

Institution: University of Reading
Unit of Assessment: 20 Law
Title of case study: Enhancing understanding of Shariah family law in England and Wales
<p>1. Summary of the impact</p> <p>Research carried out by the University of Reading's Dr Samia Bano (Lecturer 2005-2013) explored the experiences of Muslim women who engage with the law, and particularly their engagement with Shariah law. This research had an impact on the decisions and understandings of government policymakers via a subsequent investigation and written report commissioned by and produced for the UK Ministry of Justice (MoJ). This project looked particularly at the realities of the use of Shariah Councils in England and Wales to handle family-related disputes, and provided hitherto unavailable insights into a relatively unknown area of practice, enabling policymakers and other stakeholders to engage with this issue in a more informed manner.</p>
<p>2. Underpinning research</p> <p>Bano conducted the research between 2005 and 2012. It looked at the experiences of Muslim women when using Shariah Councils, with a particular focus on debates about multicultural rights and the extent to which English law should accommodate the cultural and religious demands of minority religious communities (Outputs 1 and 2, Section 3).</p> <p>Bano's work has demonstrated the complex realities of Muslim identity and engagement with Shariah law in the UK, and questioned assumptions about how far Muslim women use religious bodies to resolve family law disputes. Her research demonstrates a need to ensure that formal understandings of Shariah law reflect the lived realities of those who participate in it (Outputs 3 and 4). A particular issue is that "identities are fluid, multiple and changing. The women in this study identified themselves as Muslims, as British and as Pakistani in different contexts. Cultural, religious and legal diversity must therefore be understood to be in flux, contested and open to change" (Output 4, p.63). Bano's research shows, via empirical investigation of Muslim women's own experiences, and theoretical interrogation of the ways that formal and informal debates about Shariah law construct issues of identity, that accepted notions of Shariah as a parallel legal order standing in opposition to 'mainstream' English law are too simplistic. She convincingly argues that Shariah Courts form just one level in the construction of multi-layered Muslim legal identities, and do not lead inevitably to an exclusion of Muslim women from the mainstream legal system. In particular, Bano has argued through her research that Shariah Councils and other mechanisms of Shariah legal practice seek to remain part of Muslim communities, providing practical and spiritual guidance in matters of Muslim family law. They seek to complement the existing legal system rather than replace civil law in matters of marriage and divorce, a critical finding in re-informing the sometimes hostile and troubled public policy perceptions and debates around this issue (Output 1).</p> <p>These arguments have been developed in subsequent publications and presented to a wide range of academic and policy audiences (Corroborating Sources 1 and 2, Section 5). In 2008, Bano was invited to join a roundtable of experts to discuss ways of developing the knowledge base regarding Shariah family law that is available to Government policymakers in the UK. This meeting was organised by Professor Mavis Maclean of the Oxford Centre for Family Law and Policy (OXFLAP), University of Oxford, and the MoJ, and Bano was one of the key contributors. This allowed her to present her research expertise in the context of a wider policy debate around Shariah law, and to outline how further research could be conducted in this area (Corroborating Source 3). Finally, the user engagement and impact-generating work that Bano has conducted with the MoJ (outlined below at section 4) has subsequently re-informed and stimulated her ongoing research agenda: most recently, her book (Output 1) includes detailed analysis of the practical and conceptual limits of religious arbitration in English law, based on data including that obtained via the MoJ research project.</p>
<p>3. References to the research</p> <p>1. Bano, S (2012) <i>Muslim Women and Shari'ah Councils: Transcending the Boundaries of</i></p>

Impact case study (REF3b)

Community and Law (Basingstoke: Palgrave MacMillan), 344pp. ISBN: 978-0230221482.

This book-length research text was published with a key UK academic publisher, and provides a clear summary of Bano's work in this field, including the MoJ investigation. A copy is available from the HEI on request.

2. Bano, S. (2013) 'Muslim Dispute Resolution in Britain: Towards a New Framework of Family Law Governance?', in M. Maclean and J. Eekelaar (Eds.), *Managing Family Justice in Diverse Societies* (Oxford: Hart Press), pp. 61-86. ISBN: 978-1849464000 (<http://www.hartpub.co.uk/books/details.asp?isbn=9781849464000>).

This book chapter was published in a leading academic collection with a well-respected academic publisher and curated by a very eminent editorial team. A copy is available from the HEI on request.

3. Bano, S. (2009) "Shariah Councils and Resolving Matrimonial Disputes: Gender and Justice in the 'Shadow' of Law?", in A. Gill and R. Thiara (Eds.), *Violence Against Women in South Asian Communities*, (London: Jessica Kingsley Publishers), pp.182-210. ISBN: 978-1843106708 (<http://www.jkp.com/catalogue/book/9781843106708/review/>).

This book chapter was published in a leading academic collection with a respected academic publisher and curated by an eminent editorial team. A copy is available from the HEI on request.

4. Bano, S (2007) 'Muslim Family Justice and Human Rights: The Experience of British Muslim Women', *Journal of Comparative Law*, 2/2: 38-66 (<http://www.wildy.com/the-journal-of-comparative-law>).

This output was published in a peer-reviewed international academic journal.

The empirical research in question was the product of the following research grant:

Grant Holder: Dr Samia Bano (Reading)

Title: An Exploratory Study of Shariah Councils in England with Respect to Family Law

Sponsor: The Ministry of Justice, UK

Period of the grant: 2009-2010

Value of the grant: £ 21, 630

4. Details of the impact

Following the presentations and contacts that Bano had made with users such as the MoJ at the outreach events outlined in section 2, above, the MoJ identified a policy need relating to Shariah Courts in the UK, and in 2009 commissioned Bano to conduct a specific research project which could be used to strengthen the evidence base on which future policy might be made (**Corroborating Source 4**). This commission was made on the basis of Bano's expertise in this area, with the intention of building upon her previous work (**Output 4** in particular), notably in terms of her findings around the construction of issues of identity, and the use of participant interview methodologies to explore Shariah practices (**Corroborating Source 5**). The project was to involve conducting empirical research into the nature and scope of Shariah Councils in England, with a particular focus on identifying as accurately as possible the number and location of Shariah Councils in England, their administrative structure, funding and membership, and the range of family-related work they carry out. There was such a paucity of research in this hugely topical area that Bano's work broke new ground. Even locating relevant Shariah Councils was difficult, but, through her efforts, 30 were identified, and surveyed via a semi-structured questionnaire.

The results of this research were published by the Ministry of Justice in report form (**Corroborating Source 6**), with her findings that Shariah Courts did not seek formal recognition as alternative mechanisms of dispute resolution, and did not aim to replace the established civil law in matters of family law (most Shariah Courts are embedded within Muslim communities, forming part of mosques or community centres, and have evolved according to the needs of those

communities), making a substantial contribution to the field. These original and unique findings were focused on the needs of the MoJ, and provided a means of operationalizing Bano's wider research themes into the policy language and agenda of government. As the only research commissioned by the MoJ on this topic, this report has been central in informing governmental discussions about the extension of dispute-resolution mechanisms like Shariah Courts in a family law context. The MoJ has, despite a change of Government during the lifespan of the project that meant a shifting of agendas and policy priorities, retained it as an internal document for subsequent policymaking practice, having consulted on its production and used it to inform their programme of engagement with Shariah councils (**Corroborating Source 7**).

As such, the research dissemination and outreach undertaken via this project has contributed to the internal workings and knowledge base of a Government Department in relation to a complex and often controversial issue. Indeed, subsequent to the completion of the report, Bano was invited by the MoJ to join a new initiative, the Family Justice Virtual Group – a body which aims to provide a forum for the development of research-led family justice policy (**Corroborating Source 8**). Via this mechanism, Bano's research findings, and the insights raised in the MoJ report, have been disseminated, and have contributed to ongoing debates in the field of family justice and human rights. For instance; in January 2012, Bano was invited by the Home Office to attend and participate in a roundtable discussion with the Home Secretary (the Rt Hon Theresa May), the Government Minister for Faith and Communities (the Rt Hon Baroness Warsi) and a Ministry of Justice Minister (Jonathan Djanogly MP), to discuss issues affecting the Muslim community (**Corroborating Source 9**). At the meeting, the findings of Bano's ongoing research relating to Shariah law, including religious marriage, were discussed, and the MoJ-commissioned report (**Corroborating Source 6**) was presented and considered. This engagement demonstrates that Bano's work has contributed to Government policymaking processes at the highest level.

Additionally, her research has influenced wider social debates about the accommodation of Shariah law into English law. This is evidenced by the fact that in 2008 she was asked by the editors of *Ecclesiastical Law Journal* to respond to a speech by the Archbishop of Canterbury (Dr Rowan Williams), in which he had claimed that there was a need to bridge a distinct gap between the practices of English law and religious (Muslim) minorities. Bano was invited to deliver (and then publish) a response piece in which she cautioned against the recognition of religious norms and principles into English law (**Corroborating Source 10**). This engagement became a high-profile dialogue and fed into the wider social understanding of these issues. When the British Academy sought to bring together a forum in 2011 on the issue of parallel legal systems for the development of ideas between researchers, policymakers, politicians and other interested parties, Bano was invited to disseminate her research with representatives of Government, The Law Society, the Equality and Human Rights Commission and other user groups (**Corroborating Source 1**).

5. Sources to corroborate the impact

1. Website: *British Academy Forum on Parallel Legal Systems* (Bano as participant), the Royal Institute, London, 22 September 2011: <http://www.britac.ac.uk/policy/Parallel-legal-systems.cfm>
2. Website: *Muslim Council of Britain 'Islamophobia @ 2012 Challenges and Strategies' Workshop* (Bano as participant), SOAS, University of London, 24 November 2012: http://www.mcb.org.uk/index.php?option=com_content&view=article&id=2273:pr-template&catid=99:redoc&Itemid=41.
3. Meeting Agenda: *'Sharia Family Law: Developing the Knowledge Base'*, OXFLAP Roundtable, Oxford University/Ministry of Justice, Oxford, 30 July 2008
4. Research Project contract: 'A Study of Sharia Councils in Family Law Matters in England and Wales', drawn up with the Ministry of Justice, August 2009
5. Research Project proposal submission: 'A Map of Sharia Council Activity with Respect to Family Law', submitted to the Ministry of Justice, 16 July 2009
6. Report: Bano, S. (2012) *An Exploratory Study of Shariah Councils in England with Respect to Family Law*, University of Reading/Ministry of Justice, 32pp. (http://www.reading.ac.uk/web/FILES/law/An_exploratory_study_of_Shariah_councils_in_England_with_respect_to_family_law_.pdf).

Impact case study (REF3b)

7. Email Correspondence: From the Ministry of Justice, 24 November 2009
8. Email Correspondence and Invitation: '*An Invitation to Join the MoJ Family Justice Virtual Group*', from Ministry of Justice Knowledge Hub, 30 October 2012
9. Email Correspondence: Invitation to meeting with Government Ministers at the Home Office, 6 February 2013
10. Journal Comment Piece: Bano, S. (2008) 'In Pursuit of Religious and Legal Diversity: A Response to the Archbishop of Canterbury and the Sharia Debate in Britain', *Ecclesiastical Law Journal*, 10: 283-309
(<http://journals.cambridge.org/action/displayAbstract;jsessionid=2BE05B3184D89CE37C998F78CBF080C5.journals?fromPage=online&aid=2054464>)