

Legal systems can differ but co-exist

Thought for the Day

Ephraim Borowski (Director, Scottish Council of Jewish Communities)

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If there is a Law of Unintended Consequences, I guess there is also a Law of Unexpected Coincidences! Last Thursday, a senior member of the Church of Scotland said jokingly to me that the Kirk's Commission of Assembly is its equivalent of a Sharia Court – and then the Archbishop of Canterbury delivered his lecture on civil and religious law – and the joke didn't seem so funny any more!

Legal systems differ but co-exist. Take a topical example from a research report on how ethnic minority youth perceive the police. One of the distinctive features of Scots criminal law is the requirement for corroboration. So if someone who shouts racist abuse isn't prosecuted, that may not be for lack of effort by the police, but just because there were no witnesses. However, if the incident had taken place in Carlisle rather than Gretna, no corroboration is required – but that English conviction would still be on the record in Scotland.

So we already operate with overlapping legal systems. As the Archbishop said, the Church of England has its own laws, enshrined within the law of the land. The same is true of other churches. The law will uphold religious law in all manner of circumstances – if your local pork butcher puts up a sign saying “kosher” or “halal”, shouldn't Trading Standards have something to say about it?!

British law recognises foreign marriages – even if they are polygamous – so British courts sometimes have to rule on their validity. Here, religious ceremonies create civil marriages, but religious divorces do not end these marriages. Is there any reason in principle why they should not?

Now that banks offer sharia-compliant mortgages, it will be for civil courts, on the basis of expert evidence from Moslem scholars, to settle disputes about them.

If that is “incorporating sharia law” as one of the less sensational headlines put it, then I can't see what anyone's afraid of – other, perhaps, than the media's ability to whip up a hurricane out of clear air.

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