

Faculti Summary

<https://faculti.net/were-muslim-barbarians-really-knocking-on-the-gates-of-ontario/>

In 2005, Muslim lawyer SE Ali proposed creating an arbitration tribunal in Ontario for Muslims to resolve family law disputes according to Sharia law. This video sparked significant controversy, despite the Ontario Arbitration Act allowing parties to choose any arbitrator or legal framework for dispute resolution, including religious ones. Many misconceptions arose, particularly the fear that this would lead to a parallel legal system for Muslims and undermine women's rights. Media narratives propagated stereotypes of Muslim oppression, framing the issue in terms of a moral panic regarding Islamic fundamentalism.

Critics, including feminists, expressed concern about the potential negative impacts of religious arbitration on vulnerable individuals, particularly women, noting shortcomings in the Arbitration Act that could lead to inequitable outcomes. Feminist activists pointed out that while consent is required for arbitration, the pressures and constraints on vulnerable individuals could compromise true consent.

The No Religious Arbitration Coalition formed in response, arguing against any form of religious arbitration, but this blanket prohibition overlooked the perspectives of Muslim women who may prefer faith-based solutions. In 2006, the Ontario government ultimately banned the use of Sharia arbitration, responding to fears about Islamic law undermining Canadian values. However, subsequent amendments aimed to regulate family law arbitration did not completely eliminate the potential for religious arbitration, as parties could still agree on settlement terms privately.

The amended legislation introduced safeguards including mandatory writing of agreements and independent legal advice, but feminists remained concerned about the potential for patriarchal biases in arbitration decisions. While the government sought to ensure fairness and gender equality, it also missed an opportunity to foster more regulated forms of religious arbitration that could align with Canadian values. Observers noted that genuine solutions would require keeping open the possibility of religious arbitration while ensuring compliance with Canadian laws, highlighting a need for flexibility and accountability in accommodating diverse religious practices.