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## Muslim group opposes sharia law

Argues it does not protect women  
Islamic body presents case to Boyd

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Marion Boyd is at the centre of a storm of debate surrounding proposals to use Islamic sharia law in family disputes.

Ontario's former attorney-general has been hearing from both sides of the controversial proposal since she was appointed in June by the province to review the 1991 Arbitration Act.

Boyd's review began after a public outcry against the plan, introduced by the Islamic Institute for Civil Justice, which wants to use existing arbitration legislation to apply a form of sharia — a 1,400-year-old body of religious law — to settle disputes in the Muslim community.

The practice would be permitted under the Arbitration Act, which allows religious groups to resolve civil family disputes within their faith, providing everyone gives their consent and the outcomes respect Canadian law and human rights codes.

But the Muslim Canadian Congress doesn't think it will work that way.

Along with several legal and women's groups, the congress has argued that sharia is flawed because it does not view women as equal and therefore cannot provide equal justice to all parties in a dispute especially on issues of divorce, child custody and division of property.

"The weakest within the Muslim community, namely the women, will be coerced (into participating) by their community," said Tarek Fatah, founder of the congress during his group's submission to Boyd earlier this week.

The group, formed two years ago, claims to have approximately 200 members across Canada.

It is demanding the province suspend the ongoing review of the use of Islamic law to settle family disputes.

It wants Boyd to refer the matter to the Ontario Court of Appeal.

Calling the sharia-based arbitration proposal by the Islamic Institute for Civil Justice "racist and unconstitutional," congress lawyer Rocco Galati argued there is no such thing as a monolithic Islamic law.

"No one has said what sharia law is supposed to be. There's 1.3 billion Muslims on five continents. There are many differences (among the groups)," Galati said.

"There is a pretence that there is a Muslim law, just like saying there's an Asian law, an African law."

He told Boyd that "there is a confusion here between religious freedom and injecting religion into public disputes."

But Syed Mumtaz Ali, who made his presentation to Boyd on behalf of the institute, argues that freedom of religion as guaranteed under Canada's Constitution means not only freedom to practise and propagate religion but also to be able to be governed by one's religious laws in all aspects of one's life — spiritual as well as temporal, he noted.

Ali, a Canadian-trained lawyer, said the Muslim tribunal would use and apply only those provisions of the sharia, which do not clash or conflict with any Canadian law, particularly the Canadian Charter of Rights and Freedoms. The use of the word "sharia" is a misnomer, he added.

"I must emphasize that we cannot, simply cannot, permit anyone to designate any Muslim arbitral tribunal as 'sharia tribunal.' The name 'The Muslim Court of Arbitration' (Darul Qada) is a registered business name. This was so registered primarily for the purpose of legally making it obligatory upon all not to call it 'sharia Court,'" he explained in an e-mail response to the Star.

"This is very basic, fundamental and crucial to Muslims because in a faith-oriented, Islamic way of life, as distinct from a secular way of life, to obey the religious laws in this way is crucial," Ali wrote.

"One cannot call oneself a real Muslim if one does not obey the Islamic law in such a comprehensive manner. ... The Arbitration Act and the Islamic Institute of Civil Justice are not RACIAL because all races are equal under the Constitution."

Ali has received some support from the Canadian Islamic Congress, which met with Boyd 10 days ago. Its president, Dr. Mohamed Elmasry said the Muslim Canadian Congress as "non-religious Muslims have no right to tell religious people what to do."

Elmasry said religious Muslims in Canada are already using sharia to settle their disputes and the Institute proposal would add structure to the process.

"This should be viewed as an experiment," said Elmasry. In addition to an imam, Elmasry said there should be Canadian-trained lawyers, women and elders in the community represented on a panel involved with sharia-based arbitration. "The community and the government should audit the process — if it is perceived as anti-woman, it will die a natural death," he said.

Boyd will continue hearing submissions until next Friday.

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