

Court rules Islamic law discriminatory, *The Independent*, 23 Oct 2008

By Robert Verkaik, Law Editor

Britain's highest court has criticised Islamic law for discriminating against women after a case in which a mother was forced to flee the Middle East for Britain to protect her son from his abusive father.

In a 5-0 ruling, the law lords said that there was no place in sharia for the equal treatment of the sexes. It would be a "flagrant breach" of the European Convention on Human Rights for the Government to remove a woman to Lebanon, where she would lose custody of her son because of sharia-inspired family law.

The woman, known as EM, came to the UK in 2004 with her son when he was eight. She has had sole custody of him since his birth because of her ex-husband's violence. She left Lebanon because its laws automatically award fathers custody of children from the age of seven.

Lord Hope of Craighead said that the right to non-discrimination was a core principle in the protection of human rights. "Sharia law as it is applied in Lebanon was created by and for men in a male-dominated society... There is no place in it for equal rights," he said.

Sharia was the product of a much-observed religious and cultural tradition, "but by our standards the system is arbitrary because the law permits of no exceptions to its application... It is discriminatory too because it denies women custody of their children after they have reached the age of custodial transfer simply because they are women."

Yesterday's decision reversed rulings by the Court of Appeal, the Asylum and Immigration Tribunal and the Home Secretary that returning EM to Lebanon with her son would not violate her right to family life.

The human rights groups Liberty and Justice intervened in the case. Liberty's legal director, James Welch, said: "How can the Government speak of equal treatment in one breath and seek to deport mother and child to face separation... in another? The law lords have rightly upheld basic protections which must be available to us all."

EM had obtained, in the Islamic Court in Lebanon, a divorce from her husband, who reportedly ended her first pregnancy by hitting her in the stomach with a heavy vase. She had been awarded physical custody of her son until his seventh birthday.

Lord Carswell said: "The House is applying the domestic law of this country, as it is bound to do... We are not passing judgment on the law or institutions of any other state. Nor are we setting out to make comparisons, favourable or unfavourable, with sharia law."

Eric Metcalfe, of Justice, said: "This isn't a case of British law versus Lebanese law or Sharia law. This is simply a victory for basic fairness and a useful reminder for anyone who doubts the value of the Human Rights Act 10 years on."