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Tolerate sharia, yes, but never respect it

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One of life's many mysteries is the question of why the lord chief justice Lord Phillips of Worth Matravers, the most senior judge in England, was moved to speak out in public about sharia.

Last week he gave a speech to a large audience at an east London mosque about the place of sharia in resolving disputes. He must have known, from the experiences of the Archbishop of Canterbury, that no matter what he said, his speech would be inflammatory; as Usama Hasan, an imam and an adviser to the Islamic Sharia Council here said at the time, it is very difficult to have a sensible discussion about sharia here because the subject is "like a red rag" to the public mind.

So, if such an important Establishment figure as Phillips takes it upon himself to stir up this nest of hornets, he must surely have something extremely important to say or to recommend. Yet – and this is the mystery – he appeared to be saying nothing new at all.

The headlines following his speech sounded predictably alarming: "British Muslims should be allowed to live by sharia law", "Law chief backs the use of sharia law to solve disputes in UK", "Sharia law could have UK role" and so on. No one quite said "sharia to be let in through back door shock", but that was the general impression.

However, what Phillips said, and he made himself very much clearer than poor Rowan "Unclarity" Williams, was an articulation of the status quo. "There is no reason," he said, "why principles of sharia law, or any other religious code, should not be the basis for mediation or any other forms of alternative dispute resolution. It must be recognised that any sanctions for failure to comply with the agreed terms of the mediation would be drawn from the laws of England and Wales."

In other words, English law is trumps here, which is as it should be.

There's nothing new about this. As Inayat Bunglawala of the Muslim Council of Britain said at the time: "English common law already allows us to go to mediation to whichever third party we wish." It is perfectly simple, as a senior legal figure pointed out to me: a civil contract can, if the parties agree, be governed by any legal or religious code of their choice, even that of Azerbaijan, provided that, in case of dispute, no decisions go against English law or public policy. Criminal cases can, of course, be dealt with only under English law and only in English courts of law.

Sharia councils, which some might perhaps see as courts, already exist in this country to deal with civil disputes, almost all of them matrimonial, but can do so only within the law. They have no separate jurisdiction. All well informed British Muslims are quite aware of this.

While I personally think that a woman would be likely to get more equal treatment by other means, while I would not recommend my daughter to go before a sharia council and while I suspect that Muslim women before such councils might well get the fuzzy end of the lollipop, I strongly believe that British men and women of all descriptions should be free to resolve their differences as they choose, so long as their decisions comply with the law of the land. If a Muslim woman willingly accepts what others might consider unequal treatment in a divorce, that is surely her right.

To acknowledge that is hardly to give a ringing endorsement to sharia or to welcome it into the warp and woof of English law. Given that Phillips must have been well aware that anything he said on sharia would be misunderstood and inflammatory and given that he didn't say anything very much, apart from pressing a few hyper-sensitive public buttons and making friendly noises about Muslims, one wonders why he spoke at all. That was the question put to Lord Lester, the Liberal Democrat peer, on Radio 4's Today programme on Friday.

"Well," said Lester, "he was speaking to a large Muslim audience and what the lecture was about was equality before the law in a secular society which respects religious diversity." Perhaps he meant that Phillips was trying to be nice to Muslims. That is without a doubt a good thing, but I do draw the line at respect, as in respecting religious diversity.

There are some aspects of sharia, or Muslim practice, or whatever combination of the two is in operation – such as making girls wear veils or have less value as witnesses, to say nothing about the sharia attitude to apostasy – which I do not respect at all. But while it does not disrupt any British customs and traditions, I think it should be tolerated.

One of the greatest things about this country is its dedication to tolerance, personally, socially and above all in law. Tolerance, however, is not the same as respect. Owing to this great and unusual tradition of tolerance, contracts in this country can be made under the rules of gypsy bonfire jumping, or wiccan incantations or the secret covenants of the ferret fancy, and that is and should be tolerated within the law. But respected?

I feel that this constant demand for respect makes a great many people privately very resentful. Why should respect be extracted from us, for any and every religion, or any and every culture? It amounts to a statutory requirement of hypocrisy.

Besides, we know that from respect it is only a short step to encouragement, to inclusion, accommodation and adaptation – to unwanted change from within. We've seen this happening in various ways; to give just one instance, some Muslim men with multiple wives under sharia are being paid welfare benefits for all of them, as wives, in accordance with specific guidelines from the Department for Work and Pensions, even though polygamy is against the law in this country.

What's astonishing is the way that so many useful idiots in the mainstream culture are so quick to make unnecessary and often unwanted accommodations – allowances that most Muslims would not want or expect – to what they falsely imagine are Muslim sensibilities, as with dropping Nativity plays and children's stories about pigs.

I think that creeping adaptation to something unwanted, driven by old-fashioned liberal guilt, is what people of the mainstream culture fear. That, I think, is the direction in which the Archbishop of Canterbury was indeed stumbling with his clumsy recommendations and it's an anxiety that Phillips should have known he would excite, regardless of what precisely he said and most especially since he spoke in defence of the archbishop.

The tragedy is that although Islamophobia is clearly what both men are anxious to prevent, they have unintentionally and unwisely managed to promote it. And as appointed pillars of our society they have made us feel anxious about its foundations.

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