

Sheni Dossa

The National Conciliation and Arbitration Board for Canada (NCAB) is part of a global Conciliation and Arbitration Board (CAB) system. The CAB system operates in 14 jurisdictions around the world. The structure in Canada comprises of the NCAB and five regional CABs, respectively domiciled in Vancouver, Edmonton, Calgary, Toronto, and Montreal. In practice, the majority of disputes handled by the CAB system in Canada are dealt with by the regional CABs.

The primary objective of the CAB system is to resolve disputes in an equitable, speedy, confidential, cost-effective and constructive manner and in a culturally-sensitive environment. Our processes are designed to operate in an equitable manner (equity being a paramount Islamic ethical value), and are thus entirely consistent with Canadian legal principles, such as natural justice. Moreover, all CABs are required to operate in accordance with their local law.

Our system is voluntary. Parties come to our system only if they are willing to. Parties are encouraged to obtain full understanding of their legal position, so that they have a proper appreciation of their options. There is also no community enforcement mechanism. Ultimately, enforcement depends on the Canadian legal system, e.g. through the contractual enforceability of a settlement agreement or court enforcement of an arbitral award. The system is confidential and available at no cost.

Our system is gender-balanced in terms of its members. Although volunteers, CAB members benefit from extensive training to provide them with the necessary skills to ensure their competence and fairness.

Practically all of the CABs' workload in Canada is mediation. CABs in Canada have mediated close to 800 cases over the past six-year period. In close to 70 per cent of the successfully mediated cases, considerable savings in time and money were realized, both for the members of the community as well as for the judicial system. The emotional damage, inevitable in an adversarial litigation process, will also have been contained.

The CAB system is rooted in tradition, yet its modern infrastructure interfaces comfortably with national legal systems within which it functions. In addition, the community context of the CAB system makes it a system that goes beyond pure dispute resolution, addressing also dispute prevention and the possibility of wider support for parties to a dispute.