
A Literature Review of Islamic Mediation (As-Sulh) As Mechanism for Settling Marital Dispute among Muslim Couples in Northeastern Nigeria

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Abstract

This research examines the effectiveness of Islamic mediation as-Sulh as a mechanism for settling marital disputes among Muslim couples in Northeastern Nigeria. Islamic mediation as-Sulh is a branch of Islamic law that arbitrates and settles disputes between parties without using a formal court process. In Muslim communities all around north-eastern Nigeria, an alternative dispute resolution (ADR) procedure is regarded as a peaceful and less expensive choice for resolving marital conflicts. This study employs a qualitative research methodology based on a review of the literature and interviews with professionals in Islamic law, mediation, and conflict resolution.

The data gathered from the interviews is analyzed using content analysis methods. The findings of the study show that Islamic mediation as-Sulh is an effective mechanism for settling marital disputes among Muslim couples in Northeastern Nigeria. The study's findings imply that Muslim couples in Northeastern Nigeria should use Islamic mediation as-Sulh more frequently as a successful and culturally suitable method of resolving marital conflicts. The study also highlights the importance of further research on this topic in order to better understand the strengths and weaknesses of this form of Alternate Dispute Resolution.

Keywords: *Alternative, As-Sulh, Dispute Resolution, Mechanism, Muslim Couples.*

INTRODUCTION

Islamic mediation, or as-Sulh, is a frequently used alternative dispute resolution method in Northeastern Nigeria for resolving marital conflicts between

Muslim spouses.¹ This is consistent with Islamic justice principles, which promote peace and harmony and examine the many facets of Islamic mediation, or as-Sulh, including its advantages and its function in sustaining marital harmony and stability in this region.² As an arabic word that signifies reconciliation, Sulh is founded on the ideas of justice and peace and is viewed as a practical method of resolving disputes without resorting to courtroom proceedings.³

According to Islamic tradition, as-Sulh is a type of religious arbitration that helps parties resolve disagreements amicably and fairly.⁴ In the context of Muslim couples, this process involves an impartial mediator or panel of three individuals, who are experienced in Islamic law, appointed by both parties to resolve their problems.⁵ An agreement is reached through negotiations, and the parties are not allowed to resort to threats or violence.⁶ This is in line with Islamic principles of "peace at all costs," and the process is designed to help the couple understand and resolve their disputes.

Sulh has been discovered to be an efficient and well-liked method for Muslim couples to resolve their marital issues in Northeastern Nigeria. A good Sulh procedure encourages the couple to resolve their differences amicably without using force of any kind.⁷ In addition to preventing future escalation of the problems, this safeguards the rights and dignity of both parties. This also motivates couples to reevaluate their actions and aids in the development of a

¹ Islam, M. Z, "Provision of Alternative Dispute Resolution Process in Islam" *Journal of Business and Management*, 6(3) 2012, hlm. 31-36.

² Serrano, D. Bringing arbitration (taḥkīm) and conciliation (ṣulḥ) under the qāḍī's purview in Mālikī al-Andalus (10th to 12th centuries CE). *Revue des mondes musulmans et de la Méditerranée*, (140), vol-140 2016.

³ A.H Idris, Use of Alternative Dispute Resolution (Sulh) in Sharia Cases. The National workshop for Area/Sharia/Customary Court Judges/Directors and Inspectors of Area/Sharia/Customary Courts, 3rd-5th April, 2017, hlm. 10.

⁴ A Othman "And Amicable Settlement Is Best": Sulh and Dispute Resolution in Islamic Law. *Arab Law Quarterly*, 21(1) 2007, hlm. 64-90.

⁵ A.H Idris, *The Use of Alternative Dispute Resolution...*, hlm. 13

⁶ A.A Muhammad, *Steps to Legal Divorce: A Lasting Solution to Rampant Divorce Among Contemporary Muslim Couples*. Al-Nebras International Academic Journal, Sule Lamido University Kafin Hausa, Jigawa State, Nigeria, 4th Edition Vol.2. Al-Mihbara Publishing Company. ISSN: 2705-1501 Online, ISSN: 9876-5432 Print. (2020). hlm. 189-206

⁷ N.A Hakdck, *Alternative Dispute Resolution (ADR) in Isla.*, (IIUM Press: 2013).

more harmonious relationship.⁸

Studies have revealed that Sulh is a cost-effective and efficient approach to conflict resolution, as it reduces the costs and time associated with litigation as well as mitigating the social and emotional risks.⁹ This process also preserves the family structure and maintains the privacy of the couple's disputes. It avoids the trauma associated with airing out marital disputes in a public court.

The resolution of legal issues is one of the primary duties of any state. Normally, the judiciary is entrusted with this duty, but as past events have demonstrated, the court cannot assure the effective operation of the legal conflict resolution system on its own.¹⁰ Every democratic nation recognizes the importance of having alternative methods for resolving conflicts, and citizens who are subject to the law must have the freedom to decide how their legal difficulties will be handled. Arbitration, mediation, consultation, discussions, intersession, the conciliation process, and other alternative dispute resolution procedures are some examples.¹¹

Islamic mediation's key advantages over traditional court adjudication include its adherence to Islamic law, its impartial approach to evaluating the interests of both parties, and its cost effectiveness. Its cultural appropriateness and capacity to produce a mutually agreeable conclusion are further benefits.¹² Therefore, the sulh process gives Muslim spouses a chance to assert their autonomy and right to self-determination in resolving their marital conflicts. However, it is noted that the Sulh process faces obstacles including the greedy and

⁸ Idris, A.H The Use of Alternative Dispute Resolution (Sulh) in Sharia Cases. The National workshop for Area/Sharia/Customary Court Judges/Directors and Inspectors of Area/Sharia/Customary Courts, 3rd-5th April, 2017.

⁹ A. Othman, "And Amicable Settlement Is Best": *Sulh and Dispute Resolution in Islamic Law. Arab Law Quarterly*, 21(1) 2007, hlm. 64-90.

¹⁰ M.M Rahman, "Islamic Perspective Of Alternative Dispute Resolution (ADR)" *Journal of Asian and African Social Science and Humanities*, 4(2) 2018, hlm. 28-44.

¹¹ Zarysylo dkk, Application of forms of alternative dispute resolution in Ukraine. *Brazilian Journal of Alternative Dispute Resolution-RBADR* 4(7) 2022.

¹² D Serrano, Bringing Arbitration (Taḥkīm) And Conciliation (Ṣulḥ) Under The Qāḍī's Purview In Mālikī Al-Andalus (10th To 12th Centuries Ce). *Revue des mondes musulmans et de la Méditerranée*, 140 (140) 2016.

powerful using it as a tool for their own interests and the chance for bias and prejudice to infiltrate.

Sulh as an Islamic Mediation procedure has been used to resolve marital conflicts between Muslim couples in various cultures. This study aims to demonstrate that the sulh process offers a favorable setting and atmosphere for parties to settle their differences through open and honest dialogue. It also demonstrates that the process is culturally specific and reflects the Islamic faith as well as the cultural and ethical values of the Muslim communities in northeastern Nigeria.

METHODOLOGY

The study employed qualitative research design, which includes interviewing and documenting procedures for data collection and thematic analysis as an inductive method for data interpretation. In this study, related literature from authored books, peer reviewed journals, conference proceedings, seminar papers and semi-structured interviews are the primary means of collecting data.

A semi-structured interview is a type of interview in which the interviewer asks only a few predetermined questions while the rest of the questions are not planned. The method of individual interviews was chosen for this study because it will be a valid and useful way to examine participants' viewpoints and experiences. The interview respondents were choosing among the habitants of the study area and coded as MMC which stand for Muslim Married Couples, CRL which stand for Community Religious Leaders and GMC which stand for Guardian of Muslim Married Couples

RESULTS AND FINDINGS

Concept of Islamic Mediation (As-Sulh)

1. Classical Arabic lexicographers agree that the word derives from the Arabic root words "*saluha*" or "*salaha*" in the linguistic sense. It is regarded as a way to achieve an agreed-upon out-of-court solution by restoring justice amicably

among disputants and signifies to be good, right, proper, suitable or the process of restoring or reconciling.¹³

2. It is a contract for the settlement of a dispute by consent, which results in the conclusion of a contract by offer and acceptance. Any person who is arbitrating between the disputing parties whether a judge (*qadi*) or an arbitrator (*hakam*) has an obligation to uphold this contract.¹⁴
3. In any type of dispute settlement, *sulh* is the desired outcome and method. In addition, Islamic law favors arbitration over adjudication. The main goal of dispute resolution is collectivity in tribal and Islamic civilizations.¹⁵
4. Sulh is a legal tool that can be used by judges in their courtrooms or by reconciliatory boards in their conference rooms to resolve current and pending disputes involving disputants. It is not only intended for private conciliation between individuals and groups as an alternative to litigation.¹⁶ Thus, Sulh is part of every dispute resolution mechanism in Islam.
5. Many people assume that *sulh* is only applicable in civil cases. Nevertheless, in Islamic law, *sulh* is also applicable in criminal cases particularly in homicide and bodily injury cases. Allowing the parties to settle on their own terms with little normative restrictions is a crucial component of this attitude. In general, such a framework can be accepted by both the Islamic systems and 'secular' system called ADR.

Concept of Alternative Dispute Resolution (ADR)

1. Alternative dispute resolution is a process for settling a disagreement that avoids involving the authorities concern by allowing the parties to develop a final action plan that is accepted by all parties.¹⁷

¹³ Zuhili, W. M., & Al-Zuhayli, W. (1989). *Al-Fiqh Al-Islami wa-Adillatuh*. Dar Al-Fikr Al-Mouaser.

¹⁴ D Serrano, Bringing arbitration (*taḥkīm*) and conciliation (*ṣulh*) under the *qāḍī*'s purview in *Mālikī al-Andalus* (10th to 12th centuries CE). *Revue des mondes musulmans et de la Méditerranée*, 140 (140) 2016.

¹⁵ A Al-Ramahi, *Sulh: A Crucial Part of Islamic Arbitration*. Book. (2008).

¹⁶ N.A Welsh, *Making Deals In Court-Connected Mediation: What's Justice Got To Do With it*. Wash. ULQ, (2001).hlm. 787.

¹⁷ V.H Maru, *Access to justice and legal empowerment: a review of World Bank practice*. World Bank Justice and Development Working Paper, (2009), (9).

2. The phrase "alternative dispute resolution" or "ADR" is widely used to describe a broad range of conflict resolution strategies that are either a complement to or a replacement for conventional judicial processes.¹⁸
3. The term can refer to anything from facilitated settlement conversations in which parties to a dispute are encouraged to directly communicate with one another before engaging in any other legal process to small trials that closely resemble courtroom proceedings.¹⁹
4. ADR encompasses procedures designed to lessen interpersonal conflict or help with problems relating to community development. It is a system that can be broadly categorized into the following three groups: negotiation, conciliation/mediation, and arbitration systems.²⁰
5. All means of resolving conflicts other than via litigation are referred to as alternative dispute resolution (ADR), which includes arbitration.²¹
6. Although there has historically been opposition to ADR, it has recently won over both the general public and the legal community. While local arbitration rules often do not permit arbitration to affect a divorce on its own, they frequently permit arbitration to resolve ancillary issues (such as asset division, child custody, and support) that arise from a divorce.

Marriage in Islamic Perspectives

1. Allah has established marriage as an institution, and it holds a special place in our culture.²²

¹⁸ Idris, A.H. (2017). The Use of Alternative Dispute Resolution (Sulh) in Sharia Cases. The National workshop for Area/Sharia/Customary Court Judges/Directors and Inspectors of Area/Sharia/Customary Courts, 3rd-5th April, 2017.

¹⁹ , W. M Zuhili and W Al-Zuhayli, *Al-Fiqh Al-Islami wa-Adillatuh. Dar Al-Fikr Al-Mouaser.* (1989).

²⁰ M.M Rahman, Islamic Perspective of Alternative Dispute Resolution (ADR). *Journal of Asian and African Social Science and Humanities*, (2018). 4(2) 2018, hlm. 28-44.

²¹ M.M Keshavjee, Islam, *Sharia and Alternative Dispute Resolution. Islam, Sharia and Alternative Dispute Resolution*, (2013).hlm. 150.

²² T. A L Aremu, Aladire, M. J. I., & Sikiru, A. L, An Assessment of Independent Shari'a Panel (ISP) and Its Roles in Resolving Marital Conflicts in Osun State of Nigeria. *Al-Ahkam*, 32(2) 2022, hlm. 233-252

Kumari, P. Alternative Dispute Resolution (ADR). (2020). Available at SSRN 3626625.

2. Marriage is a relationship between a man and a woman that endures for the entirety of each person's life, as well as a social framework that fosters cooperation and interaction between two families.²³
3. To put it in another way, marriage is based on a man and a woman agreeing to live as husband and wife. Hauwa'u and Adam were lifelong partners, therefore a perfect marriage should stay intact, whole, and unbroken.²⁴
4. Islam views marriage as a social and legal arrangement designed to deepen and broaden family ties. It starts with a search for a compatible spouse and is solemnized with a marriage contract, which establishes the social unit and is the only permitted setting for men and women to share intimate relations.²⁵

Historical Background of Islamic Mediation (As-Sulh)

With roots in pre-Islamic Arabia, arbitration and peaceful resolution (*sulh*) have a long history in Arab and Islamic communities. Before Islam, a number of ancient communities, including the Arabs, were familiar with and employed arbitration as a dispute resolution technique. When the Islamic Ummah was founded in *Madina* on the principles of Islamic Sharia, it recognized and embraced, with some adjustments, some of the pre-Islamic techniques for resolving interpersonal conflicts.

Traditionally, there has been a cultural partiality in the Arabic mentality to settle disputes confidentially through different forms of ADR which include negotiations, arbitration, mediation, and reconciliation rather than public court process. In addition to the structure of the society, this trend has historical roots that go back to the pre-Islamic era or, what it is called in Arabic, *Al-jahiliyah*.

²³ Muhammad, A. A. (2020). Steps to Legal Divorce: A Lasting Solution to Rampant Divorce Among Contemporary Muslim Couples. *Al-Nebras International Academic Journal*, Sule Lamido University Kafin Hausa, Jigawa State, Nigeria, 4th Edition Vol.2. Al-Mihbara Publishing Company. ISSN: 2705-1501 Online, ISSN: 9876-5432 Print. (2020). hlm. 189-206.

²⁴ Muhammad, A. A., & Babangida, B. (2020). Interaction between Culture and Islam on Divorce in Akko LGA of Gombe State. *Journal of University Scholars in Religions (JUSREL)*, ISSN: 2315-5884. (2020).2 (8). hlm. 8-16

²⁵ Muhammad, A. A., Idriss, I. D., Ardo, A. M., Mashema, B. L., & Khan, H. (2023). Alternative Dispute Resolution (As-Sulh) as a Principle of Islamic Legal System on Marriage Conflicts Among Muslim Ummah. *FITRAH: Jurnal Kajian Ilmu-ilmu Keislaman*, (2023). 9(1), hlm. 185-200.

Different tribal ruling systems ruled Arabia at that time, and there were no laws or oversight organizations.

Even the tribal leader did not have complete authority to control interpersonal conflicts.²⁶ As a result, the primary methods for resolving conflicts were retaliation and war; although, it has been stated that individuals and tribes made use of arbitration and other dispute settlement systems, usually after battle had been exhausted.²⁷

Sulh, another name for conciliation and peacemaking, was a practice that predated Islam. Within the context of tribal Arab culture, chieftains (*sheikhs*), sorcerers and healers (*kuhan*), and strong noblemen played a crucial role as arbiters in all disputes within the tribe or between rival tribes.²⁸

Al-Ya'qoubi, a renowned Arab historian who lived in the 10th century, asserted that because the pagan Arabs had neither religion nor rules to control their lives, they hired arbitrators to resolve their conflicts in the past. So, they used to choose an arbitrator with the traits of honor, honesty, maturity, and knowledge whenever there was a dispute over blood, water, pasture, or inheritance.

There were several well-known arbitrators throughout the *Jahiliyya* period, including Abdulmuttalib bin Hashim, the grandfather of the Prophet Muhammad (p.b.u.h), *Aktham bin Saifi*, *Hajjeb bin Zurarah*, *Al-akra'a bin Habis*, and *Hajjeb bin Zurarah*. There were also prominent female arbitrators like *Sahar bint Loukman*, *Jam'abint Habis*, and *Hind bint Alkhas*. Even the Prophet frequently served as an arbiter in conflicts that arose between different tribes and residents.²⁹

Alternative conflict settlement methods were widely used in pre-Islamic times. Most significantly; the controversy that arose after the *Ka'abah* restorations

²⁶ P. Kumari, *Alternative Dispute Resolution (ADR) 2007*.

²⁷ M. Hamidullah, *Administration of Justice in Early Islam.*, 1937

²⁸ A Al-Ramahi, *Sulh: A Crucial Part of Islamic Arbitration*. Book, 2008.

²⁹ J.J Saunders, *A history of medieval Islam*, (Routledge, 2002)

were finished was settled through arbitration. And the Prophet Muhammad (p.b.u.h) himself served as the arbiter. There is a disagreement among the tribes over who will put the Black Stone back in the *Ka'ba* after it has been renovated. This tremendous honor was something that no clan head wanted to give to another clan. The Prophet Muhammad (p.b.u.h) avoided a potential conflict between the *Quraysh* tribes by arbitrating that disagreement successfully.³⁰

After the *Ka'bah's* walls had been repaired, it was time to set the Black Stone (*Alhajar al Aswad*) on the southeast corner of the structure. Arguments sprang out about who would get the privilege of replacing the Black Stone. The oldest man in Mecca, Abu Umayyah, intervened to stop a dispute over this problem by suggesting that the decision be made by the first man to approach the mosque's gate in the following morning.

Prophet Muhammad (p.b.u.h) was that person and the announcement read "This is Muhammad" was received with joy by the populace. When Prophet Muhammad (p.b.u.h) approached them, they responded, "We accepted him as arbitrator," and they asked him to make a decision, and He accepted the offer by inviting the elders as well as the leaders of each of the disputing parties took hold of one edge of the cloak and transported the Black Stone to its location after Prophet Muhammad presented a solution that was accepted by all. The stone was subsequently lifted up by the Prophet and positioned against the *Ka'bah's* wall.³¹ The aforementioned instance highlights the key characteristics of arbitration at the time, which are:

1. Arbitration agreements were simple and spontaneous,
2. The agreement was not in writing,
3. Arbitration was similar to conciliation because the purpose behind the whole process was to reach an agreement and settle the dispute by any amiable solution, not to give a binding judgment.

³⁰ S Al-Ammari & A Timothy Martin, Arbitration in the kingdom of Saudi Arabia *Arbitration International*, 30(2) 2014, hlm. 387-408.

³¹ S Al-Ammari & A Timothy Martin, Arbitration In The Kingdom..., hlm. 387-408.

Arab tribes developed a process to recognize and settle disputes that threatened societal stability long before Islam was introduced.³² Due to the lack of an independent judicial system or traditional court system in those early days, people relied on the tribal chief to settle their conflicts because there was no official institution in place to do so. The tribe leader administers his point of view or the decision for the disagreement, appropriately with the tribal law which is founded on unwritten laws and tribal traditions.

Soothsayers, astrologers, tribal *sheikhs* and healers (*kuhhaan*), as well as powerful nobles, had a vital role as arbiters in any disputes within the tribe or between neighboring tribes in the structure of tribal Arab society.³³ The authority and stature of those men served as sanctions for their verdicts and their verdicts are based on their tribal laws. Tribal law is built upon two basic principles:

1. The principle of collective responsibility; and
2. The principle of retribution or compensation.

The goal of tribal law is to restore the balance between the offending and offended families and tribes, not just to punish the perpetrator. Prior to Islam, both the use of arbitration and the enforcement of the verdict were optional. An essential need for the legitimacy of the arbitral award was the participation of the parties to the dispute at the hearings.

Apart from a few specific conventions, such as the requirement to hear the disputing parties equally and to take the tribe's customary laws into consideration when assessing the evidence put up by the parties, arbitrators were not bound by any specific procedural procedures.³⁴

In the pre-Islamic era, parties had the option and were free to choose whether or not to use arbitration. Instead of a formal court system, it depended on

³² Hak, N. A., Sa'odah Ahmed, & Oseni, O. A. (2013). *Alternative Dispute Resolution (ADR) in Islam*. IIUM Press.

³³ B. Clinton, *Law From Sinai And Negev: Justice Without Government*, (2009), hlm. 12-13.

³⁴ M.Z Islam, "Legal Enforceability Of Adr Agreement" *International Journal of Business and Management Invention* 2(1) 2013, hlm. 40-43

tribal justice that was overseen by the tribe's chief and reliable people. In many modern systems, including international trade, family disputes, consumer protection, disputes arising in Internet environments, electronic commerce, and intellectual property in the digital age, and other disputes, alternative dispute resolution (ADR) has evolved into an appropriate method of adjudication.³⁵

Islam is unique in that, it has a codified set of laws that govern and manage society in both its behavioral elements and its relationships with the state. Islam has an equitable economic system, a balanced social structure, and civil and criminal norms. The foundational principles of Shariah (Islamic law) are divided into two categories: first, the rules governing *ibadat* (devotion to rites), which are prescribed by God and explicated by the Prophet, and second, the laws regulating other matters, such as civil transactions and governmental affairs.³⁶

Regarding the aforementioned occurrences, there is no question that Arabs used ADR techniques and ways of rapprochement prior to Islam or during the *Jahiliyya* era. Some of those techniques have been acknowledged and approved by Islamic Shariah, with some changes.

Procedures and Conditions of Islamic Mediation (As-Sulh)

The credibility and status of the arbitrator within society are totally necessary for an arbitral award to be upheld. To ensure that an award was followed by the parties, arbitrators utilized persuasive techniques, such as making an award simple to understand and persuading the offender that his actions were wrong. Arbitral proceedings were a useful tool for settling disagreements and promoting harmony between opposing parties. The parties' attendance at the hearing was required by the arbitrators as a requirement of the arbitration's legality. The arbitration process depended on the claimant establishing his case and the respondent relying on his oath to support his defense.³⁷

Islamic law provides a variety of options for settling interpersonal disputes, including private reconciliation or settlement, arbitration, and judicial

³⁵ S.K Rashid, S. K. *Alternative Dispute Resolution In Malaysia*, (Kulliyyah of Laws, IIUM, 2000).

³⁶ Al-Ramahi, A. (2008). *Sulh: A Crucial Part of Islamic Arbitration*. Book. (2008).

³⁷ O Al Jazy, *Some Aspects of Jurisdiction in International Commercial Arbitration*, (University of Kent (United Kingdom), 2000).

adjudication. Everybody in a relationship, including couples, has personal and individual differences in their opinions, values, needs, desires, aspirations, backgrounds, and upbringings. If these differences are not managed effectively, they can cause friction and criticism, which, if unchecked, can result in violence, conflict, serious disagreement, and even the separation or divorce of the couples. As a result, this offers a chance to incorporate these Shariah-based tactics into the local legal system.³⁸

Islam attaches a special sacredness to collective action, leading to the obligation placed on anybody appointed to settle a dispute between parties to first and foremost attempt to bring the parties together. The *Qur'an* urges parties to settle their disagreements through *sulh*:

“Reconciliation between them and reconciliation is better.”

And in another verse Allah said:

“If two parties among the Believers fall into a quarrel, make ye peace between them . . . make peace between them with justice, and be fair: For God loves those who are fair and just”.

The Prophet Muhammad (p.b.u.h) also insisted on *sulh* and said it was more rewarding than fasting, praying and offering charity. The Prophet encouraged compromise and mediated.

Relevance of Islamic Mediation (As-Sulh) for Settling Marital Disputes in Northeastern Nigeria

Popular features of the Islamic legal system include Islamic mediation (*as-Sulh*). It is derived from the *Qur'an*, just like other aspects of Islamic law, and the foundation of *sulh* is drawn from the *Qur'an*:

“If two parties of the believers happen to fight, make peace between them. But then, if one of them transgresses against the other, fight the one that

³⁸ A.A Muhammad, dkk, “Alternative Dispute Resolution (As-Sulh) as a Principle of Islamic Legal System on Marriage Conflicts Among Muslim Ummah” *FITRAH: Jurnal Kajian Ilmu-ilmu Keislaman*, (2023). 9(1), hlm. 185-200.

breaks until it reverts to Allah's command. And if it does revert, make peace between them with justice, and be equitable for Allah loves the equitable. The believers are but one brotherhood, so make peace between your brothers. And be mindful of Allah so you may be shown mercy.” (Q49: 9-10).

The above two verses strongly supported the application of *as-Sulh* for dispute settlement among two warring parties and the essential aspect of doing that justly.

In another verses, Allah also explains *as-Şulh* (reconciliation) in Islam as reliable means of solving marital disputes; Allah Said:

“If a woman fears indifference or neglect from her husband, there is no blame on either of them if they seek ‘fair’ settlement, which is best. Humans are ever inclined to selfishness. But, if you are gracious and mindful of Allah, Allah is All-Aware of what you do.” (Q4:128).

In another verse where Allah (S.W.T) Said:

“If you anticipate a split between them, appoint a mediator from his family and another from hers. If they desire reconciliation, Allah will restore harmony between them. Indeed, Allah is All-Knowing, All-Aware.” (Q4:35).

To assist them in resolving conflicts, the tribes' boys were trained to refer to their chiefs. From an early age, this was ingrained in their attitudes. To address conflicts with his family or other relatives, the young child turned to his father. As a result, the father served as a liaison between the son and his kin. As the youngster grows older, he begins to refer to his family's elders as well, whether they are uncles or cousins, and as a result, everyone gets accustomed to lending a hand.

Everyone comes together to support their tribal boy in times of need. Tribal members are accustomed to the arbitration of the father for his sons, as well as the arbitration of the relatives and the *sheikh* for the members. The tribe members often only refer to their spiritual leaders in complex and serious conflicts.³⁹

The word "*wasta*" literally means "the middle," and it is related to the verb "*yatawassat*," which means to guide parties toward a compromise or middle

³⁹ M.Z Islam, "Legal Enforceability Of Adr Agreement...", hlm. 31-36.

ground. *Wasta* is used to describe both the act and the one who mediates or makes an appeal. Since its founding, *Wasta* has been a fixture in Arab society. The role of an intermediary in preventing retaliation in interpersonal or intergroup conflict was crucial to its tribal origins.⁴⁰

The effectiveness of tribal mechanisms in containing disputes can be attributed to a 'complex system of special customs and regulatory procedures within each group'⁴¹

Series of interviews were conducted in some selected communities within the region to gather different opinions.

"The life of an individual is regarded as a component of communal life; as a result, the individual and the collective are regarded as one and the same. Any assault on an individual is therefore viewed as an assault on the group, and vice versa. When one person hurts another, the offender's entire tribe is held accountable. The entire offender's tribe, not just the individual, is targeted when the outraged tribes demand restitution or vengeance. Therefore, anything bad can happen without proper mediation, which would have an impact on the entire society."

The main objective of these third parties was conciliation and the maintenance of harmony. Some arbitrators would go to a great extent to produce the necessary compensation or inducement out of their own pockets in order to persuade the feuding parties to agree to a *sulh*.⁴²

Sulh contract must include a number of essential elements in order to be regarded as legally binding under Islamic law. These fundamentals include *Al-Musalih Bihi/Badl as-Sulh* is the thing provided for the Sulh/Consideration, *Al-ijab* (offer), and *Al-Qabul* (accepted), *Al-Musalih Lahu* (one who declares a

⁴⁰ R Cunningham & Y.K Sarayrah, , *Wasta: The hidden force in Middle Eastern society*. (London: Praeger, 1933).

⁴¹ A.S.S Oweidi, *Bedouin Justice In Jordan (The Customary Legal System Of The Tribes And Its Integration Into The Framework Of The State Policy From 1921 Onwards)*, (Doctoral Dissertation, University of Cambridge, 1982)

⁴² A. S. S. Oweidi, *Bedouin Justice In Jordan (The Customary Legal System Of The Tribes And Its Integration Into The Framework Of The State Policy From 1921 Onwards)*, (Doctoral dissertation, University of Cambridge, 1982).

claim), *Al-Musalihu Alaihi* (the person that the accusation is made against), and *Al-Musalih Anhu* (the subject-matter for the claim) among others.⁴³

CONCLUSION

In conclusion, Islamic mediation *as-Sulh* offers a viable and practical approach to settling marital disputes among Muslim couples in Northeastern Nigeria. It ensures a fair and equitable resolution for both parties and helps the couple to cultivate better communication and understanding, while maintaining marital harmony and family stability. The study concluded that the use of Islamic Mediation *as-Sulh* is an effective and efficient mechanism of ADR for settling marital disputes among Muslim couples.

The study further recommended the training and retraining of Islamic scholars on the principles and practices of *Sulh*, and the establishment of well-structured and recognized *Sulh* mediation centers in Northeastern Nigeria to enable the effective implementation of the *Sulh* process.

REFERENCES

- Aremu, T. A. L., Aladire, M. J. I., & Sikiru, A. L. An Assessment of Independent Shari'a Panel (ISP) and Its Roles in Resolving Marital Conflicts in Osun State of Nigeria. *Al-Ahkam*, (2022), 32(2).
- Al-Ramahi, A. *Sulh: A Crucial Part of Islamic Arbitration. Book.* (2008).
- Al-Ammari, S., & Timothy Martin, A. Arbitration in the kingdom of Saudi Arabia. *Arbitration International*, (2014), 30(2).
- Al Jazy, O. *Some aspects of jurisdiction in international commercial arbitration. University of Kent (United Kingdom).* (2000).
- Al-Ramahi, A. Wasta in Jordan:: A Distinct Feature of (and Benefit for) Middle Eastern Society. *Arab Law Quarterly*, (2008). 22(1).
- Clinton, B. Law from Sinai and Negev: Justice without government, (2009).
- Cunningham, R., & Sarayrah, Y. K. Wasta: The hidden force in Middle Eastern society. (1993). (*London: Praeger, 1.*)
- Hak, N. A., Sa'odah Ahmed, & Oseni, O. A. Alternative Dispute Resolution (ADR) in Islam. *IIUM Press.* (2013).
- Hamidullah, M. Administration of Justice in Early Islam. (1937).
- Islam, M. Z. Provision of Alternative Dispute Resolution Process in Islam. *Journal of Business and Management*, (2012). 6(3).

⁴³ A.H Idris, Use of Alternative Dispute Resolution (Sulh) in Sharia Cases. The National workshop for Area/Sharia/Customary Court Judges/Directors and Inspectors of Area/Sharia/Customary Courts, 3rd-5th April, 2017.

- Islam, M. Z. Legal enforceability of ADR agreement. *International Journal of Business and Management Invention*, (2013). 2(1)
- Idris, A.H. The Use of Alternative Dispute Resolution (Sulh) in Sharia Cases. The National workshop for Area/Sharia/Customary Court Judges/Directors and Inspectors of Area/Sharia/Customary Courts, 3rd-5th April, 2017.
- Kitab al-Aghani, Bulaq, 1285, vols. II.
- Keshavjee, M. M. Islam, Sharia and Alternative Dispute Resolution. *Islam, Sharia and Alternative Dispute Resolution*, 2013.
- Kumari, P. Alternative Dispute Resolution (ADR). (2020). Maru, V. H. Access to justice and legal empowerment: a review of World Bank practice. *World Bank Justice and Development Working Paper*, (2009), (9).
- Muhammad, A. A. Steps to Legal Divorce: A Lasting Solution to Rampant Divorce Among Contemporary Muslim Couples. *Al-Nebras International Academic Journal, Sule Lamido University Kafin Hausa, Jigawa State, Nigeria*, 4th Edition Vol.2. Al-Mihbara Publishing Company. ISSN: 2705-1501 Online, ISSN: 9876-5432 Print. (2020).
- Muhammad, A. A., & Babangida, B. Interaction between Culture and Islam on Divorce in Akko LGA of Gombe State. *Journal of University Scholars in Religions (JUSREL)*, ISSN: 2315-5884. (2020).2 (8).
- Muhammad, A. A., Idriss, I. D., Ardo, A. M., Mashema, B. L., & Khan, H. Alternative Dispute Resolution (As-Sulh) as a Principle of Islamic Legal System on Marriage Conflicts Among Muslim Ummah. *FITRAH: Jurnal Kajian Ilmu-ilmu Keislaman*, (2023). 9(1).
- Othman, A. " And Amicable Settlement Is Best": Sulh and Dispute Resolution in Islamic Law. *Arab Law Quarterly*, (2007). 21(1).
- Oweidi, A. S. S. Bedouin justice in Jordan (the customary legal system of the tribes and its integration into the framework of the state policy from 1921 onwards) (*Doctoral dissertation, University of Cambridge*). (1982).
- Rashid, S. K. Alternative dispute resolution in Malaysia. *Kulliyah of Laws, IIUM*. (2000).
- Rahman, M. M. ISLAMIC PERSPECTIVE OF ALTERNATIVE DISPUTE RESOLUTION (ADR). *Journal of Asian and African Social Science and Humanities*, (2018). 4(2).
- Saunders, J. J. A history of medieval Islam. *Routledge*. (2002).
- Serrano, D. Bringing arbitration (taḥkīm) and conciliation (ṣulḥ) under the qāḍī's purview in Mālikī al-Andalus (10th to 12th centuries CE). *Revue des mondes musulmans et de la Méditerranée*, (2016). (140), vol-140.
- Welsh, N. A. Making deals in court-connected mediation: What's justice got to do with it. *Wash. ULQ*, (2001). 79.
- Zarosylo, V., Kaplya, O., Muraviov, K., Myniuk, D., & Myniuk, O. Application of forms of alternative dispute resolution in Ukraine. *Brazilian Journal of Alternative Dispute Resolution-RBADR*, (2022). 4(7).
- Zuhili, W. M., & Al-Zuhayli, W. Al-Fiqh Al-Islami wa-Adillatuh. *Dar Al-Fikr Al-Mouaser*. (1989).