

The Attack by the Western Governments against Islamic Family Laws

The malicious West and its hatred towards Islam and Muslims has existed for centuries, manifest with their general attack towards the Deen of Islam, defaming it, fabricating lies against it together with the specific denouncing of some Islamic Ahkam, for example the Shariah regarding polygamy, early marriage, inheritance laws or divorce. Muslims today are also witnessing and experiencing this historical hatred by the West in secular liberal societies with their attacks to Islam and specifically family Islamic Shariah laws. The culprits are many, including right wing anti-Shariah groups and parties, mainstream media outlets, and opportunistic politicians, yet it is Western Governments, especially after signing up to the American-led war on Islam post 9/11 who attack family Islamic laws the hardest.

Machinations of this war against Islam and family Islamic laws is usually triggered by something that a public Muslim personality or Islamic group representative may have said or done which then acts as a catalyst for saturated public condemnation and whipped up fear mongering campaigns led by various actors and commentators in the media. Eventual calls for government-led inquiries and commissions then follows, concluding with policy recommendations and eventual legislative changes that aim directly against family Islamic law, Muslim communities and their very presence as members of society. This can be clearly seen in circumstances surrounding recommendations of family Islamic law and arbitration in Ontario, Canada in 2003.

In 2003, a vociferous debate and public outcry followed the announcement made by retired Ontario lawyer, Syed Mumtaz Ali, of the establishment of the Islamic Institute of Civil Justice (IICJ), an organization that was to be available to the Muslim community of Ontario in conducting arbitrations according to Islamic family law alongside Canadian law. A political clash between integrative and assimilative ideologies concerning the presence of Muslims in Canada and the practice of Islamic family law was to take centre stage surrounding the proposal made by IICJ. The International Campaign Against Shariah Law in Canada in March 2004 reacted to the IICJ proposal by meeting with government officials to discuss their so-called concerns following the IICJ announcement. Arguments made against the use of Islamic arbitration in family law matters centred primarily around issues of gender equality.

Stale arguments and feigned concerns about family Islamic laws threatening women's equality dominated, despite the introduction of the Arbitration Act more than twenty years beforehand in 1991. The Arbitration Act of 1991 that had once allowed private matters to be settled through legally binding arbitration based on religious principles, decades later turned into a hysterical Islamophobic debate about the introduction of "shariah law" into Ontario, Canada. In June 2004 the then Ontario Premier Dalton McGuinty asked his Attorney General and Minister for Women's Issues, Marion Boyd to look at the issue of religious arbitration based on shariah more deeply. In December 2004 the government released its findings in what was known as the Boyd Report, titled "Dispute Resolution in Family Law: Protecting Choice, Promoting Inclusion," which included 46 recommendations, including institutionalised oversight measures and education measures on the principles of both religious arbitration and Canadian legal principles. In 2005 various organizations, including the National Association of Women and the Law, responded to the recommendations outlined in the Boyd Report and lobbied the government not to institute the Boyd Report recommendations and to

amend the Arbitration Act to preclude religious-based family law arbitration and to end the use of arbitration in family and inheritance matters. Ontario Premier McGuinty announced ceremoniously on September 11th that he would put forth an amendment to the Arbitration Act to ensure that there would be “one law for all Ontarians” effectively ending faith-based arbitration. The Ontario legislature passed amendments to the 1991 Arbitration Act in February 2006 known as the Family Statute Law Amendment Act 2005.

Arguments held by supporters of institutional regulation of family Islamic laws is based firstly upon the false arguments of injustices and unfairness inherent in Islamic Shariah towards women that must be monitored within Muslim communities and secondly the social engineering target of integrating Muslims into secular liberal societies through the legal recognition of a family Islamic law alongside secular liberal family laws. We can also observe similar accusations and targets against family Islamic law in Britain last year during the airing of a documentary on UK’s Channel 4 in November titled, “The Truth about Muslim Marriage”. This documentary sought to undermine the Islamic Nikah contract by arguing that it does not protect the rights of Muslim women in marriage and that Muslims should be obliged to have a civil marriage recognised under British law in order to ensure that the marital rights of women were safeguarded by the British legal system. Channel 4’s program was aired during the 18 month long inquiry into the operation of shariah courts in the UK launched in May 2016 by the then Home Secretary Theresa May. May said at the time that, “A number of women have reportedly been victims of what appear to be discriminatory decisions taken by sharia councils, and that is a significant concern. There is only one rule of law in our country, which provides rights and security for every citizen.”

In February this year, the UK’s Home Secretary Amber Rudd presented to Parliament the inquiries findings in a report titled, “The independent review into the application of sharia law in England and Wales”. The review recommended that Muslim couples should undergo a civil marriage as well as a religious ceremony in-order to give women protection under the law. The review also said nearly all those using shariah councils were women, and in the vast majority of cases, they were seeking an Islamic divorce. As a “significant number” of Muslim couples do not register their marriages under civil law, “some Muslim women have no option of obtaining a civil divorce”. It also said, “Cultural change is required within Muslim communities so that communities acknowledge women’s rights in civil law, especially in areas of marriage and divorce”. The report also recommended awareness campaigns and educational programmes to inform women of their rights and responsibilities.

What is evidently clear from governmental attacks upon family Islamic laws in Britain and Canada is the smokescreen they use to hide obvious inherent flaws existing within western secularism that lack resources to accommodate family Islamic laws in the 21st century. What we find instead are Western Governments attacking family Islamic laws and blaming the existence of Muslims in society for their adherence to their Islamic beliefs and practices. Britain’s secular family laws in particular are consequently failing non-Christians due to the lack of legal recognition of non-Christian beliefs. Muslim women are therefore disadvantaged due to UK civil marital rights not afforded to them after only performing the Islamic *nikah*.

Such disadvantages to women however, never existed when the Islamic system of the Khilafah (Caliphate) was implementing comprehensively Islamic Shariah laws. For it is this same Islamic Deen that the West has historically and maliciously attacked, especially Britain, that provided and called for non-Muslim citizens to conduct their marriage ceremonies

according to their own religious beliefs without harassment, vilification or interference by the state, and recognised them as valid marriages under the law.

Muslim women furthermore have only experienced injustices, oppression, and disadvantages in matters related to family laws due to the application of non-Islamic laws, political beliefs and systems instead of the application of Islam comprehensively, whose judicial system would facilitate women in securing their Islamic marital rights. The Khilafah (Caliphate) upon the method of the Prophethood is absent from the Muslim lands today but during its centuries of rule, there are countless examples recorded within the judicial registries of the time when women independently brought and won cases related to the violation of their marital rights.

A study of the 17th century judicial records of the shariah courts in Kayseri, Turkey gives a glimpse of women's lives under the Islamic rule of the Uthmani Khilafah. It revealed that women use to present to the courts to defend their personal and property rights, and they represented themselves and handled their own cases for they had the same rights to initiate suits and take oaths. In fact women appeared as litigants in over 17% of the cases heard by the Kayseri courts during the period from 1600-1625. Records also showed that judicial judgements were made according to the Shariah. Studies of the Kayseri records and other parts of the Uthmani Khilafah also showed that women won a high proportion of their cases. The courts of the Uthmani Khilafah were therefore viewed as an arm of the state in protecting the wellbeing and rights of women. Women used them to settle issues related to marriage, divorce and inheritance. As well as to secure financial maintenance, property, business, and other economic rights. They also used them to raise issues about violence and other matters. The courts supported anyone who had faced violence at the hands of the husband or others. They severely admonished, imprisoned or physical punished those guilty of violence against women. Judges often made the husbands accept the condition that if he was violent towards his wife again then they would be divorced without the wife having to give up her marital financial rights. Girls or women could also complain against forced marriage and could complain to the judge and have their marriage annulled by the judge.

Muslim women have therefore only enjoyed their rights as citizens of the Islamic Khilafah State that implemented centuries before the secular western system, not only the Islamic social system that afforded them their marital rights but all of their rights within the economic, educational, and judicial systems of Islam. ﴿الْيَوْمَ أَكْمَلْتُ لَكُمْ دِينَكُمْ وَأَتْمَمْتُ عَلَيْكُمْ نِعْمَتِي وَرَضِيْتُ لَكُمُ الْإِسْلَامَ

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It is therefore only the righteous Islamic Khilafah State that will guarantee the marital rights for Muslim and non-Muslim women and men and the relentless harassment by malicious western secular governments against Islam, family Islamic laws and Muslims will eventually be a cited historical example of one of many failings produced by an inadequate, irrelevant and oppressive Western secular liberal system.

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