

Review of AML Religious Discrimination Conference

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Everyone knows that religious discrimination is a fact of life. Everyone knows that this is repugnant to the rule of law. Everyone knows that English law provides no effective remedy for people who endure discrimination not because of the colour of their skin, nor because of their gender or age, but because of their religious beliefs and the way of life that stems from them.

AML's Seminar on Religious Discrimination which was held on the 19th of November 1995 was both informative and thought-provoking, with four speakers providing insights from varied yet complementary perspectives. Although the number of people attending the Seminar was by no means vast, those who were present were all able to contribute to the discussion which took place after the talks, and to suggest what action should be taken in the future.

Our first speaker, Fou'ad Hussain – who began the seminar by emphasising that the parameters of the *Shari'ah*, including those which deal with how people who follow religions other than Islam should be treated, have been defined by God and not by man – illustrated how the early Muslims had treated people of other religions who were under their governance. He quoted the Prophet Muhammad's words, may Allah bless him and grant him peace, 'Whoever harms a *dhimmi* has harmed me,' and, 'Whoever ill-treats a *dhimmi* will be opposed by me on the Last Day.' Fou'ad Hussain also drew our attention to the action of *sayyidina* 'Umar, may Allah be pleased with him, who, when the keys of Jerusalem were handed over to him, refused to do the prayer – when invited to do so by the Christians – in their church, so as to ensure that no-one would use his action as a pretext to turn the church into a mosque at a later stage. This church still stands today. We were also reminded of how Khalid bin Walid, may Allah be pleased with him, returned the *jizya* tax which he had collected from the people of Homs in Syria, when he was unable to defend them against a counter-attack from the Romans. They were so impressed by this display of honesty, that when Khalid bin Walid retook Homs, there was no need for him to collect the *jizya* again, because this time the majority of its inhabitants accepted Islam.

In marked contrast to this picture, Shabana Khan drew our attention to the present situation in England, a situation in which one of the ways in which the powers that be appear to have deliberately avoided the issue of religious discrimination has been by defining the general population in terms of their ethnic origin, rather than in terms of their religious belief. The results of this policy – whether deliberate or unintentional – she pointed out, have been that as regards the 'Asian' community, Hindus, Sikhs and Muslims have all been given the same racial tag, even though their beliefs and needs are often very different. Similarly, members of the 'Afro-Caribbean' community have all been labelled as 'blacks' even though they in fact comprise mainly of Christians, Muslims and Rastafarians, again with different needs and beliefs. This approach, Shabana pointed out, has meant that the particular needs of Muslims have often been completely ignored. Hindu social workers have been allocated to look after the Muslim elderly or young, even though they have no real idea of the particular problems which the Muslims in their care are most likely to be facing. Similarly, a black Muslim child may be fostered out to a Rastafarian family, or an Asian Muslim child may be adopted by Sikh parents. This mis-matching is the result of either ignorance, carelessness, official policy, or discrimination since, in contrast, it is unlikely, for example, that a white Jewish child would ever be fostered out to a white Roman Catholic family.

Shabana emphasised that there is very little research being conducted at present as regards the particular problems and needs of Muslims in the British Isles, and that accordingly this is affecting the amount of funding that is being made available for the various, often large, Muslim communities. One of the avenues of future action which became evident as a result of Shabana's talk was that if the situation is going to change for the better, then it is up to the Muslims to conduct their own research and to prepare their own reports which can then be presented to the relevant authorities. Doing nothing and just hoping will not produce the desired results.

Khalid Sofi, our third speaker, considered the legal position as regards international law. He pointed out that although the United Nations Declaration of Human Rights and the European Convention on Human Rights both 'guarantee' the freedom of religious belief and the freedom to practice one's religion, in fact these laws tend to be applied selectively. Furthermore, until either England has a Bill of Rights, or the ECHR is incorporated into English law, these principles will continue to have a very limited application in the English courts of law, since anyone wishing to avail themselves of the provisions of the ECHR can only begin to do so once all national remedies have been exhausted – an expensive exercise in the kind of case in which legal aid would most probably not be granted at any stage.

Makbool Javaid, our final speaker, then went on to outline the current position – or rather lack of it – in English law which does not recognise religious discrimination as such, even if clear evidence in specific circumstances is presented to the court, but which is prepared to partially subsume it under the general title of 'indirect racial discrimination' in cases where the complainant is a member of a racial group in which Islam happens to be the dominant faith. Since law-making nowadays is often more a matter of official policy than legal principle, it rather looks as if this concession has been made in order to provide a safety-valve so as to allow some steam to escape while keeping the lid firmly on, rather than out of a genuine desire to provide at least some redress for those who suffer injustice.

In practical terms the law as it stands at the moment means that if a Muslim who is subjected to serious religious discrimination is black or brown then he or she may have a partial remedy in law, whereas a white native English Muslim who suffers exactly the same treatment or worse will have no remedy at all. Makbool also pointed out that the lack of any anti religious discrimination legislation in effect means not only that people are free to carry out acts of religious discrimination in, for example, the spheres of employment, housing and education, but also that the media is free to continue its blatant attacks on Islam in general and the Muslims as a whole with impunity, since the current position is that by virtue of the Public Order Act 1986 there are only laws prohibiting incitement to racial hatred, but not to religious hatred.

Whereas in spite of their differing genetic backgrounds (See *The Myth of the Jewish Race* by Patai & Patai, Wayne State University Press, 1989) an Oriental semitic Jew from the Middle East, or a Sephardic semitic Jew from Spain, or a negroid Falasha Jew from Ethiopia, or an asian Jew from Cochin, India, or a turkic Ashkenazi Jew from the Caucasus, have all acquired the right under English law to be regarded as belonging to one and the same race by virtue of their shared religious belief – and accordingly the protection of 'race'-oriented legislation – the equivalent right has not been accorded to the Muslims.

As a result, to give but one example, when a government building in America was blown up by right-wing Christians in retaliation for the Wacko massacre, the media immediately blamed 'Muslim fundamentalists' for the act. As a result and by implication every Muslim in the world was to some extent regarded as being a party to or supporter of this alleged extreme paranoid

fanatical anti-semitic fundamentalist act of terrorism. When the true identity of the parties responsible for the bombing was ascertained, no apologies to the Muslim community as a whole were forthcoming, and no form of compensation was offered to those Muslims who had been verbally abused or even physically assaulted as a result of the media coverage of the event. Why should there be? No (racial) ‘crime’ had been committed. If ‘Jewish extremists’ had been wrongly blamed for the blast, the behaviour of the media would most probably have been very different.

It is clear that with the official dismantling of communism and with the recent offensives designed to further secure and consolidate control of the world’s oil-fields, which happen to lie predominantly in what have been traditionally regarded as ‘Muslim countries’, the ‘Muslim fundamentalists’ – and by extension all Muslims – are increasingly being presented by the media as the new ‘common enemy’. Since the majority of Muslims living in England and elsewhere are in fact peaceable law-abiding citizens, the need for anti-religious discrimination legislation is accordingly growing.

Makbool identified three possible avenues of making proposals for legislative change: There could be a Religious Discrimination Act; or the ambit of section 3(1) of the Race Relations Act 1976 could be extended to include ‘religion’; or the ECHR could be incorporated into English national law, – a measure which the next Labour government has promised to implement, and for which Lord Lester, *inter alia*, has campaigned tirelessly.

It is impossible to predict what the future holds, but it would appear that the first option is unlikely; that the second option would only have a limited application, principally in employment, housing and education, but would be better than nothing; and that the third option remains the most likely possibility, but at present it is no more than a possibility.

During the spirited discussion which followed Makbool’s talk, many observations and suggestions were made. What emerged from the debate as a whole was the proposition that the best way towards achieving a change in the law was to initially prepare a well-considered coherent proposal outlining the deficiencies in the law as it stands at the moment, and suggesting how these deficiencies might best be remedied. Once a draft of this proposal has been prepared, it could then be presented to the leaders of all the main Muslim organisations in Britain for their comment and approval. Since all such organisations – whatever differences they might have on other issues – are likely to agree on the need for such a proposal and on its contents, it is hoped that they would be prepared to sign the proposal once its contents have been finalised, which could then be presented to the Home Secretary in the form of a joint petition from all the Muslim organisations in Britain.

It is hoped that by adopting this approach the usual official tactic of dismissing any proposal made on behalf of the Muslims of Great Britain as being either unrepresentative, or incoherent, or badly organised, or all three, would be rendered ineffective.

As regards the other main blocking device which has been used to neutralise proposals of this nature in the past – and which seeks to argue that ‘religion’ is such a vague term that it is impossible to define – it is of course possible to suggest a very simple criterion: ‘a religion’ is that system of beliefs and actions centred round the worship of God which is derived in whole or in part from a book revealed by God to one of His messengers. This definition is wide enough to include all denominations of the Jews, the Christians, the Muslims, the Hindus, the Buddhists and the Sikhs, but not man-made religions such as, for example, Scientology and Communism, neither of which involve worship of God.

It is clear that up to now the Muslims have not been as well-organised or as articulate about their particular needs as they might have been. It is all too easy to complain that the religious discrimination which is being experienced by Muslims in employment, housing, education and in the media generally is the result of a deliberate policy against Islam and the Muslims. However, life is not that clear-cut. Discrimination of any kind is usually the product of arrogance and ignorance, and all too often the Muslims have made no real effort to dispel the ignorance and misconceptions about Islam and the Muslims which undoubtedly exist today. In effect, the Muslims have at times become the victims of their own apathy or inability to communicate.

Matters have not been and are not helped by the fact that as well as there being *muminun* within every ethnic grouping in England, there are also *kafirun* and *munafiqun* – who often bring Islam and the Muslims into disrepute as a result of their actions. Unfortunately the powers that be are usually not aware of these more subtle distinctions which are more than skin deep – and accordingly there is often the tendency to equate the Muslims in general with the worst people in each of the different ethnic groups, even though they are not even Muslims. As in the time of the early Muslims, it is not so much our words as our actions which will transform society, and although it would appear that ‘modern’ society is being structured in such a way that people are encouraged either to view themselves as helpless victims, or to become victims, the possibility nevertheless remains of our being or becoming laughing lions.

It is hoped that as a result of this initiative by the AML, at least something positive will be done to articulate the pressing need of the Muslims in Great Britain today not to be treated as second-class citizens, but to be treated with justice, and that as a result not only will laws protecting the rights to religious belief and practice be implemented, but also more importantly, justice will be seen to be done – and not only to the Muslims, but also to all the other religious groups in England however large or small they may be, and however rightly or badly guided everyone else may think they are.

God says in the Qur’an: ‘**I did not create mankind and the *jinn* except to worship Me.**’ Any legal system or combination of laws which does not facilitate and protect this primary purpose of our existence, or which hinders it, is clearly deficient and needs to be changed! No lawyer with any intellect can possibly argue that the purpose of life is to amass and adore numbers printed on bits of paper or stored in hidden computer databases – which is virtually all that remains of ‘the coin of the realm’ today – and that the purpose of the legal system is to facilitate and regulate such activity. ‘Justice’ is not simply the art of balancing different forces and interests in the market place. It is something far more exalted and profound than that. Instinctively, we all know what it is, even if we cannot always provide an all-embracing definition of what it actually is, but the difficulty lies in giving it reality. It is all a question of balance – and at present the laws regulating religious discrimination are so out of balance that they are conspicuous by their absence.

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