

## **Canadian Council of Muslim Women**

### **Report to Musawah: A Global Movement for Equality and Justice in the Muslim Family October 2008**

#### **Canadian Background:**

It is important to be mindful that issues affecting Muslims, especially women, are widespread throughout the world. These issues are not restricted to Muslim majority countries, even if they are played out somewhat differently in Western countries.

A significant factor is the context of each country's history, politics and social environment.

The context of Canada is that it was founded by the French and English. The aboriginal people are not seen as one of the founding nations, and their treatment by Europeans is a major issue for all Canadians. The *Multiculturalism Act*, articulates the rights of cultural and religious groups, within the framework of the Canadian Charter of Rights and Freedoms. This Act and its policies provide minority groups with protection and permission to develop our multiple identities as Canadians, Muslims and of varying ethnic origins.

Though most Canadians accept multiculturalism as part of the Canadian identity, this value and its implementation are often questioned. It has not eliminated racism and discrimination.

For example, "accommodation" is a hotly debated issue regarding the relationship of newcomers and long time citizens. How far should Canadian society accommodate the cultural and religious practices of newer immigrants and what can be expected of these groups to change and adapt to Canada? There have been examples of perceived conflicts between the religious or cultural practices of new immigrants and those of Canada. These are discussed a great deal in the media and in political circles.

There are many issues facing Canadian Muslims and we have been affected by the September 11/01 tragedy, with its resultant increase in security measures within Canada and between the United States and Canada.

#### **Muslims in Canada:**

The majority of Muslims have settled in urban areas such as Toronto, Ottawa, Vancouver and Montreal.

The first family of Muslims came to Canada in 1863 from Scotland. Others came from Lebanon and Syria in the early 1900s, and these were followed by immigrants from Bosnia and Albania. With the openness of the immigration system, in the last 35 years, immigrants have come from all parts of the world.

There are approx 600,000 Muslims in Canada and most have settled in the larger urban areas. Most Muslims are foreign born, 90%, with 60 % living in the province of Ontario. Muslims come from every corner of the world, and as there is a constant stream of immigration, the issues of adaptation have not ended.

### **The struggle to eliminate the use of religious family laws. Including Muslim Family laws:**

The movement to create change is a long and arduous task. It requires persistence and courage as well as the fostering of partnerships. It cannot be done by one group or organization.

There has been a major public debate around the use of religious family laws in family arbitration agreements starting in 2002.

The Ontario provincial Arbitration Act 1991, allowed for the use of any laws to be applied to any arbitration, including family matters. This was not known by most Canadians and only became an issue when a retired Muslim lawyer, in 2002, decided that he would use the existing Act for Muslims by using "Sharia" laws in family matters.

From 2002 till 2005, the Canadian Council of Muslim Women, along with other organizations, formed a coalition, NO RELIGIOUS ARBITRATION, which led the struggle against any religious family laws.

We could not ignore that Muslim family laws were the focus but we made every effort not to keep the discussion on Muslims only. We based our rationale on believing women's equality rights, and that we should not be treated differentially under the country's laws. That was our argument, not religious freedom or cultural rights.

The Premier of Ontario, in Sept 05, made the announcement that NO religious laws would be used in family matters. This led to changes in a number of legislations and funds were provided for public education materials to be developed.

This movement for change was a huge undertaking – forming of a coalition of women's organizations, the support of others such as labour; research; public education, public meetings, a symposium, media attention, and advocacy with the federal and provincial governments. CCMW also kept Muslim women informed through newsletters and regional meetings. Research led to publications, and the struggle got world wide media attention. We were grateful for the help of Woman Living Under Muslim Laws. Their research and their support in sending to Canada, scholar/ legal activists such as Marieme Helie Lucas, Rashida Manjoo and Ziba Mir Hosseini, were of great help.

Although the decision has been made, there continues to be interest in the topic and many articles are published by academics. The recent one is by Professor Ayelet Shachar of the University of Toronto Law School. She and some others continue to espouse the opinion that religious family laws should be allowed, as the "umbrella" of civil law would somehow eliminate the anti woman aspects of the family laws.

We obviously do not agree, after all the research we and others have done.

### **Equality and Justice in Family are Necessary**

In Canada, we have already faced the issue of the application of religious family laws. Although the governments agreed with our position that NO religious laws should be applied in family matters, the issue is continuously raised by some Muslims and scholars. They insist that this is part of religious rights and so we must keep up our vigilance against any movement to reverse the legal decisions.

The same issue is being raised in Britain and we think that it will be raised in other parts of the West, because there is a strong conservative population of Muslims. These Muslims insist on an identity which is comprehensive and appears not to make any concessions or adaptations to

living in the West. It is a strange phenomenon as most of us have migrated here because of the freedoms and yet we use these to insist on narrowly defined religious rights that increasingly differentiate us from our non Muslim fellow citizens.

CCMW made the decision that we would not focus solely on Muslim family laws because of the discrimination and racism against Muslims in North America. This is why the movement for change was named NO RELIGIOUS FAMILY LAWS as this included Jewish, Xtian or any other possible application of laws.

CCMW has guiding principles based on being Muslim and Canadian. These are similar to what is stated in the Global Movement for Equality and Justice in the Muslim Family. We also differentiate between “sharia” and fiqh.

### **Publications**

During the 2.5 years of the struggle, CCMW found that there was a lack of accurate information regarding Muslim Family Laws amongst Muslim women as well as non Muslims. To correct this lack, CCMW commissioned a book, MUSLIM AND CANADIAN FAMILY LAWS: A COMPARATIVE PRIMER, written by Islamic scholar, Lynda Clarke of Concordia University in Montreal, and Pam Cross, a family lawyer.

The book is deliberately written in an impartial manner, with high academic standards, but clearly with the focus on women’s rights.

The book was then simplified and resulted in booklets on the various aspects of family laws – marriage, domestic contracts, divorce, custody children, spousal support and inheritance. These have been translated into Arabic, French, Farsi, Somali and Urdu.

It is not surprising that many Muslim women have an idealized impression of Muslim family laws, that they have more rights than in other systems. Time and again, Professor Lynda Clarke had to explain the reality of the laws.

### **Training/orientation and workshops**

In 2007, CCMW held a national workshop for our chapters to orient them to the material so that they in turn could do workshops in their local communities. The informational workshops were for the legal professions, service providers and Muslim women themselves.

Over the summer of 2008, across the country, 16 women were oriented and they held over 26 workshops and approx 440 individuals attended.

We hope that these will attend as they were received positively.

### **Other publications**

CCMW, along with a number of other women’s organizations has been developing educational resource materials to assist vulnerable women understand about the changes in the Family law in Ontario. These materials are geared not only for Muslim women, but to Jewish and other faith women; women with disabilities, Francophone women as well as aboriginal women.

CCMW has developed 3 specific Fact sheets – on marriages and divorces, including foreign ones and their recognition in Canada; the changes in private, legally binding arbitration; and domestic contracts under the Family law.

We have commissioned a document for pre-nuptial agreements which will be consistent with Muslim family laws as well as Canadian family laws. The package will contain scholarly analysis of Muslim family laws as well as a sample of a pre-nuptial contract. This is in response to the need identified not only in Canada but all over the world.

In our research, we did not find such a thorough analysis nor a sample which would protect the rights of women. There are some examples in the States and a recent one in Britain, but not what we think is necessary.

CCMW will share this document with the partners in this initiative.

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