

# Islamic Discrimination Against Women

If a thing goes without saying it goes even better if it is said. It has long been clear that Islamic Sharia law was incompatible with conventions on human rights regarding the place of women in the legal order and in all spheres of private and public life. Indeed, the European Court of Human Rights in a decision of July 31, 2001 that the “institution of Sharia law and a theocratic regime were incompatible with the requirements of a democratic society.”

Everyone genuinely concerned about the issue of gender equality and the fundamental rights of women will be pleased with the announcement by Theresa May, British Home Secretary, on May 25, 2016, that the British government is to launch a full official independent review of the application of Islamic sharia law in England and Wales, and of the role of Sharia courts and Muslim arbitration tribunals.

May is concerned that women have been victims of discriminatory decisions taken by Sharia courts. The review will focus on a number of issues, primarily the treatment of women in divorce, domestic violence, and custody cases. It will not be a review of the whole of Sharia law, which is the basis of guidance for Muslims who stay true to their religion.

In Britain today there are thought to be 85 Sharia courts or councils which rule in family and inheritance disputes between Muslims who agree to be bound by the decisions. Sharia law is based on the Koran, and the rulings since the 7<sup>th</sup> century by fatwas of Islamic scholars. Many of those rulings are concerned with prayers, fasting, donations to the poor, and the nature and degree of punishment, whether cutting off hands or death of women by stoning for adultery, for offenders. The most controversial concern the ill treatment of and the

discrimination against women.

The review ordered by Secretary May is to be carried out by a panel chaired by Professor Mona Siddiqui , Professor of Islamic and Interreligious Studies at the University of Edinburgh, a specialist in Islamic law, and will include family law experts and a retired High Court judge, and advised by two Imams said to be religious and theological experts.

The essential basis of the review is to assess if sharia law has been and is being misused or exploited in a way incompatible with British law and is discriminating against certain groups especially women, and if it is causing harm in communities. The Home Office of the British government asserted there was evidence that some Sharia courts and councils were acting in a “discriminatory and unacceptable way.” In particular, British officials were concerned with the courts legitimized forced marriages and issuing divorce settlements that were unfair to women. This contradicts British law, as well as international law, which provides rights and security for all citizens.

Secretary Teresa May had already in March 2015 spoken of Muslim women being left penniless after they were “divorced.” Worse, they were forced to remain in abusive relationships because Sharia councils had decided that an Islamic husband has a right to chastise his wife. Part of the problem is that Muslim women may be unaware of their rights to leave violent husbands.

Many of the difficulties facing Muslim women were discussed in a book, *Choosing Sharia?* by a Dutch scholar Machteld Zee who gained unprecedented access to and attended hours of divorce hearings and marital disputes at London’s Sharia Council and the Birmingham Central Mosque Sharia. Her detailed analysis of seven cases is disturbing with their evidence of overwhelming discrimination against women.

Zee concluded that judges were not mean, they were acting on the basis of Islam, that women are dependent on husbands and clerics. Her conclusion was that Islamic women are in a situation of "marital captivity," and are not protected from domestic violence. Men are dominant in the relationship and benefit from Sharia court decisions and from the strong cultural pressures and the tight knit Islamic communities that uphold masculine superiority, and which condone violence against women.

The wider issue is the compatibility of Sharia court decisions with British law, values, policies, and principles. On one hand, a Sharia judge has asserted that divorces granted in British courts are worthless to Muslims. More to the point, the ECHR in 2001 said that Sharia law is incompatible with liberal democracy.

What is most important is that the Muslim leaders are not addressing the rights of women. It hardly need a full inquiry to ascertain that it is illegal for any arbitration tribunal, especially Sharia courts, to act in a manner that constitutes discrimination, harassment, or victimization on the grounds of sex.

Nevertheless, It is therefore welcoming that in addition to the new review of Secretary May , that a bill has been proposed in March 2016 by Baroness Cox in the British House of Lords making it illegal for an administrative tribunal to do anything that constitutes such discrimination. If passed, the bill would ensure that Sharia courts issue rulings that are compatible with the British Equality. Women's rights groups must make sure that they do.