

Getting Religion Out Of the Law

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The Premier of Ontario in Canada, Dalton McGuinty, has said he will introduce legislation this autumn banning all faith-based arbitration, including sharia law. He said this week: “The debate has gone on long enough. There will be no sharia law in Ontario. There will be no religious arbitration in Ontario. There will be one law for all Ontarians.”

McGuinty’s government will rescind the 1991 Ontario Arbitration Act, which gave legal force to a long-standing practice of allowing faith-based tribunals to resolve family matters such as divorce and custody.

Both sides in the dispute had to agree beforehand to abide by the tribunal decision. “Ontarians will always have the right to seek advice from anyone in matters of family law, including religious advice,” McGuinty said. “But no longer will religious arbitration be deciding matters of family law.”

Catholics, Jews, Aboriginal Peoples and Jehovah’s Witnesses are among the faiths that have used the Arbitration Act to settle family law questions without resorting to the courts.

The Liberal government has been under growing international pressure since former NDP attorney general Marion Boyd issued a report last December recommending it allow the use of sharia law. Proponents of sharia law say it is fair to women, and can be practised in a way that respects Canadian laws. But Muslim women’s groups were appalled that a system of law that has led to the mistreatment of women in many countries would gain a foothold in the west. Homa Arjomand, of the International Campaign Against Sharia Court in Canada, was ecstatic. “I think to make a ban is the biggest victory for us.”

Mubin Sheikh, with the Masjid-al-Noor mosque in Toronto, said he will still be guided by Islamic law when he mediates Muslims’ disputes over child-support payments, custody and inheritance – regardless of whether the Ontario government introduces legislation banning religious arbitration. “Is the government going to stand outside every mosque and ask if people are going in to do faith-based arbitration? No,” Mr. Sheikh said. “A ban will change nothing. And it hurts the women who were supposed to be protected by not affording them official state sanction of the arbitrated settlement.”

Frank Dimant, executive vice-president of B’nai Brith Canada, said officials will consult with lawyers to consider a constitutional challenge to a ban on rabbinical courts.

The anti-sharia campaign won the support of more than 87 human-rights organisations as well as writers such as Margaret Atwood and June Callwood, who argued that faith-based arbitration threatens Canada’s secular legal tradition and risks curtailing women’s rights.

Last year, the government commissioned a report about the use of religion-based arbitration after the Islamic Institute of Civil Justice was formed, and sought state sanction for Islamic tribunals. In her report, former NDP attorney-general Marion Boyd concluded there was no evidence that women were being discriminated against, and recommended the existing system be strengthened.

Riad Saloojee, of the Council on American-Islamic Relations Canada, said the result of the decision is that “unregulated informal arbitration” will continue, a process that does not always uphold rights under Canadian law.

Kathy Bullock, spokeswoman for the Islamic Society of North America, said the problem is less with sharia, and more with how some imams apply it: “The Premier has shut down Boyd’s potential for reform to make arbitration more transparent and accountable. We should continue educating women about Islamic rights and hold imams accountable.” Community education is now needed to ensure Ontario law is upheld and arbitration doesn’t “go underground,” Ms. Arjomand said. “We’ll need to educate the communities, especially the people who are most vulnerable to private religious courts.”

See also:

[McGinty is right on religious law](#)

[Women MPs got sharia law banned](#)

[Sharia in Canada is not dead yet](#)