

***Sulh* as Alternative Dispute Resolution Mechanism for Marital Conflicts among Muslims in Ilorin, Nigeria**

Journal of Management and
Social Sciences
© The Author 2019
Reprints and permission
fountainjournalmanagementandss@gmail.com

Raji, Shittu

University of Ilorin, Nigeria

Olorunoje, Hajarat Mayowa

University of Ilorin, Nigeria

Abstract

This paper appraises *Sulh* (Reconciliation) as an alternative mechanism for resolving marital dispute in Ilorin, Kwara state of Nigeria. Cases of marital conflict among Muslim couples are very rampant in the city, leading to a significant rise in the spate of divorce, separation, single parenthood and domestic violence. This paper identifies the sources and effects of marital dispute on the family in Ilorin and discusses the simulative methods of using *Sulh* for resolving such dispute. The study relies on secondary data by analyzing existing works on the subject matter. The paper finds that the primary sources of conflict among Muslim couples in Ilorin include incompatible marital vision, unmet expectations, financial difficulty, job loss and bareness. The use of *Sulh* by Muslim mediators in Ilorin follows the Shari'ah (Islamic law) method of mediation that includes solicited or unsolicited intervention of external mediator, identification of conflict issues and resolution of conflict through pleas and soft bargaining. It is concluded that the application of *Sulh in Ilorin*, though with its limitations, is a credible alternative dispute resolution mechanism with promising outcomes. The Kwara state government should introduce *Sulh* to decongest the conventional courts and improve the alternative justice system in Ilorin.

Introduction

Marriage is a social union between husband and wife, which is geared towards realizing joyous and complimentary love between the couple (Amao and Kehinde, 1999). As a social contractual agreement and a legal foundation of conjugal relationship between couple, marriage is an age-long practice that is both culturally sanctioned and religiously ordained by God and accepted by man to promote mutual love and companionship for husband and wife. Although a marital relationship is usually planned to be harmonious and enduring, the reality is that many of such relationships do not go as planned and are often riddled with violent conflict, separation and divorce, especially when not properly managed. Most marriages experience disputes because of

Corresponding author:

Shittu Raji, Centre for Peace and Strategic Studies, University of Ilorin, Ilorin, Nigeria
Email: adraj2010@yahoo.com

different anticipated expectations and hopes between the couple, some of which might not be fulfilled as couples have different families and social backgrounds, values and worldviews, they also have different needs, desires, aspirations and contrasting habits (Caroline, 2013). Apart from the above conjugal complications, marital dispute also contributes to societal problems, including child negligence, abandonment and broken homes, which are sources of societal menace and moral decadence among youth. Therefore, marital dispute has a lot of negative effects on the couples, their families and the society at large.

The desire of couples and their families to settle their disputes amicably and still maintain cordial relationship coupled with the obvious and inherent problems of litigation, necessitated the scholars and concerned stakeholders in marital conflict to seek and adopt the use of Alternative Dispute Resolution (ADR), which borders on the use of other methods of resolving conflict rather than litigation. Such alternative methods include negotiation, mediation, conciliation and arbitration (Farrah, 2014). The disadvantages of litigation in conflict resolution are numerous, including its high cost, its retributive justice system and slow court processes. These disadvantages of litigation as highlighted above led to the introduction of Alternative Dispute Resolution (ADR) mechanisms to settle and resolve conflict in general and marital disputes in particular. The use of ADR is less costly and largely characterised by the restorative justice system, which mends, rather than destroys relationships between disputants (Farrah, 2014: 6). ADR is also a collaborative conflict resolution platform, which allows the parties to understand each other's positions and come up with a more creative solution. Although the conventional practice of litigation is still prevalent in Nigeria as a primary form of dispute resolution; the Supreme Court has given credence to the validity of the ADR processes as found under various customary laws in Nigeria as disputing parties are allowed to settle their differences in a manner acceptable to them (Faturoti, 2014).

As noted by Olorunoje (2017), the contributions of Islam to the use of alternative dispute resolution with acceptable outcome are quite immeasurable as Muslims were documented to have started adopting ADR methods to settle their differences amicably, including marital disputes, over 1,400 years ago. Various ADRs being used among Muslims include *Sulh (Reconciliation)*, *Wasatah (Mediation)* and *Takim (Arbitration)*. Thus, Muslims in Saudi Arabia, Kuwait, Yemen, Afghanistan and Oman, among other Muslim countries, have successfully adopted the Islamic version of ADR to resolve marital disputes with overwhelming success.

Nigeria, with over 77 million Muslims and the most populous Muslim nation in Africa (National Achieves, 2018), has also adopted different kinds of Islamic ADR mechanisms to resolving marital conflict among Muslims. The

ADR mechanisms are largely drawn from the Muslim family laws as practised in the Northern and Western parts of Nigeria.

Ilorin, as the central hub of Islamic scholarship and etiquette in Kwara state and Northern Nigeria, is very versed in the use of the Islamic version of alternative dispute resolution mechanism for resolving marital conflict among Muslims in the emirate. The ADR mechanisms being used in Ilorin include *Sulh* (*Reconciliation*), *Wasatah* (*Mediation*), and *Takim*; *Arbitration* (Ahmad, 2010). Cases of marital dispute among couples are rampant in Ilorin, leading to a significant rise in the spate of divorce, separation, single parenthood and domestic violence. The attendant repercussions of marital dispute in the city have severe implications for the family, the society and the country at large. Quite often, divorced or separated couples do not have sufficient time to cater for the well-being of their children. Negligence of parental responsibilities among separated couples often leads their children into acts of hooliganism and drug addiction among others, which pose a serious threat to communal security in Ilorin. Also, marital disputes in the study location have spawned domestic violence, especially against the wife with negative psychological effects on the spouse.

The menace of marital dispute has separated many families, disintegrated the cord of love between couples and turned families into disarray. It is against this backdrop that this study appraises *Sulh* (*Reconciliation*) as an Islamic conflict resolution mechanism for resolving marital disputes in Ilorin. *Sulh* is chosen ahead of other ADR methods in Islamic law because of its comprehensiveness in scope, encompassing elements of other ADR mechanisms in Islam, including *Wasatah* (Mediation) and *Takim* (Arbitration). It is important to note that *Takim* is an important aspect of *Wasatah*, *teaches conflict resolution process*. The study examines the main causes and effects of marital dispute on the family in Ilorin; discusses the simulative methods of using *Sulh* for resolving marital conflict and appraise its efficacy and limitations. The study relies on secondary method of investigation to generate new findings through the analysis of existing data from journal articles, textbooks.

Operational Definition of Terms

This section explains key terms as used in this paper.

Alternative Dispute Resolution (ADR): means other methods of resolving conflicts rather than formal litigation. Such methods include negotiation, mediation, conciliation and arbitration. It also refers to those dispute resolution processes, which encourage disputants to reach resolution either on their own or with the help of third party intervention.

***Sulh*:** literally means reconciliation or conciliation in Islam, which is characterised by negotiation, compromise and mediation. Technically *Sulh* refers to both the process of restorative justice and peacemaking to the actual outcome of that process according to Islamic law.

The concept also covers the contract entered into by the disputants containing agreed private settlement out of the conventional court system.

Marital Conflict: This is a misunderstanding, discords or irreconcilable differences that occurs between couples. Such discord involves couples that are in conflict within the marriage and divorced ex-couples.

Literature Review

Ahmad (2010) describes ADR mechanisms as methods and procedures used to resolve dispute out of court settlement. The author identifies the ADR typology to include arbitration, mediation, conciliation, compromise. Because such ADR procedures are usually less costly and more expeditious, they are increasingly being used in commercial and labour disputes and divorce actions, among others. As posited further by the author, marital dispute is a normal phenomenon in every marriage because of its inevitability as a medium of disagreement to agreement on how the concerned couples want to relate for mutual benefits. Olusanya (2007) equally postulates that marriage is characterized by conflicts because both husband and wife came into the marriage with different life experiences, which take time to be harmonized as couples. Thus, conflicts among couples largely revolve around contrasting values, different worldview, beliefs systems and goals, which sometimes cause verbal and non-verbal confrontation or both, in which husband and wife sometimes kill or injure each other.

While identifying the veritable sources of conflict in the society, Saxton (2007), finds that sources of marital conflict can both be internal and external, where the internal sources of conflict revolve around those generated by irreconcilable differences between husband and wife themselves while external sources of marital conflict are influenced from outside the feuding parties; sometimes by families and friends. Nnenna and Nweke (1989) have shown that marital crisis constitutes a serious threat to social cohesion, which often leads to violent scuffle and destruction of lives and property. The above authors admonish further that society needs efficient and effective marital counsellors to handle these problems before they get out of control.

Aida (2007) has identified sources of conflict between Muslim couples to include lack of self- identity, weak shared vision, unmet expectations, financial difficulty, job loss and bareness. Other sources of marital conflict among Muslims according to the author are poor child upbringing habit, sexual denial or lack of sexual satisfaction, and negligence of religious obligations. Excessive social outings, extra-marital affairs and unnecessary interference from extended family, among others, are equally sources of conflict trigger among couples. The author argued further that such disputes among couples often lead to the desertion of home by either of the couple, negligence of

marital responsibility, malicious beating, child negligence and domestic violence.

Lemu (2009) traces the source of *Sulh* as an alternative conflict resolution mechanism among Muslim couples to Sura An-Nisa (4: 35) in the Quran where Allah commands that:

If you fear a breach between a man and his wife, appoint an arbiter from his people and another from hers. If they wish to be reconciled God will bring them together again. God is all-knowing and wise.

As noted by the author, Allah stressed, through the above quotation, the importance of making reconciliation among couples in a just manner while also confirming the fact that *Sulh* is not only encouraged in Islam but necessary. According to Olorunoje (2017), the Qur'an ethos of amicable settlement of conflict between husband and wife through *Sulh* was adopted by Prophet Muhammed (pbuh) while the early leaders of the Muslim community after him; including Abubakar, Umar and AllibnTalib also used the process to mediate on both private and public disputes through the use of *Sulh*. The Muslim leaders (Caliphs) also identified its limits with the admonition of Umar El-kattab; the second Caliph of Islam, that amicable settlement among Muslims was fine but it should not agree to make licit, illicit, or illicit, licit (Majid, 2000).

Olufadi (2014) has shown that the concept of *Sulh* is sourced from Shari'ah; Qur'an, Hadith, Qiyas and Ijma. Thus, these sources have extensively explained the concept of *Sulh*, which they describe as a process rather than an event. It is a process which needs to be nurtured over some periods for it to procure its fruits of justice and peace. Such processes include mediation, negotiation, conciliation and compromise, which easily fit into the modern concept of ADR.

Theoretical Framework

This paper adopts Conflict Transformation theory as its theoretical framework of analysis. The theory as popularized by Lederach (2005) and George (1991), argues that conflict resolution process requires more than reframing conflict position and the identification of the conflict issues to include the use of conflict transformation processes, which border on the transformation of conflictive relationships from confrontation to collaboration. These transformation processes as noted by the authors include actor transformation, which involves the transformation of the mindset of conflict actors from confrontation to collaboration, issue transformation; the transformation of conflict issues from the point of disagreement to agreement and compromise, legal transformation; the reformation of laws that continue to generate conflict and institution transformation, which borders on the transformation of social institutions from their weak to strong performance ratings for better service

delivery while the structural transformation focuses on the positive transformation of the negative structures in the society; including unfairness injustices and inequity to generate peaceful co-existence and development. The authors also recognize both the concept of positive and negative conflict transformation, referring to negative transformation as a reversal of the positive transformation described above.

The conflict transformation theory suggests a comprehensive and wide-ranging approach to conflict resolution, by emphasizing the conflict resolution initiatives of the feuding parties themselves rather than the mediation of outsiders. The theory also recognizes that conflicts are transformed gradually, through a series of smaller or larger changes as well as specific steps through which a variety of actors may play important roles. As noted by Lederach (2005: 23), conflict transformation must be actively envisioned to include endogenous rather than exogenous development processes to evolve a new set of reconciliatory lenses through which people do not primarily see the setting and the people in it as the problem and the outsider as the answer. Such internal reconciliatory process is expected to validate the capacity of indigenous people to resolve their conflict within rather than without. The conflict transformation theory focuses not merely on identifying who is guilty for them to be punished, unlike litigation. Rather, it creates an attractive consensus and compromised reality and creativity acceptable to both parties in conflict.

The transformation theory is very prime in laying a theoretical foundation for understanding *Sulh* because the adoption of the mechanism is very voluntary while its doctrinal values also rest on restorative justice, which is based on a win-win strategy as admonished by conflict transformation theory. This theory has enriched this paper by recognizing the needs to adopt ADR methods rather than the use of litigation in resolving conflict among Muslims. It further explains the need for conflicting parties not only to avoid the win-lose approach but to also address the conflict from its cradle thereby bringing about a lasting peace. This kind of win-win induced peaceful co-existence could only be achieved with the use of an alternative dispute resolution mechanism rather than litigation. However, Conflict Transformation theory as adopted for this paper is challenged by the fact that not all conflict could be transformed, especially those that are generated by differences in people's world view and perceptions unlike conflict over resources, which is easy to resolve once the resources have been provided. In spite of this limitation, Conflict Transformation Theory is still relevant to the study of *Sulh*, whose principal character revolves around compromise and plea bargaining in settling marital issues.

The Practice of Alternative Dispute Resolution (ADR) in Ilorin Emirate

Ilorin is the capital of Kwara state of Nigeria and its geographical tentacle within the emirate system covers five local government areas, which include Ilorin West, Ilorin East, Ilorin South, Asa and Moro Local Government Areas (Olufadi, 2014: 6). The indigenous people of Ilorin have strong cultural festivals on marriage, which include *Ijo-Iyawo* (bride dance) *Aisun – Iyawo* (pre-wedding day activities), which are celebrated in a unique way. The Muslims in Ilorin represent one strong and largely united community, even though they speak different languages, which include Yoruba, Nupe, Fulani and Hausa, among others. Major traditional occupations of the people include weaving, trading, farming and dying. Ilorin emirate has a population of 208,691 (Nigeria Population Census, 2006) with Muslims in the majority and Islam as the dominant religion in the city. Notable areas in Ilorin with overwhelming Muslim population include Oja-Oba, Edun, GaaAkanbi, Kulende, Adewole, Maraba, Okelele, Oloje, Pakata, Oke- fomo, just to mention a few.

Being the state capital, Ilorin has different institutions associated with justice systems from the conventional court system that includes the Customary, Magistrate, State and Federal High courts and Alternative Dispute Mediation Centers. There is also the Shari'ah Courts, which handles the marital dispute in Ilorin and Kwara state in general. The marital dispute is also handled in the metropolis by the council of *Imams* and traditional rulers within Ilorin emirate.

Alternative dispute resolution (ADR) as a method of settling dispute was introduced in Ilorin before the Western system of litigation as a formal adjudicative process by the colonial masters (Rashid, 2004). Thus, in the traditional setting of pre-colonial era, disputes were resolved in an amicable manner by the *Baale* (family head), which tends towards restorative justice to continue to promote the family spirit of love, unity and oneness. Where the family head is unable to resolve such conflict to the satisfaction of the two parties, such disputes are referred to the *Magaji* (community traditional ruler), from where the unresolved adjudicative process is moved to the *Alangua* (traditional custodian of aggregated villages), then to the *Daudu* (Representative of the Emir at the district level) when the *Alangoa* is unable to resolve the conflict. Where the matter could not be settled by the District Head also, it was referred to the Emir, who has the power of binding declaration on such matter, which then became precedence in local judicial interpretation while criminal matters were handled directly by the Emir in Ilorin. Community leaders, age-group leaders and leaders of professional associations also have responsibilities of resolving their conflicts among their peers while the primary rationale behind such traditional conflict resolution mechanisms in Ilorin revolves around the promotion of sustainable peace and tranquillity in the community.

Among the Hausas in Ilorin, disputes are referred to the *Mai Ungwa* (owner of the ward) who resolves disputes at the ward level and the *Sarkin Hausawa* (the leader of the Hausa people) who entertains disputes which cannot be resolved at the ward level while the dispute is ultimately referred to the Emir where the *Sarkin Hausawa* is unable to resolve such conflict. Thus, different tribes within Ilorin have their informal methods of dispute resolution largely shaped by their culture, which revolves around socio-religious affiliations, belief systems, community values and shared symbolic gestures. Customary and Islamic laws provide the legal framework for the post-colonial community-based ADR in Ilorin.

Even, with the advent of colonialism and post-colonial legal systems, many rural communities within the emirate still have their preferences for the traditional method of conflict resolution as opposed to the formal system offered by the imposed English laws. The majority of disputes in Ilorin for which ADR is applicable are largely centered on marital issues, boundary disputes, inheritance claims, land ownership and commercial disputes. The summation of this section is that Ilorin had a rich culture of alternative conflict resolution mechanism before the introduction of the contemporary litigation adjudicative process. Such traditional adjudicative process also has deep roots in the customary laws of many communities within Ilorin emirate. This method of dispute resolution was also used by different layers of leadership, including the community, market and youth leaders who were vested with reasonable judicial authorities. The ADR tradition still persists in many villages and communities in Ilorin emirate up till today despite the centralized legal system and the attendant efforts at modernizing and reforming the legal system in Nigeria.

Common Causes of Marital Dispute among Muslim Couples in Ilorin

There are many causes of marital disputes among Muslims couples in Ilorin, one of which is egoism, especially by the husband, who sees himself as the senior partner in the marriage and head of his family who should be obeyed without questioning (Rashid, 2004: 7). Within such egoist tendencies, husbands often feel that their faults or mistakes should be accommodated by their wives without questioning, a position some wives often disagree with. Many marital partners are equally self-centered personality who wants to be understood without his or her readiness to understand the viewpoint of the other partner. Thus, marital conflict and endless bickering are very common when one or both marital parties have egotistic attitudes. Many Muslims matrimonial homes have collapsed in Ilorin because of wife's disobedience or disrespect to her husband contrary to the injunction of the Holy Qur'an that the wife should obey her husband on all lawful matters. Thus, Quran 4 vs 34 reveals that:

Men are the maintainers of women because Allah has made some of them to excel others and because they spend out of their property; the good women are therefore obedient, guarding the unseen as Allah has guarded.

This divine injunction is in conformity with the patriarchy character of the African tradition, which gives pre-eminence submission to men who must be obeyed without question. Marital insubordination in Ilorin is sometimes perpetrated by “career Muslim women” whose agitation for gender equality and unfettered freedom of expression, does not find favour within the tenet of an Islamic marriage. Many wives have also neglected their traditional responsibilities of maintaining the house and caring for the husband and children. Thus, conflict often arises where the wife fails to carry out her duties and responsibilities. Lack of proper maintenance of the family by the husband causes marital dispute among Muslim couples in Ilorin. These marital needs cover shelter, accommodation, feeding, medical, and clothing, among others. Many husbands are very negligent of their family responsibilities by failing to provide adequate maintenance for their wives’ upkeeps, leading to mild protest or violent agitation by the wife to compel her husband to be alive to his responsibilities. Adultery, which borders on an extra-marital sexual relationship, especially by the wife, is another source of marital conflict in Ilorin metropolis. This act causes a serious rift between husband and wife and sometimes among the couple’s families. Adultery is seriously frowned at in some verses of the Qur’an, most popular of which is in Suratul Al-Isravs 32 where Allah said “And go not near to fornication; surely it is an indecency and evil way” (Lemu, 2009: 12). Allegation of adultery is very common as the basis of seeking a divorce in the Shari’a courts in Ilorin as the level and degree of morality have largely been compromised (Olounoje, 2017).

Forced separation due to job exigencies sometimes leads to marital infidelity or accusation of infidelity where there is no trust between the couples. Since Islam allows the husband to marry more than one wife, some husbands do marry another wife with or without the knowledge of the first wife, which leads to bitterness and mistrust between couples. Drunkenness, keeping late night, especially by the husband, excessive social outing and over-demanding for ceremonial responsibilities by the wife also lead to marital dispute. Domestic violence is another primary cause and consequence of marital dispute in Ilorin and this takes various forms, including wife battery, psychological abuse such as insult and marital rape, physical aggression or assault.

Sexual dysfunction is a key cause of dispute between couples in Ilorin. Thus, many Muslim couples who entered into marriage solemnization are not versed in the Islamic concept of sex education and many couples are not satisfied with one another sexually, leading to infidelity outside the marriage or

outright divorce. Barrenness or infertility is another major cause of marital dispute in Ilorin. Most couples and society at large expect to bear children. A marriage without childbearing is seen by husband's family in Ilorin as failed matrimony, thus causing depression, especially for the wife in such family as the husband and his family do attack or sometimes divorce the wife for being infertile. Cultural differences and diverse social upbringing are also sources of marital dispute among couples in the study area. Though both couples are Muslims in most instances, they sometimes come from different tribes and cultural backgrounds. The inability of couples to understand the Ilorin traditional culture of marital obligations; including ways of greetings, cooking and the wife's responsibilities of washing clothes of her parents-in-law often brings about disagreement among couples. What has largely been distilled from this section is that there are different triggers of marital conflict in Ilorin.

Effects of Marital Dispute on Family Cohesion among Couples in Ilorin

There are many effects of matrimonial dispute on marital cohesion in Ilorin with negative consequences in relational transformation among couples. Such effects could be on the couples, their children, families and society. Incessant marital disputes among Muslim couples in Ilorin do lead to depression with profound negative implication for the well-being of the couple and their immediate and extended families while also causing anxiety and psychological disorder from the physical injury, chronic pain and psychological torture caused to both or either of the couple by the imbroglio. Such quarrels sometimes lead to hostile behaviour to other members of the family, self withdrawal from the other party and the society, prolonged illness or permanent injury from the conflict. Marital conflicts have led to a breach of public order, destruction of property and loss of productive lives, among others.

Methods and Practical application of Sulh as an Alternative Dispute Resolution Mechanism among Muslim Couples in Ilorin

The main methods of *Sulh* as a mechanism of restorative justice in Ilorin start by appointing an honest Muslim, who is highly knowledgeable in Islamic law to facilitate the resolution process by mediation (Yusuf, 1991). The mediator (*tahkimas*) is appointed, either on the agreement of the two parties or at the request of one of the parties and the approval of the other. Such mediator may have been contacted by one or both couples who reported their matrimonial crises to him, especially when such intervener occupies a strategic position in the marriage such as being the father or the guardian of either of the couple. If the matter is reported by one party, the mediator takes note and admonishes the

complainant to keep peace without giving any judgment, and invites the respondent alone to hear his or her defence or complaint after which he is also admonished to keep peace without passing judgment.

The mediator then invites both parties for a joint mediation process by asking the two parties to state their complaints one after the other in the presence of both parties, after which the parties could cross examine each other with minimum antagonism. The mediator reviews their statements and begins to make logical deductions from such statements before assigning point of agreement or disagreement to the position of each party. The intention here is not to impose judgment on any party but to appraise the position of each party to take an objective position on the matter. The mediator then admonishes, pleads or appeals to both parties to embrace peace by living together harmoniously. After the mediation, both parties are also asked to make remarks on the concluding position of the mediator to ascertain their agreement or otherwise to his reconciliation terms. If both agree to the admonition of the mediator, that terminates the dispute while mediator sometimes calls couple much later to confirm that they are now fully back in harmony and to confirm the extent to which each party has implemented their part of the reconciliation.

However, if the marital dispute is very serious and cannot be handled by single mediator, it requires the intervention of both families of the couple from where representatives are taken from relatives of the husband and wife, who act as pro-active mediators in the conflict. The couples must choose someone from their family circle who has integrity, honesty and sense of justice in dealing with the conflict issues. In most cases, the mediators are usually older men or women believed to have the ability to negotiate with their contemporary from the other family to arrive at resolution. The Islamic tradition of involving couple's relatives for mediation is justified by the idea that the dispute between husband and wife is inseparable from the social values of Muslim society. Therefore, the common institution of the extended family is strong enough to resolve such conflict because in such family, the familiar bond includes not only that of the husband, wife and their children, but also other members of the extended families who wield strong influence on the couples. A Mahram (biological relative) of the woman should be with her, when she is being visited by the mediator to hear her statement. The identified processes of *Sulh* as enunciated above reveal its major advantages over court litigation. It is characterized by dialogue, treaty, humility, democratic resolution, consensus and mutually beneficial outcome. *Sulh* is also characterized by the use of soothing and polite words, mutual trust and truthfulness while also emphasizing on the use of Qur'an and Hadith, which many Muslims are familiar with as references. In spite of its relevance to conflict resolution, there are conditions for applying *Sulh* among Muslim couples in Ilorin (Rashid, 2004). *Sulh* is only permissible in all matters as long as it does not go against *hukumsyara* (Rights of Allah). Also, the agreement reached between the participants in the *Majlis Sulh* (panels) must reflect the

principles of Islamic law, which allow the use of *Sulh* when it concerns the rights between man and his fellow human being only and not allowed in a matter that concerns Allah's express prohibitions, such as fornication and adultery, consumption of alcohol and apostasy among others.

Effects and Limitations of Sulh as Alternative Dispute Resolution Mechanism among Muslim Couples in Ilorin

Sulh as an alternative conflict resolution mechanism has recorded positive effects in Ilorin, though with some limitations (Olorunoje, 2017). *Sulh* restores peace and ends hostilities as it is based on negotiated rather than imposed resolution. The process helps sustain negotiated resolution among couples as it imposes the fear of Allah on such Muslim couples to respect the judgment, which is sourced from the Qur'an and Hadith of the prophet. The mechanism stabilizes the rationality and mental state of the disputant couples by the logical submission of the mediator, which they may not have realized earlier in the course of the dispute. The *Sulh* mechanism re-establishes love and affections between the couple since the judgment promotes a win-win situation and curtails dispute relapse because the external mediator is expected to be enquiring from the couples on the extent of their implementation of the negotiated resolution.

The mechanism also gives room for the two parties to report any breach of agreement to the external mediator, who also engages in another round of intervention to curtail the relapse of the earlier dispute. *Sulh* reduces the workload and delay processes of the conventional court and establishes lessons to be learnt to avoid future occurrence of such conflict issues. The mechanism is equally more reconciliatory and less judgmental, thus promoting restorative justice that is largely characterized by love and peaceful co-existence among couples. In spite of its relevance to conflict resolution process among Muslim couples, *Sulh* has certain limitations (Olorunoje, 2017: 27). Under the Islamic law; it is not in all instances that *Sulh* is applied in settling a dispute. The process is not recommended where a mediator does not fully understand the technicality or the subject matter of the dispute between couples; it thus requires the services of Muslims who are versed in Islamic law. *Sulh* cannot be applied where the parties involved did not consent to the mechanism while the process is not recommended when the circumstance is such that it becomes confusing as to whom the legal right on disputed matter belongs between husband and wife because there is no direct revelation from the Qur'an and Hadith. Such matters should be referred to learner judge (Qadi) who have the technical knowledge of correct interpretation of the Holy Qur'an and the Hadith. *Sulh* is not allowed for mediators without sound knowledge of basic teachings of the Islamic family law and the process cannot be mediated by non-Muslims.

Conclusion

The paper concludes that cases of marital dispute among couples are very rampant in Ilorin, leading to a significant rise in the spate of divorce, separation, single parenthood and domestic violence. It finds that the sources of conflict between Muslim couples include weak shared vision, unmet expectations, financial difficulty, job loss and bareness and that the menace of the marital dispute has separated many families, disintegrated the cord of love between couples and turned families into disarray. The paper equally finds that the use of *Sulh* follows the Shari'ah (Islamic law) methods of mediation that border on the identification of conflict issues, invitation of external intervener, statement of the conflicting interests and needs and resolution of the conflict through pleas, soft bargaining and agreement of the feuding parties. The study also concludes that *Sulh* is a credible alternative dispute resolution mechanism with outcomes that are largely premised on restorative justice; which mend rather than destroy relationships between litigants, unlike litigation that promotes retributive justice. However, *Sulh* is only allowed when it concerns the rights between man and his fellow human being and never in a matter concerning the rights of Allah.

Recommendations

It is recommended that *Sulh* should continue to be used among Muslims in Ilorin as an alternative means of conflict resolution. The Shari'ah court in Kwara State should introduce Islamic Mediation centres to reduce congestion in the conventional court. The League of Imam in Ilorin should embark on advocacy and sensitization programmes to sensitise the Muslim public on the benefits of *Sulh* while the Council of *Ulamas* (Islamic scholars) should train couples on self-conflict management strategies to curtail marital conflict in Ilorin.

References

- Abu-Nimer. M. (2003) *Nonviolence and Peace Building in Islam: Theory and Practice*. Gainerville: University Press of Florida.
- Agupugo, S.N. (1998) "Causes of Conflict Among Couples in Enugu Urban: Implication to Counselling". M.Ed. Thesis. Dept of Education, University of Nigeria, Nsukka.
- Ahmad, N. (2010) "Peace and Reconciliation, Its Significance and Role in the Mission of the Prophet: The Case of Şulḥ al-Ḥudaybiyyah and Qur'ānic View". *Insights*, 2(3-4): 23.
- Aida, O. (2007) "And Amicable Settlement is best: *Sulh* and Dispute Resolution in Islamic Law". *Arab Law Quarterly*. 21(1): 64-66.

- Al-Bukhari, I. (1996) *Sahih Al-Bukhari*. Riyadh: MaktabaDarusSalam Publication. pp 32.
- Al Zuhaily, W. (1989) *Al-Fiqh al-Islamiwa 'Adillatuhu*, Syria: Dar al-Fikr Publication. pp 56-61.
- Amao and Kehinde, A.O. (1999) "The effects of Communication and conflict Resolution Skills Strategies on Marital Adjustment of some Selected Couples. The counsellor, and coping processes. *Annu.Rev.Psychol.*42:401 .25Application. In *Asia-Pacific Mediation E-Centre*. Retrieved February 21, 2011, 17(1): 138–143.
- Caroline, A.T. (2013) "Causes of Marital Conflicts Amongst Couples in Nigeria: Implication for Counseling Psychologists". *Journal of Religious Psychology*, pp. 16-21.
- Faturoti, B. (2014) "Institutionalised ADR and Access to Justice: The Changing Faces of the Nigerian Judicial System. *Journal of Comparative Law in Africa*, 1(1): 7-12.
- Farrah, A. (2014) "How Religious Arbitration Could Enhance Personal Autonomy". *Oxford Journal of Law and Religion*. pp. 18-19.
- George, E.I. (1991) *Islamic Mediation Techniques for Middle East Conflicts: Middle East Review of International Affairs*. 3(2): 14.
- Lederach, P. (2005) *Preparing for Peace: Conflict Transformation across Cultures*. Washington: Longman. pp 23-26.
- Nnenna, M.N. and Nweke, C.C. (1989) *Marital instability in Nigerian homes, possible Guidance: Guidance and Counselling principles and practices*. Calabar: Parco Publishers. pp. 6-8.
- Ogundiji, T.V. (2011) "An Appraisal of the Application of Alternative Dispute Resolution Methods to Marriage Dispute". Bachelor of law (LL.B Hons.) Thesis. University of Ilorin, Nigeria. pp. 5-9.
- Olufadi, L.A. (2014) *The Roles of Masjid in Matrimonial Dispute Settlement (Mds) In Nigeria: An Assessment of the Shar'iah Concept of Sulh*.
- Olorunoje, H.M. (2017) "Examination of Sulh (Reconciliation) as Alternative Dispute Resolution Mechanism among Muslims in Ilorin West Local Government Area of Kwara State, Nigeria". M.A. Dissertation. Centre for Peace and Strategic Studies, University of Ilorin, Nigeria. pp. 17-22.
- Rashid, S.K. (2004) "Alternative Dispute Resolution in the Context of Islamic Law". *The Vindobona Journal*. pp. 13.
- Saxton, L. (1972) *Money and Marital Conflict. The individual Marriage and the Family*. California: Wadsworth publishing Company, pp. 57-59.