

Combating Spousal Violence in the Muslim Community of Canada: An Overview in the context of the Province of Ontario

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Abstract: *Spousal violence impediments women's well being and overall development, i.e. it has direct consequences for women's health-physical, mental, sexual and reproductive as well as economic costs, and afterwards adverse effects on psychological development of children. In every country where large-scale studies have taken place, domestic violence has been found to be by far the most common, wide-spread and far-reaching form of gender-based violence. Likewise, domestic violence is a serious social problem in Canada. Statistics Canada reveals that nearly 653,000 Canadian women have experienced some form of domestic violence in their life and that 60% of female homicides are a result of family violence. As Muslim population is the fastest growing religion in Canada, they are not an exception to it. The majority of Canadian Muslims live in the province of Ontario. This paper examines the socio-legal resources at hand of the Muslim women in Ontario, Canada to defend spousal violence.*

Key-words: *Spousal violence, Province of Ontario, Mandatory Charging, Victim / Witness Assistance Program, Muslim Family Safety Project, Integrated Domestic Violence Court*

I. Introduction:

Violence against women and girls remains one of the most persistent and devastating assaults on human dignity and violation of human rights worldwide.¹ There is no country or culture that holds a monopoly on gender inequality. The World Health Organization correctly notes, "Violence against women and girls occurs in every country and culture, and is rooted in social and cultural attitudes and norms that privilege men over women and boys over girls."² According to reports from UN Women, in some parts of the globe it is estimated that 7 in 10 women will experience physical abuse, rape or mutilation in their life time. Canada is of no exception. It estimates that 6 percent of women (600,000 women) were victims of marital violence in the 5 years prior to being interviewed in 2009 and 178,000 were assaulted by marital partners in the previous year. Domestic violence is a serious social problem in Canada. Statistics Canada shows that nearly 653,000 Canadian women have experienced some form of domestic violence in their life.³ Other estimates suggest that between one in ten to one in six women are abused each year, and that 60% of female homicides are a result of family violence.⁴ Scholars, activists, and social service providers working with South Asian immigrant women suggest that despite scant statistical data documenting domestic violence in South Asian communities, it remains a pervasive and pressing issue.⁵

Muslim population is the fastest growing religion in Canada. The majority of Canadian Muslims live in the province of Ontario, and especially in and around the Greater Toronto Area. In this paper, I am in the quest of the answers of some questions regarding the prevalence of spousal violence[SV] in Canada, Muslim women's

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¹ Statistics Canada. (2011). *Family Violence in Canada: A Statistical Profile*. Catalogue no. 85-224-X. Ottawa, ON. www.statcan.gc.ca/pub/85-224-x/85-224-x2010000-eng.pdf.

² The World Health Organization. "Understanding and Addressing Violence Against Women." 2012, The World Health Organization, 3 Feb. 2013 <http://apps.who.int/iris/bitstream/10665/77431/1/WHO_RHR_12.43_eng.pdf> 1.

³ R. Alaggia & C. Vine (Eds.), *Cruel but not unusual: Violence in Canadian families*(pp. 99-126). Waterloo: Wilfred Laurier University Press

⁴ Agnew, V. (1998). *Tensions in providing services to South Asian victims of wife abuse in Toronto*, *Violence Against Women*, 4(2), 153-17

⁵ Chokshi, R., Desai, S. & Adamali, A. (2009). Overview of domestic violence in the South Asian community in Canada: Prevalence, issues and recommendations. In J. Fong (Ed.), *Out of the shadows: Woman abuse in ethnic, immigrant and Aboriginal communities* (pp. 147-170). Toronto: Women's Press.

vulnerability to spousal violence, most perpetrated forms of SV, Psychology of the abuser, socio-economic impact of SV, Islamic perspective of SV, available legal resources made by the Provincial Government of Ontario to address SV. This paper will mainly focus on the Province of Ontario and discuss how the provincial legislature has responded to the rising incidents of spousal violence.

II. Rationale:

Across the country, the Muslim population is growing at a rate exceeding other religions.⁶ It is even growing faster than the number of Canadians identifying as having no religion, according to the National Household Survey.⁷ The Muslim population exceeded the one million mark, according to the survey, almost doubling its population for the third-consecutive decade. Muslims now represent 3.2 percent of the country's total population, nudging up from the two per cent recorded in 2001.⁸

The majority of Canadian Muslims live in the province of Ontario, and especially in and around the Greater Toronto Area. According to the 2001 Census of Canada Statistics, there are 579,640 Muslims in Canada, mostly living in Ontario and Quebec, as well as British Columbia and Alberta. Ontario contains 61% of the entire Muslim population.⁹ According to the 2011 National Household Survey, there were 424,925 Muslims living in the Greater Toronto Area equaling 7.7% of the total metro population. It consists of people from all across the Muslim world but there are especially a large number of Muslims of Indian, Pakistani, Iranian and Egyptian/Arab descent. Canada's national capital Ottawa hosts many Lebanese, South Asian and Somali Muslims, where the Muslim community numbered . According to Haideh Moghissi, Saeed Rahnema and Mark Goodman in their book *Diaspora by Design: Muslim Immigrants in Canada and Beyond*, Muslims in Canada originate from over 85 nations of ethno-racial and linguistic groups. These statistics are an indication of the tremendous diversity that exists in Canada and they give us an overview and a sense of who are Canada's Muslim population. The main objective of this study is to examine the resources made available by the provincial government of Ontario to the Canadian Muslim women who are victims of spousal violence.

III. Spousal Abuse – Meaning:

"Spousal abuse" is the violence or mistreatment that a woman or a man experiences at the hands of a marital, common-law or same-sex partner. There are many different forms of spousal abuse:

- Physical abuse may consist of just one incident or it may happen repeatedly. Sexual abuse and exploitation includes all forms of sexual assault, sexual harassment or sexual exploitation.
- Emotional abuse includes verbal attacks, such as yelling, screaming and name-calling.
- Criminal harassment or "stalking" may include threatening a person or their loved ones, damaging their possessions, or harming their pets.
- Economic or financial abuse includes stealing from or defrauding a partner or withholding money that is necessary to buy food or medical treatment.
- Spiritual abuse includes using a person's religious or spiritual beliefs to manipulate, dominate or control them.

IV. Prevalence of Domestic Violence in Canada:

Spousal violence is a widespread and unfortunate reality that has an effect on all Canadians. Victims of spousal violence are susceptible to sustaining costly and long-lasting physical, emotional and financial consequences . Every member of society eventually feels the impact of spousal violence through the additional financial strain imposed on publicly funded systems and services.¹⁰

In 1996, there were 21,901 cases of spousal assault recorded in a sample of 154 police departments across Canada.¹¹ The portion of male victims of spousal assault was relatively small (11%) as compared to female victims (89%). Fast forward to 2007 and nearly 40,200 incidents of spousal assault were reported to police. An estimated 7% of adults (equivalent to about 690,000 women and 549,000 men in Canada) experienced some form of violence in their marriage or common-law relationship in the five years prior to the 1999 General Social Survey. A recent Justice Canada study found that, in 2009, almost 50,000 cases of spousal

⁶ <http://news.nationalpost.com/news/canada/survey-shows-muslim-population-is-fastest-growing-religion-in-canada>

⁷ <http://news.nationalpost.com/news/canada/survey-shows-muslim-population-is-fastest-growing-religion-in-canada>

⁸ <http://news.nationalpost.com/news/canada/survey-shows-muslim-population-is-fastest-growing-religion-in-canada>

⁹ <http://www.soundvision.com/article/profile-of-muslims-in-canada>

¹⁰ Dean Beeby, "Spousal Violence Costs Billions of Dollars Per Year, Major Study Finds." 23 Dec. 2012, *The Globe and Mail*, 24 Dec. 2012 <<http://www.theglobeandmail.com/news/national/spousal-violence-costs-billions-of-dollars-per-year-major-study-says/article6698908/>>.

¹¹ <http://www.rvlaw.ca/Family/A-Legislative-Response-to-Domestic-Violence-in-Ontario-Families.shtml>

violence were reported to the police. Women were the victims in more than 80% of those cases. There were 49 domestic violence homicides in which women were killed by their partners or former partners. The study also reviewed the results of the annual Statistics Canada telephone survey, which found that approximately 336,000 Canadians were victims of some form of violence perpetrated by their spouse.¹² The report noted that the financial cost for spousal violence in that year alone was at least \$7.4 billion.

The unintended victims of family violence include the children living in close to half a million households in Canada who saw or heard one parent being assaulted by the other in the five-year period covered by the General Social Survey.¹³ Statistics Canada reports that the most prevalent forms of wife abuse are: pushing, grabbing, and shoving, followed by threats of hitting, slapping, throwing objects, and kicking, biting and hitting with fists. A significant number of women also report being beaten up, sexually assaulted, choked, hit with an object, and having a gun or knife used against them.

V. Spousal Violence against Women and Girls in Muslim communities in Canada:

Violence against women and girls occurs in all communities regardless of race, culture, religion and socio-economic status. Unfortunately, at present many Muslim families are enmeshed in the clutches of spousal violence. Recent research looking at Muslim marriage and divorce in North America found that approximately one-third of the women interviewed had experienced abuse within their marriage, which is at a similar rate to women in the general population. While the existence of violence against women and girls is the same across communities, there can be differences in the details of the violence. In some communities, religion or culture may be used to justify the use of physical force against women and girls. In some, violence against women within the family may be perpetrated not just by men but also by other women in the family. Wife battering is not culture. It is a traditional patriarchal custom that men have practiced and women have accepted for generations.¹⁴

Religion is one of the factors that play an especially important role when it comes and distort scripture to justify their choice to harm another person because they have power over that person. It is very easy to misuse and distort sacred texts. All you have to do is to lift something out of context with no understanding or appreciation of its history and meaning and use it to justify your personal beliefs. When you combine that with a blatant disregard for the fundamental teaching of the faith tradition, you end up with a perverse, dangerous distortion which can fuel hatred and violence in direct contradiction to the teaching of the faith. Muslims, a religiously, culturally, nationally and socio-economically diverse faith-based populace, bear no exception in escaping this dilemma.¹⁵ Many abusers use religion and culture as an excuse to justify their actions despite obvious evidence opposing this behavior. These created Islam phobia in Western world. Any form of violence committed against women in the name of religion or Islam cannot be tolerated and must be resisted.

The domestic issues that Muslim women face worldwide include husbands striking their wives (even when they are pregnant), family violence through marital discord, suicide, depression, humiliation, and other emotional illnesses that result from such treatment, and much more. According to research, violence against women and girls in Muslim communities tends to occur most often in families where the husband/father is resistant or unable to let go of old patterns of marital interaction and gender expectations.

VI. Psychology of the Perpetrators behind Spousal Violence in Ontario, Canada:

According to a study,¹⁶ there are three predominant views of domestic violence held by Muslim men in London, Ontario, Canada:

Some Muslims think that violence against women comes from the breakdown of the family in Canada and from a lack of religious awareness. Muslim families are taught to live by Islamic teachings that stress a strong moral code of behavior for each member of the family. A good family follows tradition and doesn't have problems. If a husband is responsible for a domestic dispute it is because a wife or child has not obeyed tradition. Beatings that take place within the family from time to time are merely discipline. Domestic violence

¹² Dean Beeby, "Spousal Violence Costs Billions of Dollars Per Year, Major Study Finds." 23 Dec. 2012, The Globe and Mail, 24 Dec. 2012 <<http://www.theglobeandmail.com/news/national/spousal-violence-costs-billions-of-dollars-per-year-major-study-says/article6698908/>>.

¹³ <http://www.canadianlawsite.ca/family-violence-laws.htm#source>

¹⁴ Natalie Sokolov, ed., *Domestic Violence at the Margins: Readings on Race, Class, Gender and Culture*. (New Brunswick: Rutgers University Press, 2010) 6.

¹⁵ Ammar NH (2007) *Wife battery in Islam: a comprehensive understanding of interpretations*. Violence Against Women 13: 516-526.

¹⁶ BaObaid, M. (2002). *Access to Women Abuse Services by Arab-Speaking Muslim Women in London, Ontario. Background Investigation and Recommendations for Further Research and Community Outreach*. London, Ontario, Centre for Research on Violence Against Women and Children.)

is not a crime. There is no need for the authorities to be involved. It should be noted that this view is held by only a very small percentage of the men interviewed.

Some Muslims are of the opinion that protecting the family from outside influences is not an excuse to commit violence against women. They understand that Canadian laws exist in order to protect abused women from assault by any man, including family members. They outwardly reject any justification, whether cultural or religious, that allows a husband to assault their wife.

The number of individuals constituting this group makes up a small percentage of the Muslim community. Some Muslims believe that domestic violence occurs in all societies including Arabic and

Islamic societies. There is a difference between violence that results in bruises and broken bones or emotional distress, and disputes that result in yelling, and shoving. A woman may experience many disputes with her husband, but that is seen to be of no consequence to her health. Some Muslims may not consider other forms of woman abuse, such as economic and emotional control as abusive behavior. This group constitutes a large percentage of the Muslim men who were interviewed in the London community.

VII. Islamic Perspective of Domestic Violence:

In every country where large-scale studies have taken place, domestic violence has been found to be by far the most common, wide-spread and far-reaching form of gender-based violence. It is a matter of regret that Muslim societies are also enmeshed in the clutches of domestic violence. Western world use to criticize Islam by claiming that Islam establishes male-supremacy in the family and thereby permits and promotes spousal violence by the husbands. There is no religious justification for violence against women, although fundamentalist interpretations of the Qur'an have become mixed with what has been inherited from various tribal cultures over time, as has been the case in other religions. Western world use to criticize Islam by claiming that Islam establishes male-supremacy in the family and thereby permits and promotes spousal violence by the husbands. Qur'anic misinterpretation causes such confusion. Looking at violence against women and girls in Muslim communities requires the use of an intersectional feminist analysis if the issue is to be understood correctly. It is too easy, and incorrect, to simply conclude that violence against Muslim women is a result of cultural or religious values that are in some way unique to Islamic communities.

It is important to remember that violence against women has been justified by virtually all religions and cultures through history. For example, the Laws of Chastisement written during the Roman era permitted a man to beat his wife as long as the stick was no thicker than the base of his thumb. Both the Christian church and British Common Law allowed punishment for wives who were in disagreement with their husbands as long as this happened out of charity and concern for the woman's soul and not out of anger.¹⁷ In pre-Islamic Arab society, for example, women had very little or no property, status, and/or rights. It is also important to remember that Islam is founded on the principle of equality of rights and responsibilities for men and women within the family.¹⁸

Family is very important in Islam for procreation of human beings and continuation of lineage. Consequently, it specifically focuses on the very institution "family" where two persons conjoin together through as sacred bond.¹⁹ By shaping and developing the morals and characters of the children, it plays a vital role in constructing and re-constructing a healthy 'ummah²⁰ that is Muslim nation as a whole. Islam recognizes that men and women have different abilities and strengths that complement each other. They differ physically and emotionally, but their differences do not lead one gender to be superior to the other. Under no circumstances is violence against women encouraged or allowed in Islam. There are many examples in the Qur'an and ahadith that describe the behavior of Muslims towards husband and wife. The holy Qur'an contains tens of verses extolling good treatment of women. Several specifically enjoin kindness to women.²¹ These verses make it clear that the relationship between men and women is to be one of kindness, mutual respect, and caring. Some verses, where Allah Subhanahu wa ta'ala calls men and women "protecting friends of one another," refer to the

¹⁷ Mohammed Baobaid and Gahad Hamed, "Addressing Domestic Violence in Canadian Muslim Communities." Dec 2010, The Centre for Children and Families in the Justice System, 21 Feb. 2013 <http://www.lfcc.on.ca/MFSP_Manual_2010.pdf> 7.

¹⁸ Julie Macfarlane, "Understanding Trends in American Muslim Divorce and Marriage: A Discussion Guide for Families and Communities." 5 Jan. 2012, The Institute for Social Policy and Understanding, 9 Feb. 2013 <<http://www.ispu.org/getreports/35/2399/publications.aspx>> 25 - 26.

¹⁹ *Nikah, or marriage in the Holy Qura'n (Al-Nisa 4: 24 & 25), has been designated as hisn or fort. It implies that marriage like a fort provides protection and acts as a safeguard for the couple joined together in marital tie.*

²⁰ Muslims as a nation

²¹ (Al-Qur'an 2:229-237; 4:19; 4:25).

mandated atmosphere of mutual kindness and mercy in the marital home.²² Others show disapproval of oppression or ill treatment of women.²³

The Qur'an repeatedly describes the relationship between husband and wife as one of tranquility, affection, and mercy.²⁴ Further, it enjoins husbands to live with their wives in kindness or leave them amicably. Domestic violence is diametrically opposed to each of these Qur'anic views and ideals expressed in the various verses. Far from giving permission for wife beating Allah Subhanahu wa ta'ala prohibited violence against women. Allah (swt) repeatedly says in the Quran to show love, kindness and warns that they should not harm their wives even after divorce.

Some jurists argue that even when beating is acceptable under the Quran, it is still discountenanced. The medieval jurist Ash-Shafi'i, founder of one of the main school of fiqh²⁵, commented on the verse that "hitting is permitted, but not hitting is preferable". Abu Shaqqa refers to the edict of Hanafi scholar Al-Jassas (d. 981) who notes that the reprimand should be a non-violent blow with siwak [a small stick used to clean the teeth] or similar. This means that to hit with any other means is legally [islamically] forbidden.²⁶

Sayyid Abul Ala Moududi comments that,

"whenever the Prophet permitted a man to administer corporal punishment to his wife, he did so in reluctance, and continued to express his distaste for it. And even in cases where it is necessary, the Prophet directed men not to hit across the face, nor to beat so severely nor to use anything that might leave marks on the body."²⁷

The second most important source that exegetes use to interpret the Qur'an is the example of Prophet (peace be upon him), whose life, words and actions are regarded as living commentary on the Qur'an.

For example, the Prophet said, "Never beat Allah's maidens (female believers)":
Narrated Abdullah ibn AbuDhubab:
Iyas ibn Abdullah ibn AbuDhubab reported the Apostle of Allah as saying: "**Do not beat Allah's handmaidens**", but when Umar²⁸ came to the Apostle of Allah and said: Women have become emboldened towards their husbands, **he (the Prophet) gave permission to beat them**. Then many women came round the family of the Apostle of Allah complaining against their husbands. So the Apostle of Allah said: Many women have gone round Muhammad's family complaining against their husbands. **They (the men) are not the best among you**.²⁹ This imperative seems to contradict the Quranic imperative. According to Yahia b. Kathir (d.723 AH), "The sunnah judges the Quran but the Quran does not judge the sunnah". In other words, the sunnah shows how the Quran is to be applied. Narrated by al-Tirmidhi (3895) and Ibn Majaah (1977): "The best of you is the one who is best to his wife, and I am the best of you to my wives."³⁰ The Prophet If the sunnah shows a certain verse does not apply to a particular issue, even though the verse's apparent meaning implies that it does, the ruling of the sunnah takes precedence over the apparent meaning of the verse.

Narrated Mu'awiyah al-Qushayri: "I went to the Apostle of Allah (peace be upon him) and asked him: What do you say (command) about our wives?"³¹ He replied: Give them food what you have for yourself, and clothe them by which you clothe yourself, and do not beat them, and do not revile them (Sunan Abu Dawud). In another hadith, the Prophet said: "Approach your tilt when or how you will, give her (your wife) food when you take food, clothe when you clothe yourself, do not revile her face, and do not beat her."³²

Yet many Muslim men today forget such important Prophetic examples and limit their emulation of the Prophet to the style of his dress or his grooming habits.. The life of the Prophet (Peace and Blessings of Allah be upon Him) has been said by his wife, Aisha (May Allah (SWT) be pleased with her) to be like "a

²² (Al-Qur'an 30:21; 9:71).

²³ ["O believers treat women with kindness even if you dislike them; it is quite possible that you dislike something which Allah might yet make a source of abundant good \(An Nisa 4:19\).](#)

²⁴ -Qur'an 30:21; 9:71

²⁵ *Fiqh* means Islamic jurisprudence.

²⁶ Roald, Anne S; *Women in Islam: The Western Experience*, Routledge.(2001) p. 1695

²⁷ Ansari Z.I., *Towards Understanding the Qur'an* (translation of the commentary on 4:34 from *Tafheem Al-Qur'an* by Syed Abul A'la Moududi) Islamic Foundation, Leicester, England,

²⁸ s

²⁹ Abu Dawud, Book 11, Number 2141, online reference: www.usc.edu/schools/college/crcc/engagement/resources/texts/muslim/hadith/abudawud/011.sat.html#011.2141

³⁰ www.ghazali.org/works/marriage.htm

³¹ Abu Dawud, Book 11, Number 2137, reference: www.usc.edu/schools/college/crcc/engagement/resources/texts/muslim/hadith/abudawud/011.sat.html#011.2137

³² Abu Dawud, Book 11, Number 2138, online reference: www.usc.edu/schools/college/crcc/engagement/resources/texts/muslim/hadith/abudawud/011.sat.html#011.2138

walking Qur'an", embodying the Laws of Almighty Allah (subhana wa taalah).³³ He was a man whom his wife Aisha described as having internalized the teachings of the Qur'an in his character and personality.³⁴ If the Prophet had internalized and lived the teachings of the Qur'an and had also never raised his hand to strike any woman or child, how could the Qur'an sanction domestic violence?

In reference to men who use violence at home, the Prophet said, "Could any of you beat his wife as he would beat a slave, and then lie with her in the evening?"³⁵

VIII. Socio-economic Impact of Domestic Violence in Canada:

A study by the Department of Justice estimates that the economic impact of marital violence against women in Canada in one year is \$4.8 billion.³⁶ Spousal violence carries a high price tag: according to Statistics Canada, in 2009, the cost was at least \$7.4 billion. This figure includes the cost of policing, health care, safety strategies, victim relocation, criminal prosecutions, funerals and lost wages. Victims shouldered the largest share (for costs associated with medical attention, lost wages, interrupted education, stolen and damaged property, and pain and suffering) followed by third-party costs (for social services such as shelters and rape crisis centers, addressing the impacts on children, and losses to employers) and costs to the criminal and civil justice systems.

Violence against women also affects future generations: 59% of women with children who experienced marital abuse reported that their children witnessed the violence; in half of these cases, children witnessed violence severe enough to result in injury and in half the mother feared for her life.³⁷ Witnessing intimate partner violence as a child can be emotionally and psychologically damaging and can contribute to the likelihood that male children will perpetrate violence and female children will be victimized by partners once they are adults.³⁸

IX. Canadian Legal Response to Combat Domestic Violence:

Canada took domestic violence as a priority issue. Canada offers many rights and protections for women who experience violence. While some of these rights are formal and lack substance, it is important to note that there are policies, initiatives and services in place to work towards the eradication of violence and to support women and families who have experienced it. The Charter of Rights and Freedoms sets out women's equality rights in sections 15 and 28. Section 15 guarantees equality before and under the law and the right to equal protection and benefit of the states more generally that the rights and freedoms set out in the Charter are guaranteed equally to male and female persons.

The Canadian Criminal Code has been changed to address domestic violence more effectively. Important changes to the law came in 1983 when in the Criminal Code of Canada, offence known as rape was replaced with three categories of sexual assault, giving equal protection to men and women under the law, and allowing spouses to charge each other with sexual assault. Then in 1993, the Criminal Code was amended to create the new offence of criminal harassment to address stalking. It was introduced as a specific response to violence against women, particularly to domestic violence against women.

X. Addressing spousal violence in Ontario:

A study³⁹ showed that 142 women were killed by their male partners from 2002 –2007 in Ontario. Eighty per cent of these murders happened in the family home. Most of these women were killed when they had already decided to end the relationship or it was recently ended (81%). There was a history of violence in the relationship in 79% of these cases.⁴⁰

Domestic Violence is a priority issue in Ontario. To reinforce its intolerance of Domestic Violence, it focuses on several issues. These legal implications are as follows:

- **Integrated Domestic Violence Court**

³³ http://www.beautifulislam.net/prophethood/walking_quran.htm

³⁴ http://www.beautifulislam.net/prophethood/walking_quran.htm

³⁵ (Bukhari, Muslim and Sunan Abu-Dawud, Book 11, Marriage (Kitab Al-Nikah)

³⁶ Zhang, T., Hoddenbagh, J., McDonald, S. & Scrim, K. (2013). *An Estimation of the Economic Impact of Spousal Violence in Canada, 2009*. Ottawa: Department of Justice Canada. http://www.justice.gc.ca/eng/rp-pr/cj-jp/fv-vf/tr12_7/index.html .

³⁷ Sinha, M. (2013). *Measuring Violence Against Women*, 28; Johnson, H. (2006). *Measuring Violence Against Women*, 34.

³⁸ Johnson, H. (1996). *Dangerous Domains*, 175.

³⁹ Canadian Centre for Justice Statistics, *Family Violence in Canada*, 2005

⁴⁰ Canadian Centre for Justice Statistics, *Family Violence in Canada*, 2005

In June of 2011, the Ontario Court of Justice launched the first integrated domestic violence court (hereinafter "IDVC") in Canada. The IDVC is a two (2) year pilot project being funded by the Ontario government. The project is aimed at reforming the justice system for families experiencing domestic violence by implementing a more comprehensive and holistic approach to the resolution of their family law issues; by making the court system easier to use; by making family and criminal court orders more consistent with each other; and by resolving matters in a more timely fashion.⁴¹

- **Compensation for Victims**

The courts have compensated victims of spousal abuse with monetary awards where those victims have made a claim for damages in tort law.⁴² A claim for damages in tort law may be advanced within the context of a family law matter, provided that it is proceeding before the Ontario Superior Court of Justice. Victims of domestic violence have been successful at obtaining monetary compensation from the court for damages suffered during the course of the relationship, such as damages for assault, intentional infliction of mental suffering and emotional distress, and intimidation. In some cases, the victim may have a claim for damages against his or her in-laws, where they too were abusive. Family courts have awarded both aggravated and more rarely, punitive damages, to compensate victims of domestic violence. The monetary awards vary on a case-by-case basis and there is no general rule as to what amount, if any, is appropriate.

- **Continued Progress with Family Court Support Workers**

In conjunction with the IDVC, Ontario has launched the Family Court Support Worker Program (hereinafter "FCSWP") which is aimed at providing assistance and support to the victims of domestic violence throughout the family court proceedings.⁴³ The FCSWP is also aimed at ensuring the safety of victims, increasing their access to resources and support, and bolstering the competency of workers dealing with victims of domestic violence in the family courts. The workers will be trained by the Ministry of the Attorney General and will be required to address the specific needs of families experiencing domestic violence in the family courts. Their responsibilities include: referring victims to specialized services in the community; assisting victims in recording a history of abuse when preparing family court documents; communicating with criminal court based services such as the Victim/Witness Assistance Program on behalf of the victim; supporting the victim through meetings with duty counsel and lawyers; and discussing with victims the outcome of their court proceedings and how it impacts their family.

- **Police involvement**

Police can be called to a home if a complaint is made.

Police have a difficult time intervening in cases of domestic violence. Some family members may want them to stop the violence, but others may not want to share information, or may change their mind after the common criminal charge.

A variety of strategies have been developed to improve police response to domestic violence in Ontario. Among the most important initiatives are training programs that train police in the dynamics of domestic violence and how best to protect victim safety, identify the primary aggressor and hold offenders accountable.

- **Mandatory Charging**

Ontario has adopted a "mandatory charge" policy that compels police responding to a domestic violence call to lay a charge when there are reasonable grounds to believe that a criminal offence has been committed.⁴⁴ This is important because it removes the burden from a woman to lay a charge against her abusive husband. Sometimes a dual charge will result if the police believe that both parties have committed an offence. In this event, police procedures highlight the importance for police to determine the primary aggressor to distinguish assault from defensive self-protection.

No Contact If a husband is arrested by police and taken to jail, he may have a —no contactl order set during his bail hearing. This means that he is instructed by the judge not to have any contact with his partner while his case is before the courts. This includes all forms of contact such as physical proximity, telephone or email. If he violates the no contact condition, he is in breach of his bail conditions and can be returned to jail.

⁴¹ <http://www.rvlaw.ca/Family/A-Legislative-Response-to-Domestic-Violence-in-Ontario-Families.shtml>

⁴² <http://www.rvlaw.ca/Family/A-Legislative-Response-to-Domestic-Violence-in-Ontario-Families.shtml>

⁴³ <http://www.rvlaw.ca/Family/A-Legislative-Response-to-Domestic-Violence-in-Ontario-Families.shtml>

⁴⁴ http://www.owjn.org/owjn_2009/legal-information/criminal-law/271-mandatory-charging

- **Restraining Orders**

Women who are afraid of being harmed can seek a Restraining Order from a judge or justice of the peace to keep their partner away. If the judge grants the request, the abusive partner can be ordered to keep a specific distance away and not to make any attempt at contact. Similar to breaching no contact bail conditions, the punishment for making contact when a man has a restraining order issued against him can mean going to jail for a short period.

- **Child Protection**

The Child and Family Services Act, 1990 is a legislation in Ontario that was passed to promote the best interest, protection and well being of children. The Act recognizes that everyone has a responsibility for the welfare of children. It clearly states that members of the public, including professionals who work with children, have a legal obligation to report promptly to a children's aid society if they suspect that a child is or may be in need of protection. Children's aid societies can be found in all court jurisdictions of the province.

A child protection proceeding can begin in two ways: A child protection agency may apprehend or remove a child from the family home if they believe there are serious concerns that cannot be addressed while the child remains in the home. This may be the case where the caregiver (parent) is believed to have a drug or alcohol problem or where there are concerns about physical abuse of the child by someone in the home.

The agency may also apprehend if there are allegations of spousal abuse and the parties cannot reach an agreement for the accused spouse to leave the house and live elsewhere. In that case, the child will be removed from the home and placed in foster care although the agency may also look for an alternate placement with other family members or family friends if they are deemed to be appropriate by the agency. An apprehension may be done without a warrant if the agency feels there is an emergency situation. If a child is apprehended, the agency must have the matter in front of a judge within five days of the apprehension. The agency may also become involved in situations where the family is having difficulties but these difficulties can be addressed without removing the children from the home.

- **Joint Custody of Children**

In cases where the parents have separated, the children may be cared for by both the mother and father with visits between both homes every week. If the father is found to be violent against the mother and a report to police is made, then access to the children can be taken away from the father. The judge in the case decides what is best for the child. Sometimes visits will continue but there may be a decision to supervise the father's visits and/or to stop overnight visits with a father who has been violent in the past.

More recently child protection agencies have been given the task of making sure that children exposed to family violence are offered support and in some cases removed from their homes to prevent harm, even if they are not physically abused by a parent.

There is significant risk that a wife may be killed by her husband because of problems related to child support payments and custody. The death reviews of women killed by the father of their children have revealed this to be a high risk factor. (Sixth Annual Coroners Report 2008) Consequently, there is increasing effort to help women become aware of risk factors and to manage the risks.

- **Funded Programs in the Justice System**

The Ministry of the Attorney General funds a number of programs to support victims of domestic violence and to hold abusive partners accountable for their actions.⁴⁵

- **Victim / Witness Assistance Program**

While families are involved with the Ontario court system, victims of violence are offered support by the Victim / Witness Assistance Program (V/WAP) through the Ontario Victims Secretariat Service. (OVSS) V/WAP staff will provide information, assistance and support to victims and witnesses of crime to increase their understanding of, and participation in, the criminal court process.⁴⁶

Services are provided on a priority basis to the most vulnerable victims and witnesses of violent crime, such as domestic violence, child abuse, sexual assault, homicide and hate crime. Families of traffic fatality are also eligible. Services begin once police have laid charges and continue until the court case is resolved.

V/WAP services include:

-Crisis intervention

⁴⁵ <http://www.attorneygeneral.jus.gov.on.ca/english/ovss/>

⁴⁶ www.attorneygeneral.jus.gov.on.ca

- Emotional support
- Case specific information (court dates, bail conditions)
- Court preparation and orientation information

- **Partnership Assault Response Program (PAR)**

Partner Assault Response (PAR) programs are a component of Ontario's Domestic Violence Court program. They are specialized counseling and educational services offered by community-based agencies to people who have assaulted their partners. Some offenders are ordered to attend the PAR program by the court. PAR programs aim to enhance victim safety and hold offenders accountable for their behavior.

The 16-week long program gives offenders the opportunity to examine their beliefs and attitudes towards domestic abuse, and to learn non-abusive ways of resolving conflict. While an offender is in the PAR program, staffs offer the victim help with safety planning, referrals to community resources, and information about the offender's progress.

In Ontario, the Assaulted Women's Helpline provides information in many languages about services that are available in each community. There are also counselors who are available to talk about situations or concerns about violence. Calls to the Helpline can be made anonymously and the conversations are confidential.

- **Women's Shelters**

A shelter is a safe place where women and their children can get emergency housing and food. Shelters also provide counseling, support and referrals. Most shelters have a 24 hour crisis telephone line. Shelter-net is a website that provides information and contacts in several languages about shelters in Canada, including shelters for Aboriginal women.⁴⁷

- **Domestic Violence Action Plan (DVAP)**

In 2004, the Ontario provincial government identified domestic violence as a priority issue and conducted consultations with victims and experts across the province to develop its Domestic Violence Action Plan (DVAP). The DVAP includes a public education campaign called 'Neighbours, Friends and Families' (NFF) that has been developed to raise awareness of the signs of woman abuse so that people who are close to women at risk and men who are abusive, can help. The provincial government also funds a range of social services and programs to help families, hold perpetrator's accountable and to protect women and children from abuse.

XI. Social Safety Net- Combating Domestic Violence Socially:

Ontarians have enunciated various ground-breaking social agenda to prevent domestic violence socially. Along with other legal measure, these social measures are creating a safe zone for women in Ontario. These plans are discussed below:

- **Call to Eradicate Domestic Violence**

In October 2011, a group of Muslim and other organizations, Imams and Muslim scholars released the following call to end domestic violence: This call was endorsed by more than 60 Muslim organizations (including CCMW, Canadian Council of Imams, Muslim Association of Canada) as well as other organizations and Imams and Muslim scholars (27) and community leaders (35). In support of the Call to Eradicate Domestic Violence, individual organizations made their own statements opposing violence against women, such as this one by the Islamic Social Services Association of Canada, made on December 6, 2011:

'We must make it clear to everyone that violence against women, in families, or against anyone is not acceptable, and is against Islamic teachings and the traditions of the Prophet Muhammad peace be upon him.'⁴⁸

- **Muslims for White Ribbon Campaign**

In November 2012, Muslims joined the long-standing White Ribbon Campaign⁴⁹ with a

⁴⁷ <http://www.shelternet.ca>

⁴⁸ Islamic Social Services Association. "ISSA Joins the Many Muslim Voices Call to Action: Increased Domestic Violence Awareness and Intervention." 6 Dec. 2011, Islamic Social Services Association, 26 Dec. 2012 <<http://www.issaservices.com/issa/domesticviolenceawarenesscampaign.html>>.

⁴⁹ The White Ribbon Campaign, begun following the December 6, 1989 massacre of women at L'Ecole Polytechnique in Montreal, is an international movement of men and boys working to end violence against women and girls and promote gender equity, healthy relationships and a new vision of masculinity. For more information, visit www.whiteribbon.ca.

Muslims for White Ribbon Campaign, a campaign designed to allow Muslim Canadians to reflect on the reality of violence against women.⁵⁰ One of the major goals of the campaign is to break the silence on violence against women in the Muslim community by encouraging mosques and organizations to sponsor awareness events and speak about violence against women in Friday sermons. Many communities have taken up the campaign. For example, in Hamilton, Ontario, the Mountain Mosque had a series of special sermons each Friday from November 21 to December 21, 2012. Imam Abu Noman Tarek has stated, “We are encouraging all males to make a pledge that they will never commit or condone or remain silent about any form of violence against women and girls.”⁵¹

- **Muslim Youth**

Young Muslims have become very involved in efforts to end violence against women. In December 2007, after the murder of Aqsa Parvez of Mississauga, Ontario, by her father and brother, the organization Young Muslims Canada called for a proactive strategy to combat domestic violence:

‘Abuse of women is prohibited in the Islamic tradition . . . Partnerships between community groups and all levels of government are needed to develop proactive strategies especially for new and emerging communities to combat domestic violence.’⁵²

- **Muslim Resource Centre For Social Support And Integration**⁵³

Established in 2009, and growing out of the work of the Muslim Family Safety Project in London, Ontario, the Centre exists to establish social support networks for the diverse London Muslim community in dealing with issues of integration, family conflict, domestic violence and children in conflict with the law. The Centre runs a number of programs, e.g. the Family Safety Program, which intervenes when there is a risk or episode of violence in a family

- **Outreach Strategies**

Guidelines for Service Providers: Outreach Strategies for Family Violence Intervention with Immigrant and Minority Communities was produced by the Muslim Family Safety Project of London, Ontario. It provides guidelines for organizations and service providers in Canada to reach out to isolated and vulnerable minority groups in an effort to reduce rates of family violence.⁵⁴

- **The Muslim Family Safety Project (MFSP)**

The Muslim Family Safety Project was officially launched at the London Muslim Mosque on February 8th 2004 with presentations by religious and community leaders in the Muslim community and service provider representatives. The Muslim Family Safety Project (MFSP) is a community-based collaborative project between the local Muslim communities and the London Coordinating Committee to End Woman Abuse (LCCEWA).

The MFSP was initially brought anti-violence agencies and the London Muslim community together to address domestic violence in a culturally-competent manner.

Canada’s multi-cultural community is growing and mainstream anti-violence agencies across the country are increasingly aware of the need to provide culturally-appropriate outreach services. However, agencies are often uncertain about how best to work with minority communities. Uncertainty quickly turns to inaction when faced by additional barriers of language and cultural beliefs.

Mainstream services face serious challenges in effectively addressing domestic violence in immigrant communities. Multiple factors have contributed in creating these challenges, but primarily the differences in the conceptualization of violence against women between mainstream services and immigrant communities.

Mainstream Canadian service providers, based on a model of individual rights, perceive violence and abuse against women as non-negotiable, and the safety of abused women is the priority in these situations. While immigrant cultures also see abuse as unacceptable, the approach tends to differ. Domestic violence against women is often seen as a family matter which implies that only the family can and should resolve it without the intervention of anyone outside the family. From its inception, the Muslim Family Safety Project has made a conscious effort to include a multiplicity of stakeholders from the Muslim community, including the various Islamic cultural and religious groups, religious leadership, local women’s organizations and groups, and

⁵⁰ For more information, visit the campaign’s website at www.muslimsforwhiteribbon.com.

⁵¹ Mark Newman, “Local Muslims Answer Call to End Domestic Violence.” 13 Dec. 2012, Hamilton News, 26 Dec. 2012 <<http://www.hamiltonnews.com/news/local-muslims-answer-call-to-end-domestic-violence/>>.

⁵² Young Muslims Canada. “Services to Humanity.” Young Muslims Canada, 26 Dec. 2012 <<http://www.youngmuslims.ca/activities/service/>>.

⁵³ The Muslim Resource Centre for Social Support and Integration. 2013, The Muslim Resource Centre for Social Support and Integration, 2 Feb. 2013 <<http://mrcssi.com/>>.

⁵⁴ Mohammed Baobaid and Gahad Hamed, “Addressing Domestic Violence in Canadian Muslim Communities.” Dec 2010, The Centre for Children and Families in the Justice System, 21 Feb. 2013 <http://www.ifcc.on.ca/MFSP_Manual_2010.pdf> 7.

youth, as well as a broad representation of local service provider agencies. One of the main strategies used in the MFSP has been to work with the religious and community leaders of the Muslim community. Even though the leaders have provided the project significant support, there has been some hesitancy to work with them and questions about their sensitivity towards the safety of victimized women. It is crucially important to engage religious leaders in order to dispel the myths about the position of Islam towards domestic violence against women that some Muslim men and women wrongly believe. This Project plays an important role to generate a positive awareness about Islam and the religious, cultural and social lives of Muslims living in Ontario and to enable and promote the mobilization of Muslim women and men on the issue of family violence.

- **The creation of the Muslim Family Support Service (MFSS)**

In 2005, the MFSP initiated the Muslim Family Support Service (MFSS). It was launched in cooperation with local service agencies and the London Muslim Mosque to meet the needs of Muslim women and their children affected by domestic violence. The MFSS is overseen by an advisory committee that is comprised of 50% of representatives of the Muslim community and mainstream agencies. The need for the Muslim Family Support Service resulted from the research findings and recommendations of the Muslim Family Safety Project where women who had experienced partner abuse were identified as experiencing barriers to utilizing community services.

The MFSS assists individuals, couples, and families in the Muslim community in their efforts to resolve personal and interpersonal difficulties through:

1. Outreach to the Muslim community to encourage use of this service;
2. Establishing knowledge of and links with community services/resources;
3. Clarifying and understanding the individual/family situation that is causing distress;
4. Providing assessment, crisis intervention and safety planning as needed;
5. Facilitating the client's connection with appropriate community resources to meet identified needs.

The importance of establishing dialogue with existing agencies in order to reflect upon how to provide more accessible and culturally-appropriate service has emerged as a fundamental element of the work of the MFSS.

XII. Problems:

Many Muslim communities are essentially collectivist in nature, whereas mainstream North American culture is very much individualist. This creates significant challenges and barriers for women in abusive relationships, as most of the definitions of violence against women and the responses offered by Canadian law and community services are very individualistic. Collectivist communities place a higher value on the interests of the group than on the interests of the individual. In the family context, this means greater value is assigned to maintaining the family than on giving any one individual within the family everything he or she wants. For many women, especially women from non-mainstream communities, cultural safety, a sense of belonging, is as important as personal safety. They cannot be rushed into making a decision to leave their partner (and community) and move to a completely new setting where they will be isolated and will feel guilty for their actions. Many mainstream service providers assume women in abusive relationships want or need to leave them, and this disconnect makes those services inaccessible to women, including Muslim women, who want to remain with their family, including the abuser: Mainstream services face serious challenges in effectively addressing domestic violence in immigrant communities. Mainstream Canadian service providers, based on a model of individual rights, perceive violence and abuse against women as non-negotiable, and the safety of abused women is the priority in these situations. While immigrant cultures also see abuse as unacceptable, the approach tends to differ. Domestic violence against women is often seen as a family matter which implies that only the family can and should resolve it without the intervention of anyone outside the family.⁵⁵

The Muslim Resource Centre identifies four dilemmas faced by women who seek help:

- The high price they feel they must pay for revealing the secret of abuse, because of the collectivist nature of their community.
- The pressure they will feel if the service provider insists on a focus of gender inequality rather than a focus on treating the violence.
- The lack of support from mainstream service providers for women's self-determined goals, which may include a goal for them to stay in their home or community.

⁵⁵ Mohammed Baobid, "Guidelines for Service Providers: Outreach Strategies for Family Violence Intervention with Immigrant and Minority Communities: Lessons Learned from the Muslim Family Safety Project." The Centre for Children and Families in the Justice System. 23 Feb. 2013 <http://www.lfcc.on.ca/MFSP_Guidelines.pdf> 5.

- Being challenged by the service provider in their belief that they are partially responsible for the violence against them.⁵⁶

XIII. Concluding remarks:

Violence against women is “never acceptable, never excusable and never tolerable.”⁵⁷ Widespread gendered violence perpetrated against women is a flagrant abuse of women’s human rights. According to the ‘draft agreed conclusions’ of the 57th session of the Commission of the Status of Women (2013) at the United Nations, violence against women and girls is -

‘...rooted in historical and structural inequality in power relations between women and men, and persists in every country in the world as a pervasive violation of the enjoyment of human rights.’⁵⁸

It violates women’s fundamental rights to bodily integrity and freedom from torture and cruel, inhuman or degrading treatment enshrined in human rights treaties ratified by Canada.⁵⁹

The Provincial Government of Ontario in Canada has taken some ground-breaking steps towards combating spousal violence. This work is primarily an appraisal to its immense positive attempts to stop violence against women, especially spousal violence. As majority of Muslims of Canada live in the province of Ontario, it can be said that an integrated safety-net regarding spousal violence is available to the Muslim women residing in Ontario. Furthermore, the Muslim Family Safety Project (MFSP) plays an important role to generate a positive awareness about Islam and the religious, cultural and social lives of Muslims living in Ontario. An integrated socio-legal and religious anti-violence approach is required to stop violence against women. Social awareness building, both among men and women, is the main criteria to eradicate spousal violence.

A lot can be done to try and reduce violence against Muslim women and girls in Canadian societies. But for any strategy to be successful, racism and sexism needs to be addressed and confronted. Access to social and government services should be easier and more accommodating to language barriers and finally, there should be the creation of safe environments for women and girls to address the violence they face from within and outside their communities.

⁵⁶ Shoshana Pollack, et al. “Women Charged with Domestic Violence in Toronto: The Unintended Consequences of Mandatory Charge Policies.” Mar. 2005, The Woman’s Abuse Council of Toronto, 15 Feb. 2013 <<http://www.womanabuse.ca/resources/show.cfm?id=9>>.

⁵⁷ ” UNiTE to End Violence against Women Campaign. (2008). See <http://endviolence.un.org/>

⁵⁸ http://www.un.org/womenwatch/daw/csw/csw57/CSW57_agreed_conclusions_advance_unedited_version_18_March_2013.pdf

⁵⁹ These include, but are not limited to, the International Covenant on Civil and Political Rights (ICCPR), the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), the Convention on the Elimination of Discrimination against Women (CEDAW), the Convention on the Rights of the Child (CRC), the Convention on the Elimination of all forms of Racial Discrimination (CERD), and the Convention on the Rights of Persons with Disabilities (CRPD) as mentioned in Amnesty International. (2004). <http://www.amnesty.ca/sites/default/files/amr200032004enstolensisters.pdf>