

UK MUSLIM HUMAN RIGHTS UPDATE

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During the last few months there have been a number of predictable developments, including at times a significant lack of development, in the UK law as regards Muslim human rights. In keeping with the long established precedent that some are more equal than others, it still remains legal – at least until December 2003 – to discriminate against Muslims on grounds of their religion with impunity.

This state of affairs should change in the sphere of employment but not elsewhere – for example in the provision of education, housing and services – once the *Employment Equality (Religion and Belief) Regulations 2003* (approved by both Houses of Parliament on the 17th June 2003) come into force on the 3rd December 2003. This means, for example, that a restaurateur who sacks one of his chefs for Christmas because he is a Muslim may have to pay him compensation for discriminating against him on grounds of religion – but if he puts up a sign saying, “No Muslims served here,” any Muslim who is refused service at his restaurant will continue to have no remedy at law. Indeed the restaurateur will still remain legally entitled to put up a second sign saying, “Customers who hate Muslims welcome,” since there is at present still no offence of incitement to religious hatred.

Of course if the two signs referred to Jews rather than to Muslims, then a Jewish customer would enjoy the full protection of both the civil and the criminal law since the law regards Jews as belonging to the same race whether they be black Falasha (descended from Ham), white Ashkenazim (descended from Yafith) or olive Sephardim (descended from Sam, from whose name the word ‘semitic’ actually derives).

After hearing submissions from *inter alia* the FAIR, the MCB and the AML, the House of Lords Select Committee on Religious Offences (whose report was published on the 10th of June 2003) declined to make any recommendation that Muslims should be protected by law from incitement to religious hatred or by an updated law of blasphemy which would apply just as much to Muslims as to Christians. Equality before the law for members of different religions was regarded as a far too delicate and complicated proposition to say anything definite about – and therefore it was recommended that this was a matter for Parliament to debate and decide.

Needless to say, Lord Lester’s *Equality Bill* which was introduced successfully as a private member’s bill in the House of Lords and which sought to legislate against all forms of discrimination, including religious discrimination, in all spheres of life was dropped in the House of Commons like one of King Alfred’s hot cakes on the 11th July 2003, as soon as it was time to consider it seriously at the second reading stage.

Muslims will nevertheless be encouraged to know that the DTI remains ‘committed to getting the right framework to support equality legislation’ – as indeed has been the case for at least the last thirty years – and to that end published in 2002 a consultation paper entitled *Equality and Diversity: Making it Happen*, probably much later rather than sooner.

Should you happen to die before this does happen, you may if you are a Muslim be heartened to know that the very thorough Coroners Review Body Report released on the 10th June 2003 acknowledged the importance for Irish Christians, Jews and Muslims of prompt process of death certification so as to enable a swift burial and also the Jews' and Muslims' desire to avoid unnecessary routine *post mortems*.

The Report did not actually go so far as to consider specifically the Muslim Burial Council of Leicester's suggested diagnosis of 'natural death, suspicious circumstances excluded' (which would obviate the need for a *post mortem*) but does recommend that the Coronial Council should issue statutory guidance to achieve consistent standards and practices throughout England and Wales on *inter alia* the criteria for ordering autopsies and other investigations; the role of less invasive investigations; quality control arrangements for all investigations; procedures giving families a right of review of decisions to order, or not to order, autopsies and the provisions governing organ and tissue retention in coroners' autopsies.

The Report also recommends that in cases where the family object to an autopsy it should not be proceeded with unless there is positive indication of the need to investigate a possible crime or lack of medical or other care, or a public health risk that requires the cause of the individual death to be established in order to assist in preventing similar fatalities.

In the meantime, if you wish your estate to be divided and distributed in accordance with the Shari'ah after your death, then make sure you leave a valid Islamic Will which fulfils the technical requirements of English law as well as recording your wishes.

As regards "due process", a number of people, all Muslims, continue to remain detained in the UK in accordance with the provisions of the *Anti-Terrorism Crime and Security Act 2001* – which means that they have been detained indefinitely in solitary confinement without being interviewed or charged or informed why they have been locked up, usually for up to 22 hours a day. Their 'trials' and 'appeals' if they happen at all consist of closed hearings at which neither they nor their legal representatives may be present, or cross-examine prosecution witnesses, or even be allowed to know what the 'evidence' against them is.

No doubt Torquemada would be delighted to know that the basic precepts and practices of the Mediaeval and Spanish Inquisitions are still alive and kicking. There is also a distinct possibility that Saddam Hussain himself may have advised on the mode and efficacy of these procedures since they were systematically implemented by his regime, especially in the 1980s when he was being sponsored by the USA and the UK to kill Muslims in Iraq and Iran – although any such past assistance will probably not entitle him to an amnesty now if he happens to be captured alive.

Perhaps the instigators and perpetrators of this totalitarian form of justice consider their policies and practices justified and corroborated by the similar treatment being meted out to the orange inhabitants of Guantanamo Bay, some of them minors, who like Ezra Pound before them at least have access to fresh air, sunlight, rain, mosquitos and creepy-crawlies in their iron cages – but precious little else.

It is significant that several of these prisoners have been driven to attempt suicide, even though they know it is *haram* to do so – but the prospect of being detained indefinitely in degrading conditions with the prospect of being sentenced to death in your absence after a ‘trial’ in which you are not entitled to appoint your own lawyer or cross-examine your accusers can hardly be described as exhilarating let alone hopeful.

Those who believe in justice find such lack of due process and the transparently casuistic doublespeak used to justify it particularly abhorrent – but hey, after all we have the personal assurance of the President of the United States that, “We know that these are the bad guys,” which of course must mean that those responsible for the deaths of literally tens of thousands of innocent Afghani and Iraqi civilians by means of laser precision fired depleted uranium tipped shells, bunker-busters, daisy-cutters, cluster bombs and napalm (currently described as “Mark 77 firebombs”) must be the “good guys”. Perhaps this is why the Prime Minister of the UK is on record as stating that he feels he will have no difficulty in justifying his actions to his Creator on the Day of Resurrection and Judgement. My heart tells me that when all the evidence is taken into account on the Last Day, God – Who has been present throughout and Who has witnessed everything – may not entirely agree with the incomplete official version with which most people have been provided.

In the meantime, in the green time, in the here and now, the people of the UK continue to face the twin possibilities of transforming this land into either a garden or a wasteland. Just as the law has developed through time to accommodate the religious needs of Christians and Jews, so it now needs to develop further in order to accommodate the religious needs of the members of other religions, preferably in a manner which minimises confrontation and conflict and which welcomes diversity – which can be viewed as a strength rather than a weakness.

In formulating appropriate policies it is important to distinguish between tolerant integration and forced assimilation. Much can be learned, for example, from the history of Spain. At one point in time Muslim, Christian and Jewish communities lived side by side for centuries in relative harmony, each community self-governing in respect of its personal law and settlement of internal disputes – because the law of the land recognised diversity. At another point, thousands of people were slaughtered and thousands more forced to flee for their lives – because the law of the land required conformity.

In our current multi-cultural, multi-racial, multi-religious society, it is important that the lessons of history can be applied wisely by allowing people to be different, within reason. As far as religious groups are concerned, this can best be achieved by not only granting them equal rights under the law, but also ensuring that these rights are secured by the law, so that they can be exercised under the law with the full protection of the law.

As far as Jews and Muslims are concerned this will inevitably include the legal recognition of Jewish and Muslim civil personal laws and of the decisions of recognised Beth Din and Shari‘ah courts regarding these matters. The Ecclesiastical Courts and the Beth Din have exercised their distinct jurisdictions for centuries – while the Shari‘ah Council, although much younger, works. These courts should be granted an enhanced status by the law. Their decisions should be recognised as binding on the parties who have submitted to their jurisdiction and enforceable in the civil courts.

It is pointless talking about 'bringing rights home' if these rights are not secured. If there is no protection under the law for those whose rights are violated, and if there is no compensation for those who suffer loss and injury and injury to feelings as a result of such violations, then as far as they are concerned the *Human Rights Act 1998* is no more effective than a central heating system without a boiler: even if it is installed in the home, it does not serve its purpose until it is providing warmth – a proposition with which even Eliza Doolittle would surely agree!