

Press release

Britain: Women's rights campaigners welcome withdrawal of the Law Society's sharia wills practice note

Thursday 27 November 2014, by [Centre for Secular Space](#), [Kurdish Women's Rights Organisation](#), [Nari Diganta](#), [One Law for All](#), [Southall Black Sisters](#) (Date first published: 24 November 2014).

One Law for All, Southall Black Sisters, the Centre for Secular Space, Nari Diganta and the Iranian and Kurdish Women's Rights Organisation have welcomed the Law Society's withdrawal of their sharia wills practice note [1].

The practice note advised solicitors on how to draw up 'Sharia-compliant' wills, stating that

"... illegitimate and adopted children are not Sharia heirs ... The male heirs in most cases receive double the amount inherited by a female heir ... Non-Muslims may not inherit at all ... a divorced spouse is no longer a Sharia heir..."

The ensuing campaign organised by women's rights advocates [2] Pragna Patel, Maryam Namazie, Gita Sahgal, Yasmin Rehman, Dianna Nammi, Rumana Hashem and Chris Moos has seen an open letter to Asthma Jahangir [3], the former United Nations Special Rapporteur on Freedom of Religion or Belief; and an open letter to the Law Society [See below] included signatories such as scientist Richard Dawkins, writer Taslima Nasrin and founder of Secularism is a Woman's Issue Marieme Helie Lucas, amongst others.

On April 28, a well-attended protest at the offices of the Law Society [4] featured speakers such as human rights campaigner Peter Tatchell [5], Muslim Institute Fellow Yasmin Rehman [6], Rumana Hashem [7] from Nari Diganta - Women in Movement for Social Justice, Secularism and Equal Rights, and Diana Nammi [8], Chief Executive of the Iranian and Kurdish Women's Rights Organisation.

The organisers of the campaign also obtained legal advice from Karon Monaghan QC of Matrix Chambers [See below], which stated that the Practice Note was unlawful as it provided guidance to solicitors that promotes an interpretation of Sharia that is discriminatory on the grounds of gender, religion and ethnicity and thus gave rise to the possibility of direct discrimination by solicitors. This came after the Solicitor's Regulatory Authority had already withdrawn its endorsement of the Law Society's Practice Note on July 10, following the threat of legal action from Southall Black Sisters.

In addition, the campaigners also found that the Law Society had used the works of an extremist cleric, who has advocated flogging and stoning for "fornicators", for their Practice Note. The campaign received extensive press coverage and political support, including from Justice Secretary Chris Grayling, who warned that the Law Society's Practice Note risks undermining the rule of law.

Pragna Patel, Director of Southall Black Sisters, said:

"SBS welcomes the Law Society's decision to withdraw the discriminatory guidance. We also

acknowledge that it has publicly apologised for having produced the ill-advised guidance in the first place. Let this episode serve as a warning to other public bodies that may be contemplating instituting 'Sharia compliant' measures that flout equality and human rights law and values, which must be regarded as universal and non-negotiable. We now look forward to working with the Law Society to address the devastating impact of the legal aid cuts which also prevent many abused and marginalised women from minority backgrounds from accessing justice."

Maryam Namazie, founder of One Law for All, commented:

"The Law Society has finally succumbed to our pressure and withdrawn its guidance a week before women's rights groups were to meet with them to step up our pressure against the discriminatory nature of their Sharia-compliant guidance. This is another huge victory for equality, one law for all and civil rights and yet another loss for the religious far-right. We congratulate all those who took part in this campaign. One law for all is not an empty slogan but must mean something particularly when it comes to the law."

Gita Sahgal, Director of the Centre for Secular Space, said:

"We are delighted that the Law Society has finally seen sense and made clear that they do not wish to condone discrimination, have withdrawn the note entirely and will not seek to replace it. Their apology is very welcome. This is a victory against the institutionalisation of religious law. Secular values protect the rule of law far better than the regulators do. There are many battles ahead to protect human rights and access to justice. We have a common interest in these struggles."

Chris Moos, one of the organisers of the campaign, concluded:

"The Law Society has done the only sensible thing - withdraw the guidance for good and apologise for promoting the use of discriminatory practices in the first place. Hopefully, those who have defended the practice note will now realise that the only way public bodies and representative organisations can be sure to meet their equality duties is by adhering to the principle of secular neutrality in matters of belief."

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* <http://freethoughtblogs.com/maryamnamazie/2014/11/24/lawsociety/>

Sharia Wills - Open letter to the Law Society

A betrayal of Rights and freedom of minority women

17 September 2014

We write this open letter as a concerned group of organisations and individuals working on issues of gender equality and human rights in the UK and elsewhere.

You may be aware that recently, under threat of legal action in respect of a breach of the Equality Act 2010, the Solicitors Regulation Authority (SRA) withdrew its ethics guidance on 'Drafting and Preparation of Wills' which purported to endorse the Law Society's 'Practice Note on Sharia Succession Rules'. The Practice Note - which was intended to assist solicitors in drafting so called Sharia compliant wills - serves in effect to endorse discrimination against minority women and children on the grounds of their gender, marital and family status and religious backgrounds, in so far as it encourages legal and state welfare services to accommodate highly gender discriminatory religious laws that are being increasingly defined by religious fundamentalists in our society. This is a source of immense concern to those of us who have for so long contested gender discrimination in our communities and fought for the freedom of women and children.

The Practice Note reminds solicitors that:

'... illegitimate and adopted children are not Sharia heirs ... The male heirs in most cases receive double the amount inherited by a female heir ... Non-Muslims may not inherit at all ... divorced spouse is no longer a Sharia heir...'

In withdrawing its guidance with reference to the Practice Note, the SRA stated:

'... given the concerns that have been raised in relation to the inclusion of the reference to the practice note, the reference has now been removed'.

In this light, we are dismayed that the Law Society appears to be resolute in its refusal to retract the Practice Note, insisting that 'no equality and diversity implications arise from the note' and that it is regarded as 'good practice'.

We enclose herewith the further legal advice we have obtained from Karon Monaghan QC of Matrix Chambers - a leading expert in discrimination law - expressing her opinion that there are considerable legal risks attached to the Practice Note since it takes no account of equality legislation and instead strays into the realms of doctrinal advice. As you will see, she concludes that the Practice Note contravenes the Public Sector Equality Duty and is unlawful on a number of grounds.

She further warns that any solicitor acting on the advice of the Practice Note may also be in breach of the Equality Act 2010.

In summary Ms Monaghan's considered advice is that:

- The Law Society is subject to the Public Sector Equality Duty since the promulgation of the Practice Note is an exercise of a public function;
- The Practice Note gives rise to equality issues since it provides guidance to solicitors which endorse gender discriminatory laws;
- The Practice Note gives rise to equality issues since it promotes an interpretation of Sharia that is discriminatory on the grounds of religion and ethnicity;
- There is a continuing duty on the Law Society to address equality and diversity issues;
- The Practice Note may give rise to direct discrimination by solicitors acting upon it;
- The Law Society fails to meet the specific requirements of the Public Sector
- Equality Duty, namely, the need to remove or minimise disadvantages suffered by minority women and to eliminate discrimination;
- The Practice Note gives rise to an obvious risk of illegality in its application and is therefore unlawful.

Senior human rights lawyers working in contexts where Muslim personal laws applies have also expressed concern that the Law Society is actively promoting discriminatory legal standards drawn from texts written by fundamentalists. They have pointed out that it would be more appropriate to frame advice that would mitigate the effect of discriminatory laws and practices.

We would also draw your attention to the fact that the Practice Note stands in breach of the Law Society's own 'Equality and Diversity Framework 2012-2015' policy which sets out its aspiration and goals, including the provision of leadership on and promotion of equality and diversity within the legal profession. The policy document states:

'We believe that providing high quality equality and diversity services to the profession will help it to thrive in an increasingly competitive market place. It will also help solicitors to themselves promote equality and diversity and thereby meet their obligations under outcome focused regulation. Finally, in all its other work both the profession and in the public interest, the Society will adopt exemplary equality and diversity practice.'

In all the circumstances including its stated commitment to equality, we would submit that the Law Society's continued failure to withdraw the Practice Note amounts to a gross derogation of duty on both legal and moral grounds. Are we to assume that when the Law Society refers to equality, it does not include minority women's right to equality? Are we to assume that minority women are only to be recognised as different but not equal, and that equality and diversity are mutually exclusive? Are we to assume that the Law Society does not consider minority women as members of the public whose rights and interests the Law Society must also promote through the legal profession?

We urge the Law Society to adhere to the spirit of the equalities and human rights legislation and to its own equality policy by recognising that its main business lies in the promotion of a culture of human rights and norms based on principles of equality for all rather than on the promotion of

‘Sharia compliant’ laws that discriminates against minority women and children in particular. To that end, we are prepared to meet with you to discuss the matter further. As you are aware, some of us work closely with the legal profession, including the Law Society, to ensure that the most vulnerable in our society have equal and full and free access to the law. We believe that in these challenging times of austerity and legal aid cuts, we should work closely to uphold and promote a shared vision of a more just and equal society in which the rule of law and democracy (and not doctrine and dogma) prevails for all people.

We hope that, upon further reflection, you will share these concerns and that you will agree to meet with us to discuss this matter further.

We look forward to hearing from you accordingly.

Yours sincerely,

Pragna Patel
Director, Southall Black Sisters

Maryam Namazie
Spokesperson for One Law for All and Fitnah – Movement for Women’s Liberation

Gita Sahgal
Director, Centre for Secular Spaces

Yasmin Rehman
Women’s Rights Activist

Diana Nammi
Executive Director & Founder of the Iranian & Kurdish Women’s Rights Organisation (IKWRO)

Rumana Hashem
Member of Nari Diganta – Women in Movement for Social Justice, Secularism and Equal Rights

Chris Moos
Secretary of the LSESU Atheist, Secularist and Humanist Society

* <http://www.southallblacksisters.org.uk/sharia-wills-open-letter-law-society/>

Footnotes

[1] <http://www.lawsociety.org.uk/news/press-releases/law-society-withdraws-sharia-succession-principles-practice-note/>

[2] <http://freethoughtblogs.com/maryamnamazie/2014/09/17/law-society-failure-to-withdraw-sharia-compliant-practice-note-gross-derogation-of-duty/>

[3] <http://www.southallblacksisters.org.uk/sbs-steps-up-campaign-against-law-society/>

[4] <http://freethoughtblogs.com/maryamnamazie/2014/04/29/press-release-wills-without-bigotry-p>

[rotest-against-the-law-society/](#)

[5] <http://www.headoflegal.com/2014/04/29/peter-tatchell-whichever-way-you-try-to-spin-it-its-discrimination/>

[6] <http://www.headoflegal.com/2014/04/29/yasmin-rehman-as-a-muslim-woman-i-do-not-want-this-sharia-guidance/>

[7] <http://naridiganta.wordpress.com>

[8] <http://ikwro.org.uk/2014/04/leading-protests-condoning/>