

## FAITH AND LAW: TABLET special report

CHRIS CHIVERS

# Wise and helpful words

To many engaged on the front line of interfaith dialogue, such as the canon of Blackburn Cathedral, the Archbishop of Canterbury's views are correct in pointing a way forward. Indeed, he says, we must act now before it is too late

Every few weeks in Britain – whether through the populism of a Richard Dawkins or a Michael Nazir-Ali – the secularist-religionist conflict stutters into life. Then it peters out again because no one seems to have found the language that can sustain a faith-secular conversation of real maturity.

A strong desire to do so was evident in the Archbishop of Canterbury's lecture. This sought to transcend the secular-religious stand-off by interrogating what is generally held to be one of the chief fruits of the Enlightenment – namely, the equality of all in the sight of the law. And while equal access and accountability for all to the law are noble enough ideals, they cannot perhaps account for the complexity of the many-layered affiliations from which human societies are constructed. That complexity is nowhere more apparent today than in the towns of northern Britain, including Blackburn where I have been engaged for some time in interfaith dialogue.

Amartya Sen has recently demonstrated that a single-category approach to people, such as Samuel Huntington's, for example, which defines them solely in terms of their religious affiliation, is a ludicrously reductionist and inadequate way of reading both individuals and relationships between nations. Similarly, the archbishop suggests that pushing the concept of a universalist rule of law too hard – as if it were the only thing that held us together when in reality its downside has led to an obsessively rights-based, overlitigious society – has served only to point up its potential inadequacies as a tool for social cohesion. Put most directly, not everyone can identify with “the law”, or feel that their concerns may be given a good enough account within it as it stands.

If we accept this along with the reality that, however hard we try, we cannot coerce people into identifying with that which, to a degree, is contested territory, then we need to create space with which to deal with our disputes and dissensions. This does not

mean abandoning a common framework of law, but it probably does mean seeing it as a dynamic, undergirding framework that diverse communities inhabit.

Hence the archbishop's references to those ways in which we have already accommodated and embraced the Beth Din of Orthodox Judaism as a mechanism for adjudicating marital dispute and the Church of England's devolved ability to pass “measures” – all of which are laws of the land. He made the connection with an agreed legal system absolutely clear.

This important caveat brings us of course to his most media-quoted references, which were to sharia law. To many people, sharia simply equals hand-chopping, stoning and the oppression of women. But while acknowledging a misguided primitivism on the part of some states and indeed some individual interpreters of sharia, the archbishop urged people to look beyond our stereotypical view of sharia – monolithic in character and obsessed with draconian punishment – and to see its true meaning in the reality of the way it is practised by most Muslims as an expression of life under God.

**One of the big problems in Blackburn, as in many other Muslim communities in Britain, is domestic violence**

In grass-roots terms – and with an eye to the community where I minister, which is 27 per cent Muslim – the archbishop seemed to be suggesting that just as we have chosen to try and encourage Muslim schools into the state sector, to ensure that they are part of the mainstream dialogue and that they follow the core curriculum while maintaining their distinctive identity, so we should encourage into the mainstream – especially in relation



**A Muslim woman in Blackburn in 2006. Photograph: Corbis**

to family-law matters – the sharia structures that we know are operating, perhaps at times in a less than helpful way.

Tauheedul-Islam Girls High School, an excellent independent school in Blackburn, has recently made the transition to the maintained sector and is already playing an important role in enhancing cohesion by the visible interaction of its students with the wider community. Through the Government's “Building Schools for the Future” initiative its role in this regard will be enhanced yet further. Bring in sharia structures on a no-blank-cheques basis – a point the archbishop emphasised three times in the lecture – and perhaps they can also play a role in enhancing social cohesion.

One of the big problems in Blackburn, as in many other Muslim communities in Britain, is domestic violence. Islam is implacably opposed to it. But complex cultural reasons – not least the Asian subcontinental village power dynamics replicated in Blackburn – see many women who go to Muslim “leaders” wanting this problem addressed too frequently sent back home and fobbed off with the promise that “it will be sorted”.

Of course, one's logical response might be to say that they should simply bypass a seemingly unhelpful religious route and go straight for secular law as a means of redress. And of course, some women do this and I've had the privilege to meet and marvel at their courage. But many others know that to embrace secular law as redress is to face potential religious ostracism. Given the choice between domestic violence and treatment as *kafir* – dismissal

as wholly other – they regrettably too often choose to put up with the violence.

So we reach exactly the kind of stand-off between the religious and the secular realms that the archbishop describes. And in my experience, no amount of local government re-education programmes, NGO workshops or well-intentioned attempts at coercion is going to solve this problem. Which is where the challenge to sharia structures to emerge – in some cases out of the murkiness of the shadows and in every case to do the job that true Islam demands of them – authorised by and appropriately accountable to the mainstream, could well see them playing a role in the unlocking and transforming of a very complex social problem.

With an eye to the sheer numbers of Muslims who will be present in Britain in even 10 years' time, the archbishop is acknowledging that while there is a growing inevitability about the presence of sharia structures it would surely be better to regulate these now – develop them as a supplementary choice while allowing recourse to the law of the land at all stages – rather than allow them to develop into what could all too easily become bad back-street (in)justice.

With a prophetic awareness of the obvious failures of the self-segregating, “hotel” version of multiculturalism we've chosen as a society, recently critiqued by the Chief Rabbi Jonathan Sacks – “it doesn't matter what you do in your hotel room, as long as you don't disturb life in mine” – the archbishop is also inviting us to ensure that the hotel can become more a home where conversations – not simply corridor hellos on the hoof – are a reality.

There are of course dangers here. There is plenty of evidence, for instance, that religious legal structures that deal with annulment of marriage or divorce can compound the oppression of women rather than advance their liberation. There is evidence too that the Church of England's Clergy Discipline Measure, for instance, sets a burden of proof incomprehensibly – and unjustifiably, so far as the protection of clergy is concerned – higher than in civil cases. But there are also plenty of examples around the world – particularly in the non-Western world – where supplementary structures – for example, the *gacaca* courts in Rwandan villages, established to hear cases relating to the genocide – represent a tremendous enhancement not a diminishment of the rule of law.

When I spoke to Shaheeda – let us call her Shaheeda – the day after the archbishop's speech on Blackburn's Whalley Range, she understood exactly where he was coming from. “He's a clever man, your archbishop ... he's really tried to think how he could help us women ....” Whatever people think of his views, few could surely dispute the integrity of his intention.

■ Chris Chivers is Canon Chancellor and Director of exChange, the community cohesion and interfaith development agency, Blackburn Cathedral.

## MONA SIDDIQUI

### ‘Where sharia can seem problematic is in laws of personal status especially marriage’



By now church bells will largely have drowned out the alarm bells ringing over Rowan Williams' lecture last week. Most people will have realised that the archbishop was not undermining Western Christianity, nor advocating sharia law as any kind of parallel legal structure to British law. Some may even have learnt that sharia is a complex process, not a simple code of ethics or law to be implemented in society, least of all a non-Muslim society.

But perhaps the biggest revelation for wider society has been the fact that aspects of sharia have been practised in the United Kingdom for decades. If sharia covers all aspects of a believer's life from worship to dietary laws to marriage contracts, then it should not come as any great surprise that Muslims observe many of these practices in their daily life.

Prohibition on pork, abstention from alcohol, five-times-a-day ritual prayers and fasting in Ramadan are all aspects of sharia; when observed, no violation of the civil law takes place. In fact some aspects of sharia, such as sharia-compliant financial packages, are now actively promoted in the UK and they are an economically lucrative commodity.

But of course this is not how non-Muslims understand sharia. To many outside Islam, sharia suggests nothing more than draconian penal laws, which go against the very essence of decent liberal societies. There is some truth in that, however much Muslims try to refute the applicability of such laws.

But this doesn't really concern us in the UK. Where sharia here can seem particularly problematic is in the complications arising from laws of personal status, especially marriage and divorce. What happens in the case of polygamous marriages? What happens when a man divorces his wife through a civil court but refuses to grant her a Muslim divorce? What about the custody of children when parents separate? These issues are complicated enough in the British system without the added cultural and religious sensitivities prevalent in minority communities.

Let's be honest here. Whether or

not sharia courts or informal arbitration councils are effective in some areas, they should never be seen as an alternative authority to the civil courts. The crucial reason for this is that it is women who would be left even more vulnerable than they already are. For example, how many women from the sub-continent come to the UK on the assumption that they are the only wife, only to find that their husband is already married?

Even if one conceded that, strictly speaking, the second marriage would be valid under classical interpretation of Islamic law, under British civil law the man would be considered a bigamist. And yet the alternative – to say that we don't recognise the second marriage – also has its difficulties. For what would happen to the poor woman, the second “wife” who arrives with no English, no income and no family protection? This is not mere hypothesis: these are real cases, affecting the lives of real people caught between two cultural and legal structures.

Laws are not made in a vacuum; there is always a social and moral context. The issue here is whether we are prepared to make value judgements about cultures and practices that are different or, to be more precise, that are not liberal. We value liberalism in this country because at the heart of liberalism is the principle that one must not harm or intimidate another in the name of culture or religion. We struggle to have an honest discussion about the potential of sharia in the UK because there is too much abuse of the system and very little will to align “religious” practices with the civil process. This is a pity because the perception of Islamic law as rigid and oppressive has overshadowed its true nature, which is to be flexible and fluid, adapting to changing circumstances.

Religious differences aside, minority communities are not exempt from the challenges of human rights issues, and community cohesion cannot be realised through ignoring abusive practices. The state cannot talk about equality for its citizens but exclude minorities for its own convenience; rather it has a moral duty to view all its citizens as equals and to engage them in constructive debates.

■ Mona Siddiqui is Professor of Islamic Studies and Public Understanding and Director of Centre for the Study of Islam, department of theology and religious studies, University of Glasgow.