

# Sharia Law

MEMBER OF PARLIAMENT



PETER GOLDRING

The following letter by Peter Goldring was read on his behalf at “Emerging Issues in Women’s Equality: A Look at Sharia Law”, sponsored by Changing Together: A Centre for Immigrant Women, Edmonton Alberta. Mr. Goldring’s invited comments were made on the occasion of a talk by Ms. Homa Arjomand, Coordinator of the International Campaign Against Sharia Court in Canada ([www.nosharia.com](http://www.nosharia.com)) on January 22, 2005

I am pleased to have been invited to comment on “Emerging Issues in Women’s Equality: A Look at Sharia Law” by Homa Arjomand. I note that in previous public discourses Ms. Arjomand has pointed out that the introduction of Sharia Law in Canada is being considered as a matter of administrative expediency in arbitrations and, through encouraging arbitrations, governments are thereby hoping to ease the burdens on the courts. Supporters of these initiatives cite multiculturalism and religious freedom as justifications.



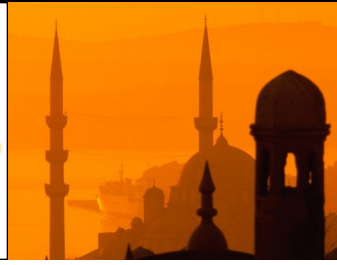
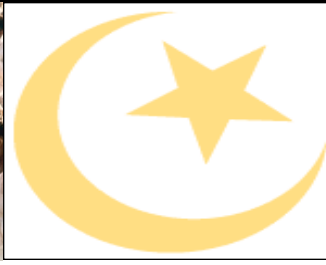
A typical mosque found in many areas around the world. All mosques face towards Mecca, a city of vital importance to the world’s Muslim community.

It is important to note that much of the impact of the use of Sharia law in arbitrations would initially be at the provincial level, since the provinces have constitutional jurisdiction in matters relating to property and civil rights within a province. For example, property and custody issues prior the commencement of divorce proceedings are governed by provincial law.

The problem for many is that it is believed that any introduction of Sharia law at the provincial levels will ultimately have federal ramifications. This makes sense when one considers that divorce settlements—a matter of federal jurisdiction—most frequently incorporate pre-divorce settlements

that the parties have made under provincial jurisdiction.

The interest in Sharia is based on an initiative in Ontario by which legislative ref-



erence is made to religious-based arbitrations. At present, these arbitrations are limited. Some people believe that, to be consistent, legislative recognition should be given to any religious-based arbitration, and that Sharia law should be legislatively referenced accordingly. Basically, if you include one religion, you should include them all. In my view, the initial problem arises when legislation makes specific reference to religious-based settlements



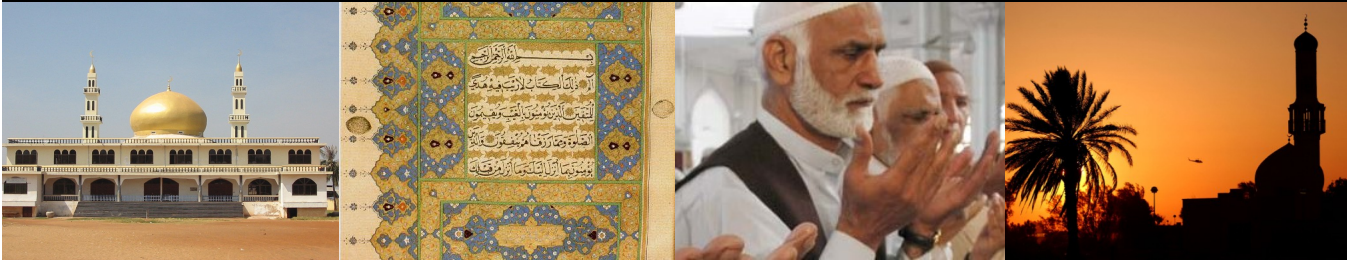
**Muslims, at least once in their lifetime strive to travel from all corners of the world to participate in the *Hajj*, or traditional pilgrimage to Mecca.**

of civil matters. I believe that in so doing, the formal separation of church and state that forms the basis of our democracy is thereby eroded. We do not live in a Christian state, even though the history of Canada involves significant Christian influences. Many who come to Canada from Islamic states do so because they do not want to live under a regime where religion usurps individual freedoms and democratic rights. These are people who believe that individual rights—particularly minority rights—must be preserved in the face of majority views, particularly majority-held religious views.

Many religions involve elements of intolerance towards other religions and those who within a particular religion do not strictly adhere to the doctrines of that religion. It is also the case that the conservative elements within some religions are male-dominated. We see this in the Catholic church, where only male priests are permitted to conduct religious services. We see this in some Christian faiths,

where the most conservative among such faiths believe that women are blessed through being subservient to men. And we see this in Sharia law, where the dominant interpretations of such laws are by males and favour males.

This does not mean that any of these religious beliefs are inherently wrong or evil. It does mean, however, that there are other interpretations to the same religious passages that are often ignored. It is for this reason that one Christian church in Canada, the United Church, has permitted gay and lesbians to become ministers



and why the Anglican church is similarly addressing the issue. Within Islamic law, I understand that there are many interpretations of similar texts. For example, it is my understanding that the concept of the Hijab, or headscarf, is referenced to both men and women, yet it is commonly only enforced with respect to women. I understand further that there is debate over whether the covering of the face and body, through such garments as the burka, previously imposed in Afghanistan and still commonly found in other countries, such as Yemen, is in fact religiously-mandated.

One of the problems with legislatively referencing religion in arbitrations is that it will be easy for some adherents to accuse others of not being good Christians, good Jews, good Muslims or good Sikhs, if they don't go along with a religious-based arbitration, or if they later challenge the arbitration on the grounds that it is contrary to general provincial law. Already, informal arbitrations take place, and will continue

to take place, without being legislatively mandated. Catholics who wish to religiously terminate their marriages must do so by way of a judgment of a religious court. However, such action has no legal effect whatsoever—the legal effect is completely separate from the religious views which absolutely deny the existence of divorce. In the case of Sharia law, my understanding is that it is, for many, all-encompassing, whereby all as-



**A set of Islamic legal texts and Korans (Qur'ans). Islam has an extensive legal tradition, dating back well over one thousand years.**

pects of life are to be governed according to the Koran (Qur'an). Inevitably, in such circumstances, there will be conflicts between non-religious civil values and what the Koran (Qur'an) might say. One area that has been frequently cited is that of the custody of children in a marriage breakdown. Canadian law does not automatically require that custody of children be granted to the mother or the father, or both. The issue is to be decided based on the best interest of the children, after a review of all of the facts. It is my understanding that the Koran (Qur'an) mandates that the children are to be in the

custody of the father, in such circumstances. Clearly, no mother in Canada would be required to agree to such an arrangement, without recourse to the courts to determine what the best interest of the children might be. Most recently, we have become aware of the fact that polygamy is now a social issue in Canada, with reference to whether prohibitions against polygamy infringe on civil rights. The issue at present is one that is referenced to old-order Mormons in British Columbia,

though several Muslims—all male, have recently raised the issue as well. My conclusion: keep all religions out of legislation affecting civil rights. What people agree to do privately, in accordance with religious precepts, may or may not result in an enforceable arrangement according to the law. But it will ultimately be our laws, and not our religions, that will determine our rights in society.

**Update:** There is controversy over the possibility of the application of Sharia Law and religion's place in general in Western society. France recently banned religious symbols in its public schools taking a secular approach, while Canada has taken a more pluralistic approach to religion and culture respecting each individual's freedom of religion and expression.

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*This brochure series is intended to highlight special issues that Member of Parliament, Peter Goldring, has been involved in. If you wish to comment, please take a moment to fill out the survey below, write or call to the address above.*

**Your Opinion Matters...**

**Question #1** Do you agree that religious law should not apply in parallel to civil law?

Yes

No

**Question #2** Should Sharia Law share an accepted legitimacy in areas of family law?

Yes

No

Comments: \_\_\_\_\_  
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