

Panorama or Paranoia - The issue of Shariah Courts

Essentially if two Muslims are happy to accept the arbitration of a third party resolution system pertaining to some personal situation, why is it that a tolerant multicultural Britain can't accept that?

The recent BBC Panorama program on shariah councils demonstrated yet another 'straw man' argument being used against the Muslim community. Muslims are introducing a parallel legal system alongside British legal system the viewers were warned. The second point being asserted was that shariah courts were being used as a mechanism to oppress women and keep them bound into loveless marriages. Neither of these contentions are true.

As regards to the first point then the so called 'parallel legal systems' already exists in Britain. Except of course the incendiary terminology of 'parallel legal system' is not used, rather they are called 'alternative dispute resolution systems'. These systems are considered to be integrated and not running in parallel. Alternative dispute resolution systems exist besides cultural and religious sensitivities. Schools have consent to sort out minor criminal incidents 'in house' without involving the Police. The military have their own courts with a modified form of law. Even MP's have what is called the electoral commission which is supposed to mete out punishments to misbehaving MP's.

It is a fact that alternative dispute resolution processes already exist in the UK and are recognised and accepted by the law. The most glaring contradiction is of course the existence of the Jewish Beth Din courts. English law states that any third party can be agreed by two sides to arbitrate in a dispute, and in this case the institutional third party is the Beth Din. People that seek justice through these courts are legally bound to their conclusions by the secular law of the land under the arbitration act. Jewish courts are in daily use in Britain and have been for centuries resolving civil disputes. As made clear by the Finchley court registrar "We can't drag people in off the street"¹. They provide a much needed service to their community that is usually quicker and much less costly than going through the civil courts.

Currently Muslim courts do exist in a more primitive form, but have no legal recognition. Thus very often people are forced to go through the ordeal of the legal process twice i.e. both with a shariah court and a secular court. This can be very burdensome, particularly when it comes to issues relating to family breakdown. This also brings the alarming contradiction that shariah court decisions within Malaysia are accepted as a result of symbiotic international relations, but shariah courts within the UK are not.

Essentially if two Muslims are happy to accept the arbitration of a third party resolution system pertaining to some personal situation, why is it that a tolerant multicultural Britain can't accept that? Dr Prakesh Shah who is a senior law lecturer at Queen Mary University and author of "legal pluralism in conflict" believes that such systems should be seen as integrated and complimentary rather than a parallel legal system.

The second flawed argument is that these courts have been setup in some way to suppress Muslim women and use the religion as a means of culturally binding them into loveless marriages. The programme failed to mention that the main driver to these courts being setup is for the complete opposite reason. Women who had been married under a religious ceremony felt that they could not leave their husband because there was no-one there to issue them with a divorce. Clearly a secular court would not be able to offer a divorce for a marriage it doesn't recognise. As such there were women who felt unable to escape if the necessary authority was unable to dissolve the marriage, in this case a religiously qualified individual of Islamic jurisprudence.

No doubt, the shariah court system is not without problems. There are some legitimate questions surrounding language barriers and consequently modes of expression that arise from cultural differences between individuals advising and the recipients of the advice. No doubt mischievous editing played its part. The question however remains ask why Jewish Beth din courts are not subject to the same media frenzy. One is forced to conclude that this program is merely capitalising on anti-Muslim sentiment rather than seeking to resolve any inequality or injustice.