



## **A Parallel World**

Confronting the abuse of many Muslim women in Britain today

By Baroness Cox



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## PREFACE

I was greatly encouraged to hear the Home Secretary Theresa May, in her 2014 Conservative Party Conference speech, highlight the rights of all British people – including British Muslims – to practice their faith in accordance with their own sincerely-held beliefs. She warned however that concerns remain about the way *“Shari’ah law is being applied”* and the way *“women are told to live”*.

While wholeheartedly endorsing freedom of religion, I am deeply concerned at the problems faced by women and girls in Britain who are suffering from religiously-sanctioned gender discrimination.

I have sat and wept with those who are oppressed, abused and treated as second class citizens. One Muslim woman told me: *“I feel betrayed by Britain. I came here to get away from this and the situation is worse here than in the country I escaped from”*.

This cannot be allowed to continue. Provisions must be introduced to ensure that the operation of Sharia law principles in the UK today is not undermining the rights of women and the rule of law.

I have therefore introduced a Private Members’ Bill to the House of Lords. It has strong support from parliamentarians of all parties as well as Muslim women’s groups and organisations concerned with the suffering of vulnerable women.

Yet the Government has so far refused to support it on the grounds that there is no need for its provisions, as all citizens can freely access their rights. This is manifestly untrue as many Muslim women are unaware of their legal rights and can live in closed communities with pressure not to seek ‘outside’ professional help which could invoke ‘shame’ or ‘dishonour’ for their families or communities.

The Bill cannot solve all of the complex and sensitive issues raised in this report, but it does offer an important opportunity for some redress for women whose plight would make the suffragettes turn in their graves. I hope it will promote a positive response from the Government, together with a far more wide-ranging investigation to ascertain the scale of suffering endured by women in our country today and a basis for more comprehensive measures to address effectively the causes of their problems.

**The Baroness Cox**  
**March 2015**

## INTRODUCTION

- We are fortunate to live in a democracy which enshrines the principle of equality before the law and is committed to the promotion of gender equality.
- However, there are increasing concerns that many women and girls in this country are suffering from systematic gender discrimination.
- The Arbitration and Mediation Services (Equality) Bill has been introduced in an attempt to highlight this unacceptable situation.
- The Bill seeks to address two interrelated issues: the suffering of women oppressed by religiously-sanctioned gender discrimination; and a rapidly developing alternative quasi-legal system which undermines the fundamental principle of one law for all.
- It provides a remedy for women who do not want to submit to discriminatory rulings, whether by formal arbitration proceedings, informal mediations or pseudo-courts.
- While the Bill does not specify any faith tradition, it has specific relevance for Muslim women who are adversely affected by the policies of Sharia Councils and Courts, with particular reference, for example, to discriminatory inheritance provisions, polygamy, access to divorce and domestic violence.
- It also seeks to address widespread concerns about the situation for women who do not know their legal rights under British law and/or who are pressured by family or the community to adopt the provisions of Sharia law, which may cause them deep distress.
- Although such concerns have sparked lively discussions across Europe, the Bill only extends to England and Wales.
- The Bill does not interfere in the internal theological affairs of religious groups. In a free society, and in accordance with the hard-fought tradition of freedom of religion and belief, individuals must be able to organise their affairs according to their own principles, whether religious or otherwise.
- However, attempting to operate a parallel legal jurisdiction and to allow the *de facto* creation of new legal structures and standards is unacceptable.

## SUMMARY

The issues outlined in this report address one central principle: there must be equality for all British citizens under a single law of the land. However, evidence suggests that the increasing influence of Sharia law in Britain today is undermining this basic principle. Urgent action is required. The rights of Muslim women, and the rule of law, must be upheld.

‘A Parallel World’ is divided into three parts:

- **Part One** provides an introduction to the role of Sharia tribunals as a mechanism of Alternative Dispute Resolution, and discusses particular concerns relating to the application of discriminatory Sharia law principles;
- **Part Two** includes testimonies from women who have themselves been discriminated against, as well as statements from relevant service providers;
- **Part Three** outlines a number of recommendations, including the implementation of a judge-led inquiry, and explains the provisions contained in the Arbitration and Mediation Services (Equality) Bill.

The Bill is a step in the right direction. It is not the whole solution but it does seek to tackle some of the more flagrant injustices outlined in this report.

It does so, principally, by:

- protecting women from discrimination and intimidation imposed by religious courts;
- requiring public authorities to inform women of their legal rights and how to access them;
- criminalising anyone who attempts to set up a parallel legal jurisdiction.

## **ARBITRATION AND MEDIATION SERVICES**

Pressure on the UK court system has increased the use of alternative methods of resolving disputes, such as arbitration and mediation.

- Arbitration is where two or more parties agree an independent person who will decide their dispute, with a decision which is usually final and binding, and can be enforced by the UK courts under the Arbitration Act 1996.
- Mediation involves a neutral facilitator trying to help two or more parties to a dispute reach common ground – a mutually satisfactory agreement. This agreement can sometimes be put before a court. In mediation, the third party does not decide the matter, but helps the parties settle their dispute between themselves.
- Parties must enter arbitration or mediation voluntarily.
- Neither Arbitration Tribunals nor Mediation Services are judicial proceedings. However, some may try to argue that Arbitration Tribunals are quasi-judicial proceedings because they operate according to legal principles.

## PART 1 – SHARIA COUNCILS

The Arbitration Act 1996 allows parties to agree how civil disputes should be resolved, including choosing to resolve disputes according to the law of another legal system. This permits arbitration to operate according to Sharia principles.

Arbitration tribunals therefore allow parties to settle certain civil (often financial) disputes according to Sharia law in such a way that the decision can be enforced in UK courts.

However, a variety of Muslim bodies, called by different names, are portraying themselves as being able to make legally binding decisions for members of the Muslim community. Sometimes the Arbitration Act is used to support this claim.

The bodies which are commonly referred to as ‘Sharia Courts’ appear to operate in a number of guises. Whilst there are legitimate areas of operation, serious concerns remain:

**a.) Muslim tribunals that deal with legitimate areas of arbitration as defined by the Arbitration Act, but are operating discriminatory procedures during the proceedings**

In theory, arbitration based on Sharia law should be fairly well regulated, because it takes place under the Arbitration Act. The Muslim Arbitration Tribunal (MAT) – the highest profile of the Sharia forums operating under the Arbitration Act – always has a barrister or solicitor of England and Wales sitting as part of the tribunal, which will also include a “Scholar of Islamic Sacred Law”.<sup>1</sup>

However, there is a fear that even when these tribunals are operating legitimately they are embedding discrimination against women. For example, an MAT in Nuneaton adjudicated on an inheritance dispute between three sisters and two brothers. In accordance with Sharia law principles, the men were given double the inheritance of the women.<sup>2</sup>

It is a matter of serious concern that these kinds of discriminatory principles are being applied in a way which conflicts with the basic principles of UK law.

The freedom to decide disputes in accordance with religious beliefs is something that must be vigorously protected. If a woman genuinely and voluntarily accepts a discriminatory judgement with full knowledge of alternatives available in civil law, then she has the right to do so. But when discriminatory decisions are validated by the force of the law, particularly where women may be unaware of the implications or pressured into accepting rulings based on gender discrimination, then the law itself is brought into disrepute.

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<sup>1</sup> MAT, *Procedure Rules of Muslim Arbitration Tribunal*, see <http://www.matribunal.com/rules.php> (Rule 10) as at 18 February 2015

<sup>2</sup> *Coventry Evening Telegraph*, 9 September 2008

## **b.) Arbitration Tribunals applying Sharia law which are operating outside their legitimate remit**

Arbitration tribunals should only be deciding civil disputes. There have been reports of so-called arbitration tribunals adjudicating on matters well outside the arbitration framework, for example by deciding cases relating to the criminal law, such as those involving domestic violence and grievous bodily harm.

In April 2013, a *BBC Panorama* investigation uncovered evidence of Sharia Councils in Britain putting Muslim women “at risk” by pressuring them to stay in abusive marriages. The programme showed an Islamic scholar at Leyton Islamic Sharia Council telling an undercover reporter to only report domestic abuse to the police “as a last resort”.<sup>3</sup> When the footage was shown to Nazir Afzal, chief crown prosecutor for the North West and himself a Muslim, he said: “I’m disappointed but not surprised. Most of them [Sharia Councils] are fine but there are some clearly like this who are putting women at risk.”<sup>4</sup>

The MAT has admitted in the past to overseeing six cases of domestic violence, apparently working ‘in tandem’ with police investigations. In each case the women who had been abused withdrew their complaints to the police, while the MAT judges suggested that the husbands take anger-management classes and advice from Muslim elders with no further punishment.<sup>5</sup>

Sheikh Faiz-ul-Aqtab Siddiqi, chairman of the governing council of the MAT, said in 2008 that he expected the tribunals to handle a greater number of “smaller” criminal cases in coming years as more Muslim clients approach them.<sup>6</sup> There are clear suggestions that the MAT, despite recognising on its website that it does not have jurisdiction to deal with criminal offences, may be exceeding its remit in such cases in the name of “reconciliation”<sup>7</sup> or “regulating community affairs”.<sup>8</sup>

## **c.) Sharia Councils, mosques and community elders**

The third forum of concern includes all other so-called ‘Sharia Courts’. It has been estimated that there are “at least” 85 Sharia forums in the UK.<sup>9</sup>

Around a dozen of these other bodies are headed by the Islamic Sharia Council, which has been operating in this way since 1982.<sup>10</sup> The Islamic Sharia Council is a registered charity, with courts or councils based in London, Birmingham, Manchester, Rotherham and

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<sup>3</sup> BBC Panorama, *Secrets of Britain's Sharia Councils*, 26 April 2013

<sup>4</sup> *BBC News Online*, ‘Are Sharia councils failing vulnerable women?’, 7 April 2013

<sup>5</sup> *The Sunday Times*, 14 September 2008

<sup>6</sup> *Loc cit*

<sup>7</sup> MAT, *Islamic Law and Family Disputes*, see <http://www.matribunal.com/family-dispute-cases.php> as at 18 February 2015

<sup>8</sup> *The Sunday Times*, 14 September 2008

<sup>9</sup> MacEoin, D, *Sharia Law or ‘One Law for All?’*, Civitas, June 2009, page 69

<sup>10</sup> *Mail on Sunday*, 5 July 2009

Bradford. Their own website claims to have dealt with thousands of cases, mostly relating to matrimonial disputes.<sup>11</sup>

There is a legitimate role for mediation in divorce proceedings. Litigation can be stayed so that disputes about money, property and children can be resolved with the assistance of a mediator. But mediation has to be voluntary. The role of the mediator is as a facilitator to assist an agreement being reached. The mediator is not a judge or an arbitrator who imposes a decision.

One report describes the rather confusing status of Sharia forums operating in a way which mixes up arbitration and mediation:

*“Although Sharia Councils are said to mediate in family matters, they have a different understanding of the term ‘mediation’ and fail to distinguish between mediation and arbitration. Sharia Councils, for example, will often ask people to sign an agreement to abide by their decisions. Councils often call themselves courts and the presiding imams are called judges. According to the British Shariah Council for example: ‘In changing times, [the BSC] fulfils the criteria for consultative processes. In regard to domestic problems it works as a Shariah court’. Their decisions are imposed and seen to be legal judgements.”<sup>12</sup>*

Most of the remaining Sharia forums are understood to be operating out of mosques around the country<sup>13</sup> or through other arrangements, such as meetings of community elders, which are being presented within particular communities as making authoritative and legally binding rulings. British Indian author and journalist Edna Fernandes, after her own investigation, concluded that “scores more imams dispense justice through their own mosques” and that “sharia is being used informally within the Muslim community to tackle crime such as gang fights or stabbings, bypassing police and the British court system”.<sup>14</sup>

#### **d.) Coercion of Muslim women into agreeing to arbitration or mediation, which ought to be voluntary**

At the heart of both arbitration and mediation is the crucial matter of consent. In arbitration, both parties agree to submit their dispute to a mutually agreeable third party for a decision to be made. In mediation, the two parties are voluntarily using a third party to help them reach an agreement that is acceptable to both sides.

However, there are widespread concerns regarding the consent given prior to Sharia Court hearings:

- Women are often pressured by their families into going to these courts and may lack knowledge of both the English language and their rights under British law.<sup>15</sup>

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<sup>11</sup> Islamic Sharia Council website, see <http://www.islamic-sharia.org/aboutus/> as at 18 February 2015

<sup>12</sup> *Sharia Law in Britain: A Threat to One Law for All & Equal Rights, One Law for All*, June 2010, page 11

<sup>13</sup> MacEoin, D, *Op Cit*, page 69

<sup>14</sup> *The Mail on Sunday*, 5 July 2009

<sup>15</sup> *Sharia Law in Britain: A Threat to One Law for All & Equal Rights, One Law for All*, June 2010, page 16

- Refusal to settle a dispute in a Sharia forum could lead to threats and intimidation, or being ostracised and labelled a disbeliever.<sup>16</sup>
- It is a common interpretation of Islam that a person who leaves the faith is an apostate who can be put to death.<sup>17</sup>
- Going to the police or non-Muslim professional and legal sources is often considered culturally unacceptable and shameful.<sup>18</sup>
- *Fatwas* (a Sharia legal judgement or legal opinion) have been issued which claim that Sharia law takes priority over secular law,<sup>19</sup> and a recent ComRes poll found that six per cent of British Muslims do not think that “*Muslims in Britain should always obey British laws*”.<sup>20</sup> Some Muslims may therefore not even want to involve secular authorities.

There is a particular concern that women face pressure to withdraw allegations of domestic violence after they make them. Several women's groups say they are often reluctant to go to the authorities with women who have run away to escape violence because they cannot trust police officers within the community not to betray the girls to their abusing families.

What has been reported in the press or in academic studies is likely to be the tip of the iceberg. The very nature of the problem means that it is difficult to provide evidence of its scale. Many women who would be able to testify about their experiences are too afraid to identify themselves.

#### **e.) The problem of ‘marriages’ that are not marriages**

Most Sharia ‘Courts’, when dealing with divorce, are doing so purely in a religious sense. They cannot claim to be a civil court able to grant civil divorce; they are simply granting a religious divorce in accordance with Sharia law. In many cases this is all that is necessary for a ‘divorce’ anyway – although a religious wedding ceremony has taken place, the marriage has never been registered and is therefore not valid in the eyes of the civil law.

This creates a very serious problem: women who are married in Islamic ceremonies but are not officially married under English law can suffer grave disadvantages because they lack legal protection. What is more, they can be unaware that their marriage is not officially recognised by English law.

The situation was highlighted in a recent report by the Muslim women’s rights organisation ‘Aurat: Supporting Women’, which also unveiled cases of women in Britain living in polygamous marriages.<sup>21</sup>

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<sup>16</sup> *Loc cit*

<sup>17</sup> MacEoin, D, *Op cit*, page 5

<sup>18</sup> Brandon, J and Hafez, S, *Crimes of the Community: Honour-Based Violence in the UK*, Centre for Social Cohesion, 2008, pages 116 and 117; Aurat: Supporting Women, *Equal and Free: 50 Muslim Women’s Experiences of Marriage in Britain Today*, December 2014, page 12

<sup>19</sup> MacEoin, *Op cit*, pages 70-72

<sup>20</sup> BBC Radio 4 Today Muslim Poll, Table 9, Page 9: ComRes interviewed 1,000 Muslims living in Britain aged 18+ by telephone between 26th January and 20th February. Data were weighted to be representative of the known population.

<sup>21</sup> Aurat: Supporting Women, *Op cit*, pages 7 and 8

The evidence for its findings was drawn from 50 case studies of Muslim women living in the West Midlands:

- Around 90 per cent of those who identified as being ‘married’ were not in marriages legally recognised by English law. Of these women, over half were not aware that they do not have the same rights as they would have with a civil marriage.
- Some of the women interviewed assumed that, because the *Nikah* (Islamic wedding ceremony) had taken place in the UK, it automatically counted as a valid marriage.
- Two thirds of those who identified as being married said their ‘husband’ has more than one ‘wife’.
- In mainstream Islam, a husband does not have to undertake the same process as the wife when seeking a *Talaq* (Islamic divorce). He merely has to say “I divorce you” three times, whereas the wife must meet various conditions and pay a fee.
- Some of the women interviewed, when speaking of their own *Talaq* proceedings, specifically referred to their lack of legal protection after discovering that their *Nikah* did not constitute a valid marriage under English law.

#### **f.) The Jewish Beth Din**

It should be noted that the problems addressed by the Arbitration and Mediation Services (Equality) Bill do not arise in relation to the Beth Din.

The Beth Din does not purport to be a legal court. Instead, it offers members of Jewish communities two separate services – civil arbitration and religious rulings – neither of which constitutes a parallel legal system.

Beth Din arbitral awards remain subject to English law and public policy.<sup>22</sup> Civil courts retain the right to intervene in any case where the award of the Beth Din is considered “unreasonable”.<sup>23</sup>

A report into the Beth Din by the Centre for Social Cohesion concluded:

*“The Beth Din... is neither a legal court nor a parallel legal system. In both arbitration cases and religious judgements, Beth Din rulings or advice can only be reflected in UK law if both parties freely agree and the decision is approved by the civil courts. The Beth Din facilitates consensual arbitration within – and not outside of – the national legal framework laid out in the Arbitration Act (1996). Similarly, the Divorce (Religious Marriages) Act (2002) does not grant the Beth Din legal recognition: rather it compels Jewish individuals and the Beth Din to reflect the situation according to UK law – not act outside it.”<sup>24</sup>*

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<sup>22</sup> The UK Court of Appeal overruled a Beth Din arbitration award in the case of *Soleimany v Soleimany* 1998 and judged that the arbitral award of the Beth Din was contrary to public policy and could not be enforced.

<sup>23</sup> *The Beth Din: Jewish Courts in the UK*, Centre for Social Cohesion, 2009, page 10

<sup>24</sup> *Ibid*, page 21

## PART 2 – TESTIMONIES

A number of interviews have been conducted with Muslim women who have themselves suffered under the current provisions, as well as with organisations seeking to help victims of injustice and intimidation.

The following extracts are taken from a 2012 report, which was produced as evidence in support of the Arbitration and Mediation Services (Equality) Bill.<sup>25</sup> Many Muslim women have continued to speak out since the release of the evidence booklet. What is clear from the outset is that these case studies are more commonplace than any systematic research has so far been able to document.

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<sup>25</sup> Proudman, C R, *'Equal and Free? Evidence in support of Baroness Cox's Arbitration and Mediation Services (Equality) Bill'*, May 2012. NB: Names of some of those giving testimony have been changed to protect their anonymity; not all time-sensitive references within the explanatory introductions or quotes have been edited since the booklet's initial release.

## **Sami**

**“The wellbeing of the majority is more important than the sensitivity of the minority”**

*Sami, born and raised in the Middle East, married very young. She had four children and took on the role of a housewife. When her husband died, she was left with no inheritance as the male members of her family were legally entitled to her inheritance and her two daughters were forced into marriage at the age of 16 by her male family members. Meanwhile her third daughter fled a forced marriage, whilst her son escaped to Jordan at the age of 11, alone. Sami eventually sought asylum in the UK when her life was in danger following her controversial position as a women’s rights journalist in a country dictated by a patriarchal regime.*

### **Sami: My Marriage Dictated by Sharia Law in the UK**

“A leader of my community visited me and told me that he wanted me to marry Khaled. I felt under enormous pressure to accept his proposal.

The Imam told Khaled and me that he required permission from a male guardian from my family before he could marry us. I told him that I am in my late 40s, I have travelled all over the world, faced death on numerous occasions, provided for my children and supported male members of my family. ‘I have grey hair – what kind of mentality is this?’ I said to him. The Imam insisted that he was applying Islam.

Khaled travelled to Jordan to gain written permission from my 11-year-old son, who represented my guardian according to the Imam. My son’s written permission stated that I could marry Khaled. I received a copy of my son’s letter and I still have a copy of it. I agreed to the marriage at the Imam’s home.

On reflection, I decided that I could not marry him due to his traditional mentality. I gained an annulment.

Everyone should be made to abide by the same rules. Women’s rights are compromised by the operation of Sharia law in the UK. Sharia Councils often permit polygamy. Men have multiple Nikahs (Muslim marriages) and have multiple wives to gain sex and/or money. Polygamy is not about protecting women.

If women marry through an Imam and they eventually have a problem with their marriage, they will be forced to go back to an Imam and discuss the problem; these women feel intimidated. Many women are unable to discuss their personal issues with an Imam; they feel embarrassed and do not feel comfortable talking to a total stranger about personal issues.

I am in contact with large numbers of women who have a language barrier. They are not in contact with the wider community and they have no understanding of the laws available to

them. Instead they believe the lies that their husbands tell them. These women, unable to speak English, are tied to unhappy marriages and have no way of accessing their rights. If a legal dispute arises they go to a Sharia Council and consult an Imam, they are not aware of the English legal system, nor are they ever informed of their rights under English laws.

Like me, many Muslim women are asylum seekers. They have fled their home country to live a safe life, they are running away from oppression and persecution that they suffered in their home country. They should not arrive in the UK to be met with further oppression through the operation of Sharia law. The Government should ensure that everyone in the UK abides by the English legal system.

For these reasons I am totally against Sharia law in the UK. The law should not be left to religious men to manipulate women in a democratic state. It is the responsibility of the Government to make sure that everyone in the UK submits to the law equally. I am worried because the Government and people outside the Muslim community are frightened to address sensitive issues like Sharia law, when the wellbeing of the majority is more important than the sensitivity of the minority.”

## Sara

"People argue that Sharia Councils should be allowed to operate in Britain because Britain allows Beth Din systems, but Jewish Law does not affect mainstream life as much as Sharia Law which aims to control rather than simply affect mainstream life"

*Sara, a British national, was forced into a marriage with Abdul, from Pakistan, in order for Abdul to gain British citizenship. Eventually she became pregnant with Abdul's child in Pakistan and was allowed to return to the UK to await her husband's arrival. The marriage soon broke down on Abdul's arrival. Sara ensured Abdul returned to Pakistan before ending their marriage and cancelling his spousal visa. Sara rapidly gained a civil divorce through the British courts.*

### **Sara: My Sharia Council Experience**

"In early 2000 I applied to an Islamic-Sharia Council in London to obtain a Sharia divorce. Despite all the time, money and emotional energy that I spent, and the fact that Abdul is remarried with a child, over 10 years later the Islamic-Sharia Council still refuse to give me an Islamic divorce.

The Sharia Council 'judges' did not listen to a word I had to say. They did not look at me when they were talking to me, rather they would look at the floor. It was awful. I felt like a second class citizen.

I took a copy of my civil divorce to the Sharia Council. However they were not interested in this information. They explained that they wanted Abdul to present his case.

The first time the Sharia Council wrote to me they pressurised me to go back to Abdul and continue the marriage despite my protests. After I refused to reconcile with Abdul, the Sharia Council wrote to me a second time and told me that I should continue living as married and not apply for a divorce. I told them this was an unsatisfactory resolution.

The Sharia Council eventually wrote to me for the third time and informed me that they would only grant me a divorce if I agreed to the following conditions:

1. To sign an affidavit, a legal document which stated that I would allow Abdul to have access to my daughter. I had to agree to pay for Abdul to visit England once a year to see our daughter and to pay for my daughter to visit Pakistan once a year to have contact with Abdul. I simply could not afford this.
2. I must agree to a 'cooling off' period to see whether the marriage could be reconciled. I explained that I had not seen Abdul in five years and that I just wanted to obtain an Islamic divorce and to move on with my life.

During my civil divorce, Abdul wrote a long letter to my solicitor stating that he had no intention of providing financially for our child. This letter was used as evidence in the

England and Wales courts and was thus extremely helpful in gaining a civil divorce. When I showed the same letter to the Sharia Council they informed me that the letter was not relevant to my case.

The registration fee cost £100. The Sharia Council would then ask me to pay £30 for every letter they wrote. The Sharia Council asked me to pay a further £200 so that my case could be heard before the panel. I refused to pay any more money. Within six months of applying for the civil divorce I gained a decree absolute. The civil route certainly upheld my rights as a woman. The civil route was so easy and more importantly, I was respected.

People argue that Sharia Councils should be allowed to operate in Britain because Britain allows Beth Din systems, but Jewish Law does not affect mainstream life as much as Sharia Law which aims to control rather than simply affect mainstream life. For example, in inheritance disputes, women will still gain a lesser proportion of property according to Sharia law.”

## Sania

**“My experience of Sharia Councils in the UK is another example of the abuse that I and many other Muslim women in the UK suffered and continue to suffer and where are the UK Government to help us?”**

*Sania, a British national, lived in Pakistan between the ages of seven and thirteen where she was a victim of sexual abuse within the family. At the age of 16 before she had completed her GCSEs, Sania was taken to Pakistan and forced to marry her cousin, Janaid, in order for him to gain British citizenship. Sania was subjected to rape and physical and emotional abuse perpetrated by Janaid. Sania had four daughters during her marriage. Eventually Sania involved the police and gained the strength to leave Janaid. The UK courts made a number of orders to protect Sania and her daughters (non-molestation orders and forced marriage protection orders). Janaid now aged 37, has recently married a teenage girl in Pakistan and their first child is due to be born.*

### **Sania: My Sharia Council Experience**

“I applied to the Dewsbury Sharia Council for an Islamic divorce. I was informed that the process takes a maximum of three months. It’s been two years and I still haven’t obtained a Sharia divorce.

During the continued lengthy divorce process, I spoke to the leader of the Sharia Council a number of times over the telephone. On every occasion he was unprofessional and intimidating. They questioned everything that I said to them.

I asked the Sharia Council to contact my UK solicitor who would hand over my legal files and copies of the court orders to the Sharia Council, which would then make them understand why I want a divorce so desperately. They viewed the UK court orders in place to protect me and my children from Janaid as irrelevant when applying for a divorce.

Janaid replied to my application for an Islamic divorce stating that he had been a good father. Janaid stated that he would not give me a divorce as divorce is un-Islamic and is a sin.

The Sharia Council then informed me that I needed to attend the Sharia Council along with Janaid. I informed them that I am not allowed to go anywhere near Janaid, I am in danger of my life, there are a number of injunctions against him prohibiting him from going anywhere near me. This is another example of their blatant disregard for UK court orders and the trauma victims experience having been battered by their husbands. Despite my protests, the Sharia Council arranged a form of mediation for Janaid and me to attend. I did not attend. The Sharia Council refused to accept the fact that I was in fear of my life as a justification for not attending the mediation. I asked whether it would be possible for someone to come to my house. They said, no.

The Sharia Council then insisted that I brought along two Muslim witnesses to attend the Sharia Council with me to confirm that I was telling the truth. However, Janaid did not require any witnesses because he is a man. I did not know any Muslim women who could be witnesses and I didn't want to get anyone from my community involved.

In total I paid the Sharia Council in Dewsbury £170.”

## **Miri**

**“Then I was sent a letter to say that I had to give him full access or, if not, hand over my children for him to raise!!!... I thought my life had ended and I was thrown into deep water and there was no way out”**

*In July 2000, Miri's parents decided that she was going to get married at the age of 19. This was a crucial time for Miri as she had just gained employment as an office junior in an international IT company and hoped to continue with her studies and career progression. Miri's parents took her to Pakistan where she was emotionally coerced into marrying Mohammed. Miri returned to England two weeks after her marriage and applied for a spousal visa for her husband enabling him to settle with her in England. Eventually Mohammed arrived in England. He struggled to settle into the western way of life in England. He found it difficult to accept that his wife worked and wore western clothing. Mohammed's frustration resulted in arguments and tension within the marital relationship. The emotional abuse became physical abuse. Miri's family discovered that she was a victim of domestic violence at the hands of Mohammed and she was encouraged to leave the marriage and to rebuild her life.*

### **Miri: My Sharia Council Experience**

“I knew I had to bite the bullet and face the fact and get it sorted. So I took the first steps of ringing around and finding out how to obtain a Sharia divorce. I was advised that it would be easy to just ring my local mosque and see if they would send a scholar or an Imam down who would chat to the both of us and get me the divorce I want. It all seemed straight forward but little did I know it was far from it.

When I contacted the Imam he said there was nothing he could do for me. He said there was no number I could contact or no one else he knew that could help me. I was new to this and it was extremely hard to accept and adjust to the concept that this was going to be my battle and I had to be strong for my family and my kids.

I found a Sharia Council telephone number on the internet. Eventually when I got through to them they said I had to complete an application form and pay a fee of around £100. Thinking that the procedure would be straight forward it was far from it. It was a battle that was to commence and continue for 2 years!! Emotionally I was drained, mentally shattered and physically tired already. Once my application was accepted I had to ring every other day just to find out the process due to their lack of response. I still didn't give up, if anything this was making me stronger and determined to fight more. I wanted justice!!

A month after submitting my application I received my first letter to say they had received my application and it had been forwarded to the correct department. The Sharia Council then sent out another letter that I had to fill in.

By this time two months had gone by and very little had been done. I received a request to send proof of my husband's whereabouts. Luckily for me, my Sharia case was running in conjunction with my civil divorce. My solicitors had all the proof but this then meant that I had to arrange another appointment with my solicitor to get this letter written up confirming my husband's address. Every time a job was done it would set me back by a month and prolong the case.

The Sharia Council had sent my husband three letters with no reply. This, in my eyes, should have been enough for a divorce but not for them. Even after the last letter they said they had to give him a three month cooling off period to comply or respond.

Then I was sent a letter to say that I had to give him full access or, if not, hand over my children for him to raise!!!! This was the ultimate blow for me as I felt I had been waiting all this time only to be told that my children will be taken away from me and my family. I thought my life had ended and I was thrown into deep water and there was no way out. I was told that if I didn't accept this then my divorce could not go ahead. I was at the same time in court for the contact for my children with my husband. The courts and the Children and Family Court Advisory and Support Service who were independently going through the case to resolve this in the best interests of the children said my husband was not to have any contact with the children. In court he accepted this without argument due to the level of violence involved. When I told this to the Sharia Council they wanted evidence, so I sent them all the court documents.

As far I was concerned the Sharia Council had all the required documents and there could be no reason to refuse. Then a letter came stating that I had to return the entire dowry I had in order for the final process. I then wrote back saying that I no longer had the gold jewellery stated on the Nikah (marriage certificate) because all the jewellery had already been sold by my husband in order to pay off his debt. His letter was taken into account and only then was I granted my certificate. It was a long road which I feel should not have taken so long. The pain and stress was unnecessary. I feel I was let down by the Sharia Council and demeaned just for being a woman. And what shouldn't be forgotten is that all this time not only was I suffering but also my children and my family."

## **Rizwana Iqbal, Refuge**

**“They were insistent on witnesses attending because of her gender and Nasrin agreeing to mediation despite the fact that this could have put her and her son’s life in danger”**

*Rizwana is a service provider from Refuge, which is a large organisation providing safe places for victims of domestic violence to stay, often with their children. Rizwana supported Nasrin, a service user of Refuge. Nasrin, a British national, entered an arranged marriage to her cousin, Hasan in Pakistan, to enable him to gain UK citizenship. Nasrin and Hasan had a son together. Their relationship was turbulent. Nasrin fled to Refuge after being subjected to domestic violence at the hands of her husband and extended family members. Eventually Nasrin applied for a Sharia divorce and Rizwana provided her with emotional and practical support.*

### **Rizwana’s account of Nasrin’s Sharia Council Experience**

"Nasrin applied to Dewsbury Sharia Council to obtain an Islamic divorce, which took a number of months to obtain. The total cost of the divorce was £180.

We sent the completed Sharia divorce application to the Sharia Council. A few weeks later we received a letter from the Sharia Council informing Nasrin that a copy of her application form had been sent to her husband. Nasrin was not informed by the Sharia Council that her application form would be sent to her husband. Fortunately, Nasrin did not disclose her address on the application form. Nasrin was in fear of her life and lived in a secret location to ensure that she had no contact with her husband. Had she disclosed her address on the application form, which Hasan then received, the consequences could have been life threatening for Nasrin and her son.

### **Procedure**

Hasan had three months to respond to Nasrin’s application for an Islamic divorce. Hasan eventually wrote back to the Sharia Council and stated that he was not willing to divorce and denied being violent towards Nasrin. Nasrin responded reiterating that she wanted a divorce. Following this, Nasrin and I had great difficulty contacting the Sharia Council.

### **Spousal Meeting**

The head of the Sharia Council insisted that both parties, Nasrin and Hasan, attend a joint meeting in the form of mediation at the Sharia Council. Nasrin was horrified at the thought of this. I then telephoned the Sharia Council and informed them (again) that Nasrin was scared for her life and living in a secret location. I went further and asked the head of the Sharia Council ‘do you really expect her to sit in the same room as him, you will be putting her [Nasrin] and her child at risk and the staff member [me]?’ The head of the Sharia Council responded stating that the Sharia Council would safeguard Nasrin. I replied stating that the

Sharia Council couldn't make such promises. After much debate they reluctantly agreed not to pursue a joint mediation meeting.

### **Witnesses**

They demanded that Nasrin brought along two witnesses to the meeting with the Sharia panel of 'judges' to confirm her version of events. In contrast, as Hasan is a man he did not have to bring along two witnesses to confirm his version of events. Nasrin and I explained to the Sharia Council that there were no witnesses to the violence perpetrated at the hands of Hasan. The Sharia Council continued to demand two witnesses.

### **Meeting with the Sharia 'Judges'**

Eventually a meeting with the Sharia Council was scheduled. Nasrin was so frightened that the Sharia Council would not listen to her that she brought along two friends to confirm that what she was saying was the truth. The Sharia Council panel called Nasrin, her two friends and me in to the room. I addressed the panel straightaway, 'you have put so much fear into this lady [Nasrin] that she has found two witnesses who do not know any history of the case'. The panel agreed that the witnesses could not give evidence and they were sent home. Nasrin put her case forward, she was viewed as only a partial witness. The meeting came to an end.

Hasan attended the Sharia Council the following week.

Two weeks after our meeting with the Sharia Council in Dewsbury the Sharia divorce was granted.

### **Concluding Comments Regarding the Operation of Sharia Councils**

As an observer of the workings of the Sharia Council in Dewsbury, I can honestly say the process was difficult and the Sharia Council was not willing to be flexible. They were insistent on witnesses attending because of her gender and Nasrin agreeing to mediation despite the fact that this could have put her and her son's life in danger. There was no female member on the panel of 'judges', which was very daunting for me and Nasrin. The panel consisted of three Muslim elderly men, an Imam, a Sharia Council member and a note taker."

## **Kalsoom Bashir, Preventing Violent Extremism, Bristol City Council**

**“Women that attend Sharia Councils find that the experience is humiliating and daunting when their testimonies are not taken seriously”**

*Kalsoom Bashir has worked extensively for the past 25 years with the Muslim community, as a teacher, school governor, community liaison officer, councillor, and then as a Preventing Violent Extremism officer for Bristol City Council. This work has given Kalsoom a good understanding of the unique diversity, aspirations and challenges that exist within the Muslim community. Kalsoom undertook a Chaplaincy course and became Chaplain at Bristol University. Kalsoom uses her skills to support the most vulnerable in the Muslim community.*

*Kalsoom has helped develop and establish the Bristol Muslim Women’s Network. She began a series of consultations across the city and established an advisory group of approximately 25 women. These women are leaders in the community. In consultation with this group Kalsoom is leading a programme of activities designed to enable the voices of Muslim women from all walks of life to be heard.*

*Kalsoom is also co-Director of Inspire, an organisation that delivers projects on a local, national and international level focussing on empowering Muslim women, strengthening community cohesion, preventing all forms of extremism, enhancing gender equality and promoting human rights.*

### **Kalsoom’s Concerns Regarding Sharia Councils in the UK**

"My experience of working with Muslim women has demonstrated that there is a clear lack of knowledge of the rights that they have within their own faith and this is manipulated and abused by males in the family and in local mosques.

Many Islamic marriages are not registered legally so women do not have the protection of the courts. When marriages break down, there is huge pressure to keep quiet by members of the community or faith leaders in order to protect the ‘honour’ of the family.

There is an increasing rise in polygamy within Muslim families and again the women who are involved are not in a position to be able to challenge the situation or get any form of justice. They find it difficult to obtain any maintenance as the marriages are not registered legally. Polygamy is used to control first wives who are told that if they are a problem the man has the Islamic right to take another wife. Sometimes just one of the marriages is registered leaving one wife without any legal protections.

Although, in Islam, women are entitled to the rights of divorce and a prenuptial contract, lack of education on Islamic rights on both the parts of men and women in the community means that women are not fully aware of them and find it impossible in many cases to find the support they need. Men, on the other hand, believe they are able to pronounce divorce (talaq) three times to end a marriage and this threat is used to control wives.

Women who attend Sharia Councils find that the experience is humiliating and daunting when their testimonies are not taken seriously. My most recent experience is of a white English convert to Islam who, although she understands her rights, cannot find the support she needs to end her marriage. On a practical level it is difficult for her to travel to the Sharia Council and to gain access to a computer to deal with the issues online.

### **Arbitration and Mediation Services (Equality) Bill**

I fully support the Arbitration and Mediation Services (Equality) Bill as I do think it will help those women that require the law to act on their behalf. At the moment there are Muslim women that, despite having rights under British law, are under pressure to live under religious rules with which they may not necessarily agree. I would also hope that a Bill of this nature would put pressure on Sharia Councils to improve their practice - to actively move in line with understandings of equality and justice that require gender equality in family matters and communicate these more effectively to the Muslim community."

## **Shakti Women's Aid**

**"As Aalia is a woman, the Sharia Council refused to listen to her, they only listened to Nav, they have an incredibly biased and gender discriminatory attitude towards women"**

*Shakti Women's Aid is an organisation based in Edinburgh, working since 1986 to offer support, advocacy and information to all black, minority ethnic women, children and young people experiencing and/or fleeing domestic abuse.*

*Rabia, a support worker from Shakti Women's Aid, has supported a number of women who applied for a Sharia divorce. Rabia explained that the process of obtaining a Sharia divorce for a woman is a gender discriminatory process, as the Sharia Council engages in a lengthy divorce process if the applicant is a woman, yet a male applicant can divorce his wife unilaterally. Rabia is extremely concerned about the cost of Sharia divorces. At the time of writing, the Islamic-Sharia in Leyton, London, had increased their fees from £160 to £400 for women petitioners, meanwhile male petitioners only had to pay £200. Rabia explained that this is an example of gender discrimination.*

### **Rabia: Sharia Council Experiences**

#### **Aalia's Case**

"Aalia entered into an arranged marriage which lasted for over 30 years. During the majority of this time, Aalia suffered from domestic violence perpetrated by her husband, Nav. Eventually Nav left Aalia and married another woman in Pakistan.

Aalia decided to apply for an Islamic divorce, it took her over one year before she obtained an Islamic divorce. Nav argued that Aalia owed him large sums of money that she had borrowed from him, although he had no evidence to prove this allegation. In reality, Nav had taken Aalia's money and gold and personal items that her parents gave her at the time of their marriage. The Imam threatened Aalia saying that unless she paid a certain sum of money to Nav she would not be entitled to a divorce. Aalia could barely afford the cost of the divorce.

As Aalia is a woman, the Sharia Council refused to listen to her, they only listened to Nav. They have an incredibly biased and gender discriminatory attitude towards women.

Fortunately Nav stopped corresponding with the Sharia Council as a result Aalia managed to obtain a Sharia divorce.

#### **Samreen's Case**

Samreen entered into an arranged marriage with Shezhad and they had one child together. The marriage lasted four years. Samreen was a victim of domestic violence perpetrated by Shezhad.

Samreen applied for a Sharia divorce. It took over 18 months before Samreen was issued with a Sharia divorce. The delay was caused by Shezhad who produced false receipts from Pakistan to substantiate his claim that Samreen was in possession of a huge quantity of gold jewellery that she had no right to keep upon divorce, regardless of the fact that she was a victim of domestic violence.

The Imam asked Samreen to meet with Shezhad to undergo a reconciliation meeting. Samreen was horrified, not only was she was scared of Shezhad but she could also not afford to travel over eight hours to attend the meeting.

During lengthy discussions which lasted over an hour and a half, the Imam eventually agreed to give Samreen a Sharia divorce. It seemed to me during the entire process that the Sharia Council was not trying to help or support the women applicants, rather they were hindering them.

### **Nudret's Case**

Nudret entered into an arranged marriage which existed for over 14 years and they had four children together. During this time Nudret was a victim of domestic violence perpetrated by her husband, Syed. Syed abused alcohol and drugs and as a result all four children were removed from his care by the local authority and put on the child protection register. When Syed returned to Pakistan, Nudret petitioned for a Sharia divorce.

During the Sharia divorce process, the Imam never considered the background of the marriage and the domestic violence Nudret and their children suffered, they were only concerned with Syed's feelings with regard to the maintenance of the marriage. The Sharia law services only support men. When domestic violence has been proved by the UK courts, Sharia divorces should be issued without any unnecessary delay."

## **Shahien Taj MBE, Henna Foundation**

**“The Arbitration and Mediation Services (Equality) Bill will help a huge number of Muslim women who are unaware of their rights. For example, the Bill will place a statutory obligation upon the public sector to inform women of their rights under UK law”**

### **About The Henna Foundation**

*The Henna Foundation is a national registered charity committed to strengthening families within Muslim communities. Special attention and support is given to the needs of Muslim women, young people and children, ensuring that the Foundation acts as brokers, supporting positive engagement between marginalised sections of Muslim communities and the voluntary, statutory and government agencies and service providers.*

*The Foundation has been working for over a decade and operates a “One Stop” shop service that offers advice, support, sign-posting and advocacy for vulnerable individuals and families that are faced with social pressures including isolation and the difficulties and challenges of family and community life.*

*The Foundation communicates with a wide network of individuals, families and communities at varying levels of the Muslim community and wider sections of civil society. As a result of this direct contact it is ‘in touch’ with the issues, concerns, social trends and climate.*

*Both in a formal and informal capacity the Henna Foundation is regularly called upon to assist in Criminal and Family Court proceedings which involve matters relating to Forced Marriage and ‘honour’-based violence (HBV).*

### **Sharia Councils**

"The Foundation navigates through gender biases and cultural boundaries to ensure a holistic community approach to support individuals and their families. One third of our work over the past 12 years involves working with Muslim women seeking clarity on their Muslim marriage status or seeking an Islamic divorce - the majority of whom have great difficulties. Based on casework experience and anecdotal evidence of the current state of play in relation to Sharia Councils, it is difficult for us to support the legitimacy of the services that they provide.

The lack of regulation and accountability of the Councils has caused undue stress and pressure particularly on Muslim women. This can be illustrated in the lack of acceptance of decree absolutes as a valid and finalised divorce for Muslim women.

A number of renowned scholars have made it clear that a decree absolute is sufficient to fulfil the requirements of an Islamic divorce and technically Muslim women need not obtain a Sharia Council divorce. However due to community pressure, lack of understanding of

divorce, and also for peace of mind, a large majority of Muslim women will apply for an Islamic divorce once given their decree absolute.

The lack of understanding on the issue of divorce is particularly concerning as there are religious leaders and ex-husbands etc. who exploit this and tell vulnerable Muslim women that they are still married in Islam and that they have to continue to perform their duty/role as a wife.

Based on casework experience and anecdotal information, it is not uncommon for Sharia Councils to charge a minimum of £400 to process a divorce application even when a decree absolute has been awarded. In some cases Muslim women are forced into long drawn out situations that require them to spend substantial amounts of money in obtaining an Islamic divorce certificate. In addition, they would still have to justify to the Sharia Council as to why they were requesting an Islamic divorce and the Council would then get in touch with the ex-partner and proceed from there.

As an organisation we have attempted to find an alternative to the Sharia Councils. Over the last three years we used a highly regarded scholar to provide women who had obtained decree absolutes with a Sharia divorce certificate at no charge and with no questions asked. It was understood that the issuing of the certificate was just a formality. However the organisation that he works for has now changed its policy in relation to Islamic divorces and we have been asked to provide client and case details. The organisation would then contact the ex-husband and attempt a reconciliation / mediation between two parties.

### **Case study (1): Amina's Case**

Amina is a young lady of Asian heritage who was in full-time education and was brought up in a moderately religious family. Whilst she was raised to understand the basics of the Islamic faith and to dress in a modest way, she was never forced to wear hijab or niqab. She met Faisal through a social network where he had set up a group to answer questions on Islam and he invited her to the group. Over a matter of weeks she was emotionally manipulated by Faisal to leave her family and to marry him as he convinced her that it was the 'Islamic' thing to do.

Ten days into their marriage, Amina was forced to adopt the veil and had to wear gloves to ensure that even her hands were fully covered. She also suffered emotional abuse and sexual exploitation at the hands of Faisal.

Due to the fact that she only had a Nikah with him and not a registry marriage, Amina applied to a Sharia Council in the UK for a Sharia divorce. The Imam who had the power to grant Amina a divorce was also teaching her husband to become an Islamic scholar. The Imam in this case was not functioning in a professional capacity; instead he used his personal relationship with Faisal to attempt to reconcile the marriage without informing Amina of his conflict of interest. Amina was then requested to attend the Sharia Council

unaccompanied. We were able to inform Amina ahead of time and she made the decision to cancel the meeting.

### **Case study (2): Sumiah's Case**

Sumiah is a British citizen of Pakistani descent. She comes across as a woman who is confident, self-assured and had realistic expectations of marriage. When she was 22 years old, her marriage was arranged to a cousin from Pakistan. After they were married, Sumiah was able to secure a spouse visa for him and he moved to the UK to be with her.

There were problems in their married life, primarily due to the fact that her husband was an only child and was used to a lifestyle where there was always someone who would take care of his needs. After eleven years of marriage and having had two children with him, Sumiah decided that she could no longer continue to stay married to him due to his unreasonable behaviour (this includes him getting jealous if she bought presents for their children, she wasn't allowed to laugh in front of him etc.).

She was able to secure a divorce through the British legal system and the only difficulty she faced in doing that was due to her husband's refusal to sign the divorce papers. After obtaining her decree absolute she approached a very well-established Sharia Council to request her Islamic divorce papers. This caused her a significant amount of problems:-

- 1) She had to pay them £400 to process the application (£150 initial payment, £250 second payment). This was a major issue as she was a single mother on a very limited income and due to the complexities of 'honour' (izzat) she was not in a position to ask her family for financial support.

- 2) After the initial acknowledgement of her request, there was no contact from the Council. Sumiah had to initiate contact with the Council on numerous occasions in order to get an update on her case. On most occasions, there was no progress made. The reason given to her was that they needed to write to her 'ex-husband' to get his side of the story and then the committee would have to consider her request.

It was only after she made a fuss over the lack of progress did they inform her that she could meet with their representative in the area that she was from and he would be able to consider her case.

She managed to present her case to the representative and it was only after this representation that she was given her Islamic divorce certificate despite the fact that she was already legally divorced from her ex-husband.

### **Case study (3): Megan's Case**

Megan is a British European convert to Islam. She was a single parent with a young child from a previous relationship and embraced Islam in 2009. Within weeks of embracing Islam

she entered into a religious marriage with a Muslim man who had been pursuing her before her conversion. In addition to emotionally manipulating her, he also sexually assaulted her and exploited her vulnerabilities to the extent that he had her believing that she was responsible for making him assault her.

She fell pregnant six months into the marriage and when she found out she was pregnant, she made the decision to end the marriage. The sexual and physical abuse was not only affecting her and her pregnancy but also the emotional wellbeing of her eldest child. She also made the decision to pursue legal action against her ex-husband as he began harassing her.

Whilst she believed she was divorced as her ex-husband pronounced the 'talaq' on numerous occasions, she wanted confirmation in writing from a religious/Sharia institution. Unfortunately, all the organisations she approached had advised her to re-consider her decision and she was offered mediation services instead. This was offered to her despite her providing them with proof of the the legal action she was perusing against her ex-husband. She also explained to them that mediation or speaking to her ex-husband was not an option as she would be putting herself, her eldest child and unborn child at risk. Getting back with her ex-husband was also not an option as social services would have taken her child into care.

To date she has still not been given a clear response on her marital status.

### **The Arbitration and Mediation Services (Equality) Bill**

The Arbitration and Mediation Services (Equality) Bill will help a huge number of Muslim women who are unaware of their rights. For example, the Bill will place a statutory obligation upon the public sector to inform women of their rights under UK law. A large number of Muslim women approach Sharia Councils for help. This is due to the fact that they are unaware that they have recourse through UK law. For instance, many Muslim women have only had an Islamic marriage (Nikah). They therefore are not married under UK law and have no rights upon divorce. It's essential that all women are aware that they need to enter a legal marriage to gain the rights that they deserve.

There is substantial evidence that some Sharia Councils and their Imams are involving themselves in matters of domestic violence and violence against women in a way that is prejudicial to criminal justice. Through offering mediation they persuade victims and potential victims to not seek a criminal justice solution nor to seek protection of the police and the authorities which, on occasions, puts them at greater risk. Measures need to be put in place where all matters involving domestic violence and violence against women must be referred to the relevant authorities and Sharia Councils need to withdraw their involvement in such cases."

## **Jasvinder Sanghera, Karma Nirvana**

**“Once women begin the Sharia divorce process, the Sharia Councils soon pressurise vulnerable and marginalised women to reconcile their marriage”**

*Jasvinder Sanghera, a victim of forced marriage herself at the age of 16, later had to bear the death of her sister Robina who, at 24, set fire to herself to escape the brutality of her marriage and the obduracy of her own family. She died from 90 per cent burns.*

*Jasvinder Sanghera provides expert evidence and opinions in family law matters to UK courts of law. For example, she provides evidence of the ‘honour’-based systems to which South Asian families conform and the pressure under which these systems place women.*

*Jasvinder Sanghera established Karma Nirvana, a registered charity, which supports victims and survivors of forced marriage and ‘honour’-based abuse. Karma Nirvana receives over 500 calls from victims every month.*

### **Sharia Councils in the UK**

"Many women telephoning Karma Nirvana are calling to ask how to obtain a Sharia divorce. Karma Nirvana supports them with their application, often providing women with a letter of support. Once women begin the Sharia divorce process, the Sharia Councils soon pressurise vulnerable and marginalised women to reconcile their marriage. Family members also become involved further adding to the pressure these women are under to return to the matrimonial home regardless of the abuse that they have, and will continue to, suffer.

Where women refuse to return to their husband, Sharia Councils have insisted that women return their children to their husbands. Once the child is returned to its father there is a high risk that the child will be abducted.

### **The Arbitration and Mediation Services (Equality) Bill**

Karma Nirvana fully supports the Bill as it will raise women’s voices and enable them to gain their rights. Women must be aware of the UK legal system to resolve matters and to seek legal redress. Sharia Councils often overlook children’s rights which should be upheld and supported. It’s essential that all child-related matters are dealt with through UK courts of law."

## **Diana Nammi, Iranian and Kurdish Women's Rights Organisation**

*“Leila had very little knowledge of the law and she came under pressure from the Imam and her family to avoid the courts and settle things through a council in the mosque”*

*IKWRO is a registered charity which provides advice and support to women and girls from the UK's Middle Eastern communities (Iranian, Kurdish, Arab, Afghan and Turkish) who are facing violence and abuse. Women and girls approach IKWRO for assistance with issues such as forced marriage, 'honour'-based violence, domestic violence, sexual abuse, marital breakdown and female genital mutilation. IKWRO is a secular organisation but many of their clients are Muslim.*

*IKWRO has supported many women who have sought advice from mosques and from bodies applying Sharia Law in the UK. In most cases women do not receive any practical advice or assistance to help them exit discrimination, and instead face further abuse and discrimination perpetrated by Sharia 'judges'.*

### **Leila's Case**

"Leila was forced to marry her first cousin when she was in her teens. The marriage took place in a mosque in the UK. From the outset Leila's husband was physically abusive. He was also verbally abusive and threatening, including in front of their three children. He did not give her any money and Leila was in debt trying to feed and clothe herself and her children.

Leila went to an Imam and asked for help to end her marriage. The Imam told Leila that he would talk to her husband about the abuse, and would tell him to give her money. After this, the situation became worse. Leila came to IKWRO for assistance and told us that she wanted a divorce.

We soon realised that as Leila's marriage was never registered, it was not legally recognised in the UK, making it difficult to enforce her rights in the UK courts. Leila had very little knowledge of the law and she came under pressure from the Imam and her family to avoid the courts and settle things through a council in the mosque. Although IKWRO linked Leila with a solicitor she did not attend appointments and eventually returned to her husband.

### **Sara's Case**

Sara's husband became physically abusive while she was pregnant. The abuse continued after the baby was born and Sara decided to leave her husband. Sometime later, she went to the mosque where they had been married to ask for a divorce. They had never married under UK law but Sara wanted to end the marriage officially so that she could move on with her life.

Even though Sara explained that her husband has been extremely violent, the Imam said that he could not grant her a divorce without her husband's permission. Sara asked the

Imam to telephone her husband and the Imam agreed but after a month nothing had happened. When Sara contacted the Imam, he claimed that he had tried to phone the husband but Sara knew that this was not true. She continued to telephone and visit the mosque in person but nothing changed. The Imam then told her that he could initiate a procedure through which Sara could get a divorce without her husband's permission, at a cost of £1000. With a baby to look after, Sara could not afford this.

Eventually Sara persuaded her husband to attend an appointment at the mosque and discuss the divorce. At the appointment the Imam first asked Sara whether she had been praying. She said that she had not and the Imam asked if she was menstruating. When she confirmed that she was, the Imam said that she would have to go home, pray for two weeks and return. Sara was so humiliated that she never returned to the mosque. She has still not been granted a divorce.

### **Arbitration and Mediation Services (Equality) Bill**

We fully support the Bill. Sharia Law discriminates against women and children and puts those who have experienced violence and abuse at further risk. Its rulings are incompatible with UK legislation including the Sex Discrimination Act 1975, the Children Act 1989 and the Human Rights Act 1998."

## **Tahmina Saleem, Inspire**

**“This Bill is welcomed as it would extend the law to offer an opportunity to review or revoke agreements at a later stage if Muslim women choose to champion their rights”**

*Inspire is an award winning consultancy helping Muslim women to reach their full potential in life. Inspire delivers projects on a local, national and international level focusing on empowering Muslim women, strengthening community cohesion, preventing all forms of extremism, enhancing gender equality and promoting human rights. Ultra conservative interpretations of Islam are being used to define and regulate women’s lives and to place restrictive roles on them; Inspire challenges these positions by using progressive interpretations relevant to life in Britain today.*

*As co-founder of Inspire, Tahmina Saleem’s experience includes working within the voluntary sector for over 20 years. She has held various leadership positions within Muslim organisations within the UK including chairing Islam Awareness Week in 2007 and 2008. She has also worked as a consultant with the London Borough of Redbridge from May 2008 – Feb 2009, helping to meet the Local Authority NI35 targets as the PVE Projects Manager. Over the years Tahmina Saleem has travelled extensively within UK towns and cities meeting and hearing from Muslim women on the ground.*

*During her experience of working within Muslim communities, she has found that many Muslim women are fully integrated into British life and are making huge contributions. However, Tahmina Saleem explains that far too many Muslim women are unable to contribute to society due to personal, cultural and religious barriers.*

### **Experience of Sharia Councils**

"Mediation services such as Sharia Councils are operating within the UK in an unregulated manner. Many Muslim women do not have sufficient grasp of Islamic theology to refute the decisions of these bodies which are viewed as authorities by Muslim families. Some of the Sharia bodies operate in a way that is at times discriminatory towards women, undermining their human rights that are protected by law.

### **Sharia Divorce Case Studies**

Inspire were recently approached by a woman from Birmingham; a mother of five who is seeking to divorce her violent husband. She was a young convert who married in her teens and soon fell pregnant. Although she preferred to go on to higher education, the local Imam instructed her to marry a young Muslim stranger as she was advised that ‘a good Muslim woman should be married’. She opposed his choice and was, in her words, blackmailed and bullied into accepting. Today with limited means she cannot afford the £400 that is required by the local Sharia body for the divorce she seeks (although men are charged £200 by the same body).

The mother of another woman who is a convert approached Inspire recently requesting we speak to her daughter who is currently in a refuge seeking protection from her violent husband. With three children to care for, the daughter was considering returning to him as he had said it was a sin to turn to 'non Muslims' for help when, according to his misinterpretation of the Quran, he had the right to 'chastise' her. She knew no better and felt she was failing as a Muslim woman if she did not return to him. Her mother sought our assistance as this had happened several times before and this time social services were threatening to take the children into care if she returned.

### **Why the Arbitration and Mediation Services (Equality) Bill is urgently needed**

Sharia bodies are currently failing where they might help educate and are often unwittingly perpetuating human rights violations themselves. Inspire supports this Bill in principle as we believe a safety net is required to protect women in particular from excesses that occur via Sharia courts. Unfortunately many Muslim women today are submitting to patriarchal interpretations of their faith as they are not equipped with a nuanced and relevant understanding of life as a British Muslim woman in 21st Century Britain. This Bill is welcomed as it would extend the law to offer an opportunity to review or revoke agreements at a later stage if Muslim women choose to champion their rights.

Inspire believes that for substantial change to be made for Muslim women and other women of faith, alongside this Bill, an open debate and an awareness campaign is vital to ensure that Muslim communities are aware of the true nature of what it entails."

## **Tehmina Kazi, British Muslims for Secular Democracy**

*"The Arbitration and Mediation Services (Equality) Bill is to be lauded for its multi-pronged approach to tackling gender discrimination".*

Tehmina Kazi has been the Director of British Muslims for Secular Democracy since May 2009. British Muslims for Secular Democracy is a registered charity which aims to raise awareness, amongst British Muslims and the wider public, of democracy and particularly how 'secular democracy' helps to contribute to a shared vision of citizenship. BMSD'S aims include promoting civic engagement among Muslims as well as combating extremism and Islamophobia. Previously, Tehmina Kazi was a Project Officer at the Equality and Human Rights Commission, where she worked on the first inquiry of its kind into the Human Rights Act. Tehmina Kazi regularly contributes to a wide variety of media outlets on issues relating to British Muslims' civic engagement, including the role of Muslim women in public life.

### **Arbitration and Mediation Services (Equality) Bill**

"The Arbitration and Mediation Services (Equality) Bill is to be lauded for its multi-pronged approach to tackling gender discrimination. Various women's groups and activists have supplied significant anecdotal evidence of gender discriminatory arbitration being conducted under the Arbitration Act 1996... While the Bill doesn't mention any particular religion by name, in practice, the bulk of its remit extends to Sharia tribunals and Sharia councils. While these terms are often used interchangeably by the mainstream media, there are clear distinctions between these bodies, and the Bill represents a long-overdue attempt at demarcating these.

Firstly, Sharia tribunals operate under the Arbitration Act 1996, and as with all arbitration, their outcomes are legally binding (as long as all parties agree to this). Unlike these tribunals, Sharia councils have no legal status, and could potentially be set up in someone's front room. Problems arise when they falsely claim a legal status that they do not have, and this kind of posturing is exactly what the Arbitration Bill seeks to criminalise. It is a pioneering proposal, because the onus is on the Sharia councils to clarify for existing and potential clients that their decisions have no legal weight, before any mediation can take place.

The second key issue that the Bill brings to light is one of education. If its proposals were passed, it would become incumbent on front-line public sector professionals e.g. health visitors and GPs, to explain to women what their rights are under civil law. Having worked in social services before, I recognise that a multi-agency approach is the best way to safeguard vulnerable people. While local authority waiting rooms are replete with "Know Your Rights" leaflets, this is simply not enough. How many more women will have to suffer the ignominy of being unable to get a religious divorce, before we realise that professionals – who have a statutory duty to engage with them – must also spread the word?

The third key issue that the Bill seeks to address is facilitating the prosecution of domestic violence perpetrators by using laws against witness intimidation to protect the victim. This is an absolutely crucial measure for the thousands of domestic violence victims who live in terror of their abusive former partners.

It goes without saying that, like all legislation, the Bill can only do so much to safeguard women from unjust treatment. The role of voluntary sector organisations, in helping women to make informed choices, is equally vital. But the message that comes out of most of our roundtables on religious arbitration – time and time again – is that existing legislation is not being enforced properly in these cases. It is my hope that the Bill can provide a salve for some of these concerns, and assist women whose struggles for justice and equality are 'stuck' within the system."

## PART 3 – RECOMMENDATIONS

### 1. A judge-led inquiry should be launched to determine the extent to which discriminatory Sharia law principles are being applied within the UK

It was reported in 2011 that a Government inquiry into the rise of Sharia Councils was abandoned because those operating the ‘courts’ were unwilling to co-operate.<sup>26</sup>

The failure of the investigation was disclosed to MPs by the then Justice Minister Jonathan Djanogly. He explained that the previous Government commissioned “an exploratory study of sharia councils in England with respect to family law”.<sup>27</sup> However, because the limited findings could not be regarded as a representative assessment of the operation of Sharia Councils, the Ministry of Justice decided not to publish them.

The Ministry commented at the time that not only were there “practical difficulties” in speaking with respondents, there was also a “reluctance to discuss the private work” of the councils.

While many welcome more recent commitments from the Home Secretary, Theresa May, to conduct an independent review of Sharia Courts,<sup>28</sup> it is imperative that measures are not so broadly defined that they catch innocent behavior or impact on people’s religious liberties.

It is of equal importance that investigations of such significance are not unnecessarily kicked into the long grass, as appears to have also happened with the Government’s much-anticipated *Jenkins Review*.<sup>29</sup>

As with any meaningful inquiry, a coherent approach is needed whereby suitable powers are provided to subpoena witnesses.

There are of course Muslim tribunals that deal with legitimate areas of arbitration as defined by the Arbitration Act, but a judge-led inquiry will be an important step in highlighting more accurately the extent to which a rapidly developing alternative quasi-legal system is endorsing unlawful or improper conduct within the UK.

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<sup>26</sup> *The Daily Mail*, 30 July 2011

<sup>27</sup> *Hansard*, House of Commons, 11 July 2011, Col.79W

<sup>28</sup> *BBC News Online*, 23 March 2015

<sup>29</sup> *Financial Times*, 16 March 2015; The *Jenkins Review*, led by Sir John Jenkins, was announced by the Prime Minister David Cameron on 17 April 2014 and commissioned to review the “*philosophy, activities, impact and influence on UK national interests, at home and abroad, of the Muslim Brotherhood and of government policy towards the organisation*”.

## **2. The Arbitration and Mediation Services (Equality) Bill should be included in the Government's plans for the new session of Parliament**

The Arbitration and Mediation Services (Equality) Bill was introduced in this Parliament to strengthen the law to support progress on equality in other methods of dispute resolution, and to help ensure that criminal matters are dealt with by the proper authorities.

It is hoped that the Bill will be reintroduced in the new session of Parliament. Its recommendations, outlined below, should be supported by the Government.

The main features of the Bill are summarised as follows:

- a) Makes it clear in legislation that sex discrimination law applies to arbitration tribunal proceedings*

This is to close any loophole there may be in the Equality Act 2010, making sure that tribunals operating legitimately under the Arbitration Act 1996 cannot use discriminatory Sharia rules such as a woman's testimony being worth half that of a man.

- b) Places a duty on public bodies to ensure that women in polygamous households or those who have had a religious marriage are made aware of their legal position and relevant legal rights under English law*

This provision is designed to tackle the concerns outlined in Part 1 (e) of the report, so that public authorities such as the police and social workers will be under a duty to help protect women who may be misled as to the legal status of their marriage.

As recently as November 2013, the Government rejected an amendment to the Anti-social Behaviour, Crime and Policing Bill, which would have protected women who are duped into believing they are married under the law of the land, only to find upon divorce they have little to no rights in terms of finance or property.<sup>30</sup>

- c) Strengthens court powers to set aside rulings when discrimination has taken place*

This amends the Arbitration Act 1996 in a largely parallel way to the amendment to the Equality Act, as explained in recommendation (a) above. As well as being able to launch a discrimination case as a result of discriminatory arbitration, a person will also have the remedy of having the decision of the arbitration tribunal struck down.

- d) Strengthens court powers to set aside court orders where there is evidence that consent to the agreement was obtained under duress or by manipulation*

In light of the community pressures that can be brought to bear on women (see Part 1 (d) of report), the legitimacy of women's consent to settling disputes informally is open to serious challenge.

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<sup>30</sup> House of Lords, *Hansard*, 12 November 2013, columns 675-682

The Bill creates an enhanced mechanism for court orders to be set aside if they were based on non-consensual agreements. The Bill allows third parties other than the women affected to apply for the court order to be struck down, so that even women who do not dare take this step themselves can be protected. Third parties may be specified by the Secretary of State, but also include anybody with the approval of the court.

*e) Explicitly makes clear in legislation that a victim of domestic abuse is a witness to an offence and therefore should be expressly protected from intimidation*

This is designed to strengthen the law surrounding domestic abuse by explicitly specifying that victims of domestic abuse fall within the law preventing witness intimidation. Any woman who does come forward needs the full protection of the law, because she may well be doing so in the face of overwhelming adversity.

*f) Creates a new criminal offence criminalising any person who purports to legally adjudicate upon matters which ought to be decided by criminal or family courts*

There are concerns that some individuals or bodies are setting themselves up to decide cases outside of their legitimate remit which should be a matter for the proper authorities.

Since the current law, restated by the Bill, has not been sufficiently effective, a criminal offence is introduced by the Bill to bolster the law in this area and clamp down on such an undermining of the system. The maximum penalty would be seven years in prison.

## About the Author

Baroness Cox was created a Life Peer in 1982 for her contributions to education and served as a Deputy Speaker of the House of Lords from 1985 to 2005. She now sits in the Lords as a Crossbencher. She is also the Co-Chair of the All-Party Parliamentary Group on 'Honour' Based Abuse and is a frequent contributor to Lords debates on modern slavery and international human rights.

Her humanitarian aid work has taken her on many missions to conflict zones, allowing her to obtain first hand evidence of the human rights violations and humanitarian needs. Areas travelled include the Armenian enclave of Nagorno Karabakh; Sudan; Nigeria; Uganda; the Karen; Karenni; Shan and Chin peoples in the jungles of Burma; and communities suffering from conflict in Indonesia. She has also visited North Korea helping to promote Parliamentary initiatives and medical programmes. Additionally she has been instrumental in helping to change the former Soviet Union policies for orphaned and abandoned children from institutional to foster family care.

In recognition of her work in the international humanitarian and human rights arenas over the past twenty years, she had been awarded the Commander Cross of the Order of Merit of the Republic of Poland; the prestigious Wilberforce Award; the International Mother Teresa Award from the All India Christian Council; the Mkhitar Gosh Medal conferred by the President of the Republic of Armenia; and the anniversary medal presented by Lech Walesa, the former President of Poland, at the 25th anniversary of the Polish Solidarity Movement. Lady Cox has also been awarded an Honorary Fellowship of the Royal College of Surgeons of England and Honorary Doctorates by universities in the United Kingdom, the United States of America, the Russian Federation and Armenia.

Baroness Cox is author of numerous publications, including: *'This Immoral Trade: Slavery in the 21st Century'* and *'The 'West', Islam and Islamism: Is Ideological Islam Compatible With Liberal Democracy?'*.

## About the Bow Group

The Bow Group is the United Kingdom's oldest conservative think tank. Founded in 1951, the Bow Group exists to publish the research of its members, stimulate policy debate through an events programme and to provide an intellectual home to conservatives in the United Kingdom. Although firmly housed in the Conservative family, the Bow Group does not take a corporate view and it represents all strands of conservative opinion. [www.bowgroup.org](http://www.bowgroup.org)

## About the Austrian Society for Political Analysis (ÖGP)

The Austrian Society for Political Analysis (ÖGP) is an Austrian-based international think tank, established in 2013, that specialises in extremism, conflict and international security. The group is led by Dr Helmut Pisecky, an international expert on security, terrorism and international relations. It campaigns across Europe on religious equality and welcome this report as a valuable contribution to the wider European debate on gender discrimination. More information is available online at [www.ogp.ac](http://www.ogp.ac)