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Strengthening Mediation in Neighbourhood Dispute:
An Islamic input

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Abstract
Mediation (sulh) is a method of dispute resolution that has just been revived and gaining traction currently. In Malaysia, the implementation of sulh is limited to the resolution of matrimonial disputes. This solution has proven to be effective as it confirms the understanding of the parties. This paper explores the role of sulh in resolving neighbourhood disputes in the built environment from an Islamic perspective. This qualitative study uses the content analysis method of Kitab Al-Ghayah Wa Nihayah. It was found that integrating sulh helps reduce legal disputes and strive for the social welfare of society.

Keywords: built environment; mediation; neighbourhood disputes; sulh

1.0 Introduction
Human conflict is inevitable, and Islamic law offers many conflict resolution techniques, including mediation (sulh) (Buheraoua, 2011). Mediation is an Arab and Islamic idea that Arabs and Muslims have utilized from Prophet Muhammad PBUH (Abdul Hak & Khan, 2013). The Middle East traditional Arabs manage issues based on a shared sense of preserving family, brotherhood, and community (Al-Ramahi, 2011). Family customs, family structure, and tribe systems are integrally related to this activity. Many tribal government systems dominated Arabia throughout the Jahiliyyah period. The tribes' honour, pride, and dignity were completely non-existent (Abdul Hak & Khan, 2013). The chief was held accountable for settling conflicts such as those between couples, debtors, and creditors, among others (Abdul Hak & Khan, 2013). Because the judicial and administration systems are broken, nonviolent dispute resolution has gained appreciation.

Sulh was continually practised during the time of Prophet Muhammad PBUH and was modified to conform to Islamic ideals (Abdul Hak & Khan, 2013). It is still in effect in various Arab nations (Abdul Hak & Khan, 2013). Alternative Dispute Resolution (ADR) is not a new concept in the legal system (N. Khalidah Dahlan & Palil, 2018). According to N. Khalidah Dahlan and Palil (2018), alternative conflict resolution processes are accessible that do not involve the judicial system. Furthermore, arbitration, conciliation, and sulh processes are among the ADR approaches used in Islam in Malaysia. Despite their varied nomenclature, mediation, negotiation, and conciliation all refer to the same thing: sulh (Naeem & Khan, 2017).

According to the Cambridge Dictionary (2019), mediation or sulh refers to a way of resolving a problem by having both sides negotiate and agree on a solution. Sulh technically means "to cut off a quarrel" or "to end a quarrel," either directly or by the assistance of a neutral third person or a third party (Singh, 2017). Terminologically, it refers to an agreement reached between two disagreeing parties that results in the resolution of the issues through procedures such as conciliation or mediation (Ishan Jan and Ashgar Ali, 2010). ADR is an excellent approach for resolving disputes since it is based on freedom of choice and flexibility, in contrast to judicial judgments of conflicts, which are highly expensive, time-consuming, and open to the public (N. Khalidah Dahlan & Palil, 2018). Furthermore, this strategy maintains peace and harmony between disputant parties while limiting future degeneration of society on a broader scale. In any conflict resolution, Islam established the rule of law to resolve conflicts and maintain the smooth operation of our worldly activities (Al-Ramahi, 2011). Some legal evidence on sulh mentioned in the Al-Quran and As-Sunnah are as follows:

"And if two factions among the believers should fight, then make settlement between the two."
(Surah Al-Hujurat: verse 9)

"And if you fear dispute between the two, send an arbitrator from his people and an arbitrator from her people. If they both desire reconciliation, Allah will cause it between them. Indeed, Allah is ever Knowing and Acquainted [with all things]."
(Surah an-Nisa: verse 35).

"And if a woman fears from her husband contempt or evasion, there is no sin upon them if they make terms of the settlement between them - and settlement is best."
(Surah an-Nisa: verse 128).

The approach of *sulh* was reported in a hadith narrated by Sahl bin Sa" d that once the people of Quba fought with each other till they threw stones on each other. When Allah "s Apostle (PBUH) was informed about it, he said, "Let us go to bring about reconciliation between them."

This method was also implemented during the reign of the Caliphates of Islam. For example, Umar ibn al-Khattab (r.a), the second caliph of Islam, instructed Abu Musa al- Ash" ari as follows:

"And an amicable settlement *(al-sulh)* is permitted or lawful between Muslims (in dispute), except in the case of an amicable settlement which forbids a permissible one (halal) and permits a prohibited one (haram)."

In the Quran and the traditions of the Prophet Muhammad, the fact that Islam encourages and promotes the reconciliation of adversaries is readily apparent. Practised abroad but lately reintroduced, it is generally recognized within the legal profession, namely in Malaysia. Mediation has historically been employed even when it was not stated as sulh (Abdul Hak & Khan, 2013). a combination of Malay traditions and Shafi'i School of Law, based on Islamic law (Abdul Hak & Khan, 2013). mediation is currently being encouraged and re-initiated (Abdul Hak & Khan, 2013). The Mediation Act 2012, which supports easy, private, and confidential dispute solutions, has caused mediation's popularity to rise in Malaysia (Azzis & Azhar, 2018; N. Khalidah Dahlan & Palil, 2018). Proactive efforts include the KLRCA, Mediation Centers established in many connected State Courts, and the Sulh Council in the Syariah Court (Azzis & Azhar, 2018).

As mandated in Arahan Amalan Jabatan Kehakiman Islam Malaysia, sulh under Shariah court is confined to resolving marriage conflicts such as divorce, jointly acquired property, hadhanah, and so on (No.1, Tahun 2010). Various elements, such as auditory, olfactory, physical damage, constructions, parking lots, pets, festive celebrations, and so on, have been recognized as contributing to neighbourhood conflict (Azzis & Azhar, 2018). In general, any difficulties that develop will be reported to the authorities and enforced following the law (Azzis & Azhar, 2018). For example, in Lai Kong Loke & Anor v Ting See Leng [2017] 7 MLJ 548, a misdemeanour of parking a car in front of a neighbour's house and interfering with the neighbour's ability to enter and exit was recorded. The court determined that the behaviour was improper and generated conflict in the neighbourhood.

Furthermore, the problem of open burning during religious rites, as described in Tunku Norella Suriani bt Tunku Yusoff & Anor v Group of Sierramas (M) Sdn Bhd & Anor [2011] 9 MLJ 1, has an impact on community members' relationships. Tunku Norella won his neighbour's litigation for performing an incendiary religious ceremony in public, creating a foul odour and rubbish to the house. Selfishness among city dwellers has indirectly weakened people's morals and sensibilities, resulting in a disregard for neighbourhood connections (Nur Khalidah Dahlan et al., 2017). Differences in religious background, culture, way of life, and ideas, on the other hand, contribute to a lack of tolerance for one another. As a result, social interactions between multiracial societies are being harmed and increasingly strained (Nur Khalidah Dahlan et al., 2017). All of these issues may be resolved internally without the need for long-term legal action provided both disputing parties are tolerant of and understand one other (N. Khalidah Dahlan & Palil, 2018)

The quantity of complaints from residents highlights the need for new platforms or processes to limit the number of incidents that develop. MBSA received roughly 362 complaints about neighbourhood issues in October of 2019. Sulh's dispute settlement technique benefitted the conflicting parties and expedited the resolution of the matter (Nur Khalidah Dahlan et al., 2017). Sulh is seen as one of the more acceptable avenues for mitigating Islamic-origin neighbourhood conflict (Nur Khalidah Dahlan et al., 2017). According to Abdul Hak and Khan (2013), little to no understanding of sulh exists among Malaysia's Muslim population. Sulh expertise is therefore needed to be spread throughout the country. There is less research of alternative viewpoints, such as in family disagreements. Sulh has helped provide in-depth remedies for neighbourhood issues and community concerns, however. As a result, this study aims to analyze settlement mediation (sulh) roles as judged by Islamic law.

2.0 Methodology

This work employs a qualitative research methodology based on library research. This study is empirically based on the evaluation of extensive situations of neighbourhood conflict in the built environment. This qualitative study employs the content analysis method from the classical Islamic jurisprudence text, Kitab Al-Ghayah Wa Nihayah Fi Ikhtisor Al-Nihayah, and other related resources such as journal articles, law reports, historical reports, and an online virtual library to achieve the research objective.

3.0 Results and Discussion

3.1 Brief Background of Kitab al-Ghayah Fi Ikhtisor Al-Nihayah

Kitab Al-Ghayah Fi Ikhtisor al Nihayah by Dar An-Nawadir Publication, Beirut Lubnan, was selected as primary resources to accomplish the research objective, supported with other references such as journals and proceedings.

One of Shafie's scholars, Sultan Ulamak al-Izz bin Abdul Salam, wrote this work, whose actual name is Izzuddin bin Abdul Aziz bin Abdul Salam As-Sulimiyy. He was born in Egypt in 577 H / 1118 M and died there in 660 H / 1262 M. He was also referred to as Abu Muhammad. The first edition will be published in 2016 / 1437H. According to Shafie, the sulh mechanism was used to address most arguments about neighbourhood concerns in the built environment. In this kitab, the author communicates his thoughts utilizing al-aslu and al-far'u approaches. Al-aslu highlighted the fundamental issue of neighbourhood disputes, while the far'u addressed the possible difficulties that may develop and the applicable legislation. Among the neighbourhood disputes in a built environment setting were those involving housing, building, etc. As a reference to the present qadhi in addressing similar concerns emerges, the qiyas approach used in the debate is suitable. For example, consider the effect of a tree breaking into the region of a neighbour.

Furthermore, Abu Muhammad provides an example that explains the relevance of the sulh technique solution in a heritage property. This approach combines two different dispute resolution approaches into a single solution. In general, this book has eight (8) volumes that emphasize Shafie Mazhab's arguments on numerous topics like cleansing, prayer, fasting, will, divorce, etc. Volume four has a full explanation of sulh (4). This book is helpful as a study resource since some of the themes discussed is directly tied to neighbourhood difficulties and disputes from an environmental standpoint.

Prosecution and defence of ownership are firmly ingrained and presented carefully. Following Abu Muhammad's framework, the discourse began with arguments regarding home improvements, wall sharing, roofing, property rights, drainage, and crops. This kind of structure could help the researcher receive the study's essential findings. The author provides new knowledge that previous authors may not have addressed in each of the segments. This book's strength comes from two relevant glossaries: a dictionary of Shafi'i jurisprudence (including terminology, views, and perspectives) and a lexicon of terminology by Maza'har Rijal. This book emphasizes legal concerns based on the Shafie Mazhab. Syafie Mazhab is found in Malaysia, where it is practised officially.

3.2 Roles of Sulh adopted from Kitab al-Ghayah Fi Ikhtisor Al-Nihayah

The primary goal of this study is to investigate the functions of mediation (sulh) in settling neighbourhood disputes from the standpoint of Islamic law. Sulh is discussed in this book on page 61, case number 1642, where it is divided into two (2) types, namely sulh on prosecution and sulh on denial. According to Syafie Mazhab, sulh in resolving neighbourhood issues mainly focuses on property rights, whether exchange-traded or free of charge, such as inheritance and gifts (hibah). Based on the full breadth of the sulh debate, the researcher determines that the sulh mechanism plays at least five (5) key roles in settling neighbourhood disputes in the context of the environment. The following is a more detailed summary:

3.2.1 Preservation of relationship

Following Islamic teachings, when there is a lengthy disagreement or disagreement (syiqaq) between neighbours over the extent of the environment, this book describes the urgent necessity for a fair settlement and judgement to be executed. From a formal aspect, the peace process will only be executed if the problem is handled only by the authorities—the sulh approach, which relied on the claimant establishing his case. According to Al-Ramahi (2011), if a claimant fails to show his case, the responder may be asked to swear an oath rejecting the claim. In Malaysia's contemporary setting, local authorities can execute sulh in settling the neighbourhood matter. In contemporary practice, local governments provide a forum for complaints, both offline and online, that the public may utilize to express their concerns or discontent with various topics. All disputes will be settled following the law. Authorities should practice the sulh applications presented in this book as the best strategy for sustaining excellent community connections.

The credibility of the third party, who must be knowledgeable, competent, and experienced, is paramount. In Bouheraoua (2011), mediators must be fair, unbiased, well-regarded, qualified, and accepted. Enhancing mediation in neighbourhood disputes is critical in maintaining peaceful and healthy community connections following a settlement. According to Elmas (n.d.), an Islamic construction environment where everyone respects their neighbour's properties and does not interfere is vital for producing a living atmosphere in which security and trust between social relations are not broken. There are examples of Abu Muhammad's concerns in this book's theme sulh, such as neighbourhood strife and its resolution.

- Case number 1656, • On page 70, there was a discussion about someone planting trees in someone else's yard and causing harm to others or passersby. Scholars are divided on the subject. According to Abu Muhammad, trees are banned even if they do not damage others, whereas some argue the opposite.

● Case number 1662, • On page 76, it was suggested that the tree branches be placed on adjoining walls. It is banned unless the neighbour consents.
● Case number 1677, On page 85, it was mentioned how trees burst into the neighbouring area. If tree branches penetrate the adjacent space, they should be removed. If the branches are not properly tying to the tree, they should be chopped if it is the only option.

All of the options presented above concluded that all harm to others, particularly neighbours, is prohibited. This demonstrates that Islam is concerned with the community's relationship. Elements addressed in the concerns are not to injure or use the property of others without their permission. The goal is to reduce antagonism and strife among believers to maintain a harmonious connection in society (Singh, 2017). Furthermore, it is consistent with the qawaid fiqhiyyah practised in Muslim living, which states that damage must be avoided. All darar and dirar must be avoided to guarantee that human habitats are suitable for man's spirit, soul, and body to seek refuge and shelter (Muhamad, 2018).

3.2.2 Preservation of rights
The discussion in case number 1655 on page 69 addresses how the sulh process is used to resolve conflicts between two parties about constructing a veranda. According to Abu Muhammad, there are three prerequisites for building a veranda: constructed the veranda towards other people's property, built the veranda towards important roadways, built the veranda in a specific way, and hindered the people below. According to Abu Muhammad, these architectural projects are banned because they interfere with neighbours' rights to light and air. Furthermore, as said in the second criterion, it can be created as long as there is no danger to pedestrians or horse riders. However, the building's height does not come into contact with the spears carried by passengers, and it can be reached by horseback regardless of road size.

Furthermore, case references to case number 1670 on page 81 regarding roof issues might be made. Scholars are divided concerning the rights of lower and upper inhabitants. According to Maliki and Hanafi, it is part of the lower owner rights that finished the structure. According to Shafie and Hanbali, the upper and lower level owners shared ownership of the intermediate roof because one would profit from it as a roof and the other as a floor (Muhamad, 2018). To summary, this book discussed the rights of building limited or jointly owned, emphasizing the notion of "La Darar wa La Dirar" in any construction connected to the building owned or not. Ibn Qudamah agreed that a man does not have an absolute right to act in a way that causes harm to others inside his property (Muhamad, 2018).

3.2.3 Settlement Agreement
On case number 1665, page 78. This book analyses the parties' agreement on the right and prohibition of sharing for private common property. The idea of Sulh in Islamic law encompasses compromise, settlement, or agreement between parties (Singh, 2017). The sulh institution serves as a neutral arbitrator in disputes over the exercise of such rights, either for free or for a fee (al-misl said). All aspects of the agreement reached throughout the sulh process will be documented and signed in the presence of the witness. Even though the mediator's decision was not an enforceable judgement but rather a declaration of right on a contested subject, each party had to submit a guarantee that they would abide by his conclusions upon the mediator's permission to act. In the instance of the reconstruction of the Kaabah, the Holy Prophet (PBUH) offers testament to this regard for the principle of compromise (Sa'odah & Nora, 2010). Naturally, both disputing sides will be pleased with the results (Hassan et al., 2013).

Furthermore, all the records are necessary for future reference and cooperation. For example, if a disagreement emerges in the future and is brought to court, the records and paperwork of the agreement will serve as evidence to help the trial judge make a judgement. However, from an Islamic standpoint, the sulh or judging process should not be based solely on documentation. It must be accompanied by additional explicit allusions to religious ideas, holy books, legends, and moral exemplars, as well as local history and tradition, in order to reestablish humanity's solidarity, dignity, and prestige (Al-Ramahi, 2011).

3.2.4 Speedy Process
In current Syariah Court practice, the sulh institution acts as the initial stage in addressing family disputes before a trial. Then, the sulh officer will meet with the prosecution and work out a beneficial solution for all parties. The function of the peacemaker in this sulh institution is consistent with Al-(2011) Ramahi's ideas. He stated that the major goal of third parties was conciliation and the preservation of harmony. According to his research, some arbitrators would go to considerable lengths to provide the required reward or incentive out of their own pockets to encourage the fighting parties to agree to a sulh (Al-Ramahi, 2011). If the scope of this resolution is expanded to more general problems, such as neighbourhood conflicts, it is expected that more debates may be addressed without resorting to judicial procedures, benefiting the parties more amicably and sustainably in the long run.

Furthermore, Al-Ramahi (2011) said that the beginning and implementation of any intervention through sulh is often based on societal social norms and practices to establish and safeguard future connections among disputant parties. Therefore, this resolution technique was discovered to include simply disputants and a third party (a sulh mediator), with no more elaborate judicial processes. Furthermore, the sulh method is less expensive (Zuhairah et al., n.d.) and provides a more realistic resolution mechanism (Keshavjee, 2002). Therefore, it is less costly and takes less time (Abraham, n.d.).

3.2.5 Private and Confidential

Mediation takes place behind closed doors and is completely private and confidential (Baig, 2010). It is private and provides confidentiality and empowerment to the parties (Khan & Hak, 2014), and it was noted that the selection of people to be mediators must contain a great character, high quality, and exemplary record, i.e., from among the finest available in merits and morals. These conditions guarantee that the parties' agreement is fair and equitable.

4.0 Conclusion & Recommendations

This paper makes a few proposals to reintroduce sulh as a Prophetic conflict settlement method in modern practice:
• The use of sulh as an effective means of conflict settlement should be expanded to include all sectors. For example, it may be used to settle conflicts in the neighbourhood, business, architecture, and other fields.
• Legalize and formalize the local authority's implementation of sulh in settling neighbourhood conflicts in the built environment scope.
• Integrate traditional and modern practises into a comprehensive approach to sulh implementation.
• Provide a handbook, standard operating procedures (SOP), and explicit ethical standards for the sulh mediator designated by the local authorities to resolve neighbourhood conflicts.
• Conduct more studies on sulh using sources from traditional Islamic texts, particularly in the built environment.

It was discovered that the incorporation of sulh managed to lessen legal bickering while being a component of real and adaptable peace-making instruments. As a result, it is envisaged that the incorporation of sulh can be employed in modern neighbourhood disputes to reach societal social well-being goals. Therefore, the importance of sulh institutions in all parts of life is critical in social connections to maintain the country's survival and peace.

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