

# Women Must Be Emancipated

In the mid 19<sup>th</sup> century an early British feminist, Caroline Norton, involved in a law case resulting from her disastrous marriage, wrote that the law must be changed. Women, she held, were not appealing for an exceptional law in their favor; on the contrary they were appealing not to be made an exception from the general protection of the laws.

Her argument is still pertinent in view of continuing Islamic subordination of women by legal and other means. Indeed, the essence of it has led to discussion of the issue in a bill introduced in October 2015 by another Caroline, Baroness Cox in the House of Lords. This legislation is intended to outlaw gender discrimination in the Islamic sharia courts in the U.K. It would make illegal anything that constitutes discrimination, harassment, or victimization on grounds of sex.

The surprising announcement on January 8, 2016 that Shamim Qureshi, a Bristol Crown Court Judge, had been granted permission to sit as a presiding judge on a sharia court, the Muslim Arbitration Tribunal (MAT), in Nuneaton, Warwickshire, set up in 2007, has drawn extra attention to the issue of discrimination against women, as well as the appropriateness of mixing official, national, secular law with religious law.

The MAT, which has undermined the rights of women, has jurisdiction over issues such as Islamic divorce, inheritance law, wills, and family mediation.

Parenthetically, its leader, Sheikh Faiz-ul-Aqtab Siddiqi, is a political activist. He led a demonstration of the Muslim Action Forum on February 8, 2014 in Downing Street, outside the gates of the official residence of the British Prime Minister, objecting to the cartoons, caricatures, and depictions by *Charlie Hebdo* of the Prophet, a month after

Muslims had massacred 11 of the CH journalists in Paris.

There are two issues involved. The purpose of the Cox bill is to restrict the powers of sharia courts, now estimated to number 85 in the UK, and sometimes referred to as sharia councils, to help vulnerable women who need protection from exploitation and to end gender discrimination by Muslims. It addresses the problem of religiously sanctioned gender discrimination. The second issue is to question the growth of an alternative Islamic quasi-legal system that undermines the fundamental principle of one law for all.

The disapproval of sharia law results from the reality that it condones domestic violence and physical abuse against women, and that it undermines equal rights and protection under the law. Under sharia law, the process of *halala* allows a man to divorce his wife by uttering the words "I divorce you," three times, divorce can be had by mail, and polygamy to the extent of four wives is allowed. Women are handicapped on issues of child custody, inheritance provisions, and rules of evidence in trials as women's testimony accounts for only half that of men. The inequality is that the rule in MAT is that male heirs in an inheritance dispute receive twice the amount of women involved.

This is a special problem since not everyone is aware of the national, secular law.

Moreover, women are often pressured by their families to go to the sharia courts or councils. And women may be abused because of the nature of the closed communities in which they live. The evidence is strong that sharia councils operate in a discriminatory and unacceptable fashion.

Sharia courts deal mainly with religious questions, but some also incorporate sharia law into legally binding arbitration. The issue of quasi law, or a parallel legal system, is growing, even in criminal law. For example there are 100,000

Muslim marriages in the UK not registered with civil authorities and therefore not recognized by English law.

Regarding criminal law, the sharia courts claim jurisdiction over domestic violence and bodily injury. According to the British Arbitration Act of 1996, whose intention was to clarify principles by which arbitration should be conducted, certain civil disputes can be resolved according to the law of another legal system, in this case sharia principles. But this does not entail rejection or repudiating adherence to the fundamental principles of British law, especially non-discrimination.

Freedom of religion is a cardinal principle, and it is undesirable to interfere with theological beliefs of those who voluntarily practice particular faiths. Similarly, there should not be official intrusion into private life, but limits on them are appropriate to protect the lives of women and people of non-Muslim faiths, and to punish acts of violence and discrimination.

The conclusion must be that if practices under a different culture or jurisdiction, such as sharia law, are recognized as incompatible with the culture and jurisdiction of the national country, they should be prohibited. The ultimate law is the law of the country.

The problem is that official authorities may be unwilling to take such action because of political correctness or fear of offending the minority community. This was the case of what has been called the "Rotherham complex." In August 2014, an official report recorded that in Rotherham, an industrial town in northern England, gangs of local men almost all of whom were alleged to be Pakistanis, raped, coerced by drugs and alcohol, and sold more than 1,400 girls, all white, over the past 14 years. To its shame the Labour Party local council not only failed to halt this abuse but sometimes denied what had happened and even perpetuated it. By their standard of

institutionalized political correctness, to act against the Muslims alleged perpetrators would be "racist."

In the present climate when murders and massacres in the United States, France, and other countries are being committed by Muslims on the basis of fulfillment of sharia law, when mass migration to democratic countries is rapidly increasing, and when the number of sharia courts is growing in the US as in European countries, attention must be paid to the crucial problem of Islamic discrimination against women.