



The Archbishop and shari'ah law cultural hermeneutics in practice

Dr. Alison Scott-Baumann

Reader in Cultural Hermeneutics

University of Gloucestershire, UK

Introduction

In a recent lecture on civil and religious law, the Archbishop of Canterbury, Rowan Williams, who is the world leader of the Protestant Christian Church, asserted that shari'ah law is a necessary development in British civil life. His audience comprised legal experts, and they would have known that shari'ah legislation is already an integral part of British life for Muslims in certain areas, such as the preparation of halal meat, and the increasingly popular application of Islamic finance and banking, which shuns usury.

For those who know about Islam, it is clear that Shari'ah law can only be deployed with the willingness of a Muslim population, and cannot be imposed on non-believers, as Britain is not an Islamic state. However, the Archbishop's words led to a furious response in the media, and even led to calls for his resignation. The media response was presumably riding on the back of fears about security and terrorist fears, and led to much ill informed debate about the loss of British standards of fairness.

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In the section entitled 'The hermeneutics of suspicion' we will define the hermeneutics of suspicion and consider the use of cultural hermeneutics as a methodological approach to confront the existing discourses on Muslim schools. The section entitled 'The Archbishop of Canterbury and Shari'ah law' describes recently the recent public panic in Britain. The section 'Research on British Muslim life: critical analysis' summarises some significant and useful research. In 'Cultural hermeneutics in action' we consider the use of cultural hermeneutics as a set of principles that can be fused with action research methods, to replace the existing discourses on Shari'ah with a strong and rigorous applied philosophical methodology for interfaith project management. Finally we suggest some 'approaches for mainstream educators' and for 'Muslim educators' in order to facilitate work with each other and with the government.

In addition to the debate around institutional religion and secularism (Modood 1994, Weller 2006), there is also much discussion about what Samuel Huntington called 'the clash of civilisations' between Islam and the West. From the British media we are more likely to receive information about Islam as a problem than as a force for good. The Greater London Authority commissioned Insted's (2007) survey of treatment of Muslims in the media: the team of Insted researchers who analysed English newspapers in a typical week, 8-14 May 2006, found 97 % of tabloid coverage and 89% of broadsheet coverage to be negative towards Islam. The Islamic Republic News Agency (2008) reports the



distress caused by Islamophobia. There are exceptions such as Bunting, whose writing takes a more positive approach.

These two polarities; faith versus secularism and Islam versus the West, create a hermeneutics of suspicion, which is “a integral part of an appropriation of meaning,” the “‘deconstruction’ of prejudices, that prevent the world of the text from being allowed to be”; i.e. suspicion functions as a challenge to our beliefs (Ricoeur (1991:100).

The Archbishop of Canterbury and Shari'ah law

The Archbishop of Canterbury, on 7th February 2008 in a meeting with lawyers, made some comments on Shari'ah law and its application the UK. This was followed by an uproar of Islamophobic rhetoric, and a medley of anti-multiculturalism chants which seemed to demonstrate how suspicion can be a barrier to positive discourse. The UK media was unanimous in its criticism of the Archbishop's comments partly because he seemed to be recommending support for an ideology that they considered different and antagonistic to their own. In their case suspicion was the end-point to positive dialogue. This entire episode can serve as an illustration of what is lost through such an approach that refuses to reason or explore values different from their own. It can also serve as an indication of what is possible through an approach that adopts cultural hermeneutics - an approach that acknowledges suspicion but treats it as a point of embarkation into a journey that analyses differences and explores similarities. It builds on these similarities to create an environment of inter-group co-operation and cohesion.



If Rowan Williams hoped to achieve some sort of positive dialogue, his intentions were soon lost in the media uproar. It is however important to look at this entire episode from what perhaps was his true objective. And it is from this perspective that we set out to analyse current frame-works for Muslims and the application of Shari'ah Law in the UK. We shall try to understand the present in order to recognise possibilities for the future. Our aim is the same as Rowan William's to promote an inter-change of cultural values and religious ideals in an academic environment.

It is important to discuss the context in which the Archbishop made these comments. He is an academic and a proponent of multi-culturalism. He is deeply religious, which is relevant to this discourse because he understands the importance of divinely ordained law to the lives of fellow believers. Given the atheistic or agnostic stance prevalent in many academic and political circles, the Archbishop's actions are indicative of the empathy that believers in God share irrespective of their different belief systems. It is from this perspective that the Archbishop recommended that in order to further the cause of inter-community cohesion; it was essential for UK law to find accommodation with the legal systems of other cultures, such as the Islamic system of Shari'ah.

In his lecture he clearly was not trying to promote a parallel law system, nor was he trying to discuss the Shari'ah system in detail rather his objective was, in his own words;



“to tease out some of the broader issues around the rights of religious groups within a secular state, with a few thoughts about what might be entailed in crafting a just and constructive relationship between Islamic law and the statutory law of the United Kingdom.”

The population of Muslims in the UK is estimated at 1.8 million or 3% of the total population while in cities like London and Leicester, Muslims form almost 10% of the population. Bradford in the North has one of the largest Muslim populations in the UK at around 19%. It is essential to understand the Archbishop’s comments from the perspective of these Muslims who live, work and have families here and who are residents of UK. For practising Muslims the Shari’ah refers to the laws and way of life prescribed by Allah (God Almighty) for his servants and is derived from the Qur’an and the Sun’nah – redoubtable sources for Muslims. Its scope is not limited to criminal or civil law rather it is a system of divine rulings and directives dealing with faith; religious practice; inter-personal relationships; diet; social and familial behaviour; etiquette and manners; practical daily matters; finance; good governance and also a judiciary system. It is part of a Muslim’s everyday life.

In the UK, there is already provision for many aspects of the Shari’ah – food, finance and education being the most obviously successful. Halal meat is easily available in most cities which have a fair sized Muslim population. Halal certification authorities like the Halal Monitoring Committee (HMC) www.halalmc.co.uk, are respected and have access to



food manufacturing organisations whose products may be then certified as Halal depending on their ingredients and manufacturing process. Restaurants and ready-food producers/outlets may also be certified – a notable example being the Mexican food chain Nandos, which provides Halal options on its menu.

Ri'baa-free (interest-free) Islamic finance and banking is easily accessible for Momins (believers) in the UK. There are a few specialised Islamic Banking Institutions, while many High Street banks also offer competitive Islamic finance options. In the education sector full time Islamic schools, Madressahs, supplementary weekend Islamic education for children and institutes offering higher education in Islamic Studies are establishing themselves with the support of their local Muslim communities.

As per English law matters can be arbitrated and judged by a third party if both disputing parties consent. This has led to the development of minority tribunals including the Jewish Beth Din courts and Somalian customary law tribunals and Shari'ah courts. From around the late 1980s, under English civil law, marital and inheritance law and the arbitration of disputes have been judged under Shari'ah if both parties have freely consented to adjudication on that basis. Civil courts have also been required to provide guidance for judges on ethnic minority law and to call upon Islamic legal specialists for advice. In cases where claims have contravened British civil law or Human rights legislation they have been rejected by the



populated with a high percentage of Muslims. They are connected to Masjids and have strong linkages with local community leaders. They deal with civil cases with most of their work revolving around marriage; divorce; child custody disputes and a few property disputes.

It is within this context of an active Islamic community in the UK that I assume Rowan Williams suggested strengthening prevalent Shari'ah compliant facilities by amalgamating them within the current system of British Law. This would give the British Muslim population the security of dealing with a formal system that acknowledges and recognises their religious values and sentiments. It would also be a means to bring various Shari'ah councils and courts under a common system that could validate current practices and ensure that appropriate checks and balances are in place. This was the discourse that the Archbishop intended to initiate – a process of mutual cooperation between Muslim community leaders, their local systems and the formal judicial framework. However he was met with a typical response from a paranoid media and suspicious public. Most media coverage of the Shari'ah seems to reverberate around it being an inhumane and an archaic system that routinely stones people to death or orders chopping off the limbs of petty offenders. The public is presented with this unfair representation of the Shari'ah – one that refuses to acknowledge the wideness of its scope; the depth of knowledge it requires; and its centrality to the lives of Muslims. The public was therefore justifiably suspicious and nervous about the Archbishop's comments.

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The Archbishop's remarks were criticised for encouraging divisive tendencies with the British national identity. He was also criticised for apparently opening the door to legitimize so called "backstreet courts"; where unqualified people may get a formal authority. This is exactly what such a discourse would avoid by initiating a formal frame work and a set of good practices within which such minority law councils could work. Many aspects of Shari'ah Law are in full coherence with British Law. Ideals like freedom of speech thought, expression, faith, cooperation, pluralism and equality before the law are common to both systems. It is these commonalities which need to be presented to the common layperson, if positive dialogue and understanding is to be achieved. Khurram Murad (1981) describes this situation that we as Muslims and Non-Muslims living in the UK find ourselves in. He says, "The Shari'ah is an integrated homogenous whole. Once one understands its basic concepts, objectives and framework, one cannot but conclude that it is capable of creating the most human and just society, a peace and blessing for mankind. Difficulties only arise when critics try to measure the ocean of divine knowledge, wisdom and justice with their own thimble of pedestrian criteria and standards."

Research on British Muslim life: critical analysis



In 2003-4, drawing on the 2001 census, direct.gov.uk found the British Muslim community to be “ a young, tightly clustered and often disadvantaged community”, of which one in three workers had no qualifications ; the highest figure in any faith group. (www.directgov.uk). Various UK government bodies have commissioned research: Pennant, and Laurence and Heath applied a range of different analytical tools to the 2003 and the 2005 government citizenship survey respectively. Despite some differences in their findings, they suggest that levels of trust and community participation are higher in Muslim groups than in other community groupings, including white communities. They also provide evidence that friendships with those of other groups are important for developing tolerance.

These are thought-provoking findings that suggest the need for critical engagement with a wider range of possible interpretations of modern life in Britain than is often suggested by the debate around faith and secularism, Islam and the West.

Cultural hermeneutics as a possible response to suspicion

Cultural hermeneutics is a fusion of hermeneutics and action research, and needs to be contextualised within the philosophical traditions that have inspired it. Modern hermeneutics is a dialectical philosophy that seeks to interpret the tensions between human actions and thoughts, being particularly helpful with polarisations, such as those between faith and reason. Hermeneutical thought assumes that ‘truth’ can only ever be provisional approximation,



critical analysis, to a hermeneutics of recovery, some sort of reassembling of beliefs, or we risk become cynical and negative (Scott-Baumann 2009 in preparation).

1) Hermeneutics of suspicion:

Secure the support of senior academics and policy makers who can act as

champions if a situation seems to go 'cold'

Be prepared to be surprised by territorial interests

Humans are territorial and need to learn how to support others (*The Socius and the Neighbour*)

Be sensitive to concerns from within one's own workplace, as well as in the

collaborative partner's workplace

Tolerance needs to be worked at (*Tolerance between Intolerance and the Intolerable and Reflections on a new ethos for Europe*)

Bring two institutions together, by meetings in each other's 'territory'.

Show visible respect to each other's cultures, even without understanding

Something will be lost in translation, but it's better than nothing (*On Translation*)

2) Critical analysis:

Be prepared to challenge your own customs and practices

Customs that appear very different may serve similar purposes



Ideology and Utopia (in From Text To Action) and Oneself As Another

Actions speak louder than words; talk is vital, and listening even

more so

Actions can be read as if they were a type of text (*The Model of the text: Meaningful action Considered as a text*)

3) Hermeneutics of recovery:

Develop a shared vision and then work together to make it come true

Narrative is ethical, biographical and temporal, and we create our own narratives (*Time and Narrative and Oneself As Another*)

The best way to understand oneself is through understanding another person (*Oneself As Another*)

Keep addressing potential misunderstandings (*The Conflict of Interpretations*)

(Source: Adapted from Scott-Baumann 2007)

The Muslim communities with whom Alison Scott-Baumann has worked since 1997 (on, for example the teacher education programme for Muslim women (Scott-Baumann (2003a) and Ebrahim Community College (Scott-Baumann (2007)) wish to work collaboratively with the wider community. Now Sariya Contractor is developing new work with the same communities. Such groups know better than anyone that working together on joint projects is vital, so that lines of



communication can be developed. In this way shared goals will provide a bond among people who have never worked together before and who think they are irreconcilably different from each other. When they meet and work together they realise that the similarities are more significant than the differences (Scott-Baumann 2003a: 247). In Recommendation 6.24 the report *Our Shared Future* (2007:87) recommends that faith communities should become more involved with government at a local level, and should offer guidance in religious literacy, to explain Islam to non-Muslims. This needs to be achieved with Shari'ah law.

Conclusions

The Archbishop of Canterbury is a philosopher, of a hermeneutic leaning similar to our own, and this way of thinking, combined with his devout faith, will have given him cause to think about why his arguments were wilfully misunderstood. Whereas he desires ever closer dialogue with Islam, and has great respect for the faith, he has whipped up a controversy that shows how much work there still is to do.

In a country of 60 million, where 2 million are Muslim, there is a great need for cultural education. Instead of perceiving shari'ah law as an instrument of terror, it is necessary to educate the British about the importance of such law for the Muslim faith. In terms of national security, good may come out of this, as both the government and the Muslim community wish to work together to develop imam training which will produce culturally aware English-speaking imams who can mediate between faith communities and secular



communities. The government is in dialogue with me about leading an independent review of imam training, and this can help the shari'ah debate.

Waardenburg asserts that cultural and human identity 'is not a fixed thing but part of a movement of life' (2003:486). As an integral part of this, Ricoeur understands that it is necessary for us to be suspicious in order to challenge our beliefs. He is not recommending hurtful confrontations, but recommends that we communicate with others and accept that we may be able to achieve good only in a limited sense: such small good acts as working toward school twinning between different types of school, including Muslim schools, may then facilitate more acceptance of differences and of divergences; a cultural hermeneutics of recovery, an 'expanding and continuing dialogue on basic human issues'. Ricoeur accepted the need for suspicion as a way to develop our beliefs more honestly and accept others. However, he had abandoned the use of the term 'hermeneutics of suspicion' by the 1980s, and spent the next thirty years developing alternative approaches to human understanding: if we can face up this phenomenon (pervasive suspicion of those who are different) then we can use it and move on to recovery of social cohesion through positive action.

I am more and more coming to see that the emergence of a single, worldwide civilisation, with the problems that this poses, constitutes one of the most important concerns for reasoned reflection. To recapture the full range of the meaning of our humanity and to open up the maximum number of possibilities for every person is a challenge for



thinkers in every human discipline. The divergences of our economic and political systems should not be seen as a threat but as a locus for an expanding and continuing dialogue on basic human issues (Ricoeur 1974: ix)

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email:Info@editionshouma.com