



Anne Marie Waters: Sharia law in the UK, 17<sup>th</sup> March 2017

I want to talk to you about the law, and about laws. If one says “the law” one generally means the law of the land of where one is. So if I’m in Britain and I say the law, I tend to mean British law, the law that governs Britain. These in themselves includes different laws, such as the law of England and Wales, Northern Irish or Scots law, they are all legitimate British laws, that together make up the law of the UK.

The distinction to be made between the law and laws is vital to clarify at the outset. I’ve outlined what is generally meant by the law, but let me clarify what I mean by laws. Laws, is effectively just another word for rules. If you want to be a member of a club, you must obey its rules, you must obey its laws. In a free country, we are free to set up clubs that have a set of rules that one is expected to obey if one is to be a member. What we cannot do however is set up clubs with laws (rules) that are in breach of the law. The law is supreme and if you are in the United Kingdom, you must obey the law. As such, laws are subject to the law. The law is supreme. The law is supreme because it is the definer of the nation.

What is a nation? Is it geographical land-mass? Partly yes, defined borders denote the nation’s edges; inside them is a nation, outside them is another nation. Is it culture, language, common traits? Yes, all of these. But what also determines a nation is the reach of the law of that nation. Wherever the law of a nation has jurisdiction, is part of that nation. If the authority of the law breaks down in a nation, the fabric of that nation begins to disappear, and with it, the authority of its leaders and its people, and eventually its culture and common traits.

Upon questioning about the presence of sharia law in the UK, the government response has for many years been that there is no sharia law in the UK. This is a common and really rather devious deflection, a distraction, and a dismissal of the importance of the issue. What is meant by this response is simply this: because sharia law does not have the weight of state behind it, i.e. the state does not enforce sharia law, this means that there is no sharia law. Yes there is.

Sharia not the law, but it is a law. It is a set of laws. Sharia law exists in an objective form, as a set of laws, laws that adhered to across the world and often imposed by nation states. Just like membership of a club obliges one to obey the laws of that club, sharia law, for many, is to be obeyed is one is to be a devout Muslim. Vast numbers of Muslims take that requirement very seriously indeed. But, one might argue, is one doesn’t want to obey the laws, then one should leave the club. This is flippant. Most Muslims do not make an active choice to be Muslims, they are born in to their religion. Their family life, community life, is inextricably bound up in the religion. As hard as it would be to turn one’s back on

one's family and community, we must remember also that in Islam, scripture itself demands the death of those who leave the club. Hardly easy to walk away.

It is unfair then to flippantly refer to sharia law as a choice, for many it isn't. But even if it is, even if an individual does choose sharia law, the question to be asked is, should they be allowed to? Should that choice be available? My answer is no. Sharia, or other sets of laws, should not be available for use if they run contrary to the law of the land, which we remember, is supreme. If it is not supreme, it is the breakdown of the nation.

Why does a nation have law? What is the law for? It is of course to govern us in practical terms such as driving or taxes, but the law is also a reflection of our morals as a nation and a people. It is a reflection of what we believe to be moral and right, but its primary function is to protect. The law is intended to protect. Who is protected and from what, is derived from our common morals and values. The law prohibits violent physical assault as a criminal offence. Why? To protect ourselves from violent physical assault, but also to reflect our moral position as a nation that we believe violent physical assault is wrong. The law prohibits sexual engagement with minors. Why? To protect minors from sexual exploitation and abuse, but also to reflect our common moral position that sex with minors is wrong.

Each law that together constitutes the law, have foundational principles that are consistent. In contract for example, the fundamental principles of offer and acceptance do not change as new laws are introduced, such principles are fixed. The principles of contract law are the ones on which our economy is built. The importance of contract law and its principles are hard to measure, our society would collapse without them. They are built around principles largely aimed at fairness, a spirit of fair play that reflects and informs who we are.

Our criminal laws also demonstrate who we are and is too held together by fundamental principles; the standard of proof is beyond reasonable doubt, innocent until proven guilty, the state must prove a case against a defendant and not the other way around. These principles are consistent in criminal law.

Family law, the area of law most pertinent when we discuss sharia law in the UK, is of the most fundamental importance. Family law too demonstrates who we are as people, what kind of society we seek to be. Like criminal law, there are fundamental principles in family law. Like criminal law, family law principles are consistent, there aren't exceptions made to these principles when new laws are introduced. For example, the equal rights of the parties to a family law dispute are a given. A husband and a wife have the same status in law, their word carries the same weight. This is fundamental. Also fundamental is the status of children in disputes. The fundamental principle being that the best interests of the child is paramount in any decision involving that child.

Family law has the rights of women and the rights of children bound up in it. Family law determines the status of women (in the family) and of children. In the UK, the woman is equal to the man, and the child's protection is paramount.

We cannot veer from these principles – it is against the spirit of British law that reflects who we are.

Given this, can we allow a system of laws to be practiced, if they are not consistent with the spirit of our law or the principles on which it is built? No, we cannot. Sharia law is consistent with the spirit of our law or the principles on which it is built. It completely defies everything that our legal system is built on, especially in the vital area of family law.

The politicians will say that sharia is not being practiced in Britain, but it is. It has pseudo court-rooms, judges, parties, and a decision. The decision might not be binding according to the law, but it is binding according to sharia law, and that is what gives it its power.

In sharia family law, a wife is worth less than her husband. She cannot divorce of her volition, even if she subject to violence and abuse. Her testimony in a family law dispute is worth only half of her husband's. This is intended to make it as difficult as possible for women to 'win' in any family law dispute. The reason for this is simply because the Koran deems women to be worth less than men.

Furthermore, in sharia law, the best interests of the child do not come first – again in defiance of the standards, principles, and spirit of British law. The best interests of the child do not come first in sharia because Islam deems that children are the property of their fathers, who has sole power over their lives. Mothers have no input and no rights.

In the practice of sharia law here in Britain, decisions as to child custody are being made. This inevitably means that children will be placed with their fathers irrespective of circumstances, including if he is violent. Because mothers have no rights, they can't stop this.

The interests of the child do not exist as we know them. The law is made for men and always prioritises men. This is fundamentally at odds with British law and should not therefore be permitted, regardless of whether it has the weight of the state behind it.

So what guise does sharia law take in Britain? Under what powers does it operate? Some say they operate under powers provided by the Arbitration Act. The Arbitration Act allows parties to a dispute to agree to appoint a 'judge' and agree to be bound by the decision. Arbitration per se is not a problem. In principle, it is a legitimate way for free people to conduct their affairs. But the law itself, i.e. the Arbitration Act itself, places restrictions on this practice that are intended to ensure arbitration adheres to the principles of British law. For example, the Arbitration Act requires that all arbitration carried out under the power of the Act must be 'fair, impartial, and in the public interest'.

But sharia law is not fair, not impartial, and given its terrible treatment of women and children, it is hardly in the public interest. Therefore, sharia – legally

and morally – should not be permitted to be practiced under the powers of the Arbitration.

For the most part however, sharia councils operate as charities. An extraordinary anomaly. An organisation cannot have charity status if it is deemed to be political in nature. Is organizing families and setting down the rules by which families should live political in nature? That's an opinion but I would submit that it is.

The problem is that charity laws tend to view religion as a force for good. It does so without asking what the religion actually teaches. Across the board, in public life, religions are deemed to be essentially the same, and are deemed to encourage moral behaviour.

If we are going to oppose sharia law, and we should, we must stop designating unquestioning privilege to religion, and stop the folly of believing that religion per se is harmless. We must look at what the religion teaches and the impact these teachings can have on its followers.

We must stop pretending that there is nothing specific to sharia that should worry us. There is. It is a system predicated on male dominance, on violent punishment, on arbitrary whims of clerics, and on complete disregard for the humanity and rights of children.

Sharia is not compatible with Britain; it's not compatible with our social values, our legal principles, or who we are as a nation. Its practice should therefore not be permitted. The fundamental principles of British law should instead be upheld as supreme.