Muslims have an interest in tolerance too

The best solution may be a multiplicity of laws, says Islamic leader
MOHAMED ELMASRY, to accommodate each group

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Decriminalizing immoral acts, or accepting them as parts of legitimate contracts between consenting adults, has been a challenging problem facing courts throughout history.

But courts cannot function in a vacuum without regard to many considerations that are extra-legal in character, including moral and political values held by society. What happens when those values are divided?

Take homosexuality, first of all. Homosexual acts are considered immoral according to the teachings of most world religions. This does not mean that homosexuality is not practised.

And since the issue has been politicized for more than 30 years, homosexual acts have been decriminalized by many countries, from Canada to Egypt.

Europe and Canada have gone further, with contracts between two consenting same-sex adult couples being accepted as valid contracts equivalent to marriage. This led to extending government benefits to same-sex couples, and now has led to the federal government's proposed reform to the definition of "marriage."

Now, take multiple marriages. Today, in Canada, it is illegal for three consenting adults, a man and two women, to be husband and wives. They can be husband, wife and mistress.

They also can be part of a legal contract -- in effect, a husband and two

wives.

But the law cannot allow a man to marry his mistress if he has a wife, even if his faith allows it, as does Islam. Why not? Perhaps because the issue has not yet been politicized.

So what is to be done when, in a liberal democracy, morals of different groups collide? Must it always come down to politicization? It seems to me the best way out is a multiplicity of laws, to accommodate each group.

The Netherlands is the first country in the world where gay couples have the same rights as straight couples, including the right to marry.

This did not come about without opposition. During the debate, a fundamentalist Protestant politician who compared homosexuals to thieves was taken to court -- though eventually acquitted. A Muslim imam was warned by the Dutch internal intelligence service that he could be expelled from the country after he described homosexuality as a disease that can be cured. He was said to be working against the integration of ethnic minorities into Dutch society.

In Canada, the situation is more complicated.

The federal government drafted the controversial same-sex legislation after courts in Ontario and B.C. ruled it unconstitutional to deny same-sex couples the right to marry. The proposed federal legislation provides a new definition of marriage, replacing the common-law notion of a union between a man and a woman.

"Marriage, for civil purposes, is the lawful union of two persons to the exclusion of all others," the new definition says. In other words, it allows same-sex marriages, but excludes marriage between more than two persons.

The legislation, however, affirms religious freedom by recognizing the right of all religions to marry or refuse to marry same-sex couples according to the principles of their faith.

Will multiple marriage soon be argued on these grounds?

The federal government has referred the draft to the Supreme Court to ensure the proposed legislation is constitutional. A free vote will then be held in Parliament this fall.

But the proposed legislation is opposed by many faith leaders, including Catholics, many Protestants, Muslims, Jews and Hindus. And if it were not for the Catholics taking the lead, few if any faith leaders would dare to communicate their opposition in public.

This fall or winter, if members of Parliament vote according to the views held by their constituencies, the proposed new legislation probably would not pass. But that would not solve the problem of what to do with the courts' decisions, as the government must reintroduce a new compromise.

Worse still, what if the Supreme Court rules unconstitutional the right of all religions to marry or refuse to marry same-sex couples according to the principles of their faith?

Would the solution then be using a new made-in-Canada word for

same-sex marriage?

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