



# **The Experiences of the Aga Khan Ismaili Conciliation and Arbitration Board in Canada**

**Canadian Institute for the Administration of Justice  
(CIAJ)**

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# Agenda

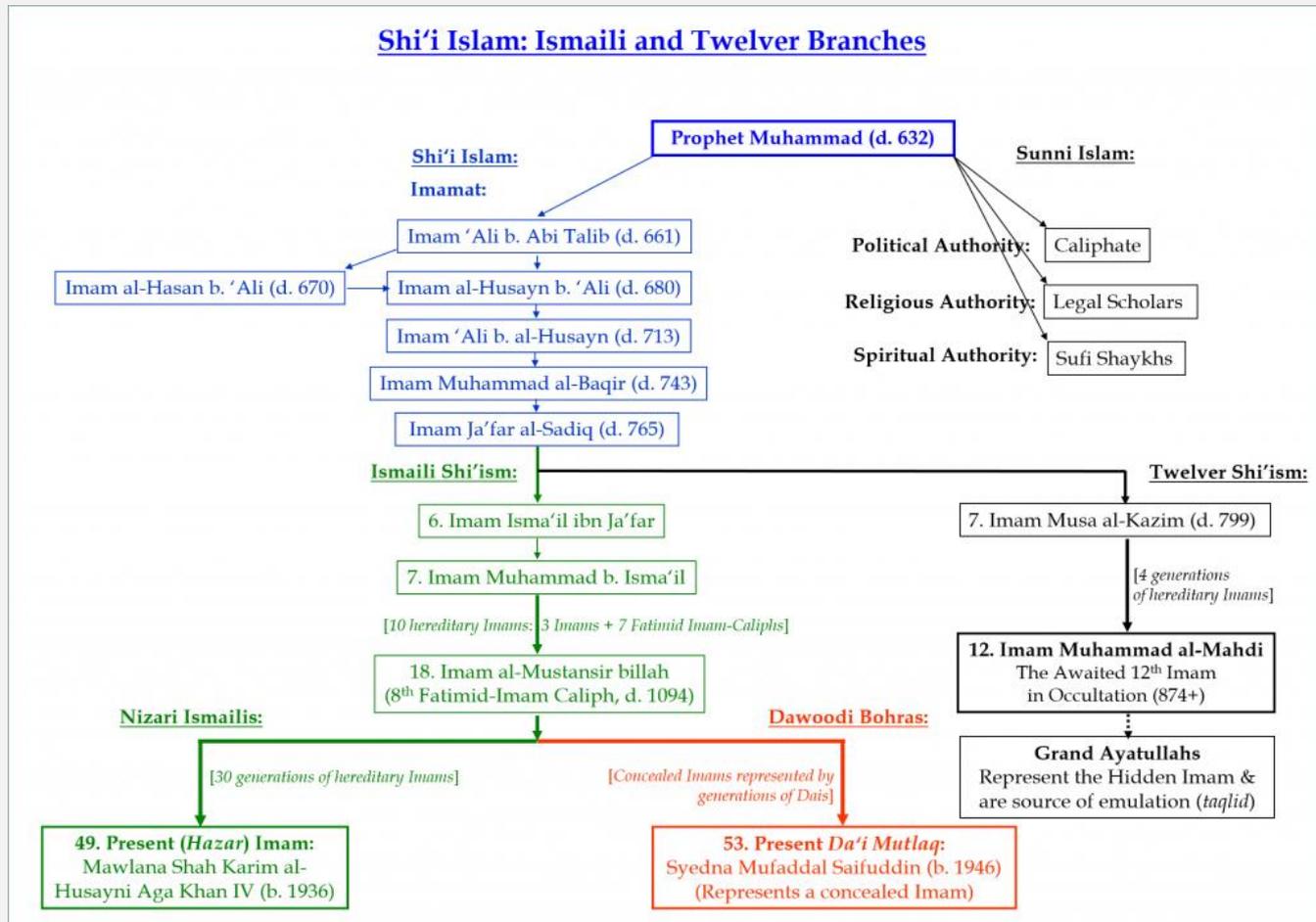
- Who are the Ismailis?
- The Conciliation and Arbitration Board (CAB)
- Focus Areas
- Interprovincial and international cases
- Questions and Answers

# The Ismailis

- Shia branch of Islam
- His Highness the Aga Khan as spiritual leader
- Ismaili Muslims number about 15 million spread out in 30+ countries
- Diversity of peoples and cultures
- About 100,000 live in Canada



# Islam: Shia Branches of Islam



# The Ismailis

- Well-defined social governance institutions in countries where Ismailis live
- The Aga Khan has opened several new institutions in Canada:
  - Global Centre for Pluralism, Ottawa
  - Aga Khan Museum, Toronto

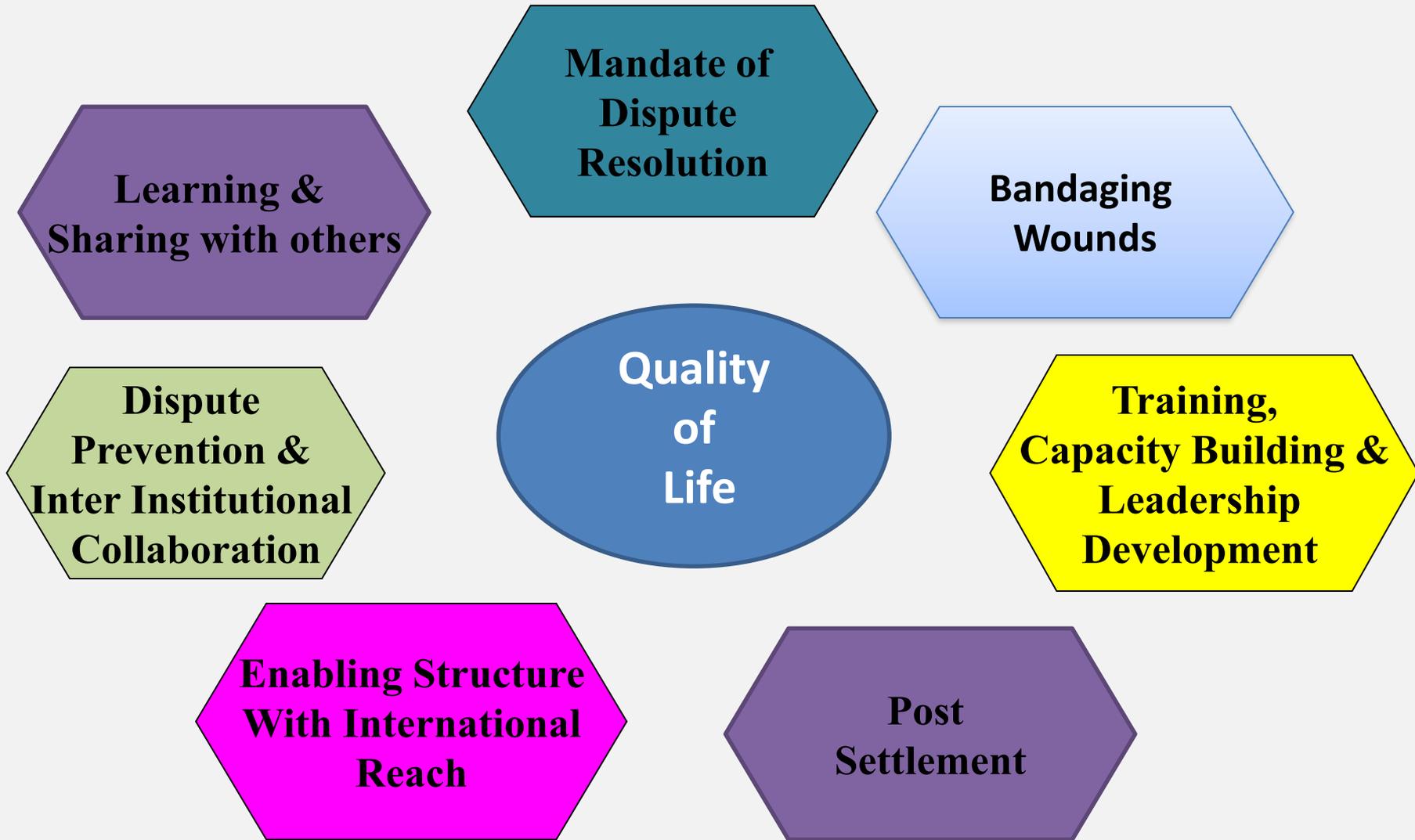


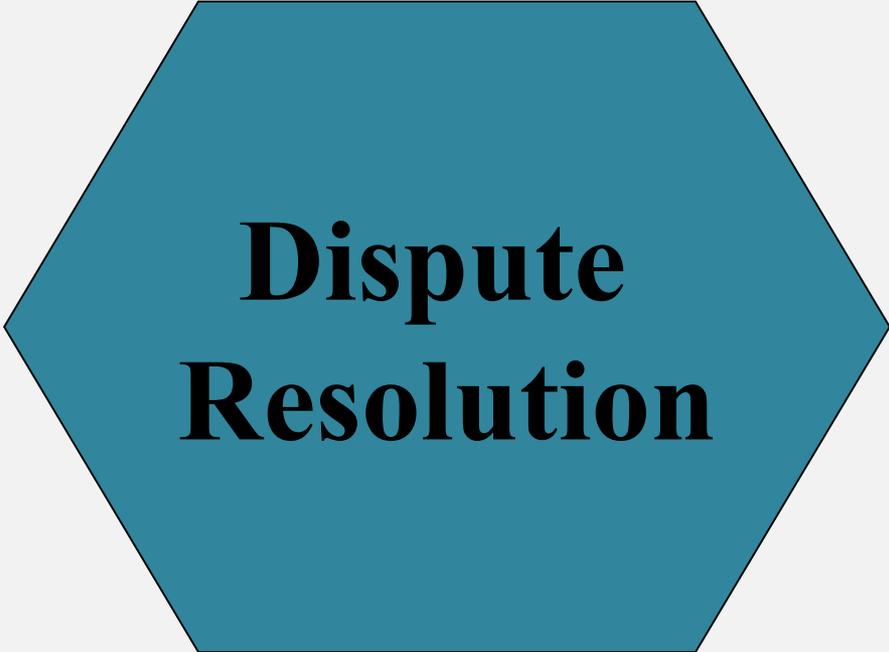
# Aga Khan Addresses Parliament of Canada



- <http://bcove.me/s13v2670> (11:45-16:52)
- February 27, 2014

# CAB's Holistic Model





# **Dispute Resolution**

- Design Foundations
- Constitutional Mandate
- Rules of Procedure

# Dispute Resolution

- Dispute resolution is an Islamic tradition that goes back 1,400 years
- CAB was established in 1986
- Rules of Procedure that apply the laws of the land
- Grounded in the ethics of brotherhood, unity, respect and tolerance

# Distinct features of CAB

- Network of national and international CABs
- National CABs in 18 countries
- 5 RCABs in Canada (11 members in Ontario)
- A long tradition of volunteerism
  - All members are volunteers
  - Maximum of two terms (each of 3 years) in a position
  - Canada : NCAB and 5 RCABs, 46 members;
  - at least one lawyer on each board, Gender balance, cultural diversity and sensitivity is a key element
- Strategic Planning – Board takes a Long-term View of Mandate



**Training,  
Capacity Building &  
Leadership  
Development**

# Training the volunteer mediator

- Training

- >80 hours of training every 3 years
- Training in domestic violence screening and mental health issue identification
- Specific modules on power of apology, ethos of service, leadership, co-mediation, mediator resiliency/burnout and legal foundation

- Ongoing

- Mediator assessment
- Accreditation
- Joint Sessions between national jurisdictions

# Why the community comes to CAB?

- ✓ Trained members, with experience
- ✓ Culturally sensitive
- ✓ Confidential, Cost effective
- ✓ Voluntary process
- ✓ Faster and less acrimonious than the legal court process
- ✓ Post-settlement assistance
- ✓ Apply the laws of the land

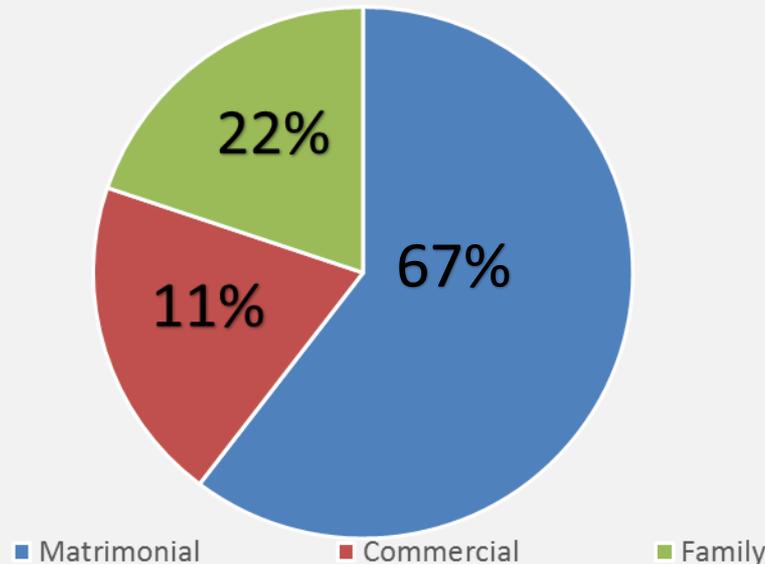
# Cross cultural perspectives

- Cultural Fluency – an ability to see others the way they see themselves
- Diversity
  - Language
  - Geography
  - Cultural
  - Generational
  - Canadian Challenges
    - Newly immigrated
    - Quebec
- Pluralism – the responsibility to embrace, nurture, protect, and strengthen differences

# CAB Canada

- 435 cases from July 2012 to July 2015
  - 72% success rate

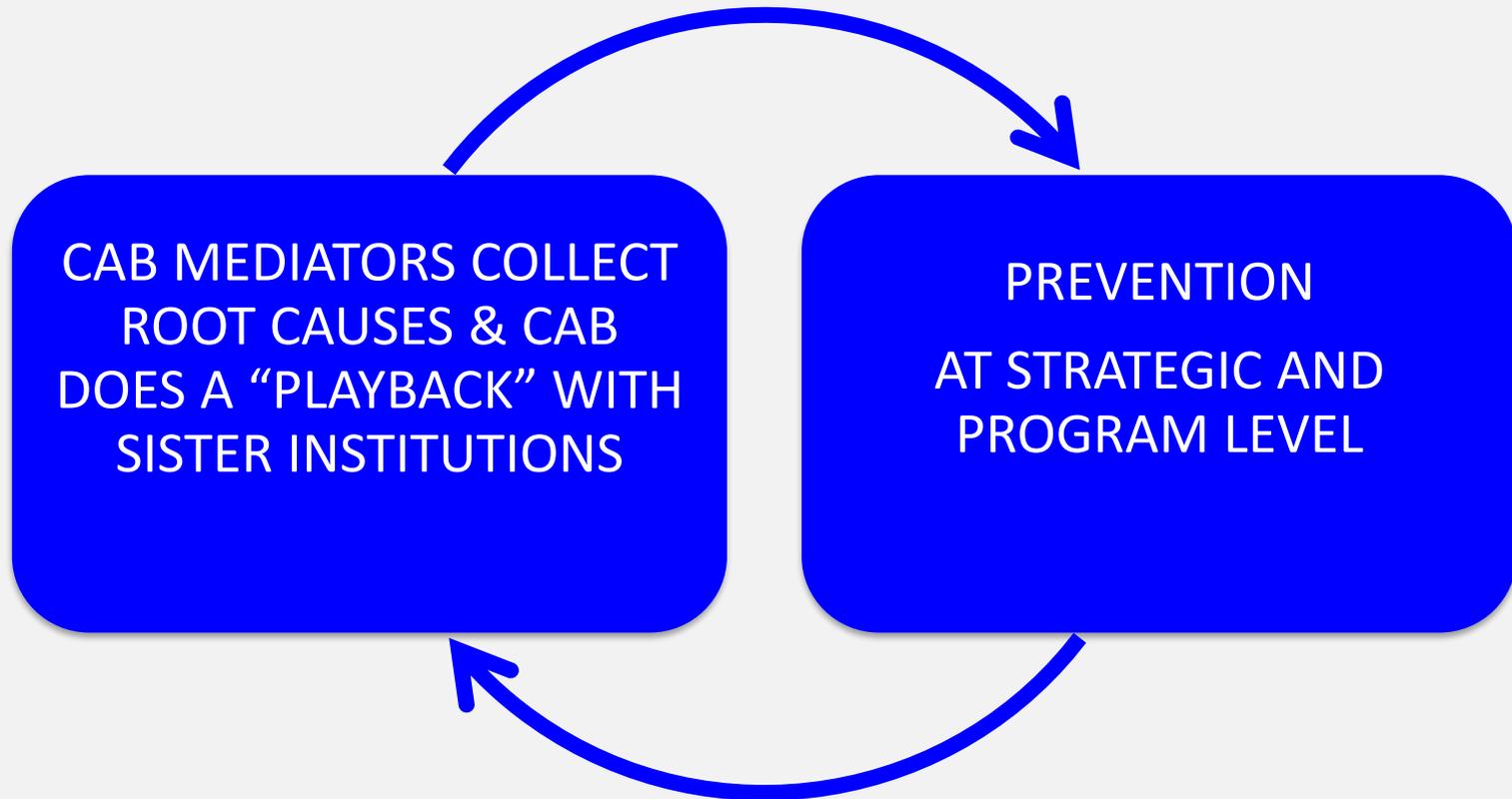
Case Breakdown



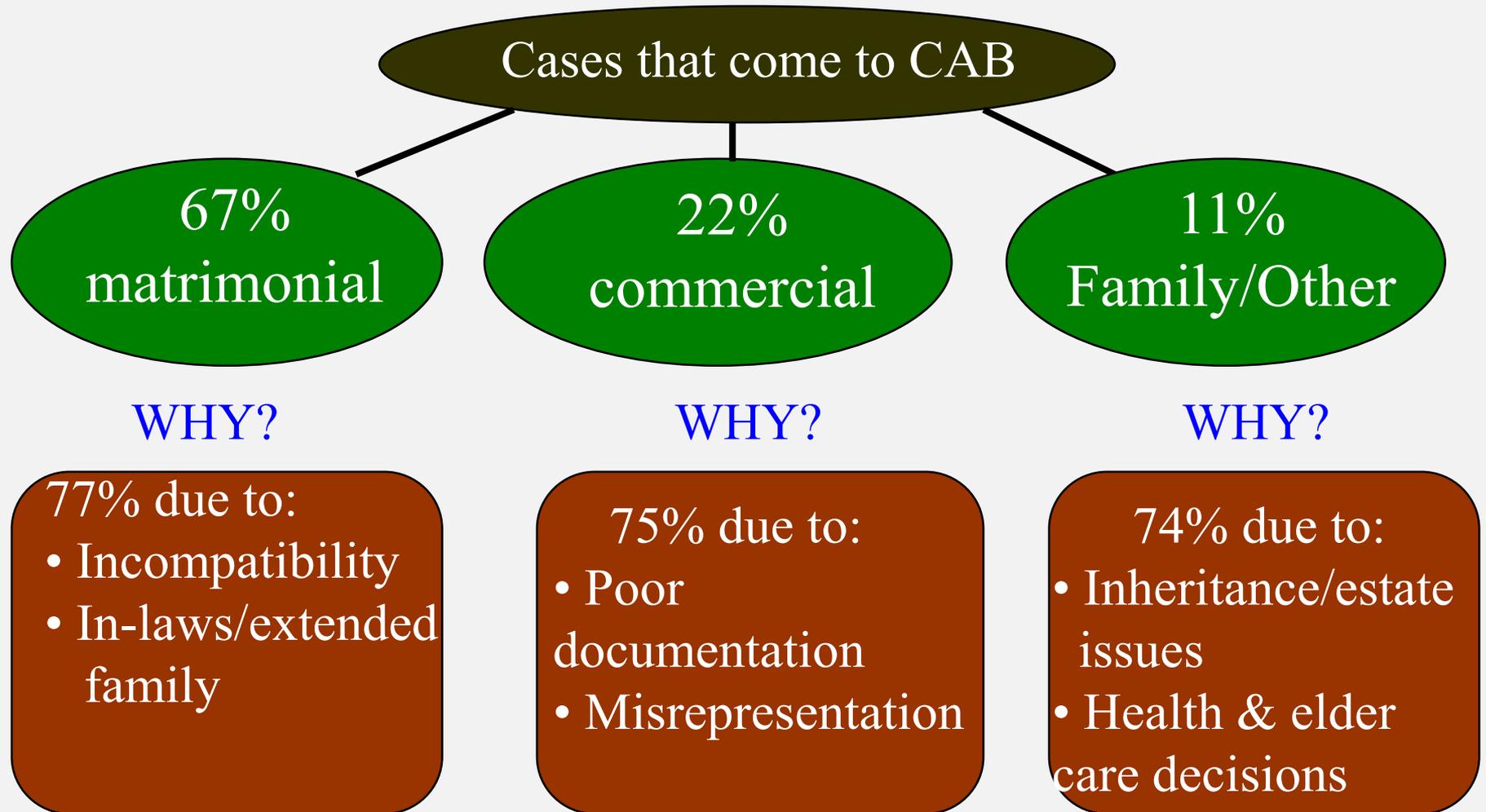


**Dispute  
Prevention**

# Building a Culture of Dispute Prevention



# Dispute Prevention - root cause identification





**Bandaging  
Wounds  
& Post-  
Settlement**

# Bandaging the Wounds

- Holistic Approach to dispute resolution, prevention and healing
- Referrals, with consent, for those in need
- Therapeutic services for clients and extended family
- Leveraging inter-organizational synergy and expertise



**Enabling  
Structure  
With an  
International  
Reach**

# Our experience in interprovincial and international cases

- Bringing the potentially reluctant respondent to the table without recourse to costly inter-jurisdictional legal proceedings
- 20% of our cases are interprovincial and international (Afghanistan, Great Britain, India, Kenya, Pakistan, Tanzania, Uganda and USA)

# Our experience in interprovincial and international cases

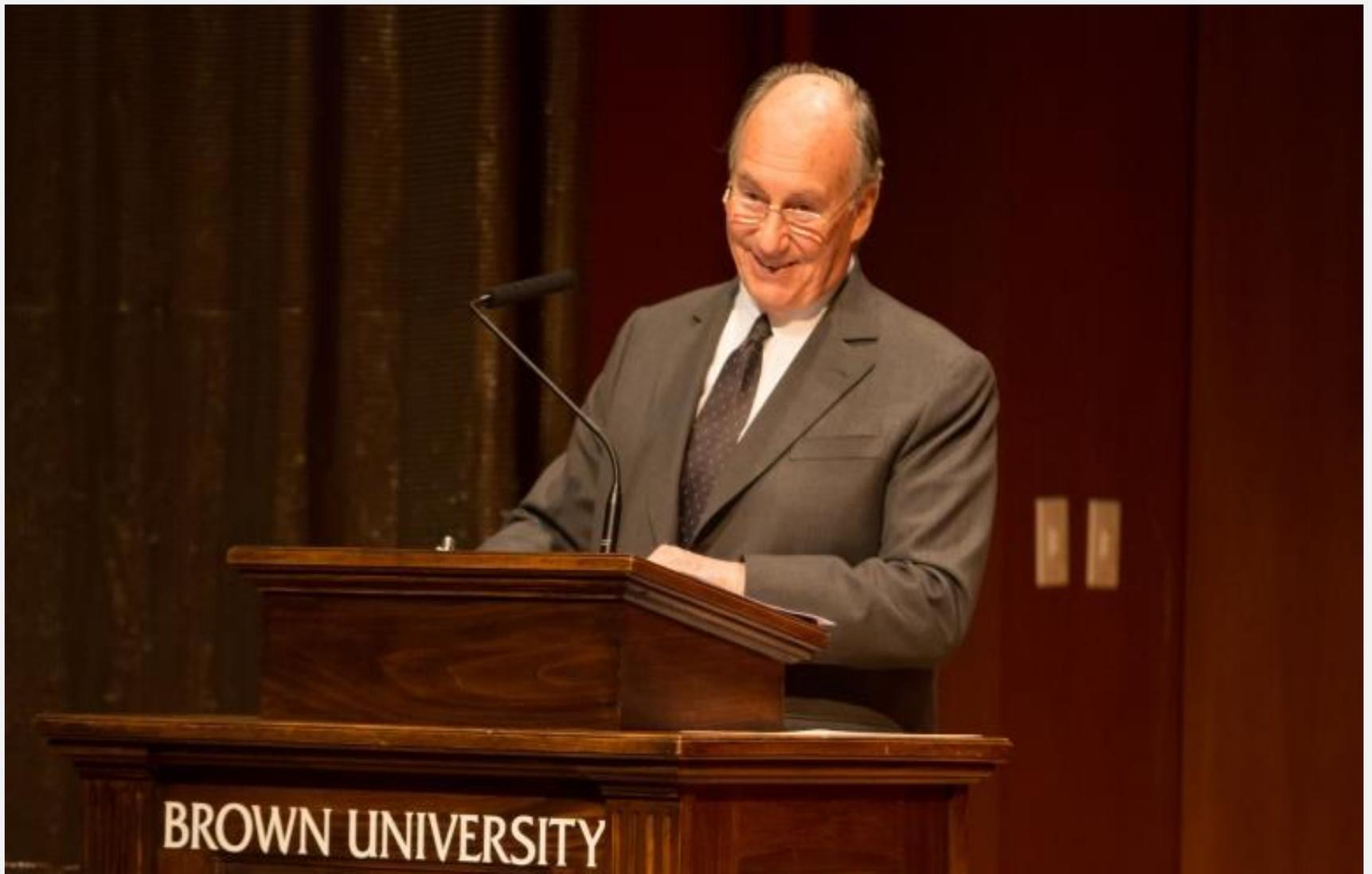
METRIC 2012-2015	INTERPROVINCIAL	INTERNATIONAL
TYPE OF CASE	80% MATRIMONIAL	53% MATRIMONIAL AND 30% COMMERCIAL
GENDER OF APPLICANT	64% FEMALE	50% FEMALE
AVERAGE DURATION	Less than 6 months	8 to 12 months
SUCCESS RATE	86%	69%

# Best Practices

- Bring the respondent to the table
- Understanding the laws of each region
- Always asking for ILA
- Use of technology
- Mediators planning and debriefing
- Each party communicates with both mediators
- Include and test settlement clauses for durability, implementation and appeal

# Challenges

- Determining which jurisdiction to use
- Language and cultural barriers
- Communications between parties, and between mediators
  - access to technology
  - time zone differences
  - Original document exchange
- Secure access to mediation facilities in foreign jurisdiction



<http://bcove.me/jq7lj0vz>

CONCILIATION AND ARBITRATION BOARD

# What is next in international mediation cases?

- How does CAB work with authorities of Hague Convention signatories?
- How does CAB deal with abduction situations? Or where children may be at risk of harm?
- Mobility cases - is it the best interest of child? Or of parents?
- Legal aspects... scope of CAB?
- What if cases are migration specific?



**Inter  
Institutional  
Support &  
Collaboration**

# STRUCTURAL SUPPORTS

- Training/ Competency
- Co-mediation Model
- Alumni Wisdom and Expertise – utilize Alumni for case work and special projects
- Support Network
- Mediator Resiliency Focus
- Members
  - Benefit from significant personal and professional development
  - Enhanced understanding of the community and the issues it faces

# Honorable Marion Boyd on CAB in 2004

- “The Ismailis have developed a model of conciliation and arbitration that is the most sophisticated and organized structure in the Muslim community to date”
- “CABs save time and money, not only for the participants, but also for the court system”
- “Ismaili CAB system serves the Ismaili community well and has demonstrated its value and effectiveness as an ADR system”
- “Rooted in tradition, grounded in the ethics of the faith and complies with the laws of the land”

# THANK YOU!

- Questions and Answers
- You can also visit the following websites:
  - [www.cabcanada.org](http://www.cabcanada.org)
  - [www.theismaili.org](http://www.theismaili.org)
  - [www.akdn.org](http://www.akdn.org)

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