Canadian Journal of Law and Society / Revue Canadienne Droit et Société (2024), **39**: 1, 174–176

BOOK REVIEW / COMPTE RENDU

Dia Dabby. *Religious Diversity in Canadian Public Schools: Rethinking the Role of Law*. Vancouver: UBC Press, 2022, 291 pp.

Blair Major

Assistant Professor, Thompson Rivers University Faculty of Law
Email: bmajor@tru.ca

doi:10.1017/cls.2023.19

To say that religious diversity in public schools is an important topic may sound trite, and to say that it is particularly important in Canada may sound odd. But both statements are true. It is this important topic that Dia Dabby addresses in her book *Religious Diversity in Canadian Public Schools: Rethinking the Role of Law.* Dabby deftly shows why the topic is important, and why it is particularly important in Canada. In political terms, the education of children is ground zero for developing and maintaining the citizenry. School is where children first encounter people who are different—including religious difference—and a crucial part of childhood education is to socialize people that are different, with the goal that they will become part of a common social/political body. This is particularly relevant in Canada because of the historical confrontations and negotiations between English, French, and Indigenous peoples. Religious difference is a central theme in the story of Canada, and public schools are a central place where the story is acted out. The Canadian Constitution—both its 1867 and 1982 iterations—includes special protection for religious minority schools. Dabby rightly notes that the management of religious diversity in public schools is something of a "constitutional weather vane," which charts the course of Canadian constitutionalism (p. 196).

The constitutional legal (and political) context of religious diversity in public schools is not the focus of Dabby's book, however. Her book assesses the way that matters of religious diversity in public schools are managed, and the structural role that law plays. Dabby's approach to this examines the experience—in her words the "voices"—of children involved in conflicts of religious diversity in school. Dabby's analysis focuses on the complexity that exists in these situations, which involve the intersection of the interests of children, of parents, of religious

communities, of individual schools, of school boards more broadly, and the policies and political goals of state governance. Dabby argues, in a nutshell, that the voices of children are being lost, and that something more (and different) needs to happen.

There are two central arguments advanced in Dabby's book. First, the judicial resolution of matters of religious diversity in public school is inadequate. Second, the better course to follow would be to leave it to school institutions to navigate matters of religious diversity in public schools. Roughly the first half of the book discusses the limitations of the judicial institution, and the second half of the book explains and defends the idea of shifting to schools as the key institutional player.

Dabby's argument follows two trajectories—a methodological and theoretical argument, on the one hand, and case studies of three Supreme Court of Canada decisions on the other.[1] Dabby's method of analysis is grounded in what she calls "legal storytelling," which is a way to interrogate litigation stories and draw attention to the narrative features, the contextual factors, and the socializing forces at work in dispute resolution. Dabby's analysis of the case studies shows that children's voices are often unheard and that, when they are heard, they are mediated by others (typically parents) and their concerns filtered through the perspectives of others (p. 114). Methodologically, Dabby argues that focusing on individual stories within institutional settings allows the relational dimensions involved to bubble to the surface. This provides better access to what Dabby calls "relationships of belonging"—in its various communal forms—when navigating conflicts involving religious diversity. Formal litigation processes, which are driven by affidavits and cross-examination, tend to flatten these relational dimensions of religious diversity. They simply are not capable of attending to the complexity of disputes involving religious diversity.

Dabby's methodology intersects with a legal pluralist theoretical perspective, which also supports her argument that schools are better placed than courts to manage the complex interactions involved in religious diversity conflicts. Schools are micro-legal entities—they are sites of governance, of norm-making, and of legal decision-making. But their legal authority is located differently—they are bounded by "relations of belonging" and are communities of "shared qualities" (p. 128–29). As a result, schools have many more resources to engage with the complex intermingling of individual, public, familial, and communal factors than the judicial decision-making process does. Stories, relationships, narratives, and processes of socialization are more readily available in the school institutional setting than in the courts.

The methodology applied by Dabby is borne out in her discussion of the pre-court interactions, negotiations, discussions, and decisions in the three case studies. She identifies many of the relational dimensions at play throughout each case, drawing insights from the processes of each. Dabby acknowledges that school institutions are not perfect, but she maintains that they are better than courts for working through issues of religious diversity. In the final chapter of

[1] *Chamberlain v Surrey School District No 36*, 2002 SCC 86; *Multani v Commission scolaire Marguerite-Bourgeoys*, 2006 SCC 6; and *SL v Commission scolaire des Chênes*, 2012 SCC 7.

the book, Dabby describes how school institutions can be better supported. She suggests a variety of approaches, including empirical studies of the experiences of navigating religious diversity in school and the strategies used to do so, the reshaping of school codes of conduct, the elaboration of inclusive educational guidelines, and amending school legislation to nurture diversity. Taking this approach shifts away from a legal approach focused on establishing rights, duties, and limits of "reasonable accommodation," and towards a conversational approach that is progressive, thoughtful, and inclusive (p. 190–91). Dabby concludes that "[w]hile there are many elements in place … it remains an imperfect conversation at best, which is ever evolving" (p. 184).

My overall assessment of the book is that it is a worthwhile read for those interested in religious diversity in public institutions as well as those interested in critical sociological legal methodology and theory—in particular those interested in relational theory or legal pluralism. My one quibble with the book is that it may suffer from too much methodological and theoretical discussion, which at times makes it difficult to hear Dabby's voice and to follow her argument. Otherwise, the book is an erudite piece of sociolegal scholarship that clearly contributes to the ongoing discussion of religious diversity in public schools in Canada. Specifically, Dabby's book shifts the debate about religious diversity in public schools and effectively flips the script away from a judicial-dominant set of processes and principles towards a broader institutional, community, and relational-based set of ideas.