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February 10, 2008

Rowan Williams faces backlash over sharia

What are the consequences of Rowan Williams's foray into the Islamic legal system? Dipesh Gadhur, Abul Taher and Christopher Morgan investigate


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Dipesh Gadhler, Abul Taher and Christopher Morgan

Last Thursday afternoon, as the country's Anglican bishops went about their duties, an innocuous-looking e-mail from Lambeth Palace arrived on their computer screens.

It contained a copy of a speech called Civil and Religious Law in England that was to be delivered that evening by Rowan Williams, the Archbishop of Canterbury, to an audience of more than 1,000 eminent lawyers, including the lord chief justice.

With what now seems like great understatement, a press officer for Williams had typed across the document: "This may be of some media interest."

Dense though the text may have been, it contained a hand grenade: the cerebral archbishop appeared to be calling for elements of sharia, or strict Islamic law, to be adopted by Britain.

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Intellectual arrogance pervades heart of wisdom

Dr Williams was advised before his speech that the content could prove controversial. He should have listened to that advice

BACKGROUND

- ▶ St Rowan seeks forgiveness for the sin of 'uncertainty'
- ▶ Prime Minister gives his backing to Archbishop
- ▶ Archbishop faces critics on day of judgment
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BACKGROUND

- ▶ John Donne's pulpit
- ▶ The Archbishop of Canterbury and Sharia
- ▶ My brush with Sharia was swift and fair
- ▶ Surprise at sheer fury of attacks on Williams

I've read it so you don't have to

The Archbishop of Canterbury meant well and was quite aware of some of the objections

BACKGROUND

- ▶ Adopt Sharia in UK for Muslims, says Archbishop
- ▶ Archbishop urged to resign over Sharia row
- ▶ Full text of Archbishop's lecture

Even before he had given his speech at the Royal Courts of Justice in London, Williams had already gone on BBC radio proclaiming that such a move seemed "unavoidable".

His comments immediately exploded into a fierce row. Not for the first time did Williams find himself at the centre of a storm – but on this occasion he was completely out on a limb.

He produced one of the most unlikely coalitions seen in Britain in recent times. He was attacked by conservatives, liberals, all three leading political parties, fellow Christians, Jews and, indeed, some Muslims.

Trevor Phillips, chairman of the Equality and Human Rights Commission, described the archbishop's comments as "muddled and unhelpful".

"As far as I am aware, no serious body of Muslim opinion supports the idea of special treatment, or exemption from the law of the land based on some vague 'conscious objection'," he said.

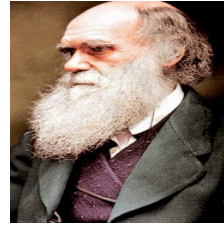
"Raising this idea in this way will give fuel to anti-Muslim extremism and dismay everyone who is working towards a more integrated society."

Gordon Brown, the prime minister, quickly distanced himself from the Anglican primate, signalling that British law must be based on British values. Andy Burnham, the culture secretary, went further, suggesting that the introduction of a parallel Islamic legal system would be "a recipe for social chaos".

Up to a third of the UK's bishops are thought to be unhappy with Williams's remarks and yesterday some members of the clergy were calling for him to consider his position.

"I find it hard to imagine what lies behind his comments," said David Phillips, general secretary of the Church Society, the oldest evangelical grouping in the Church of England. "It seems to

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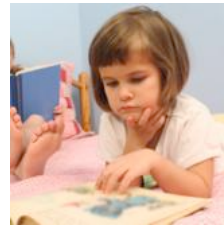
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▶ From Leyton to Dewsbury, Sharia courts are already settling disputes

be completely irrational for a Christian leader to want to introduce a separate system which doesn't have Christian values and would be divisive."

The tabloid newspapers were unforgiving. On Friday, under the front-page headline "What a burkha", The Sun claimed Williams had "handed Al-Qaeda a victory". Yesterday it followed up with an entreaty to "Bash the bishop".

The paper's outrage seemed to be mirrored by the public, with 17,000 viewers flooding the BBC's online message boards with overwhelmingly hostile reaction.

In his speech the archbishop said individuals should be free to "choose the jurisdiction under which they will seek to resolve certain carefully specified matters". These could include "aspects of marital law, the regulation of financial transactions and authorised structures of mediation and conflict resolution".

This was taken to mean that a way should be found to run a system of sharia parallel to common law.

On Friday, Lambeth Palace tried desperately to douse the firestorm, issuing a statement on Williams's website saying that this was not his intention.

"The archbishop made no proposals for sharia and certainly did not call for its introduction as some kind of parallel jurisdiction to the civil law," it said in language notably clearer than that in which Williams had delivered his original remarks.

Yet the genie was out of the bottle. Any talk of sharia in the West conjures up images of thieves having their hands chopped off, murderers being decapitated and adulterous women being stoned to death. Stories began to emerge of its use in Britain.

A wider debate about Muslim culture was also sparked. Phil Woolas, the environment minister, said there was an "elephant in the room" in Muslim families as a result of the widespread practice of marriage between cousins.

"If you talk to any primary care worker they will tell you that levels of disability among the [British] Pakistani population are higher than the general population. And everybody knows it's caused by first-cousin marriage," Woolas said.

In the aftermath of the speech, switchboards at Lambeth Palace and Canterbury Cathedral were flooded with angry calls. Police sources said yesterday they had advised the archbishop on measures he should take to ensure his personal safety and offered him protection, which he refused.

Yesterday a somewhat shell-shocked Williams took to the pulpit at a church in Cambridge to give a sermon at a memorial service. Friends reported that he said he "had expected a critical reaction but nothing like this".

What would his proposals actually mean? Is there a prospect of Islamic law becoming an everyday part of British society and why did the archbishop raise such an inflammatory proposal in the first place?

TRANSLATED as "pathway to the water", sharia is derived from the Koran and the 7th-century teachings of the prophet Muhammad known as the hadiths.

It is not merely a legal code. Sharia governs all aspects of Muslim life, ranging from diet and dress code to social relationships and business transactions. For westerners it has become synonymous with the brutal punishment meted out for the most serious crimes, known as hadd offences.

In Afghanistan, where support for the Taliban remains strong in some areas, a 23-year-old journalist was recently sentenced to death by an Islamic court for downloading an article from the internet about women's rights.

Last December a 21-year-old Saudi Arabian woman was sentenced to 200 lashes and a six-month prison sentence for having an affair with a male friend – despite having been abducted and gang-raped. She was spared by a last-minute royal pardon from King Abdullah.

In Iran, public executions of homosexuals are a regular



Ruth Gledhill reports..

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occurrence.

An ironic aspect of the reaction to Williams's speech was that some aspects of sharia have already been accommodated by legislation in the UK, which is home to almost 2m Muslims.

In his last budget as chancellor, Brown relaxed the law on stamp duty as a concession to Muslim homeowners. Sharia forbids the payment of interest, so many buyers obtain an Islamic mortgage. This involves a bank purchasing a property on the buyer's behalf and then selling it back to them through monthly capital payments.

Such a transaction would technically require stamp duty to be paid twice – because the property has changed hands two times – but the law was changed so it is paid only once.

Slaughterhouse practices, which require animals to be killed with a clean cut to the throat, are another area in which concessions have been granted – not only to Muslims, but also to British Jews.

In his lecture, Williams was at pains to point out that the issues he was raising were applicable to other faiths.

Orthodox Jews already operate a well established network of religious courts, the beth din, to decide matters of divorce and to settle disputes. They are based on ancient Jewish law and run under the authority of the Chief Rabbi. However, the courts are entirely voluntary and subordinate to the British legal system.

A further irony of the row is that a dozen or so sharia courts are already operating in British towns and cities with large Muslim populations, such as London, Birmingham, Manchester, Sheffield, Dewsbury and Milton Keynes.

One of the oldest, established in 1982 and run from an end-of-terrace house in Leyton, a suburb of east London, is the Islamic sharia council.

The court, made up of four middle-aged Pakistani "judges", handles about 50 cases each month involving civil and personal matters.

The set-up is far removed from a typical magistrates' or crown court. Justice is usually dispensed by one judge who sits behind a plain desk in a cramped office lined with ramshackle shelves full of battered cardboard boxes containing files from previous cases. No lawyers are present and usually no witnesses other than the petitioner. The judge listens and makes notes only after he has made his judgment.

"All manner of stuff gets referred to us, but 95% of the cases that we deal with are to do with divorce," said Suhaib Hasan, the court's general secretary.

UNDER sharia it is usually the husband who initiates divorce proceedings – and, in theory, can end a marriage by saying "I divorce thee", or "talaq", on three separate occasions. Women can apply to a sharia court for divorce only if they are able to provide a legitimate reason, such as being the victim of domestic abuse.

Although an Islamic union can be "dissolved" in this way the couple must still obtain a divorce from the civil courts if the split is to be recognised by British law.

Other cases presided over by sharia courts can be of a more personal nature. Judges are often asked to provide a fatwa, or religious edict, on whether a product or form of conduct is permissible in Islam.

Hasan recalled a recent case in which a Somali train driver who worked for London Underground wanted to find out if he had "sinned" by running over a passenger who had jumped onto the tracks in order to commit suicide.

"I deliberated over the case for two days and concluded that he was not guilty of any crime," he said.

Other sharia courts have ruled that Ribena, organ donations and IVF treatment are all "halal", or Islamically lawful.

While these cases seem perfectly reasonable, other sharia practices – such as a man's right to have four wives – would directly contravene British law.

Indeed, Hasan's court recently ruled on the case of a young man from Bradford who had tired of his arranged marriage and had taken another wife in Pakistan. He wanted to bring her to Britain and divorce his first wife, but wanted to retain access to his three children by her. He should remain married and treat them both equally, ruled the court.

For Hasan, such divergences from British law and customs are not a problem. "If people can have mistresses in this country and have homosexual relationships, then why can't a Muslim have a second wife?" he said.

Here lies one of the main problems with Williams's remarks, say experts. Although he was talking about "supplementary jurisdictions" for civil matters, is sharia something that can be cherry-picked?

"There is no halfway house with this," said Khalid Mahmood, the Muslim Labour MP for Birmingham Perry Bar. "What part of sharia does he want? The sort that is practised in Saudi Arabia which they are struggling to get away from?"

"Muslims do not need special treatment or to be specially singled out. This would not contribute to community cohesion."

Hasan asserted that the wider introduction of sharia would be good for the country.

"If sharia is implemented then you can turn this country into a haven of peace," he said. "Once a thief's hand is cut off, nobody is going to steal. Once an adulterer is stoned, nobody is going to commit this crime at all. This is why we say we want to offer it to British society. If they accept it, that is for their good. If they don't, they will need more prisons."

Reports suggest that the influence of sharia may already have crept into criminal cases.

In 2006, when police arrested a group of youths on suspicion of stabbing a fellow Somali teenager, the victim's family are believed to have told officers that the matter would be settled out of court and the suspects were released on bail.

An impromptu court – called a *gar* in Somali – was reportedly convened in Woolwich, southeast London, and elders from the local Somali community ordered the assailants to pay the victim compensation.

Aydarus Yusuf, a youth worker involved in setting up the hearing, said: "All their uncles and their fathers were there, so they all put something towards that and apologised for the wrongdoing."

Critics believe the practicalities of implementing sharia in Britain, even on a partial basis, would be a minefield.

"British society and its legal traditions have developed a wholeness about them which is open to evolution, but should not be interfered with lightly," said Michael Nazir-Ali, the Pakistan-born Bishop of Rochester.

He noted that every school of sharia law would be in conflict with British law "on matters like monogamy, provisions for divorce, the rights of women, the custody of children, the laws of inheritance and of evidence. This is not to mention the relation of freedom of belief and of expression to provisions for blasphemy and apostasy".

The main objection for most opponents of sharia's introduction is its inherent bias against women. Alongside the provision that women must in most cases have their husband's permission to sue for divorce is the ruling that one man's testimony is worth the same as the testimony of two women.

Baroness Kennedy, a leading barrister, said: "Very often traditional law in small courts doesn't evolve to take account of changes in the world; they become very rooted in the past and that can often disadvantage women."

Although a Muslim woman can expect to be paid back her family's dowry if she is divorced, she has no entitlement to long-term maintenance payments or to a share of her exhusband's property.

In Malaysia, a dual legal system operates in which sharia is used for civil, family and marriage cases involving the country's

Muslim majority. Marina Mahathir, daughter of the former prime minister, Mahathir bin Mohamad, believes that there is an "apartheid" between Muslim women like her and those of other faiths.

"Muslim men may still contract polygamous marriages, may unilaterally divorce their wives (even by text message) and are entitled to double the shares of inheritance," she has said. She and her fellow Muslim women "can only look at their non-Muslim sisters in despair and envy".

Nevertheless, some observers believed that formalising sharia would benefit some women in Britain.

"A woman who has not registered her marriage in a register office might be married under sharia and if there is a divorce she might lose her children and her property," said David James, the Bishop of Bradford, whose diocese has a large Muslim population and who said he knew of a number of men who had more than one wife.

"If a form of sharia which was compliant with British law was introduced, the situation for many women and children would be improved."

Another serious objection to Williams's suggestions is that the professional standards of Britain's sharia courts are questionable.

"One of the concerns that I have is the qualifications of people who consider themselves sharia judges," said Baroness Warsi, the Tory spokeswoman for community cohesion and social action who is herself a Muslim. "At the moment anyone in their back room can set up a sharia council and start issuing fatwas."

One such court was operated in the 1990s by Omar Bakri Mohammed, a radical preacher who is now banned from Britain. Bakri first came under the spotlight after declaring that John Major, the former prime minister, was a legitimate target for assassination. He also hailed the 7/7 bombers as the "fantastic four".

This weekend many worshippers filing out of the mosque in Whitechapel, east London, said that they did not want sharia anyway because of the damage it could cause to race relations.

"Sharia is such an emotive word to non-Muslims and the tabloids really play on that fear," said Ali Hassan, 42, an electronics shopkeeper. "Most Muslims have absolutely no expectation or desire to impose sharia on Britain."

Syed Rahman, a 25-year-old banker who had just returned from his hajj pilgrimage to Mecca, said: "This country is the best place in the world for Muslims. If you were in Saudi you couldn't practise your religion as unrestrictedly as you do here. We don't need sharia to be recognised as law in this country. We follow it in what we do."

As Britain grapples with the can of worms opened by Williams, it could learn from the experience of Canada.

In 1991 the province of Ontario passed the Arbitration Act which gave people the ability to settle civil and family disputes without resorting to the courts. The move spawned a network of Jewish and Christian tribunals that were able to make legally binding decisions.

In 2003 the Canadian Society of Muslims sought to establish similar sharia tribunals under the act, but their proposals met with a public outcry, with some groups claiming that the move would violate the rights of Muslim women. This led to all faith-based arbitration being scrapped.

THE reaction to Williams's remarks suggests that sharia is unlikely to be formally recognised within the British legal system any time soon. More significant, perhaps, may be the damage done by the affair to the archbishop's credibility.

Critics within the church marvel that a man of such intelligence could misjudge the public reaction so badly.

"It has been an own goal," said one bishop. "I'm disappointed because it makes Rowan look silly. People stopped at a certain point because they heard the term sharia."

"It sounds as if the Archbishop of Canterbury is saying, 'Let

these Muslim people do their own thing', and this is, of course, not what he is saying. Who on earth was advising him? Anyone could see that a speech mentioning sharia would create its own headlines."

As has been his habit from his days as an academic, Williams did not consult widely on the lecture, preferring to work alone. He did, however, discuss its content in the broadest terms with his fellow primate John Sentamu, the Archbishop of York, and a number of Muslim scholars.

He told friends that he found the reaction to the speech "all very unpleasant". When pressed on why he had raised this issue now, he said it was so important to prevent further isolation of the Muslim community.

He said he had been drawn to the subject of "religious conscience" by the recent row over whether Catholic adoption agencies should have to accommodate same-sex couples and questions about Ruth Kelly's suitability to be a cabinet minister when it emerged that she was a member of Opus Dei, the Catholic group.

Yet his erudite and heavily caveated exposition of his ideas was lost in the moment that he evoked sharia.

He regards it as part of his role as leader of the church to address issues from which others shy away and which may make him unpopular.

Indeed, this week he risks raising the ire of ministers again by voicing his opposition to plans to extend the detention without charge for terrorist suspects to 42 days.

Last year he was accused of exaggeration when he suggested that America wields its power in a way that is worse than Britain during its imperial heyday. He claimed that Washington's attempt to intervene overseas by "clearing the decks" with a "quick burst of violent action" had led to "the worst of all worlds".

The problem with his intervention in the debate about inter-faith relations was that his true message was almost completely obscured.

Some within the church – already upset by his favourable attitude towards gay rights – regard him as terminally wounded. In the age of quick and easy headlines, can the church be led by such an unworldly figure? This weekend there were calls for him to resign.

"He is a disaster for the Church of England. He vacillates, he is a weak leader and he does not stand up for the church. I would like to see him resign and go back to academia," said Alison Ruoff, a Synod member from London.

That prospect is unlikely. Williams told friends this weekend he would not resign and he cannot be sacked for doctrinal or political reasons. He can, if he likes, remain in his post until his 70th birthday in June 2020.

This weekend he may look to the past for comfort. In March 1556 one of his predecessors, Thomas Cranmer, was burnt at the stake in Oxford for expressing unpopular views.

Williams may reflect that at least a media firestorm is nothing like a real one.

Additional reporting: Jonathan Oliver, Chris Gourlay and Michael Sheridan

WHAT THE ARCHBISHOP SAID

What was he talking about?

At the heart of Rowan Williams's speech to a group of lawyers in central London was a call for more attention to be paid to religious sensitivities of all kinds in the British legal system. He said that the Enlightenment principle of one-law-for-everybody on which it was based was "not adequate to deal with the reality of complex societies". He had concentrated on Muslim issues because he was inaugurating a lecture series on Islam in British law.

Why was there confusion about what he meant?

His academic background meant that Williams was careful to

make sure everything he said was considered and caveated and he also used language that scholars, but not necessarily lay people, would understand.

For example, his main point was that a "transformative accommodation" should be reached between secular and religious legal systems. This did not involve setting up a "parallel" legal system to British law but rather a "scheme in which individuals retain the liberty to choose the jurisdiction under which they will seek to resolve certain carefully chosen matters, so that the power-holders are forced to compete for the loyalty of their shared constituents".

That's not very clear . . . Indeed. What Williams appears to be suggesting is that secular and religious legal traditions should co-exist and that individuals could choose which one was best for them on a case-by-case basis. They would not be denied the use of either, though. It was not clear how any formal transfer of jurisdiction would take place. Williams did admit that the solution would not be simple.

Why was there such an uproar?

Previewing his speech, Williams gave a BBC interview in which he used much clearer language. One particular phrase leapt out. Asked whether the adoption of sharia in the UK was necessary for community cohesion, he answered that it "seems unavoidable".

THE FURIOUS REACTION TO ARCHBISHOP'S SPEECH

There can be no exceptions to the laws of our land which have been so painfully honed by the struggle for democracy and human rights. His acceptance of some Muslim laws within British law would be disastrous for the nation - Lord Carey, Williams's predecessor as Archbishop of Canterbury

I don't think he is the man for the job. One wants to be charitable, but I sense that he would be far happier in a university where he can kick around these sort of ideas - Edward Armitstead, member of the Church of England General Synod

Who needs Al-Qaeda when you've got Al-Rowan? This professional fool doesn't seem to realise that some of us came to the UK precisely to escape sharia. Those desperate to enjoy hand-chopping or women's testimony being worth half that of a man's can always move to an Islamic republic - Patricia, blogger, London

I am horrified by the archbishop's remarks. My father came to the UK from India in the early 1950s and always said the UK's robust judiciary and sense of fair play was something to be admired - Robin Sohdi, web comment, Walton-on-Thames

People should understand that it's not Muslims asking for a parallel system of sharia. The great majority of Muslims are saying something else. The British legal system is our sharia - Professor Tariq Ramadan, Oxford University

What on earth is Rowan up to? Who does this man think he's supposed to be representing? I can't comprehend why he should bring this topic up. If it is a clever means to make a case for religious influence in secular society, then frankly he couldn't have made a worse job of it - Simon Patrick, web comment, Buckinghamshire

Christmas has gone, Easter on the way. The Christian calendar drives the tempo of our lives in the UK and sometimes, like me, people may think: maybe I should go to church, rediscover what it's all about? But then you can always count on Canterbury putting you off with his wishy-washy twaddle - Ben Wright, web comment, London

Will Dr Williams be delivering this year's Easter sermon from Mecca? - Dominic Shelmerdine, web comment, London

PARALLEL SYSTEMS AROUND THE WORLD

■ Malaysia, which has a Muslim majority and a predominantly Chinese minority population, runs a twin-track legal system. Sharia courts have jurisdiction over areas such as marriage, inheritance, apostasy, conversion, and custody of children for Muslims. Civil courts deal with other areas

■ The Malaysian constitution does not say whether civil or

sharia courts prevail in cases involving a dispute between Islam and another religion

■ In practice, many lawyers say, the system discriminates against the non-Muslim minority. In one recent case a Buddhist family tried in vain to stop the religious authorities burying their father as a Muslim after the police said he had converted

■ In Nigeria, sharia law is practised as a parallel system to English common law in the Muslim-dominated north of the country. The south of the country, which is mainly Christian, mainly follows English common law

■ In most Middle Eastern countries, there is a dual system of secular and religious courts, in which the latter mainly deal with marriage and inheritance. In Saudi Arabia and Iran sharia courts are responsible for all aspects of jurisprudence

HAVE YOUR SAY

Tabloids and prejudice aside, one fails to understand the present hysteria. Is this a society where freedom of speech and conscience are the cornerstone of its edifice? In his speech the archbishop merely expressed a view that people, in a plural society, which we seem to pay lip service to at every opportunity, ought to have access to freely chosen mutually acceptable means of conflict resolution in matters purely private. Arbitration is an ancient instrument in Common law, by Usage, and Convention. In personal and even financial disputes, Out of Court settlements are resolved daily! The only essential caveat being that all parties to dispute are in agreement without compulsion. In carefully specified spheres, Community Initiatives, if properly constituted, can only be of benefit, providing relief to our over loaded legal system. The archbishop had merely referred to the Sharia because he was invited to inaugurate a seminar on 'Islam and the British law!'

Momtaaz Jung, Bedford, Beds

I have a serious question to this article and all the others I have read today at The Times: Why should we wish to have ANY "social cohesion" with a group of people --- Moslems --- whose ideology in its most fundamental doctrines, beliefs and laws, advocates violence, intolerance and degradation to its own members and all non-adherents? Surely, we should wish to remove such people from our own society in the interests of self-preservation. Given the huge costs to all our infrastructures, medical, educational, housing, policing, security and the socially negative effects of Islam and its adherents, we should be discussing the means of proscription and deportation, not accommodation to our own national suicide?

John, london,

"parallel Islamic legal system would be "a recipe for social chaos"

Add legal chaos! We have it in India. When there are too many laws, then no one follows any law! Rest is soap opera of the judicial system!

"Raising this idea in this way will give fuel to anti-Muslim extremism and dismay everyone"

If this issue itself has generated so much hatred and conflicts, imagine its introduction. Non-Muslims will be furious with special treatments to Muslims.

This may just lead to more religious and racial hatreds. Riots cannot be excluded in the end!

Regards,

Krishna R. Kumar, Udupi, India

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