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Freedom of Religion in Canada and the Changing Judicial Landscape (Power Point Presentation)

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	<p>Religious Freedom Update</p> <p>Janet Epp Buckingham Director, Law and Public Policy Evangelical Fellowship of Canada</p>

	<p>What is religious freedom?</p>
	<p>ⁿ Section 2(a) of the <i>Charter of Rights and Freedoms</i></p> <p>2. Everyone has the following fundamental freedoms</p> <p>(a) Freedom of conscience and religion;</p> <ul style="list-style-type: none"> • Applies to government

	<p>What is religious freedom?</p>
	<p>ⁿ Provincial human rights codes protect against discrimination in:</p> <ul style="list-style-type: none"> – Provision of services – Employment – Housing <p>on certain grounds including creed (religion) but also sexual orientation</p>

	<p>The basis for religious freedom</p>
	<p>ⁿ <i>Big M Drug Mart</i> case</p> <p>The essence of the concept of freedom of religion is the right to entertain such religious beliefs as a person chooses, the right to declare religious beliefs openly and without fear of hindrance or reprisal, and the right to manifest belief by worship and practice or by teaching and dissemination.</p>

	Trinity Western University v. B.C. College of Teachers (2001)
	<ul style="list-style-type: none"> Supreme Court of Canada ruled that a Christian university can have a code of conduct that requires students to refrain from certain activities. This does not preclude the university from having certain programs, in this case an education program. But "the freedom to believe is broader than the freedom to act on those beliefs."

	Chamberlain v. Surrey School Board (2002)
	<ul style="list-style-type: none"> Supreme Court of Canada ruled that school boards can consider concerns of religious parents but cannot use those concerns to exclude other protected groups from inclusion in public schools. The issue was storybooks featuring same-sex parents for classroom use in kindergarten and grade 1.

	B'nai Brith v. Syndicat Northcrest (2004)
	<ul style="list-style-type: none"> A condo corporation refused to allow Jewish owners to have a souccah hut on the balcony although Christmas lights were tolerated. Is there a duty to accommodate religious practices? Note: the Canadian Jewish Congress approved a settlement the condo proposed Court ruled in favour of Jewish owners.

	B'nai Brith v. Syndicat Northcrest (2004)
	<ul style="list-style-type: none"> Court defined protected religious practice as one by sincerely held by an individual and having a "nexus with religion" Very individualistic Little room for religious institutions in determining protected practices

	B'nai Brith v. Syndicat Northcrest (2004)
	<ul style="list-style-type: none"> ▫ Strong protection for religious practice ▫ All religious practices protected (no obligatory/discretionary distinction) ▫ Not necessary to have "duelling clergy" to establish religious practice ▫ Still not clear if there is an institutional aspect to religious freedom

	Jehovah's Witness case (2004)
	<ul style="list-style-type: none"> ▫ A town in Quebec had a very restrictive area where churches could be built. An Evangelical congregation and a Jehovah's Witness congregation could not build. Do municipalities have a duty to facilitate building houses of worship? ▫ Court ducked issue.

	Jehovah's Witness case (2004)
	<ul style="list-style-type: none"> ▫ Majority decision rules on an administrative law issue (duty to give reasons) ▫ Dissent says that building a house of worship is protected by Charter ▫ Result: this issue is still undecided.

	Camp Arnes (current)
	<ul style="list-style-type: none"> ▫ Christian camp refused to rent to a gay choir group. Choir made a complaint to the Manitoba Human Rights Commission. Because the camp regularly rents out to non-religious groups, the Commission is treating the camp as a commercial, rather than religious, enterprise.

Muslim Arbitration Boards	
	<ul style="list-style-type: none"> n Under Ontario Arbitration Act, 1991, can set up binding arbitration. Board decisions can be enforced through the courts. n Outcry about religious law being enforced through the courts. n Marion Boyd is reviewing and reporting back to Premier.

Muslim Arbitration Boards	
	<ul style="list-style-type: none"> n Issues: <ul style="list-style-type: none"> – In general – people should be able to live in accordance with their religious beliefs [Orthodox Jews have had this for some time] – But Muslim personal law differs significantly from Ontario family law

Freedom of Expression	
	<ul style="list-style-type: none"> n Public preaching and proselytism <ul style="list-style-type: none"> – Pastor in Nova Scotia – Niagara Falls park area – Parks issues n Spreading hatred <ul style="list-style-type: none"> – Inter-religious issues – Sexual morality

Education	
	<ul style="list-style-type: none"> ♦ Equal access for school clubs ♦ Access to rooms for religious observance ♦ Accommodation of religious students (holidays, moral issues)

	Marriage redefinition
n	<p>This issue has the potential to be flashpoint for religious freedom issues</p> <ul style="list-style-type: none">– Clergy protection– Accommodation of civil officials– Use of facilities– Accommodation of religious institutions that do not recognize same-sex marriage (denial of public benefits?)