

What isn't wrong with Sharia law? - "One secular law for all and no religious courts"

Sunday 13 March 2016, by [NAMAZIE Maryam](#) (Date first published: 5 July 2010).

To safeguard our rights there must be one law for all and no religious courts.

The recent global day [\[1\]](#) against the imminent stoning of Sakine Mohammadi-Ashtiani in Iran for adultery [\[2\]](#) is an example of the outrage sparked by the brutality associated with sharia law's penal code.

What of its civil code though - which the Muslim Council of Britain's Shaykh Ibrahim Mogra describes as "small aspects" that concern "marriage, divorce, inheritance, custody of children"? According to human rights campaigner Gita Sagal [\[3\]](#), "there is active support for sharia laws precisely because it is limited to denying women rights in the family. No hands are being cut off, so there can't be a problem ..."

Now a report [\[4\]](#), Sharia Law in Britain: A Threat to One Law for All and Equal Rights, reveals the adverse effect of sharia courts on family law. Under sharia's civil code, a woman's testimony is worth half of a man's. A man can divorce his wife by repudiation, whereas a woman must give justifications, some of which are difficult to prove. Child custody reverts to the father at a preset age; women who remarry lose custody of their children even before then; and sons inherit twice the share of daughters.

There has been much controversy about Muslim arbitration tribunals, which have attracted attention because they operate as tribunals under the Arbitration Act, making their rulings binding in UK law.

But sharia councils, which are charities, are equally harmful since their mediation differs little from arbitration. Sharia councils will frequently ask people to sign an agreement to abide by their decisions. Councils call themselves courts and the presiding imams are judges. There is neither control over the appointment of these judges nor an independent monitoring mechanism. People often do not have access to legal advice and representation. Proceedings are not recorded, nor are there any searchable legal judgements. Nor is there any real right to appeal.

There is also danger to those at risk of domestic violence. In one study, four out of 10 women attending sharia courts were party to civil injunctions against their husbands.

"In this way, these privatised legal processes were ignoring not only state law intervention and due process but providing little protection and safety for the women. Furthermore ... husbands used this opportunity to negotiate reconciliation, financial settlements for divorce, and access to children. Settlements which in effect were being discussed under the shadow of law."

An example of the kind of decision that is contrary to UK law and public policy is the custody of children. Under British law, the child's best interest is the court's paramount consideration. In a sharia court the custody of children reverts to the father at a preset age regardless of the circumstances. In divorce proceedings, too, civil law takes into account the merits of the case and

divides assets based on the needs and intentions of both parties. Under sharia law, only men have the right to unilateral divorce. If a woman manages to obtain a divorce without her husband's consent, she will lose the sum of money (or dowry) that was agreed to at the time of marriage.

There is an assumption that those who attend sharia courts do so voluntarily and that unfair decisions can be challenged. Since much of sharia law is contrary to British law and public policy, in theory they would be unlikely to be upheld in a British court. In reality, women are often pressured by their families into going to these courts and adhering to unfair decisions and may lack knowledge of their rights under British law. Moreover, refusal to settle a dispute in a sharia court could lead to threats, intimidation or isolation.

With the rise in the sharia courts' acceptability, discrimination is further institutionalised with some law firms offering clients "conventional" representation alongside sharia law advice.

As long as sharia courts are allowed to make rulings on family law, women will be pressured into accepting decisions which are prejudicial.

The report recommends abolishing the courts by initiating a human rights challenge and amending the Arbitration Act as Canada's Arbitration Act was amended in 2005 to exclude religious arbitration.

The demand for the abolition of sharia courts in Britain, as elsewhere, is not an attack on people's right to religion; it is a defence of human rights, especially since the imposition of sharia courts is a demand of Islamism to restrict citizens' rights.

Rights, justice, inclusion, equality and respect are for people, not for beliefs and parallel legal systems. To safeguard the rights and freedoms of all those living in Britain, there must be one secular law for all and no religious courts.

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P.S.

* The Guardian. Monday 5 July 2010 14.18 BST:
<http://www.theguardian.com/law/2010/jul/05/sharia-law-religious-courts>

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Footnotes

[1] <http://iransolidarity.blogspot.fr/2010/06/please-help-our-mother-return-home-stop.html>

[2] <http://www.theguardian.com/world/2010/jul/02/iranian-woman-stoning-death-penalty>

[3] <http://www.onelawforall.org.uk/successful-day-against-sharia-and-religious-laws-in-uk/>

[4] <http://www.onelawforall.org.uk/wp-content/uploads/New-Report-Sharia-Law-in-Britain.pdf>