

Making room for faith
in
English dispute resolution proceedings

Submitted by Anne Elizabeth Harding to the University of Exeter
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Abstract

The case of Baby MB (*An NHS Trust v MB* (A child represented by the CAFCASS as Guardian ad Litem) [2006] EWHC 507 (Fam) [2006] 2FLR 319 reveals some of the difficulties faced by persons of faith when they are involved in legal proceedings in the English law courts. It raises the question of whether faith is relevant when decisions are taken in court, and if so how it is relevant. What high profile healthcare cases like this also illustrate is that there are legal cases that involve not just legal issues, but also ethical and faith issues. However, when these cases come to court they are framed as though they are primarily legal disputes that require a purely legal solution. While judges address the legal issues, they are reluctant to address the ethical and faith issues, and if they do address the ethical and faith issues, they address them in strictly legal terms. These difficulties are not restricted to one faith but encompass all faiths, and they are not restricted to litigants but also include representatives of Christian churches who make submissions to court. Although the difficulties are often revealed in healthcare cases they are not restricted to these cases but include other types of legal case and extend to employment tribunals. These cases raise important questions about how courts and tribunals deal with persons of faith, how we understand conflict and resolve disputes, the nature and aim of law, the relationship between law, ethics and religion, the role of judges, and how we perceive and deal procedurally with cases that involve issues of faith. This thesis will explore these issues, and discuss whether room can be made for faith in English Dispute Resolution proceedings, and if so, how this might be accomplished.

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