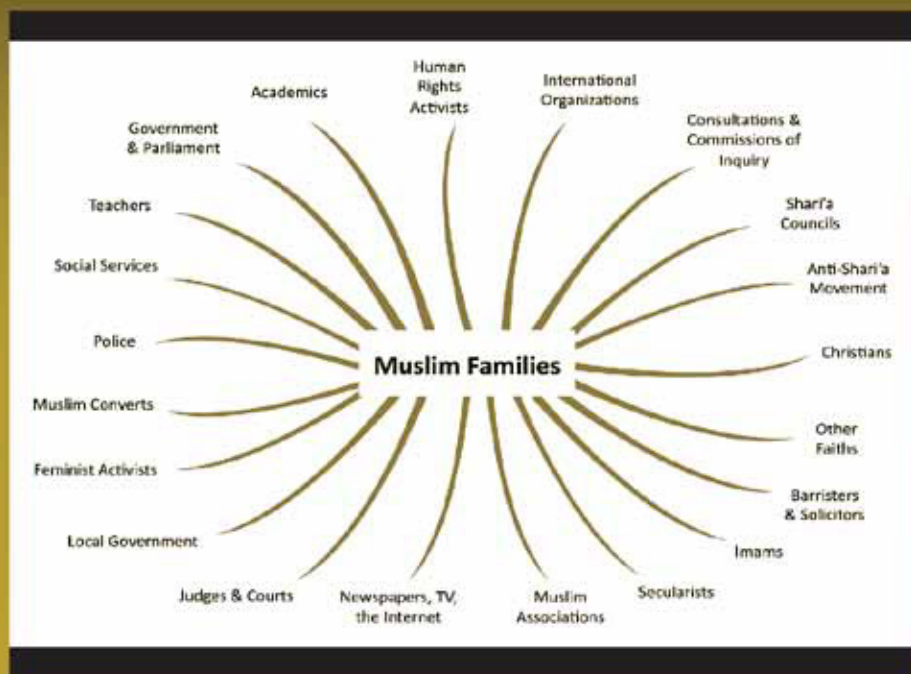# Muslim Families, Politics and the Law

A Legal Industry in Multicultural Britain

Ralph Grillo

MUSLIM FAMILIES, POLITICS AND THE LAW

Cultural Diversity and Law

Series Editor:
Prakash Shah, School of Law, Queen Mary, University of London, UK

Around the world, most states are faced with difficult issues arising out of cultural diversity in their territories. Within the legal field, such issues span across matters of private law through to public and constitutional law. At international level too there is now considerable jurisprudence regarding ethnic, religious and cultural diversity. In addition, there are several layers of legal control – from communal and religious regulation to state and international regulation. This multiplicity of norm setting has been variously termed legal pluralism, inter-legality or inter-normativity and provides a fascinating lens for academic analysis that links up to cultural diversity in new and interesting ways. The umbrella of cultural diversity encompasses various population groups throughout the world ranging from national, ethnic, religious or indigenous groupings. This series particularly welcomes work that is of comparative interest, concerning various state jurisdictions as well as different population groups.

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Muslim Families, Politics and the Law

A Legal Industry in Multicultural Britain

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University of Sussex, UK

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Preface

In 2013–14 the UK Parliament discussed four bills each directly or indirectly affecting British Muslims. One proposed to restrict the activities of religious councils, another to outlaw the public wearing of face-veils; the Anti-social Behaviour, Crime and Policing Bill contained clauses to criminalize forced marriage, while an Immigration Bill dealt with sham marriages. These bills, and the many newspaper and television reports that accompanied them, along with ongoing media and parliamentary debates on matters such as underage marriage, 'grooming', 'honour' murders and female genital mutilation (FGM), are all concerned with what many believe to be Islamic practices, typifying the subordination of Muslim women to the patriarchal control of fathers, brothers, husbands and Imams.

Although other things Islamic (mosque-building, *halal* modes of animal slaughter, male circumcision) are also in contention across Europe ('What I eat, what I wear, how I pray', as one young Muslim woman put it), this book focuses principally on Muslim families, and concerns how gender relations, and associated questions of (women's) agency, consent and autonomy, have become the focus of political and social commentary, with followers of the religion under constant public scrutiny and criticism. In short, Islam generally and the Muslim family in particular have become highly politicized sites of contestation, and in brief this book is about how and why and with what implications.

I arrived at this via a somewhat circuitous route and in consequence the book has its limitations. First, I am no expert on Islam, but an anthropologist who has since the 1960s studied migration and ethnicity in Africa and Europe. I have long been concerned with how countries such as France, Italy and the UK approach the governance of cultural and religious diversity, including the family lives of immigrants and settled minorities, and this has forced me to think about the legal aspects of the classic anthropological themes of birth, marriage and death. Subsequently, I fell among lawyers, and became associated with a network linking legal scholars, anthropologists and political scientists concerned with cultural diversity across Europe and North America and indeed globally.[1]

Secondly, observing what was and is happening on this socio-political-legal terrain led me to reflect on the many organizations, groups and individuals who, while having their own agendas and preoccupations, share a concern with legal aspects of the Muslim presence in Muslim-minority countries, and how Islam relates to the law (see Chapter 1). It is their engagement, largely with the beliefs, practices

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1 Available at: www.jiscmail.ac.uk/cgi-bin/webadmin?A0=PLURI-LEGAL

and institutions associated with the followers of Sunni Islam from South Asia (the great majority of Muslims in the country), which is the book's principal concern. It does not claim to be a conventional 'community' study of Muslims in Britain, 'from the inside, looking out', though neither is it in any simple sense a study 'from the outside, looking in' (Grillo 1985, and Chapter 13). Although those thus engaged are not confined to the UK, this book deals mainly with Britain and has little to say about the relationship between Islam and the law in other Muslim-minority countries.

Thirdly, although research involved fieldwork, with some participant observation, including attendance at numerous meetings (often under 'Chatham House' rules), and talking to many people, the book is predominantly an exercise in the 'discursive ethnography' (discourse viewed and contextualized ethnographically) of certain contested 'sites', mainly concerned with families, drawing on written, spoken and visual materials (including conventional ethnographies), paying particular attention to vocabulary, tropes, ideas, instances and use of evidence. One (major) objective is to identify the various 'narratives' (for example concerning 'the Muslim woman') that have emerged, testing these against the reality, or reported reality, of the lived experience of those involved, where necessary and possible. Accordingly, much of the data described and analysed (though by no means all) derives from public speech and writing. This has the double advantage of allowing those concerned to speak for themselves, and the assiduous reader, who locates the sources cited in footnotes, to check what they say. There is, regrettably, less of the informal (unguarded) talk on which so much anthropological research is based.

Fourthly, in writing about cultural diversity and the law, I take my role to be that of an observer analysing what is happening and why it is happening, rather than that of an advocate for what should happen; indeed, normative discourse is part of what I study. Although the accommodation of 'other' beliefs and practices raises difficult questions (of gender relations and human rights), evaluation of the arguments for or against legislation such as that concerning religious councils is not, *professionally*, my primary concern. That is, to explore the processes (social, cultural, legal, political) through which the acceptable and unacceptable, the 'sticking points', are defined, redefined and perhaps modified.

I must, however, declare an interest. Brought up a Roman Catholic, I ceased practicing as a teenager and would probably describe myself (fingers crossed, thinking of Pascal's wager) as an atheist. I am apprehensive of fervent religiosity, and over the years have been horrified by what organized religion, indeed all forms of ideological self-righteousness, have, in my experience, done when compounded with ethnicity or gender. That said, I remain committed to trying to understand people's beliefs and practices whatever my personal feelings. Those I write about are, some of them, deeply devoted to their faiths; others are equally devoted to opposing some or all religions. I hope I am able to represent their views as accurately as is within my capability, with a degree of objectivity. Contrary to what some maintain, 'understanding', or seeking an explanation, does not necessarily imply agreement or justification.

In pursuing this aim, I try – overly charitably some might think – to interpret what lies behind the views and practices of some Muslim men, notably leaders of religious councils, who adhere to traditions (particularly concerning gender relations) which at the least might be thought patronizing and authoritarian. I hope I am equally charitable to those whose opposition to Islam may reflect a sincere commitment to human rights and gender equality, but is sometimes couched in terms which are also patronizing and authoritarian, sailing dangerously close to colonialism's *mission civilisatrice*, or unconsciously reflecting views that can only be described as Islamophobic, if not racist. This charity will undoubtedly anger some readers (on all sides) as unacceptable. Nonetheless, it is important to try and comprehend all mindsets, even if, perhaps especially if, one ultimately disagrees, or wishes they had a different perspective. Then again, while recognizing the validity of the complaints that many Muslim women have about their treatment by Islamic patriarchy, it is sometimes hard not to sympathize with men whose identities as husbands and fathers, their sense of masculinity, is constantly challenged, even denigrated. One wonders at the effect on private and public personae. Is it a factor in the attractiveness, for some, of Islamism? In the end, such men may simply have to take their medicine, but their concerns should not be swept aside.

Finally, although alarmed by the growing tendency to 'criminalise alterity' (Ballard 2011), I am conscious that there are limits to what a multicultural society such as Britain might tolerate. Although I am uncertain as to what to do for the best, I fear that the prospects for Britain as a multi-ethnic, multi-faith, multicultural society are bleak, and my sympathies are with those seeking a middle ground where a *modus vivendi* might be negotiated.

(Unless otherwise stated, all URLs cited were available when accessed in August 2014.)

Ralph Grillo

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Acknowledgements

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List of Acronyms

ADR	Alternative Dispute Resolution
ASBO	Anti-Social Behaviour
BME	Black and Minority Ethnic
BMSD	British Muslims for Secular Democracy
BNP	British National Party
CBC	Christian Broadcasting Council
CEMB	Council of Ex-Muslims of Britain
CPS	Crown Prosecution Service
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
EDL	English Defence League
EHRC	Equality and Human Rights Commission
FGM	Female Genital Mutilation
FMO	Federation of Muslim Organisations
FMPO	Forced Marriage Protection Order
FMU	Forced Marriage Unit
IKWRO	Iranian and Kurdish Women's Rights Organisation
ISC	Islamic Sharia Council
MAB	Muslim Association of Britain
MAT	Muslim Arbitration Tribunal
MCB	Muslim Council of Britain
MINAB	Mosques and Imams National Advisory Board
MLOs	Minority Legal Orders
MLSCUK	Muslim Law (Shariah) Council (UK)
MMP	Muslim Marriages Project
NCFM	National Commission on Forced Marriage
NSS	National Secular Society
SBS	Southall Black Sisters
SIOA, SIOE	Stop Islamization of America, Stop Islamisation of Europe

WLUML   Women Living Under Muslim Laws

UKIP   United Kingdom Independence Party

Chapter 1
Cultural Diversity and the Law

Introduction

On three occasions in 2011–14, Baroness Caroline Cox, a member of the UK's House of Lords, introduced a Private Members' Bill,[1] the Arbitration and Mediation Services (Equality) Bill, to make it a criminal offence, punishable by imprisonment, if a person 'falsely purports to exercise any of the powers or duties of a court or to make legally binding rulings' (see Appendix for the principal clauses). It was one of four bills under discussion in that period, each of which proposed to criminalize practices which many associated with British Muslims. The others were Philip Hollobone's Face Coverings (Prohibition) Bill, outlawing the public wearing of face-veils,[2] and the Anti-social Behaviour, Crime and Policing and Immigration Bills relating respectively to forced and sham marriages. Part II of this book (Chapters 7–11) follows the 'career' of Baroness Cox's initiative which would have serious, possibly crippling, implications for the activities of bodies concerned with religious mediation and arbitration, including the Shari'a[3] councils which operate within Muslim communities in Britain. It examines how the Bill was promoted and by whom, describes the arguments for and against and considers whether opposition to the councils (often incorrectly called 'courts') can be ascribed to 'Islamophobia'.

The present chapter and Chapter 2 set this and other calls call for legislation in the wider context of debates about Islam in Britain, outlining the social and political background of Muslim immigration and settlement, the growing tension around Islam, and disquiet about the rise of religious councils. Part I (Chapters 3–6) groups a series of case studies on marriage and divorce. Muslim families are caught up in socio-legal and political arguments and cultural and social disputes about meaning and practice, with issues such as marriage registration, forced and arranged marriages and divorce disputed among and between Muslims and non-Muslims, reviewed in consultations, discussed in Parliament, tested in the courts, with Muslim religious leaders, and their critics and supporters, increasingly prominent in public life. Chapter 6, a pivotal chapter, draws on material presented in Part I and prepares the ground for Part II by reviewing different narratives of the

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1   A proposal for legislation by an individual Member of Parliament or the House of Lords.

2   www.publications.parliament.uk/pa/cm201314/cmhansrd/cm140228/debtext/140228–0002.htm#14022871000003

3   *Shari'a* can be spelled differently; other versions occur in cited texts.

'Muslim woman' found in those debates (for example as victim or 'survivor', as hero(ine) and as obedient wife), which stem from different understandings of what constitutes agency, patriarchy, domestic abuse, mediation, community relations and so on. Finally, Chapter 12 considers whether there is room for constructive dialogue between Muslims and others, addressing and perhaps resolving differences.

Background

Contemporary European societies are all, in varying degrees, multi-ethnic and multicultural in terms of the diversity which has stemmed from the immigration of workers and refugees and their settlement. Currently, however, there is a widespread, acrimonious, debate about cultural and religious difference and its limits. There is scarcely any country in the West, or elsewhere, where this is not an issue, as may be observed in newspapers, television and the Internet, in election manifestos, parliamentary debates and ministerial statements, in policy initiatives at local, national and international levels and in the daily preoccupations of, for instance, social workers and teachers. Lawyers, too, are among the many groups and individuals touched by the law who confront different beliefs and practices and their possible 'accommodation'. Interaction with cultural diversity is thus a central concern of this book. Its context is Britain, and while Muslims are by no means the only 'others' (Hindus and Sikhs certainly enter into the picture), it concentrates on their situation.

Although scholars have long contemplated these matters, in the current conjuncture they have assumed increasing importance, as is demonstrated by a plethora of publications.[4] Although Judge David Pearl had, in 1995, noted the growing range of questions concerning marriage, divorce, inheritance, the custody of children and so on with which courts were having to deal, an authoritative account of *Family, Law and Religion* in England and the USA (Hamilton 1995) had, relatively speaking, little coverage of Islam and Muslim practices, compared with what it might have done had the book appeared 25 years later: so much has happened in the intervening period and there are several interconnected reasons for this.

First, there are some 15–18 million Muslims in Western Europe, with the 2011 census recording 2.7 million in England and Wales, c. 5 per cent of the population (Office for National Statistics 2012b), significantly up from 2001 (3 per cent).

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4   Including Ahdar and Aroney (eds) 2010, Bano 2012a, Bowen 2007, 2009b, Foblets (ed.) 2008, Foblets and Renteln (eds) 2009, Foblets et al. 2010, Fournier 2010a, Gill and Anitha (eds) 2011, Giunchi (ed.) 2013, Griffith-Jones (ed.) 2013, Grillo et al. (eds) 2009, Hoekema (ed.) 2005, Keshavjee 2013, Korteweg and Selby (eds) 2012, Maclean and Eekelaar (eds) 2013, Mehdi and Nielsen (eds) 2011, Mehdi et al. (eds) 2008, Nielsen and Christoffersen (eds) 2010, Renteln 2004, Shah (ed.) 2007, Shah and Menski (eds) 2006, Shah et al. (eds) 2014.

They are found in all parts of the country with substantial concentrations in London, especially East London, and in other conurbations including the West/East Midlands, Manchester and West Yorkshire. The vast majority (perhaps 96 per cent) are followers of different strands of Sunni Islam (the Shi'a population is relatively under-documented).[5] They are not, however, homogeneous. Bowen (2014) is a valuable compendium of information about the main ideological tendencies among British Muslims, based on extensive interviews with the principal actors. Her study, which concentrates on organizations (religious, political and both), their ideological position within Islam, their local leadership and international connections, shows that doctrinal and other disputes are many and vigorous, with ethnic and similar allegiances often aligned with religious difference.

Secondly, the Muslim population is now predominantly a family one. Although many migrants (women and men) were originally 'single', and anticipated returning to countries of origin, others, unintentionally or perforce, became settlers, bringing or sending for partners and children or establishing new families *in situ*: Gilliat-Ray (2010) has an excellent summary of the literature on marriage and the family among people of South Asian background, especially Sikhs and Muslim. This is not an entirely new phenomenon: in Britain and France, Muslim families, with a background in South Asia or North Africa, were already well-established in the 1970s, and a second generation (in France *les beurs*) was already evident in the early 1980s, if not before. But since the 1970s, the Muslim family presence in Europe (immigrants, refugees and their descendants) has become progressively wider and deeper, as well as more diverse in terms of origin. Hence, matters routinely affecting family life and relations of gender and generation have grown in importance with immigration and settlement catalysts for changing perceptions of self and others, forcing all parties (incomers and members of receiving societies) to reassess and perhaps reassert cherished values, and bringing individuals and families within the purview of the law.

Thirdly, although many are now long-term migrants, or born and brought up in Europe, relationships with societies of origin have not diminished. As a huge literature has shown, information and communication technologies and cheap air travel enable migrants to maintain significant social, economic and cultural ties with countries of origin, and with fellow migrants elsewhere. Transnationalism or rather the transnationalization of relationships, is a major factor in the contemporary scene, with the consequence that the world of migrants, refugees and settled minorities is often multi-jurisdictional and trans-jurisdictional not least where marriage is concerned (Shah 2010a, 2010b; Sona 2014). An annual report of the Office of the Head of International Family Justice for England and Wales, for instance, noted that the movement of people across borders has brought before the courts 'an increasing number of family law cases with an international dimension' (2013: 23).

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5   *Inter alia* www.guide.muslimsinbritain.org/guide1.html

Fourthly, *some* people from such backgrounds may seek to maintain *some* practices seemingly at odds with those of the societies in which they have settled and are therefore perhaps 'problematic' so far as the law and public policy are concerned. I emphasize *some*, and add that legal issues may arise as a result of what is occurring *within* minority[6] families, in the changing dynamics of gender and generation in demographically maturing populations (Qureshi et al. 2012; Werbner 2004), as much as from any disjunction between minority and majority practices, though the two are directly or indirectly connected. There are, certainly, many cultural and psychological assumptions (for example regarding the best interests of children or the status of women) hegemonic in contemporary Western societies but different from those prevailing in other cultures, and this disjunction may be a cause of much anguish on all sides. But 'Western' cultural/psychological assumptions have now to a large extent 'gone global' and permeate legal and normative templates in many parts of the world with implications for the internal relations of families of non-Western origin.

Fifthly, we are in what the German philosopher Jürgen Habermas (2008) has called a post-secular world, with people increasingly turning to religion to guide their conduct and seek advice on how to comport themselves in societies often seen as secular, individualistic and immoral. This may seem paradoxical given that the 2011 UK census, for example, showed a decline in belief and practice among adherents of the historic Christian churches (see also Park et al. 2013), with the former Archbishop of Canterbury (Rowan Williams) describing Britain as a 'post-Christian' society.[7] Against that there has been a rise of new forms of Christian religiosity (the evangelical movement, the Black majority churches and so on), along with new forms of spirituality, and the increasing visibility of non-Christian faiths, including Hinduism and Sikhism. The turn to religion, locally and globally, is certainly noticeable among Muslims for whom Islamic law and practice, as enshrined in the Qur'an and in the traditions associated with the sayings and acts of the Prophet Mohammed, and their various interpretations (Shari'a) constitute, it is claimed, an imperative guide to moral conduct. A follower of Islam has many identities besides a religious one (gender, class, ethnicity, age, nation and so on), and analytically it may be misleading to treat religion as defining a person's subjectivity (Alexander et al. 2013), thereby reproducing the categories of current political or religious rhetoric, and ignoring other, more significant ways of constituting identities. Nonetheless, for some people (outsiders, insiders, Muslims, non-Muslims) a person's essence is captured by their religion; being a Muslim (or Christian or Jew) is crucial to their lived experience.

Sixthly, that Muslim migrants and their descendants reside in Muslim minority countries has given a new urgency to long-standing questions concerning followers

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6   Referring to peoples of migrant or refugee origin (whatever their background, religion or ethnicity) I use the short-hand term 'minority'.

7   www.telegraph.co.uk/news/religion/10790495/Former-archbishop-of-Canterbury-We-are-a-post-Christian-nation.html

of the faith living outside of the 'abode of Islam' (Moore 2010; Sardar-Ali 2013a, 2013b, and references cited). Should such places be treated as hostile territory, the 'abode of war', or regions where one may live peacefully and compromise is possible? In this connection, there has been a proliferation of claims (for example by Muslim scholars operating internationally and supported by countries such as Saudi Arabia) concerning the recognition of Shari'a (or 'Muslim legal and ethical norms', Maleiha Malik, 2009), and its availability for Muslims living in Muslim minority countries. Sometimes couched in the language of a traditional, puritanical, 'Salafist' form of Islam (Cesari 2013; but see Bowen 2014 for other variations), these claims go way beyond the cautious search for a 'place', that perhaps characterized an earlier epoch (Joly 1988), posing questions about the role of Islam in public life, and the nature of citizenship. What does it mean to be a citizen of Britain and so on *and* a Muslim; what kind of a citizen can/should a Muslim be? Might devout Muslims make concessions to the laws of the land, and adapt Islam to the local context? To what extent is Shari'a open to reinterpretation and modification via *ijtihad* (independent reasoning) when some Islamic scholars argue that this debate was closed centuries ago? These have become pressing issues within minority institutions and associations, and not least among families whose members are reflecting on how to manage affairs in a changing world where relations are ever more complex and less clear-cut, and kin are widely dispersed across geographical and socio-cultural space.

Seventh, while such matters exercise many Muslims, they also concern non-Muslims reflecting about Islam in the West. The changing nature of the Muslim presence along with the globalization and transnationalization of a resurgent Islam, and a deepening crisis of trust between Muslims and non-Muslims, on both sides of an apparently widening divide, especially after 9/11, have led to a questioning of policies of multiculturalism. From c. 1960–2000, Britain sought to control and regulate immigration while accepting that most immigrants were here to stay. There was increasing recognition of the legitimacy of cultural difference, allowing the expression of such difference, within certain limits, in the private sphere, and to some degree the public sphere too. Moreover, a raft of legislation enacted from the 1960s through to the mid-2000s addressed the rights of minorities, enhancing their 'freedom from' (to use Isaiah Berlin's terminology, 2002), for example, discrimination.[8] After the turn of the millennium, however, there was a 'backlash' against such policies (Vertovec and Wessendorf 2010). Countries such as Britain were seen as becoming 'too diverse' (Goodhart 2004), with an 'excess of alterity' (Grillo 2007a).

Claims by opponents (philosophers, politicians, religious leaders, among others) that multiculturalism encouraged separatism and radicalization and threatened social cohesion were seemingly justified by disturbances in the ethnically mixed

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8   Sex Discrimination Act 1975; Race Relations Act 1976; Employment Equality (Religion or Belief) Regulations 2003; Racial and Religious Hatred Act 2006; Equality Act 2006.

cities of northern Britain in 2001 which occasioned heart-searching about the alienation of young Muslims. A review of the disturbances led to the conclusion that 'many communities operate on the basis of a series of parallel lives'(Cantle Report 2001: 9), and that Britain was 'sleepwalking to segregation', as Trevor Phillips, then Chairman of the Commission for Racial Equality, controversially put it,[9] a view contested by Finney and Simpson (2009). Both phrases achieved widespread currency. Moreover, practices seemingly at odds with those of Western societies were increasingly deemed unacceptable in societies espousing liberal, democratic, individualistic, secular values. Especially when associated with Islam they attracted ever-growing media attention (Moore, Mason and Lewis 2008), and were central to arguments about the rights and wrongs of ways of living in multicultural societies in Europe and elsewhere. Such (often imagined) practices became the object of frequent policy initiatives, with 'freedom to' (Berlin again) wear the veil, build mosques, pray in the street threatened or eroded, sometimes criminalized. Such concerns, along with hostility towards immigration generally (often seen in Britain as second only to the economy as the most important problem facing the country) have been the background to the rise of strongly nationalist, anti-state, anti-big government, xenophobic, and not least anti-Muslim, political parties in many parts of Europe.

Accommodation/Politics

As a consequence of the above developments, beliefs and practices, notably those implicating gender relations and human rights, previously perhaps tolerated, were now seen as major challenges to the governance of diversity, both nationally and internationally. While religious and cultural difference in Europe and North America takes many forms, that associated with Islam seems especially challenging. For many people Islam *is* the problem, whether the specific issue is the face-veil, Muslim marriage and divorce practices, forms of inheritance or adoption or ways of bringing up children. Thus the Muslim family has come under increasing scrutiny by political and religious leaders, by third sector activists and by the media, and caught up in social and cultural power relations in British society at large. In short, it has become a highly politicized site of contestation.

'Site of contestation' is similar to Bourdieu's notion of 'field', a social arena within which 'struggles or manoeuvres take place' (Jenkins 1992: 84). For the late Gill Seidel (1985: 44) it is a 'terrain, a dynamic linguistic and, above all, semantic space in which social meanings are produced or challenged'. In the case of the Muslim family this may be observed in speeches by politicians and religious leaders, on Internet discussion groups, in academic papers and in everyday conversations in different social and institutional locations (local, national, international, transnational), and in intersection with other debates, for example over education. The law, too, is a site, where

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9   www.humanities.manchester.ac.uk/socialchange/research/social-change/summer-workshops/documents/sleepwalking.pdf

'constructions of Muslims as the Other [take] shape' (Bano 2008: 285). Employing a multiplicity of competing narratives, and tropes, actors articulating different social and cultural interests engage in a struggle over meaning, and crucially also about practice, and rights and duties (who may or should do what, where and when). But voices are unequal, and when it comes to representing alternative perspectives within the institutional system where policies are formulated and implemented, who has the power and authority to speak and name is central.

Questions of 'representation', in two senses, are critical: first, how minority families and their internal and external relationships are conceptualized by themselves and by members of the majority society, especially those with institutional responsibilities (social workers, teachers, police and so on); and secondly, how those conceptualizations become hegemonic and instrumental in public arenas. Who has the power to define the situation of Muslim men, women and families, and carry that definition into the policy arena? How are voices incorporated (if at all), and how is space made available for alternative perspectives ('demotic' counter-narratives, Baumann 1996) which challenge dominant ones? In this connection, the role of the media (not analysed in detail here) is highly significant, as is that of the many NGOs, minority and other, engaged in debates about legal aspects of Islam and the law, including, significantly, feminist and human rights activists, discussed in later chapters.

A key question, for both Muslims and non-Muslims, is whether and if so to what extent might a country like Britain accommodate Islamic practices? Or should Muslims be obliged to conform to local conditions, those practices perhaps forbidden? 'Accommodation' may be construed as an orientation on the part of those operating in, or in the shadow of, the law, signalling sensitivity towards, and willingness to make room for, 'other' values, meanings and practices. Thus writing from the viewpoint of law-makers, Jeremy Waldron (2010) identifies three 'levels' of accommodation: making exemptions for what specific groups do; introducing legislation which, for example, might allow marriages or property transactions to be ordered according to norms other than those generally applicable; and allowing a group to determine different forms of punishment for crimes.[10] For Dominic McGoldrick (2009, 2013), on the other hand, accommodation must also involve Muslims themselves making concessions, coming to terms with institutions such as the European Convention on Human Rights (ECHR). He further contends that if the grounds for exemption and so on are religious then a special case must be made. A different approach is that of Werner Menski and others who document the emergence in Britain of an unofficial *angrezi shariat* (Pearl and Menski 1998; Menski 2001, 2010), combining English and Muslim law in a complex process of adjustment; elsewhere one finds, for example, *dansk shariat* in Denmark and *Amrikan Shari'a* in the USA (Zaman 2008). These 'situation-specific legal hybridities' (Menski 2008: 51) are a form of legal creolization or 'interlegality', with new regimes emerging from the interaction between what are often thought of

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10   See also Nussbaum (2012) on 'accommodationism' in the USA.

as discrete entities, as when English law takes on board Islamic legal institutions such as *mahr* (see Chapter 5). Such interlegality may be observed in Europe (and elsewhere) at many different levels, and on a daily basis (Hoekema 2009). Federica Sona calls this a 'silent system of mutual accommodation' (2014: 116).

Another approach, however, is to see accommodation as a widely ramifying, multi-sided, multi-sited social, cultural and above all *political* process (Banakar 2008). This approach, focusing on actors and power relations, is that adopted here, and I will foreground one aspect for which I employ the acronym 'MILLI': 'Muslims, Islam and the Law: A Legal Industry' (Grillo 2102b).

A Legal Industry

MILLI is a 'legal industry' (or more appropriately a 'socio-legal-political industry'), because like the 'development', 'race-relations', or 'migration' industries (Gammeltoft-Hansen and Sørensen 2012) it consists of a multiplicity of organizations, groups and individuals who, while they may have their own agendas and other preoccupations, share a concern with legal aspects of the Muslim presence and how Islam relates to the law (Figure 1.1). In Britain it includes lawyers (barristers, solicitors, judges), some of them Muslims qualified in the English legal system; academics and expert witnesses; websites with advice on drawing up a Muslim will or fatwas clarifying knotty points of Islamic law (Šisler 2009); Imams and Shari'a councils, and their critics; a plethora of NGOs; teachers, social workers; and last but not least the police, security and immigration services. Many of these groups and individuals are not *in* the law, but their concerns are certainly *about* the law.

Briefly, MILLI's characteristics may be summarized as follows:

- The terrain on which MILLI operates is the desire to maintain or constrain 'other' cultural and religious practices, notably as authorized by Shari'a. It has much to do with family law, especially marriage, divorce and the welfare of children, in the context of family settlement in a transnational and trans-jurisdictional world in which Islam has become problematic.
- Legal actors as such play an important role in MILLI, but it also includes a wide range of individuals and organizations who share these concerns. Some may be described as 'legal entrepreneurs' building reputations and careers on the basis of their engagement with MILLI.
- Although not a face-to-face community, MILLI in Britain constitutes a network in which many people know or at least know of each other through meetings and publications, though they may also inhabit their own separate 'bubbles' (see Chapter 13).[11]

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11   Many legal actors in MILLI can be located within a 500m radius of Chancery Lane Tube Station in Central London.

The Law:
Association of Muslim Lawyers
Barristers and Solicitors
Judges (Judicial Studies Board)
Law Commission
Lawyers' Secular Society
Legal Advice Centres
The Courts (Magistrates, County, Family, Appeal,
House of Lords, Supreme Court)

Academics:
Legal Specialist
Islamic Specialists
Anthropologists
Political Philosophers
Expert Witnesses

International:
Central Council of Ex-
Muslims
ECtHR
Gates of Vienna
Stop Islamization of
Europe, America

NGOs, e.g.
An-Nisa Society
Ashiana Network
Freedom Charity
IKRWO
Karma Nirvana
Southall Black Sisters

Local Councils and
Councillors
Social Services, Teachers

Muslims, including:
Converts
Fatwa Sites
Feminist groups
Imams, MINAB
Islamist groups
MCB, MAB
Shari'a Councils

Other faiths:
Interfaith groups and networks
Jewish institutions, Beth Din etc
Sikhs and Hindus

**Church of
England**
Archbishops and
Bishops

Police, immigration authorities, security
services, CPS

The Media (TV, Newspapers, Internet)

Anti-Shari'a Groups
BNP
British Muslims for Secular Democracy
Centre for Social Cohesion
Christian Institute
Christian Peoples Alliance
Civitas
Council of ex-Muslims of Britain
EDL
Lawyers' Secular Society
National Secular Society
One Law for All
UKIP

Government and Parliament:
Commissions of Inquiry (*Choice by Right*, NCFM etc)
Forced Marriage Unit
Government Consultations
Members of the Lords; MPs; Select Committees
Ministries and Civil Servants (Foreign Office, Home
Office, Justice, Education)

**Figure 1.1
Muslims, Islam
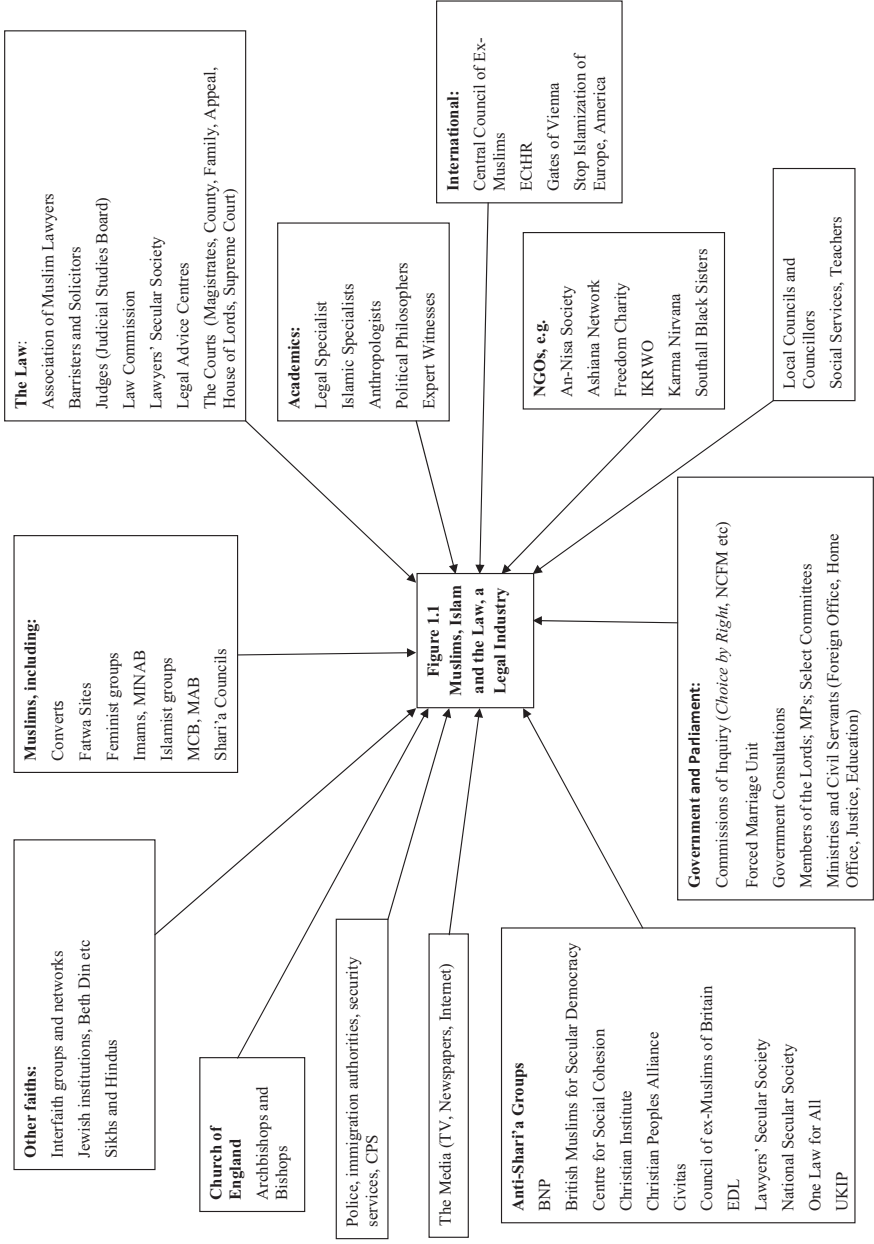and the Law, a
Legal Industry**

Figure 1.1   A legal industry

- MILLI is a global industry, involving people and institutions in South Asia (especially Pakistan and Bangladesh), the Middle East (Saudi Arabia, Egypt), Europe (the European Court of Human Rights, ECtHR) and North America, and these impinge upon what happens in Britain (and vice versa).
- Within MILLI there is no simple divide between 'us' and 'them', Muslims and non-Muslims. There are, for example, judges, barristers, solicitors, legal specialists, expert witnesses and so on who are of minority background, Muslim and non-Muslim. Indeed, people from all faiths and origins are found on all sides. And there are many different and conflicting voices within Islam itself.
- MILLI consists principally of people and institutions concerned with Islam and the law in a professional or voluntary (activist) capacity. As such they are somewhat distinct from 'ordinary' Muslims and others who are in the shadow of the law in their everyday lives. Indeed, they may be the people to whom the latter turn for help and advice particularly at times of crisis: 'Get me out of this marriage!'
- MILLI encompasses different legal cultures with often unspoken, implicit social assumptions underlying jurisprudential understandings, pronouncements and decisions. Of particular importance are the intercultural exchanges involving people of different backgrounds responding to the challenge of confronting other legal principles and getting to grips with the interaction between Islamic and English law.

A small example of MILLI in action, representing just four of the voices (expressing often radically different viewpoints) found in the milieu, was provided by a panel discussion of Baroness Cox's Private Members' Bill (Islam Channel 2012). Chaired by John Rees (a left-wing activist and formerly an election candidate for George Galloway's Respect Party), it included Amra Bone, a woman member of the Shariah Council of the Birmingham Central Mosque,[12] Hajj Ahmad Thomson, a Muslim convert and head of a legal firm specializing in Islamic law,[13] and Alan Craig, former leader of the Christian Peoples Alliance, local councillor in Newham and candidate for mayor of London (in 2008).[14] On a grander scale was a meeting held at the Temple Church in London to launch a publication concerned with Shari'a (Book Launch 2013), addressed by, among others, a former Archbishop of Canterbury. These and other events will be discussed on numerous occasions later in this book.

In sum, MILLI in Britain exists because, for reasons outlined above, matters of cultural (and religious) diversity are increasingly coming before legislatures and

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12 www.cv3.coventrytelegraph.net/2009/03/cheylesmore-expert-in-islamic.html; www.wmfaithsforum.org.uk/home4/index.php?option=com_content&view=article&id=55 6&catid=76

13 www.wynnechambers.co.uk/aboutus.php?page=about

14 www.alansangle.com/?page_id=2

courts with claims and counter-claims about rights and obligations testing public policy which in any case is hardening against diversity, especially when associated with Islam. Groups and individuals involved with MILLI are disputing ideas and practices centrally concerned with inclusion and exclusion (for and against), with certain voices, narratives or facts privileged, others overlooked or silenced. Examination of such disputes reveals how they are embedded in complex political processes and power relations, and as subsequent chapters will show, tells us much about the state of multiculturalism in contemporary Britain.

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Chapter 2
The Spectre of Shari'a

Introduction

Although Baroness Cox's Bill (discussed in Part II), is not apparently aimed at Muslim institutions, it will become clear that, despite claims to the contrary, Shari'a is what it is about. Of course, she is not the first public figure to voice concerns about Shari'a, and more generally Islam(ism), in the West. Against the background of the Rushdie Affair, 9/11, wars in Iraq and Afghanistan, bomb attacks in Madrid and London and controversies over the Danish Cartoons or films such as the *Innocence of Muslims*, the reaction to the Islamic presence in Europe seems increasingly apocalyptic, the expectation of imminent catastrophe apparent in vocabulary such as 'Eurabia' (Ye'or 2001), 'Londonistan' (portraying the UK capital as a haven for Islamic fundamentalists, Phillips 2006), and 'dhimmitude' (the status of a non-Muslim in an Islam-dominated society). Stories that Muslims want, and will soon achieve, the implementation of Shari'a illustrate this. 'In a decade', averred Christian commentator Patrick Sookhdeo, 'you will see parts of English cities which are controlled by Muslim clerics and which follow, not the common law, but aspects of Muslim sharia law' (*Sunday Telegraph*, 19 February 2006).

From c. 2006 onwards there have been numerous occasions when the 'Islamization' of Britain through the recognition of Shari'a has become the subject of public debate. Five years after his prediction, for example, Sookhdeo's nightmare seemed to be coming to fruition. 'When David Cameron speaks of "localism"', wrote Ross Clark in the *Express* in July 2011,

> I don't think he quite has in mind the yellow notices fly-posted on lamp-posts in parts of East London over the past few days. 'You are entering a shariah controlled zone', they read. 'Islamic rules enforced. No alcohol. No gambling. No music or concerts. No porn or prostitution' … As far as the liberal Left is concerned sharia law is just another bit of diversity we should celebrate in multicultural Britain (2011).

This referred to the activities of a militant Islamist group, Muslims Against Crusades, led by the radical cleric, Anjem Choudary, previously associated with the banned Islam4UK. Under the headline 'Islamic extremists declare Britain's first Sharia law zone', the *Daily Mail* reported another incident in North London:

> Today, [Abu] Izzadeen, the self-styled 'Director for Waltham Forest Muslims', will march with his supporters – many of them new young recruits to Islam – as

part of their campaign to make the suburban borough into Britain's first Sharia-law zone. Under his brutal set of rules, there would be a ban on alcohol, gambling, drugs, music, smoking and homosexuality, as well as on men and women mixing in public … Izzadeen says: 'This is the first step towards turning Britain into an Islamic state. There are nearly three million Muslims in this country. Islam is a sleeping giant that is waking. We have moved on from the debate about the provision of *halal* meat to more political issues. Twenty-five areas around Britain have large Muslim populations … We want to turn them all into Islamic Emirates, where the excesses of Western civilization are not tolerated'.[1]

The article cited a comment from Baroness Cox ('As the Muslim population has grown, and the state-sponsored creed of multiculturalism has become ever more powerful, so Sharia law has strengthened its grip on our society. This is a recipe for disaster'), and quoted Alan Craig, a former local councillor and leading figure in the campaign against the building of a nearby 'mega-mosque' (Bowen 2014):[2] 'This is the public tip of a hidden iceberg … I would like to think that the [poster] campaign is orchestrated by extremists, and is only supported by a small group of their followers; but I fear that it is not the case'. Shortly afterwards Craig told the *Daily Telegraph*:

> I can no longer walk to my local shops and find anywhere to buy conventional, non-*halal* meat. Posters at bus stops of swimwear models are spray-painted over with a burka. The pavements are crowded with women wearing not just the face-veil, but black gloves to hide their hands.[3]

These reports coincided with an announcement that a government inquiry into Shari'a councils had been abandoned, ostensibly because of lack of cooperation on their part.[4]

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1   www.dailymail.co.uk/news/article-2020382/You-entering-Sharia-law-Britain-As-Islamic-extremists-declare-Sharia-law-zone-London-suburb-worrying-social-moral-implications.html; iengage.org.uk/component/content/article/1–news/1463–daily-mail-special-report-on-sharia-in-uk; a later incident was condemned by the East London mosque (secular-europe-campaign.org/2013/01/uk-east-london-mosque-condemns-the-street-vigilantes; see also *Times*, 25 October 2014). There were reports of counter-demonstrations by 'Christian Patrols', organized by Britain First. www.huffingtonpost.co.uk/2014/02/05/christian-patrols-tower-h_n_4729611.html?utm_hp_ref=u; www.dailymail.co.uk/news/article-2552894/We-CHRISTIAN-patrol-Far-right-thugs-swill-Stella-outside-east-London-mosques-bid-confront-Muslims-object-behaviour.html

2   www.megamosquenothanks.com; www.newhamrecorder.co.uk/news/three_week_public_inquiry_into_west_ham_mega_mosque_to_launch_1_3618117

3   www.telegraph.co.uk/news/uknews/law-and-order/8686504/Sharia-a-law-unto-itself.html

4   www.dailymail.co.uk/news/article-2020391/Probe-secretive-Sharia-law-courts-scrapped-Muslim-leaders-close-ranks.html;   www.theyworkforyou.com/wrans/?id=2011–07–11b.64459.h

Shari'a: Claims for Recognition

Although Sookhdeo's comment was made during the Danish Cartoons controversy, it was principally in response to a poll which reported that 40 per cent of Muslims would welcome the introduction of Shari'a in predominantly Muslim areas in Britain (see *inter alia* Field 2007: 466 ff.) Claims for the recognition of Shari'a-compliant practices in Britain are in fact of long standing. In the 1970s, the Union of Muslim Organizations of UK and Eire had organized a petition calling for the availability of Muslim family law in Britain, published in 1983 as *Why Muslim Family Law for British Muslims* (Badawi 1995; Nielsen 1995, 1999; Poulter 1990, 1998; Yilmaz 2001); a leading Muslim, Dr Syed Aziz Pasha,[5] also prepared a paper (in 1977) establishing the rationale for the recognition of Shari'a. There was, however, little evidence of any actual demand (Nielsen 1999: 79–82); when Sheikh Zaki Badawi,[6] subsequently a leading figure in an early Shari'a council, drew up a template for an Islamic will to be used in Britain, it was not adopted. Nielsen suggests there were demographic reasons for this lack of interest and adds his impression that at the time Shari'a was mainly a matter for those aspiring to leadership of the Muslim community. It was during the 1990s and into the 2000s, while Islam was experiencing a much higher profile, globally and locally, that calls for the availability of Shari'a in family matters became more clamorous, in line with the growth of the Muslim family population with a background in, and continuing, transnational ties to South Asia (especially Pakistan), where Muslim family law is available and supported by Islamic courts (*inter alia* Poulter 1998).

The Union's petition had in fact been rejected by the then Government on the grounds that one law should apply to all, though as the late Sebastian Poulter (1990) pointed out, special provisions existed for Jews and Quakers, for example in the case of marriage ceremonies. Other objections concerned uncertainty about which tradition of Islamic law would apply, whether cases would be adjudicated in English or special Muslim courts and about gender inequalities in marriage and divorce. Claims for the recognition of Muslim legal and ethical norms indeed raise difficult questions concerning the nature and status of Shari'a (see Chapter 12), but Poulter urged that while there was little likelihood of a system of personal law being instituted, Muslims should 'bear in mind just how flexible and accommodating many of the provisions of English law are' (1990: 164). There was a great deal of room for ethnically specific practices (Poulter 1986), and that the law encouraged the settlement of family disputes outside the courtroom allowed space for some, if not all, Islamic principles such as mediation and reconciliation. Other practices (for example regarding the solemnization of marriages) might be accommodated through changes in legislation.

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   5   www.iccuk.org/images/Dr.pdf; wynnechambers.co.uk/pdf/Dr%20Syed%20 Aziz%20Pasha%20~%20Obituary%20by%20Hajj%20Ahmad%20Thomson.pdf

   6   www.theguardian.com/news/2006/jan/25/guardianobituaries.religion

Nonetheless, during the 1980s and into the 1990s demands for the recognition of Islamic practices became more pressing. In 1993, for example, the UK Action Committee on Islamic Affairs published a paper on 'Muslims and the Law in Multi-faith Britain: Need for Reform', which dealt with religious and racial discrimination, and called for a strengthening of the Race Relations Act to criminalize religious vilification. It was not concerned with Shari'a as such, but drew attention to the need to observe religious dress codes in school and at work, and allow time off for Friday prayers, religious festivals and the hajj. There was, moreover, an increasingly influential strand of opinion among Muslims who believed that they were living in an immoral society and must protect their families through the availability of Islamic law (Poulter 1990). Thus, by 1995 Nielsen felt able to state that 'uniquely in all of Western Europe, the practice of Islamic family law as a Muslim right has been raised in Britain' (1995: 53), attributing this partly to the persistence of transnational marriages and the complex legal situations these created (Balzani 2006; Charsley 2012, 2013). Another draft Islamic will was, for instance, published in the mid-1990s (Bewley et al. 1995), and nowadays detailed guides are available on the Internet.[7]

These claims, which were not unanimously supported by Muslims, were frequently misinterpreted. When, in 2006, delegates met a Labour minister to discuss tackling extremism, it was widely reported that they had advocated adopting Shari'a, though the proposal was made by one member only (from the Union of Muslim Organizations), and opposed by the Muslim Council of Britain (MCB). It was, commented Osama Saeed,[8] a 'godsend for those who love bashing Muslims'. Maulana Shahid Raza, Chair of the Mosques and Imams National Advisory Board (MINAB[9]), later clarified the position:

> Muslims in this country have been campaigning for a long time for the acceptance of certain aspects of Shariah law, particularly in the realm of personal law – laws in respect of marriage, divorce and inheritance. We are not asking for the introduction or the acceptance of Islamic criminal law … They may be some single, isolated voices in this regard, or maybe the media has been enjoying this sort of hyperbole [But] I do not know of any Muslim organization demanding the law of *hudood* [Islamic capital punishment] (in Ashraf-ul Hoque and Shah 2012: 24).

Nonetheless, as Bowen notes (2010a: 8), these limited claims:

> represented a sharp challenge to English ideas of a common law. If Muslims were to handle marriage and divorce themselves, then the civil courts would in

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7   For example: www.scribd.com/doc/215236987/Islamic-Wills-Guide

8   www.osamasaeed.org/osama/2006/08/multiculturalis.html

9   www.minab.org.uk. MINAB's terms of reference embraced setting standards for the building and management of mosques, including the participation of women. The creation of MINAB was facilitated by the Department for Communities and Local Government (Carlile 2011: 81).

effect be ceding territory to them. 'Why don't they just let us take care of these matters', said one Pakistani scholar to me in London; 'after all, that's what they did in colonial days'.

'Understandably', adds Bowen, 'English judges are reticent to take this step'. Moreover, such advocacy now met strident opposition. When in March 2014 the Law Society published a practice note for solicitors on drawing up Shari'a compliant wills, there was an outcry.[10] Some MPs called for a parliamentary inquiry, a question was asked in the Lords[11] and One Law for All (see below and Chapter 8) organized a protest meeting and open letter calling for the advice to be withdrawn.[12] In its defence, the president of the Law Society wrote:

> We live in a diverse multi-faith, multi-cultural society. The Law Society responded to requests from its members for guidance on how to help clients asking for wills that distribute their assets in accordance with sharia practice. Our practice note focuses on how to do that, where it is allowed under English law … [the law] will give effect to wishes clearly expressed in a valid will in so far as those wishes are compliant with the law of England. The issue is no more complicated than that.[13]

Nonetheless, the Solicitor's Regulatory Authority subsequently removed references to the practice note in its advice to solicitors, a decision welcomed by One Law for All and others who noted that this followed 'threatened legal action on gender equality grounds and represents an important step in our campaign against the Law Society' (One Law for All Press release, 14 July 2014). Finally, the Law Society announced that it had 'reviewed the note in the light of criticism. We have withdrawn the note and we are sorry' (Law Society press release, 24 November 2014; see also *Daily Telegraph*, 24 November 2014). Increasing claims faced increasing resistance.

The Rise of the Shari'a Councils

In 1978, when Zaki Badawi was director of the Regent's Park Islamic Centre, a 'small group of imams and myself … started to try to resolve issues of

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10   For example: www.dailymail.co.uk/news/article-2587215/Sharia-Law-enshrined-British-legal-lawyers-guidelines-drawing-documents-according-Islamic-rules.html

11   www.publications.parliament.uk/pa/ld201314/ldhansrd/text/140403w0001.htm

12   www.onelawforall.org.uk/the-law-society-must-withdraw-its-guidance-on-sharia-succession-rules, and Newsletter April 2014; see also www.lawyerssecularsociety.wordpress.com/key-issues

13   www.lawgazette.co.uk/practice/society-defends-sharia-wills-practice-note/5040519.article; see also Aina Khan interview, www.voiceofrussia.com/uk/news/2014_04_24/Death-threats-issued-as-Sharia-Watch-launches-in-London-6217

conflicts of laws' (Badawi 1995: 77–8; Keshavjee 2007). They sought to include representatives of the different Islamic schools of law (Hanafiyya, Malikiyya, Shafiyya, Hanbaliyya) and take into account the school which those who sought their assistance preferred, while 'giving that person the views of other schools of law and advising the person to select'. This became the Muslim Law (Shariah) Council (UK) [MLSC(UK)] originally based in Ealing, West London.[14] Another council, the Islamic Sharia Council [ISC] in Leyton in North-East London, was founded in 1982 (by Suhaib Hasan and Syed ad-Darsh[15]) as a forum through which UK Muslims might obtain advice on the application of Shari'a principles, and have disputes settled. Its objectives are:

> To advance the Islamic Religion by: Fostering and encouraging the practice of the Muslim faith according to the Quran and the Sunnah. Providing Advice and assistance in the operation of Muslim Family. Establishing a bench to operate as the Islamic Shari'a Council and to make decisions on matters of Muslim family law referred to it. Doing all such other lawful things as may be in the interest of promoting the proper practice of Muslim faith in the United Kingdom. To educate the public generally in the field of the Muslim family law and to foster and disseminate information in that field.[16]

The scholars attached to its associated centres 'represent all major schools of thought among the Sunnis' (Ibid.).

Such bodies, often closely tied to mosques, attracted little academic attention until the early 2000s, with Sonia Shah-Kazemi's pioneering account of the MLSC(UK) and its clientele (2001).[17] From the mid-2000s there was a plethora of studies by legal scholars and anthropologists including Samia Bano, Juliet Billaud, John Bowen, Mohammed Keshavjee, Maleiha Malik, Federica Sona and Gillian Douglas and her colleagues (see also Ansari 2004; Cesari, Caeiro, and Hussain 2004; Kennett 2011–12, Khaliq 2002; Khir 2006; Poulter 1998; Yilmaz 2003, 2005; Zee 2014).[18] All have shown that the councils are principally concerned with advising on Islamically appropriate practices around marriage, but also offer guidance on the religious propriety of issues ranging from intravenous fertilization to trading in shares. At the same time, they claim to avoid recommendations which might bring them into conflict with civil courts over such matters as the custody of children, even if the laws of the land 'do not reflect our religious aspirations' (in Shah-Kazemi 2001: 59).

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14   www.shariahcouncil.org
15   www.independent.co.uk/news/obituaries/obituary-sayed-addarsh-1235728.html
16   www.islamic-sharia.org
17   www.news.bbc.co.uk/1/hi/uk/1185459.stm
18   The councils are mostly followers of Sunni Islam; Shi'a mediation and arbitration bodies are not as fully documented (but see Keshavjee 2009, 2013 and Tas 2013 on Kurdish community organizations). Sunni councils may accept Shi'a petitioners (Bano 2012b: 19), but handle few such cases.

A major task of the councils (indeed their raison d'être) relates to applications for a religious (not civil) divorce principally on the part of women, which would confirm their status as devout Muslims and enable them to remarry (see Chapter 5). As Douglas et al. put it: 'being able to remarry within the faith serves both to enable adherents to retain their standing within their faith community and to regularize their position with the religious authorities' (2013: 195). However, their interventions concern only a tiny fraction of all divorce settlements. As High Court Judge Sir Andrew McFarlane (2011) has pointed out, whereas Shari'a councils perhaps handle several hundred cases annually, the number of divorces in England and Wales (Muslim and non-Muslim) far exceeds 100,000. Though some marriages which come to the attention of the councils are of long standing, others involve (typically arranged) marriages where it has soon become apparent that the relationship is unsatisfactory. These may also be transnational marriages where the Islamic marriage ceremony (*nikah*) or the divorce has been performed overseas and clients are uncertain as to whether or not their status will be recognized (Charsley 2013). Khir (2006) reports an unpublished study which claimed that the ISC had taken on 8,000 cases since its inception, and cited the main grounds for divorce as addiction, domestic abuse, financial problems, adultery, desertion, impotence and 'incompatibility'; a third concerned alleged lack of consent. In 2010–12, when the ISC was receiving some 600 applications annually, about a quarter from men, the reasons were very similar, with some 30 per cent citing domestic violence.[19]

By contrast with English courts which operate with an adversarial system, Shari'a councils seek to investigate and uncover the truth, and where possible mediate or foster reconciliation. Indeed the reconciliation of disputing parties is a basic principle underlying the councils' proceedings, even if this is not something that a woman who approaches the council in pursuit of a religious divorce really wants (Bano 2007). As Malik observes, women may find themselves '"conciliated" back into violent or coercive relationships' (2008b: 21), a controversial matter discussed in later chapters.

Shari'a councils differ in outlook, with some rivalry between them, and there may be internal differences of approach on religious grounds and/or between generations. Their number is disputed (**see** p. 144). Bano, who sought to locate institutions where Shari'a-related advice on family matters was offered, looked in depth at the work of four councils and more briefly at 20 others (2012a, 2012b). Some are very informal, others, like the ISC and the MLSC(UK), or the Shariah Council of the Birmingham Central Mosque and the Muslim Arbitration Tribunal (MAT), are highly organized with websites, forms to fill in, fees to be paid, meetings to be attended and extensive written rules of procedure. Indeed, council members sometimes complain they are being pushed by internal and external forces towards bureaucratization (and transparency), especially if they want their proceedings to be acceptable in the eyes of the law. At the Temple Church Book Launch (2013: 17), the former judge, Baroness Elisabeth Butler-Sloss,[20] for example, said while

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19   www.islamic-sharia.org
20   www.bbc.co.uk/news/uk-28211253