Theorising the reconciliation between the state and the shari'a in a western context, with special reference to the United Kingdom

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Only when we shift the public discourse towards 'critical multiculturalism' will we be able properly to adjust to shari'a law in the UK

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Many thanks to Anicee van Engeland and the conference organising team for inviting me to this workshop. I truly welcome the multi-disciplinary approach you are taking to this complex issue and I hope that my sociological input can make a useful contribution to the discussion.

I come to the difficult issue of policy and law in relation to Muslims in Britain from a specific standpoint. My research and writing over the past forty years has been on the settlement of Jewish, Irish, African-descent and South Asian populations in the UK, specifically in Leeds, in the north of England, focusing mainly on the 'politically black' settlements. But – and maybe I can say this openly now that I'm retired from university life – that research has been mainly as an adjunct to my political activity in support of the progressive movements that have emerged among those population groups in the past 100 years and more. My political and research life has always been in the multi-ethnic inner city areas, and I started out with a close focus on the populations of African descent. Since the Rushdie affair, and particularly since the late 1990s with the emergence of fundamentalist Islam (I know the terminology is dubious, and I'll return to that later), I have been concentrating more closely on what is happening among Muslims in Britain and globally. I see the macro-political and sociological issues as inextricable, whatever the particular issues that arise when any group of 'others' arrives in Britain.

In this paper I will argue the debate today about shari'a law should be placed in the context of the history in the modern period of migration and settlement of peoples marked, each time, as 'other' by whoever styled themselves as the 'true British' at

that time. These settlements provoked, from the 1950s onwards, discussion of the relative merits of assimilation and integration, while multiculturalist discourse was developed and contested. Throughout this recent history too little attention has been paid to the particularities of those new populations in the UK. In my view, analysis of the specific debates that have arisen in post-war Britain about these settlements should provoke a shift in public discourse towards what I call 'critical multiculturalism'. This is the discourse that would facilitate a necessary accommodation between shari'a councils and the dominant British system of law.

I shall use scare quoted 'true British' as my abbreviated method of reminding us that however far we go back in the history of migration to Britain, we never seem to know who are 'truly' British, if by that we mean some population unsullied by the genes of others. My favourite argument about the deep history of the UK is the one that says that the people the Romans could never subdue in Scotland, the Picts, were black Africans (van Sertima 1988). I'm in good company when I make the point that there is no such species as the 'true Brit'. Daniel Defoe lampooned the notion in 1701 when he wrote of:

> the vanity of those who talk of their antiquity, and value themselves upon their pedigree, their ancient families, and being True Born; whereas 'tis impossible we should be True Born; and if we could, should have lost by the bargain.
>
> (Cited in Curtis 1984 p. 40).

Like Defoe, and many other progressive people in the UK, I cherish the fact that this country has been made by successive waves of migrants, that the British are an intercultural nation of hybrids, exhibiting features derived from all its constituent peoples. I set myself against my forebears who, according a Swiss visitor in 1727, wrote: 'I do not think there is a people more prejudiced in its own favour than the British people . . . They look on foreigners in general with contempt, and think nothing is as well done elsewhere as in their own country' (de Saussure, cited in Curtis 1984 p. 40). To the great detriment of Britain, it is these prejudiced voices which are dominating public discourse on Muslims today.

In this paper I will briefly discuss some of the debates that have arisen – about 'aliens', about assimilation/integration, and about multi/interculturalism – in response to these migrations. I aim to show how the moral panic around shari'a law (derived from the panic around 'Islamic' terrorism) emanates from the failure in British public life to resolve those debates. A persistent theme will be that policy and law must reflect the variety of social and religious orientations that are held by Muslims in the UK.

Covering all this ground means that I will be schematic and hopefully my analysis will be challenged in the course of the ensuing discussion.

(1) The Nineteenth Century 'aliens' debate

'Aliens' have been constructed by the 'true Bits' for a very long time. We should always remember 'true British' responses to the Irish Catholics in the mid-Nineteenth Century and to the Eastern European Jews who arrived from the 1870s onwards. People migrate, mainly, to escape persecution and economic oppression.[i] One and a half million Irish people died as a result of the Irish famine of 1845 to 1849; another million migrated (Curtis 1984 p. 48). It was the era in which European intellectuals, 'true Brits' to the fore, were inventing what we now call scientific racism – the doctrine that 'races' can be biologically distinguished, and placed in a hierarchy of worth. The Irish – placed within the imaginary 'race' called the Celts – were singled out in 1862 by Lord Acton, a founder of British historiography, as 'not among the progressive, initiative races, but among those which supply the materials rather than the impulse of history'. Like the 'Hindoos' they are a 'negative element in the world' (cited in Curtis 1984 p. 57). Despite Irish literature being accepted as absolutely central to the canon called 'English Literature' – I'm thinking of James Joyce and Samuel Becket as just two examples – it is arguable that anti-Irish prejudice still exists in England today, and the over-representation of Irish people in the lower socio-economic classes is partly a result of that.

The upsurge of persecution of Jews in the Polish-Russian border areas in the 1870s led to mass exodus by Eastern European Jews. By 1900 about a quarter of a million had settled in Britain (National Archives, 2014); Cohen says it was 700,000 (Cohen 2003 p. 80). An indicator of the prevalence hostility that resurged, based in more than 2,000 years of what David Nirenberg calls 'anti-Judaism' (Nirenberg 2013, Walzer 2014), is to be seen in a statement in an 1884 edition of the newspaper of the British Marxist organisation the Social Democratic Federation: 'Jewish money-lenders now control every Foreign Office in Europe' (Cohen 1984 p. 20). Robert Blatchford, an early member of the Independent Labour Party, edited a newspaper called *The Clarion* which published this amateur Marxism, inflected with anti-Judaism, in 1900:

> Modern imperialism is really run by half a dozen financial houses, many of the Jewish, to whom politics is a counter in the game of buying and selling securities and the people are convenient pawns.
>
> (Cohen 1984 p. 20)

The Trades Union Congress resolved to exclude Jews at its 1892 conference. Uncannily echoing right-wing comments today, a Conservative MP told Parliament in 1902 that 'Not a day passes but English families are turned out to make room for foreign invaders . . . Out they go to make room for Rumanians, Russians and Poles' (Cohen 2003 pp 81-2). The Aliens Act of 1905 was one result of this hostility. While anti-Catholicism was an aspect of anti-Irish racism, this Act of Parliament was

founded much more specifically on hostility to the religion of the Jews from Eastern Europe – peoples explicitly dubbed as 'alien'.

A sub-theme of this paper is that xenophobia and racism are by no means the whole story of British public discourse around immigration. So it is important to point out that John Stuart Mill explained that the Irish migration resulted from a famine induced by English exploitation of Ireland – and Mill, like many other progressives in Britain, was utterly opposed to the slave trade. Similarly, the Socialist League, led by William Morris, opposed the moves to control Jewish immigration and his group worked alongside Jewish trade unionists for social and economic reform. But the xenophobic tide was extremely strong. The point I want to make at this stage relating to the topic of our workshop is this: good policy and law in 21ˢᵗ Century Britain will only emerge when this tide is turned.

(2) The assimilation-integration debate

The tide flooded again in the late 1960s with Enoch Powell at the helm of the good ship True Briton. Powell, thanks (partly) to the One-Nation Tory Edward Heath, soon became a pariah, but it is worth remembering that middle-of-the-road Parliamentarians had already passed the Commonwealth Immigration Act of 1962, responding to the steady rise in anti-immigrant sentiment, which linked permission to enter Britain to the acquisition of a voucher. Vouchers would only be issued in limited numbers to people with specific the occupational skills required by the British economy of that period. Hence the bulk of immigrants over the next decade (as controls were steadily increased) did those jobs which white people were increasingly refusing to apply for. The racialisation of the immigration process was finally made explicit in the 1981 Nationality Act, which neatly dealt with the barely-stated problem that the Commonwealth included white-skinned people, who were always welcome, and darker-skinned people who were not. In order to exclude the latter and include the former, an applicant for entry had to show that he or she had a grand-parent born in Britain.

Throughout this period, the argument was about whether or not these 'New Commonwealth' immigrants could, or should, assimilate to the British culture they encountered. In my more radical youth I denounced Roy Jenkins, but I now appreciate the important statement he made in a speech, published in 1967, which clearly defined integration, rather than assimilation, as the nation's proper goal. Jenkins very carefully distinguished the two concepts, and took a well-aimed swipe at the mythical 'true Brits'. According to Jenkins, integration is to understood as 'not a flattening process of assimilation but as equal opportunity accompanied by cultural diversity, in an atmosphere of mutual tolerance'. He was very explicit about what he did not want to see: 'I do not think that we need in this country a "melting pot", which will turn everybody out in a common mould, as one of a series of carbon-copies of someone's misplaced vision of the stereotypical Englishman . . . [this] would deprive us of most

of the positive advantages of immigration, which . . . I believe to be very great indeed' (cited in Farrar 2012a).

It is important to stress that Jenkins' view – Britain benefits from the cultural traits brought to this country by new migrants, and benefits more from those groups maintaining at least some of their historic cultures – was that of a mainstream politician (he was the Labour Party's Home Secretary for a while). Jenkins was for integration, but against assimilation.

It is very clear, however, that the loudest voices in public life at the moment rest on the view that assimilation – what Jenkins described as the 'flattening' process in which incomers level out their own cultures and merge with the cultures they encounter here – is what is being demanded. Not that most of those voices seem willing to place their discourse within this long-running debate. For example, in a 2007 report led by Munira Mirza, significantly titled 'Living Apart Together', the focus is on the growth of Islamic religiosity among the younger generation of British Muslims, with the clear implication that this spells dangers ("living apart") for society as a whole. With its explicit opposition to multiculturalism and its focus on 'shared purpose and confidence in British society' the report seems to hover between advocating assimilation or integration without addressing those thorny issues. (In a subsequent blog she argued (correctly, in my view) that 'most Muslims are well integrated' (Mirza 2007). The impression remains, however, that she would prefer assimilation.) As it happens, her report's statistics do not strongly back its alarm about 'Islamist' tendencies, since it reports that 62% of young (16-24) Muslims feel they have as much in common with non-Muslims as they do with Muslims (compared to 72% of those over 55). Nor is it at all clear why it is a problem that 74% of young Muslims would prefer women to wear the scarf,[ii] while only 28% of those over 55 would (Mirza et. al. 2007 pp. 5-7).

We should see the excited debate about shari'a law initiated by Rowan Williams' 2008 lecture while he was Archbishop of Canterbury in light of the integration/assimilation debate. As my colleagues Simon Robinson and Paul Wetherly (2012) point out, Williams' argument was largely misunderstood. Today, I suspect the reaction to Williams would be even more fierce than it was in 2008, and it might even be seen as offering legitimation of Muslims' alleged unwillingness to integrate, let alone assimilate.

I believe that Williams correctly demonstrated how shari'a processes of law could be accepted within British society without reinforcing what he called 'repressive or retrograde elements' in Muslim practice (cited in Robinson and Wetherly 2012, p. 68). The most reasonable argument against Williams was that any concession to shari'a law would undermine the nation's cohesion by allowing competing principles to operate within the UK. Thus, while supporting Williams in several respects, Robinson and Wetherly (2012 p.77) argue that Williams is wrong to criticise 'the idea

of uniform citizenship based on liberal principles' inherited from the European Enlightenment. But Williams' clear support for the principle that adjudication within shari'a jurisdiction is subject to English national law indicates that he is not questioning uniform citizenship. What Williams is allowing for is the principle of 'multiple affiliation' that flows from the recognition of complexly-layered multiple identities that emerge in the globalised, cosmopolitan societies in the period that Zygmunt Bauman (2000) calls 'liquid modernity'. This sits happily with the development of multicultural integration, rightly identified by Tariq Modood (2013) as a two-way process in which the cultures of those who arrive shift and adjust alongside the changes in cultures among those already here in response to the ideas and practices of the newcomers. This of course is exactly what has happened over the very long period in which Britain has formed itself in the ebb and flow of its many migrations. My conclusion to this part of the paper, therefore, is that accepting shari'a law alongside the mainstream British legal process would be a good example of multicultural integration.

(3) Multiculturalism, interculturalism and critical multiculturalism

In this final section I'm going to explain how I think this country might make progress on this specific issue, the application of shari'a law. Again, I suggest we have to situate the argument in the context of recent debates, this time those centering on the notion of multiculturalism. I've written about this elsewhere arguing that multiculturalism in the UK has always been a highly contested discourse, coming again under attack in the moral panic that arose after the 7/7 bombings in London in 2005. Anyone interested in the detail can read it up (Farrar 2012b). I want to stress is that, despite the fire and brimstone, multiculturalism's critics, including David Cameron, remain committed to its basic tenets. Thus, in his oft-quoted speech attacking something he called 'state multiculturalism' he subscribed to exactly the principle of multiple affiliation I mentioned above. He said that (as a result, somehow, of his national citizenship scheme for young people) people will feel free to say, 'Yes, I am a Muslim, I am a Hindu, I am Christian, but I am also a Londoner . . . too'. Fully aware of the heterogeneity of Islamic practice he pointed out that, lazily, people 'talk about moderate Muslims as if all devout Muslims must be extremist. This is profoundly wrong. Someone can be a devout Muslim and not be an extremist. We need to be clear: Islamist extremism and Islam are not the same thing' (Cameron 2011). Now, I am no fan of Cameron or his government, but I note that, as with all Conservative governments in the post-war period, his support for ethnic diversity and opposition to racism, is the norm. Ben Picher (2009) has described this version of support for ethnic minorities as 'national multiculturalism', originating in Tony Blair's and David Blunkett's interventions, where they all seem to need to qualify their support for minorities' rights (and thus for multiculturalism) by continually asserting a common national identity and social cohesion.

I want to suggest that 'national multiculturalism' does not provide a satisfactory framework for properly responding to diverse cultural practices within an ethnically complex society such as ours. One reason is that multiculturalism's main recommendation, that we celebrate diversity, closes down debate on those aspects of a diverse culture such as the UK's which require critical examination. Shari'a law is one such practice, but there are perhaps more complex challenges to dominant norms in the UK, such as female genital mutilation among some Muslims and homophobia among some Christians, particularly in the African-led churches, and forced marriages among some Muslims. (Keep noting my use of 'some'. I wish I could find some statistics which prove how statistically insignificant these practices are.) 'National multiculturalism' is also limited in this respect, since it is, principally, a specific response to the allegation, starting with Ted Cantle's 'Community Cohesion' report in 2001, that British Muslims were segregating themselves in northern British cities. As Finney and Simpson (2009) have demonstrated this is not actually happening. But the apprehension has not gone away and leading non-white British commentators, such as Trevor Phillips (2005) and Munira Mirza (Mirza et. al. (2007) have promoted this view. National multiculturalism not only aims at the wrong target, it conjures up the very nationalism that it purports to reject. Cameron's (2011) assertion that the values of 'freedom of speech, freedom of worship, democracy, the rule of law, equal rights regardless of race, sex or sexuality' were the preserve of Britain's liberals (among whom he clearly includes himself) implies both that others (such as the world's Muslims) do not hold these values and that Britain is somehow superior to these other peoples and nations. This cannot be the proper context for debating diverse cultures in the UK.

In response to the issues raised in the debate about multiculturalism some have argued that it be replaced by the discourse of interculturalism (notably Ali Rattansi). The great merit of Rattansi's argument is that interculturalism allows us to escape from the assumption in some forms of essentialist multiculturalist discourse that ethnic identities are taken as fixed. In contrast, interculturalism stresses 'connectedness, interaction and interweaving between beliefs, practice and lifestyles of different (not separate) ethnic groups as part of national cultures' (Rattansi 2011 p. 153). I agree with this, but want to take it a few steps further by advocating a discourse of 'critical multiculturalism'. This includes support for the 'interweaving' of cultures, but it asserts more strongly the process of negotiation that must take place as the cultures encounter each other. It also adds an explicit commitment to economic equality and equal rights for women and LGBT people. (Critical multiculturalism is more fully set out in Farrar 2012 (a) and (b).)

Now let's briefly examine shari'a law in light of this discussion. It's worth noting at the outset that only 28% of British Muslims in a 2007 survey wanted to live under shari'a law (Mirza et. al. 2007 p. 5). We are discussing shari'a law at this workshop during a period in which the term has been foregrounded in the national media, as one of the key planks in the media's generation of a moral panic around Muslims in

Britain. Nesrine Malik's recent article listed the most recent furores on the niqab, the so-called Muslim grooming gangs, halal meat, Islamic banking and, of course, shari'a law (*Guardian* 13.5.14). Today we might add the 'Trojan Horse' investigations into schools across the country following the allegation that 'Islamic extremists' are organising among governing bodies to increase the Islamic content of Birmingham schools' curricula (Adams 2014).[iii] We need to spend a minute or two on the moral panic around Islam and Muslims in the UK, and start by noting that it will not be dispelled simply by denouncing it as racist or Islamophobic. The anxiety stretches beyond the usual suspects in UKIP and the BNP to more moderate opinion. The strength of the hostility from respectable figures in British society (including a former Archbishop) to Rowan Williams' speech indicates how difficult it now is to get a proper hearing for reforms which are quickly misrepresented as favouring ethnic minority cultures.

We do need to rethink our own 'anti-racist' discourse. The gap today between overtly racist responses to Muslims and what we might call 'assimilationist' responses is well expressed by David Nicholson, a 70 year old whom we can take to be white. He lives in Keighley, Yorkshire, where 14% were Muslims according to the 2011 census. Mr Nicholson is voting for UKIP's Yorkshire candidate Amjad Bashir (in the European Parliament elections on 22nd May 2014). Mr Bashir moved from the Punjab to Bradford in Yorkshire when he was eight, when his Dad got a job in a woollen mill; he has a Yorkshire accent, and is fluent in Urdu. The newspaper report does not say anything about his religious practice but we might deduce from his name and second language that he is of Muslim heritage. David Nicholson, formerly a Conservative Party voter, is switching to UKIP, you might think despite its candidate's ethnicity, because, he says, Mr Bashir is "Behaving the same way we are . . . He's wearing the same thing as we are [a European-style suit and tie] – not those pyjamas. That sort of thing makes me uncomfortable. I don't like the burka either". Amjad Bashir is called Peter by his friends in the restaurant trade (Pidd 2014). It would appear that he is seen at least by Mr Nicholson as assimilated to Britain. Mr Bashir's assimilation seems to rule out for Mr Nicholson what others might see as a problem. I think we can predict that Mr Bashir will not be advocating any accommodation to shari'a law. (Mr Bashir, a Leeds businessman, became one of Yorkshire's three MEPs on 25th May 2014 (BBC 26.5.14).)

Just to be clear, I'm not endorsing Mr Nicholson's stupid remarks; I'm merely suggesting that he might not be a racist in the sense that the anti-racist movement has historically used that term. It is well-known that UKIP contains racists (Thandi 13.5.14) and that Nigel Farage has used racist terms in private (Jeffries 27.5.14). But I propose that it would improve the multiculturalist discourse if we were to use a term like xenonphobia to pick up on what might well be the views of most UKIP members. Racism is xenophobia's relative, but in not focussing at all on skin colour it moves even further in the direction of what long ago was called 'cultural' racism, the term developed when it became clear that racism was beginning to abandon its biological

referent. Farage's recent effort to apologise for his stating that Rumanians moving in next would be a cause for concern is a good example of xenophobia; close to racism, but not the same thing (see Hartley-Parkinson 17.5.14).

How can we move forward on shari'a law in this climate of opinion where Islamophobia and xenophobia seem to have taken a grip on a large section of opinion, at least in England? Multiculturalist discourse rightly promotes integration, and rejects assimilation. The process of achieving integration is much more complex that the proponents of multiculturalist discourse have recognised. Those of us who welcome diversity, and welcome change that must follow when new groups arrive in Britain, have to acknowledge that there is a genuine debate to be held over the adjustments needed for shari'a and British law to sit comfortably alongside each other. I suggest that progress can be made if we fully implement critical multiculturalism's principle of negotiation and respectful dialogue. This would entail proponents of new cultural practices engaging in serious discussion with proponents of norms different from theirs. In the case of shari'a law, we need to establish just how much difference is there between shari'a and British law? Rowan Williams pointed out that the processes by which disputes are settled in shari'a courts rest on the same principles of proper evidence, equal treatment and fair process that are said to be the norm in British civil courts. Those of you who saw the marvellous Iranian film *A Separation* (directed and written by Asghar Farhadi, 2011) will recall the exasperated but utterly fair inquisition the various parties were subjected to by the over-worked shari'a court judge. So there might not be much need for negotiation over process. But yesterday's lively discussion on the actual operation of shari'a councils in the UK indicate that there is much more to be said about this. I was particularly struck by Ian Edge's forceful criticism of those councils who are ignorant on developments in Middle Eastern Islamic jurisprudence. He was, I think, only willing to accommodate shari's councils in the UK if that was legitimised (and maybe regulated?) by British law. However, I wasn't clear if people here condemned the judicial process in British shari'a councils. It was a great pleasure at the workshop to meet Dr Ziba Mir-Hosseini at the workshop, whose film 'Divorce Iranian Style' (Longinoto and Mir-Hosseini 1997) was my first insight into the shari'a process in the family court. Just as in *A Separation* I was struck as much by the fairness of the process as by its informality. At this stage, I'm going to assume that their procedures, in terms of collection of evidence and properly hearing all parties is not seriously out of kilter with the English courts. I am ready to be corrected on these points.

More obviously contentious is the issue of the types of punishment deemed acceptable in some shari'a jurisdictions. Significantly, punishment under British shari'a councils has not reached our media, no doubt because the family cases they hear do not involve punishment. But in our media-saturated age, where 'Islam' is always under scrutiny, shari'a punishments abroad feature often in the news. The discussion of shari'a in the UK is thus overdetermined by these global stories. One that has been in the news over the past week [mid May, 2014] provides a good

example of how disruptive to British norms and values – which of course includes the norms and values of the vast majority of British Muslims – some of these decisions can be. A pregnant woman who calls herself Meriam Ishag, and who says she was born an Orthodox Christian, is to be flogged and hanged in Sudan for marrying a Christian, because the shari'a court says she is a Muslim called Adraf Abdullah who has committed apostasy and adultery (BBC 15.5.14). I hope that somewhere there is a 'Muslim rebuttal' team working to explain that Islamic law operates among 1.6 billion Muslims all over the world without these kinds of judgement and draconian sentences being imposed.[iv] The acceptance of national law by shari'a councils in Britain would no doubt also be emphasised. That rebuttal team might also promote further discussion of the verse 'There is no compulsion in religion' (Qur'an 256). It might point out that this obsession with scare quote shari'a is widely seen as symptomatic of Islamophobic tendencies in the British media. The imposition of the death penalty on 683 oppositionists (on 28.5.14) soon after 529 others were sentenced, including journalists, (on 24.3.14) by the new military regime in Egypt might be mentioned. However intelligent the response, stories like this one from Sudan will always undermine proper discussion of shari'a law in this country.

An even more difficult issue for the discussion of shari'a in Britain is the operation of the social values that underlie the judgements that might be arrived at. I'm referring to possibly competing values here mindful of the point made so interestingly by Dr Ali-Reja Bhojani yesterday about the existence of universal moral propositions, for example those against oppression, for mutual trust and for justice. I noted that Professor Gordon Woodman assented to this, but he pointed out that these principles get worked out in rather different ways in different cultures. That might explain the value conflict I'm about to discuss, or it might be something different: it might be that only the very broadest principles are universal, and these don't help us much when we get down to issues which touch on freedom, gender and power.

I'm no expert on this, but a paper I heard from Professor Shaheen Sardar Ali (2012) based on her research on three shari'a councils in the UK demonstrated that values concerning the proper status of women vary across the three councils working here now. These values could be placed on a spectrum which, using terminology which some might call Western, varied from very conservative to liberal. (Now published: Ali (2013).) As a supporter of women's rights – often wrongly seen as an invention of Western feminism – Professor Ali expressed concern at some of the decisions arrived at by the conservative councils, and she added further criticisms of unregulated (nikah) marriage yesterday. I share her worries. Ziba Mir-Hosseini's film graphically exhibited some attitudes by the judge that I would describe as patriarchal, and no doubt these attitudes operate in British shari'a councils. (The film also gave striking illustration of how assertive, articulate and non-deferential were the three Iranian women whose cases were explored.) Dr Samia Bano yesterday reinforced the point about patriarchy, but she remarked on how cleverly strategic the British Muslim women were in her research on five shari'a councils in England, as they engaged in

'forum shopping', actively searching for a jurisdiction which would give them the best outcome. I would share all the concerns we heard yesterday about the reactionary tendencies, undermining women's rights, that exist among Muslims in Britain (as they do, I hasten to add, in Britain as a whole). Hajj Ahmed Thomson was perhaps the only one I heard unequivocally supporting these councils, but I didn't hear anyone saying that they would advocate their removal. It is a very serious criticism (voiced yesterday by several Muslim women) of some British Muslim men who apparently use marriage arrangements that avoid English legal ratification as a means of reducing women's rights, perhaps even to unethically acquire their property, and to promote polygamy. There clearly are value-clashes taking place in the shari'a councils, just as there are in the wider society, but that doesn't seem to me to be a reason to completely deny their legitimacy as a whole. It might well be that these arguments are well served in shari'a councils, particularly (according to my own value position) in the socially progressive councils.

Like Rowan Williams, I welcome the fact that appeal could be made to the British civil courts by women, or others, for whom the shari'a decision was felt to be detrimental. Where appeals take place, we could see this as a process of negotiation, rather cumbersome perhaps, but one in which competing values over women's rights would be debated. Any public reports would allow that debate to be extended. The argument about women's rights and status in Islam bubbles under the stories about the use of the niqab and the burka in Britain. If properly conducted that debate is just as valuable to society as the debate initiated by the Women's Liberation Movement about beauty pageants forty years ago. Muslim women who cover themselves to mitigate the hypersexualisation of women's bodies in this supposedly liberated age of gender equality deserve to be heard. A dialogue between them and UK Feminista would be highly illuminating.

Part of the problem in bringing debates like these into the public domain is that most Muslims in Britain must feel – as I do – overwhelmed by the ignorant and often racist tone of the mass media whenever issues concerning Islam and Muslims are aired. Part of the solution therefore must be to take every opportunity to establish the basic fact of variety among Muslims globally and in the UK. Even the differences between Sunni, Shia and Sufi seem hardly understood, let alone the significant differences of social and legal thinking and practice within each of those traditions. When I used the term 'fundamentalist' earlier I alluded to the difficulty of even finding an acceptable term for the differences amongst Muslims in the way they practise their faith. I was following Malise Ruthven's (2004) use of the term (which he applied to a discernible tendency within all faith groups). To make it even more complicated I'll now refer to Tariq Ramadan's (2004) differentiation of 'traditionalists' and 'salafis' among those who Ruthven might in some cases call fundamentalists (a term Ramadan eschews). The traditionalists have at least three varieties in the UK (Deobandis, Barelwis and Tablighis) while the followers of Qutb, Hizb ut-Tahrir and Al-Muhajiroon are among

the different tendencies within the Salafi camp (see also Farrar 2012 (c)). Apologies if I'm going over old ground for many of you here, and I expect there are people who will object to several of these terms too. (Can I just slip in here that I think Al-Muhajiroon is a fiction?) I mention these different groups to remind us all that precise interpretation of shari'a law, and which shari'a councils are followed in the UK, is taken very seriously within each tradition (apart from those Ramadan calls Salafi literalists who deny that there can be any interpretation beyond the words of the original text). It should also be stressed that the Muslims whom Ramadan classifies as Liberal or Sufi in the UK would be unlikely to support shari'a law or refer to any of their courts.

If the fact of variety both among the schools of Islam and among Muslims can be established, we can make much more progress with the idea of negotiation where values are in genuine dispute. It seems likely that in most cases the underlying values are not radically different from mainstream values – which are of course always in contention anyway. In the current period, the controversy is mainly over women's status and freedom of sexual practice. The proponents of women's inherent inferiority face enormous challenge from Muslims in Britain (not least because of the Prophet's enlightened stance on this issue), let alone from the non-Muslims. It seems highly unlikely that those shari'a courts which come to conclusions based on assumed inferiority will hold their ground given the increasing support for more gender equality among Muslims in the UK and globally. Those Muslims who wear the niqab appear to get a hearing when they explain that it is a response to the sexist male gaze, and an act of religious devotion, rather than an act of subordination. When a wearer of that style of dress decides to make a public issue of her rights and thus generates media attention, critical multiculturalism would see this as another opportunity for negotiating values and seeking mutual adjustment.

I would be interested to know if issues of sexual orientation do come before shari'a courts in the UK and if they do what the outcomes have been. In the wider society the issue of homosexuality and lesbianism clearly requires much debate. The context of that debate should be the hostility to same sex practices among all the fundamentalists in all the religions of the book. The lively debate between them and their opponents within the Christian churches in the West is a good example of the kind of dialogue over sexual values that we need to promote. In that discussion we should note that is only very recently that attitudes on this issue have significantly become more tolerant. Consensual gay sex is now legal in 151 countries. But it remains illegal in 76 countries, and 2.79 billion people live in countries where being gay can result in a prison sentence. All of the five countries where it is punishable by death are those where Islam is the state religion (Iran, Mauritania, Saudi Arabia, Sudan and Yemen) (Ball 2014). Thus research (such as Pilgrim (2102)) which shows that, quietly, there is much tolerance of this form of sexuality among Muslims in Britain should be referred to frequently as the process of negotiation is undertaken. And, from my standpoint,

we would welcome that in Turkey and Indonesia, where millions of people are Muslim, homosexuality is legal (Ball 2104).

Shari'a councils in the UK will contain Muslims who are fully aware of the changes in values on women and sexuality over the past 40 years in the UK and globally, and different councils clearly will have different responses to those changes as they seek to interpret Islamic law. The more their debates are brought to into public view, in the context of an improved public discourse of critical multiculturalism, the more progress we will make. Assimilationists will no doubt oppose the existence of shari'a councils in Britain. Critical multiculturalists, who regard integration as a desirable goal on the basis that it entails change in both the cultures of the existing population groups and the newer ones, would support shari'a councils as they negotiate their value positions with those of the other population groups in the Britain.

Conclusion

This paper has attempted to place the discussion of shari'a law in the UK in the context of the long-standing arguments in public life about the response the majority populations have had to the arrival of new populations. Arbitrarily starting with the arrival of the Irish Catholics and the Eastern European Jews and the Nineteenth century, it pointed to the extreme hostility these groups experienced. While the debate that arose in response to non-white populations in the 1960s included stridently racist voices, the paper highlighted the progressive declaration by a leading Labour politician, Roy Jenkins, that the goal of British policy should be integration, where minority groups are free to uphold their cultures, rather than assimilation, in which their cultures are 'flattened'. This led to the development of a multiculturalist discourse that, although severely contested, remains in place today. In relation to the accommodation between shari'a and British law the paper argued that multiculturalist discourse is limited by its commitment simply to celebrate diversity. It argues instead that an accommodation between the two systems of law will result from the type of negotiation that is promoted by the discourse of critical multiculturalism. It has been suggested that the processes of shari'a law may be easily accepted, and that the subordination of shari'a councils to British law should over time help eliminate unfair decisions. Facing the more difficult issue of possible clashes of underlying values on the status of women and on freedom to choose any sexual partner, including same-sex partners, the paper has argued again for commitment to the critical multiculturalist framework that promotes those values in the context of respectful and tolerant argument.

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Endnotes

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[i] This process is set to get worse, as will the pressure within Europe to make its borders even more impregnable. Today [16.5.14] I find this in my inbox: '**A Record 33.3 Million Internally Displaced in 2013:** An annual report on forced displacement released on Wednesday [14.5.14] says that a record 33.3 million people were internally displaced at the end of 2013 due to conflict and violence, up a staggering 4.5 million from a year earlier. The Global Overview 2014, published by the Geneva-based Internal Displacement Monitoring Centre (IDMC) and covering internal displacement in 2013, reported that 63%of these internally displaced people (IDPs) were from just five countries: Syria, Colombia, Democratic Republic of Congo, Nigeria and Sudan. Including figures for Nigeria for the first time, the report documents that an astounding 3.3 million Nigerians have been displaced by conflict.' More here

[ii] Unhelpfully, the report uses the term 'veil' hère, blurring the divide between hijab and niqab. Since only a tiny percentage of Young British Mulsims wear niqab, I am sure the question was phrased in terms of hijab.

[iii] We might note in passing that there is no sign at all of a moral panic in response to one of the world's most important democracies, India, recently electing as its next Prime Minister Narindra Modi, a life-long member of the Hindu fascist organisation Rashtriya Swayamsevak Sang (Mishra 2014)

[iv] After our workshop, the media reported that a pregnant Pakistani woman was stoned to death by her family while on her way into the High Court in Lahore. Farzana Parveen was said, by her parents, to have been kidnapped by her husband. though she said she had married him willingly. Her father has told the police that he is responsible for the killing (BBC 27.5.14). On BBC Radio 4 on 27.5.14 a Pakistani woman commented that official figures in Pakistan put this so-called 'honour killing' at about 1,000 per year, but, she said, in rural areas it is far more common than that.

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