

Female MPPs' concerns delay sharia decision

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0 COMMENTS



The Ontario government delayed responding to a report recommending that Muslims in the province be allowed to use *sharia* tribunals to settle family disputes after its women's caucus voiced concerns, sources say.

The 17 Liberal MPPs who make up the women's caucus urged the government this year to go slowly in deciding whether to permit Islamic law to be used in Ontario family arbitration cases.

The government was planning to respond last spring to the report by former Attorney-General Marion Boyd, who recommended that the province let Muslim tribunals apply Islamic law -- known as *sharia* -- in marital and inheritance disputes, provided both parties go into the process voluntarily and all decisions can be appealed in the courts.

But in response to concerns expressed by the women's caucus, Attorney-General Michael Bryant decided to take more time studying the matter, government sources said.

Sharia tribunals are reported to be operating now informally, but their decisions are not recognized under Ontario's Arbitration Act. The purpose of Ms. Boyd's report was to recommend how they and, by extension, other family dispute religious tribunals should be regulated under the act.

Premier Dalton McGuinty said this week that the government will respond "shortly" to Ms. Boyd's report, which it received in December.

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Mr. Bryant and Sandra Pupatello, the minister responsible for women's issues, were not available for comment yesterday.

But observers, including opposition members, suggested that the polarized debate over using *sharia* law to settle family disputes has left the government unable to reach a consensus. The matter has not yet come before cabinet for discussion.

"The government clearly can't come to any agreement within its own ranks about how to respond to this issue," said New Democrat MPP Peter Kormos. "That's really about the failure on McGuinty's part to demonstrate leadership."

Ms. Wynne said government members are unanimous in finding the issue difficult.

"I don't think there's anybody in this government, and I don't think there's anybody in this province who would see a clear and easy path on this issue," she said.

"And I think we reflect the general population in that."

An Islamic legal scholar at the University of Toronto says amending the Arbitration Act to require religious family dispute tribunals to make decisions compatible with Canadian laws would address many of the fears around the *sharia* tribunals.

With dozens of organizations in Canada and abroad planning protests today against the tribunals, Prof. Anver Emon said the amendment would force Islamic arbitrators to make rulings in line with the Canadian Charter of Rights and Freedoms and Ontario family law without stifling religious and cultural traditions in Canada's 650,000-member Muslim community, more than 60 per cent of whom live in Ontario.

He said the amendment would not resolve all problems with the tribunals -- notably the question of competence of religious arbitrators -- but it would allow what he called "room for grappling" with some of the historic traditions of *sharia* law that potentially are in conflict with contemporary Western social values.

However, his suggestion was immediately dismissed by the head of one Canadian Muslim

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the Canadian Council of Muslim women. "Why not simply expand the secular system?

"We don't want the tribunals. Why would we? We don't want to be ghettoized. We're Canadian women."

The primary concern of groups behind today's demonstrations is that *sharia* traditions innately discriminate against women although Prof. Emon, one of two Islamic legal specialists recently hired by U of T's law faculty, argues that *sharia* more accurately is a process of analysis of holy scripture rather than an ancient religious legal code.

Organizations opposing the tribunals being introduced into Ontario include Amnesty International Canada, the Elizabeth Fry Society, the Canadian Labour Congress, the Ontario Federation of Labour, the YWCA, the Metropolitan Action Committee on Violence Against Women and Children, the Canadian Association of Sexual Assault Centres and dozens of agencies across Canada working with immigrant and abused women.

There are also planned protests by similar organizations in London, Paris, Stockholm, Amsterdam and Dusseldorf.

The tribunals would be an arbitration mechanism for alternative dispute resolution (ADR), similar to Jewish rabbinical courts and tribunals used by Ismailis, a distinct sect of Shia Muslims. The Ismaili tribunals already tailor their rulings so that they're consonant with Canadian laws.

Like other religious tribunals, the *sharia* tribunals would be voluntary, inexpensive alternatives to the courts to settle issues of marital breakdown, spousal support, division of family property and child custody.

Critics of the proposal, in addition to citing the historic inequality of women in *sharia* traditions, argue that private arbitration of family disputes has no place in the province's Arbitration Act, that *sharia* traditions have many conflicting interpretations, that women risk being bullied into going before religious tribunals when they won't want to and that the qualifications of Muslim clerics -- the majority of whom have come to Canada from abroad --

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