This chapter,¹ highlights the preliminary findings of a study still in progress which addresses the questions: in what ways do Muslims in the United Kingdom resolve their family disputes, and more specifically, what are the reasons for, and nature and significance of, a continuing preference on their part for reliance on the informal, primary decision-making processes in such disputes. The study examines the processes in a given UK-based community and explores how they are similar to, or different from, the processes followed by alternative dispute resolution (ADR) practitioners in the Anglo-American common law world – in particular, assessing their general efficacy and practicality. It shows how the principal players get engaged in the resolution of disputes, the understanding and role of the sharia – religious law of the Muslims – in this process, and how the laws of the land come to be invoked and why. The chapter outlines the various fora and the interactions that take place within them, explaining their choice, as well as the implications of the study on inter alia, ADR practice in the UK, ADR research direction, policy planning and legal education in Britain.²

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² For the purposes of this study, ‘mediation’ has been defined “as a form of intervention involving a process by which a third party – the mediator – assists the parties to a dispute to negotiate over the issues that divide them”. The mediator has no stake in the dispute and is not identified with any of the competing parties. The mediator has no power to impose a settlement on the parties, who retain authority for making their own decisions. The mediator is

Given the dispersal of Muslims in the United Kingdom today, this study could well have been conducted in any part of the country. However, there were compelling reasons for conducting it in the Hounslow area of London. First, a study of this kind required a fairly organised group of immigrant Muslims, preferably homogenous in culture and linguistic background and constituting a critical mass. The Hounslow Muslim community of some 19,000 people, predominantly from the Indian subcontinent, provided this dimension. Secondly, it was felt that the research would gain a great deal if the bulk of the population under study was from the same jurisprudential school of Islam. The Hounslow Muslim community largely belongs to the Hanafi school of Islam. Thirdly, the Muslim community in the Hounslow area reflects the main difficulties faced by any Muslim immigrant community going through the process of acculturation in Britain. While most other areas of Muslim settlement in the United Kingdom would have also provided this dimension, Hounslow, given its other advantages (e.g. proximity to various national institutions dealing with ADR), made for an appropriate context for this study. Fourthly, and most importantly, a study of this nature required the ability to gain sufficient access to people and issues – something that was not easy to obtain. The author, while studying for his LLM at London University, had conducted a small ethnographic study in the area and had established a good relationship with some of the people there. The present study was able to build on

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3 This school emerged in Kufa, in present-day Iraq, under the eponym of Abu Hanifa (d. 767) but was developed by his students Abu Yusuf (d. 798) and al-Shaybani (d. 805). For further elaboration see Rippon (1990: ch. 6).

4 Al-Shafi’i (d. 822) was the eponymous founder of this school. He demanded the use of systematic reasoning without arbitrary or personalised deduction in formulating the law and thus created a system that was far more cohesive on a theoretical level than had previously been the case. Somali Muslims, although Sunni, come from a different racial, ethnic, linguistic and cultural background, hailing predominantly from Africa and, although they share the same mosque for prayers, they have their own specific issues and their own social welfare institutions to deal with them.