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ИСЛОМДА АРБИТРАЖ (ТАҲКИМ) ВА МУРОСА (СУЛҲ) - НИЗО БАРТАРАФ ЭТИШНИНГ МУҚОБИЛ УСУЛЛАРИ

АРБИТРАЖ (ТАХКИМ) И ПРИМИРЕНИЕ (СУЛХ) В ИСЛАМЕ КАК АЛЬТЕРНАТИВНЫЕ МЕХАНИЗМЫ РАЗРЕШЕНИЯ СПОРОВ

ARBITRATION (TAHKIM) AND RECONCILIATION (SULH) IN ISLAM AS ALTERNATIVE DISPUTE RESOLUTION MECHANISMS

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АННОТАЦИЯ: Ушбу ишдан кўзланган асосий мақсад Ислом асосида низо ҳал этишнинг муқобил усулларига бўлган эҳтиёжни кўрсатиш ва усул қўлланмаларининг фойдалари юзасидан таҳлилларни тақдим этишдир. Муқобил усулларнинг расмий литигацияларга нисбатан эътирофнинг юксалиши ва бу соҳадаги муаммоларга Ислом нуқтаи назаридан мурожаат этилиши кўзда тутилган низолар сони ўсаётгани сабаб мазкур иш бажарилди. Усулларнинг кенг миқиёсида фойдаланишга кириши йигирманчи асрнинг иккинчи ярмидан буён узлуксиз кенгайиб бормоқда. Бир ярим асрлик қонуний институционализация қилинган арбитраж маҳкама (таҳким) ва муроса (сулҳ) асосларини, ва Исломий усуллар ёки муқобил усулларни тарихий ва бугунги ишончли далиллар билан таҳлил ва тақдим қилиш ишнинг мақсадидир. Усулларнинг исломий табияти ва тамойиллари баъзи Қуръон оятлари ва ҳадислар билан асослантирилади. Қолаверса, терминнинг маънолари ва қўлланилиши замонавий истилоҳлар билан баён қилинади ва солиштирилади. Юкланилган вазифадан яна бир мақсад, терминларни классик маъноларини тақдим қилиш ва замонавий маъноларини солиштириш; у билан механизмларнинг ёрдамчи ечим сифатида мослашувчан инеграцияси, киришимлилиги ва баъзи ҳолларда суд платформасига нисбатан энг муносиб танлов эканлигини ёритиб беришдир. Ислом қонунларининг бой тажрибаси, доктриналари ва кўп сонли маҳаллий ва халқаро кейс стадиларининг мавжудлиги мавзуни ёритишда таклиф қилинди. Шу билан бирга, муқобил усулларга оид статистик кўрсаткичлар, айниқса исломга оидлари, расмий судларсиз, қонуний асосларда низоларни ҳал этиш йўлларини кўрсатиш мақсадида муҳокама қилинди. Кенг, бой ва комил ислом тажрибаси низо ҳал этиш дунёсида энг муҳим қўлланма эканлиги аниқдир.

Калит сўзлар: *Ислом, арбитраж маҳкамаси, таҳким, муроса, сулҳ, фиқҳ*

АННОТАЦИЯ: Основная причина этой работы - проиллюстрировать существующую потребность в исламских методах альтернативного урегулирования споров (АУС) и предложить существенный анализ, чтобы показать преимущества их применения. Эта работа выполняется в связи с ростом глобального признания АУС в отличие от официальных судебных разбирательств и проблем в этой области, которые должны решаться с точки зрения Ислама. Широкое употребление этого термина стало непрерывно расти только после второй половины 20 века. Данная работа намерена ознакомить с полуторовековой историей узаконенного арбитража (Тахким) и примирения (Сулх), исламских средств или способов альтернативного урегулирования споров, путем представления и анализа некоторых надежных исторических и текущих свидетельств. В поддержку исламского характера и основы АУС будут представлены несколько коранических аятов и пророческих хадисов. Кроме того, необходимо обсудить значения и применения терминов и противопоставить их с современными понятиями. Определяя классические термины и сопоставляя их с их текущим положением, эта работа намеревается доказать успех гибкой интеграции и адаптации механизмов в качестве помощника, или в некоторых случаях, более благоприятного выбора для вынесения судебного решения. Это сделано для того, чтобы предложить богатый опыт исламских правовых законов, доктрин и огромное количество тематических исследований местного и международного характера, на который всегда можно ссылаться. Кроме того, будут обсуждены некоторые признаки текущего применения АУС, особенно исламских, чтобы показать способ решения конфликтов вне зала суда, не выходя за рамки современных правовых рамок. Богатый, обширный и зрелый исламский юридический опыт определенно будет жизненно важным ориентиром в мире разрешения конфликтов.

Ключевые слова: *Ислам, арбитраж, тахким, консилиация, сулх, фикх*

ABSTRACT: The main reason behind this work is to illustrate the current need for Islamic alternative dispute resolution methods and offer analysis to show the benefits of their applications. There has been a vivid rise in ADRs' recognition globally as a substitute for litigation and related issues that would be better if addressed with an Islamic perspective. The wide usage of the term has been intensified uninterruptedly after the second half of the 20th century. This paper intends to introduce a 1,5-century-year-old background of legally institutionalized arbitration

(Tahkim) and reconciliation (Sulh), Islamic means or ways of alternative dispute resolution. I will show it by presenting and analyzing some reliable historical and current shreds of evidence. A few Quranic ayas and prophetic hadiths will prove the Islamic nature and foundation of ADRs. The paper contains some discussions of meanings and applications of terms and differences of the contemporary. There is a part that defines classical terms and matches them with their current standings to prove the success in flexible integration and adaptation of the mechanisms as an assistant, or in some cases, more favorable choice to adjudication. It tries to offer the rich experience of Islamic legal laws, doctrines, and several case studies of local and international nature that can easily be accessed. Besides, some indications of current applications of ADR, especially Islamic ones, will be discussed to show the way of solving conflicts outside the courtrooms without leaving today's legal frameworks. Rich, vast, and mature Islamic legal experience will be a vital guideline in the world of conflict resolution.

Key words: *Islam, arbitration, tahkim, consiliation, sulh, fiqh*

Introduction

In Islam, arbitration is one of the many methods of solving disputes. It can be seen, in a contemporary manner, as an alternative to litigation. Although being an alternative to adjudication and becoming a fresh global term of the 20th century, arbitration has been revolutionized as a legal tool and fully practiced since the introduction of Islam in 610 CE (Foty 2015). A voluntarily selected option to be outside the court's platform or avoiding pre-fixed formalities is Islamic arbitration's essential principle. By choosing arbitration, conflicting parties mutually agree on submitting their case to single or more arbitrators or arbiters through whom they receive a binding decision (Ladapo 2009).

Research Methodology

The research methodology is qualitative and based on, mainly, textual and a little bit of statistical data. The work is around three domains. At first, it explains the terms, proves the meanings, shows that dispute resolution alternatives exist in primary sources of Islam. The next is finding out how, currently, Islamic arbitration (Tahkim) and reconciliation (Sulh) are functioning (schools, working parties, arbitrators, institutions, participants, states), taught, practiced, and manipulated. The last is illustrating modern applications through which readers can see the benefits. Before diving into counting the cons of arbitration in Islam, the paper will give clarifications, explanations, and definitions of main terminologies related to overall arbitration and reconciliation. I will use recognized bilingual dictionaries and encyclopedias for meanings, and to prove the meanings from the Islamic side, I will present, from the Quran, shreds of evidence carrying those notions. After explaining the terms' existence in Islam, for example, some cases from the prophet Muhammad (s.a.w.) and caliphs' life are presented. The paper contains a list of other Islamic mechanisms of ADR and, for tahkim and sulh, it includes conceptions on the scope, borders, limits, and advantages. Different local and international materials such as books, academic journals, dictionaries, and encyclopedias from libraries and electronic data-bases are referred, covered, compared, and contrasted in this paper.

Main part

There are two words in Arabic used frequently to refer to arbitration – *tahkim* and *sulh*. *Tahkim* is derived from the root *hkm* and means the involvement of another person. That person is an arbiter - *hakam* or *muhakkam.* The litigants choose the arbiter to solve their conflict and the arbiter makes them a binding decision. There are 209 places in Qur'an that you can see the root of the word *tahkim* in 14 different forms. The term *hakkama* comprises the meanings as *appointing a judge from someone* or *trusting the judgment to somebody else.* One example appears in the 65th ayah of the 4th surah, An-Nisa, in the Qur'an:

"But no, by your Lord, they will not [truly] believe until they make you, [O Muhammad], judge ***(yuhakkimuka)*** *concerning that over which they dispute among themselves and then find within themselves no discomfort from what you have judged and submit in [full, willing] submission."* (Quran.com)

There were two famous traditional pieces of evidence to be pointed out where the word *al-tahkim* surfaces as arbitration of settling conflicts peacefully in public international and civil matters. Both cases took place in the earliest century of the Islamic era – the first was between Muhammad (s.a.w.) and Jewish tribe Banu Qurayza, and the second was the case between Ali Ibn Abi Talib (r.a.) and Muawiya Ibn Abi Sufyan (r.a.). In the first case, Banu Qurayza joined the enemy in the Battle of Ditch broke the promised alliance with the Prophet (s.a.w.). When Muslims won the battle, the Prophet (s.a.w.) sent Ali (r.a.) to question the reason for their betrayal, but they replied by insulting Ali (r.a.). Once Banu Qurayza understood that they were unable to stand against Muslims, they agreed to submit the matter to Sa'd ibn Mu'adh (r.a.) to arbitrate and the Prophet (s.a.w.) agreed. The award of Sa'd (r.a.) was in according to Deuteronomy 20:10-18 of the Bible. Given that Jews had won the battle in which they would have killed men,

women, and Muslims' children (Mirza 2013). However, Sa'd (r.a.) had issued a much softer award to the Jews according to their law, the law of the Prophet Moses (a.s.) (PACE 2016). The second example of the arbitration held was after an inconclusiveness of a four-month war called the Battle of Siffin (36 A.H. - 657 A.D.), which was occurred during the first Muslim Civil War (36-40 A.H. / 656-61 A.D.) (PACE 2016). The conflict was due to the fitnah that started after the assassination of the 3rd Caliph - Uthman ibn Affan (36 A.H. / 656 A.D.) (Wilferd 1997). In the end, the last Rightly Guided four caliphs - Ali (r.a.) and the first Umayyad caliph of the coming future -Muawiya (r.a.) mutually accepted to submit their disputes to arbitration to cease skirmishing conflicts (Esposito n.d.). Muawiya (r.a.) designated Amr Ibn al-As; and Ali (r.a.) appointed Abu Musa al-Ashari to be an arbiter for him under the impulse of the faction of qurra (Quara'n readers). After a course of discussions of arbitrators in *Adhruh* (38 A.H. / 659 A.D.), Amr convinced Abu Musa to depose both opponents and let the Muslims elect a new caliph through popular election *(shura)* to restore the peace (Majid 2010). When Abu Musa announced his agreement of removing Ali (r.a.), Amr tricked by continuing his support of Muawiya (r.a.) without following mutual agreement. It was unjust, and thus, Ali (r.a.) did not accept the final decision, and the battles had continued by the time he was assassinated by Ibn Muljam; one of the Kharijites, in Kufa, in 661 C.E., in Ramadan 40/24 (Chakmak 2017).

Sulh, diverted from the root *salaha*, was another Arabic word that you would use when referring to arbitration, which contains, mainly, the idea of *reconciliation*. In the Qur'an, the word contains the meaning of a settlement made through peace and, or negotiation (Bassiouni 1988). One of the many Qur'anic references of the sulh is in the 128th ayah of the 4th surah, An-Nisa:

"And if a woman fears from her husband contempt or evasion, there is no sin upon them if they make terms of settlement ***(sulhan)*** *between them - and settlement is best. ..."* (Quran.com n.d.)

Along with declaring the permission of using conciliation, the moral connotation of the ayah contains a positive motivation by illustrating a high degree of recommending reconciliation. The word *islah*, the number four form of the verbal noun has the meaning of bringing order (consequently restructuring) by reconciliation.

Tahkim and sulh are the terms that are well-treated in *fiqh* – the legal doctrine of Islam. Firstly, when it comes to scholarly definitions of the word tahkim, *it is a process through which parties mutually agree to appoint a third person to act as an arbitrator of the conflicting case between them.* The concept has been used actively since the creation of societies. It has tried to solve conflicts informally and has been favored almost by any nations under different names, definitions, or using another order of procedures interchangeably (Martin 2019). Some claim that the earliest evidence illustrates arbitration cases in ancient Greek history (Harter-Uibopuu 2002). On the other hand, the concept's definition rooted back to the pre-Islamic times when the Arabian Peninsula was well-known to practice tahkim widely to solve their conflicts. In particular, the chief of the tribe, *Naqib,* was usually involved as an arbitrator to solve disputes of other tribes (Othman 2007). One example can be the fierce battle of Dahis and al-Ghabra in between Abs and Fazara tribes settled by Haram Ibn Sinan and al-Hirth Ibn Awf (Ḥilmī 2002). Moreover, many reliable hadiths are stating the Prophet Muhammad (s.a.w.) himself was actively participated in disputes as an arbitrator and, for instance, while he was living in Macca, he accepted the invitation of people from Yathrib, current Madina, to be the arbitrator to solve the conflict between Arabian Tribes and Clans of Jews. Moreover, all Companions of the Prophet (s.a.w.) actively used, recommended, and participated in solving feuds vie this method of dispute resolution, and it existed during the times of Caliphs. Thus, tahkim is an Institution of Islam approved by all Islamic scholars with a consensual agreement (Khalid 2008).

In its ninth session held in Abu Dhabi, UAE, in 1995, The International Islamic Fiqh Academy supported the legitimacy of tahkim (Suwaidi n.d.). The valid process of tahkim requires to meet factors and conditions per the Islamic jurists. First, both parties must have free will and agree on submitting their case to arbitration rather than adjudication to settle their dispute. They need to select an arbiter or the tahkim committee together. They must accept to follow the framework of procedures strictly until the decision is issued. Second, there must be a voluntary action by the conflicting parties, *muhakkimun,* to resort to an arbiter for solving their dispute. Third, by both sides' free-will, one *muhakkam* or more people must be granted the authority of settling their conflict. If we move to the qualifications of arbiters, there are particular requirements. However, different Islamic law schools, *madhahib,* have varied opinions over the rule requiring arbiters to have the same qualifications that judges, *qudat,* possess. Nevertheless, the controversies failed to affect the generally agreed points. That states that the arbitrator should be a trustworthy, just, and fair

Muslim man with a sound mind, full capacity. Most importantly, they must be knowledgeable in overall Islamic doctrine. Fourth, parties have to make an explicit oral agreement to accept the decision of engaging in the arbitration process. They announce their agreement, *sigha,* to the arbiter they chose. It means that they have built a legally binding relationship. Fifth, the case submitted must have a legal resolution in arbitration. According to most Islamic scholars, tahkim can only satisfy the matters that concern individual rights, *huquq al-nas*. Under the Hanafi school, tahkim can equally see all the cases resolved by a sulh only with the exclusion of *qisas* and *hudud* that regards murder retaliations and penalties stipulated in the Qur'an, in turn. However, *Diya* cases considering the amount paid for murder or, in other words, blood money, are not excluded. Sixth, the decision, *hukm*, of the arbiter must be valid. A valid decision principally is made under Sharia. They can issue it while the valid consents of the parties still exist. Furthermore, decision validity requires writing it under the watch of a virtuous and righteous witness. Although most Muslim scholars agree with the decision teched in the arbitration to be protected from future alterations after the issuance, there is an argument that it could reach a judge, *qadi*, for approval or confirmation. It is permissible for any of the conflicting parties to cancel the tahkim by withdrawing their consent to arbitrate until arbitration issues or announces the decision. Additionally, if there is a stipulation of the agreed period concerning the withdrawal, parties may cancel the tahkim process. Other reasons allowing nullification of decisions or negation of the overall process of tahkim are the existence of bribery, fraud, corruption, or other forbidden and unlawful, *haram,* activities and even the presence of errors during the course (Mahdi and Nora 2006). Moreover, according to Ḥilmi, two more cases get the award void and null. The first, if one finds out that the parties have not chosen the arbitrator by their free will. The second, an arbitrator is one of the relatives of one side. Either of these makes the award lose its power.

Secondly, matters regarding sulh are also covered in and part of Islamic fiqh. It is a contractual requirement obliging one or each conflicting side to concede a certain part of their rights (Hallaq 2009). The justice determination without formal courts appears in pre-Islamic times. Othman mentions that one of the famous poems, *muallaqa,* composed by Zuhayr Ibn Salma includes the case in which a mediator attempts to stop a conflict by offering financial incentives from his pocket to disputing parties so that they agree on conciliation. According to the definitions stated in Islamic Jurisprudential Maxims, *conciliation is the most honorable decision*, *al-sulh sayyid al-ahkam*. Furthermore, the Qur''n and Sunnah (Prophetic decision) explain the role of mediators and praises the choice of conciliation as a conflict resolution method. Some examples from the Qur'an are *"...settlement is best. ..." (4/128)* (Quran.com n.d.)*; "The believers are but brothers, so make settlement between your brothers. ..." (49/10)* (Quran.com n.d.)*; "... And if two factions among the believers should fight, then make settlement between the two. ..." (49/9)* (Quran.com n.d.)*; "...No good is there in much of their private conversation, except for those who enjoin charity or that which is right or conciliation between people.. ..." (4/114)* (Quran.com n.d.). Several hadiths are proving that Muhammad (s.a.w.) praised conciliation *(2-2691)*, tried to solve disputes he witnessed using conciliation with his advice *(10-2705)*, even he engaged directly trying to help solve if he saw a conflict on the street *(10-2706)*. Moreover, if he found out from others that someone went into a quarrel with another, he went to them to make a piece without adjudication *(5-2697)* (sunnah.com n.d.). When it comes to Companions and the first Caliphs of the Prophet (s.a.w), one instance shows through Umar Ibn al-Khattab (r.a.) was the second Caliph during 13 and 23 (634-644). He had a strong preference for conciliation to adjudication. His famous latter of commission to Abu Musa Al-Ash'ari (r.a.) is one example for that where it states *"Effecting reconciliation among Muslims is permissible so long as reconciliation does not turn unlawful into lawful and lawful into unlawful."* (Mir 1994) Here the part of the letter regarding not turning unlawful into lawful and lawful into unlawful, Umar (r.a.) decided it following the teachings of the Prophet (s.a.w) *(5-2697)* (sunnah.com n.d.). One more example can be the hadith narrated by Al-Hasan Al-Basri (r.a.) which states that despite possessing the lawful right and much greater power, to avoid bloodshed among Muslims and preserve peace and Muslim unity, the Caliph Al-Hasan Ibn Ali (r.a.) left the post of the Caliphate to Muawiya (r.a.) per the terms of the sulh contract *(9-2704)* (sunnah.com n.d.).

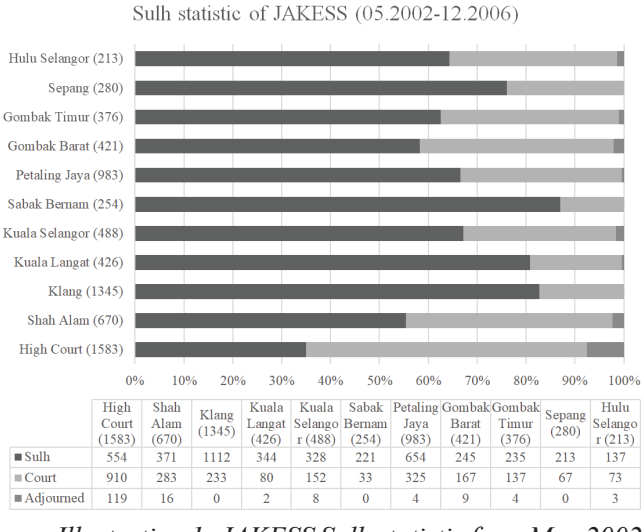
As per fiqh, sulh is a type of a contract, *aqd,* containing an offer, *ijab*, and acceptance, *qabul* (Pely 2016). The subjects of sulh can include matters out of both material and non-material objects. The only restriction is for the cases over commodities that are impermissible as matters involving predetermined interest without considerations, *riba* (Interest n.d.) or uncertainty, gharar (Kenton Will 2019). This rule is by the following hadith narrated by Abu Hurayra (r.a.) *"Conciliation between Muslims is permissible ... except the conciliation which*

makes lawful (halal) unlawful (haram) and unlawful lawful" (24-3594) (Sunnah.com n.d.). The procedure and the result that it brings is sulh. It is allowed to conflicting parties to find a compromise without the judge's supervision, but an agreement as such must hold a condition of being equitable. At the same time, it must not have any contradictions with Sharia's principles. However, the judge can also receive the decision on points that include family matters. Those matters must require divorce when it is impossible to settle without others' involvement who try to reconcile the couples.

The standing and degree of vitality of sulh and tahkim differ based on Islamic law schools. Generally, Hanafi and Shafii doctrinal schools are prone to accept using arbitration and conciliation with amenability to a relatively greater degree than the Malikii school that puts the methods under the judge's supervision. Historical development of the new phenomenon of using formal adjudication to a greater degree than conciliation through several arbitration methods is due to the historical formation of current states and the rising impact of legislation. On the one hand, there is a fairly open space for using arbitration and conciliation under customary law, *urf*, but on the other hand, civil law turns out to have permeability for the effect of the customs.

Unfortunately, the cases held during the pre-twentieth century regarding real matters of conciliation and arbitration are analyzed inadequately. Despite this, a considerable increase in the studies of social practices with comparatively less focus on theoretical doctrines allowed observations to examine to see how these two alternative methods of conflict resolution have been developing in the modern environment of current societies. Arab and Islamic countries have actively paid attention to the legitimacy of arbitration. They, especially, have distinct chapters in the Civil Codes and Commercial Procedures. One example can be UAE who recognized arbitration as an independently functioning system vie Federal Law Number 6 in 2018. Many countries have joined and approved the ratification of the New York Convention (Suwaidi n.d.). Nowadays, conciliation and arbitration practices are held in and, or out of the court tribunal, inside the customary law, civil law, Sharia framework, or inside the border of their mixture. Let's take an example of the Kingdom of Saudi Arabia where they govern tahkim by laws containing the combination of Western principles along with Islamic concepts. However, court judges encourage parties to use sulh only as an optional way of settlement, and the process is held on the corridors of court, sometimes under the watch of the board from the Ministry of Justice. Moreover, in Algeria and Iraq, sulh has formed a political scope having a room inside the border of the national process of reconciliation. In many instances, as is can be seen in commercial arbitrations under the framework of tahkim, principles of *Lex mercatoria* (merchant law) often follow, but referring to Islamic concepts are heard in the background.

In 2002, in the State of Selangor, Selangor Syariah Courts introduced *Majlis Sulh* as a substitute platform in settling disputes amicably that has become the most successful platform in Malaysia to implement sulh procedures. To illustrate the constructiveness of sulh as a method in resolving disputes, the statistics presented by Selangor Syariah Judiciary Department, JAKESS is good evidence.



	High Court (1583)	Shah Alam (670)	Klang (1345)	Kuala Langat (426)	Kuala Selangor (488)	Sabak Bernam (254)	Petaling Jaya (983)	Gombak Barat (421)	Gombak Timur (376)	Sepang (280)	Hulu Selangor (213)
Sulh	554	371	1112	344	328	221	654	245	235	213	137
Court	910	283	233	80	152	33	325	167	137	67	73
Adjourned	119	16	0	2	8	0	4	9	4	0	3

Illustration 1: JAKESS Sulh statistic from May 2002 to December 2006 (Sa'odah Ahmad 2010)

Overall, what stands out from the table is that sulh was the most popular method of solving conflicts in Selangor, outperforming in all eleven places except at High Court. Besides, sulh was almost twice as successful as trial cases at 64% and 34%, respectively, having nearly no instances where they adjourned the case, at 2%. According to Ahmad and Abdul Hak, the main reason for adjournment, where matters were unable to be solved in Majlis Sulh was only the complication and complexity of cases (Sa'odah Ahmad 2010).

There is also an increasing trend, especially, in family matters and personal status law, *al-ahwal al-shakhsiyya*, where legislation at the national level made it obligatory to judges to designate conciliators within the courtrooms so that they can try to reconcile husband and wife before the judges issue the decision of divorce. As an illustration, Egypt has boards, who adjudicate personal status matters inside the framework of courts unless the case falls under Article 6 of Law 25 of 1929

where it says, *"Providing that the wife claims the spouse mistreating her and it has become unbearable to remain in the relationship of marriage, she can appeal the judge to dissolve their marriage. The judge will issue her an irrevocable divorce should the harm is established. And conciliation found to be impossible between them. If, on the other hand, the husband refuses the petition and the wife afterward repeats complaining without established harm, The judge will appoint two arbitrators and he shall decide per the Articles from 7 to 11."* A similar approach is in 2000's Law number 1, Article 20. This article regulates the unilateral separation of the marriage on the ground of the wife's demand, *khul*. In particular, this makes *khul* impossible to be granted unless parties try reconciliation, *muhaawalat al-sulh*. When the conciliation procedures do not help, the spouses must designate two mediators among their relatives, one from each side where those mediators must take a maximum of three months to settle the dispute, *al-sulh baynahuma*. In case this also fails to change the wife's mind during the given period, the judge will have to break the marriage without the husband (Nathalie 2008). In general, reconciliation accomplishment is in a bureaucratic manner through the conduct of specific institutions. In most cases, Islamic private mediation procedures are similar to Egyptian methods, for instance, in Malaysia and Sudan (Dupret 2006).

In many Muslim countries, in courtrooms, settlement in various disputes require the adjudication processes, whether formal or not, to have customary assemblies to be combined. This co-existence or intervention to provide justice is true for both state and institutional activities. In actuality, a variety of alternative methods of conflict resolution in Islam include the procedures as the customary assemblages, *majlis urfiyya*, Arab men get-togethers, *majlis al-Arab*, conciliation, *sulh*, and arbitration, *tahkim*. With the connection to the survival of inter-tribal structures like the Yemeni one, these procedures cover areas such as family, sales, trade, and crime, and so on by dynamizing the cooperation of state law and customary norms. Whether conduct is official or unofficial, whole procedures exist parallelly with the litigation (Hounet 2012). For example, a commercial matter might go on trying conciliation according to local customary laws as it is at the same time having litigation under the rules of state framework. One of the last additional points to note is that sulh is usually found out to be a mundane event and must supervise to solve everyday issues. Thus, it will be much more complicated if the attempt is being a strictly formal institutional procedure losing a fiqh connection. Despite having many meanings of sulh in Arabic, it is contingent and sensitive to a context (Suwaidi n.d.).

Main results from research

First, Islam from the beginning actively uses arbitration, reconciliation, and other ADRs. Besides that, the ADR mechanisms have been being developed in Islam. Next, schools that can teach and explain the system of Islamic ADRs professionally and there is plenty of academic, practical, traditional, and modern database to work with. Moreover, it is now clear that the meanings and applications of the terms are being used interchangeably and clear differences are depicted. Tahkim and Sulh are well-known, adaptable, effective, and efficient ways of ending disputes in given domains. There are both local and international advantages in flexible integration and adaptation of the mechanisms as an assistant, or favorable choice to adjudication.

Conclusion

All in all, there is a need for Islamic alternative dispute resolution methods to enjoy the benefits of their applications. The increase in international appreciation of ADRs and Islamic solutions to its cons must be considered. Although the term is new for many, it has 1,5 century years old history and legal practice of arbitration *(Tahkim)* and reconciliation *(Sulh)*. They are flexible in integration and adaptation as help or satisfactory option than litigation. Besides, the modern success of ADR, especially Islamic ones proves that this is the most promising way of solving conflicts outside the courtrooms without leaving contemporary legal frameworks.

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