Sharia law is well and truly operating in the UK – thanks to the Law Society

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***Sadikur Rahman**, of the Lawyers Secular Society, fears a practice note issued by the Law Society could compromise the Code of Conduct for solicitors and increase the application of Sharia law in the UK.*

It was with incredulity that I saw **this practice note** issued by the Law Society last week.

Lawyers will know that practice notes issued by the Law Society are guidance on best practice for specific topics or areas of law.

This practice note provides guidance to lawyers specialising in areas such as wills, succession and inheritance, and in particular how to accommodate the wishes of clients who want to ensure their assets are distributed according to 'sharia law principles' on their death.

I'm not a wills lawyer, but according to memory in the UK unless you draw up a will, on death your estate will be distributed according to the rules of intestacy. I'm sure most lawyers will also say that clients can do whatever they want with their assets, and it has always been the case that a lawyer must follow the client's instructions on such issues.

But what this guidance does is legitimise discrimination towards women and "illegitimate children" – if that term still has any meaning in English law. In an astonishing few paragraphs the guidance states (at Section 3.6):

> *"The male heirs in most cases receive double the amount inherited by a female heir of the same class. Non-Muslims may not inherit at all, and only Muslim marriages are recognised. Similarly, a divorced spouse is no longer a Sharia heir, as the entitlement depends on a valid Muslim marriage existing at the date of death.*
>
> *"This means you should amend or delete some standard will clauses. For example, you should consider excluding the provisions of s33 of the Wills Act 1837 because these operate to pass a gift to the children of a deceased 'descendent'. Under Sharia rules, the children of a deceased heir have no entitlement, although they can benefit from the freely disposable third.*
>
> *"Similarly, you should amend clauses which define the term 'children' or 'issue' to exclude those who are illegitimate or adopted."*

Now, of course a person has always been able to distribute their assets in any way they wish and a Muslim may completely legally have distributed their assets according to sharia principles, without letting the lawyer know the basis of the instructions. The difference now is that a solicitor could offer this service to a Muslim client and the Muslim client can say they want to distribute their assets in a certain way because of their religious requirement.

This guidance essentially provides legitimacy to use a system of law that is discriminatory towards women, particularly in the area of inheritance provisions. There seems no recognition of the fact that solicitors are being asked to use and accommodate instructions which in any other circumstances would be socially unacceptable or at which a solicitor may balk. Suppose a client instructed that their assets should not go to a relative because they happened to be of a different colour?

This raises serious questions about professional ethics and the role of the Law Society. The guidance seems not to recognise that there is a serious potential conflict between the Code of Conduct for solicitors and the guidance. Here is what the Code of Conduct – which all solicitors must abide by – says about equality and diversity (at Chapter 2):

> *"This chapter is about encouraging equality of opportunity and respect for diversity, and preventing unlawful discrimination, in your relationship with your clients and others. The requirements apply in relation to age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.*
>
> *"Everyone needs to contribute to compliance with these requirements, for example by treating each other, and clients, fairly and with respect, by embedding such values in the workplace and by challenging inappropriate behaviour and processes. Your role in embedding these values will vary depending on your role.*
>
> *"As a matter of general law you must comply with requirements set out in legislation – including the Equality Act 2010 – as well as the conduct duties contained in this chapter."*

The Code of Conduct makes it clear that solicitors cannot discriminate, yet this guidance is encouraging us to facilitate discrimination in advising Muslim clients on their wills. Even accepting that testators have the right to act in a discriminatory fashion with their assets if they choose to, this guidance encourages solicitors to adopt a different approach to clients who are deemed "different" – in this case clients who are Muslim. It creates a damaging assumption that Muslims on their death will want to distribute their assets in accordance with sharia law – with all the discrimination that comes with that. This is the "racism of lower expectations". Furthermore, the Law Society has set the scene for further disharmony: the guidance states at Section 1.2 that *"There are specific differences between Sunni and Shia rules on succession. These differences are not covered in this practice note…"* In time will the Law Society publish different guidance notes for different branches of Islam? Should it be the role of a secular organisation such as the Law Society – an organisation which occupies precious ground in our democracy – to take a view on theological matters?

The language in the guidance is innocuous and very technical, suggesting somehow that it is nothing unusual and just another area of legitimate expertise for solicitors. It is nothing of the sort. It is a dangerous precedent: legitimising a discriminatory practice, which without this guidance clients may have been embarrassed to ask about. But now that the Law Society has said it's perfectly fine for lawyers to draft wills in this manner, I'm afraid it will become increasingly prevalent in England. It also sows the seeds for more sharia law in other areas.

The guidance should be withdrawn. Solicitors are still officers of the Court and have a duty as clearly stated in the Code of Conduct to abide by the Equality Act. How solicitors can do this and still draft "sharia compliant" wills is beyond me.

Sadikur Rahman is a member of the Lawyers Secular Society. The views expressed in our blogs are those of the author and do not necessarily represent the views of the LSS or of the NSS.

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