

Representing Canadian Muslims: Media, Muslim Advocacy Organizations, and Gender in the Ontario Shari'ah Debate

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Abstract:

This paper analyzes a highly public conflict between two Muslim non-profit organizations, the Canadian Islamic Congress (CIC) and the Muslim Canadian Congress (MCC), as it played out on the pages of Canadian newspapers and Internet websites. Sparked by profoundly divergent convictions about gender norms and fuelled by contradictory blueprints for “being Muslim in Canada”, this incendiary conflict was fanned by Canadian media coverage. Focusing especially, but not exclusively, on the 2003-2005 debate over *Shari'ah*-based alternative dispute resolution in Ontario, I will argue that the media have played a role in constructing internal Muslim debates and identity negotiations concerning what it means to be genuinely Canadian and authentically Muslim through controversy-driven journalism that has highlighted opposing ends of a liberal/progressive versus conservative/traditional axis in a search for “point/counter-point” views. Through short stories and commentaries on controversial topics that juxtapose two increasingly antagonistic organizational voices, the media have not merely reflected Muslim realities, but also helped to shape them and, more often than not, reinforce polarization between a “majority Muslim” culture seeking to secure space for itself within Canadian society and a “dissident Muslim” culture that seeks to consolidate external support for internal change.

Keywords: Islam; Media; Muslim Advocacy Organizations; *Shari'ah*; Gender

Résumé:

Cet article fait l'analyse d'un conflit très public entre deux organisations à but non lucratif musulmanes, le Congrès islamique canadien et le Congrès musulman canadien, comme il s'est manifesté sur les pages des journaux canadiens et sur des sites Internet. Déclenché par des convictions profondément divergentes à propos des normes du genre et alimenté par des modèles contradictoires de ce que c'est "être musulman au Canada", ce conflit incendiaire a été éventé par la couverture médiatique canadienne. En se concentrant largement, mais non exclusivement, sur les débats de 2003-2005 portants sur les alternatives de résolution de disputes basées sur le *Shari'ah* en Ontario, je vais soutenir que les médias ont joué un rôle dans la construction des débats internes musulmans et dans la négociation d'identités concernant ce que ça veut dire être véritablement Canadien et authentiquement musulman à travers le journalisme conduit par la controverse qui a surligné les pôles opposés des axes libérale/ progressiste et conservateur/traditionnel dans une quête pour les prises de position "point/contrepoint". À travers des nouvelles et des commentaires à propos de sujets controversés qui juxtaposent deux voix organisationnelles de plus en plus antagonistes, les médias n'ont pas simplement représenté les réalités musulmanes, mais ont aussi aidé à les formuler et à renforcer la polarisation entre une culture "majorité musulmane" qui cherche à se garantir une place dans la société canadienne et une culture "dissidente musulmane" qui cherche à consolider l'appui externe pour le changement interne.

Mots-clés: Islam; Médias; Organisations de Soutien Musulmanes; *Shari'ah*; Genre

Muslims and the Media

In an era in which image is truth and truth is image, the power of the media is pervasive. Doing much more than merely holding up a mirror to society in their capacity as means of representation and as sources of information, the media also contribute to the construction of social reality by selectively "re-presenting" identities and issues and by serving as gatekeepers to public space and moderators of social dialogue. While the advent of the Internet has provided alternative means of entry to public conversation and has created fora for unconventional voices and opinions, the media of television, radio, magazines and mass-circulation newspapers remain influential. Significantly, these media are also dominated by limited numbers of actors—actors who are highly conscious of the commercial nature of their enterprise, of media consumers' often limited appetite for complexity, and of the dangers inherent in challenging the "consensual realities" of culture and politics.

The events of September 11, 2001 and their aftermath provide oft-cited examples not only of the media's power to shape and define dominant social narratives, but also of the manner in which the media can be captured by influential political and economic actors or remain

captive to deeply engrained stereotypes and misconceptions (Karim, 2003; Jiwani, 2006: 177-201; Siddiqui, 2008: 1-16). Although media coverage of Muslims in North America has arguably been selective and problematic for decades,¹ September 11 changed Muslim experiences of the media. If one could say that media coverage of Muslims prior to September 11 was comparable to the unfocused view obtained through a magnifying glass held at a considerable distance from its intended object, it could be said that after September 11 the lens has been brought too close, resulting in new forms of distortion, sensationalism and, at times, burning sensations produced by concentrated rays of majority-culture disapproval. By shaping majority-culture notions of authoritative truth as well as the nature of contemporary Muslim self-representation and advocacy, media sensationalism and the sensations it has produced have affected Muslim minority communities in North America in multiple ways.

These impacts are evident not only in the United States, but also in Canada. In Canadian media as elsewhere, notions of shared identity are being redefined in ways that elevate cultural identifiers over more traditional Cold War ideological polarities. Though other means of defining Canadian identity (including cross-border comparisons with the U.S.) persist, efforts to define a collective “we” through contrasts to a Muslim “they” have become commonplace. Today’s “we” increasingly appears as a Western cultural composite distinguished not so much by the natural coherence of its parts as by a series of contrasts with a new foil or adversary: historically Christian or Judeo-Christian rather than Muslim; politically inclined toward secularism rather than religious rule; and socially predisposed toward individualism or libertarianism rather than collectivism. Women’s rights have also become a new orthodoxy of implied Western identity, at least insofar as it provides a basis for favourable contrasts with a less-progressive Muslim “other”. As a result, Muslim communities have experienced heightened pressure to demonstrate that they, too, qualify for membership within the redefined majority identity, and media outlets have taken a decided interest in at least some of the resultant multiple internal negotiations of Muslim identity. The pressure of public scrutiny—itsself channelled by the media—has contributed to increasingly open divergences of opinion within Muslim minority communities, with the media also playing a role in shaping the manner in which these differences have been framed and expressed.

The present paper analyzes a highly public conflict between two Muslim non-profit organizations, the Canadian Islamic Congress (CIC) and the Muslim Canadian Congress (MCC), as it played out on the pages of Canadian newspapers and Internet websites. Sparked by highly divergent convictions about gender norms and fuelled by contradictory blueprints for “being Muslim in Canada”, this incendiary conflict was fanned by Canadian media coverage. Focusing especially but not exclusively on the 2003-2005 debate over *Shari'ah*-based alternative dispute resolution in Ontario, it will be argued that the media have played a role in constructing internal Muslim debates and identity negotiations concerning what it means to be genuinely Canadian and authentically Muslim through controversy-driven journalism that has highlighted opposing ends of a liberal/progressive versus conservative/traditional axis in a search for “point/counterpoint” views. Through short stories and commentaries on controversial topics that juxtapose two increasingly-antagonistic organizational voices, the media have not merely reflected Muslim realities, but have also helped to shape them and—more often than not—to reinforce polarization between a “majority Muslim” culture seeking to secure space for itself within Canadian society and a “dissident Muslim” culture that seeks to consolidate external support for internal change.

In addition to materials obtained from the websites of MCC and CIC, the primary sources of data for this analysis are articles from three daily newspapers—*The Globe and Mail*, Canada’s

largest-circulation national newspaper, and two regional Ontario newspapers based in cities with significant Muslim minority populations and ready access to present or former representatives of the organizations described in the study²: the *Toronto Star* (Canada's largest-circulation newspaper) and the *Waterloo Region Record* of the Kitchener-Waterloo-Cambridge region. The articles analyzed were produced between 2003 to 2009, a period that provides adequate coverage of controversies preceding the Ontario *Shari'ah* debate while also presenting stories and commentary from the years that followed. Although these papers do not exhaust the diversity of Canadian media content on Muslim-related issues, they do offer an illustrative sample of news stories and opinion pieces from papers with centrist to moderately conservative (*The Globe and Mail*) and traditionally progressive (*The Toronto Star*) tendencies. Whereas *The Globe and Mail* and *The Toronto Star* have the largest readerships in Canada, *The Waterloo Region Record* occupies a smaller niche, providing a sample of mainstream journalistic coverage in one of Canada's more diverse mid-sized urban areas.²

Constructing Contemporary Muslim Identities: A Clash of Representations

At their best, the media provide an infrastructure for communication and dialogue in modern societies—a means of conveying information and views across physical as well as social distances, providing opportunities for diverse citizens and groups to relate to and negotiate with one another. At their worst, however, modern media environments become echo chambers for stereotypical and solipsistic thinking—discursive fields dominated by a partial cross-section of institutional and societal actors, providing only limited scope for the expression of alternative interests and worldviews. Realities of commercialism also take a toll on ideals of the media as a domain of public service and responsibility, inducing professionals to tailor the production of “news” to the interests and preconceptions of a mass audience or readership. Inevitably, news and other media content are disciplined not only by professional training, but also by cultural, political, and market forces (McChesney, 2000).

The media—like “society” writ large—is a domain structured by ideas and interests. Rather than standing “above” society, they are part of the whole and play a significant role in social construction. Through impactful practices of representation, they select specific phenomena from a field of multiple possibilities and help to shape associated social meanings (Hall, 1997). It is in the domain of mass media that social groups and actors as well as events are labelled and categorized—practices that are themselves constitutive of how citizens perceive their identities and interests. While identities and interests are by no means infinitely elastic and local meanings persist even in the face of contrary media messages, the contest to influence media coverage or even to “capture” specific media outlets has become a central dynamic of political contestation and social change campaigns. For minority groups in a complex society, few issues are of greater concern than “fair” representation in the mass media, which is often regarded as a *sine qua non* of social advancement and freedom from burdensome or even oppressive stereotypes (Fleras & Kunz, 2001).

For a majority of Canadian Muslims, concern about media representations is a daily matter because it has a direct impact on social perceptions and relationships. Many feel that they must construct their identities in contrast to or even in opposition to commonplace media images and messages (be they implicit or explicit) about what it means to be a Muslim or how one must behave or appear to be a Canadian. Like members of minority groups in other countries and contexts, Canadian Muslims often find themselves deprived of an authentic voice in media

conversations and forced to define their identities defensively, in direct contrast to the messages they hear and see. A polarizing dynamic develops, according to which one feels compelled either to “accept” prevailing messages about one’s community—and perhaps disown it—or to “reject” these messages and attempt to construct a counter-discourse. Given that a large proportion of messages are perceived to be Islamophobic, tendencies toward the embracing of a group-specific counter-discourse are quite strong.

Among the many media practices that minority populations regard as problematic is the tendency to construct simple dichotomies as proxies for much more complex realities. Although this may provide a convenient style of journalistic shorthand and create an appearance of objectivity, it can also serve to distort the subject matter and deprive the audience of contextual information. With respect to Islamic communities, many commentators have been dissatisfied with a common practice of identifying “good Muslims” (typically those most inclined to assimilate or remain silent about problems in historical relationships) and “bad Muslims” (most often Muslims who manifest, support, and/or act on emotions of anger toward non-Muslim groups). Implicitly or explicitly, the former is affirmed, the latter vilified, and the majority of Muslims (who stand somewhere between the two categories) left without a voice. As Sameer Zuberi of the Canadian Council on American-Islamic Relations (or CAIR-Canada, a Muslim civil rights organization) stated to Mirko Petricevic (2007, W7), the *Waterloo Region Record’s* award-winning faith page writer, “the news media tend to concentrate on two extreme types of Muslims—conservative and liberal”.

While it would be an exaggeration to speak of media coverage of Muslims (or of most other visible minority groups in Canada and North America) as monolithic and categorically negative in character, common journalistic habits centred on binary thinking and representing opposite ends of a continuum are seldom helpful for developing a nuanced understanding of a community’s reality and can serve to exacerbate conflict by reinforcing an “us versus them” dynamic. Reliance upon simple, parsimonious categorizations such as “moderate vs. extremist” or “liberal vs. fundamentalist” can distort reality as much as it clarifies, and yet such categorizations are highly consequential for the groups to which they are attributed and for those who enter into relationships with them. For those who see themselves as neither “moderates” nor “extremists”, the language itself is inherently alienating. Even as it drives some to conform at least outwardly to the discourse of moderation (and thereby create a possibility to be “heard” or favoured), others experience a temptation to reject conventionally “moderate” ideas (a predisposition towards liberalism, secular thought, advocacy of assimilation) entirely.

In addition to the fact that conventional, binary ways of categorizing Muslim voices typically imply a favoured and a disfavoured party, the lack of subtlety and nuance associated with this type of analysis often has an exacerbating effect on social conflict. Binary “point/counterpoint” frameworks create an outlet for certain types of thoughts and opinions—typically the more divisive and polarized ones—at the expense of dialogue and complexity. With respect to Canadian Muslims, popular coverage of recent events has highlighted antagonistic debates transpiring in a context of intense external scrutiny and has arguably done little to communicate the stakes as perceived by less partisan actors within the Canadian Muslim community. Insofar as divisions among Muslim advocacy organizations have been heightened, it could be said that the prevailing media environment has directly facilitated a growing pattern of incivility, creating a more hazardous and unstable terrain for the construction of contemporary Canadian Muslim identities.

The Tale of Two Canadian Muslim Organizations

In a post-9/11 context of Canada, the media have covered a variety of events and debates concerning contemporary Muslim identity, some including: the *Shari'ah* debate in 2005-2006; the 2006 arrest of 18 Toronto-area Muslims on terrorism-related charges; the government's banning of wearing the niqab at electoral polls in 2007; the Aqsa Parvez killing in 2007; the "hijabi girls" sports controversy in 2007; and the 2007-2008 Bouchard-Taylor Commission and Report. While a considerable number of Muslim individuals and organizations have been represented on the pages of *The Globe and Mail* and the *Toronto Star*, two of the most frequently profiled Muslim organizations have been the Canadian Islamic Congress (CIC) and the Muslim Canadian Congress (MCC).³ These two distinct groups have repeatedly been portrayed as two competing voices for Islam in Canada, each aspiring to be "*the* voice for Canadian Muslims" on matters of contemporary concern. In support of such claims, the CIC has pointed to a member base of 50,000 persons (Freeze, 2005: A4, *italics in original*), while the MCC has argued that its much smaller membership nonetheless speaks for a large, but often silent, constituency.

The CIC was incorporated in Kitchener, Ontario in 1997, and describes itself as "Canada's largest national non-profit and wholly independent Islamic organization".⁴ It aspires to be the non-sectarian voice of Canadian Muslims (Sunni as well as Shi'ah) on matters of shared concern, such as combating anti-Islamic bias in the media, counteracting discrimination, and advancing Muslim participation in public life. To further these objectives, the CIC endeavours to represent Canadian Muslim concerns to the media, various levels of government and political parties, and to create a national community of Muslim individuals and organizations that can fully participate in all aspects of Canadian life.

The CIC employs many different strategies to fulfill its mission. Staff members regularly submit opinion pieces to major Canadian newspapers to express viewpoints on issues that affect the organization's constituency. The CIC also publishes research papers and reports on foreign policy and public affairs and has published a series of reports on anti-Islam attitudes in the Canadian media.⁵ In 2005, the CIC's Mohamed Elmasry (then CIC president, by far the most quoted representative of CIC from 2004 to 2009) began articulating a strategy of "smart integration" for Canadian Muslims as an alternative to the more conventional binary of assimilation versus isolation (Elmasry, 2009). According to this strategy, Muslims should become actively engaged in all aspects of civic life while still maintaining their distinctive values, identity, and heritage. Elmasry argued in particular that "more young Muslims should help the community integrate by studying journalism, law, social work, and political science", while also participating directly in the political system (Rusk, 2005: A8). Such an approach, Elmasry proposed, would serve to temper and counteract widespread biases against Muslims while also helping to prevent a retreat from the public sphere and a concomitant growth of alienation and extremism. By participating actively in professions and in civic life and contributing to the greater good, Muslims could create space in Canada for a religious community that is distinctive, but not marginalized or stigmatized.

The MCC was formed in December 2001, just a few years after the CIC and three months after the events of September 11. With its office in the multicultural metropolis of Toronto, the founders of the MCC sought to present a different face of Canadian Muslims and to give voice to the concerns of those "who are not represented by existing organizations"—particularly of those who embrace the vision of a "progressive, liberal, pluralistic, democratic, and secular society".⁶ To this day, the MCC continues to define its mission in opposition to most existing Muslim

organizations, which it pointedly characterizes as “either sectarian or ethnocentric”, opposed to modernity and intolerant of diversity.⁷

The MCC articulates a markedly different message about Muslim citizenship in Canada from the much larger CIC. Though it does not command broad membership—the organization claimed 300 dues-paying members in 2006, before an internal dispute led to the resignation of eight board members and the birth of an alternative progressive Muslim organization, the Canadian Muslim Union (Fatah, 2006, August 25: A6)—the MCC represents itself as the voice of Canada’s *moderate Muslims*, who embrace separation of church and state, gender equality, inclusiveness and other progressive values. In contrast to the CIC’s *smart integration*, in which civic engagement is accompanied by cultural and religious traditionalism, the MCC advocates assimilation with the Canadian mainstream and questions adversaries’ commitment to a secular political system premised on universal human rights norms.

Encouraging Muslims to be Canadian first and Muslim second, MCC spokespersons seek to distinguish themselves from organizations that, in their view, have not responded adequately to currently-perceived security threats. Representatives of MCC also criticize what they regard as an aversion to joy in traditional and revivalist religious cultures and apply the provocative label “gender apartheid” to practices embraced by some members of the Muslim community (Scrivener, 2007: F7).

From the beginning, relations between the CIC and MCC have been antagonistic. MCC’s appropriation of the name “Congress” did not sit well with the previously established CIC (Jiminez, 2003), and differences in belief systems and value priorities have created wide-ranging bases for debate. Their disputes and disagreements became especially acute, however, during the “*Shari’ah* in Ontario” debate of 2003-2005. While there were many individual and organizational voices heard throughout the debate, it is interesting to note that there was a general tendency for newspaper reporters to rely upon the CIC and MCC as principal “point organizations” to interview for opposing Muslim views about whether or not publicly sanctioned *Shari’ah*-based alternative dispute resolution would be good for Canada and for Muslim women (this tendency was and is found not only in the *Shari’ah* debate, but also in many other controversial issues). As the drama unfolded, the media-constructed debate between the CIC and MCC became increasingly adversarial, with each side resorting to more assertive efforts to question the other’s loyalty to Canada or to Islam.

The Ontario Shari’ah Debate: “Who Will Protect Muslim Women?”

From the general implications of what the *Shari’ah* debate in Ontario demonstrates about the role of religion in the public sphere and what its impact is for the future of Canadian identity (Khan, 2006; Goff, 2009) to the more nuanced arguments of how did gender issues and cultural differences intersect to create such an intense controversy (Korteweg, 2008; Razack, 2007), the Ontario *Shari’ah* debate is still the subject of considerable scholarly analysis, with studies addressing its ramifications for a wide range of issues. The origins of the *Shari’ah* controversy lie in the 1991 *Ontario Arbitration Act* (OAA), which was created to allow private commercial businesses to adjudicate disputes outside provincial courts. The legislation was intended to alleviate the pressure on an already overwhelmed civil court system (Khan, 2006: 792). This development, reflecting as it did growing interest in alternative dispute resolution in many sectors of society, provided impetus for religious groups (including Jewish, Catholic, Muslim, and Aboriginal communities) to convene their own independent arbitration tribunals for settling

civil disputes. Supporters of this initiative argued that the provisions of the OAA were sufficiently accommodating and that settling civil disputes out of court in accordance with the values and norms of specific communities would benefit individuals while further reducing the load on the provincial court system. The request for religiously-based alternative arbitration systems was approved and became the basis for practice by Christian as well as Jewish groups, with little controversy—until 2003, when the Islamic Institute for Civil Justice (ICJ) announced their own Muslim religious tribunals under the OAA (Ibid: 795). A number of Muslim and civic organizations responded to this action. The CIC was among the most prominent of the supportive groups, with the MCC and a range of feminist organizations opposed. Op-ed writers across the country and beyond soon joined the debate, with many critics articulating concern (at times in a sensationalistic manner) that the province of Ontario was about to grant official legitimacy of Islamic *Shari'ah* law and thereby encourage Islamic movements throughout the world.

Because of public concern about the issue, Ontario Premier Dalton McGuinty commissioned the province's former attorney general, Marion Boyd, to conduct an investigation into whether *Shari'ah* courts should be included in the OAA. In her final report titled "Dispute Resolution in Family Law: Protecting Choice, Promoting Inclusion" (December 2004), Boyd recommended that arbitration should continue as an alternative dispute resolution option and that religious law, including *Shari'ah*, should continue to be allowed for adjudication of civil disputes.⁸ Boyd argued that Muslims as well as Jews and other religious groups should be allowed to convene arbitration tribunals so long as a number of recommended safeguards were put in place and observed. Boyd recommended among other things that the OAA be amended specifically to include religious mediators and arbitrators in a list of professionals who were both entitled to act as third parties and obligated to report the needs of all parties being represented. In September 2005, however, Dalton McGuinty's government went against the recommendations of Boyd's report and banned all religious arbitration. Throughout the controversy leading to this outcome, the media itself could be characterized as a decisive "third party", arbitrating among the contradictory views of various interested parties, including Muslim organizations.

As Anna Korteweg has observed in her analysis of the controversy, "the [*Shari'ah*] debate focused almost entirely on Muslim women's ability to safeguard their interests" (2008: 436). Supporters and opponents of *Shari'ah* arbitration similarly characterized Muslim women as especially vulnerable members of the larger community, albeit for opposite reasons. For Muslim supporters of faith-based practices, adding religious arbitration to the mix of options for settling disputes offered more rather than less hope for protecting women from exploitation in comparison to relying on civil law alone. Potential abuses would be minimized because women could still appeal decisions to the formal legal system and because Canadian-trained lawyers as well as women and elders from the Muslim community would be represented on arbitration panels (Kamlani & Keung, 2004). In light of these safeguards, the CIC proposed in one of their *Media Communiqué* 7(146) that "[u]sing faith-based arbitration in family law dispute resolutions could bring the province's major religious communities closer together in seeking fair and impartial justice for their most vulnerable members" (Canadian Islamic Congress, 2005). Mohamed Elmasry offered repeated testimony in support of faith-based arbitration, arguing that "[t]he government and the community should audit the process—if it is perceived as anti-woman, it will die a natural death" (cited in Kamlani & Keung, 2004). Additionally, he stated, "If women perceive this as a men's club, it will not be successful" (Harvey, 2003). In an article posted on the CIC's website, Wahida Valiante, a retired social worker engaged in private practice as well as CIC advocacy who was elected as CIC's National President in January 2009,

suggested that women in the Muslim community are better informed than some people think: “We don’t find women that common these days who don’t know their rights” (Alder, 2004).

Such judgments were not shared by *Shari'ah* detractors. Central to dissenters’ views was a conviction that public endorsement for *Shari'ah*-based arbitration posed a very real threat to the rights of women in the Canadian Muslim community. Opponents argued that women and other vulnerable parties would be coerced into participating in *Shari'ah* arbitration. They demanded that Marion Boyd’s review be suspended and the matter be referred to the Ontario Court of Appeal.

Among the more prominent critics of *Shari'ah*-based arbitration were a number of secular Muslim feminists, many of whom were deeply committed to transnational activism for women’s rights in Muslim-majority countries such as Pakistan and Iran.⁹ Disillusioned with the role of patriarchy in traditional Muslim culture and with the manner in which religious law can be instrumentalized to serve authoritarian ends, these Muslim feminists were concerned that introducing a *Shari'ah*-based option would impede social progress for Muslim women in Canada and, perhaps, strengthen the hand of fundamentalist movements. The MCC based its own advocacy on such views, inserting its voice prominently into the debate and becoming one of the more regular “go-to” organizations for Canadian journalists.

As the *Shari'ah* debate unfolded, deep divergences in worldviews and assumptions became apparent, with little publicly-discussed middle-ground between the positions associated with the CIC and MCC. In contradiction to the CIC’s opinion that women and other vulnerable parties would be better protected by *Shari'ah* courts, MCC argued that *Shari'ah* is inherently flawed “because it does not view women as equal and therefore cannot provide equal justice to all parties in a dispute especially in issues of divorce, child custody and division of property” (Kamlani & Keung, 2004). The MCC characterized the differential treatment women and men receive under Islamic law as evidence that application of *Shari'ah* norms would inevitably lead to discrimination, and perpetuate unequal power relations within households and extended family networks. “The weakest within the Muslim community, namely the women”, stated Tarek Fatah, “will be coerced (into participating) by their community” (cited in Kamlani & Keung, 2004). In an article posted on MCC’s website, then-board member Gary Dale argued that there was no evidence that existing faith-based arbitration was providing just solutions for women, and drew attention to a study indicating dissatisfaction among Jewish women using religious arbitration (Dale, 2005).

Like the CIC, the MCC bolstered its direct media statements (almost invariably cited after description of the CIC position in news stories, in a standard point/counter-point sequence) with Internet materials posted on its official website. In one such article, Gary Dale stated the case against *Shari'ah* in the following terms:

[*Shari'ah*] Law gives women the rights that the men who developed it saw fit to give them. If applied correctly, it could be said to respect those rights . . . [however,] no country has ever implemented it correctly. Moreover, the rights [*Shari'ah*] gives women are neither the same as nor equivalent to those given to men. As such [*Shari'ah*] is fundamentally incompatible with our Human Rights legislation.

(Dale, 2005)

Whereas CIC advocates regarded *Shari'ah* as an essential foundation of their faith system—subject to partial reinterpretation and adaptation, perhaps, but not to wholesale reconfiguration or rejection—the MCC staked out a quite different position that not only emphasized the role of human agency and interpretation in religious law, but also adopted modern human rights principles as a criterion for evaluating past interpretive efforts.

In embracing arguments from Muslim secularist thought, MCC advocates proposed that *Shari'ah* is better understood as a historical project than as a timeless and invariant set of guidelines. According to this perspective, Islam must be interpreted in the context of present realities and experiences rather than sought out in rulings derived from a distant past. In contrast to the CIC's efforts to create more propitious conditions for established Muslim practices within Canada's Western and largely secular context, Hassan and other MCC members favoured the emergence of a distinctively Canadian approach to Islamic social practice. In other statements, MCC representatives argued that *Shari'ah* arbitration would violate Canadian values and identity rather than enrich multiculturalism because relying on religiously based laws is incompatible with support for secular laws created by parliamentarians who are accountable to the electorate. The latter framework, they argued, permits the practice of multiple religions without favouring a specific tradition or creating conditions under which one group's religious laws impinge on civic life.

MCC also took the position that, in the long run, *Shari'ah*-based arbitration would serve to marginalize Muslim Canadians rather than enhance their position in society. Describing the proposed arrangements as a multi-tier legal system, MCC spokespersons speculated that creating new dispute resolution procedures specifically for Muslims would reinforce the sense that Muslims are irreconcilably different, non-progressive, and unwelcome in Canadian society. The result would be increased discrimination and “the racism of lower expectations” (Trichur, 2004). Provincial support for *Shari'ah* courts might even encourage extremism while undermining progressive, assimilation-oriented Muslims.

Bitter Fruit: Rights Threatened and Rights Denied

The *Shari'ah* debate involved high stakes for each of the principal contesting camps. To the MCC and a number of prominent Muslim feminist critics, universal citizenship rights—especially rights for women—were at risk of being undermined by efforts to implement Muslim family law. Should the proposal for a traditional Muslim approach to faith-based arbitration meet approval, the pressures of religious communitarianism would soon increase, detracting from the freedoms potentially afforded by the Canadian Charter of Rights and Freedoms. For the CIC and other Muslim supporters of *Shari'ah* arbitration, another form of equality was at stake: the right to benefit from a system of faith-based arbitration that had already been authorized for other religious groups, some (such as halakha-observing orthodox Jews) quite conservative in orientation. From their standpoint, the *status quo* of Muslim citizenship in Canada was not pure freedom on account of various forms of subtle and not-so-subtle forms of discrimination associated with Islamophobia, a commonplace aversion to Muslims and things deemed Islamic. Formally recognizing a Muslim's right to practice some aspects of traditional *Shari'ah* would signal fuller and more genuine acceptance of Muslims in Canada and enhance prospects for integrating Canadian and Muslim identities. Accommodating *Shari'ah* arbitration would help solve the problem of Muslim marginalization, granting Muslims a status in mirrored traditional arrangements for Christians and Jews in Muslim-majority societies in which these minority

religious communities were allowed considerable scope to live in accordance with their own religious laws.

At the core of the CIC-MCC rivalry were differing priorities concerning individual and collective rights as well as different conceptions of freedom and “protection”. To the CIC, the collective right to live in accordance with religious norms provided the context for giving meaning to individual freedom and, indeed, to safety. How could individuals be truly free if denied opportunities to act on their religious conscience? Would women’s rights truly be advanced if Muslim women were not allowed to practice and be protected by *Shari’ah*? Such arguments had little traction with the MCC, which regarded such an approach to rights as a miscarriage of multiculturalism that would invite fundamentalism and grant legitimacy to traditional forms of patriarchal authority. Given the wide variety of *Shari’ah*-related practices in Muslim countries and the gendered asymmetries associated with Islamic family law, actual application of *Shari’ah* posed a serious challenge to individual rights.

As the debate continued, each side began to speak more and more about not just issues and formal positions, but also negative motivations they attributed to their adversaries. The CIC voiced strong indignation that secular Muslims were undermining the efforts of religious Muslims to live in accordance with their beliefs. As Mohamed Elmasry put it on one occasion, “non-religious Muslims have no right to tell us religious people what to do” (Kamlani & Keung, 2004). Given that many observant Canadian Muslims already were settling family issues in accordance with *Shari’ah* (albeit informally and without state backing), the proposed procedures would actually help to improve practice and bring it into greater conformity with Canadian standards, with enhanced transparency and accountability. Such an officially recognized approach would not only be better suited than the secular system to deal with and resolve Muslim family disputes, it would also help ease the backlog in courts and reduce taxpayer expenses (Harvey, 2003). Given that secular Muslims had already opted out of such a system, what right did they have to impose their views?

In addition to formulating substantive responses to such arguments, the MCC also joined CIC in escalatory discourse. Just as CIC members took umbrage at MCC allegations about being culturally retrograde, authoritarian or somehow misogynist, MCC spokespersons reacted negatively to implied arguments that they were not “real” Muslims and, hence, outside the authentic Muslim community. In February 2005, Farzana Hassan expressed concern that “[t]he friction between the proponents and opponents of [*Shari’ah*] is now being perceived as a battle between devout Muslims, and those who are ‘Muslim only in name’, whose sole objective according to the former group, is to denigrate Islam and vilify Muslims” (Hassan-Shahid, 2005). The MCC’s concern about being challenged on religious grounds increased as the year progressed, and *Shari’ah* critics became subject to harsher denunciations. The MCC was by no means passive, however, in the campaign for public legitimacy. While the CIC challenged the MCC’s religious credentials and genuine representativeness of Canadian Muslims, the MCC began to question the integrity of its adversaries in relation to mainstream Canadian secular values, such as gender equality, inclusivity, constitutionality and anti-racism (Kamlani & Keung, 2004).

Over time, critiques of adversaries were increasingly expressed in direct and personal terms. For example, such vigorous critiques of the *Shari’ah* arbitration proposal did not sit well with CIC supporters and allies, who perceived in the comments not just a civic position, but also hostility to what they regarded as non-negotiable aspects of Islam. By implication, they concluded, *Shari’ah* critics are in fact defaming the religion and its founder (Jiminez & El

Akkad, 2005: A12). In response, members of the MCC interpreted this as an accusation of blasphemy—a charge that in some Muslim countries can still result in application of the death penalty, possibly by means of vigilante justice. Many members of the MCC expressed concern that they might become subject to harm if they chose to travel to Islamic countries in which CIC's implied charge (via statements made by Mohamed Elmasry) might become known. Elmasry countered that such fears were completely unfounded and that Islam has no punishment for denouncing the religion, its holy book or the Prophet. He characterized the claim that his words might turn into a death sentence as “nonsense” (Jiminez, 2005).

What began as a media-facilitated CIC-MCC debate over gender-related consequences of *Shari'ah* arbitration ended in mutual recrimination, revealing not only strong convictions about issues, but also acutely felt insecurities on each side. With respect to the MCC, these insecurities were related to having minority status in two communities: Muslim in Canada and liberal/progressive within the Canadian Muslim community. The MCC's commentary arguably manifested dual concerns about acceptance as genuine Canadians and also as “authentic” Muslims (Scrivener, 2004: F7), together with personal security fears that can accompany the expression of socially and religiously unpopular views. Members of the CIC similarly struggled with their minority status and a desire for acceptance in Canada, albeit (from their perspective) with the added burdens of needing to maintain a separate sense of Muslim distinctiveness and legitimacy while also coping with heightened public scrutiny and attitudes of suspicion towards visible Muslims. Members of the MCC evidently felt greater vulnerability with respect to allegations of disloyalty to Islam, while members of the CIC were more vulnerable to allegations of “dual loyalty” with respect to Canada and the larger Muslim community. As the *Shari'ah* debate intensified, spokespersons for each organization targeted areas of special sensitivity for their counterpart, triggering increasingly defensive and accusatory reactions. Seldom did representatives of the CIC acknowledge the legitimacy of being a “liberal” Muslim in the manner chosen by the MCC, nor did representatives of MCC make serious efforts to convey respect for the sincerity of religious conviction behind the CIC position. The escalating antagonism of the debate—and not merely the substantive concerns raised by opponents of *Shari'ah* arbitration—may have influenced McGuinty's decision to cancel not only Muslim arbitration, but also faith-based arbitration programs in general.

Clearly, the intensity of a debate on *Shari'ah* was virtually guaranteed by the diversity of convictions and experiences within the Canadian Muslim community. Nonetheless, the manner in which the debate developed reflects distinct media practices as well as the predispositions of vocal Canadian Muslim actors. These practices arguably played a significant role in structuring, sharpening, and amplifying the debate, and thereby influencing the way in which Muslim identity is being negotiated in a Canadian context.

Beyond the obvious fact that organizations that are skilled at engaging the media are more likely to have their views broadcast, many aspects of conventional journalistic practice influenced the tendency of a large number of writers to routinely solicit opinions from these two particular Muslim organizations while neglecting many other potential voices, including voices of dialogue. As a commercial as well as professional medium, newspaper journalism faces very real limits on the potential length, depth, and complexity of stories. Stories that include an element of conflict and drama between two opposing sides often fare better than “common ground” stories, human-interest pieces and investigative reporting. When addressing complex conflicts, journalists often experience a need both to simplify and to project an image of impartiality and balance by soliciting quotations from each side in what appears to be a binary

conflict. Given these constraints as well as existing preconceptions in Canadian society, it made sense for journalists to apply a “point/counter-point” framework to a complex story, consistently starting with the views of one “pro-*Shari'ah*” organization and concluding with a “liberal” or “progressive” and “anti-*Shari'ah*” view with which more Canadian readers might be expected to sympathize—a remarkably consistent approach in the newspaper articles analyzed for this paper.

Relying on a simple liberal/conservative or pro/con framework rather than investigating ambivalence about the issues or more nuanced views provided a safe formula for coverage of the story. By repeatedly interviewing the same cast of readily available persons, journalists made their job of covering the debate easier, with a predictability of access and perspective ever-present. Journalists rarely perceive facilitating dialogue or probing for common ground to be within the range of their professional mandate or obligations—an understandable position, perhaps, but also a constraint that contributed directly to the incivility that manifested in full public view during the *Shari'ah* debate. On the one hand, the newspaper coverage *did* acknowledge diversity within the Muslim community. On the other hand, rendering this diversity in simple, binary terms also had the effect of reinforcing divisive politics within the Muslim community, while potentially reinforcing stereotypes about “two kinds of Muslims”: those who assimilate and those who refuse.

Conclusion

From 2003 to 2005, Canada experienced a *Shari'ah* debate—but not a *Shari'ah* dialogue. It was a polarizing time for the Muslim community, deepening rifts among groups and detracting from the civility of public dialogue. The lasting impact of the debate can be seen in the subsequent discourses of the CIC and the MCC when the two organizations engaged each other on opposite sides of other issues, such as the *niqab*, the Toronto 18 and the notion of female imams. There have been no apologies between the two most outspoken representatives of these organizations. The CIC’s Mohamed Elmasry has not retracted his statement alleging blasphemy on the part of MCC members. When the CIC brought a formal hate speech complaint against *Maclean’s* magazine in 2008, the MCC’s Tarek Fatah wrote a counter argument for the *National Post*, criticizing what he called the “pro-*[Shari'ah]* Canadian Islamic Congress” and then going on to suggest that “Islamists who have a problem with free speech should leave” (Fatah, 2008).

While responsibility for this state of relations rests first and foremost with the organizations themselves, it remains arguable—as illustrated through this paper—that the media have been complicit in the rancorous outcome of the *Shari'ah* debate, having played a role in defining the scope and parameters of discussion and amplified more divisive rather than conciliatory voices. For instance, why was there an absence in the media of more nuanced voices, especially scholars such as Jasmin Zine or Anna Korteweg, who are able to provide more complex understandings of the stakes involved in any faith-based system? Additionally, it also is apparent that the gender and Islam controversy remains one of the most contentious issues among Canadian Muslims. Even in the aftermath of the *Shari'ah* debate, the habit of pitting the CIC and the MCC against each other persists, particularly when gender norms are in question. It is interesting to note that on the progressive side of the continuum, the more diplomatically-inclined Canadian Muslim Union (which split from the MCC in 2006) is rarely quoted.

These realities are not without cost for the Canadian public. Little education or edification has occurred with respect to the deeper issues behind intra-Muslim debates, such as different priorities placed on the individual-versus-collective rights issue and divergent visions of

how Canadian multi- or inter-culturalism might evolve to embrace the Muslim community more fully. The deficiency of more genuinely conciliatory, dialogical or “common ground” Muslim voices in regional and national media discussions have also had an impact, reducing the range of perceived options for constructing Canadian Muslim identity. Furthermore, background issues of Islamophobia, or, to use Juan Cole’s terms, “Islam anxiety” (Cole, 2009), are seldom addressed in a serious manner, even though they have a profound influence on Muslim spokespersons and the way they stake out their positions. More courageous efforts to engage the issue might provide new insights into motivations for much of the CIC’s advocacy (which some might characterize as more effective at highlighting bias than at building bridges) as well as a context for understanding the MCC’s assertive efforts to downplay Muslim distinctiveness and promote conformity to Canadian public orthodoxy.

Given the outcome of the *Shari’ah* debate, there is much that could be learned by all concerned parties. Foremost among the lessons is the need for genuine dialogue and renewed civility among Muslims as well as between various Muslim and predominantly non-Muslim (including media) groups. Within the Canadian Muslim community, there is a vital need to affirm the legitimacy—and indeed the value—of differences as a counterpoint to the more commonplace calls for unity and uniformity emanating from multiple points along the interpretive spectrum. Those who work in the media could also benefit from experiments with fresh approaches that engage a broader and more nuanced range of voices, thereby promoting dialogue, contextual analysis and in-depth reporting to create humanizing portraits rather than demoralizing public arguments. To be sure, a new media environment is unlikely to blossom overnight, nor will the legacy of mistrust among Muslim advocates soon dissipate. Nonetheless, that which has seldom been endeavoured cannot be said to be impossible. Recognizing patterns that have impeded dialogue in the past can become a first step toward bridging divides in the future.

Notes

- 1 Edward Said’s critical contribution, *Covering Islam: How the Media and the Experts Determine How We See the Rest of the World* (1981; 1997), was a watershed in the field of media studies. As stated by Karim H. Karim, it was “a part of a century-old study of the academic and literary approach to the Middle East and Muslims” that developed a “long tradition of a self-conscious scrutiny of scholarly orientalism” (1991: 2).
- 2 Although other journalistic sources such as *The National Post* and *Maclean’s* could also have been highlighted—arguably providing even starker illustrations of polarizing coverage—the Ontario-based sources relied upon for this study provide more than adequate documentation for the pattern described.
- 3 Other noticeable Muslim organizations are also represented, especially the Canadian Council on American-Islamic Relations (CAIR-CAN).
- 4 For more information, see the CIC’s website: <http://www.canadianislamiccongress.com/cicfacts.php>. Retrieved August 13, 2009.

- 5 From 1998-2004, the CIC produced an annual report investigating the media's bias against Muslims in Canada's major newspapers. These reports can be viewed at http://www.canadianislamiccongress.org/rr/rr_index.php. Retrieved July 23, 2009.
- 6 For more information, see the MCC's website: <http://www.muslimcanadiancongress.org/mission.html>. Retrieved August 13, 2009.
- 7 For more information, see the MCC's website: <http://www.muslimcanadiancongress.org/mission.html>. Retrieved August 13, 2009.
- 8 For the full report, see: <http://www.attorneygeneral.jus.gov.on.ca/english/about/pubs/boyd/fullreport.pdf>.
- 9 The most prominent voice was Homa Arjomand, a Toronto-based social worker who is the co-ordinator of the International Campaign Against *Shari'ah* Court in Canada.

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