women and Shari'ah Councils: Transcending the Boundaries of Community and Law

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Palgrave Macmillan, London, 2012, x + 329 pp (hardback £60)
ISBN: 978-0-230-22148-2

Muslim Women and Shari'ah Councils is the product of research conducted by Samia Bano for her doctoral thesis and a Ministry of Justice project, both of which explored the experience of South Asian British women utilising *sharia* councils to resolve matrimonial disputes in accordance with Islamic law. The book therefore contributes to the ongoing debate regarding the recognition of Islamic law and the formalisation of *sharia* councils. As Bano explains, these debates 'must place at their very centre the experience of Muslim women, who are the primary users of Shari'ah councils and the ones most likely to be affected by any form of accommodation' (p 252). But prior to the publication of this book there was little empirical research into the personal experience of Muslim women who choose to use *sharia* councils to resolve marital issues. The research findings are therefore noteworthy.

Part I provides the theoretical and contextual background required to appreciate the research findings presented in Part II. Chapter 1 considers multiculturalism and secularism in the British context, Chapter 2 summarises settlement patterns of South Asian Muslims and their engagement with the state and Chapter 3 explains the research methodology and the challenges and limitations of the study. The doctoral research comprised three research methods. First, it involved observing four *sharia* council proceedings in order to explore the extent to which marital disputes are resolved in this forum. Secondly, the author examined case files, in particular the correspondence between the councils and the women who utilise them. It should be noted that some women do not attend the *sharia* council in person and, as a result, the correspondence between them and the council is significant. Finally, the author conducted in-depth interviews with 25 Pakistani Muslim women in order to ascertain their views on and experiences of utilising *sharia* councils. The research conducted for the Ministry of Justice aimed to determine the number and location of *sharia* councils in England; their administrative structure, membership and funding; and the nature and quantity of family cases that they deal with. The author identified 30 councils and conducted interviews with key members from 22 of them.

Part II analyses the findings from the empirical research. In Chapter 4, the author discusses *sharia* councils in Britain and explains that the councils

‘formulate their services to cater to the local and specific needs of British Muslim communities and to fit in with the wider framework of dispute resolution in Islam’ (p 86). They are usually part of the community mosque structure, which is designed to provide a place of worship but also to meet the practical, social and educational needs of the community. Some of the problems identified by the author in relation to this are that imams, who may be involved in dispute resolution within the councils, are sometimes recruited from abroad and consequently have ‘little understanding of the lives of British Muslims’ (p 90), and that the position of women is marginal.

The role of *sharia* councils in dispute resolution is explored in Chapter 5. Bano explains that ‘it is considered a duty upon Muslims both in an individual capacity and collectively to help resolve disputes’ and that ‘a faith-based approach to dispute resolution is rooted in Qur’anic verses’ (p 103). The existence and utilisation of *sharia* councils in Britain is therefore unsurprising. The process of resolving marital disputes revealed several interesting facts about *sharia* councils. First, the practice of obtaining a divorce does not vary greatly from council to council. For example, each of them placed emphasis upon reconciling the parties. In addition, each of them comprised male panel members only. Secondly, no council will issue a Muslim divorce certificate unless the civil divorce process has been completed. This, of course, only applies to those who have married in accordance with English civil law and the study suggests that many Muslim couples do not. (The relationship between *sharia* councils and English law is explored further in Chapter 8.) Thirdly, one of the principal reasons that Muslim women seek divorce is that the marriage was forced. As the author explains, ‘one of the most important grounds for divorce centres on the validity of the marriage itself’ (p 117). ‘Divorce’ in *sharia* courts thus encompasses the English law concept of nullity. In *P v R (Forced Marriage: Annulment: Procedure)* [2003] 1 FLR 661, the English High Court heard an application for a decree of nullity under section 12(1)(c) of the Matrimonial Causes Act 1973 on the ground that the petitioner did not provide free and full consent to the marriage and it heard evidence that a lesser stigma is attached to a woman who obtains an annulment than a woman who obtains a divorce. It is unclear whether there is a difference between obtaining a Muslim ‘divorce’ on the basis that the marriage was invalid and obtaining a divorce on other grounds such as ill-treatment.

Chapters 7 and 8 explore the personal experiences of Muslim women in relation to marriage, divorce and the utilisation of *sharia* councils. These chapters are, in my view, the most interesting and significant as they present the perspectives of Muslim women themselves and challenge the stereotype of these women as subordinate and vulnerable. For example, some Muslim women can use their knowledge of Islam to challenge practices that adversely affect them. The notion of ‘family honour’ is sometimes used to limit women’s

decision-making powers and control their behaviour, but some women in this study transferred the responsibility of 'family honour' to their husbands by citing the Islamic principles of fairness and equity. Islam can thus be empowering to Muslim women.

In terms of marriage, the importance of the *nikah* (marriage contract) was overwhelming for the Muslim women participating in this study. Fewer than half of those who had married a man living in England had 'registered their marriages according to civil law' (p 160). The terminology used here is interesting as it suggests that one simply 'registers' a marriage that has taken place. But in order for a marriage to be recognised under English law, a process of authorisation and solemnisation as well as registration under the Marriage Act 1949 needs to occur and it is the oral exchange of vows during the marriage ceremony that creates a valid marriage according to English law, rather than registration. What surprised me most, however, was the fact that all but two women were aware that their Muslim marriage would not be recognised under English law (p 163). Many of those who had not married in accordance with English law expected their marriage to be formalised at some point and felt let down by their husbands.

Given that most of the women participating in this study were not married in the eyes of the law of England and Wales, they had little choice but to utilise *sharia* councils to obtain a divorce because they could not petition in the civil courts. Even those who can apply to the civil courts for divorce may also need to obtain a divorce from the *sharia* council if the husband refuses to grant a divorce. Without a divorce from the *sharia* council the woman will continue to be regarded as a married woman in the eyes of her community. If she remarries, she will be considered adulterous and her children will be illegitimate. The book thus emphasises the necessity of utilising *sharia* courts.

The experiences of involving the community in marital disputes and of using *sharia* councils to obtain a divorce were both positive and negative. For example, one participant stated that involving the imam provided her with the space to challenge parental pressure to reconcile, while another indicated that the imam was able to convince her parents that divorce was not contrary to Islam. Others were critical of community involvement – for example, because the community makes judgements about how women behave. Several women criticised the process of obtaining a divorce from the *sharia* councils because: they were dissuaded from pursuing divorce proceedings on initial contact; they were pressured to reconcile with their husbands; tactics were employed to delay the issue of the divorce certificate; they felt judged by those involved in the process; and women were not able to act as panel members. In contrast, others felt that the *sharia* councils bridged the gap between younger and older generations and that they performed an important service for Muslim women. It is therefore unsurprising that the attitudes of Muslim women towards the formalisation of *sharia* councils were mixed.

In conclusion, this text makes an important contribution to the debate on the recognition of *sharia* councils as formal bodies for the resolution of family disputes. It also contributes to debates on multiculturalism, legal pluralism, minority rights and the use of alternative dispute resolutions in a family law context. It is therefore an important book, which deserves to be read.

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doi:10.1017/S0956618X15000952

Biblical Blaspheming: Trials of the Sacred for a Secular Age

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Cambridge University Press, Cambridge, 2012, xiii + 387 pp (hardback £60)
ISBN: 978-1-107-00786-4

This monograph represents a timely evaluation of the continuing influence of sacred texts in the twenty-first century. It places the Bible in the context of a cultural text which inspires both reverence and revulsion among a variety of different groups. It is very much a theological and sociological study, creatively and innovatively written. It therefore presents an interesting introduction to the subject for lawyers which will challenge the way that they think about blasphemy and set this in a wider sphere of theology and literary criticism.

Sherwood begins with a consideration of the Bible as a potent and enduring cultural symbol in an age which is considered by many as predominantly secular (as is made clear by the subtitle of the work, *Trials of the Sacred for a Secular Age*). The book opens with a detailed assessment of reactions to an 'artistic' exhibition in Glasgow where viewers were able to write on the text of the Bible. The exhibition was entitled *sh[OUT]: Contemporary Art and Human Rights*, showcasing work by lesbian, gay, bi, transgender and intersex artists. The range of responses and the vehement opinions expressed may be noted for the resilience of the Bible within the wider community and the social and cultural anxieties of the parties. The picture in the text shows how personal these responses are, with more than one mere assertion that the writer is 'Bi and proud', and an association in some of the writing of the Bible with bigotry and prejudice. One person had merely written 'FACIST [sic] GOD'. The exhibition received a lot of press coverage at the time and highlighted perceptions in some of the right-wing press about the differences in treatment of sacred texts, particularly questioning whether the Qur'an would be treated in such a way. I think the main point which emerges from this part of the study is how the Bible is used as a cultural symbol associated with oppression, allowing people to react against