FAMILY MEDIATION AND *SULH*: AN ALTERNATIVE DISPUTE RESOLUTION IN MALAYSIA

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Abstract

Mediation and other forms of alternative dispute resolution (ADR) developed rapidly in the era of globalization as an effect of high divorce rates, numerous conflicts between disjointing parents, the consequential administrative burden on courts and especially concerns about detrimental effects on children and post-divorce family relationships. An overwhelming change is also taking place in Asia for concurrently with law reform in arbitration, the Courts are leading the way to encourage mediation in dispute settlement. This article focuses on the practices of family mediation and *sulh* in Malaysia and the significance of family mediation and *sulh* in resolving dispute amicably.

Key words: alternative dispute resolution, family mediation, *sulh*

Introduction

Increased rates of divorce, general dissatisfaction with the procedural aspects of the law and the ineffectiveness of the provisions intended to encourage reconciliation, resulted in the needs of an alternative mechanism for helping parties to deal with the consequences of their family disputes. This alternative mechanism is known as family mediation which was claimed by its proponent to be more family friendly. The trend of using alternative dispute resolution (ADR) is accompanied by growing policy interest in mediation. This may be based in part on the belief that mediatory approaches and negotiated outcomes are less costly in economic and emotional terms than court-assisted outcomes, particularly where children are involved and provide better basis for continuing parental responsibility following divorce (Conneely, 2002).

ADR in particular mediation is a social movement that has gain greater momentum today. A rapid development of mediation is however more evident in the West rather than in Asian countries, even though mediation has deep roots in many Asian cultural traditions. It is observed that this happens as a result of colonization where the colonist introduced their judicial system to these countries and thus destroying the traditional systems of amicable dispute settlement. According to Lim (1998),

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"Mediation, it is said, works well in Asia since Asians prefer compromise to confrontation, though it is often overlooked that there are differences between Western and Asian practices and concepts in the field of mediation".

Family Mediation

ADR encompasses dispute management techniques such as mediation, arbitration, conciliation, negotiation and other less formal processes. Family mediation has become an increasingly popular alternative over traditional method of settlement through both parties use of lawyers (adversarial adjudication). Some disputes are inappropriate for the courts because they lack technical legal merit. This concept is eloquently expressed in the June 1981 report of the New Jersey Supreme Court Committee Matrimonial Litigation which was chaired by Justice Morris Pashman. The Committee observed;

> *"No area of matrimonial litigation better lends itself to fashioning ways to create a cooperative and conciliatory environment for the benefit of parents and children. Court administrators and personnel throughout the country have questioned whether courtroom is the best forum for the resolution of child custody issues and whether the traditional adversarial system is the most appropriate means for presenting the issues...The use of professionals trained to assist family members to resolve their problems is, in the Committee's opinion, an idea whose time has come."*

A court is not a suitable place to settle hurt and emotional feelings. Family dispute, in particular divorce, has a traumatic effect and the legal system does not openly respond to the emotions and trauma experienced by parties in dispute (Salius and Maruzo, 1988). These emotions range from disappointment and anxiety to depression, sadness, grief and anger (Keville, 2004; Robert, 1997). Even husband and wives who are eager to end their marriages often describe their separation and divorce as one of the most difficult time of their lives (Sheehan and Kammeyer, 1997). The spouses are often prone to fix personal blame on each other and frequently children become their weapons in the marital struggle (Keville, 2004). Children of parents, who divorce, unless they are very young, are usually distressed by the breakup of their families (Sheehan and Kemmeyer, 1997).

When cases are settled in courts, relationship may suffer due to the adversarial nature of right-based process. Enormous time will be spent waiting for the decision, considerable amount of money spent on lawyers and fees and usually decision made by the court satisfies neither party (Emery, Sbarra and Grover, 2005). In attempting to deal with matrimonial conflict in manageable practical terms, the legal process of divorce focuses primarily on objective spousal conduct and the disposition

of financial matters (Emery, Sbarra and Grover, 2005). It is also observed that in most jurisdictions, marriage may be dissolved either on grounds of spouse's specific conduct (matrimonial fault principle such as adultery, desertion, cruelty); for reason of incompatibility (a non-fault principle) or on a simple uncontested basis (default). For the non-Muslim in Malaysia, the provisions can be found in sections 51, 52 and 54 of the Law Reform (Marriage and Divorce Act 1976).

Hence, the lack of accommodation by the legal system is one of the reasons for the evolvement of mediation. According to Moore (1986), it is in the arena of family dispute that mediation is experiencing its fastest growth. According to Emery (1995), many social science researchers found that harmful effects of divorce on children were due to exposure and involvement in parental conflict. Matrimonial dissolution actually involves reorganization of family relationships and not the division of family members into hostile camps (Emery, 1995). This means that by making the husband and wife legal adversaries, the traditional divorce process only reinforces and escalates anger and distrust. One party attempts to defeat another. Representing and advocating for one's client, as lawyers are required to do by the law and professional ethics, may place the spouses in direct competition and ignore the broader picture of children and extended family.

Moreover, the attitude of each party's lawyer will have a direct impact on the nature and intensity of the conflict and the potential for effective resolution. Bound by law and case law precedent, resolutions are reached that do not take into consideration the unique situation of the family. The legal system is required to operate in a sphere of normative decision making, which limits the use of creative problem solving. In short, it can be summarized that legal system is ineffective when presented with disputes of an interpersonal nature such as divorce. It is observed that lawyers who pride themselves in aggressively representing their clients may be fighting more for their own needs than for their clients. In contrast, mediation employs principles of cooperation and conflict resolution.

Marlow and Sauber (1990) state that mediation enables the parties' rights to retain control of their own affairs rather than have a solution impose on them. According to them, divorce mediation represents an alternative procedure,

> *"One that will bring the couple to the same conclusion but without exacting from them the cost, in terms of time, money and emotional injury, that has invariably been its cost".*

In other words, divorce or family mediation offers a method of resolving family dispute that gives priority to family wellbeing. Studies on the literature highlight that the prime reasons for the rapid growth of family mediation in Western countries are among others; to increase the efficiency of the administration of justice, increasing rates of divorce, high parental conflict, costs in terms of money and time, to create more family friendly intervention programs, to safeguard relationship between parents

and children post-divorce and ineffectiveness of adversary procedures (Emery, 1995).

Many parents are frustrated because their spouses exploit the legal process by filing unnecessary legal motions, re-litigating minor issues and often failing to comply with judicial decisions (Beck and Sales, 2001). These spouses wish to harass and or to punish their co-parent or to delay the legal process in hopes, for example, that the co-parent will reconsider their demands and reconcile (Beck and Sales, 2001). Unable to settle issues among themselves or to comply with court decisions resulted in their repeated return to court thus, clogging judicial calendars.

Beck and Sales (2001) also found that in most cases, court professionals are not trained to handle emotionally-charged litigants in dealing with very private, family related matters. These problems, among others, caused the introduction of mediation as an alternative to litigation in family dispute. The proponents of family law mediation state that mediation combines the personal or relational and legal aspects of divorce by offering parties a confidential and cooperative problem-solving process (Folberg and Milne, 1988).

The process of divorce mediation empowers and supports the divorcing couple both during and after the divorce (Folberg and Milne, 1988). It is a process that emphasizes the participants' responsibility for making decisions that affect their lives - a self empowering process. It can be said that the central quality of mediation lies in its capacity to re-orientate the parties toward each other, not by imposing rules on them, but by helping them to achieve a new and shared perception of their relationship, a perception that will direct their attitudes towards one another.

Mediation is one process that provides parties the ability to negotiate their own settlement, instead of relying on a judge. Mediators facilitate the resolution of a dispute by promoting voluntary negotiation and exchange of information. In addition, mediation provides attractive advantages. Mediation can result in settlements which extend beyond the legal remedies that a court may allow. This is aptly described by Lord Justice Brooke in *Dunnet v Raitract* [2002] 2 All ER 850;

> *"Skilled mediators are now able to achieved results satisfactory to both parties in many cases which are quite beyond the power of lawyers and courts to achieve...by which the parties shake hands at the end and feel that they have gone away having settled the dispute on terms with which they are happy to live."*

It is observed that the parties to mediation will go before a neutral third party who will help them to discuss and to cooperate in resolving their disputes in a systematic and structured manner. If no settlement can be reached at the mediation stage, the case will go for a full-blown adversarial trial and judicial disposition.

Table 1: The differences in role and responsibility between legal advisers and family mediators.

Legal Advisers	Family Mediator
Have a duty towards own clients.	Have a responsibility to help both participants, equally and impartially.
Often starts by taking a history from their clients.	Help participants to define issues and agree an agenda, without taking history.
Advise clients on their legal position in the framework of the law and procedure.	Focus on participants' concerns first and foremost: legal context is secondary.
Collect and exchange financial information in a formal discovery process.	Share and clarify financial information from both parties with both parties together.
Tend to use legal terminology.	Use non-legal terminology.
Give clients emotional support and may counsel them in an informal way.	Acknowledge and mutualise both parties' feelings, to manage their anger and help them move forward.
Draw from clients' views of children's needs.	Seek both parents' views and concerns about their children; may involve children.
Advise: may recommend a particular course of action.	Set out options without advising on the best option.
In round-table meeting meetings with their clients, legal advisers may take over management of case.	Encourage dialogue between participants, intervening when necessary.
Write letters on their clients' behalf; may take over management of the case.	Help participants to keep control of heir affairs as far as possible.
Draft applications to the court.	Do not draft application to court.
Unlikely to "co-work".	May co-mediate; draw from the knowledge and skills of other discipline.

Source: Lisa Parkinson (1997)

Table 1 illustrates the differences in role and responsibility between legal advisers and family mediators. It can be seen that the role and responsibility of legal advisors are more formal and rigid as compared to the role and responsibility of family mediators.

Based on the discussion above, it can be said that the parties to mediation will go before a neutral third party who will help them to discuss and to cooperate in resolving their disputes in a systematic and structured manner. If no settlement can be reached at the mediation stage, the case will go for a full-blown adversarial trial and judicial disposition.

Mediation In Islamic Law (*Sulh*)

Mediation in Islamic law is known as *sulh*. According to Aida (2005), the word *sulh* has been used to refer both to the process of restorative justice and peacemaking (in other words, a method in resolving dispute amicably) and to the actual outcome of that process (the contract entered into by the disputants containing agreed private settlement out of court).

Islam advocates amicable settlement of every dispute to avoid antagonism between parties. In many instances, the Qur'an refers to the principle of resolving disputes through negotiated settlement. Allah says to the effect,

> *"If you fear a breach between them (husband and wife) appoint two arbiters, one from his family and the other from hers. If they wish for peace, Allah will cause their conciliation, for Allah hath full knowledge, and is acquainted with all things." (The Qur'an, al-Nisa:35)*

Another example of the Qur'anic injunction with the same effect is,

> *"If a wife fears cruelty or desertion on her husband's part, there is no blame on them if they arrange an amicable settlement between themselves, and such settlement is best." (The Qur'an, al-Nisa:128)*

These injunctions clearly depict the preference of amicable settlement of disputes in Islam. They explain that, if a dispute arises between husband and wife it is encouraged to settle the dispute amicably by using a method known in Islam as *tahkim* (arbitration). *Tahkim* is one form of *sulh*. It is a method of settling dispute by appointing an arbitrator who is authorized to make judgement on the matter. This means that the judgement made by the arbitrators is binding on the parties. Wahbah al-Zuhayli (1989) defines *tahkim* as an agreement by the parties to appoint a qualified person to settle their dispute by reference to Islamic law. Dispute undeniably will affect the rationality or the mental state of the disputants. This will cause the inability for them to see the dispute clearly. The failure to see the issue at hand will create misunderstanding and this will further aggravate the dispute.

The concept of reconciliation, harmony and justice can also be found in the *hadith* of the Prophet Muhammad S.A.W whose life was filled with examples of mediated solutions to human problems. In a *hadith* narrated by Kathir bin 'Abd Allah bin 'Amru bin 'Auf al-Muzani, it is reported that the Prophet Muhammad S.A.W said:

"Sulh is permissible among the Muslims except the one which makes the unlawful as lawful and which makes the unlawful as lawful. Muslims are bind by their promises except promises that permit the unlawful as lawful and the lawful as unlawful."

This *hadith* clearly says that *sulh* is permissible in all matters as long as it does not go against *hukum syara'.* The agreement reached between the participants in the Majlis Sulh must reflect the principles of Islamic law. *Sulh* is only allowed when it concerns the rights between man and his fellow human being. In other words, *sulh* is never allowed in a matter that concerns the rights of Allah, for example in *hudud* cases.

In a family dispute, *sulh* can be exercised in a matter relating to either property rights (for example maintenance), or non property rights (consummation of the marriage) and rights that arise either during the marriage or after divorce (such as marital property, *muta'ah, hadhanah*, maintenance during *'iddah*). The *hakam* is under a duty to render justice in his judgment. This responsibility is clearly stated by the Prophet Muhammad S.A.W:

"Whoever judges between two disputing parties (by way of tahkim) and both of them agree with (the arbitrator) whereas he does not do justice between them, Allah will curse him."

A very famous *sunnah* of the Prophet Muhammad S.A.W that illustrated *sulh* was concerning the setting of *Hajar al-Aswad* (Black Stone) during the reconstruction of Ka'bah (Abu Isa Muhammad bin Isa, n.d). The four leaders of the Quraisy were in dispute over the issue of who were the best amongst them to put *Hajar al-Aswad* in its right place. There was an impasse and one of the leaders suggested that the first person to arrive at the Ka'bah the next morning could have the honour of placing the stone.

That fateful person was none other than the Prophet Muhammad S.A.W. Instead of placing the stone himself, the Prophet S.A.W asked each tribe to select one leader to represent them. He spread a sheet and put the stone on it. Then he instructed the four leaders to hold each end of the sheet and together they raised the stone to the right place. Thus, by the wisdom of the Prophet S.A.W a serious conflict was prevented and everybody was pleased with the solution.

It can be seen that the ethical principle in *sulh* is to forgive and to compromise. Furthermore, negotiated settlements are encouraged in Islam for the purpose of fostering and preserving human relationship. Thus, it is acknowledged that resolving conflicts through *sulh* establishes a productive relationship for the future. In divorce for an example, an amicable settlement would generate in the parties concerned, a sense of respect for each other even though they have separated.

Family Mediation And *Sulh* In Malaysia

The Government of Malaysia has agreed in principle to the establishment of a Family Court to deal with matrimonial and family matters as part of the Malaysian judicial system. The Malaysian Bar Council agrees that Family Court would promote specialization as well as to instill a more humanitarian and amicable aspects into the resolution of family and matrimonial matters. Judges who preside in Family Court become specialized and this would promote efficiency. This will result in better judgments and faster disposal of cases. Speedy disposal of family cases is very important because it will prevent more hardship done to the parties' relationship; avoid strain on the children involved and reduce the backlog of cases.

The Malaysian Bar Council also believes that issues of divorce, judicial separation, matrimonial property, child custody and support, guardianship of infant, adoption and domestic violence are highly sensitive and emotional human issues that may not be entirely appropriate to be resolved by the present court system which is mainly adjudicatory in nature. Pending the setting up of the Family Court, the Women's Crisis Centre of Penang suggested reforms of current legal framework that includes among others mediation. They believe that even if mediation cannot solve all the disputes in the proceeding, the issues to be litigated may be narrowed down.

A national Seminar on Alternative Dispute Resolution was held on 4th and 5th February 2002 by Legal Division of the Prime Minister Department, Putrajaya. One of the resolutions of this seminar was to enhance the use of mediation in all matters. It was suggested that a law pertaining to mediation be enacted and mediation should be introduced at grassroots level. Responding to this resolution and in view of the importance of *sulh* as an alternative method in settling disputes amicably (particularly in family disputes), an effort has been taken by the Selangor Syariah Courts to introduce Majlis Øulĺ in 2002. According to the former Syariah Chief Justice, Datuk Sheikh Ghazali Abdul Rahman, Syariah Courts throughout the country will direct lawyers of disputing parties to first negotiate and mediate towards reaching an amicable solution before bringing up the matter in open court and for the purpose of mediation, one *sulh* officer will be placed in all Syariah Courts (Berita Harian, April 2003).

Among the cases encouraged by the Syariah Courts to be settled through *sulh* process are divorces, disputes over inheritance of family wealth, custody of children, and alimony for ex-spouses (*muta'ah*). The enforcement of *sulh* in Syariah Courts of Selangor is based on sections 94, 99 and 131 of the Selangor Syariah Court Civil Procedure Enactment 2003, sections 47 and 48 of the Selangor Family Law Enactment 2003 and sections 87-93 of the Selangor Syariah Court Civil Procedure (Sulh) Rules 2001. In 2003, 90% of cases registered were settled through Majlis Sulh.

Mediation as a formal process to settle dispute is still in its infancy stage in Malaysia. Proposals have been made by judges and legal offices to encourage the use of mediation in civil process. For example, statement made by the former Chief

Justice of the Federal Court, Tun Eusuff Chin in The Star Newspaper dated 12 May 2000 and the current Attorney-General Tan Sri Abdul Ghani Patail in The Sunday Star dated 20th January 2005. However, as there is no mandatory rule to sanction it, the traditional litigation process is still preferred.

The Legal Aid (Amendment) Act 2003 defines mediation as:

- The undertaking of any activity for the purpose of promoting the discussion and settlement of disputes.
- The bringing together of the parties to any dispute either at the request of one of the parties or on the initiative of the Director General of Legal Aid.
- The follow up of any matter being the subject of discussion or settlement.

According to sections 29B, 29C, 29D, 29E, 31B and Third Schedule of the Legal Aid (Amendment) Act 2003 and The Legal Aid (Mediation) Regulations 2006, the Legal Aid Bureau mainly provides mediation services in family matters for Muslims as well as non-Muslims. In response to the growing need of establishing mediation as a viable alternative in decreasing backlog cases, in 1995, the Malaysian Bar Council set up an Alternative Dispute Resolution Committee to study the possibility of setting up a mediation centre (Khutubul Zaman, 2007). As a result, the Malaysian Mediation Centre (MMC) was established on 5th November 1999.

At present, MMC provides: mediation services for civil, commercial and matrimonial, assistance and advice on how to get the other party to agree to mediation if one party has shown interest, mediation training for those interested in becoming mediators, accredits and maintains a panel of mediators. Unfortunately, it is noted that so far MMC has yet to handle family disputes matters. Parties applied for mediation will be given a Mediation Kit that comprises of:

- Mediation Agreement
- Mediation Rules,
- Mediation Code of Conduct,
- Settlement Agreement (draft) and
- List of Mediators.

The Mediation Agreement specifies among others the confidentiality of the process. In addition, the parties must act in good faith. According to the MMC rule, all mediators of MMC must be Malaysian practicing lawyers of at least seven years, completed at least 40 hours of training conducted and organized by MMC and passed a practical assessment by the trainers. The mediators are trained either by the Accord Group or LEADR, expert consultant on mediation from Australia.

As for civil matrimonial matters, it is a procedure under Section 106 of the Law Reform (Marriage and Divorce) Act 1976 that before any petition of divorce is

heard by the court, the parties must go for reconciliation process. In other words, for contentious divorce, the parties must refer the matrimonial dispute to a conciliatory body. The same procedure is also provided by Section 20(2) of the Industrial Relation Act 1980 which states that a case involving a claim of wrongful dismissal must be referred to conciliatory body.

The Court of Appeal correctly stated the procedure in *Kathiravelu Ganesan & Anor v Kojasa Holdings Bhd.* [1997] 3 CLJ 777.

It was argued by many that these conciliatory bodies failed to function properly (Nora, 2002; Mimi Kamariah, 1999; Tan and Ashgar Ali, 2006). The reasons for failure includes lack of training among the members of the conciliatory body as marriage counselors or mediators, cultural background of the parties in dispute, absence of a provision for secrecy on the information given during the process, lack of publicity, inaccessible location, the conciliation officers being a civil servants are subject to inter department transfer.

In order to enhance the use of mediation as an alternative dispute resolution mechanism, effort has been taken by the ADR Committee of the Bar Council to incorporate mediation in the Rules of the High Court during the stage of case management (Khutubul Zaman, 2007). It is timely for Malaysia to follow other countries like Singapore, Australia and New Zealand to set up independent Family Court that can provide court-mandated mediation.

At the other end of the spectrum, mediation or *sulh* has been implemented successfully in the Syariah Court, particularly in matrimonial matters. Most of the states legislatures in Malaysia agree to enact law on *sulh* or include relevant subsection in their respective Syariah Civil Procedure Enactment. For instance, sections 87-93 Selangor Syariah Mal Procedure Enactment 1991 (amended 2003), Selangor Syariah Mal Procedure (*Sulh*) Rules 2001, section 87 Sarawak Syariah Mal Procedure Ordinance 1991, Federal Territories Syariah Court Sulh Procedure 2004. Additional recruitment of judges, Sulh Officers and full pledged implementation of *sulh* in Selangor since 2002 managed to settle the problem of backlog cases.

Table 2. Statistic Of Sulh: The Department of Syariah Judiciary Selangor (JAKESS) May 2002 to December 2006

Syariah Court (High Court & Lower Court)	Registered Cases	*Øulí*	Referred For Trial By Court	Adjourned
High Court	1583	**554 (35%)**	910 (57%)	**119 (8%)**
Shah Alam	670	**371 (55%)**	283 (42%)	**16 (3%)**
Klang	1345	**1112 (83%)**	233 (17%)	**0 (0%)**
Kuala Langat	426	**344 (80%)**	80 (19%)	**2 (1%)**
Kuala Selangor	488	**328 (67%)**	152 (31%)	**8 (2%)**
Sabak Bernam	254	**221 (87%)**	33 (13%)	**0 (0%)**
Petaling Jaya	983	**654 (66%)**	325 (33%)	**4 (1%)**
Gombak Barat	361	**245 (68%)**	107 (30%)	**9 (2%)**
Gombak Timur	376	**235 (63%)**	137 (36%)	**4 (1%)**
Sepang	280	**213 (76%)**	67 (24%)	**0 (0%)**
Hulu Selangor	243	**167 (69%)**	73 (30%)	**3 (1%)**
TOTAL	**7872**	**5044 (64%)**	**2645 (34%)**	**183 (2%)**

Sulh is undoubtedly a very constructive method in resolving disputes. This is evident in the statistic of *sulh* provided by JAKESS as shown in Table 2. The successful rate of *sulh* was 64% as compared to 34% cases referred for trial. The rate of adjourned cases was only 2%. In other words, by implementing *sulh*, the Syariah Courts of Selangor not only manage to resolve disputes amicably but also able to unclog the court calendar.

Previous researches revealed that *sulh* managed to shorten the time needed to resolve the dispute (Raihanah, 2005; Nik Roslina, 1999). *Kajian kelewatan dalam pengendalian kes-kes perceraian di Mahkamah-Mahkamah Syariah di negeri Selangor Darul Ehsan* (1997-2002) has identified *sulh* as a mechanism than can speed up the divorce cases processing time. The research also found that the implementation of mandatory *sulh* in Selangor in 2002 has resulted in the increased rate of divorce cases managed to be settled in a period of less than a year: 3.6% in 2002 as compared to 4.1% in 2001, 4.7% in 2000 and 4.3% in 1999. Majority of the divorce cases (88.6%) were either successfully settled within three month or less. It is perceived that the agreement reached by parties in conflict through *sulh* and the amendment of *ta'liq* and *fasakh* to *talaq* contribute to the early settlement of the cases.

In another research, Raihanah (2005) found that 44% of the 500 cases studied were settled within one to 30 days, 43.8% within 31 to 90 days, 9.2% within 91 to

150 days, 2.6% within 151 to 210 days and 0.4% within 211 to 270 days. All in all, majority of the cases (87.8%) were either successfully settled within three month or less. This finding supports the finding in *Kajian kelewatan dalam pengendalian kes-kes perceraian di Mahkamah-Mahkamah Syariah di negeri Selangor Darul Ehsan.* It is interesting to note that the types of cases or disputes do not have any effect on the time needed to resolve them. In other words the time needed to resolve cases pertaining to custody and guardianship of children are not much different with cases of marital properties (*harta sepencarian).* Furthermore, there are cases that have been successfully resolved in just one *sulh* session.

Conclusion

From the discussion above, it is concluded that in Malaysia, mediation in civil matters is still in its early stage. As far as family disputes are concern, mediation performs much better in the Syariah court than the civil court. Presently, *sulh* is actively implemented in Selangor, Melaka and Wilayah Persekutuan Kuala Lumpur. According to Rule 3(b), of the Selangor Syariah Civil Procedure (Sulh) Rule 2001, if the Registrar, upon receiving any summon or application for any action, felt that there is reasonable possibility of reconciliation between the parties, he shall as soon as possible, determine the date for *sulh* to be conducted between the parties. Following the Customer Charter of the Department of Syariah Judiciary, Selangor, the date will be determined on the case registration day itself and Majlis Sulh will convene in 21 days. Most cases reach settlement in the first meeting itself if both parties duly attended Majlis Sulh and give full cooperation in the discussion.

The impressive statistics of *sulh* particularly in Selangor, should be taken as an indicator of the viability of *sulh* as a dispute resolution mechanism and justification for the extension of *sulh* in Syariah Courts all over Malaysia. Currently, mediation forms an integral part of the Singapore legal system and widely used as mechanism of resolving disputes not only by the court but also by the government agencies, businesses and certain industries (Loong 2006). Therefore, it is also timely for Malaysia to follow the example of Singapore in setting up the Family Court where court-directed mediation can be established.

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