

The Law Society  
Family Law Conference  
29 October 2013 | 23 Dhu'l-Hijjah 1434  
The sacred and the secular: religion, culture and the family courts

Plenary panel session 1:  
How religious courts work and their relationship with the family courts

---

An insight into the work of Islamic Shari'a Councils  
by Hajj Ahmad Thomson

---

**Introduction – an overview**

Other than in overseas jurisdictions, the validity of Muslim personal law has never been recognised by English law – neither during its former predominantly Christian phase, nor during its current predominantly secular phase. Marriages and divorces conducted in accordance with the Shari'a of Islam are not recognised as valid by the law of the land even though they are acceptable in the sight of God. And when death comes, if the deceased has not left a valid Islamic Will, the rules of intestacy are applied and in the absence of a secondary voluntary re-distribution by and between the deceased's surviving Muslim relatives, his or her estate is not distributed in accordance with the Shari'a of Islam.

This state of affairs has always led to difficulties for Muslim British citizens, especially as regards the legally recognised duties and rights between spouses and divorcees, the legal status of their children, legal ownership of property, entitlement to state benefits and dealing with public authorities in general, including when travelling abroad and when death occurs.

In other words, many British Muslims currently share the same legal status as those couples who are defined as “cohabitees” – of whom there are now so many that the next government may well decide to act on at least some of the practical and sensible recommendations contained in the Law Commission's pre-coalition 2007 report on the subject – recommendations which, if implemented, would provide some legal protection to vulnerable Muslim spouses and their children, who nevertheless might be offended to be classified as couples who happen to live together when in reality their *deen* (life-transaction) forbids informal liaisons and only permits them to live together as husband and wife if they are married in accordance with the Shari'a of Islam.

As regards business transactions and commerce, ever since the practice of usury was legalised by King Henry VIII, the original divinely revealed, pre-reformed Judaic, Christian and Islamic prohibition of usury has not been recognised by English law. As a result not only the government, but also by extension the vast majority of its tax payers, however they may have chosen to exercise their right to vote, are invisibly chained by unrepayable usury-generated inflation-generating debt.

During the last fifty years, the numbers of Muslim British citizens and long term Muslim residents in Britain have increased significantly. Unsurprisingly, those of them who are sincere and well-informed followers of the Prophet Muhammad, have wished to marry, and if it comes to it, divorce, and do business, and when they die have their estates distributed, in harmony with the divine guidance contained in the *Qur'an* and the lived example (the *Sunna*) of the unlettered Messenger to whom it was revealed, may Allah bless him and grant him peace.

Since the Human Rights Act 1998 came into force, it has been their legally recognised (if not legally secured) ECHR Article 9 right to do so.

Equally unsurprisingly, some of the Muslims in Britain who are either not so sincere, or not so well-informed, or both, have found themselves involved in disputes which require the help of a suitably qualified arbiter to resolve.

In this context, a suitably qualified arbiter is a person who knows all of the *Qur'an* by heart, who is familiar with the *Hadith* (the reliably verified recorded actions and sayings of the Prophet Muhammad and his early community, may Allah be pleased with them), who is preferably fluent in Arabic, his or her community's mother tongue and English – and who is not only aware of the nature of modern society, but also graced with a reasonable modicum of compassion and wisdom.

It has been out of the need for such qualified arbiters that Islamic Shari'a Councils have emerged in Britain. They offer a dispute resolution service for British Muslims which neither the English legal system nor the "one-law-for-all" brigade can provide.

Although English law and the Shari'a share many similar principles and practices, I have yet to enter one English court or meet one English judge not only suitably qualified but also correspondingly empowered to be able to provide the service which British Shari'a Councils offer – namely to settle disputes between British Muslims in accordance with the *Qur'an* and the *Sunna* – but hope springs eternal!

Anyone who believes in God and the Last Day and the next world wishes to live in obedience to God's commands – and to order his or her life in accordance with God's guidance – not only in order to be pleasing to God, but more significantly to avoid the Fire and to enter the Garden in the next world. Although the fundamental beliefs are virtually the same, the detail does vary from one faith community to another – and even within different branches of each faith community – and this is why each faith community needs its own forum to assist its members in resolving their disputes: the Christian Ecclesiastical Courts and the Jewish *Battei Din* have been established in Britain for many centuries, in contrast to the Muslim Shari'a Councils which are still a relatively new phenomenon.

It is important to recognise that British Islamic Shari'a Councils are not really courts of law in the proper sense of the word, since although their members can make decisions and recommendations, they have no powers of enforcement. Even if the parties to a

dispute have entered a binding enforceable arbitration agreement which is recognised by English law, then in the event of that agreement being breached, it can only be enforced not by a Shari'a Council, but by an English civil court.

It is even more important to recognise that British Shari'a Councils have no jurisdiction in criminal law matters – nor have their members ever held themselves out as having such authority. Their jurisdiction is solely concerned with Islamic personal law and commercial law matters. The parties who approach them do so voluntarily and cannot be subpoenaed to attend.

It follows that the spurious claims made by certain bad opinion tanks and some elements of the tabloid media that there is a burgeoning conspiracy by British Shari'a Councils to somehow subvert and overthrow the entire English legal system so that the Shari'a of Islam can be imposed ruthlessly upon the general populace whether they like it or not, is as ridiculous as it is impracticable. *Honi soit qui mal y pense.*

When the hypothetical possibility of a majority of the English population one day voting in accordance with current democratic practice to be governed in accordance with the Shari'a of Islam was drawn to the attention of a renowned English QC several years ago, her immediate response was to say, "Oh, don't say that!" as if to say that in such a hypothetical situation the principles of democracy would have to be suspended until the army had restored "order" in the British Isles. Needless to say, the possibility of such a state of affairs actually arising is highly unlikely to say the least – but hope springs eternal!

In today's world, in the here and now, given that the number of Muslims in Britain is increasing steadily and with it the occasional need to have access to British Shari'a Councils – what is really at issue is the degree to which the Islamic Shari'a Councils in Britain can work with the English civil courts. Since they share so much in common, including the fundamental principle that the welfare of the child is paramount, it is hoped that, rather than being regarded as a theoretical possibility, their mutual co-operation does in fact in the ripeness of time become established good practice.

## **The work of British Islamic Shari'a Councils**

### Islamic Marriage and Divorce

Although they can assist in resolving any Muslim personal law or commercial dispute, in practice, the main workload of the British Shari'a Councils today is granting *khul'* divorces to Muslim wives whose husbands refuse to grant them a *talaq* divorce. Needless to say these wives have nearly always been placed in this limbo by husbands who refuse to honour the guidance of Islam in these matters. If a husband honours this guidance, there will be no need for his wife to approach a Shari'a Council – because having discussed the matter, and having accepted that their marriage has no future (since for a marriage to work both spouses need to really want and work towards this), most sincere Muslim husbands will give the *talaq*, even if they do not want to do so.

Unfortunately, it is those husbands who wish to punish their wives by abandoning them and yet refusing to release them from their *nikah* contract who leave their wives no option but to seek a *khul'* divorce. *Sunt lacrimae rerum et mentem mortalia tangunt*. It is almost always those who refuse to obey the law who find themselves standing before a judge, not those who are law-abiding – but God in His wisdom has created both!

It should be noted in passing that if allegations of physical assault are made by either party, then the complainant is advised by the Shari'a Council to inform the police – although I can still recall the days when the complainant would then be informed by the police that dealing with “a domestic” was a civil matter and not a police matter.

It should also be noted in passing that a forced marriage – that is, a marriage which takes place without either one or both of the parties's consent, is a cultural practice which is not sanctioned by the Shari'a of Islam. If a complainant states, for example, that his or her *nikah* marriage was imposed by relatives against his or her wishes, then after verifying this, the Islamic Shari'a Council will declare it void (*faskh*).

When a request for a *khul'* divorce is first made, the members of a Shari'a Council are required, in accordance with the Shari'a, to try and effect a reconciliation between the parties, especially when there are children involved – but on the whole, by the time a Muslim wife has brought the matter before a Shari'a Council, attempts at effecting a reconciliation by family members and friends have already been attempted without success and existentially the marriage is already over.

In this situation – and in contrast to the practice of the *Battei Din* which requires that for a *get* (Jewish divorce) to be valid it must be freely given by the husband and freely accepted by the wife – a Shari'a Council can pronounce the *khul'* divorce, whether the husband likes it or not, thereby leaving his former wife free to move on with her life and marry someone else if she wishes.

Although, in contrast to English law, an Islamic *khul'* divorce is a “no-blame” divorce which does not require the proof of any particular ground before it can be granted, other than the fact that the wife no longer wishes to be married to the husband, in practice the husband's behaviour is taken into account – and if, as is sometimes the case, the couple also had a civil registry marriage as well as an Islamic *nikah* marriage, then proof that a decree nisi or decree absolute has already been granted in a civil court will facilitate the *khul'* being granted sooner rather than later, since if the civil proceedings have reached this stage, reconciliation between the parties is now unlikely.

Before a Shari'a Council is in a position to grant a *khul'* divorce, it endeavours to contact the husband in writing in order to ascertain what he has to say about his wife's application and any allegations she has made. Once a husband's response has been received, the wife is given the opportunity to respond in writing to what he has to say – and the husband is then given the opportunity to respond in writing to her response. Sometimes, at any stage of this fact finding process, either one or both parties may be asked to attend the Shari'a Council, either in order to clarify the current

state and future viability of the marriage, or if appropriate, in order to facilitate a reconciliation. The wife is free to withdraw her application at any stage of the process if the parties have reconciled.

This fact finding process can take time, but it is necessary, since it would not be just to simply provide a rubber stamp service which automatically granted a *khul'* divorce as soon as an unsubstantiated application was made – an application and a grant which might well be a cause for regret once time had passed and storms had blown over.

I can recall, for example, one husband who had lost his temper and divorced his wife by pronouncing the *talaq* three times in rapid succession – and who then sorrowfully applied to the Islamic Shari'a Council to set the irrevocable divorce aside because he had not really meant what he had said in a fit of anger and he loved his family very much.

If the husband has refused to respond at all to the Shari'a Council's attempts to contact him, then after three attempts have failed, the Shari'a Council proceeds towards making a final decision, which is usually to grant his wife a *khul'* divorce.

Naturally there are occasions when the husband, for whatever reason, including sheer pigheadedness, asserts that he does not accept either the Shari'a Council's authority or its decision to grant a *khul'* divorce. In practice, however, the former wife and the Muslim community to which she belongs do accept the Shari'a Council's decision – and the *nikah* marriage (which in the eyes of English law never even existed in the first place) is regarded by them as having ended.

It is for this reason that the British Shari'a Councils have not felt any need to avail themselves of the dispensation offered to “other faiths” to apply for the facility provided by the *Divorce (Religious Marriages) Act 2002*, in conjunction with the *Family Proceedings (Amendment) Rules 2003*, whereby a Jewish wife can make an application to an English civil court requesting that a decree absolute not be granted until her husband has freely given her a *get*. This is because a Muslim wife does not need to exert this kind of gentle pressure on an obstinate, uncooperative husband – because she can simply obtain a *khul'* divorce from a Shari'a Council whether the husband likes it or not.

In addition, in contrast to current Jewish practice whereby all Jewish marriages are registered in accordance with English law as legally recognised marriages, a Muslim couple may well have only entered an Islamic *nikah* marriage contract, but not a civil registry marriage as well – in which case, the wife cannot initiate divorce proceedings in an English civil court to end a marriage which English law currently regards as never having existed.

Understandably, there have been several government initiatives to encourage British Muslims to follow the example of the Jewish community by making it a general rule to have a civil marriage as well as an Islamic *nikah* marriage – but many are content to simply follow what is required by the *Qur'an* and the *Sunna*, especially since Lord Penzance's 1866 wording of “to the exclusion of all others” simply cannot be included

in an Islamic *nikah* marriage contract – because this would amount to a re-writing of certain verses of the *Qur'an*, a presumptuous interference with this divine revelation which no Muslim in their right mind would even attempt.

### **The English legal recognition of Muslim personal law**

If there has only been a *nikah* marriage and it subsequently ends in divorce, then often the former wife finds herself and her children in a vulnerable position, especially if she happens to have married her husband as a second, or a third, or a fourth wife. In this situation, if her former husband fears Allah and the Last Day, then he will honour his duties to her and their children in this situation as regards residence, contact and maintenance – but if, as is unfortunately sometimes the case, he does not, then at present neither the English civil court nor the British Shari'a Council can do much to help her and her offspring.

The most that a Shari'a Council can do in this situation is to recommend, in accordance with the Shari'a, what arrangements concerning residence and contact with the children should be made and what maintenance should be paid by the husband – but that is all it is: a recommendation, which the husband is free to ignore – and not an enforceable judgement which, if it had been made by a civil court, the husband would only ignore at his peril.

This is partly why proposals have been made repeatedly during the last twenty years to have the validity of Muslim personal law (which has been practised in the Muslim world for more than fourteen centuries) recognised by UK domestic law, so that Muslim wives and children in Britain are properly protected. Up to now the government response has always been an unqualified “No!” and the Law Commission has always had more pressing matters to consider – but hope springs eternal.

Several articles and papers articulating and exploring these proposals in a positive manner can be found inter alia at [www.wynnechambers.co.uk](http://www.wynnechambers.co.uk) .

Perhaps one of the main stumbling blocks to these proposals even being considered seriously has been the related issue of the need to change the law of bigamy as currently framed: at an interfaith seminar on the dissolution of marriage held on the 9th September 2006 at Regents Park Mosque, Lord Justice Thorpe as he then was, one of the invited speakers, expressed the view that, “*Section 26(1)(A) of the Marriage Act 1949* affords to a religious marriage immediate legal effect provided it is conducted ‘in a registered building according to such form and ceremony as the persons married see fit to adopt.’ This provision is there for any religious minority to embrace. All that is necessary is that the mosque, church or temple must be duly registered.”

In response to this observation, Lord Justice Thorpe was asked what would happen in the event of a Muslim man marrying two Muslim women (not necessarily on the same day) in accordance with the Shari'a in a registered mosque. Could his lordship guarantee that the man in question would not be charged with the criminal offence of bigamy, since everyone involved had been married “according to such form and ceremony” as the persons married had seen “fit to adopt”?

At that very moment, Lord Justice Thorpe was saved from answering by the call to prayer – but it is clear in fact, if I may answer on his behalf, that since a Muslim man is permitted to be married to up to four wives simultaneously (but is forbidden to have any mistresses or extra-marital affairs) provided that he can maintain them and their children adequately, the law of bigamy will have to be changed if Muslim personal law in its entirety is to be recognised and accommodated by English law.

Being realistic, and given the variety of current English cultural norms which for different reasons consider it unacceptable for a man to openly take on the full responsibility of maintaining more than one family simultaneously, either in the same household or in different households, the proposals for English law to recognise the validity of Muslim personal law are likely to be ignored for some time to come.

For the time being and foreseeable future, therefore, English law and Shari'a law remain as two distinct jurisdictions. Neither jurisdiction either governs or is subservient to the other, although practising Muslims do tend to conclude that God the All-Knowing is more likely than many generations of honourable members of Parliament, however learned, to have got it right first time – and to accept that the *Qur'an* both confirms and abrogates the earlier revelations from God to mankind including the *Tawra* (the Torah) which was revealed to the Prophet Musa (Moses) and the *Injil* (the Gospel) which was revealed to the Prophet 'Isa (Jesus), may Allah be pleased with both of them.

The reality is that as currently defined, an English civil marriage does not comply with the requirements of Shari'a law and an Islamic *nikah* marriage does not comply with the requirements of English law. A civil divorce terminates a civil marriage. An Islamic divorce terminates an Islamic *nikah* contract. In the event of a marriage breakdown resulting in divorce, therefore, whoever has made both marriage commitments must go through both divorce processes.

As things currently stand, an English civil court cannot terminate an Islamic *nikah* contract and a Muslim woman cannot obtain a *khul'* divorce in an English civil court. Only a British Shari'a Council can provide this service.

### **The present and future interaction between English civil courts and British Shari'a Councils**

Although English law and Shari'a law remain as two distinct jurisdictions, each with its own principles and characteristics – but many of which are remarkably similar – it is arguable that each is capable of enjoying a mutually positive interaction and reasonable accommodation – as opposed to one jurisdiction seeking to oust or subsume the other – especially in the context of alternative dispute resolution, which – as the cost of pursuing legal proceedings in and the workload of the civil courts increase – is being actively encouraged.

This possibility is especially apparent in the context of parties who have entered both an Islamic *nikah* contract and a civil registry marriage and who in the event of divorce

need to agree arrangements for the residence of and contact with the children of the marriage and related financial ancillary relief in accordance with *section 25* of the *Matrimonial Causes Act 1973* as amended – an arrangement which must of course be sanctioned by the court before it can be implemented.

In the absence of any duress, whether gross or subtle – and provided that any arrangement concerning the children of the marriage places their interests first and foremost – if the parties can reach a mutually acceptable agreement, then this is usually music to most family court judges' ears – and if that mutually acceptable agreement can be reached with the assistance of a British Shari'a Council, then why should this make the arrangement any less acceptable to a judge?

A civil judge is free to adjourn proceedings in order to allow Muslim parties to enlist the assistance of a Shari'a Council. A Shari'a Council is free to recommend an order, whose terms are drafted in accordance with the Shari'a, which the judge is then free to make or modify if he so decides. If the parties agree that they would accept such an order, because it is in accordance with the Shari'a, then the judge is free (although not bound) to exercise his discretion in making that order provided that he or she is satisfied that all the checks and balances required by English law have as far as possible been satisfied.

This in effect is exactly what happened in the recent case of *Re AI and MT*<sup>1</sup>, in which Baker J granted both an adjournment in the civil divorce proceedings and permission for the Jewish parties to obtain a non-binding arbitration award from a New York *Beth Din*, an award which dealt with all aspects of their divorce including all financial matters and the residence, contact and education of their children. Having indicated that he would give legal effect to the *Beth Din's* award if the parties indicated that the terms of the award were acceptable to them – and once the parties had indicated that the *get* would be freely given and accepted if they knew that Baker J would make that order, both the religious divorce and the civil divorce were completed on this basis.

In his judgment Baker J made it clear that he had only proceeded on this basis after emphasising that the jurisdiction of his court could not be ousted; that the *Family Proceedings Rules 2010* encourage the use of alternative dispute resolution in fulfilling the overriding objective; that, as in English law, so with the criteria applied by the New York *Beth Din*, the welfare of the child is paramount; that the parents were entitled to decide how their children were to be brought up as long as this did not result in harm to the children – and finally that ultimately his final decision was based on the requirements of English law, including his due consideration of the well known checklist set out in *section 1(3)* of the *Children Act 1989*.

In principle, this judgement has set a precedent that can be applied in the future not only to Jewish couples but also to Muslim couples who have celebrated both a civil marriage and a *nikah* marriage; who wish to end both contracts by way of divorce; and who need the assistance of both a British Shari'a Council and an English civil

---

1 *Re AI and MT* [2013] EWHC 100 (Fam)



court in deciding matters concerning the education, residence and contact with their children and associated ancillary financial relief. If the husband has been withholding pronouncing the *talaq*, this could be made a requirement of the settlement, thereby rendering it unnecessary for the Shari'a Council to grant a *khul'* divorce.

The key to this judicious approach is that just as a *Beth Din* has the requisite knowledge to be able to make an award which will be acceptable to both Jewish parties because it is in harmony with their religious beliefs, so by the same token a Shari'a Council has the requisite knowledge to recommend an agreement which will be acceptable to both Muslim parties because it is in harmony with their religious beliefs.

Although the judgment in *Re AI and MT* will probably be most useful in cases where large sums of money are involved, in principle it has opened the door to there being a much larger degree of interaction than there has been up to now between the English courts and the British *Battei Din* and British Shari'a Councils – and perhaps one day, there will even be an Attorney-General who can recognise the advantages for all concerned if the validity of Muslim personal law is recognised by English law – hope springs eternal!

## Conclusion

As the colourful history of the development of English law illustrates, the law of the land is not written in stone. It is capable of changing with the times. It has enjoyed a many centuries old tradition of absorbing and benefiting from the best (and sometimes not quite the best) legal principles and practices from a multitude of “overseas” jurisdictions originating primarily from the north and east, including those of the Celts, the Saxons, the Vikings, the Jutes, the Angles, the Romans and the Normans, as well as those of the Jews, the Christians and (up to now principally via Sicily) the Muslims. In addition, the proliferation of utilitarian statutory law has enabled an abundance of new laws to be promulgated by way of the parliamentary process – although as Tacitus noted, “The more numerous the laws, the more corrupt the government.”

There can be no doubt that the role of British Shari'a Councils in providing an effective means of alternative dispute resolution in settling Islamic personal law disputes is as important as it is necessary. There is great potential for mutual assistance between the English civil courts and the British Shari'a Councils. Appropriate changes in the law will enable and enhance the “just and constructive relationship between Islamic law and the statutory law of the United Kingdom” to which the former Archbishop of Canterbury, Baron Williams of Oystermouth, referred in his talk given at the Royal Courts of Justice in London on the 07 February 2008. In principle, the “transformative accommodation” of certain aspects of the Shari'a, especially Islamic personal law, as a “supplementary jurisdiction” which he proposed is increasingly being recognised as positive, necessary and inevitable – however much Baroness Cox and whoever else asserts that British Muslims should tolerate their intolerance of Islam doth protest!

“Hope springs eternal in the human breast;”  
– may all who hope and do good be for e'er blest!

## Glossary of Arabic Terms

*Allah* : The Lord of all the worlds and what is in them. *Allah* has ninety-nine Names all of which are from and within the One, *Allah*. *Allah*, the supreme and mighty Name, indicates the One, the Existent, the Creator, the Worshipped, the Lord of the Universe. *Allah* is the First without beginning and the Last without end. He is the Outwardly Manifest and the Inwardly Hidden. There is no existent except Him and there is only Him in existence.

*deen* : the life transaction, the way you live and behave towards *Allah*. It is submission and obedience to a particular system of rules and practices. Literally it means the debt or exchange situation between two parties, in this usage the Creator and the created, or as some say between the conditioned and the unconditioned, the limited and the limitless, or the many and the One. *Allah* says in the *Qur'an* that surely the *deen* with *Allah* is *Islam*.

*faskh* : cancellation, invalidation of a contract (cf. *naskh*).

*fatwa* : an authoritative statement on a point of law.

*fiqh* : the formal study of knowledge, especially the practice of *Islam*. It is the science of the application of the *Shari'a*. A practitioner or expert in *fiqh* is called a *faqih*.

*fiqh al-aqalliyat* : 'jurisprudence of [Muslim] minorities', a new name for an old area of jurisprudence that used to be called *fiqh an-nawazil* – or 'jurisprudence of momentous events'.

*fiqh an-nawazil* : 'jurisprudence of momentous events', an area of *fiqh* covered mostly by the Malikis, which is concerned with the *fiqh* for Muslims living in a minority situation.

*fuqaha* : the scholars of *fiqh*, who by virtue of their knowledge can give an authoritative legal opinion or judgement which is firmly based on what is in the *Qur'an* and the *Hadith* and which is in accordance with the *Shari'a* and the *Sunna*.

*hadd* : (plural *hudud*), Allah's boundary limits for the lawful and unlawful. The *hadd* punishments are specific fixed penalties laid down by Allah for specified crimes which break these limits.

*hadith* : the written record of what the Prophet Muhammad said or did, may the blessings and peace of *Allah* be on him, preserved intact from source, through a reliable chain of human transmission, person to person.

*hadith qudsi* : the written record of those words of *Allah* on the tongue of the Prophet Muhammad, may the blessings and peace of *Allah* be on him, which are not a part of the revelation of the *Qur'an*, preserved intact from source, through a reliable chain of human transmission, person to person.

*hakam* : an arbiter.

*halal* : what is permitted by the *Shari'a*.

*haram* : what is forbidden by the *Shari'a*. Also *Haram*: A protected area. There are two protected areas, known as the *Haramayn*, in which certain behaviour is forbidden and other behaviour necessary. These are the areas around the *Ka'ba* in *Makka* and around the Prophet's Mosque in *Madina*, in which is his tomb, may the blessings and peace of *Allah* be on him.

*hikma* : wisdom.

*huddud* : (the plural of *hadd*), the limits. The boundary limits which separate what is *halal* from what is *haram*, as defined by *Allah*.

*'idda* : a period after divorce (3 menstrual cycles) or the death of her husband (4 months and 10 days) during which a Muslim woman must wait before marrying again.

*ihsan* : the inward state of the *mumin* who is constantly aware of being in the Presence of *Allah*, and who acts accordingly. *Ihsan* is to worship *Allah* as though you see Him, knowing that although you do not see Him, He sees you.

*ijma'* : consensus, particularly consensus of the people of knowledge among the Muslims on matters of *fiqh*.

*ijtihad* : to struggle, to exercise personal judgement in legal matters. The faculty of deciding the best course of action in a situation, which is not expressly referred to in the *Qur'an* and the *Hadith*, and then choosing a course of action which is close to the *Sunna* and in accord with the *Shari'a*.

*ila'* : a vow by a husband to abstain from sexual relations with his wife. If four months pass, it is considered a divorce (cf. *zihar*).

*'ilm* : (plural, *'ulum*) knowledge, science.

*iman* : trust in *Allah* and acceptance of His Messenger, may the blessings and peace of *Allah* be on him. *Iman* grows in the heart of the one who follows the way of *Islam*. *Iman* is to believe in *Allah*; His Angels; His Books; His Messengers; the Last Day and the Fire and the Garden; and that everything, both good and bad, is by the Decree of *Allah*.

*Islam* : the Prophetic guidance brought by the Prophet Muhammad, may the blessings and peace of *Allah* be on him, for this age for those who desire peace in this world, the Garden in the next world, and knowledge and worship of *Allah* in both worlds. The five pillars of *Islam* are the affirmation of the *shahada* (the affirmation that there is no god except *Allah* and that Muhammad is the Messenger of *Allah*); doing the *salat* (the five daily obligatory prayers); fasting from dawn until sunset during the month of *Ramadan*; paying the *zakat* (an annual tax on unused surplus wealth); and doing the *hajj* (the pilgrimage to Makka) at least once if you are able.

*jahiliyya* : the time of arrogance and ignorance which precedes the time when the way of *Islam* is established as a social reality. Anyone who does not have *hikma* suffers from *jahiliyya*.

*jinn* : inhabitants of the heavens and the earth made of smokeless fire who are usually invisible.

*Ka'ba* : the House of *Allah*, in *Makka*, originally built by the Prophet Ibrahim (Abraham), peace be on him, and rebuilt with the help of the Prophet Muhammad, may the blessings and peace of *Allah* be on him. The *Ka'ba* is the focal point which all Muslims face when doing the prayer. This does not mean that *Allah* lives inside the *Ka'ba*, nor does it mean that the Muslims worship the *Ka'ba*. It is *Allah* whom the Muslims worship, and *Allah* is not contained or confined in any form or place or time or concept.

*kafir* : (plural *kafirun*); the one who denies the Existence of *Allah* and who rejects His Prophets and Messengers, and who accordingly has no peace or trust in this life, and a place in the Fire in the next life. Shaykh Dr. Abdalqadir as-Sufi writes, "*Kufr* means to cover up reality: *kafir* is one who does so. The *kafir* is the opposite of the *mumin*. The point is that

everyone knows ‘how it is’ – only it suits some people to deny it and pretend it is otherwise, to behave as if we were going to be here for ever. This is called *kufir*. The condition of the *kafir* is therefore one of neurosis, because of his inner knowing. He ‘bites his hand in rage’ but will not give in to his inevitable oncoming death.” (*Qur’anic Tawhid*. Diwan Press. 1981).

*khalif*: the Arabic is *khalifa*, (plural *khulafa*); Caliph, someone who stands in for someone else, in this case the leader of the Muslim community, although it is sometimes used to describe the deputy of someone in a higher position of authority.

*khul*: a form of divorce initiated by the wife from her husband by giving him a certain compensation, or by returning back the *mahr* which he gave her.

*khutba an-nikah*: a speech delivered at the time of concluding the marriage contract.

*li’an*: mutual cursing, a form of divorce which involves oaths taken by the wife and husband when he accuses her of committing adultery and she denies it. They can never remarry after this.

*mahkama*: court of justice, tribunal.

*mahr*: dower given by a husband to his wife on marriage. It can be immediate (*mu’ajjal*) and/or deferred (*muwajjal*).

*mahram*: a person with whom marriage is forbidden.

*muhallil*: a man who marries a woman who has been trebly divorced on the condition that he then divorce her so that her first husband can remarry her. Marriage solely for this purpose is not permitted.

*muhsin*: the Muslim who has *ihsan*, and who accordingly only gives reality to the Real, *Allah*. Shaykh Dr Abdalqadir as-Sufi once said, “The difference between the *kafir* and the *muslim* is vast. The difference between the *muslim* and the *mumin* is greater still. The difference between the *mumin* and the *muhsin* is immeasurable,” not only in inward state, but also in outward action.

*mumin*: (plural *muminun*); the Muslim who has *iman*, who trusts in *Allah* and accepts His Messenger, may the blessings and peace of *Allah* be on him, and for whom the next world is more real than this world. The *mumin* longs for the Garden so much, that this world seems like the Fire by comparison and feels like a prison.

*munafiq*: (plural, *munafiqun*); a hypocrite, a person who outwardly professes *Islam* on the tongue, but inwardly rejects *Allah* and His Messenger, may the blessings and peace of *Allah* be on him, and who side with the *kafirun* against the *muminun*. The deepest part of the Fire is reserved for the *munafiqun*.

*muslim*: one who follows the *deen* of *Islam*, doing what is obligatory, enjoying what is permitted and avoiding what is forbidden in the *Shari’a*, keeping within the *hudud* of *Allah*, and embodying as much of the *Sunna* as he or she is able, through study of the *Qur’an* and the *Hadith* followed by action. A Muslim is, by definition, one who is safe and sound, at peace in this world, and guaranteed the Garden in the next world.

*mut’a*: temporary marriage, which is forbidden in Sunni *fiqh*, but permitted in Shi’a *fiqh*; severance gift after divorce.

*nafaqa*: maintenance, adequate support (especially of immediate family).

*naskh* : abrogation, annulment (cf. *faskh*).

*nikah* : marriage.

*nushuz* : violation of marital duties on the part of the husband or wife.

*qadhif* : slanderous accusation; accusing a chaste person of fornication or a married person of adultery. Unless the accusation is supported by the testimony of four male witnesses, the penalty is eighty lashes.

*qadi* : (plural *qada*); a judge, qualified to judge all matters in accordance with the *Shari'a* and to dispense and enforce legal judgements.

*qadi al-qudat* : the chief *qadi*, in charge of all other *qadis*.

*qar'* : (plural *quru*); a term used in reference to *'idda* which either means becoming pure after a menstrual period, or the menstrual period itself.

*Qur'an* : the 'Recitation', the last Revelation from *Allah* to mankind and the *jinn* before the end of the world, revealed to the Prophet Muhammad, may *Allah* bless him and grant him peace, through the angel Jibril (Gabriel), over a period of twenty-three years (beginning in 610 and ending in 632 CE), the first thirteen of which were spent in *Makka* and the last ten of which were spent in *Madina*. The *Qur'an* amends, encompasses, expands, surpasses and abrogates all the earlier revelations revealed to the earlier Messengers, peace be on all of them. The *Qur'an* is by far the greatest of all the miracles given to the Prophet Muhammad by *Allah*, for he was illiterate and could neither read nor write. The *Qur'an* is the uncreated word of *Allah*. The *Qur'an* still exists today exactly as it was originally revealed, without any alteration or change or addition or deletion. Whoever recites the *Qur'an* with courtesy and sincerity receives knowledge and wisdom, for it is the well of wisdom in this age.

*Shari'a* : lit. a road, a watering place; the way of *Islam*, the way of Muhammad, may the blessings and peace of *Allah* be on him, the road which leads to knowledge of *Allah* and the Garden. Shaykh Dr. Abdalqadir as-Sufi writes, 'It is the behaviour modality of a people based on the revelation of their Prophet. The last *Shari'a* in history has proved to be that of *Islam*. Its social modality abrogates all previous *shara'i* e.g. Navaho, Judaic, Vedic, Buddhist, etc. These *shara'i* however, continue until the arrival and confrontation takes place in that culture with the final and thus superior *Shari'a* – *Islam*. It is, being the last, therefore the easiest to follow, for it is applicable to the whole human race wherever they are.' (*Qur'anic Tawhid*. Diwan Press. 1981).

*Shi'a* : lit. a party or faction, specifically the party who claim that 'Ali should have succeeded the Prophet as the first *khalif* and that the leadership of the Muslims rightfully belongs to his descendant.

*Sunna* : the form, the customary practice of a person or group of people. It has come to refer almost exclusively to the practice of the Messenger of *Allah*, Muhammad, may the blessings and peace of *Allah* be on him, but at the time that *Imam* Malik, may *Allah* be pleased with him, compiled *Al-Muwatta'*, meaning 'The Well-Trodden Path', there was no sense of setting the *Sunna* of the Prophet apart from the *Sunna* of *Madina*, so that the actions of its knowledgeable people were given even more weight than the behaviour of the Prophet related in isolated *Hadith*. The *Sunna* of the Prophet Muhammad and the first Muslim community of *Madina al-Munawarra* is a complete behavioural science that has been systematically kept outside the learning framework of "modern" society.

*Sunni* : the main body of Muslims, who recognise and accept the first four *khalifs*.  
*tablil* : an intervening marriage contracted for the sole purpose of legalising remarriage between a divorced couple (see *muhallil*).  
*talaq* : divorce.  
*talaq al-ba'in* : final irrevocable divorce.  
*talaq al-raj'i* : a divorce which can be revoked (e.g. the first or second pronouncement).  
*walima* : a feast celebrating a wedding, held either immediately after the *nikah* ceremony, or at a later date.  
*zihar* : an oath by the husband that his wife is like his mother's back, meaning she is unlawful for him. It was a form of divorce in the *jahiliyya*, not permitted in Islam.

These definitions are from the revised edition of *The Noble Qur'an – a New Rendering of its Meaning in English* by Abdalhaqq and Aisha Bewley, (Ta-Ha Publishers, London, 2011); *A Glossary of Islamic Terms* by Aisha Bewley, (Ta-Ha Publishers, London, 1998); and *The Difficult Journey* by Ahmad Thomson, (Ta-Ha Publishers, London, 1994).

**Post scriptum:** recommended viewing – **Islam in Britain** :

Part 1 : <http://www.youtube.com/watch?v=8WZppLi0OSg>

Part 2 : <http://www.youtube.com/watch?v=yn30WxuPpck>

Part 3 : <http://www.youtube.com/watch?v=9oopNbnpTvs>