Chapter 6
Between Rhetoric and Reality: Shari'a and the Shift Towards Neoliberal Multiculturalism in Australia

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Abstract This chapter explores the schism in Australian multiculturalism between explicit and publically-stated rejection of Islamic law as it relates to the personal domain on the one hand, and the embracing and promotion of Islamic finance as opening an avenue to prosperity on the other. We argue that this schism aligns closely with the functioning of neoliberal multiculturalism; where the cultural dimension of ethnicity, or in this case, faith, is only so valuable in the political arena as the tangible economic benefits it can offer. The chapter therefore seeks to explore the key concept of neoliberal multiculturalism as a way of better understanding contemporary Australian multicultural policies.

Keywords Australian multiculturalism • Legal pluralism • Multiculturalism • Neoliberal multiculturalism • Shari'a law

6.1 Introduction

Multiculturalism in Australia has faced considerable challenges over the past decade. Some scholars have gone so far as to suggest that the policy is "in retreat". Others however argue that Australia maintains the world's best multicultural policies and that multiculturalism is engrained in Australia's social fabric. A great deal of the focus upon multiculturalism has related to the existence of a highly diverse and rapidly growing Muslim community (also the subject of Chaps. 4 and 5), that from 2001 to 2011 almost doubled in size (ABS 2001–2011 in Peucker et al. 2014). One issue in particular that has cut to the heart of the debate about Muslims in Australia has been the issue of legal pluralism, and whether Shari'a, Islamic law,

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should be in anyway formally recognised within the secular system. Turner (2011: 174) argues that "the possibility of legal pluralism is an important test of the limitations of multiculturalism or at least public support for multicultural policies". Kymlicka (2005) similarly argues "the Sharia tribunal issue has become a lightning rod precisely because it is a symbol of these larger unresolved questions about Islam and liberal multiculturalism". The answer from Australian politicians, the public and most Muslims has been a resounding no. Yet key components of Shari'a, in particular related to Islamic finance have been publically celebrated, pushed and even defended by non-Muslim Australian politicians and bureaucrats. Islamic finance is seen not only as "good" for the country (Black and Sadiq 2011), but as a key plank of Australia's multicultural platform.

This chapter will focus on and explore the schism in Australian multiculturalism between explicit and publically stated rejection of Islamic law as it relates to the personal domain on the one hand, and the embracing and promotion of Islamic finance as opening an avenue to prosperity on the other. The chapter will grapple with the dimensions of contemporary Australian multiculturalism, seeking to determine whether the concept of a "retreat from multiculturalism" has any currency. Are Australian multicultural policies as expansive and positive as suggested by Banting and Kymlicka (2013)? Or are they cynically exploitative of difference as a market based mechanism of distinction? What are the potential implications of Australian multicultural policies for the development of mutual recognition and respect between Muslims and non-Muslims in the wider Australian community? While perhaps not answering these questions in full, the chapter seeks to explore the key concept of neoliberal multiculturalism as a way of better understanding contemporary Australian multicultural policies. Blindly waving the flag of Australian multiculturalism in the face of dynamic new challenges without self-reflexivity has the potential to cause ongoing damage to those it claims to benefit, including minority communities.

6.2 Bipartisan Support for Australian Multiculturalism

At the level of political rhetoric, Australia might be considered to enjoy an unparalleled bipartisan support for multiculturalism, with leaders of Australia's major political parties publically stating their commitment to the policy. Speaking in the lead up to the 2013 Federal Election (and before his newly elected government subsequently sought to repeal elements of the Racial Discrimination Act), right-wing conservative Tony Abbott stated at a Ramadan function that multicultural Australia was a "beacon of hope to a divided world" and signalling a strongly integrationist approach warned that "I am the sworn enemy for anyone who seeks to divide Australian over Australian on issues of class, gender, birth place, race and particularly over faith" (Abbott 2013). In a 2011 speech launching the then-Labor government's new multicultural policy titled "The Genius of Australian Multiculturalism" the Immigration Minister at the time, Chris Bowen, argued that "without doubt

[multiculturalism] has strengthened Australian society". He sought to distinguish a unique Australian approach based on respect for Australian values, a citizenship-centred approach, the economic benefits of multiculturalism and an emphasis on social inclusion:

> Multiculturalism is about inviting every individual member of society to be everything they can be, and supporting each new arrival in overcoming whatever obstacles they face as they adjust to a new country and society and allowing them to flourish as individuals. It is a matter of liberalism. A truly liberal society is a multicultural society. (Bowen 2011)

The Australian government multicultural policy developed by the Labor government and as yet unchanged by the Liberal government is titled *The People of Australia*: *Australia's Multicultural Policy* and outlines the Australian approach. Early on it states:

> The Australian Government is unwavering in its commitment to a multicultural Australia […]. Multiculturalism is in Australia's national interest and speaks to fairness and inclusion. It embraces respect and support for cultural, religious and linguistic diversity. (DIMA 2011)

The policy outlines four key principles that shaped the then Labor Government approach. These are based on celebrating diversity within the bounds of national unity (1), commitment to a just and inclusive society with government services responsive to the needs of all Australians (2), welcoming of the trade and investment benefits of multiculturalism (3) and promotion of tolerance and acceptance and protection against discrimination (4) (see Chaps. 12 and 13 for more context and analysis of Australian multiculturalism).

Despite the Government's public pronouncements claiming its success, scholars over the past decade have consistently noted a "pattern of retreat" in Australian multiculturalism (Joppke 2004, 2014; Turner 2006; Jakubowicz 2006; Poynting and Mason 2008; Fozdar 2011; Colic-Peskar 2011). Poynting and Mason (2008) argue that the underlying foundations of Australian multiculturalism have shifted from being based on "consent", often purchased with state resourcing for immigrant community needs, to one based on a "new integrationism" in which integration becomes a demand imposed on migrant communities by the state:

> The pursuit of the 'War on Terror' since 9/11 has increasingly seen the intrusion of the state into cultural, and especially religious, matters of minority populations, overwhelmingly amongst Muslims, in Australia. Pronouncements are now routinely made by political leaders of what is acceptable in a sermon, for example, and what is 'extreme', 'radical' or unacceptable. Religious leaders themselves have been identified by state actors as exemplary or beyond the pale and to be replaced. (2008: 232)

In contrast to this, recent research by Banting and Kymlicka (2013: 8) utilised a "multicultural policy (MCP) index" to test the strength of multicultural policies viewed by both proponents and critics alike as "emblematic of multiculturalist turn". Eight indicators used to build the MCP index for immigrant communities included constitutional, legislative or parliamentary affirmation of multiculturalism, the adoption of multiculturalism in the school curriculum, the inclusion of ethnic representation/sensitivity in public media, exemptions from dress codes, allowance of dual citizenship, funding of ethnic organisations and bilingual education and

affirmative action for disadvantaged groups. On these measures, tested for in 1980, 2000 and 2010, Australia scored the highest of 21 OECD nations with a score of 8 in 2010. This remained equal to the 2000 score and built on 1980 (5) (Banting and Kymlicka 2013: 25). By this MCP index, Australia has the strongest multicultural policies in the Western world and has maintained these over the past decade.

6.3 Shari'a and Legal Pluralism in Australia: Political Discourse

The debate about Shari'a and legal pluralism in Australia, as in other Western nations including Canada, the UK and the US, is a relatively recent phenomenon. It is clear that Western secular nations are facing a variety of challenges in coming to terms with the presence of large and growing Muslims populations seeking to live with reference to the principles of their faith. Levey (2010: 145) considers that these challenges have emerged because Muslims were not party to the original compacts between church and state that defined a secular society, while Turner (2012: 1059) argues:

> The specific issues surrounding Muslim minorities in non-Muslim secular states can be seen as simply one instance of the more general issue of state and religion and modern liberal societies. In this context, there is an increasing awareness of the limitations of the Westphalian constitutional solution, the Hobbesian social contract and Lockean liberalism as political strategies to manage conflicting religious traditions.

It is in this international political context that Australia is situated in relation to Shari'a and legal pluralism and is shaping its response. The issue of Shari'a first arose in the context of debate about Muslims adherence to "Australian values" and loyalty driven by the conservative government of John Howard (1996–2007) (see Chap. 10 on multicultural governance during the Howard era). In a speech to leaders of Australian Islamic schools the former Federal Education Minister Brendan Nelson stated that those who don't want to live by Australian values "can basically clear off" (in Hawley 2005). Echoes of similarly phrased public sentiment were a trademark feature of Howard government ministers throughout this period. Speaking in a 2006 speech to right wing think tank, the Sydney Institute, then-Australian Treasurer Peter Costello (2006) criticized a "mushy misguided multiculturalism" and stated:

> There are countries that apply religious or Shari'a law Saudi Arabia and Iran come to mind. If a person wants to live under Shari'a law these are countries where they might feel at ease. But not Australia.
>
> And the citizenship pledge should be a big flashing warning sign to those who want to live under Shari'a law. A person who does not acknowledge the supremacy of civil law laid down by democratic processes cannot truthfully take the pledge of allegiance. As such they do not meet the pre-condition for citizenship.

The Labor Government that took office in 2007 under Prime Minister Kevin Rudd sought to avoid the politicisation of Muslim community politics that occurred under the previous government (Roose 2010). In October 2009 however, a minor

controversy erupted when the honorary legal advisor to the Australian National Imams Council (ANIC), Hyder Gulam, called for recognition of Shari'a in a similar vein to Aboriginal customary law. Although supported at the grassroots by some in the community legal sector in Melbourne, this prompted a response from the Attorney-General Robert McClelland that "the Rudd Government is not considering and will not consider the introduction of any part of Shari'a into the Australian legal system" (in Zwartz 2009). The legal profession appeared to move on irrespective of this proclamation when in May 2010 the firm at which Gulam worked appointed Sheikh Mohamadu Nawas Saleem Australia's first "Shari'a consultant" (Lawyers Weekly 2009).

The bipartisan rejection of legal pluralism was evident when Speaking in May 2010, prior to his election as Australian Prime Minister (from September 2013), Tony Abbott stated in a radio interview:

> No, there's no way that we should have Shari'a law here, just as if I may say so, I think there is limited place for any traditional aboriginal law in our system of justice. You've got to have one system of justice for everyone […].

These events—relatively minor in light of the controversies to come—reveal a resolute refusal to engage with the issue of Shari'a and legal pluralism by successive Australian Governments on both sides of the political spectrum.

6.4 The AFIC Controversy

In April 2011 the Australian Government called for submissions from the public, community groups and representative organisations to contribute to the formulation of Australia's multicultural policy. In response to this, the President of the Australian Federation of Islamic Councils (AFIC), Ikebal Patel (2011), wrote a submission to the inquiry titled *Embracing Muslim Values and Maintaining the Right to be Different*.

In the submission Patel (2011) attempted to address the critique of legal pluralism with reference to the work of both modern Muslim and Western non-Muslim scholars by arguing for the notion of "twin tolerations" proposed by Alfred Stepan (2000). These are "the minimum degree of toleration democracy needs from religion and the minimum degree of toleration that religion needs from the state for the polity to be democratic" (2011: 8). Patel argued further:

> Muslims in Australia should accept the Australian values, and Australia should also provide a 'public sphere' for Muslims to practice their belief. It takes two to tango. This approach demands a compromise from Islam, which should be open to other values, and also to make a similar demand of Australia. It is not only Australian Muslims who should reconcile these identities, but also all Australians. (2011: 8)

Just over a month later when the submission was made public along with many others it was this submission that made national headlines and prompted an

immediate reproach from the Attorney-General. With no allusion to further dialogue Robert McClelland (in Karvelas 2011) stated:

> As out citizenship pledge makes clear, coming to Australia means obeying Australian laws and upholding Australian values. Australia's brand of multiculturalism promotes integration. If there is any inconsistency between cultural values and the rule of law the Australian law wins out.

He would state further to this that there is "no place for Shari'a law in Australian society" (in Hole 2012). The level of political hostility to the AFIC submission forced Patel to immediately back away from his remarks and to reiterate the loyalty of Australian Muslims. In an interview shortly after, Patel would state his support for secularism, recognising Australia as a predominantly Christian country, claiming further:

> I am a very strong believer in the separation of religion and state and at the same time I am a very strong believer in civil law—the Australian legal system—taking precedence […]. I would have changed some words in retrospect, and the use of the word 'Shari'a' would have been taken out. (in Merritt 2011)

Less than a year later (and 4 days before the joint migration committee senate hearing on "the Inquiry into Multiculturalism in Australia") the new Attorney-General Nicola Roxon would reiterate McClelland's earlier perspectives about Shari'a almost verbatim. In referring to an inheritance case involving a Muslim family before the courts of the Australian Capital Territory (ACT), Roxon (in Karvelas 2012a) would state: "There is no place for Shari'a law in Australian society and the Government strongly rejects any proposal for its introduction, including in relation to wills and succession". Once again the Attorney-General made reference to the citizenship pledge (Karvelas 2012a), highlighting the belief that calls for Shari'a originate external to the nation. Speaking in 2012 the current Attorney-General George Brandis (in Karvelas 2012b) stated the primacy of Australian law:

> The Coalition does not believe that sharia law should be accepted or recognised in Australia. It is logically possible for somebody to do something that is both consistent with Australian law and consistent with sharia principles. The question is: are they obedient to Australian law?

The recent history of Attorney-General statements on Shari'a from both sides of the political divide strongly suggest that irrespective of the appearance of dialogue through public inquiries, that the outcome in relation to Shari'a and legal pluralism was a foregone conclusion—it would not even be contemplated or engaged with on political grounds.

It is clear that at the level of national political discourse that government from both sides of politics have utilised political rhetoric about Australian values as a blunt instrument to reject Shari'a and legal pluralism. The more eloquent and sophisticated voices of former high ranking members of the judiciary, including former New South Wales Chief Justice Jim Spigelman (Merritt 2012) and former Australian High Court Chief Justice the Honourable Sir Gerald Brennan (2012), have similarly dismissed Shari'a publicly, claiming that no basis exists for its formal recognition and integration (on the role legal discourses in the extension of religious intolerance see, also, Chap. 3). Any attempt at dialogue (irrespective of its anecdotal

level of community support or opposition) has been immediately shut down by the government, with those proposing it castigated in the media and reminded of the conditional nature of their citizenship. Public debate is shut down, in a distinct contrast to the Habermasian notion of engagement between religious and non-religious groups in the public sphere (Hussain and Possamai 2013).

6.5 Sharia in Everyday Life: The Reality

Opposition to Shari'a and legal pluralism in Australia has been driven by the perception that accommodation poses a threat to Australian values, democracy and the secular nature of the legal system. National level political discourse is yet to move beyond a desultory good (us) versus bad (them) binary in which Shari'a must be rejected on the grounds of its argued incompatibility with Australian law. Parashar (2012: 576) argues that this debate has been carried out in an information vacuum about the actual practice of Shari'a and legal pluralism in Australia. While Black notes that there is a considerable variety of views across Australia's diverse Muslim communities, with the level of support for legal pluralism not known:

> What is advocated seems to range from 'everything' to certain discrete aspects, notably family and inheritance, banking, finance and commerce, to 'nothing'. Views are diverse and sometimes divisive amongst Muslims just as amongst non-Muslims. (2012: 74)

The debate about Shari'a homogenises what is in effect an incredibly diverse, nuanced concept. A key authority on the Shari'a, Wael Hallaq argues that this is a point lost in contemporary debates:

> Our language fails us in our endeavour to produce a representation of that history [of Islamic law] which not only spoke different languages (none of them English, not even in British India), but also articulated itself conceptually, socially, institutionally and culturally in manners and ways vastly different from those material and non-material cultures that produced modernity and its Western linguistic traditions'. (2009: 1)

In seeking to move beyond national political discourse about Shari'a it is important to understand the holistic nature of the concept and its role in the everyday life of Muslims and to build a base of knowledge about its practice at the everyday level. Shari'a is defined literally as "the path to the watering place" (Kamali 2008: 2), a metaphor in the desert culture of early Islam for achieving salvation. Abdullah Saeed (2006: 43) notes:

> Shari'a represents the divine guidance contained in the revelation communicated to the Prophet in his sayings and deed (Sunna). In the context of Islamic law, Shari'a refers to the totality of this guidance contained in the Qur'an and Sunna and generally expressed in their commands and prohibitions.

Hallaq states importantly, that the Shari'a does not distinguish between law and morality (2009: 2), that they are in effect, one and the same. The practice of Islam and the Shari'a are hence inextricable from one another, bound together as they are in a moral code, and feature in the everyday life of Muslims, guiding familial and wider social relationships irrespective of the prevailing secular law. Prominent

Iranian scholar Hossein Nasr explores the holistic dimension of the Shari'a and Islam stating that:

> Religion to a Muslim is essentially the Divine Law which includes not only universal moral principles but details of how a man should conduct his life and deal with his neighbour and with God; how he should eat, procreate and sleep; how he should see at the market-place; how he should pray and perform other acts of worship […]. (1966: 95–6)

This extends to financial and business dealings, which should be undertaken ethically in line with principles spelt out in the Quran and Hadiths (practices of the Prophet). Given the all-encompassing nature of Islam and the Shari'a, it should come as no surprise, as Turner argues that "the sociological fact is that Shari'a is already operating in modern secular societies" (2011: 174).

Adherence to religious law is not unique to observant Muslims. Saeed (2008: 162) notes that religious laws can be found in all three of the monotheistic religions that trace their roots to Abraham: Judaism, Christianity and Islam. However, in Western contexts, he argues, "Muslim law is pushed into the realm of the unofficial, the extra-legal, the space of cultural practice or ethnic minority custom rather than as officially recognized law" (2006: 58). More recently Ann Black (2010: 65) has argued that Shari'a is the:

> […] dominant normative force in the lives of many Muslim Australians, however its operation and regulation is essentially underground. It is not subject to scrutiny by anyone other than its participants, nor is it subject to the protection of Australian laws and processes.

A failure to engage with shari'a as a powerful social factor shaping the lives of Australian Muslims may be politically convenient, yet constitutes a negative approach to governance.

6.6 Shari'a and Financial Opportunity: A Powerful Contrast

There exists a stark contrast between the political discourse surround Shari'a and legal pluralism and Shari'a-compliant Islamic finance in the Australian context. This was first noted by Black and Sadiq in 2011 when they argued:

> It seems that Islamic banking and finance laws are 'good' Shari'a worthy of adoption, whilst personal status laws (marriage, divorce, separation, custody of children and inheritance) are not. (2011: 388)

Media analysis by Possamai et al. (2013) found that this was reflected in the Australian media over 4 years from 2008 to 2012, with financial Shari'a viewed in a very favourable light and the legal dimensions of Shair'a, in particular *Hadud* punishments represented extremely negatively.

At the level of national political discourse, it is worth noting that just months after the Attorney General's October 2009 statement that the Rudd Government would not consider the introduction of any part of Shari'a into the Australian legal system, the Australian Federal Agency, Austrade, released a detailed document

titled "Islamic Finance" (Australian Trade Commission 2010). This document states in its introduction:

> Islamic finance is one of the fastest growing segments of the global financial services industry. Shari'a-compliant financial assets have been growing at over 10 per cent per annum over the past 10 years. Measured by Shariah-compliant assets of financial institutions, the global Islamic finance industry is estimated at US$822 billion in 2009.

The document not only outlines specific opportunities for Islamic finance to become an "important element" in Australia's aspirations to be a global financial centre, it actively markets the size of Australia's Muslim population (it "exceeds the combined Muslim population of Hong Kong and Japan" and engages in great depth with various components of Shari'a compliant finance including *Muraabaha* (an alternative to interest), *Ijara* "similar to hire-purchase" and *Sukuk* "Shari'a compliant financial certificates of investment" (Australian Trade Commission 2010: 5–8).

In May 2010 the Assistant Treasurer Nick Sherry (2010) launched a book titled *Demystifying Islamic Finance—Correcting Misconceptions, Advancing Value Propositions*. Speaking at this event he stated:

> We are taking a keen interest in ensuring there are no impediments to the development of Islamic finance in this country, to allow market forces to operate freely. This is in line with our commitment to foster an open and competitive financial system, and a socially inclusive environment for all Australians. We also recognise that Islamic finance has great potential for creating jobs and growth.

Importantly, in strong contrast to the stifling of debate about legal pluralism, Sherry (2010) called for greater dialogue:

> Some of the issues of concern include open claims that Islamic finance is used to spread terrorism, that it is a vehicle to promote the world domination of Islam over other faiths, or that it is designed to replace conventional financing. So we have a challenge in front of us – and that is to continue the community dialogue, to increase awareness of the truth and to highlight the facts.

In October 2010 the Australian Government Board of Taxation released a discussion paper titled *Review of the Taxation Treatment of Islamic Finance* to inform recommendations to ensure Islamic finance products "parity of tax treatment" with conventional finance products (2010: vii). This was followed in April 2013 when Bernie Ripoll, the Parliamentary Secretary to the Treasurer stated in a speech that the "Australian Government regards the introduction of Islamic finance products into the domestic market as a way to open our financial services sector—and our economy—to new opportunities for growth" (2013).

Work continues to be undertaken to make Australia "Islamically competitive", with tight regulation slowing down the entry of Islamic banking and finance (Farrar 2011: 413). Irrespective of such constraints, Islamic financial institutions are breaking new ground in Australia. In February 2010 the Westpac Bank launched a commodity trading facility for overseas investors that operated according to Islamic principles (Johnston 2010). In March 2012 *The Australian* newspaper revealed that The National Australia Bank was considering selling over AU$500 million in Islamic bonds (Henshaw 2012). In October 2012 Australian owned Islamic finance company

Crescent Wealth (whose advisory board features a variety of prominent non-Muslim Australians including Emeritus Professor Dianne Yerbury AO, Nicholas Whitlam and Ross Cameron) partnered with the "Bank of London and the Middle East" to create a portfolio of Shari'a compliant companies in which Muslims could invest (Crescent Wealth Press Release 2012). In December 2012 the same company launched an Islamic compliant superannuation option, potentially the first of its kind anywhere in the world. Speaking to the success of Crescent Finance is that in the June–September 2013 quarter, the company's Australian Equity fund was the best performing in the country and rated by Bloomberg as the best-performing Islamic equities fund in the world for the same period (Rose 2013).

It is clear at both the level of political discourse and government flexibility in dealing with Shari'a that significant differences exist between legal pluralism and financial opportunity. It is also clear that there is "space" for Shari'a and that Australian legal frameworks are far more willing to make accommodations where a financial imperative exists to do so.

6.7 The Artificial Division of Shari'a

This chapter has sought to test this political discourse about the "genius of Australian multiculturalism"; and the Australian multiculturalism policy against an issue at the forefront of challenges facing multicultural societies: Shari'a and legal pluralism. It has revealed that political discourse about Shari'a and legal pluralism has been strictly one way, with proponents of legal pluralism effectively shut down in public debate. This appears to both support and contradict the government's multicultural principles. The political rejection of Shari'a and legal pluralism on one hand appears supported by an emphasis on "national unit" in the first principle, but it does not reflect the emphasis on responsiveness to CALD (Culturally and Linguistically Diverse) communities outlined in the second principle of the Australian multicultural policy.

In contrast to the debate about Shari'a and legal pluralism, the Government has been overwhelmingly positive and receptive to the idea of Shari'a-compliant finance, publically supporting its introduction, positing the potential economic benefits, releasing publications designed to facilitate its entry into and development within the Australian market, and working with Australian and overseas based Muslims to assist the passage of Shari'a compliant measures through regulatory and legal frameworks. These activities appear to sit comfortably within the third principle of the multicultural policy, that of the potential for economic, trade and investment benefits.

The treatment of Shari'a then would not appear particularly inconsistent with Australia's multicultural principles. At the level of political rhetoric and support multiculturalism has evolved significantly from a vision based on inclusion to one based on integration and economic growth.

6.8 Neoliberal Multiculturalism in Practice

It is argued here that the genesis of this division lies in the shift in Australia towards *neoliberal multiculturalism*. To do so we draw upon Kymlicka's (2013) work on the topic. As Kymlicka notes, the "first-wave" of neoliberals were critical of multicultural policies (MCPs) as an example of state intervention in the marketplace on behalf of special interests. More recently however, neoliberal actors have identified the potential for multiculturalism to integrate minorities into global markets, making them both effective and competitive actors (2013: 11–12):

> […] neoliberals have found a way to legitimize ethnicity, and to justify MCPs that shelter those ethnic projects, and to re-interpret these policies in line with neoliberalism's core ideas (enhancing economic competitiveness and innovation; shifting responsibility from the state to civil society; promoting decentralization; de-emphasizing national solidarity in favour of local bonds or transnational ties; viewing cultural diversity as an economic asset/commodity in a global market).

Walsh supports this sentiment in the Australian context, stating that "Australia presents a critical case for charting multiculturalism's relationship with neoliberal government" (2012: 281). Australian government policies on multiculturalism have long discussed the positive economic benefits that may come from diversity. In isolation, the enshrining of economic benefits in Australia's current multicultural policy arguably does not constitute a neoliberal shift. However it is in the selective practice of the multicultural principles that the shift is evident. When one component of an entire and holistic belief system—the economic dimension of Shari'a—is enthusiastically embraced by politicians, while the other—the cultural and civic—vehemently rejected without any attempt to engage with the concept, it may be argued that we are witnessing a key effect of neoliberal multiculturalism. As Kymlicka succinctly states:

> Neoliberal multiculturalism for immigrants affirms—even valorises—ethnic immigrant entrepreneurship, strategic cosmopolitanism, and transnational commercial linkages and remittances, but silences debates on economic redistribution, racial inequality, unemployment, economic restructuring and labour rights. (2013:110)

In the Australian context, one might also add legal pluralism to this list. Kymlicka draws upon the work of anthropologist Charles Hale, who in writing about the origins of neoliberal multicultural policies in Latin America noted:

> The great efficacy of neoliberal multiculturalism resides in powerful actors' ability to restructure the arena of political contention, driving a wedge between cultural rights and the assertion of the control over resources necessary for those rights to be realized. (2005: 13)

In effect, Australian Muslims have been denied the right to even talk publically in the political arena about the cultural and legal dimensions of their faith. While at the academic level much has been written about Shari'a, any Muslim leader who dares to discuss legal pluralism publicly is placed at the centre of national media attention and lectured on respect for Australian values. In its treatment of Shari'a, the Australian Government's actions, irrespective of national proclamations and political rhetoric, signal a shift and a retreat from the original precepts of multiculturalism. Kymlicka states:

> The original aims of multiculturalism—to build fairer terms of democratic citizenship within nation-states—have been replaced with the logic of diversity as a competitive asset for cosmopolitan market actors, indifferent to issues of racial hierarchy and structural inequality. (2013:14)

Walsh considers that this has played out in the Australian context:

> […] as a strategy for managing diverse immigration, the policy has undergone a veritable sea change from being framed within a national sociocultural context to a transnational economic context. (2012: 297)

We argue that we are seeing a vigorous assertion of neoliberal multiculturalism where the cultural dimension of ethnicity, or in this case, faith, is only so valuable in the political arena as the tangible economic benefits it can offer. The concept of legal pluralism and the accommodation of Shari'a in Australian courts, even if only the civil sphere in areas such as arbitration and dispute resolution offers no such economic benefits and will likely continue to remain unspeakable in contemporary political discourse.

6.9 Conclusion

This retreat from a multiculturalism concerned with accommodation of different minority communities and movement towards an Australian variant of neoliberal multiculturalism has a variety of potential implications yet to be engaged with adequately by scholars. As the evidence makes clear, one aspect of Shari'a will not simply cease because politicians say it does not exist. Shari'a is shaping the civic and social lives of many observant Australian Muslims and by extension, the wider Australian Muslim communities. This political discourse could, on one hand be deeply damaging to Muslim perceptions of their belonging and place in Australia. Multicultural policies may be seen as increasingly irrelevant amongst observant Muslims who may choose to insulate themselves against the extremes of contemporaneous debate and remove themselves from wider society, breaking down social cohesion and the development of trust, mutual respect and belonging with their non-Muslim neighbours. As Kymlicka (2013: 19–20) argues,

> […] multiculturalism is most effective when it attends both to people's citizenship status and to their market status. Either, on its own, may be inadequate. On the one hand, social liberal forms of multiculturalism may fail if they leave their intended beneficiaries excluded from effective market access […]. On the other hand, neoliberal reforms that expose minorities to market reforms will also fail if minorities lack a robust citizenship standing that enables their effective political agency.

In another negative light, the lack of self-reflexivity and openness to dialogue at the political level may stunt the development of Australia's intellectual and social capital. Legitimate and strong cases both for and against legal pluralism exist and we do not argue for one or another here. However a refusal to engage with observant Muslims about this will ultimately only serve to undermine the preconditions for the

growth of collective intellectual development and social capital, including trust, dialogue and mutual respect and recognition. This lack of reflexivity and incapacity to grow intellectually and adapt to alternate cultures may work against Australia's national interests in the long term. Other nations, such as England, are actively seeking to cultivate the development of Islamic finance and enterprise. Speaking in October 2013, Boris Johnston, the Lord Mayor of London (the same city that faced devastating terrorist attacks in 2005 and subsequently in 2013 at Woolwich) went to remarkable lengths for any Western politician to win opportunities for his city, stating proudly his great-grandfather's Muslim faith and announcing a £100 million fund to encourage technological start-up companies from the Muslim world to move to London. This came shortly after the Prime Minister David Cameron announced a £200 million Muslim bond (Sukuk) and said that the London Stock Exchange would launch an Islamic Index alongside the FTSE (in Chorley 2013).

Kymlicka points out that local Muslim communities—or at least those individuals with the capital to do so—may embrace the opportunities of neoliberal multiculturalism, while maintaining their Islamic public identity. In referencing the experience of indigenous groups (such as the Maori in New Zealand) utilising neoliberal multiculturalism for self-empowerment it is noted:

> The point, rather, is that where these democratic and decolonizing impulses have gained political recognition—where forms of multicultural citizenship are in place—then indigenous people are capable of taking advantage of neoliberal reforms to enhance their status as market actors, *and to use their enhanced status as market actors to further strengthen their ethnic projects of indigenous self-determination*. (Kymlicka 2013: 18)

This is seen in the case of Crescent Finance, which is forcing non-Muslim businesses to take them seriously and hence challenging negative portrayals of Islam and Muslims in the public sphere. This may have a flow down, "top-down" effect and empower Muslims, while providing impetus for some recognition of Shari'a in other legal and social contexts. Islam and Muslims, due to the holistic nature of the Shari'a, with its prescriptive economic, cultural social and legal dimensions, may in fact thrive in an Australian neoliberal multicultural environment as their status as market actors increases. Research utilising Australian Bureau of Statistics data between 2001 and 2011 by Peucker et al. (2014) suggests that we are seeing the emergence of educated and financially successful Muslim elites with the necessary capital to shape Australia's political trajectory. The extent to which these developments will benefit members of Australia's Muslim communities without such capital remains to be seen.

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