



Divorce British Sharia Style

Julie Billaud
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Full Case Record

ID 36

Case Shahnaz v Rizwan

TypeofCase Divorce - Polygamy or potential polygamy

Summary The case concerned a polygamous marriage governed by Muslim law. The couple hailed from India. The issue was whether the wife could ask the Court to enforce a term of the marriage contract which stipulated the payment by the husband to the wife of a deferred Mahr in the event of his divorcing her. This clause was enforceable under Muslim law. The Court treated this provision purely as a contractual term. The fact that the contractual term owed its existence to the couple's polygamous marriage was not treated as a bar to enforcement. The Court did not have jurisdiction to make post-divorce financial arrangements at the time of the decision, given the polygamous nature of the marriage. This followed from its jurisprudence on polygamy. It was important not to classify the Mahr as some form of ancillary relief (say, in today's practice, the provision of a lump sum, which seems to be the Mahr's approximate function) although the case itself preceded the development of lump sum awards by English courts. This was because the courts had established that it was contrary to public policy to enforce rights under polygamous unions.

Year 1965

Citation [1965] 1 QB 390

Court Queen's Bench Division

RelatedCases

Judge Winn

You have before your eyes the summary of the leading case in relation to 'Mahr' claims in England. In Islamic law, 'Mahr' is something of value paid to the bride either on the day of marriage ('Nikah') or deferred to a trigger event (divorce or death of the husband). Since an Islamic marriage is a contract and not a sacrament, there is a room in English contract law to enforce the payment by the husband to the wife of a deferred 'Mahr'. The case of Shahnaz v Rizwan (1965) created a precedent for the recognition of 'Mahr' in British law. It testifies of the new legal assemblages born out of the encounter between Islam and the British legal system. My on-going work on the Islamic legal culture of the UK aims to trace the various ways in which Islam appears (or not) in the British legal field. The 'court case' seems to be a major authoritative instrument in this process of visibilisation. Ironically, such documents remain quite obscure and difficult to decipher for anyone non-acquainted with the language of the law.