



To: Standing Committee on General Government

Jan 16/06

Public Hearing on:

**BILL 27, FAMILY STATUTE LAW AMENDMENT ACT, 2005.**

**To amend the Arbitration Act, 1991, the Child and Family Services Act and the Family Law Act in connection with family arbitration and related matters, and to amend the Children's Law Reform Act in connection with the matters to be considered by the court in dealing with applications for custody and access.**

The No Religious Arbitration Coalition and the Canadian Council of Muslim Women commend and thank the Premier of Ontario for the decision to amend various Acts, so that no religious family laws can be used in Ontario.

We are grateful to the NDP for their courageous statement that arbitration and religious laws have no place in our civil laws, and we know that the Conservatives support the principle of one law being applied to all of us. Thank you, and we hope that the Bill, with the changes we are proposing, will be passed with all party agreement.

The last two years have been extremely difficult for us as believing Muslim women. Some Muslims have felt that public attention has led to an increase in the ever present anti- Muslim and anti- Islamic sentiments, and we know that it has divided Muslim communities.

We regret that a decision to correct the Arbitration Act took so long, when all we had asked for was to be treated as equals under the law of Ontario, regardless of ethnicity, race or religion. There would have been an uproar if anyone had advocated for differential treatment, under the law, of any racial minority women and their families, and yet the government took so long to acknowledge that religious women's equality rights, under our laws, must also be protected.

It is a great relief not only for us in Canada, but for religious women all over the world, that the state has confirmed its recognition of women's full citizenship and of equality before the law. We heard concerns from many countries who were watching closely as to what was happening in a western democratic country, a country which is known for its Charter of Rights and Freedoms.



CCMW has distinguished between Sharia and Muslim family laws. For Muslims, Sharia has a more profound meaning, while what is being discussed here is jurisprudence. Our plea to all of you today, is that we not use the term “Sharia,” which upsets Muslims, and to focus on the fact the Premier is correctly eliminating the use of ALL religious laws, not just Muslim law.

We would like to recognize the strong coalition of organizations and individuals who have so actively supported us, and have done so much of the advocacy work, on the basis that this issue was not about Muslim women, but about the erosion of women’s equality rights. We submit to you our Joint Declaration and the list of signatories so that their achievements are recognized by the Committee and recorded in the annals of the legislature.

The No Religious Arbitration Coalition and CCMW support the amendments which will guarantee that family law arbitrations in Ontario will be conducted using only Canadian law. Most importantly, the bill ensures that other principles/laws will have no legal effect and will amount to advice only. These amendments meet the overall objective of our Coalition, in that they reinforce one law for all of us, and this law is open to changes through the democratic processes.

While the No Religious Arbitration Coalition and CCMW strongly support the bill, there are some concerns, and we request that these be considered as part of the amendments, otherwise we will have created other gaps and loopholes which will haunt us in the future.

Following are our concerns and recommendations.

1. It is vital that as this bill is creating change in the family law regime, and arbitration is being strengthened, that the bill include a clause requiring the government to monitor and evaluate the implementation of the law.

We recommend a full evaluation be done at the end of three [3] years and includes a review of the processes, outcomes and impacts on families, especially on women and their children.

To do such an evaluation, it will require the immediate development of records which are to be submitted by arbitrators to the Attorney General. We recommend that this should start within a specified and quick period of time.



We further request that the government ensure that the expertise of women's organizations, such as our groups, be part of the monitoring and evaluation, with the support of the government to do so.

2. We recommend that the requirement of record keeping and reporting to the Ministry of the Attorney General be sufficiently detailed to ensure a thorough evaluation of the processes, outcomes and impacts on women.

To implement this, we ask that the process start as soon as possible so that there is no delay in the submission of records and the start of the evaluation process.

3. We recommend that the language of the amendments is not weakened in any way, so that the strong requirement for the use of the laws of Ontario is clearly stated and no new loopholes are created.

We support the government's position that "there is one family law for all Ontarians and that is Canadian law, and that resolutions based on other laws and principles, including religious principles, would have no legal effect and would amount to advice only." Please ensure that this is safeguarded.

We ask this because we have already heard that some religious leaders and bodies are persuading women and their families that they can continue using religious laws for arbitration

4. We are pleased that parties must have independent legal advice for arbitration. But currently legal aid does not apply in arbitration, which means that many women will not have the means to pay for legal advice.

Therefore, we recommend that legal aid be made available for women in need and that this is included in the bill.

5. As there are substantive requirements in the Regulations, we recommend that these not be delayed and be implemented within a specified, short time frame.

This is extremely important as the regulations contain the requirements for arbitrators, such as being members of a dispute resolution organization, their training, and the requirement to submit records to the Attorney General.



6. As this bill is revising critical Acts and as we do not want any family arbitration to occur at this time, we recommend that the Act be implemented within 120 days from royal assent.

7. We know that the justice system has obstacles and challenges, and that easy access is lacking for many women. Therefore we recommend that the public system have built into its infrastructure resources, training of personnel and cultural and language interpreters, so that all Canadian women can truly access their justice system.

8. We have heard often that the Family Law Act of Ontario has problem areas and requires amendments.

We ask the help of all the political parties to ensure that the legislation is reviewed as soon as possible, and that the review involve organizations which have experience working directly with women and their families.

Our submission includes the Coalition's Joint Statement, the list of signatories of the Declaration, the booklet, *Behind Closed Doors*, developed by Rights and Democracy, International Centre for Human Rights and Democratic Development; and the Information Kit, *Protect Women's Equality Rights in Family Law*, developed by the Canadian Council of Muslim Women.

Thank you for the opportunity to speak with you directly and we are exceedingly relieved that our equality rights have been re-affirmed. It has been a frightening journey to realize how tenuous these rights are, and to face the possibility of losing some of these rights.

On behalf of the No Religious Coalition and the Canadian Council of Muslim Women.

Submitted By:

Alia Hogben  
Executive Director  
Canadian Council of Muslim Women.