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Opinion

GILBERT: Does Michigan need protection from Sharia law?

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Opinions are divided on whether Michigan needs to arm itself against imposition of Islam's Sharia law by banning use of all foreign statutes that violate fundamental federal or state constitutional rights.

The prohibition would apply to state courts and administrative bodies.

Since state officials already must swear oaths to uphold U.S. and Michigan constitutions, it seems like a valid question to ask why a new law is needed.

"What's the problem with it?" asks State Rep. Chuck Moss, R-Birmingham. "America's laws apply in America. What's wrong with that?"

Moss is among 42 co-sponsors of House Bill 4769, which is being pushed in state legislatures throughout the country and is sometimes referred to as the American Laws for American Courts Act. Three states have adopted it.

The text of HB 4769 calls it the "restriction of application of foreign laws act."

It does not mention Sharia but "Sharia law is the thing people think about," said former Oakland County Prosecutor Richard Thompson, who is now president and chief counsel of the Ann Arbor-based Thomas More Law Center, which bills itself as a "national nonprofit public interest law firm dedicated to the restoration and defense of the religious freedom of Christians, time-honored family values and the sanctity of human life. It also supports a strong national defense and an independent and sovereign United States of America."

The center joined supporters who conducted a rally promoting HB 4769 in Lansing recently.

"I believe that no foreign law should override the U.S. constitution or state laws," said State Rep. Tom McMillin, R-Rochester Hills. "It is common sense to use American law in American courts. While this legislation would affect the use of Sharia law in our courts, it does not specifically target Sharia law."

A number of groups have come out against HB 4769.

"All who reside in Michigan have the fundamental right to practice their sincerely held, bona fide religious beliefs, as long as those do not violate the U.S. and Michigan constitutions and laws," said a statement released by a coalition that included the American-Arab Anti-Discrimination Committee of Michigan.

Arab Community Center for Economic and Social Services, the Michigan chapter of the Council on American-Islamic Relations, Interfaith Council for Peace and Justice, Jewish Voice for Peace in Detroit and the National Action Network, also of Detroit, all oppose the measure.

The group said the bill, whose lead sponsor is Rep. David Agema, R-Grandville, “could not only adversely affect Michigan Muslims, but also followers of other religions, including Judaism and Christianity, for whom courts routinely order reasonable accommodations for the observance of religious laws.”

The Michigan Catholic Conference also opposes the bill, citing “its likely impact on the application of Catholic canon law in the state.”

“Then they don’t understand Catholic canon law,” Thompson said when informed of the conference’s position.

Thompson referred to a report written by Cardinal Raymond Burke, the highest judicial official in the Vatican, spelling out the differences between Muslim Sharia law and Catholic canon law.

“Islamic law differs fundamentally from canon law in that it governs every aspect of both religious and civil life,” Burke wrote. “Islam does not recognize the autonomy of the temporal order but rather holds that the temporal order, too, must be under the total jurisdiction of religious authority. In the words of Wael B. Hallaq, professor in the Institute of Islamic Studies at McGill University, ‘Muslim jurists viewed the Sharia as a mandate to regulate all human conduct, from religious rituals and family relations to commerce, crime and much else.’”

Paul A. Long, president of the Michigan Catholic Conference, confined his comments to HB 4769 itself.

“In coming to our position, we asked experts on canon law who expressed concern,” Long said. “The legislation is so broadly written it raises the question of interference with the internal life of the Catholic Church” and, therefore, “should be viewed as an attack on religious liberty itself and must be opposed.”

Long said vulnerabilities for the church include questions of hiring, transfer of a pastor, the closing of a parish or decisions by church marriage tribunals. Such matters have been taken to secular courts, which have always deferred to the church.

Long said canon law provides avenues of appeal of such matters within the church, with the final step involving the Holy See itself in Rome. He said that under HB 4769, such pronouncements from Rome could be viewed as foreign law.

“This bill would potentially hinder the application of canon law” in such an instance, Long said.

Thompson countered that a number of prominent Protestant and Jewish clergymen support the American Laws for American Courts Act.

Thompson acknowledged that Sharia law has not been implemented in any communities in the United States, as it reportedly has in some European enclaves. But it has cropped up in U.S. courts, with a notable example in Oakland County.

Saida Tarikonda and Bade Pinjari were married in India in 2001 and lived together in Michigan for two years until January 2008.

Pinjari traveled there to declare what’s known in Islam as the “triple talaq,” declaring “I divorce thee” three times.

Oakland County Circuit Judge Cheryl Matthews told Tarikonda to register the Indian divorce in Michigan and file requests for financial support. Tarikonda instead asked the appeals court to intervene and even argued her own case.

Tarikonda had filed for divorce in Oakland County and, under Michigan law, would be eligible for a share of marital assets. Her rights would be limited under Muslim law in India.

The Michigan Court of Appeals overturned Matthews’ ruling.

“To accord comity to a system that denies equal protection would ignore the rights of citizens and persons under the protection of Michigan’s laws,” the court said.

So far HB 4769 has stalled in the Legislature. Besides Moss and McMillin, co-sponsors from Oakland County include Reps. Marty Knollenberg of Troy, Eileen Kowall of White Lake, Gail Haines of Waterford and Brad Jacobsen of Oxford. All are Republicans.

The public should weigh in. Will you sleep better at night if HB 4769 is enacted?

Glenn Gilbert is executive editor of The Oakland Press.

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