

Home Affairs Committee

Oral evidence: Sharia Councils, HC 389

Tuesday 1 November 2016

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[Watch the meeting](#)

Members present: Yvette Cooper (Chair); James Berry; Mr David Burrowes; Byron Davies; Nusrat Ghani; Mr Ranil Jayawardena; Tim Loughton; Stuart C. McDonald; Naz Shah; Mr Chuka Umunna; Mr David Winnick.

Questions 1-148

Witnesses

[I](#): Zlakha Ahmed MBE, Chief Executive, Apna Haq, Shaista Gohir OBE, Chair, Muslim Women's Network UK, Dr Elham Manea, Senior Fellow, European Foundation for Democracy, and Maryam Namazie, Spokesperson, One Law for All.

[II](#): Miranda Fisher, Partner, Charles Russell Speechlys, and Ismet Rawat, President, Association of Muslim Lawyers.

[III](#): Dr Ahmad Al Dubayan, Chairman, UK Board of Sharia Councils, Mizan Abdulrouf, Vice-Chairman, UK Board of Sharia Councils, Dr Amra Bone, Sharia council panellist, Birmingham Central Mosque, and Khola Hasan, Islamic Sharia Council.

Written evidence from witnesses:

- Dr Elham Manea ([SHL0024](#))
- Maryam Namazie ([SHL0014](#))
- Dr Ahmad Al Dubayan ([SHL0019](#))

Examination of witnesses

Witnesses: Zlakha Ahmed, Shaista Gohir, Dr Elham Manea and Maryam Namazie.

Q1 **Chair:** I welcome everyone to the Committee. Thank you all for coming to give evidence to us today. I am aware that Maryam Namazie needs to leave by 3 pm.

Maryam Namazie: I'm fine—I have now delayed my train.

Chair: Thank you for your kindness: we very much appreciate it. We have a series of different panels, so will try to move as swiftly as possible through each of them.

I will begin by asking each of you to briefly tell us your view of the role of Sharia councils in Britain today.

Zlakha Ahmed: We are a domestic violence support organisation based in South Yorkshire. We have been running for 22 years and have been supporting about 60 women who have gone through the Islamic Sharia councils in terms of their Islamic divorces. The role that our organisation has played is that, if the woman has been interested in finding out how she can take forward an Islamic divorce, we have referred her to a council and helped her get an Islamic divorce.

Q2 **Chair:** What is your view of the role that councils play?

Zlakha Ahmed: For the majority of those women—probably about 99%—if they had not gone through the Sharia courts and got that Islamic divorce, they would have remained in what we call limping marriages. They would have remained in abusive relationships; their husband would either have left or be living with another woman. She would be doing the housework and treated as a slave and she would not feel that, Islamically, she was allowed to leave that marriage, even when the civil divorce might have happened. So, the role of Islamic Sharia councils in that respect is to give women whose faith is important a way out of a situation that otherwise they would be tied into for the rest of their lives.

Q3 **Chair:** Thank you. As a supplementary question, do you think that Sharia councils discriminate against women?

Zlakha Ahmed: Yes. There are certain behaviours that need challenging.

Shaista Gohir: In terms of Sharia councils, 90% of their caseload is Sharia divorce. Most of their clients are Muslim women, so the role they play is around Sharia divorce. What we really should be talking about is Sharia divorce. What the two enquiries are missing, I feel, is that the service of Sharia divorce is not just operated by Sharia councils. Sometimes mosques have a Sharia divorce service and sometimes individual imams and scholars do. If we are looking at how we can tackle



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this issue of discrimination against women during the Sharia divorce process, we also need to be looking at the other two services—that is a key point.

So, why do women go there? When women get married they will have a religious marriage. Once that union breaks down, her only option to get out of that religious marriage is to get a religious divorce. Some women will have only a faith-based marriage, so that is their only option. If women also had a civil marriage, they will go to the civil court and get a civil divorce. I feel that that civil divorce should also count as an Islamic divorce, because, if I went to Pakistan with that civil divorce, it would count as an Islamic divorce. When you go to the Sharia councils, what they should probably do is just say, "It counts." There is actually a demand for it; the woman herself will probably want that Islamic stamp of approval. Even if the imam said, "Do you know what? This counts"—not that they do, but they should—she would still want that. By the way, that is women across the religious spectrum but also across educational backgrounds. Women with PhDs will want that Islamic stamp of approval. The woman will then feel that she can move on and she is completely free. In the eyes of the community and her family, if she did not get that religious divorce—if she said, "Look, I've got my civil divorce"—she would still be seen as married, and she would not be able to move on and get married again should she want to do that. So that is really the role that Sharia divorces play.

Yes, there is discrimination, but I want to be clear that it is unfair to say that every Sharia divorce user has a terrible service, because some have quite a quick, speedy service and get their divorce very quickly. However, we do not know how many. People call our helpline about 39 different issues, and Sharia divorce is in the top five, but those who have a positive experience are not going to call us up and say, "Do you know what? I had a really quick divorce." Yes, there are issues that need to be challenged, so we welcome both inquiries. There is no such thing as bad and good Sharia councils. People sometimes say, "Oh, that's a good one; that's a bad one." Actually, we have had good and bad from all of them. We need to try to pin down why some Muslim women can get a good service and others can go to the same service and get terrible treatment. We need to unpick why that is.

Chair: Okay, we'll come back to some of the detail.

Dr Manea: In a country that prides itself on respect for human rights and women's rights, it is very interesting to see that many women of Islamic faith are left in a system that more or less abuses them. Instead of one law applying to everyone, women are more or less pushed to use a certain parallel system of justice. I appeal to you to consider the type of law that is being applied.

Why is abuse taking place? Women are going to Sharia councils because they would like to get a religious divorce. Sometimes, they find that Sharia councils are the only recourse for them to get a divorce—I understand that—but at the same time, the type of Islamic law that is being



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implemented in those Sharia councils is often what one might call an anthropological type: something that is taken out of its context and implemented without much regard for the developments that have taken place in many Islamic countries or the types of progressive laws that can be developed in this respect. Unfortunately, the type of Islamic law that is being implemented looks at a woman as a perpetual minor—someone who needs to have a certain kind of guardian regardless, before and afterwards.

If I look at Sharia councils, according to my research, yes, you have those that will try very much to help women in difficult situations and you have those that are abusing those women, but in general, the framework within which they are working is one that is inherently discriminatory against women. Specifically, we know that these types of jurists' opinions were promulgated in a certain period between the 7th and 10th centuries, and I believe that they reflect the social norms and historical perspective of that time. It is very interesting that here in Britain, we would like to take the most rigid interpretation of Islamic law and disregard all the developments that are taking place in other countries of Islamic faith and more or less helping women.

Maryam Namazie: Thank you for having me here. I represent One Law for All, a coalition of organisations that includes Southall Black Sisters, the Iranian and Kurdish Women's Rights Organisation, the Centre for Secular Space and British Muslims for Secular Democracy, as well as other groups. We include Muslim and non-Muslim women who are working together on this issue. We believe that Sharia courts play a very negative role in the lives of women. We think that, in content and structure, they are discriminatory against women, and to try to find good or bad when the law itself discriminates against women is problematic. We think that women should have access to one secular law for all.

If you look at the creation of the Sharia courts, they came in the mid-1980s. They are a result of the rise of the political Islamic movement internationally, the repercussions of which we have seen here in Britain and in Europe. If you talk to older women who were living in Britain prior to this period, none of them were required or pressured to go to Sharia court. There was no need for this sort of divorce. In the past they would get civil divorces, which are acceptable in Pakistan, Iran and elsewhere. In a sense, we see this as part of the rise of the Islamist movement. It is one of their projects to manage and control women. They created a problem, and then they came forward and pretended that Sharia courts were the solution to the problem that they had created. It is highly problematic.

We need to look fundamentally at why women from minority backgrounds should have different rights and rules applied to them. Why are we not stressing one law for all? In any sort of religious law—not just Sharia courts but Beth Dins and any sort of parallel legal system where religious arbitration is at play—you will find that women are discriminated against because of the nature of these sorts of rules.

Chair: Thank you very much. I will bring in the other Committee members



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to ask questions to follow that up. Don't feel the need to answer every question unless the Committee member is directing the question at you and asking you specifically to respond.

- Q4 **Nusrat Ghani:** Thank you so much for coming along to give evidence today. I think you all agree that the primary reason why people go to a Sharia council is to achieve a divorce, and the majority of people going forward are probably women. We all agree on that. If a woman is going forward to achieve a Sharia divorce, she is seeking a divorce from male Sharia councillors or imams. Those are the overriding people who can decide that for her—a panel of men.

Zlakha Ahmed: It depends on which Sharia council you go to and who makes up the panel. That is one of the issues we have in this country at the moment. A lot of the Islamic Sharia councils are majority men. Internally, for us as Muslim women, that is something that we are fighting.

- Q5 **Nusrat Ghani:** It is an issue?

Zlakha Ahmed: Yes.

- Q6 **Nusrat Ghani:** It will be the male imams who provide the divorce for the woman? Is there no council in the UK where a woman can provide a divorce for a woman?

Shaista Gohir: I know that you have the third panel, and this is about the role that women play. At the moment, whether you go to the mosque, the Sharia council or the individual imam, it is men, and we think that women need to play a key role in the decision making and not just act in an advisory capacity. This is one of the many recommendations that we are making on Sharia councils. Women need to be involved in the decision making, yes.

- Q7 **Nusrat Ghani:** Involving women in the decision making is one issue. If a woman is going forward to achieve a divorce, she may have gone through a difficult marriage and may already be vulnerable—she may already have been abused at the hands of men—and then she has to go to present her case to another panel of men and justify why she needs to achieve a divorce. Do you think that is a reasonable thing for a woman to go through?

Maryam Namazie: This is one of the things shown in our research, as well as in the testimonies that we have gathered. The Iranian and Kurdish Women's Rights Organisation, for example, has found that in the cases it has received the process of these courts is in itself tantamount to abuse because it continues to perpetrate the sort of abuse that these women have faced. It very often justifies the domestic violence they have faced, and very often women are told to stay silent—they are not allowed to speak and defend themselves. The aim of the councils is very often to keep the family together because, don't forget, men have a unilateral right to divorce, which is why women are going to these councils. A woman's right to divorce is very limited. If the husband refuses to give her a divorce, because he can marry more than one wife, she then needs a khula divorce where she actually has to give up all of the financial dowry



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involved in order to get that divorce and be free, so in a sense it is stacked up against women.

- Q8 Nusrat Ghani:** The khula divorce can be discussed on either side, and I know that Shaista want to come in, but I just want to get back to the point. If a woman wants to get a khula divorce, or if she tries to achieve the divorce, it will be a male who allows her to get that. There is no female who can allow her to have a divorce. I am just trying to put together the scene when she enters the room and tries to bid to get a divorce, especially if she is a vulnerable woman who has already been abused at the hands of men. She has to pitch to another panel of men to achieve a divorce.

Dr Manea: With the one exception: the Birmingham Sharia council, where you have one woman who is basically present during—

Nusrat Ghani: Present, but she is not the most senior person on the panel.

Dr Manea: That was the point: if you have a woman on those Sharia councils, and those women are using the same frame of reference, we have a problem.

- Q9 Nusrat Ghani:** I want to get on to that. A huge amount of work has been done in this country over the past 50 or 60 years. We have got a lot of lawyers on the panel, so hopefully I am not going to make any mistakes, but the marital rape exemption was overturned in 1991. The Conservative Government did a huge amount of work last year on psychological abuse, and controlling and coercive behaviour within relationships. If under Sharia law you require a man to give you a divorce, is that not already coercive and controlling behaviour? That is a question I would like to discuss.

Shaista Gohir: I think we need an educational campaign on the issue of marriage and divorce. Let's actually get to the root of the problem, because we are putting a sticking plaster on to try to fix the divorce process. When a Muslim woman gets married, she gets an Islamic marriage certificate that has lots of conditions in it. One thing is not happening; a Muslim woman does not have an Islamic right to have a condition inserted in the certificate on the delegated right to divorce. If that is inserted in there, a Muslim woman can actually divorce her husband without the involvement of her husband. She doesn't need his agreement and she does not need the agreement or involvement of the Sharia council. Let's start there. If we get all of the mosques up and down the country to insert that condition, much of the problem is gone.

When it comes to the actual divorce, the other big problem that is happening in the Sharia councils—I feel like they need an education on Islam sometimes; you don't need a PhD, you just need to look at the law—is that they quite often make the woman go through the khula divorce that Maryam was talking about. However, if someone has actually gone through domestic abuse, that is the fault of the man, so she can get a divorce through faskh. That is a different title, but it means that she



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doesn't have to pay any compensation or any marriage gift. She can be released from that marriage very quickly without any mediation or any pressure. The Sharia councils are not following that and are putting women on to the khula process, which, if the husband disputes it, they bring in whether they need a—

- Q10 **Nusrat Ghani:** Yes, but we have one rule of law in this country, which covers controlling and coercive behaviour. If a woman then has to pitch and beg to a Sharia council to be divorced, is that Sharia council as complicit in controlling and coercive behaviour as her husband who won't divorce her?

Maryam Namazie: I would agree with you. I think the problem is, if we look at the testimonies of the women that we have been getting, there is a huge amount of coercion and pressure. There is the testimony of Shagufta, for example. Because she supported her daughter's right to get a divorce from her husband in a civil court, the daughter's ex-husband said that she was committing zina. That pressure of zina—adultery—laws is used to shame women and sort of coerce them into going to those courts. When Shagufta's daughter talks about how, when she went to those courts, she was not listened to, the violence that she faced was ignored, and how she was at a shelter and the Sharia court gave her address to the husband, who the British court had found to have committed violence. She had an order of protection for herself. In many instances, we see that there is one theoretical discussion but, in practice, we are seeing that it is very coercive towards women.

Zlakha Ahmed: I just wanted to come in and say, in terms of the women we have put forward in the Islamic Sharia councils that we have worked with and the divorces that they have obtained, if in the paperwork we state the domestic violence that the women has gone through, the divorces have been automatic. So for the past 12 years not even a meeting was called. The paperwork would come through the post. In terms of a woman actually having to go and meet a man and tell her story: that was not happening in the cases that we were dealing with.

- Q11 **Nusrat Ghani:** I want to raise one campaign that has been taking place in India, you might already have come across it. It is run by Muslim women in India, who are concerned about the triple talaq. Shaista, you sent a letter to the Committee with 100 signatories that covered your concerns. This charity is supported by 30,000 Muslim women, and this campaign is supported by 70,000 Muslim women concerned about the parallel legal systems in place in India, in which a Muslim woman is treated under Sharia law and a non-Muslim woman is not treated under Sharia law. The issue of talaq came up. If we do not deal with Sharia councils, will we end up with a parallel legal system? In a country like India there are already 70,000 women saying that they are being gender-discriminated, and we could end up in that position here.

Shaista Gohir: We need not to propel the myth of parallel legal systems. The word "legal" means "legally binding", and when you go to a Sharia council, its decisions and opinions are not legally binding. It is a voluntary



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code that we go to and follow, and that women voluntarily go to. Some women may be forced to go there, but the vast majority of women want to get out of a religious and faith-based marriage themselves, unless you are saying that Muslim women do not have a Muslim marriage and do not believe in Islam. They are going to have a faith-based marriage. This is not about a parallel legal system. A Muslim woman will go there to have her religious divorce, and then she will go to the civil courts—if she has a civil marriage—to get a civil divorce. So she is using two systems. We are trying to encourage more women to get a civil marriage. We cannot do that fast enough, and we believe that one of our solutions is to make it compulsory to have a civil marriage before having a religious marriage. That way, at least if a Muslim woman's union breaks down, she can go to the civil courts and get her civil divorce.

We need a campaign to educate everybody into seeing that the civil divorce should count as an Islamic divorce too. That is going to take time. Eventually you will end up with a situation in which Muslim women will be less reliant on Sharia councils and more reliant on the British justice system. This is where the Government need to step in. Most Sharia councils will then be redundant in the future. Surely this is a more pragmatic approach?

Maryam Namazie: I think that they are in fact parallel legal systems. They call themselves courts and judges.

Shaista Gohir: They don't—the media do, you do.

Maryam Namazie: I'm sorry, if you don't mind, please don't interrupt. They do call themselves courts, and they do call themselves judges. That is what a parallel legal system means. It does not necessarily have to have the force of the law behind it, but they do imply that they are the law, and they do tell women that they are not proper Muslims if they do not abide by these rules. That is one of the things that Islamists do: they make it seem as if there is one Sharia law and that it is the Sharia law, and that people who do not abide by it are apostates and so on.

Chair: I know everybody is itching to come in. I am going to keep moving on to other Committee members. If you have not had a chance to make your point at the end, then I will give you a chance in case there are any burning points that you feel you have not responded to. Could we have one question from James Berry, and then David Winnick?

Q12 **James Berry:** I think you agree that if the system is changed so that if you get a civil divorce in the courts, then you are automatically entitled to a rubber-stamping from the Sharia council.

Shaista Gohir: It should do, but that doesn't happen. They make you go through the process.

Q13 **James Berry:** Yes, it ought to happen—you are all agreed on that—but what would happen if there was not a civil marriage in place, and there was only a religious marriage? How would you then say that the system should be reformed to make it as easy—or no more difficult—for a woman



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in a religious marriage to get out of a civil marriage through the High Court in England?

Shaista Gohir: At the moment there are women for whom that is the only option. Because some women do get that discriminatory treatment—we can look at the various examples—they need to raise their standards. There are a number of things they could do. First of all, when they question the woman, they should not question her in a way that makes her feel guilty for wanting a divorce. Sometimes they ask for evidence, and evidence of abuse cannot always be provided if it is emotional abuse. That can further traumatised the person. If you don't even know where your husband lives—sometimes they ask for evidence before you can get out of the marriage—you are going to be stuck.

We need more women in the decision-making part and in collecting the cases, which is what you were talking about, Nusrat. We also need policies and procedures around safeguarding. If they spot any safeguarding issues, it needs to be reported to the police. We need transparency. If you go on a lot of the Sharia council mosque websites, you don't even know who is dealing with your divorce case. They need to be listed, with their biographies—not with pen names, but their proper names. Sometimes people have dual names.

Where the Government could help is in drawing up a really strong code of conduct, and it cannot be just for Sharia councils; it has to be for mosques and imams who perform the Sharia divorce service. We have produced a report with a whole load of recommendations for Sharia councils. Maybe the Government could draw up a list of those who follow all that best practice, so that there is no discrimination. Then at least when women's groups get calls on their helplines—we get plenty—and when lawyers get calls, we know where to refer them to. If they breach that code of practice, you take them off the list, but at least you know where you are referring them to. If that doesn't work, the Government can start looking at some kind of monitoring or regulation. I am not a lawyer, so I don't want to go too much into that. At the same time, strengthen civil law.

Maryam Namazie: Can I make a point?

Chair: I am going to move on. If you haven't had a chance to make the point in response to the other questions—

Dr Manea: I want to respond to this question. You have different types of woman going to the Sharia court and different reasons why they are going. The Government has a responsibility right now to register all these marriages, because they are left unprotected.

Chair: Okay. I will give you a chance at the end to answer any questions you feel you haven't had a chance to respond to. I suspect the Committee's other questions will give you the chance to do so.

Q14 **Mr Winnick:** Since I am not involved in religion in any way, I am obviously not overjoyed about religious courts. Sharia courts deal with Islamic issues, but in all fairness, other religions in the United Kingdom,



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as I understand it, have similar courts. There doesn't seem to be a great deal of controversy about those. Leaving aside the question of how these courts should be composed, which I will come to in a moment, why should Islam be the only religion that is denied what other religions—Jews, Sikhs and Hindus—have?

Zlakha Ahmed: I want to thank the panel for inviting me and my organisation to share our experiences. One of the frustrations we face at the moment in terms of this issue is that it is non-Muslims and other people who are talking on our behalf. I am grateful for this opportunity to put our views forward.

Dr Manea: You are right. Why are we focusing on Islam? I believe the law of the land should apply to everybody, regardless of faith. That means even the other court should be under the civil law. Why are we talking about this? I am of Islamic faith. I practise my religion. I read prayers, but I also understand that my Islamic law needs reform. Until that happens, when you leave a system that basically exploits the most vulnerable, there is a responsibility of care for the state. That is not fulfilled. With all due respect, we are throwing the ball to you, because as a British Government, you have a responsibility to protect the most vulnerable in society. These women are left without protection, specifically if their marriages are not registered.

Mr Winnick: Fortunately, for some of us at least, we are not the present Government, but we make recommendations to the Government.

Dr Manea: I hope you will.

Q15 **Mr Winnick:** Am I right in saying that it is a question not of abolition but reform of Sharia courts? All four of you—if I may say so, without being patronising—have given very strong evidence of how they are prejudiced against women, which is clearly unacceptable. So it is basically reform that you want, not abolition. Am I right?

Dr Manea: Yes, but with all due respect, the one reform that you see in Islamic law in an Islamic country such as Tunisia has rendered the Sharia court redundant. They do not use Sharia courts. In the reform that we see in Tunisia, husband and wife go to civil law and get a divorce on equal terms. That is Islamic law in Tunisia. Why do we have to have another system here? I think we all agree that what we would like—

Shaista Gohir: But that would take time, wouldn't it?

Dr Manea: Yes; until then, we need safeguards and we need also to end this practice.

Zlakha Ahmed: That's where I would come in. I understand what you are saying. Going back to our organisation: if the women that we have supported were not able to go to the Islamic Sharia Council, they would still be in those abusive marriages. We are saying that is not acceptable. If the only way out for them has been to get the Islamic Sharia divorce,



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which has enabled them to move on and live their life in safety and freedom, that is why we are advocating it.

- Q16 **Mr Winnick:** Without possible legislation—obviously all Governments, of whatever colour, would be hesitant when it comes to legislation, but leave that as it may—are you pessimistic about the chances of reform being taken voluntarily, bearing in mind what you have been saying about these courts being so male-dominated and discriminatory against women?

Maryam Namazie: I also think that we can't wait for reform and changes. That is an issue we need to think about. We need to protect women and we need to protect them right away. From my perspective and the coalition I work with, we think that parallel legal systems should be abolished.

- Q17 **Mr Winnick:** Abolished completely?

Maryam Namazie: Abolished, because I think it will protect women more. I know some will say that that means that they will carry on underground. Well, domestic violence continues, but we still have laws against it. When the Government say very clearly that parallel legal systems are unacceptable, it helps to protect the most vulnerable. Some women go freely, they get their rights, but we are talking about the most vulnerable in our society

- Q18 **Mr Winnick:** You don't agree with abolition?

Zlakha Ahmed: I come back to the point that faith is important to these women. Faith is the most important, integral thing in their life.

Chair: Thank you. I am going to move on.

- Q19 **Mr Jayawardena:** Miss Ahmed, you said that the current situation is unacceptable and yet, Miss Gohir, you said that any change will take time. Why should it take time if it is unacceptable?

Shaista Gohir: If the solution is, "Let's abolish them tomorrow", that is not going to fix the problem overnight because a Muslim woman who wants to get out of that marriage is going to want a Sharia divorce service. She is then going to start going to individual imams, who are going to increase their prices, and there will be less transparency and even more discrimination. How is that going to fix the problem overnight?

- Q20 **Mr Jayawardena:** But if it's unacceptable, why should we tolerate any set of separate jurisdiction under Sharia law?

Shaista Gohir: If you're saying it's not acceptable—

Mr Jayawardena: No, I didn't.

Shaista Gohir: But there is no quick fix, because the quick fix, I am assuming, would be abolish it. That makes the situation worse for the very women who you are trying to help. We are talking about Muslim women, so they should be at the heart of the solution. When you talk about DV



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victims and CSE victims, you put them at the heart of the solution; but because it is a matter of faith and Muslim women, I feel in a way that Muslim women are being talked at.

The solutions that we have put forward in this very lengthy report talk about raising the standards for Sharia councils—why can't that be done immediately—while at the same time strengthening civil law. As Muslim women then start to use civil law more, that bit is going to take time—that is the reality of law.

- Q21 **Mr Jayawardena:** Dr Manea, isn't it true that the reforms to Sharia councils have to come from within? If they are not going to remain part of a legal system, they have to come from within Muslim communities across the country. The reality is that elsewhere this is not true.

You made the case for Tunisia earlier: that they accept there that civil law should be at the heart of every decision.

Dr Manea: That means that if we are to solve the problems here, we need changes in the legislation. What does that mean? It means that we have to register all religious marriages. I agree 100% with your suggestion, Ms Gohir, that we have civil marriage. That said, I am for the end of the Sharia court system. In my opinion, it is not going to be reformed, for the simple reason that we understand that very often they will present a fundamentalist interpretation of Islam and of Islamic law.

On the other hand, in order to solve the problem afterwards, women will want to have a religious divorce. How do we deal with that? I documented that in several countries they accept a civil divorce as a religious divorce. We could make sure that, within our system of civil law here, it is done automatically, without the need for a Sharia council.

- Q22 **Mr Jayawardena:** You are saying that essentially we must make it compulsory for everyone to register their marriages in the civil system, regardless of any religious ceremony that they might have.

Dr Manea: Yes. That is very important. It will cause a lot of trouble, but in the long run we will solve the problems. We are trying to protect the woman, because this situation is not sustainable.

- Q23 **Mr Jayawardena:** A yes/no answer from everyone, please: would you agree that everyone should be treated the same under English law?

Maryam Namazie: Yes.

Zlakha Ahmed: Yes.

Shaista Gohir: Yes.

Dr Manea: Yes.

- Q24 **Naz Shah:** A couple of questions. First, Dr Manea, can I pick up on what you said? "The law of the land should apply to all"—those were your words. Is that not already the case? As far as I am concerned, if I walk out and commit a crime, the law of the land will apply to me whether I



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am black or white, male or female. The law of the land does apply to all, doesn't it?

Dr Manea: Not when it comes to Sharia councils.

Naz Shah: Sorry, it is a yes or no. Am I right in saying that the law of this land—the legal system in this country—applies to everybody equally?

Dr Manea: It should be, but it is not done.

- Q25 **Naz Shah:** That brings me to the next question. I enjoy two cultures: I am British and I am Muslim. If I just use my Britishness, I can have a relationship and live with somebody, not have marriage and have a civil partnership. That is open to me. Am I right? As a Muslim, under my code of conduct, if I choose to have a nikah, that is my choice. Why should that be governed by the state, if that is my code of conduct? I am trying to understand why anybody should govern my choices, such as whether I decide to live with a partner. Doesn't that actually go against human rights? You are talking to me about human rights.

Dr Manea: I am very glad that you are using the words "human rights", because at the core of human rights is the issue of how we support and protect women. You and I both practise our religion. When we got married, we had a nikah—well, I had a nikah. But I know very well that these systems are voluntary; I know that I could opt out. A woman in a closed society or a closed community who does not know her rights is left vulnerable to the system. From that perspective, it is about protection of human rights. A system that allows the most vulnerable to be exploited is not a fair system. That is the problem at the core of the issue.

- Q26 **Naz Shah:** Rather than abolishing the system—I made a choice. I am an informed person whose mother served 14 years for killing an abusive partner. I have led a campaign with Southall Black Sisters for 20 years. I am speaking from my experience. I was forced into marriage at 15 years old. I make a choice to choose my religion, so why should the state be policing my choices as a Muslim woman? What I am hearing is that to abolish all of that takes away my human right to have a choice. How do I explain that to Muslim women in my constituency? It wouldn't wash.

Dr Manea: That is a very good argument, but with all due respect what we are saying is that we would like to regulate the right to have a religious divorce in a way that protects the woman.

Naz Shah: I'm all for protection, but I am not for the abolition—I just don't understand it.

Maryam Namazie: There is a difference between the right to religion, which people obviously have, and the right to religious courts. As some Muslim women who are part of our campaign say, Sharia courts are not the sixth pillar of Islam. There are a lot of Muslim women who do not go to Sharia courts and they are still good Muslims. My point is that we are talking about—I am talking about—abolishing a system that is portraying itself by saying to the Government, "We are just a mediation body," whereas it says to the women who go to it that their rules are binding,



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there is no right to appeal and if they don't listen to the rulings, they are not proper Muslims. They are accused of zina, adultery and all sorts of other things.

Q27 **Naz Shah:** I have two questions for you. The first is a yes/no question. You talk about a parallel legal system. Is any decision made by any Sharia council legally binding in this country, according to the law of this land—yes or no?

Maryam Namazie: It doesn't matter if it is legally binding or not.

Q28 **Naz Shah:** I just asked for a yes or no answer.

Maryam Namazie: There is no yes or no, because—

Q29 **Naz Shah:** Yes there is: it is not legally binding.

Maryam Namazie: It doesn't matter if it is not legally binding, because for the women and especially the vulnerable women who go to them—

Q30 **Naz Shah:** So it is not a parallel legal system then, is it?

Maryam Namazie: It is, because it can be the most frightening thing to disobey the rule of God. When you go to a court of God, where they say that the rules are divine and that if you don't abide by these rules, you can go to hell and you are committing zina and apostasy, it makes it very dangerous and difficult.

Q31 **Naz Shah:** But Ms Namazie, according to your blog, which I read earlier, this isn't just about Sharia courts. If we were to look at implementing your view of the world, the majority of discrimination would be faced by the 33 million Christians of this country because you would have away with Christianity and any religious institutions—

Maryam Namazie: This is not about—

Naz Shah: But it is—

Maryam Namazie: No, the difference is—

Q32 **Naz Shah:** What you are saying is that you are denying everybody's religious view on life.

Maryam Namazie: Everyone has a right to religion or to not have a religion. However, it does not mean that because you are Christian, you have to go to an ecclesiastical court for your divorce; if you are Jewish, you have to go to the Beth Din; if you are Muslim, you have to go to the Sharia court; if you are Hindu, you have to go to some Hindutva court. The point is that we are, first and foremost, citizens in this country. There are rights that have been fought for over centuries for women—where they have equal rights, where their testimony is not worth half that of a man's, and where men don't have unilateral rights to divorce. This is about a situation where women have to go through a million loopholes to get their basic right; where domestic violence is considered fine by some sharia judges; where the judge will ask the women, "Did you ask him why he beats you? Is it because you didn't cook dinner, or is it because you are



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going out with your friends?"; where you have a sharia judge saying that marital rape is not a crime and is not an act of aggression, and calling it rape is the act of aggression. In that situation, there is clearly a problem—

Naz Shah: I absolutely agree—

Maryam Namazie: It is not an attack on the right of religion, so please don't make it such.

- Q33 **Naz Shah:** My final point is that I absolutely agree that we have inequalities in the Sharia system. I absolutely agree that one woman abused is one too many. I absolutely hold those values—they absolutely run through me. What I don't agree about, and what I am looking at—in this country we had our first female judge in 1967. Only a few years ago we referred to young CSE victims as child prostitutes. We go through change and what we don't do is throw the baby out with the bathwater. We reform legal systems—that is what we do as lawmakers. We listen to people; we listen to their concerns; and we amend the law accordingly. What we don't do is do away with something that a community finds very valuable. Frankly, the people I have been talking to in the last 24 hours have told me that there is an air of Islamophobia and racism about this whole debate. That needs to be taken into account.

Chair: Okay, I am going to—

Maryam Namazie: May I come back on that, because I am being accused of certain things?

Naz Shah: Sorry, the whole debate—it is not about you.

Chair: Yes, Ms Namazie, you can come back on it, then I will move on to David Burrowes.

Maryam Namazie: The fact of the matter is that you can be critical of religious rules and religious courts and do it out of a defence of women's rights. For example, you don't need to be gay to defend gay rights. You don't need to be a migrant to defend the rights of refugees and migrants, and you don't need to be Muslim, or an adherent of these courts, to see that there is a problem here. I think that that accusation of Islamophobia is often used to silence any criticism of courts that are highly discriminatory. I think we need to have one law for all. People have a right to religion—they absolutely do—and they have a corresponding right to be free from religion as well. We often forget that right. None the less, to say then that we need courts that are looking at the issue of women's rights and the rights in the family from a fundamentalist—from an Islamist—perspective is dangerous and it is leaving the most vulnerable to the mercy of these courts.

- Q34 **Mr Burrowes:** Isn't there a structural problem with Sharia councils, in that fatwas are used to inform decisions of Sharia councils, and will set precedents? Indeed, they can be transnational, going beyond this country's jurisdiction and approach to law. So you can have numerous fatwas, but some could include legitimising polygamy, which would then



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involve decisions being made by Sharia councils that are illegal and unacceptable to this country.

However much you want to bridge the gaps with rights for women and the rest of it, there is this fundamental structural weakness, flaw and problem for Sharia councils based on and influenced by fatwas.

Shaista Gohir: But how many Sharia councils are issuing fatwas? What we need to do is not look at what is happening across the world, but focus the debate on what we are talking about here today, which is the Sharia councils. We talk about who should be talking about what; everyone can talk about this issue, but actually, not Muslim men, even, but Muslim women should be leading the debate.

If this issue was about, say, discrimination against Jewish or Sikh women by their religious institutions, I would not feel comfortable leading that debate, because I would not really understand their religion or their nuances. I might suggest a solution that might not work for them or might make it worse for them. What I would want to do as a women's rights activist—as a human rights activist—is find out what works for them, and support them in whatever solution they wanted that was right for them.

In a similar way, what we are saying is that people need to ask Muslim women what they want. What do they think would fix this? Then everyone should then support the Muslim women to make that happen. The end goal is the same: let's remove the discrimination, let's address the discrimination. We all agree there is discrimination; we're all on the same page. Where we might differ is on how we tackle it and what the solutions are, but the solutions must work for Muslim women.

Q35 **Mr Burrowes:** Are you going to be in control of that, from the fatwa that is providing an influence on the decisions made by the council?

Shaista Gohir: We need to give an example of fatwas, in terms of—

Mr Burrowes: We may all have views and concerns about that. I would like to ask the question to the rest of the panel.

Maryam Namazie: That is an important point. The fact of the matter is that many of the courts are run by groups that are part of the transnational Islamist movement—the Deobandis, the Ahl al-Hadith, which are the Salafis of south Asia. There are clear links with the Islamist movements and these courts, even in our countries—I was born in Iran.

The Sharia courts in many of our countries in the Middle East and North Africa, and also in Britain, have been linked with the rise of that movement, so I think it is of concern. It is not just a British problem; it is something we are seeing across the board. You have the Islamist groups in India, for example, fighting for the right for men to have triple talaq, which Nusrat Ghani mentioned. You have groups here fighting for the same rights. There are those links, and they very clearly exist.

Zlakha Ahmed: Lots of things have been said that I want to react to, but it isn't the appropriate time. For example, on the reason why I dress the



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way I do, it is my choice. I am not conservative, and I am not fundamentalist. The local mosque that I belong to in Rotherham is, in a way, far less practising than I am, so I have an issue with the fact that a lot of this discussion is bringing in and linking conservatism and fundamentalism with Islamic councils and the mosques.

For me, it is part of what you were saying, David; it is to do with Islamophobia. Women like me who are educated, and have lots of experience, are choosing this, as Naz said. Faith is important to us. Many of the women we are getting, as well as housewives, are also educated women. The Islamic divorce is very important. For us, whatever the solution out of this is—

Q36 Mr Burrowes: As much as you may have your view and personal choices, the fatwas may well set precedents that could be illegal or unacceptable to British citizens, which we all are. For all the concerns we may have, there may well be a structural flaw that is impossible to get over.

Zlakha Ahmed: For me, the solution would be to look at, for example, the issues around the Islamic divorce, and have those identified, accepted and put into law, and not to look at the issues that are not compatible.

Dr Manea: I am worried about the tendency that every time someone comes out with a legitimate critique of certain practices or groups, that person will be labelled Islamophobic. There is a political dimension to the issue, whether we like it or not. The first Sharia council was created in 1982. Those who created it have transnational Islamist movements such as Jamaat-e-Islami and the Salafi movement—all of those. That said, it came within a political context in which Islamism was on the rise.

There is a political dimension that we cannot ignore. That said, I am not excluding the facts. Because of the re-Islamisation that took place in Britain, specifically in certain closed communities, a certain kind of need arose. I showed that in the book. Certain concerned people are trying to solve the problem for and help women who are stuck in religious marriages and who would like to have religious divorces. Not everybody is an Islamist, but there is an Islamist dimension to this. That said, yes, a religious divorce is important. This discussion should not be led only by women of faith. It is about citizens.

Chair: I have let this panel run on because I think your evidence is extremely important and has been illuminating. However, I still want Chuka Umunna and Tim Loughton to ask questions before we move on to the next panel.

Q37 Mr Umunna: Thank you all for coming to give evidence. This is a fascinating discussion, and I do not want you to presuppose that any of my questions reveal my own thoughts. I come to this with an open mind. Ms Gohir, you said that this is not a parallel legal system, that it should not be seen as such, and that we are talking about councils, not courts. If that is the case, why is there a need to translate across a civil divorce into the way in which the Sharia councils operate?



Shaista Gohir: Sorry, what do you mean by that?

Mr Umunna: You are saying that it is not a parallel system, but you are saying that the force of a civil divorce needs to be recognised by the Sharia councils. Do you see the conflict between those two statements?

Shaista Gohir: I don't, because in Islam, there are certain principles. The principles that are followed when you go through a civil divorce follow a very similar process. It counts as an Islamic divorce. We are saying, why go through the same process? If it did not, obviously we would not say that.

Q38 **Mr Umunna:** I hope you do not mind me cutting in, but I want to get to the nub of the matter. That is your interpretation of whether a civil divorce sits easily with the perception of what a Sharia divorce would be. That is your perception. From the evidence that has been given, it seems that you have all said that different interpretations are given to Sharia law by different councils. That might be your view, but others may come to a different view because they have a different interpretation.

Shaista Gohir: In all honesty, I think that a lot of Sharia councils will probably agree that civil divorce does count. Hence, if you go to a lot of them, they say, "Go and get that first. Then come to us." It makes their process a lot quicker.

Q39 **Mr Umunna:** I am going to cut you off there, because we do not have much time, as the Chair said. Going back to the argument that there is a conflict between Sharia and UK law, I am a lawyer by training, though not a family or matrimonial lawyer. It seems to me—I am probably mispronouncing this, but people mispronounce my name all the time, so perhaps that gives me permission—that the concept of the talaq, by which I understand that a man can get a unilateral divorce on his own initiative, is not something we have in UK divorce law. Clearly, those two concepts do not necessarily sit easily with each other. Would you at least concede that there is a conflict there between Sharia and UK law?

Shaista Gohir: It would be good to give an example of a case study. We had a case of someone who came in last Wednesday. Her husband has gone through the civil—he is the petitioner, so he has given her the divorce. If you look at what happens in Islam, he can say—

Q40 **Mr Umunna:** In the council, that is, not in UK law?

Shaista Gohir: Yes. There are different ways. He could just divorce her; he could go to the council and get a certificate. If it was a Muslim country, he could go to the court. In fact, in some Muslim countries a man can't just get an instantaneous divorce; he would have to go through the court system. But it is him saying, "I want to divorce you", for whatever reason. In the particular case study we got from last Wednesday, he is the petitioner, and she has got the decree absolute. She has now gone to the Sharia council. If he has given her a divorce, and it is in writing—and at the bare minimum, in Islam, you can even give it verbally—that should count; that should suffice. They know that, yet they made her go through



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the process, not because they think that that doesn't count, but because they want to earn a fee. They are going to miss out on a fee of £400. At best, they could probably say, "We know this counts. For a bit of an admin fee, to give you a certificate, we could charge you £40 or £50." But they don't, because it is £400 that they are missing out on.

- Q41 **Mr Umunna:** That still doesn't get round the point that I am making, which is that talaq is not a concept that we have in UK law in the way that it is understood in Sharia law.

Dr Manea, you said—and this picks up on my question about the interpretation—that these Sharia councils very often represent a fundamentalist interpretation of Islam. That was your description of them. How on earth are you measuring that? Where is your evidence for that?

Dr Manea: Because you have a certain kind of spectrum on where you stand when it comes to Islamic law.

- Q42 **Mr Umunna:** I understand that, but how are you measuring it?

Dr Manea: I am looking at the type of evidence, and the kind of decision they are taking. I will give you one example.

- Q43 **Mr Umunna:** I am asking for empirical evidence to support that very general, sweeping statement about all Sharia councils. All four of you will be able to give us untold numbers of case studies, which is very useful, but what I am asking is, what is the empirical evidence behind your claim that Sharia councils often represent a fundamentalist interpretation of Islam?

Dr Manea: You just have to look at all types of verdicts that are being made within these Islamic Sharia councils.

- Q44 **Mr Umunna:** Has someone counted this?

Dr Manea: You could look at them through the type of testimonies that we have, from front-line organisations. When you are declined your Islamic divorce, despite the fact that you have a civil divorce, that is an indication that that is a fundamentalist interpretation.

- Q45 **Mr Umunna:** My point is that you do not actually have empirical data to support what you are saying. You cannot tell us, "This percentage of findings by Sharia councils is fundamentalist." It goes back to the question: what is fundamentalist? That is a very subjective judgment. Let me go to my final question before the Chair cuts me off.

Dr Manea: If I may say, how do you describe a progressive Islamic interpretation?

- Q46 **Mr Umunna:** You tell me.

Dr Manea: I'll tell you. It is something that allows us to have equal rights in front of the law. Treat us not as minor. We have experiences from in different Islamic countries in which I did research—in the Arabian peninsula, in Syria, in the South African courts, and from Muslims under



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Islamic law, and here. I am in a position to compare the types of verdict in certain countries with what happens here in Britain.

- Q47 **Mr Umunna:** This goes to the heart of the matter. As you said that, I thought, "Here's another contradiction in what you are saying." Your complaint seems to be that we shouldn't be treating women as minors.

Dr Manea: Yes.

Mr Umunna: But at the same time, you are suggesting that many women are not aware that they do not have to abide by the findings of a Sharia council because they do not have knowledge of UK law and their rights in the way that many other people would. Some might say that is a bit patronising. I'm not saying that I am saying that, but could you respond to that?

Secondly, isn't the issue really the extent to which Muslim women are aware of their rights under UK law? Achieving what you are seeking to achieve—I don't think anybody in this room would disagree with your concerns about ensuring that people's human rights are protected—is, in the end, about the woman's knowledge of her legal rights. Surely it would be more productive to focus on that than on abolishing Sharia councils—or, to use Naz Shah's words, throwing the baby out with the bathwater.

Dr Manea: Is it patronising to demand that? No, it's not. Why? We are talking about women working and talking from within communities. You once wrote a report about sexual abuse. You talked about the shame and the burden of honour. You have a system in closed communities where women are the bearers of shame and honour. In that system, are you expecting women to make informed choices? We know what is happening there. In order for us to talk about not patronising us, I suggest one law for all that protects us, but in a way that also respects our religious rights.

- Q48 **Mr Umunna:** What about this point of knowledge being power?

Chair: I think we need to move on.

Shaista Gohir: Can I just say that we have produced a booklet, so that Muslim women know about their rights regarding marriage and divorce?

Chair: You can send that in afterwards, but I really need to move on. This evidence session has already run for an hour. I am going to take Tim Loughton's questions, and then we are going to move on to the next session. I thank everybody for their patience.

- Q49 **Tim Loughton:** Can I ask a simple question without instigating a debate? What changes could be made to the marriage law to reduce the current dependence on and demand for Sharia councils in this country?

Shaista Gohir: I am asking for two things. The first, which I keep repeating, is to make civil marriage compulsory before the Islamic marriage. That would mean that if an imam did not get the evidence, he couldn't perform it, and that if he did perform it without the evidence, he would get fined. They would soon stop doing it.



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Tim Loughton: So make it a criminal offence.

Shaista Gohir: Yes. If they were fined, they would soon stop doing it. That would also help to sort out the issue of polygamy, which I feel, anecdotally, is on the rise.

The other thing I would ask for is an amendment to the Divorce (Religious Marriages) Act 2002, which currently applies only to Jewish women. That would not help every Muslim woman, but it would help some Muslim women. Sometimes the husband will say to the woman, "I won't contest the religious divorce, if you give me a more favourable settlement in the civil court of law, in terms of custody and finance." What then happens is that the woman will comply to speed up her religious divorce. If we amended that Act, the judge could withhold the civil divorce and ensure that the man gives her the divorce. It would be cheaper for her if he instigates the divorce. She would save money and the trauma of going through the religious divorce process.

Q50 **Tim Loughton:** Okay, so those changes could virtually eliminate the need for Sharia court involvement.

Shaista Gohir: Eventually, they would become redundant, because you wouldn't really need them, except perhaps for the odd case.

Maryam Namazie: But you don't need the Sharia courts right now, either. You didn't need them before 1982.

Q51 **Tim Loughton:** I'm not asking whether you need them. They exist, whether or not you think there is a need for them. We have had an answer from Shaista Gohir on what would eliminate their purpose.

Maryam Namazie: We should not forget the fact that these courts are violating women's rights as we speak. That is something that needs to be addressed.

Q52 **Tim Loughton:** Okay, but that is not the question I asked. Let me go on to a second point. A study of Muslim women living in the west midlands revealed that, of those who consider themselves married, 90% were not in marriages legally recognised by English law. Worryingly, over half of those women were not aware that they did not have the same rights as they would with a civil marriage. Why is there such "ignorance" about the status of these marriages?

Dr Manea: You have a situation where basically women are not informed. They don't know, for instance, that if they married outside the country, their marriage is covered by international private law, so it is recognised here. Certainly, lack of information is causing a big problem. In addition, you sometimes have a situation where men and women are getting into a religious marriage, but they want to test the situation; they don't want to test a relationship. Mostly, however, you have a situation where men are deliberately misleading women when it comes to their rights. More or less, it is a deliberate attempt to hinder the woman from being protected under the civil law.



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Q53 Tim Loughton: What is being done to counter women being misled into thinking that they are in a marriage that has the same safeguards as a civil marriage in this country?

Dr Manea: I believe there are several measures that should be done.

Q54 Tim Loughton: What is being done?

Maryam Namazie: Lots of women's rights groups are working to protect vulnerable women, from Southall Black Sisters to Iranian and Kurdish Women's Rights Organisation.

Q55 Tim Loughton: What's the estimate of how many of these unregistered marriages there actually are in the UK?

Dr Manea: We don't have numbers, unfortunately.

Zlakha Ahmed: Part of the issue that maybe hasn't been raised is that women have said that spirituality and faith matter. For a lot of women, even if they are educated, what they don't realise is the protection that the civil marriages give.

Q56 Tim Loughton: Can we go back to my question about how many of these unregistered marriages we estimate there are? An awful lot of those women are under a delusion that they are protected by the law, which clearly they are not.

Shaista Gohir: No one knows the precise figures. We have tried to have a go at giving an estimate. When people call the helpline about divorce, or Sharia divorce, we ask them the question: "Is your marriage legally valid?". They may have been married abroad; that is part of the confusion, because those nikahs or Islamic marriages abroad are legally recognised here, but Islamic marriages here are not. According to our statistics, in about 40% of the cases we deal with, they are not in legally recognised marriages. That kind of tallies with information from Birmingham Central mosque, which, from their case studies and divorce cases, have come up with a similar figure. I am not saying it is 30% to 40%, but it is probably thereabouts.

Q57 Tim Loughton: So it is a large portion. What is that in actual number terms?

Shaista Gohir: I don't know what proportion of the Muslim community is married. It would be good if the civil registry could record faith as well. We could do with better data collection on that.

Tim Loughton: So there is no empirical research?

Q58 Chair: I thank all of you for giving evidence, and also for your patience. We have run this session on for considerably longer than was scheduled. That was partly because all of your evidence has been immensely illuminating. Can I ask for just one sentence in conclusion on what you think the Government should do?

Dr Manea: Register all religious marriages.

Zlakha Ahmed: I agree with Dr Manea.

Shaista Gohir: Accountability of Sharia councils, strengthen civil law and put Muslim women at the heart of the solutions that work for them.

Maryam Namazie: Muslim women are not a homogenous group. We have to look at citizenship and the fact that these courts are violating people's rights. The Government should show that it has no tolerance for parallel legal systems.

Chair: Thank you very much. We really appreciate your time and your evidence.

Examination of witnesses

Witnesses: Miranda Fisher and Ismet Rawat.

Chair: Thank you very much for coming to the inquiry. We want to concentrate on some of the legal issues in this evidence session. I will go straight to the Committee members.

Q59 **Nusrat Ghani:** We heard some very robust evidence earlier, but one thing on which we can all agree is that we don't know how many Sharia councils there are in this country. We don't know how many people are visiting Sharia councils. We don't even know how many mosques and imams are registered in this country. It is a very complex scenario.

There is some concern that a parallel justice system is being played out. Even though they are Sharia councils, not Sharia courts, women are going forward to them to resolve their domestic situations, and a decision might possibly be made on how they manage their children and property. There is some concern in the evidence we have received that that contradicts the rule of the land. So much has been achieved in the past 50 or 60 years that will not be reflected in laws and decisions made many, many generations ago.

This is my first question. I have spoken about rape within marriage and about coercive and controlling behaviour. You have to deal with cases that are possibly linked to Sharia councils. How do Sharia councils recognise rape and controlling and coercive behaviour within marriage?

Ismet Rawat: You have outlined a very wide number of issues.

Nusrat Ghani: Just controlling and coercive behaviour and rape within marriage.

Ismet Rawat: I was talking about your preliminary comments. On controlling and coercive behaviour, you spoke earlier about a woman having to go before a tribunal of men. Where she is vulnerable and has been the victim of domestic violence, a woman does not necessarily have to go before a panel of men. A lot of this can be done in writing and by email.

Q60 **Nusrat Ghani:** But not in an organised fashion. She has no idea where



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she is going to go until she finds a council, and then she has to adhere to the council's rules. Going in, she has no authority to demand which panel sees her.

Ismet Rawat: It is not about having authority. It is about petitioning a council for a religious khula, which is a woman's resignation from the marital contract. The woman issues a petition, and one of the issues that needs to be looked at here is regulation. We have financial and legal ombudsmen, HM inspectorate of prisons, the Crown Prosecution Service and so on. Certainly regulation would bring in standardised consistency.

I have used the service personally, I have assisted people and I have helped people professionally and in a voluntary capacity. I have experience with two or three councils, so I cannot speak nationwide. In the councils I have had experience with, a woman making a petition can email or write. They are not necessarily going before a panel of men, and they can also email. There is a very wide number of grounds on which a woman can petition for a khula, and those include lack of financial support, abusive behaviour, controlling behaviour, coercive behaviour and even if the husband is not providing conjugal rights. There is a very wide range of grounds.

- Q61 **Nusrat Ghani:** But there is no register of how the councils practice or where they exist. There is no uniform behaviour across all of them, which is a concern that was raised by the first panel. There is no way of knowing what experience any woman might have at any point when she goes forward. Sometimes some Sharia councils can do great work on a Monday but there is no guarantee that there will be great work on a Friday. Some Sharia councils probably provide a very swift service and some might not. We just don't know how many exist in this country, and we haven't monitored what kind of services they are providing. We don't even know what they charge. We have evidence that Sharia councils will charge a particular fee for a divorce on a Monday and a different fee the following week. A woman might get a very chaotic service when she is already quite vulnerable.

Ismet Rawat: It may differ from council to council. I don't think the same council will be charging one thing on a Monday and another on a Friday, but it goes back to regulation, inspection and perhaps having an overarching national framework that would address those issues.

- Q62 **Nusrat Ghani:** At the moment, there is no regulation and no monitoring.

Ismet Rawat: But there's no reason why there can't be.

- Q63 **Nusrat Ghani:** But at the moment there isn't. We are just trying to work out what situation is in play at the moment. At the moment there isn't. So there is no basic duty of care, there is no inspection, there is no way of us knowing what service any woman might get at any point in time. Some might get a good service, some might get a bad service.

What we do know is that a woman is relying on a man, generally, to enable her to get a divorce. She can either petition and it can be swift, or she can petition and it could take a while. What we all know from the



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work that we have come across in domestic violence is that a woman is most vulnerable in domestic violence when she is about to leave her partner. Then to be challenged on why she wants a divorce or to have contrary advice to the rule of law in this country must be incredibly damaging.

Ismet Rawat: You say challenge. I have already outlined that there is a very wide number of grounds from which one can petition for a khula. It is not the job of the Sharia council or the members to question or challenge or cross-examine the woman. The woman puts forward her argument and the man is then asked. He is then contacted by the council and asked to respond. If he doesn't respond, he is written to again. If he doesn't respond, he is written to on a third occasion. If he still does not respond, the woman is granted the khula. As far as I am aware—I can only speak to what I am aware of—there are no challenges or cross-examination.

You speak of inconsistency. I have been in the courts in the criminal and civil jurisdictions for 24 years, and we can all speak of varying degrees of experience in the courts. One day a judge can be great, another day a judge can be entirely unreasonable. This is not something that is unique to Sharia councils. I was with the Crown Prosecution Service for nearly 17 years. A lot of victims unfortunately had very distressing experiences and were re-victimised by the criminal justice system.

Q64 **Nusrat Ghani:** I have an example of a distressing experience that Shaista Gohir put in her book that she was promoting earlier. She was also concerned about the lack of female Muslim voices. This is Amira's story: "Amira wanted a divorce because her husband had married again. He was regularly watching porn and then raping her. He had also given Amira a sexually transmitted infection." This is in her report. "When she contacted the Sharia council for a divorce, they pressured Amira into a mediation which she did not want. As the Sharia council was in another city, they instructed her to visit a religious adviser for the mediation who was in her locality. Amira was expected to visit this man at his home alone. When she visited him, he asked Amira very personal questions about her sex life, despite her testimony of rape, etc."

There are examples of Amira's story littered throughout the piece of research that has been put together by Shaista Gohir. How are these women getting this service at Sharia council?

Ismet Rawat: Clearly that woman isn't, but there is a paucity of empirical data. Empirical data in itself will rely on a particular cohort. If you are going to do a report, obviously it is going to depend on the cohort you have. You will often find that it is going to be negative experiences. That is not to belittle or undermine them. You will often find that it is people who have sadly and tragically had a very negative experience who will come forward. Sadly, we are not a society where good news or good practice is shouted from the rooftops. You will get stories like that.

That is astounding on any religious practice level. I am a Muslim woman. I am not a particularly practising Muslim woman, but I consider myself to be one and I know something about Sharia law. It would be astounding that



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anybody would ask a woman to go and visit a male at their home. One would question, are they legitimately acting as a Sharia council.

There are a lot of anecdotal stories, but you need to dig under that and you need to probe and ask questions. I have had many clients—one of my main areas of practice is family law—and the majority of my clients are Muslim, about 90% from south-east Asian, Arab and North African backgrounds. They have varying cultural perspectives, including clients who have gone to Sharia councils. I have used a Sharia council myself.

- Q65 **Nusrat Ghani:** Having an organised way of monitoring them, registering them and seeing the work that they do would be one way of going forward and guaranteeing that women were given some sort of a standard of service. Is that correct?

Ismet Rawat: Yes.

- Q66 **Nusrat Ghani:** They charge, don't they? We have had lots of evidence that they charge differing amounts for differing scenarios. If they are charging women and then providing them with a divorce, if the way that they deliver that divorce and how they decide that family should be split up or put together, is contrary to the rule of law, and they have charged a fee, what right does that woman have to sue them, if the woman was given inaccurate information contrary to the rule of law?

Ismet Rawat: Okay that's two issues that you have raised. What was the first?

Nusrat Ghani: Charging. But I just want to put that question: can a woman sue a Sharia council for giving her advice that is contrary to the rule of law?

Ismet Rawat: Sorry, I wanted to say something specifically to the first part of what you said. You referred to inspections and standardising, and that is something that I discussed last week over the telephone about ombudsmen and so on. When you have any form of inspectorate or overview, the one important thing is that it has to also be a fair and objective system. If it is not fair and objective then it will not be fit for purpose. That is always going to be my caveat in relation to these things. I have lived through the Macpherson inquiry, the Denman report and so on.

In terms of charging, as far as I am aware, one council charges £400, but you are exempt from that if you are on benefits. The £400 covers the whole process, which can take three to four months. That can involve three meetings if both parties wish to be heard, together with their supporters. The petition—the D8 form for a civil divorce in this country—is £410, and then there are legal fees and so on. I cannot speak for councils generally, but if there was a standardised charge, people would know what they had to pay for and what it covered.

We keep saying "women", and I know we are focussing on women, but Sharia councils do a lot more than that. They also provide a counselling service. The one that I and others have accessed charged £10 for an hour,



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and we were with the guy for two hours. They do counselling for people who do not want to separate, so it is not the only work they do. In terms of a woman suing for inaccurate advice according to the law of the land, Sharia councils do not—as far as I am aware—say that they are giving you the law of the land. We are a mediation and arbitration service.

Nusrat Ghani: But they are providing divorces, and they provide advice to women on how they can manage their life going forward.

Ismet Rawat: Religious divorces.

Q67 **Nusrat Ghani:** If that has been taken up and then the woman finds out that she could have had a different service or a different way of managing her children or inheritance, and that it was contrary to the advice that was given to her and she has paid a fee, surely she should be able to sue the Sharia council?

Ismet Rawat: Everybody's got a right to sue everybody. It doesn't mean that there is going to be a prospect of success. If you are going to a Sharia council and you are asking for advice—not just on the dissolution of a marriage but also about children, custody, inheritance and so on—you are making a choice to go to an alternative mediation and arbitration service. If you are not happy with that service, then every service—this would be a standardised service—would have a complaints procedure. The rule of this land is that if there is an internal complaints procedure you go through that procedure, be it in the NHS, a local authority or anything else. If you are not happy with that, you would go through the ombudsman if there was one. At the moment, you could sue if you wanted to. You could bring a civil claim, but you would have to identify what route you were going to take. I could go down that road but I don't think we have time for that.

Q68 **Chair:** Are you advocating an ombudsman, or a standardised or regulated approach?

Ismet Rawat: I am, with the caveat that I have already outlined.

Q69 **Chair:** Who do you think should provide it?

Ismet Rawat: I think it should be an independent body, just as the inspectorates are and the financial ombudsmen are and so on.

Q70 **Chair:** With a statutory basis?

Ismet Rawat: I'm not sure about a statutory basis. There has to be fairness as well. You have the national Catholic advisory service and the Beth Din and so on. The question that was asked was, "Why is it that Muslim Sharia councils are being raised?" There are other religious councils, so why are the Muslim councils being raised? Maybe it was Mr Winnick who asked the question.

Mr Winnick *indicated assent.*

Ismet Rawat: He is nodding. It seems that there is more of an issue regarding Sharia councils. I cannot gauge to what extent that is accurate,



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to what extent that is media portrayal and to what extent that is anecdotal.

- Q71 **Chair:** Do you think that there is interest among Sharia councils in setting up such an ombudsman?

Ismet Rawat: From the people I have spoken to in London, Birmingham and Manchester, I have not seen any opposition to that. If there were an overarching ombudsman in relation to alternative mediation and arbitration services provided by faith groups—that would be an overarching service that if people are dissatisfied with the Beth Din or with anything, they can go equally—you would get that standardised framework across all faith groups.

- Q72 **James Berry:** I should say at the beginning that I am a barrister, although I don't think we have ever met in a legal or any other capacity, nor in a Sharia court.

Ismet Rawat: The mind boggles!

- Q73 **James Berry:** No, it was very boring.

From the first panel, it was clear that about 90% of the problem—if there is a problem—is around marriages and that a lot of that would fall away if all civil marriages, when they came to an end through an order of the High Court, were rubber-stamped in the Sharia courts. But there would still be a separate issue about marriages that were not civil marriages in this country, so religious marriages from abroad.

As lawyers, can you tell us how the Government could ensure that all non-civil marriages or religious marriages are converted into civil marriages in this country? How could that work legally and how could the Government encourage it?

Ismet Rawat: I think it was Mr Burrowes who referred to the fundamental issue with structures and you mentioned the polygamous nature that, in common with Mormons and so on, a Muslim man can marry more than one wife. You would have that issue in terms of a civil registration. What happens for women who are perhaps the second or third wife is that they are common-law partners.

We are also responding to the Law Commission consultation on weddings and marriages, which closed yesterday. There are jurisdictions that provide for official recognition of civil partners. Australia does it, Canada does it and it can be done. There should be a civil registration, but it also needs to be recognised that a lot of Muslim women, especially professional women over the last five to eight years, are choosing not to have a civil registration for varying reasons. Some have been married before, they have built up their own assets and in the event of the relationship not working out they don't want to go through a civil divorce and potentially risk losing some of their assets.

- Q74 **Mr Jayawardena:** On child custody matters, I have a few questions in that direction, because child custody should be—I hope you agree—solely



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under the jurisdiction of the civil courts in the United Kingdom. That is beyond the scope of Sharia councils. There have, however, been many reported instances of women being granted sole custody by a court in this country but encountering subsequent rulings by Sharia judges reversing that decision. What is your view on that?

Ismet Rawat: You say many reports, but it is the first time I have heard that.

- Q75 **Mr Jayawardena:** Okay, I will give you a specific example: a civil divorce was granted within six months after a woman did not see her husband for six years, but a Sharia council refused the divorce and wanted her to pay to take her young child back to her husband in Pakistan. That was on BBC "Panorama" in a programme called "The Secrets of Britain's Sharia Councils".

Ismet Rawat: So it must be true. Sorry. It was the BBC.

- Q76 **Mr Jayawardena:** Well, you need to take it up with the BBC if you think it was not true.

Ismet Rawat: If it was the BBC or Sky or Fox, yes. I am sorry, I am being a little bit flippant.

With that sort of scenario, the law of the land prevails. A Sharia council cannot overturn that. One would hope that any woman in that situation would have the support of her immediate family and, if not them, of friends, or if not them, of the community. So I cannot speak to that example.

- Q77 **Mr Jayawardena:** I will give you another example. There have been some reported instances of people saying something to the effect of "I can provide you with the Islamic divorce certificate if you give me permission to see the children." A trade-off through the Sharia councils, not through the civil courts. Is that right? That was on BBC Radio 4, in case you are interested in the source.

Ismet Rawat: As lawyers, we do like our empirical data and we like to know our sources.

Of course there are going to be men who are going to manipulate the situation. Men manipulate situations and women manipulate situations, and let us not forget that many men are victims of domestic violence as well. If a man is manipulating a women and saying, "I'll give you the Islamic talaq"—that's what the man would be doing—"if you let me see the children," that is utterly and entirely wrong and should not even be considered. If he is saying that to the Sharia council, they should not be acceding to that. As I have said, a man cannot do that in relation to the khula. There is a process in which the man is contacted three times. He can give his version of events: "No I didn't short change her. No, I gave her full conjugal rights" and so on.

- Q78 **Mr Jayawardena:** But the reality is that that is clearly not happening and women are being either misled at best or, at worst, massively penalised



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by these Sharia councils. How can we fix this problem? How can we enforce the law? As a lawyer, I am sure you would agree that everyone should be equal under English law.

Ismet Rawat: Indeed, and, on that point—you were very politician-like there—

Q79 **Tim Loughton:** What?

Ismet Rawat: Well, you know when you start saying, “The reality is”—

Chair: Unfortunately, we have a vote expected in around five minutes, and by the time we get back we will be further delayed. I want to ask Miranda Fisher to come in on those points.

Mr Jayawardena: Could I have an answer to that question?

Chair: I want to squeeze in as much as possible before the vote is called.

Q80 **Mr Jayawardena:** How could it be enforced?

Chair: I am going to ask Miranda Fisher to come in on those points. Can you speak very quickly, because the vote is about to come?

Miranda Fisher: I can do that. I want to comment on the question asked by, I think, James Berry, about how we can enforce civil registration in this country. Obviously the system that already operates in Scotland is that all marriages have to go through a civil registration. Here, in order to have a marriage that is recognised by English law, we have Anglican religious marriage and civil marriage for everybody else.

Perhaps where I can give the most informed view is on the interplay between Islamic marriages, which are taking place in this country and abroad, and the English civil family law system in which I operate. *[Interruption.]*

Chair: We will have an accelerated evidence session when we return. The key issues we want to focus on are the interaction between the decisions that Sharia councils are making and the operation of the UK law on marriages, child custody cases and arbitration. If we can focus everybody on those issues when we get back, we can hopefully get through as rapidly as possible. We will be back in approximately 15 minutes.

3.53 pm

Committee suspended for a Division in the House.

4.4 pm

On resuming—

Chair: We are quorate, so we are going to start while the other Committee members are still returning.



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Miranda Fisher, will you continue where you left off? We will then condense the session and I will restrict most of the Committee to a single question each so that we can get through this as rapidly as possible.

Miranda Fisher: You asked about the interaction between Sharia council decisions and English family law. I do not know of a reported family law case that refers to a Sharia council decision. There is a lot of family law reporting on the interplay between Islamic religious issues that come up within English family law cases. Probably the most prominent example is that religious divorces are not recognised in this country; hence we have the importance of civil registration when religious marriage takes place. From that perspective, there are different aspects, such as the possibility of Section 10A of the Matrimonial Causes Act, which has already been referred to, being amended to include the requirement for a civil divorce decree absolute being held up until the religious divorce is granted by the husband. We think that there is a possibility for reform in this area.

You asked about interaction as far as marriage is concerned, and I have mentioned the difficulty that is caused by religious divorces not being recognised. The problem has developed particularly in relation to Islamic marriages, which take place possibly not in a mosque in this country but perhaps in a hotel or a London property in which the woman believes that she is being legally married to her husband. There may be an imam present who conducts the ceremony; there may be two witnesses; there may be a record or certificate of the marriage. There may also be a dowry paid at the time or promised on the marriage. Even in those circumstances, English family law judges have refused to recognise those marriages as being either valid marriages, as a religious marriage or civil marriage—whatever it might be—or a void marriage, which would give rights for financial claims in this country, or voidable, in that a petition of nullity can be made. They have been declared as being non-marriages, which means it is not possible for women who have gone through these non-marriages, these religious-only ceremonies, to make any application to the English family court for financial remedies. So, my understanding—though perhaps anecdotal experience might be better contributed from Ismet—is that these women then fall back, in some senses, on Sharia councils, which play a role in that way as well as granting religious divorce.

Women who are in those non-registered, non-recognised, non-marriages—this has been touched on already—do have rights as cohabitants, but my view is that the law in this area is entirely deficient, even for a non-Muslim couple who are cohabitants. I know that a Bill is presently being considered, but I don't know whether that will be passed or whether we will ever have legislation on the subject of cohabitants. The fact is that these women do not regard themselves as cohabitants. They are married to their husbands and I do not know whether it is the answer to this problem that these women should be treated as cohabitants and therefore have whatever is implemented in terms of legislation. Currently, we fall back on trust law principles and we have Schedule 1 to the Children Act for financial provision if they have children, which can give them a home



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and an income on behalf of the child until the child reaches the age of majority. At that point, financial support is withdrawn and they have to give the house back to their husband and they are left potentially—destitute is a pejorative term, but without funding from their husband, even after a marriage of great length and contributing as far as children are concerned during that period. So, that is the problem, and it stems from the way the law has progressed in determining what is a non-marriage.

I am not quite sure why the law has progressed in that way. There have been a number of decisions that have resulted in it. I do not particularly know why Islamic marriages, which may take place with two witnesses and particular formalities, as I have just described, but not formalities that would fulfil the formalities of the Marriage Act, have been interpreted as non-marriages as opposed to void marriages, which would then still give the range of financial remedy claims available to a void marriage. I have read the case law and have been involved in some of the cases that have reached that conclusion now, that a religious marriage is a non-marriage, but that is a serious problem. This has been touched on already, but it seems to me that if there were amendments or some reform of the civil law to strengthen the civil law in particular areas, that might reduce dependence on Sharia councils and how those Sharia councils may sometimes be the only option for a woman who is left without any real civil claims.

You mentioned child custody. We don't refer to custody any more, but child arrangements. As far as arrangements for children are concerned, where they should live and the amount of time they should spend with the other parent, is obviously the domain of the civil courts. Nothing can oust the jurisdiction of the civil courts. There may be personal, emotional, difficult reasons why a woman may feel under pressure to go to a Sharia council and respond, but there is nothing as far as the civil courts are concerned to oust our jurisdiction.

You mentioned arbitration. The English family courts are very keen that all litigants should now seek alternative dispute resolution methods. There is no funding, or very little funding, for public services and the English family courts themselves are significantly underfunded. We have very few judges. There are waiting times in the High Court. I think there are 17 High Court judges now. This is obviously a serious problem. I understand why there is a lack of funding, but I think the important part of that push towards alternative dispute resolution methods is that arbitration has become front and centre with mediation as far as family law disputes are concerned.

Anecdotally, little arbitration is happening at the moment, but there is a push towards that and I think it will increase dramatically in future years. There is an interesting reported case on this point about the New York Beth Din involved in a religious arbitration case, where a Jewish couple were helped to reach a settlement by the New York Beth Din in very controversial circumstances, initially starting with a Hague convention



application by the husband for the return of the child to Canada, involving all financial remedies. That was a very productive outcome. The family judge in that case was asked to seal a consent order that was made by the New York Beth Din.

What the report shows and is true is that the Beth Din in that instance was a very experienced body and was also accustomed to interacting with the courts in New York. It was familiar with New York law, and was operating under the same family law principles. It may be that there are opportunities in this country for similar processes to take place. If people are comfortable with seeking arbitration in a religious context and that is going to be operated in a fair process in accordance with and recognising English family law principles, that is an option for alternatives to dispute resolution methods. But that is not something that I have had experience of so far and there is very little use of arbitration at the moment in English family law.

- Q81 **Mr Winnick:** We had the impression from the first panel, apart from one witness, and the general impression you may have heard yourself is not for abolition but reform. The basic point made, if you heard, there could not be any misunderstanding about that, was that it was male dominated and prejudiced against women. Would you go along with that?

Ismet Rawat: No, I wouldn't. I don't believe in absolutes generally. My experience has not shown that they are prejudiced against women. That does not mean that there are not male members of some Sharia councils that may discriminate against women. I cannot speak to that. You are going to get variances among any group of people in any given situation.

There isn't empirical data to support that. There are a number of reports including one from Cardiff University which did not find that women were being discriminated against. Again, there may be anecdotal evidence, but there isn't any evidence to suggest that. It does not mean it does not happen and it does not mean it is acceptable if and where it happens.

- Q82 **Mr Winnick:** One must say, the impression from the previous witnesses is very different from what you have just said. In effect, you are saying that there may be prejudice here and there, but otherwise it is not a problem. Does that sum up your view of Sharia courts?

Ismet Rawat: I appreciate that what I am saying is going to be different from what the panel before were saying, because I think different groups are going to have different vested interests and different groups are going to promote different agendas.

I am trying to stand back and take an objective view based on my professional, personal and third-sector experience and look at it in that way. If you are a specific women's charity dealing with specific issues—the Association of Muslim Lawyers does have women coming to us, and I have people referring people to me. On any given evening, I may spend at least an hour on the phone to someone—men as well as women. It may be that those charities are speaking more to that because they are specific interest groups.



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- Q83 **Mr Winnick:** Can I turn the question around? Say there were no such Sharia courts and I was the one who asked about the courts of other religions, "If they have such courts"—be it Jews, Hindus or Sikhs—"why not Islam?" That is very much, as I understand it, your view. How would it adversely affect women—if it did—if no such Sharia courts existed in the UK?

Ismet Rawat: You have used the word "courts" consistently. Part of being a lawyer is trying to be precise with language. They are not courts; they are councils. They are an alternative dispute resolution and mediation medium. They are not in any shape or form courts. They do not profess to be courts. They do not set the law of the land, and they must abide by the law of the land, full stop. Sorry, I just needed to highlight that.

- Q84 **Mr Winnick:** So the word "court" is inappropriate. They are Sharia councils. One should not use the word court—is that what you are telling us?

Ismet Rawat: Yes. It is inappropriate, it is inaccurate and it gives a misleading impression. That is why we get the right-wing media saying that Muslims are trying to run a parallel legal system. They are not. They are trying to access ADR. Miranda mentioned the push towards arbitration and so on. There is a push not just because of lack of resources but because the family justice system is in a huge amount of disarray. That is due to resources but also the inherently adversarial nature of our justice system. It does not suit family law to have parties in a hostile environment.

In terms of what Muslim women would do if they did not have access to Sharia councils, the Association of Muslim Lawyers had a meeting a few weeks ago with some German lawyers. They do not have Sharia councils there, and they said to us that they have had difficulties because women have wanted to have a khula divorce and they find that they have a real problem in helping and supporting those women. They have nowhere to turn. It would be disempowering if suddenly women did not have that option.

- Q85 **Mr Winnick:** Is that your view, Ms Fisher?

Miranda Fisher: If Sharia councils didn't exist, these women would not have access to a religious divorce, because the civil courts will never assume the mantle of giving out a religious divorce to these women, so, as Ismet is saying, they would not have an opportunity to gain a religious divorce. As I have said, there is the possibility of strengthening the civil law so that section 10A is amended to include effectively forcing the husband to grant the talaq divorce by saying that he cannot have his civil divorce, but that would be dependent on the marriage having been subject to civil registration in the first place, and a lot of these marriages are not; they are religious-only non-marriages.

- Q86 **Mr Umunna:** May I ask you one straightforward question, Ms Fisher? Do you—in your own view—believe that these Sharia councils are operating what could be described as a parallel system of justice?



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Miranda Fisher: I would find it difficult to comment directly on that question. As I have said, as a civil lawyer—as a family lawyer practising English law—my direct involvement with Sharia councils is very limited, and I think it would be better for Ismet to comment on that. I have said that I think that on the basis of the law as it presently stands, they are playing a role in terms of granting religious divorces, and because of the state of the civil law, women are obliged to fall back on Sharia councils to some extent. I am sorry if that does not answer your question.

Q87 **Mr Umunna:** I thought you might give that answer. If you do not wish to make a comment on whether Sharia councils operate a parallel system of justice, would you say that from your perspective they complement the civil legal systems that we have?

Miranda Fisher: From my perception, I can see that for women in a situation of wanting a religious divorce, they are necessary as the law presently stands. I could not say anything other than that.

Q88 **Mr Umunna:** But would you say they complement our law?

Miranda Fisher: Because of my direct experience, it would be difficult for me to comment on that directly. I can see a situation—as in the reported case involving the Beth Din that I have mentioned—where alternative dispute resolution methods, including using a religious body to arbitrate, if that was entirely consensual from both parties, and there were particular safeguards in place, and it was conducted with certain methods and under the auspices of the family justice system—as in the case I just mentioned where the order was ultimately approved by an English family court judge and the proceedings themselves took place with various undertakings being given all the way along—in those circumstances, I can see a situation where it could be complementary.

Q89 **Mr Umunna:** That's a lawyer's answer, I suppose—since we are describing answers. Can I ask to Ms Rawat, would you accept the description of a parallel system of justice? From the evidence we heard earlier, the concerns seemed to be around women who were not aware of their UK legal rights and so, to the extent that somebody was ignorant of their rights under UK law, the effect of Sharia councils was to operate, in so far as they were concerned and how they decided to conduct themselves, like a court—like a parallel system of justice.

Ismet Rawat: I think it would be broader than that. I think justice can be a very wide concept. In terms of religious justice, men and women would see it as a form of accessing religious justice. I don't think they would see it as the law of the land.

Q90 **Mr Umunna:** Even those who were ignorant of their rights under UK law, if we take the broad definition of justice, not the religious definition?

Ismet Rawat: If you are living in a country that is not a Muslim country, as a very basic starting point you are going to be aware that there is a prevailing law of the land. If you are going to a religious institution, I would submit, it is a form of common sense that that is not going to be the law of the land but is going to be religious justice.



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Q91 **Mr Umunna:** So you think the cases of ignorance that were referred in a previous panel are overstated?

Ismet Rawat: I don't know about "overstated"; I wouldn't like to demean anything in that way. I think there is a lot of hyperbole and exaggeration in this debate. I think it has become very polarised. There are many reasons for that which I won't go into. There are many non-Muslims who are ignorant of their rights. I have to tell a lot of non-Muslims that there is no such thing as a common law marriage. Many people—white, English, non-religious people—think that because they have been cohabiting they have spousal rights and benefits and they don't. The general populace thinks that.

Mr Umunna: Thank you.

Q92 **Tim Loughton:** You heard the previous testimony and this claim about ignorance of the law and I quoted a survey. Do you think it would be good practice and enforceable if, as a precursor to all Sharia council cases, they were to read out exactly what their status is in terms of the law of the land and clarify the status a woman coming in front of them may actually have? And is it feasible to do that?

Ismet Rawat: I think that is feasible. It think it is also logical but within certain parameters. One could have a factsheet which would state the role and status of the Sharia council and what they are doing. All the Sharia councils that I am aware of do insist that a women show evidence either before or at the time, that they are petitioning for a civil divorce as well as the khula. Obviously, if they don't have a civil registration, they can't do that. So, it would good to have those factsheets, but the Sharia councils would have to be a little bit careful that they are not deemed to be giving advice because they would not be in a position to give legal advice. But if you could have a standardised factsheet—

Q93 **Tim Loughton:** A simple statement of fact, and perhaps there could be a system whereby, as in other cases, the person has to sign that she has read and understood the terms and conditions under which she is now petitioning the Sharia council. That would be perfectly feasible, yes—and good practice?

Ismet Rawat: Yes, and that could be part of an overarching framework which could include standardised systems such as that.

Tim Loughton: Similarly, do you think it would be feasible, as was suggested by one of the previous witnesses, for the two improvements that I asked for—to make a civil marriage a mandatory requirement for a religious marriage before you have effectively got your foot in the door of the Sharia council—and should the Divorce (Religious Marriages) Act 2002 be amended to extend to Islamic marriages? Are both those things desirable and feasible to deliver?

Ismet Rawat: The second is desirable, as Miranda has already outlined and explained, but, as Miranda said, it is dependent upon the marriage and the civil registration. The thing about civil registration is that we are living in a multi-plural society where people come from different cultures,



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religions, backgrounds. In terms of the right to a private life, somebody may decide, "I don't want to be this person's first wife; I'd rather be a second or third wife. I don't want to live with a man full time. I am a professional woman; I have got my assets." So there are women who do not want to register their marriage. Then it would be a question of what happens there.

Australia and Canada have systems for recognising and allowing civil partnerships. They recognise that if somebody is in a committed relationship, that can be formalised. That does not mean that all the partners would have the same spousal benefits, but there could certainly be a manner of formalising. So civil registration should be mandatory—

Miranda Fisher: Someone mentioned civil partnerships earlier on. As you well know, it is not possible presently for an opposite-sex couple to have a civil partnership. That is for same-sex couples only.

Q94 **Tim Loughton:** Except in the Isle of Man, where it has just happened. I have a private Member's Bill to try and make it happen in the rest of the United Kingdom. It does not exist at the moment, so I declare an interest.

Ismet Rawat: To be clear, I am talking about it in a broader sense. Although those jurisdictions do allow for same-sex partnerships, they do not distinguish between the two.

Q95 **Tim Loughton:** But the difference would be that if we were to extend civil partnerships to opposite-sex couples in this country as part of standard law, it would apply to only one partner, and therefore in Australia and New Zealand, presumably the protection of the law applies only to one partner: the primary or first spouse. There are no protections under the law other than a recognition, for whatever that is worth, of secondary and tertiary partners.

Ismet Rawat: I am not an expert in those areas of law. I cannot speak for exactly what protections it provides, but there is no reason why they cannot come up with some protection.

Q96 **Tim Loughton:** Such as?

Ismet Rawat: For example, in terms of the children of a relationship, we already have schedule 1 of the Children Act 1989 where we have cohabitees, so financial claims can be made for children up to the age of 21. In terms of the spouse, in this country we now have a move towards a clean break. Even women from long-term relationships, if they have not worked, are expected to have a period at least of retraining and of working.

Q97 **Tim Loughton:** But those children, as I understand it under the Children Act, are recognised as children, not as children of the same union. Their rights and benefits derive from the fact that they are children, rather than the fact that they are the product of a formally recognised union.



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Miranda Fisher: Yes, it would apply to the child who was the natural or adopted child of the parties, or who was treated as a child of the family. That is the legal definition.

- Q98 **Tim Loughton:** The point I am trying to get to is that there is a lot of difference between a woman who is religiously married to a partner who has one partner and subsequent—what could be described as polygamous—partners who would have no protection under the law in the United Kingdom for obvious reasons at the moment.

Miranda Fisher: There must be a question mark as well as to whether those particular couples would enter into civil partnerships, given that we are talking about religious marriages and no civil registration. Whether couples would be interested or would want to or would both co-operate in entering into a civil partnership, I am not sure that would necessarily remedy the problem.

- Q99 **Stuart C. McDonald:** I am seeking clarity about what you think the New York Beth Din case would mean for Sharia council decisions. If a party went to the High Court to seek to enforce a decision of a council, are you saying that what the High Court would do would then depend on a very careful consideration of how that decision had been reached and the processes involved, and, for example, the issues of due process in giving equal weight to the testimony of both parties? How do you see that panning out if somebody decided to do that?

Miranda Fisher: I think that is a very good summary of what the court would look at in circumstances where, for example, parties had consensually entered into arbitration using the Sharia council forum, and then one party for example tried to renege on the agreement that had been reached.

Obviously, to get in front of the family court you need to have a basis for your claim, so you would have to have had a civil registered marriage in order to have your claim to ask the English family court to enforce the order that you thought you had agreed with the Sharia council. If you did, then, yes, the English family court would certainly take a lot of consideration; and, also, this is part of the direction of travel of the law. I have talked about underfunding, but it is not just about that. Alternative dispute resolution is very much about personal autonomy, and that is certainly the direction of travel of English family law, as it should be, in my view.

Agreements, be they prenuptial agreements, cohabitation agreements, other agreements that are entered into by parties, including separation agreements, arbitration agreements, should be looked at very carefully by the English family courts; but also there is a lot of move, as far as the law is concerned, to support those processes and not to allow a party to renege on a decision—on an agreement that is fairly reached and is a fair agreement.

- Q100 **Chair:** Mr Jayawardena earlier raised the issue of some individual cases where clearly things have gone quite badly wrong. We heard from our



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four panellists previously, who, although they took very different views about what the solutions and remedies might be, were all strongly of the view that Sharia councils currently were discriminatory in the way in which they operate at the moment. Just to conclude, my question to you, Ms Fisher, is: if you were going to use sharia councils in any form as a subset for mediation of the current legal family processes, what safeguards would there need to be in order to avoid institutionalising a discriminatory system in place?

My question to Ms Rawat is this: you said you thought that there was not discrimination in Sharia councils at the moment: are you confident that Sharia councils give equal weight to the testimony of women and men?

Miranda Fisher: As far as safeguards are concerned, obviously you would want to approach that in the way that you would approach allowing any mediator or arbitrator to mediate or arbitrate on a dispute in a case in which you were representing your particular client; so you would want both parties—again, this falls back on the difficulty in the fact that a lot of these marriages are not civilly registered—to have independent legal advice, to perhaps ask questions on the way the proceedings were going to be conducted, to understand the basis of the decision-making process, to ensure that both parties were entering into the process consensually, that they had capacity to do so, in the same way that you would check, ordinarily, with a client who you were concerned lacked capacity or was under duress, that they were giving you instructions which were really their instructions. There are particular checks and balances that you would follow. I do think it is a possibility, but from my perspective, naturally, because I am an English family lawyer, a lot of it would depend on parties having English family law advice and, ultimately, access to the civil family justice system, as a fallback position.

Q101 **Chair:** In those circumstances, given the concerns raised about the discriminatory role of councils, would it not be better, then, to just find an alternative dispute resolution, rather than trying to bring Sharia councils into the existing dispute resolution process?

Miranda Fisher: There are lots of forums in which alternative dispute resolution can take place. I do not want to devalue that some people want to use Sharia councils. Just as in the reported case that I keep referring to, which is a particularly good example of good practice—the New York Beth Din case—that is what the parties wanted. That is about personal autonomy, and how they wanted to use a forum that they both trusted and relied upon. I think it is about personal choice, very much.

There is one point I want to pick up, on Mr Umunna, on talaq divorces. I do not know if you want me to come back to that, just briefly, or if you want me to write in and tell you.

Chair: If you could write in, actually, given the time, that would be great.

Ismet Rawat: I think your question to me was on whether my position was that Sharia councils are not discriminating. I think I said earlier that it is not my position that I am saying categorically that they are not



discriminating; I am saying that discrimination will occur in any process. There are not any empirical data whether that discrimination is disproportionately against women by men in Sharia councils. There is not any independent study. There are no statistics. There is anecdotal evidence, but that evidence may not have been fully tested. That is not to say that I disbelieve any anecdotal evidence. It is about looking at things objectively. The other issue is that what you will always find is that people who have had a negative experience are more likely to come forward than people who have had a positive experience. In customer services, there are ratios on that. You are not necessarily hearing the good news stories, as it were.

Q102 Chair: We have heard evidence that under Sharia, a woman's testimony is worth half that of a man's. Do you think that that does not apply in the way that Sharia councils make their decisions? Do you think that they give the testimony of women equal weight to the testimony of men?

Ismet Rawat: In my experience it has been within the law of this land, which is that the testimony of women is given equal weight to that of men. As in any group of people, it is not homogenous. In any religion, you are going to get different interpretations. Not every Muslim holds to the tenet that a woman's testimony is equivalent to half that of a man's. Some Muslims do, some Muslims don't. My experience so far is that the councils I have had interactions with, professionally and personally, do not adopt that approach. That does not mean that there are some that do. However, that tenet is not the law of this land. If any did follow that tenet—where it is by consent and with personal autonomy and where people have gone in knowing that and consenting to it, that choice is a matter for them, so long as it is an informed choice—it would not have any legal force. The overwhelming majority of Muslim people would agree that you abide by the law of the land, full stop. There is then religious freedom within that.

Chair: Thank you very much for your testimony, we appreciate your time.

Examination of witnesses

Witnesses: Dr Ahmad Al Dubayan, Mizan Abdulrouf, Dr Amra Bone and Khola Hasan.

Q103 Chair: Thank you very much for joining us. Apologies for the delay in coming to you. I hope you have managed to hear some of the earlier panels and the evidence that they have given. Can I start by asking each of you the same question that I asked the first panel? First, can you tell us briefly what your view is of the role of Sharia councils in Britain today? Secondly, can you address the issue that has come up in previous testimony about whether Sharia councils discriminate against women?

Mizan Abdulrouf: I was hoping you would start at the other end, because they run the Sharia councils over there. I am vice-chair of the UK Board of Sharia Councils. Dr Dubayan, who is sitting to my left, is the chair. The reason that the UK Board was formed—I think this point has already been



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addressed—is to see whether we can regularise the procedures that are taking place in Sharia councils. If I can answer this in a nub, are the Sharia councils required? Well, the answer is yes. What will happen if you abolish them? A good question. The answer is: where will women of religion or faith or those who want to educate to their faith go to? We will have backstreet Sharia councils. There will be practices and procedures that are backstreet and not transparent.

The reason why we formed the UK board was so that it can be more transparent. We could regularise and standardise and we could offer training to imams and those who sit on the boards. In fact, the UK board has various legal advisers. Other than myself, there are four advisers who are non-Muslim. There are women. One of the reasons we have non-Muslim women advisers is so that they can critique and criticise. They can look into what we are doing wrong—what Sharia councils are doing wrong—and what needs to be corrected. These are people who are our family, members of the Bar, and some have over 40 years' experience.

One of the reasons we formed the UK board was to look at where we are going wrong and how we could correct the errors. My father tells me stories of when my parents came over to this country: he would call back home to find out when Eid was or when Ramadan was. I remember in the '90s when I asked for some advice on Sharia they said to me, "Don't read the books; we will tell you." What is happening now? My daughters and sisters are far more educated than my mother was back then. They are learning themselves what religion is. Back in the '70s and '80s people were not covering themselves, but now we have more people who are covering themselves, up to the niqab. Why? Because they themselves are reading about it and they themselves are making that choice. So it is that choice.

What we are hoping to do is provide a platform to provide that service where none of the Sharia councils are overstepping the mark. When I say overstepping the mark, I hear stories of parallel legal systems. This is not a parallel legal system. The law of the land stands. What we hope to do is train people so that they know the law of the land and they are able to advise people to say, "What issue we can address you on is just the issue of whether your marriage is still valid or not." If it is to do with finance or child arrangements, where must one go? English law and English lawyers.

I have heard various things said today. If one was to stand outside the family courts in England and Wales, especially with the legal aid cuts and the LIPs going in, you will hear various stories coming out of various people, saying, "That judge was biased. That judge was negative. That judge was a racist." Those are things that are being said all around England and Wales. In fact, I was ordered to disclose a piece of information that, when I referred it to a friend of mine, they turned around and said, "I can't believe it."

Chair: I am going to move on. Just very quickly—a yes or no answer—do you believe that Sharia councils currently discriminate against women?

Mizan Abdulrouf: It would be un-Islamic to do so.

Dr Al Dubayan: As Mizan mentioned, the initiative of the UK Board of Sharia Councils came from the Islamic Cultural Centre in Regent's Park—I am the director there. We have experience of the matrimonial services in the Islamic Cultural Centre and there we have maybe the biggest archive for Islamic marriage and divorce since 1946. It is all digitised and available there.

There is another dimension to Islamic marriage and divorce. Many of the citizens here and people who come to visit the UK need the service of the Islamic Sharia councils because they go back to their countries, and sometimes the courts and authorities there need Islamic divorce or Islamic marriage.

At the beginning, the Islamic Cultural Centre made it a condition to have the civil marriage put before the Islamic marriage. This is to protect rights and to guarantee that there are valid documents accepted by the courts in the land here. But after many years—it was about four years ago—we realised that there was a need, so from the Islamic Cultural Centre we started an initiative for the UK Board of Sharia Councils to bring the councils together, to standardise their work and to have, let's say, a kind of connection so as not to have different or contradicting fatwas or advice. They are not courts, of course, because they don't have authority as courts. That is why we see some cases in which someone goes to one council and then, if he or she doesn't like what the decision or the advice is, he or she can go to another one.

To bring this all together, and to have it in a proper way—one track—we started this initiative. I am the chairman now, and Mizan is the deputy chairman. We have, as he said, a mini-team with social workers, advisers, lawyers and, of course, scholars of Islam. The plan is to bring all these Sharia councils, as members of this board, to accept the same standards to avoid any of those issues.

The Sharia councils are a reply to a growing need in the Islamic community. There is one dimension, if you will allow me, that maybe you don't know. We deal with embassies and foreign citizens in the Islamic Cultural Centre. Our trustees are the ambassadors of the whole Muslim world. They send us their citizens, in many cases. People need Islamic solutions, based on their faith, so it will be accepted. That is why Sharia councils are there.

Q104 **Chair:** Specifically, do you believe that Sharia councils treat the testimony of women equally and in the same way as the testimony of men?

Dr Al Dubayan: I believe the cases I have seen from my position are actually very few. We cannot generalise this as Sharia councils.

Q105 **Chair:** Sorry, you have seen very few cases?

Dr Al Dubayan: No, I have read in the news about these cases, but the cases I have seen when someone comes to complain about the advice of



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Sharia councils, they are not many. In my position, all Muslim communities come to me.

Q106 **Chair:** And in terms of the sorts of standards you were talking about, does that standard include giving the testimony of women equal weight to the testimony of men?

Dr Al Dubayan: Of course, yes. Actually, in marriage, if we follow Islamic law itself, I believe women have more rights than men when it is a case about divorce or whatever. The problem is that there is ignorance of people, about even their faith. Some people must be educated before even going to the court or the Islamic—

Chair: Okay, we will come back to some of those points. Dr Bone.

Dr Bone: Good afternoon, or good evening. I have been part of a Sharia panel in Birmingham Central Mosque for the last 11 years, and I have noticed that the Sharia council that I am in provides excellent service. It helps hundreds and thousands of women who otherwise would be in a very difficult, and often oppressive, situation. It is not only for women, I have to add. Men also access the services of the Sharia council. I think that, without that, it would be very difficult for Muslims who practise their faith. It is very important for them to live in this world according to how God wants them to live. It is not just about this life; it is about the life hereafter as well.

The majority of our clients are very concerned about whether they are doing the right thing. Is it the best thing to do not just for the life here but the life hereafter? For those reasons, it is extremely important for people to be able to access the services in the Sharia council, because it involves their spirits. We have a civil law, which looks after our physical needs, but spiritually they wouldn't have anywhere to go. As a teacher—a lecturer—myself, and having worked as a researcher within Muslim communities around the country, I feel there is a great need that we need to fulfil.

Q107 **Chair:** And in terms of the treatment of women?

Dr Bone: Well, I am a woman. Why would I want to discriminate against any woman? I want them to have their rights. They are equal citizens, they have equal rights, and they are equal human beings. That is our starting point. I have yet to see a woman who has been discriminated against. I would stand up and speak about it.

Chair: Ms Hasan?

Khola Hasan: I am one of the members of the Islamic Sharia Council, one of the panel of scholars. The Islamic Sharia Council was the first sharia council in Europe, established in 1982, and it is the largest in Europe to this day. We see between 500 and 700 cases a year, so we have a huge volume of work to do.

Our work is much more than divorce. We have a fatwa department—a fatwa is basically a religious ruling, which can be about anything. In days



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when there is so much technological progress, so many questions are being asked. People come to ask about IVF, organ transplantation, prayer in winter, fasting on long days—any issue you can think of, they will come and ask us for advice. So the spiritual needs of the community are what we deal with.

A number of young women now come to us when they are being forced into marriages that they do not want, or when they are not being allowed to marry whom they want to. We are acting as their advocates; we are writing to their parents and getting involved, and we have had a 100% success rate in that.

Coming to divorce, which is a huge part of our work, definitely, we do not discriminate against women. We do not have a panel of men sitting and looking very sternly at the woman, scaring her to bits. We are not adversarial, we do not make women talk about their sexual encounters, we do not talk to them as if their value is only half that of a man's, etc. We will only see one person at a time. They will come to present their case, which they will do in a very informal setting. We have a procedure where we will speak to the woman on her own, the man on his own. If both are happy to go ahead with the divorce, we can end it; if they are not, we will have a joint meeting. Some of these joint meetings may lead to reconciliation—it depends on what both parties want.

As I said, we are a religious organisation that is answerable to God, nobody else. Therefore, we would be terrified of making a decision that makes us sinful.

A lot of complaints have been made today, but Islamic law gave women rights 1,000 years before the suffragettes were even born. Those rights may have become diluted through various events in political history in the Islamic world, but certainly the rights are there. I am a Muslim fundamentalist, and I am quite proud of that—I am not an Islamist, I am not a violent extremist, and all sorts of allegations were made in the first session today that I thought were absolutely disgraceful.

We are not funded by anyone outside. We were set up in 1982, but that does not mean we were following the Shi'ite revolution in Iran or wherever. It was just a time when the Muslim community was feeling comfortable in this country and thought that they could start processes such as mosques, madrassahs and so on. But we are not there to destroy women, or to treat vulnerable women badly. We know that the women who come to us are vulnerable. We do see the pain in their eyes. We are making their lives easier by allowing them to get out of a marriage, for example, or whatever—if they want reconciliation, if they want whatever, that is what they will get.

We do not treat English law as inferior to ours. We know that English law takes precedence. We will not deal with maintenance, child arrangements or property—that is for the civil courts to decide. We deal only with the religious disputes.



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Chair: Okay. I will go to Mr Burrowes.

Q108 Mr Burrowes: You talk about being outside an English court and hearing criticism of a judge, but I suppose what you would not get outside an English court and what has been a concern that you get outside a sharia council is the rise of polygamy—whether with the tacit or obvious approval of it. You say that you promote transparency, but why is there the suggestion of a rise of secret polygamy? Perhaps I can wrap that up with that a second, supplementary question about transparency. You say you support transparency and vocalisation, and I respect you saying that, but we have also heard evidence that we just do not know about the numbers of marriages or divorces. You say that there is a concern about backstreet Sharia councils if you are abolished, but is that not the case now? Do you or other councils publish, as other courts do, results from hearings, and do you allow proper evidence-based data collection, so that we can properly look at how Sharia councils are applying the law?

Mizan Abdulrouf: To answer your last question first, that is one of the routes we are trying to go to, so that all the decisions made are recorded, with the statements that are put in, so that people are not given a hard time about the oral evidence given, and so that everything is recorded and filed and, if the need comes, when people are saying, “I actually said this”, there is a transparent record that can be disclosed, of what has and has not been said. We are trying to move in that direction—I am not saying that it has happened now, and I do not know the inner workings of the various sharia councils, but it is what the UK board hopes for and aims to go to, so that there is a record, and a record that is kept.

What we are trying to do in terms of the standardisation is to make sure everyone has the same application. Everyone says, “We require this statement that gives your version of the story,” which then allows the other side to give their version of the story. Those things can be recorded, kept and filed away.

In terms of polygamy, if I can address you on that point, it is like saying an English man has a wife and then has affairs all around the country. How do we know they are not having affairs? We do not know. The answer is, we do not know.

Does Islamic law allow polygamy? Yes, it does. I am not going to hide away from that. Yes, it does. But should we have polygamous marriage in this country? We know you can’t have two marriages here, you can’t have two wives here. You would be charged with bigamy. Even if that marriage took place in Pakistan, if you had a wife in Pakistan and a wife here you could, potentially, be charged with bigamy.

People have to understand the laws where they live. We try and put the advice out that people must understand that the law of the land takes precedence over religious laws. The Sharia council should be concentrating on religious laws. There might be other issues that Sharia councils advise on, as Dr Khola Hasan said, but when it comes to women coming and giving evidence to do with marriage, it is about whether or not the said



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marriage is valid or not. Just as with a get, a woman may think she is locked into a marriage until the day of judgment. She needs to be released from that marriage, so that is the opinion the councils should give.

I do not think they should go away from that. You have talked about children coming out of marriages or other relationships. Those children have rights in any event, whether they are from a recognised marriage, and whether the man is a Muslim or a non-Muslim. If people are in a recognised marriage, they happen to have an affair and that produces a kid, that kid has rights over you if you are registered.

Chair: I will have to speed things up. Mr Jayawardena.

Q109 **Mr Jayawardena:** We will get there.

I am still very unclear from what you have said as to, first, whether you think polygamous marriages approved through Sharia councils should then override in effect what is English civil law. Secondly, I am also unclear as to what you are doing to make sure the law of this country—England and Wales or, indeed, the law of Scotland—is actually adhered to by Sharia councils. Can you enlighten me?

Chair: Swiftly as well.

Khola Hasan: Who was it directed at?

Mr Jayawardena: Whoever you think is best placed to do it.

Khola Hasan: Sharia councils do not deal with polygamy. We are dealing with the effects of marriage.

Q110 **Mr Jayawardena:** Okay, let me just set out why I am asking this question.

There is some support for polygamy among Sharia judges, particularly from those who have adopted conservative interpretations of Sharia. We heard earlier that you have suggested that people are now reading for themselves, but I would argue that people are now leading Muslims into practices that are not consistent with the law of this country. What would you say to that?

Khola Hasan: Well, number one, if the Sharia council is teaching stuff that is against the laws of this country, what it is doing is illegal and against Islamic values as well, because Islam tells us to abide by the rules of the country in which we live. That is basic Islamic law.

As far as polygamy is concerned, we do not encourage people to practise polygamy, we do not tell them to do it. They do it outside of us because they do not come to us to get married, they get married somewhere else. They are not guilty of bigamy because the marriages are not registered in the civil, legal system. They are only nikah—only a religious marriage. There is no bigamy going on. It is exactly the same with a man having a mistress or a number of mistresses.

Mr Jayawardena: It is interesting, because of course—



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Chair: I am sorry, we are going to have to move things on.

Mr Jayawardena: Sheikh Siddiqi said that “where there are same-sex marriages...polygamous marriages should not be such an alien concept.”

Chair: We are going to have to move things on. I move on to Nusrat Ghani.

Q111 **Nusrat Ghani:** Just some quick-fire questions. A man can initiate a number of divorces, including a triple talaq. Correct?

Dr Al Dubayan: Yes.

Q112 **Nusrat Ghani:** Can a woman initiate a triple talaq?

Dr Al Dubayan: I have to correct something because I have been hearing this—

Nusrat Ghani: Yes or no? A woman cannot initiate a triple talaq. She has to go through a process.

Dr Al Dubayan: She can ask for talaq.

Nusrat Ghani: She can initiate a triple talaq, equivalent to a man.

Khola Hasan: A man cannot initiate a triple talaq.

Nusrat Ghani: Well, men do.

Khola Hasan: But they can't—

Q113 **Nusrat Ghani:** But they do. A woman will have to go through a process that requires a few months, while a man can initiate a triple talaq if he wants to.

Dr Al Dubayan: A woman has the right to have it and she can get it. The process depends on the person who is dealing with it.

Q114 **Nusrat Ghani:** It's not about her getting it. Does she have the right to do it?

Khola Hasan: All parties—

Nusrat Ghani: I am just trying to work out where the equality is. If men can go down a particular road for a number of types of divorces and a woman can only go down a narrower road for a number of divorces, there is gender discrimination.

Khola Hasan: I don't think you are listening. I made it very clear that there is no triple talaq in Islam. We go back to the Koran—

Nusrat Ghani: It's happening.

Khola Hasan: All sorts is happening.

Q115 **Chair:** Let's hear from our witnesses.



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Dr Bone: I was just going to say that in my experience at the Sharia council where I am, a man can initiate the process of divorce, a woman can initiate the process of divorce, or they both can come to the Sharia council to initiate that process.

Q116 **Nusrat Ghani:** If they wish to—but a man does not have to come to a Sharia council to initiate that.

Dr Bone: In our Sharia council, they do.

Nusrat Ghani: They might do in yours, but I am just trying to work out—

Chair: Let Dr Bone finish first.

Dr Bone: There are a number of ideas and views around and everybody thinks they are an expert in Islam. That is what we hear around us. There are those of us who spend years and years learning to actually understand what Islamic law is. Part of what I do is to educate people about it, because they don't know. They come to us. They actually want help in understanding Islam. In fact, we actually end up teaching a lot of men what Islam is. Sometimes they bring along their own imams or muftis, so I am the one actually saying, "No, this is the Islamic principle. This is the interpretation and this is how we understand it." And it is totally voluntary: "You are here, should you choose to leave and go, please, you are very welcome." So it is a matter of trying to explain to people and to teach them what Islamic law and its principles are. I think the Sharia councils are instrumental in trying to teach people about it, because most of the Muslims have not had any form of education other than just bare reading of the Koran. I think there is a need for teaching them Islam and we do not do it in any other way.

Q117 **Chair:** Ms Hasan, did you want to finish your point?

Khola Hasan: My point is that the triple talaq has been misunderstood by the Muslim community for a long time, especially the south-east Asian community. It is practised widely, but it is un-Islamic, and we make sure that we tell people and many of our fatawa are actually on this issue.

Q118 **Nusrat Ghani:** But it is practised by men, and it is not available to women.

Khola Hasan: It is practised, but it is un-Islamic.

Q119 **Nusrat Ghani:** Okay. Dr Dubayan, you came across as a fantastic progressive feminist, who wants to see women equal to men within your councils. Do any women within your councils oversee divorces and do any women within your councils oversee marriages as witnesses?

Dr Al Dubayan: I have to draw your attention to the fact that our council is a UK board. The councils are members, but we do not deal as a UK board for Sharia councils with the cases themselves. The cases are dealt with in the councils.

Q120 **Nusrat Ghani:** Are you aware of any cases where a woman oversees a divorce by herself, or where a woman can oversee a marriage or witness



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a marriage by herself?

Mizan Abdulrouf: Ms Ghani, can I just interject? Amra Bone is here in front of you and she facilitates divorces.

Q121 **Nusrat Ghani:** By yourself? Are you by yourself or is there another male witness?

Dr Bone: We are—

Mizan Abdulrouf: In a team. A panel.

Q122 **Nusrat Ghani:** So she is not by herself. There is a male witness.

Dr Bone: We prefer it to be a panel, because no one person can enforce their particular view and so therefore as a body, as a team, we work together. I have my view, so I am equally witnessing all of that.

Q123 **Nusrat Ghani:** Do you witness marriages too?

Dr Bone: Absolutely.

Q124 **Nusrat Ghani:** Wonderful. On polygamy, under some interpretations of Sharia, a man can have more than one wife. Can a woman have more than one husband in any interpretations of Sharia?

Dr Bone: That is totally up to the woman. If she wants to, that is up to her.

Nusrat Ghani: That's it. Thank you.

Q125 **Naz Shah:** I have one supplementary question to that of my colleague. Ms Ghani asked earlier about having women who witnessed. Could those panel members be entirely women? Would that be possible in a Sharia council? Could you have a panel of three women that granted a divorce and a nikah?

Dr Al Dubayan indicated assent.

Mizan Abdulrouf indicated assent.

Q126 **Naz Shah:** That can happen, okay. My next question is: how long have you guys been going, regulating the Sharia councils?

Mizan Abdulrouf: Not long enough.

Naz Shah: How long? Years? Months?

Mizan Abdulrouf: It has been about two years—two years trying to get everyone together.

Q127 **Naz Shah:** Do you have any evidence of any stuff that you have changed in those two years? My concern right now is that the previous witnesses said, "Well, discrimination might happen," but what I am getting from you guys is that it doesn't happen. I am really conflicted by that, because while I have had really good experiences with Sharia councils, I have also had negative experiences. I am concerned about that. What I am asking



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is: what have you done in two years to shift that paradigm so we have more women actually dealing in Sharia law?

Mizan Abdulrouf: If I am blatantly honest, I will say this is a kick up our backside—and all the Sharia councils' backsides—to get our act together. We have all been giving our professions; I am a barrister by profession and I practise both family and crime. What I have witnessed and what Khola Hasan and Dr Amra Bone have said is that the issue predominantly is that we as Muslims and those who run the councils do not properly advise those who are in front of them. It is a bit like LIPs coming into civil courts and expecting the judge to tell them what the law is. That is the problem we are having: not enough explanation is being given as to their rights, what they should do, what they should gain and how they should address the issues. What we are trying to do—it has been a hard exercise—is to get together those who have agreed to get together to standardise, formalise and agree to these things.

Q128 **Naz Shah:** One of my concerns is about raising professional standards. I have talked to quite a few imams and women over the past few days, and they have said that there is not that professional standard and there is an issue of resources. While you can address the issue in terms of the Sharia councils and the mosques, is there a role for you guys to play in communities where communities have lots of money? Certainly in Bradford, we have lots of really nice buildings—you can spend £250,000 on a minaret—yet we do not have the infrastructure to support something that is so fundamental in our community and have the right professional standard. Is there a role for you to be advocating for that?

Mizan Abdulrouf: There is, and both the ICC and the East London mosque, where I do a pro bono session every Thursday—we have people who come in and we try to advocate that. In fact, women come in who, as the last speaker said, have been advised by English lawyers that their marriages are not valid. I have had a lady who has come in with a letter from a lawyer saying, "You got married to this man in Pakistan. Your marriage is not valid. You cannot have this; you cannot have that." There have been issues with things like cohabitation rights. People have not been advised correctly. That is the issue I have.

Q129 **Naz Shah:** That is not what I am talking about. What is your role, as the council, with lots of Sharia councils affiliated to you, in shifting the narrative in communities? It is like—your words—"a kick up the backside" for the Sharia councils. Did we have to get to this position today, in 2016, where we have an inquiry? We have been living in this country as Muslims—I speak as a Muslim myself—for so many years, yet we are so behind when it comes to women's equality. Where is the responsibility? Why are we not seeing it? Sorry, I am passionate about this, but it is something I am really concerned about.

Dr Al Dubayan: We are using the resources, reputation and relations of the Islamic Cultural Centre in Regent's Park and the East London mosque to spread this, but we as the UK board cannot force the Sharia councils to be members. We advise them to come. There are more than 15 already



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there. By the way, we do not know how many councils there are. Some people talk about 80; some people talk about 30 or 50. I do not know. Unfortunately, there is no record of this and no studies have been done. We are trying to bring them all in. When they see the progress we are making with the standards—when the community itself sees that they are well organised, it will go to them, not to these small shops hidden in basements or somewhere that do marriages and divorces. That is the way you can bring them little by little, but you cannot just stand and say, “You have to come today.”

Q130 **Naz Shah:** This is my final question. Of the 15 people on your board of governors, which governs all Sharia councils, how many are women?

Dr Bone: I am one of the trustees.

Mizan Abdulrouf: The trustees are picked from the councils themselves.

Q131 **Naz Shah:** Are you affiliated to these guys?

Dr Bone: Yes.

Q132 **Chair:** One out of how many?

Mizan Abdulrouf: Fifteen. But that is because we take the trustees from the councils that are affiliated to us.

Dr Al Dubayan: By the way, we don’t take just anybody that says they are a council. If it is one individual person, we don’t take them. There must be a panel of scholars.

Q133 **Chair:** Can we clarify Ms Shah’s question at the beginning? There was some nodding, which we need on the record as a yes. Ms Shah asked specifically whether it is possible that a council hearing a divorce could be all women.

Khola Hasan: Yes. We had a lot of discussion earlier today about discrimination against women. There are a number of Sharia councils out there, and a lot of them are very small and not in the public domain or the public light. I know there is discrimination going on, because we get complaints, with people coming to us from all over Britain saying, “We’ve been treated really badly.” It is a question of improving the service being given. We are service providers and we are, as I said, answerable to God, so these people need to up the ante and improve the service they are providing. Any kind of discrimination is unacceptable.

Q134 **Chair:** Fine. Can I ask all four members of the panel to say either yes or no to Ms Shah’s question? Is it possible for a council that is hearing a divorce to all be women?

Dr Al Dubayan: Yes.

Dr Bone: Yes.

Q135 **Mr Winnick:** Most fair-minded people would say that if other religions have these sorts of councils—you say, understandably and rightly, that



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these are not courts, but councils—why not Islam? Much of the criticism may well be directed by people who are prejudiced, anti-Muslim and the rest of it. Most of us, if not all, would accept that. Would you nevertheless recognise, from evidence we heard earlier, that people whose Islamic faith is no less than yours, and who are as committed to the religion as you are, find that the work of some Sharia councils, if not all, is prejudiced against women and basically needs a great deal of reform? Do you accept that there is a case for reform, or are you satisfied that the situation is what it should be?

Khola Hasan: I think there has to be reform because, as I said, we have had complaints about discrimination by Sharia councils against their female clients. Clearly, reform is needed. There is a theological issue here, because some can be traditional—not conservative, but traditional—and very cultural, rather than Islamic. That is an issue. A lot of Sharia councils are actually very cultural and not following strict Islamic procedure; they are following their own community procedure, which can be quite vicious to women.

Q136 **Mr Winnick:** Would you say that is the majority?

Khola Hasan: No, some of them. I don't know how many there are, but we get complaints. The only reason I know about them is that women ring us and say, "I've had a horrible experience. Can you help?" and then we take the case forward. We are not there to make money. That was said again and again earlier. That is not why we are there—otherwise, we would not be charging £200 for a divorce; we could be charging a lot more. The point is that we are trying to help them provide a service, but there is discrimination going on, and that needs to be changed.

Q137 **Mr Winnick:** You accept that. Dr Bone, do you also accept the need, like your female colleague, for substantial reform?

Dr Bone: Absolutely. There is always a need for improvement, even by ourselves, where we have procedures. It is clarified right from the beginning that it is a voluntary service. We have evaluations as well, with forms and so on. In my experience, we have not discriminated in our council, but we have had women coming from other councils and saying, "The case has lingered on for some time. I wanted it resolved quickly. Can you please do that?" and so on. "I don't want any mediation. I am here to finish this marriage and move on with my life." I give talks and meet a lot of people, and I would personally encourage, and hope that there is, a change in other councils.

Q138 **Mr Winnick:** Do your male colleagues agree?

Dr Bone: Absolutely. Actually, when I was invited to join the Sharia council in Birmingham, I was under the impression that maybe the men do discriminate, and I was pleasantly surprised that that was not happening. Men were just as fair as I was. If not, I could ask some very critical questions—sometimes even compared to the men. I would not say that just because they happen to be men they are going to be discriminatory towards women.



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Dr Al Dubayan: We should be careful not to generalise judgment about all Sharia councils. That is one point. I have seen two or three cases of people saying that Sharia councils were unfair in their decision. That is right, but how many cases do we have in the Sharia councils? There are hundreds, and that is one.

Secondly, there are those who call themselves councils, but we as the UK board do not recognise them as councils; they are individuals, or somebody in a small mosque somewhere. They are acting. People come to him or them as a Sharia council and, of course, they cannot match our criteria.

This is very important. Still today there are shops and small places everywhere in the country that conduct marriage and also do divorces. Sometimes they are accepted, and people go there. I have been trying for years at the Islamic Cultural Centre and the Regent's Park mosque to prevent people from going the wrong way and to those places. I say, "Just come to us—at least it is documented. You can come back after 30 years and find it." This is the case here. We have many cases in other countries, and they come to us. It is very important not to generalise. On the issue of reforming, I think the idea of the UK board itself is a kind of reform. We are taking care now.

Q139 **James Berry:** Coming back to Ms Hasan's point about the lack of religious education, the lack of education in the area in which you operate means that your position of influence is much greater than it would be in other areas. That gives you a responsibility to ensure that others are not abusing the position of influence they have—the backstreet individuals that were just mentioned. With that in mind, if any Sharia council or imam is telling people that a man can initiate a divorce but a woman cannot, can you confirm both that they are wrong and that you would condemn them for doing so?

Khola Hasan: Of course—very loudly. In fact, we have a very active website, and we put out a lot of information on that website, including articles on these issues.

James Berry: Does that go for the other members of the panel as well?

Chair: You have to say "yes" rather than nod.

Q140 **James Berry:** The question was: if a Sharia court is telling people in the UK that a man can initiate a divorce but a woman cannot, would you tell them that they are wrong and condemn them for giving that advice? Ms Hasan agreed to that.

Mizan Abdulrouf: It is not only a yes, but it is wrong in Sharia. That is the problem. The point is that we misunderstand Sharia. The whole issue of two women's evidence being equal to one man's comes out of verse 2, para 282, and it is confined to finance. It says on getting witnesses out of your own, "two...men...and if two men are not available, then a man and two women". That is so that if the woman forgets, the other one can remind her. The process as you will know it is the McKenzie friend



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principle. The procedure is: "If I am there with a friend and I forget, she is there to remind me." It is not the evidence; there is the difference. It is not that my evidence is equated with half of what my spouse says; it is that she is giving me what I have forgotten. So what we have is a lack of understanding of Sharia.

Q141 **James Berry:** I agree. And you would agree that your responsibility is to stamp out that lack of understanding and to condemn the wilful misunderstanding—

Mizan Abdulrouf: Exactly. And those who come before us, it is for us to advise them. I have read articles that say, "He's forced me to go back. I have had domestic violence". That is not an issue. Islam says that talaq, or divorce, is the most hated of the permissible. So if you are sitting as a scholar member what your test is—remember, as Muslims, you are judged on the day of judgment itself, for your actions here—what you are supposed to do is stress test whether the marriage has broken down. You are to ask, "Have you tried this? Will reconciliation work?" If the woman says, "You know what? I don't want to go back to that pillock. End of story", it is end of story. That comes from when a woman went to the Prophet, sallallahu alayhi wasallam, and said, "I don't want to be with him. He is ugly". That was the concern: "He's ugly, I don't want to go to him. I may commit sin". He turned around to the husband and said, "Divorce her now. End of".

Q142 **James Berry:** If that is the case, why can Sharia councils not simply rubber-stamp a High Court-ordered divorce, for which there are already hoops like that that you have to go through?

Mizan Abdulrouf: As you know, most divorces happen in the county courts.

Q143 **James Berry:** Or a county court. A UK court-ordered divorce.

Mizan Abdulrouf: It requires them to just have the understanding of whether the marriage has broken down. Just like in English marriage, you have a decree nisi and then you have a decree absolute—

Q144 **James Berry:** You have the decree absolute, so why can you not just rubber-stamp it?

Mizan Abdulrouf: Let me finish. The principle of the three talaq does not exist. Even after one talaq your marriage is void after the iddah period. It is finished. After three months your marriage is void. It is like having a decree nisi and then a decree absolute. What if, and we know of financial constraints, the man is being forced or is under duress. All it is is simply to assess whether there is duress. If the woman says, "Look, I've got the decree absolute. I don't want to go back to him." That is it. Nothing, no man or woman, and no law, especially Sharia, will force a woman back to that household.

Q145 **James Berry:** So if we hear of a case in the context of this inquiry of a more onerous process after a decree absolute has been presented than the one you have just outlined, you would be the first to condemn it.



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Mizan Abdulrouf: Of course. It would be un-Islamic.

James Berry: Very good. Thank you.

Dr Bone: We regularly have cases where people have had civil divorces and still come to us and ask, "Do I need to come?" We say, "You don't need to, because Islamically you can't be married in one and divorced in the other". It cannot be right for you as a human being to write that you are married on the forms and say, "Well, Islamically I'm not". It is not right. So we have got those cases in which we, as a panel, just sign the certificates because there is nothing else we can do. It is Islamically sanctioned but you live according to the law of the land. Now, there are those divorces that are not registered and we go through the process, but if a woman refuses to mediate we tell the man that mediation can take place only if a woman agrees to it. If a man does not agree, the same thing happens. It is straightforward.

Q146 **Naz Shah:** I am just going to make a statement and I would like you to tell me whether you agree or disagree with what I say. From what I have heard, to make the Sharia councils fit for purpose and bring them up to date, I suggest that you would, at a bare minimum, need an Islamic scholar, a lay person, a safeguarding lead—someone who has experience of safeguarding—someone who has expertise in English family law and a minimum of one female. In fact, I would like to see many females on the panel. Do you agree or disagree with that statement?

Dr Al Dubayan: Would you say that again about the minimum?

Naz Shah: As a minimum, an Islamic scholar, a lay person, a safeguarding person, an English family law person, and one woman. And that is just to begin with. Do you agree with that statement, about making Sharia councils fit for purpose?

Dr Al Dubayan: I would agree about more women also. But if you put this as a condition, if there is no woman on the panel—

Dr Bone: In the magistrates courts model you have elders in the community and people who are experts in English law. That model could work, yes.

Mizan Abdulrouf: I would simply qualify the lay person. I take the point about the lay magistrates, who are guided by the legal adviser, but I would be cautious about the lay individual. Other than that, I don't see anything wrong with that.

Khola Hasan: I agree with Mizan. I think the lay person is the issue here. We have got enough confusion in the Muslim community as it is. That is why the scholars at the Sharia council are so important.

Q147 **Naz Shah:** But in principle, do you agree with the concept of having some bare minimum standards?

All witnesses: Yes.



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Q148 Chair: In previous evidence, we had a series of proposals: changing marriage laws so that Islamic marriages are automatically registered; making civil marriage a mandatory requirement for religious marriage; and extending the Divorce (Religious Marriages) Act 2002. Do you have any views on any of those proposals? Are there any legal changes that you think would be helpful?

Dr Al Dubayan: I wish you would give us a chance to take this to the board, and then we can give you this. That would be better.

Chair: We can do that.

Mizan Abdulrouf: If I can just add this: recognising nikah has been mentioned before. There are various people who come to me and say, "I am getting a nikah, because I don't want my new husband to take what my other husband, or my deceased partner, left me." There is that issue of their own assets. What we have to take away is that it is no longer about the issue of ill-educated woman. Now there are many more educated women who are financially stronger and sometimes earn a lot more than their spouses. That is one issue.

For me, it is about advising them at the outset and giving them enough information to make an informed decision. What does having a nikah give you? You must understand what you don't get, in terms of the English law system. Providing them with that information, and making sure that before they sign the nikah they understand that it is not recognised by the law of the land, and that what they lose out on that should be a precursor for them having a nikah, means that they are informed about their decision. They can then make that decision, knowing exactly what they've got. If they then want to go back and have a nikah or a civil marriage, it is there. It is their decision.

Dr Bone: I recently had a woman solicitor at the Sharia council, and I asked her, "Why did you not register your marriage?" She said, "I have my own law firm. I would be ruined by now, had I registered my marriage, so thank God I didn't do it." I think the choice must be there for those who want to register.

I think it is perhaps not understood that among the Muslim communities in different parts of the world, including south-east Asia, Arabia, Lebanon, Syria and Egypt, people have a contract while they are still living in their parents' home. Because Muslims are not supposed to have any physical relationship or even hold hands, they have a nikah contract to be able to go out to dinner, spend some time together and get to know each other. Only when they feel that there is something much more concrete do they register their marriage. That gives them the opportunity to court. That, to me, is their choice.

The other point you made was about the 2002 Act. I was involved in meetings in Gray's Inn with various lawyers and judges. They said, "This is what we offered to the Jewish community. This is the law that has been placed." The Muslims who were present at the time all disagreed with that.



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That is like empowering a man when we do not need his permission to carry out an Islamic divorce. I would not want that.

Chair: If you have any further thoughts, responses to any of the legal changes that were proposed in earlier evidence, or any further responses to the earlier testimony, do send them to us. I thank you hugely for all of your time and evidence, which has been very illuminating. I draw the Committee hearing to a close.