



## **No Religious Arbitration Coalition: What Have We Learned?**

Measuring the success of law reform advocacy is often difficult. In assessing success, are we to look only at outcomes -- did the government make the change that was being advocated for? – or should we also look at process – did we organize well, establish positive working relationships with our partners, get positive public attention?

The recent success in Ontario of the No Religious Arbitration Coalition in bringing an end to the use of religious laws in the arbitration of family law disputes provides those working for women's equality with the opportunity to look at a campaign that was successful on both fronts.

### How the campaign began:

In late 2003, the Ontario Islamic Institute of Civil Justice announced its intention to establish a “sharia court” that would offer binding family arbitration to Ontario Muslims.

In early 2004, the Canadian Council of Muslim Women (CCMW) took the public position that such a use of religious laws would contradict the fundamental value of women's equality as set out in the *Charter of Rights and Freedoms*.

This proved to be the call to action for many other organizations, including NAWL and other women's equality-seeking organizations.

The government rapidly realized this issue was a potentially highly explosive one, especially because it was largely framed in the public discourse as an issue of “sharia” law, which built on already existing sentiments of Islamophobia and racism. Premier Dalton McGuinty appointed Marion Boyd, who had been Attorney General in Bob Rae's NDP government and was considered by many to be a strong feminist, to review the arbitration of family law matters and provide him with a report and recommendations.

Many of the organizations that eventually came together in the No Religious Arbitration Coalition made submissions and presentations to the hearings organized by Marion Boyd as part of her review.

Boyd's report, released in late December 2004, recommended the ongoing use of religious arbitration in family law in Ontario, with proposals for the regulation of such arbitration.

At this point, those opposing religious arbitration realized that law reform advocacy and public education would be needed.

Campaign Leadership:

Very early in the campaign, the Canadian Council of Muslim Women (CCMW) approached NAWL about working together on this issue. NAWL established a Working Group, consisting of individuals and other women's equality seeking organizations, to support its work, and began the preparation of a position paper, which was published in March 2005.

Leadership for the campaign very much rested with CCMW, whose position, as an organization representing the voices of thousands of Muslim women across the country, reflected the essential principles of women's equality rights.

Early Campaign Activities:

In early April 2005, CCMW hosted a symposium in Toronto at which various positions on religious arbitration were heard and debated.

Later the same month, NAWL hosted a conference at which women belonging to Women Living Under Muslim Laws spoke about their experiences living in countries governed by Muslim laws.

NAWL spoke about the need to end the use of religious arbitration in family law at a number of forums in 2005, including to more than 500 women at a Montreal event organization by the Federation des Femmes de Quebec.

The No Religious Arbitration Coalition:

Out of these two events, a coalition of organizations and individuals formed to fight for an end to the use of religious arbitration in Ontario.

While taking its direction from CCMW, the No Religious Arbitration Coalition also recognized the values and perspectives brought by its many diverse members as it worked towards a common position and strategy.

Over the spring and summer of 2005, the Coalition employed a number of strategies to ensure that politicians and the public alike understood what was at stake in the campaign to end religious arbitration and to persuade the government to make the appropriate amendments to the *Arbitration Act* and other related legislation.

On September 11, 2005, the Premier did just that when he announced that he would introduce a bill to require family dispute arbitrations in Ontario to be conducted only in accordance with Canadian and Ontario law.

The Coalition remained active through the fall as it engaged with the legislative process of Bill 27 and some members remain involved to this day in the development of regulations to support the legislation and public education tools to make vulnerable women aware of their rights under Canadian family law.

#### What We Learned:

Many of those involved in the No Religious Arbitration Campaign saw the introduction and passage of Bill 27 as the most significant women's equality victory in many years. Others saw the primary importance in the fact that the Bill managed to assert the supremacy of secular law in matters of family law without infringing on religious freedom.

The campaign produced a number of "lessons learned" or "best practices" both in terms of its internal processes and the political strategies used. There were also many unanticipated positive outcomes, as well as challenges. And, at the end of the campaign, next steps became clear, and many have remained actively involved with this and related issues.

**Note:** We wish to thank the Canadian Council of Muslim Women, who shared their evaluation of this campaign with us. We have relied on this data to support many of our observations that appear below. Any comments that appear in quotation marks are drawn from the CCMW evaluation report. For more information, please visit the CCMW website at [www.ccmw.com](http://www.ccmw.com).

#### Successful Internal Processes

- CCMW leadership: virtually everyone who was involved with the coalition commented on the importance and high quality of the leadership role played by the CCMW

*CCMW was constructive in keeping dialogue going, sharing information, being prepared to engage, not personalizing or demonizing, but sticking to the issue. It was thoughtful, thorough work.*

- Openness to engage with all interested parties, despite apparent differences, led to the development of a diverse coalition that grew far beyond the Muslim community to include people of other faiths as well as those who were not involved with any religion, which increased the integrity of the campaign
- Collaboration among non-traditional partners strengthened the ability of the coalition to advocate from a position of inclusivity

*We all benefited by working in a coalition that was filled with people that we ordinarily did not have the opportunity to work with. Some of the members of the coalition gained more insight into legal principles and we gained insight into working at a practical level within diverse communities in Canada.*

- Commitment to a common goal helped to overcome other obstacles and differences. For example, NAWL had a position opposing the use of arbitration generally, but accepted the Coalition focus on religious arbitration because of the urgency of this specific situation

*Differences in analysis and strategies were seen as a positive, complementary, representing a continuum of advocacy that influenced the result.*

- Internal structure/communication. The Coalition established a Steering Committee to direct its work, especially over the summer of 2005 when many organizations did not have the capacity to remain fully engaged. The members of this Committee brought strong organizational, analytical and advocacy skills to their responsibilities and ensured ongoing, active communication among all members of the Coalition
- High quality research and documentation ensured that all coalition members were well informed on the issue
- Positioning issue as one of women's equality rights was critical

*There was a lot of talk of religious pluralism and multiculturalism but we maintained the focus on it being a women's issue. There were many attempts to derail and sidetrack us. Everyone saw the rising conservatism and we could have focused on fundamentalism. But we stayed on the issue.*

- Persistence kept the campaign going

*I was just floored by the endurance of the small group of women and how they just kept things going and worked on this. They have a mandate with other issues. I don't know how they worked on those.*

### Political Strategies

- Framing issue primarily as a women's equality issue was essential to the campaign's success because it removed the political discourse from a potentially divisive focus on religious freedom
- Reframing of the issue as one of religious arbitration and not just sharia law, while not entirely successful, was important to separate the campaign from Islamophobic and racist efforts to end "sharia law"

- Developing the clear and simple message “No Religious Arbitration” branded the issue effectively and was part of a strong media strategy developed by the coalition. Both the overall strategy and the simple message helped keep the issue alive in the public and led to ongoing political lobbying and advocacy by individuals and organizations beyond the coalition
- Making multiple spokespeople available broadened the message being given to the public and to politicians.

*If the same few people always speak, then decision-makers may conclude that the number of women involved is limited. It is important that at the right times, a broad show of support is necessary for decision makers to understand the breadth of participation.*

- The decision to ask 10 “prominent women” to sign a letter opposing religious arbitration was seen by many as a critical turning point in influencing the outcome of the campaign. Indeed, the Premier’s announcement to end religious arbitration came the day after this letter was printed in the Globe and Mail
- The development of high quality informational materials proved to be very effective both in terms of public education and raising the awareness of politicians and senior bureaucrats
- The April 2005 forum was seen by many as crucial in beginning the important process of educating both the public and politicians

*I was impressed by the broad range of representation among the presenters from various Muslim, Jewish and legal perspectives. It was clear that the CCMW was aiming to educate the Canadian public, including the politicians in attendance, by exposing a wide range of possibilities and allowing each individual there to reach his or her own conclusion.*

- Involving the international organization, Women Living Under Muslim Laws, in the campaign made Ontario politicians aware that how they handled this issue was being observed around the world. As well, women involved in the coalition had the unusual opportunity of receiving solidarity from women in other countries.

*The fact that the international women’s movement came to support Canadians was unheard of before. We learned that solidarity works both ways.*

- The campaign was non-partisan and engaged in extensive and repeated outreach to all politicians

- Every MPP, regardless of party affiliation and position on this issue, was visited in person at least once by members of their constituency
- The campaign developed a sophisticated lobby strategy of professional quality. Key MPPs, including the Liberal women’s caucus and the leadership of the Conservative party, were focused on. Politicians were lobbied at Queen’s Park, in their constituency offices and at public events. Lobbying was always respectful and non-confrontational, but persistent

Secondary Outcomes

- The campaign increased public awareness of the issue, as well as awareness by vulnerable women, especially newcomers, of their rights under Canadian law and also increased understanding by non-Muslims of Muslim diversity
- Many coalition partners increased their strengths and learned more about the strengths of other organizations

*It helped us realize where our strength is, as an organization and to draw on other groups and their materials when needed.*

- CCMW’s visibility and position in women’s advocacy work increased considerably

*This project was initiated by a grassroots organization (CCMW). The fact that the women’s movement in Canada can be led by new types of women’s groups is more reflective of the Canada that we have.*

- Key members of the coalition have remained actively engaged with this issue. The quality of the coalition’s work has led to important consultation roles for some coalition members in the development of public education materials
- Relationships among women’s organizations were strengthened

*Until I became involved with the coalition, I had never [before] seen the “promised land” of inter-professional co-operation and consensus in action, which Ursula Franklin recommended back in the 1980s.*

- The campaign led to the re-energization of the women’s movement

*This brought women’s groups together like nothing else in the last 10 – 15 years. We would not have been in contact with Muslim women. This process increased the closeness of women’s groups. Subsequently, it has been a vehicle to address other*

*issues. It has found us ways to get on speaking terms again. Also, to look at immigrant women more. This just cut through the heart of everything.*

*The success of the coalition and the process of building a coalition itself revived the women's movement. It created momentum amongst feminist organizations.*

*The larger lesson is that you think you are secure in a modern country such as Canada, with the Charter of Rights, but that these can actually be breached by determined efforts, by mistaken appeals to multiculturalism.*

### Challenges

- As is the case with almost all coalitions, there were unequal levels of participation by members and their organizations
- While the coalition worked well together and was able to focus on the key issue, tensions and differences, especially within Muslim communities, still existed and may continue past the end of the campaign. CCMW was demonized by some members of more traditional Muslim communities.

*Sharia arbitration became an acrimonious issue. People were characterized as medieval on one side and 'not real Muslims' on the other. I fear that this divide will have a long-lasting, negative impact on Muslims in Canada.*

- Despite very hard work by the coalition to frame the issue as one of religious arbitration generally, it remained a "Muslim only" issue for many politicians, in the media and members of the public. As a result, some potential allies were afraid to become involved in the campaign lest they be labeled racist

*The debate got framed in a way that was Muslim bashing – [as though] only Muslim women are abused.*

*We could never [fully] widen the discourse to religious fundamentalism in general. It left the impression that Muslims were the problem and thus fed into Islamophobia*

- It would have been helpful to have more detailed data about actual cases of religious arbitration, but women who had been through this process were very reluctant to speak about their experiences
- While the legislation to end religious arbitration was a significant victory, it was not complete by any means. In particular, the lack of any assurance that legal aid's mandate would be expanded to assist women who use arbitration leaves many women in a difficult position

- Some coalition members had concerns that the decision to end religious arbitration rather than regulating it would drive it underground and leave some women in a very vulnerable position. These concerns were not fully addressed by the outcome of the campaign

#### Potential Next Steps

- There is considerable opportunity for ongoing engagement with the issue in Ontario. In fact this is already underway: NAWL, CCMW and other key partners in the No Religious Arbitration campaign are now involved with the Ontario Women's Directorate in the development of family law education materials for women.
- Those involved in the Ontario campaign can offer support to activists in other provinces when and if they face the issue of religious arbitration
- Advocacy for increased access to legal aid needs to be taken on
- Research in to the impact of the new legislation on vulnerable women would provide valuable data about the real value of the changes and could lead to new law reform campaigns

#### Conclusions

This campaign had many successes both in its internal processes and its outcome. It also had unanticipated outcomes that were largely positive. It also faced challenges, both expected and unexpected, many of which were dealt with effectively, and some issues remain outstanding.

It provides an excellent model for those engaging in law reform advocacy in the area of women's equality rights.