



In Focus

Arbitration and Mediation Services (Equality) Bill [HL] HL Bill 12 of 2015–16

Key Provisions

The [Arbitration and Mediation Services \(Equality\) Bill \[HL\]](#) is a private member's bill introduced by Baroness Cox (Crossbench). The Bill received its first reading in the House of Lords on 1 June 2015 and is scheduled to receive its second reading on 23 October 2015.

The Arbitration and Mediation Services (Equality) Bill [HL] makes provisions regarding the application of equalities legislation to arbitration and mediation services, and also in regard to the protection of victims of domestic abuse. The Bill seeks to prevent providers of arbitration services from doing anything that constitutes discrimination, harassment or victimisation on the grounds of sex. It would do so by inserting a new subsection into the Equalities Act 2010 and into the Arbitration Act 1996. It would also provide clarification that discrimination includes, but is not restricted to, treating evidence from men as being of greater value than that of women, or vice versa. The Family Law Act 1996 would also be amended to allow courts to set aside any order based on a mediation settlement agreement, or other negotiation agreement, if the court believes on the basis of evidence that one party's consent was not genuine. The Bill would also place an obligation on public authorities to inform those who are married according only to certain religious practices, or those in polygamous households, that they may be without legal protection.

Baroness Cox has introduced similar bills in previous sessions. In 2012–13 her private member's bill of the same name was given a second reading in the House of Lords on 19 October 2012.¹

Background

In a report written for the Bow Group entitled [A Parallel World: Confronting the Abuse of Many Muslim Women in Britain Today](#), Baroness Cox explained that she was introducing the Bill “to ensure that the operation of Sharia law principles in the UK today is not undermining the rights of women and the rule of law”.²

Baroness Cox has said that the Bill does not interfere with the internal theological affairs of religious groups, and that people must be able to organise their affairs in accordance with the “hard-fought tradition of freedom of religion and belief”.³ However, whilst the Bill does not specify any specific religious tradition she said she was particularly concerned about Muslim women:

[...] who are adversely affected by the policies of Sharia Councils and Courts, with particular reference, for example, to discriminatory inheritance provisions, polygamy, access to divorce and domestic violence.⁴

To this end the Bill seeks to implement provisions for women in similar situations to be informed of their legal rights under British law.

Under the Arbitration Act 1996, parties to civil disputes may agree to have their dispute arbitrated outside the civil court system. However, courts can set aside the decision if the arbitration did not comply with standards of fairness and procedure set out in the Act. The Act does not apply to criminal law, and has limited application to family law: although some family financial matters can be arbitrated, issues such as child custody or marital status cannot. Religious courts can grant religious divorces, but not a civil divorce recognised by the legal system.

Baroness Cox has written that the Government has not supported the Bill thus far as it argues that “there is no need for its provisions, as all citizens can freely access their rights”.⁵ This is a view with which she disagrees, arguing that many Muslim women are “unaware of their legal rights and can live in closed communities with pressure not to seek ‘outside’ professional help which could invoke ‘shame’ or ‘dishonour’ for their families or communities”.⁶

The Government, in answer to a written parliamentary question, has recently stated that “Sharia councils may be working in a discriminatory and unacceptable way” and that:

[...] as part of the forthcoming Counter-Extremism Strategy, Government will commission a full, independent investigation to assess to what extent Sharia is being applied in a manner that is unacceptable. The review will commence following the appointment of an independent chair. The Terms of Reference for the review and its duration will be determined at that point. We will act on any evidence of its application which is outside of the law.⁷

Further Information

- Baroness Cox, Bow Group, [A Parallel World: Confronting the Abuse of Many Muslim Women in Britain Today](#), March 2015
- Conservative Home, [‘Baroness Cox: How Discriminatory Sharia Law Principles Affect Muslim Women in Britain Today’](#), 24 March 2015
- Dr Russell Sandberg, [‘Reforming Religious Courts: A Comparison of Two Bills’](#), 12 July 2015
- House of Commons Library, [Mediation and Other Alternatives to Court](#), 6 June 2013, SN04176

¹ HL *Hansard*, 19 October 2012, [cols 1683–1716](#).

² Baroness Cox, Bow Group, [A Parallel World: Confronting the Abuse of Many Muslim Women in Britain Today](#), March 2015, p 2.

³ *ibid*, p 3.

⁴ *ibid*.

⁵ *ibid*, p 2.

⁶ *ibid*.

⁷ House of Lords, written answer: Islam—Legal Systems, 24 September 2015, [HL2190](#).

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