

ABSTRACT

In early 2004 a group of Muslims announced a plan to offer Islamic arbitration to Muslims for the resolution of family law disputes. In response, the Government of Ontario commissioned a report to study the issue. The report recommended allowing faith-based arbitration (FBA), subject to safeguards. Opposition from Muslims and non-Muslims remained strong. In November 2005, legislation banning FBA was introduced in the Ontario legislature.

Fundamental issues emerge from the examination of FBA in Canada and abroad. First, which version of Sharia should be applied in Canada? Second, could mediation play the same role? Third, is the debate about religious freedom or the privatization of public institutions? By allowing FBA as an alternative to the court system, is the Government of Ontario reneging on its responsibility to provide access to justice for all? Does allowing FBA recognize cultural and religious diversity or does it marginalize minority communities to the outer reaches of Canadian society?

It is likely that Muslim calls for FBA will grow as the Muslim population in Canada rises. The role of legislators becomes a delicate balance between multiculturalism, politics and the law.

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