

SYNTHESIS REPORT

**ALTERNATIVE
DISPUTE
RESOLUTION
AND MEDIATION
IN MOROCCO**

**MERGING ISLAMIC
AND CONTEMPORARY APPROACHES :
THE WAY FORWARD**





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Search for
Common Ground | Morocco

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Abstract

The findings of this report emanates from consultations primarily between the Mohmmadia League of Moroccan Scholars (Rabita Mohammadia des Oulemas au Maroc) and Search for Common Ground Morocco.

The main aim of these in-depth discussions was to explore and develop the notion of how contemporary and Islamic approaches to alternative dispute resolution and mediation can unite to form an effective modus operandi in Morocco.

This report conveys the purposes and key concepts discussed during the consultations as well as providing an analysis of the state of mediation and alternative dispute resolution in Morocco. Search for Common Ground obtained this analysis from different vantage points, with the aim of facilitating constructive spaces in which practical and conceptual tools aid the integration of Islamic and contemporary approaches to dispute resolution on a large scale.

Introduction

In recent years, the MENA region has undergone tremendous political transformations that have reignited debates and public deliberations of, amongst other things, the role of religion in public life. During the past three years, the region has witnessed the eruption of some of the most violent conflict it has ever seen. Unfortunately, religion has often emerged as a politically polarizing factor and/or a catalyst for violence. Fortunately, for Morocco, it has largely escaped such violent, political and social unrest. Nevertheless, debates about religious identities and their role in the public sphere and governance structures are becoming more prevalent. They are taking place in both a regional and national context wherein profound political and social discourse concerning power sharing are taking place. From an economic perspective, several challenges are facing the country both internally and externally. Indeed, more so than ever before, disputes ranging from the intellectual, the religious, the social, the political and the economic, are continually occurring. Thus, the onus on institutions and key stakeholders to manage and resolve contentious issues constructively as well as to facilitate cultures of peace has never been so high a priority.

Taking into account the multifarious transformations occurring in the MENA region, while simultaneously acknowledging the role of religious identities in fostering social cohesion, Search for Common Ground (SFCG) is working along with efforts to create institutional and conceptual bridges with those who seek the advancement of cultures of peace and peaceful conflict resolution. In light of this, SFCG organized the Alternative Dispute Resolution and Mediation consultations with the aim of merging contemporary and more traditional approaches to alternative dispute resolution (ADR) in Morocco. The consultations sought to evaluate the success of past efforts and initiatives and pinpoint key areas to focus on going forward, as well as identify the steps needed to engender the promotion of alternative dispute resolution at such a momentous point in time.

The practice of conflict resolution is not alien to Islamic discourse. Yet today, numerous Islamic countries are striving to maintain a sense of equilibrium between new and traditional outlooks and attitudes. Modernization, globalization and the preeminence of international governance models have compelled Islamic countries like Tunisia and Turkey to align their institutional, judiciary and legal bodies with these standards. This in turn has created new realities that have touched almost every aspect of society and governance, in a manner that some traditionalists have at times perceived as a threat to the role commonly played by Islam, particularly within social and political spheres.

Morocco has recently adopted several legal and institutional measures that place the promotion of constructive conflict resolution at the forefront of economic, social and political agendas (for example, a vast national transitional justice program—IER—has recently been launched). This has coincided with legal and institutional advocates along with intellectual and civic platforms increasingly calling for the employment of conflict resolution methods to settle disputes and conflicts threatening social cohesion. Furthermore, Morocco has taken several steps to establish foundations for constructive political and legal conflict resolution within various areas of governance and judiciary. For example, the National Reconciliation

Program instituted in 2004, has put an end to a political impasse that lasted for over four decades. This deadlock occurred due to a series of highly sensitive political disputes such as sought after amendments to the personal status law (*Mudawana*), which polarized political stakeholders as well as cross-sections of Moroccan society. It was eventually resolved by means of royal arbitration and acquired its legitimacy by means of religious and constitutional powers held by the King who is designated the 'Leader of Believers' (*Amir Al Mou'minin*) or supreme head of religious affairs. A state ombudsman was also established, and until today, it acts as a national mediation body, which is constitutionally empowered to intervene and resolve any significant disputes that may arise between citizens and the state. In addition to these accomplishments, in 2008, the ruling body passed an arbitration and mediation law, which legally recognized the aforementioned alternative dispute resolution arrangements as measures to which individuals and organizations could employ to resolve and settle disputes. Thus, the Kingdom is endeavoring to comply with the values of international human rights in the sphere of conflict resolution.

As stated in this synthesis report and in papers presented during the consultations, a prevalent notion exists that there is a marked incompatibility between, on the one hand contemporary approaches to ADR and conflict resolution deriving from perceived western values, and on the other hand Islamic methods of dispute and conflict resolution based on legalistic tradition and history. In light of this, the consultations sought to create a space in which religious and legal scholars from Rabita Mohammadia des Oulemas au Maroc and practitioners trained in contemporary alternative dispute resolution methods, could engage in deliberations regarding the possibility of merging Islamic approaches together with contemporary approaches to conflict resolution.

Key Objectives

The following items were set as objectives for the consultations:

- 1 To synchronize the conceptual plurality of conflict resolution methods in contemporary and Islamic understandings in Morocco.
- 2 To raise awareness and understanding of the potential of alternative dispute resolution/mediation methods as platforms for the prevention of cultural violence.
- 3 To increase capacity of individuals, civil society organizations and community groups to resolve conflicts constructively.

Scope and Methodology

While the framing remained focused, the scope and desired outcomes of the conference were profuse. Such a project requires detailed investigation into legal, political, social, religious and cultural aspects of the two approaches, in order to gain comprehensive and coherent findings, which can lead to functional regulations, effective institutional bodies and high-value cultural repositories.

The papers presented at the conference gained insight into the following areas:

- the legal and institutional apparatus informing the practice of alternative dispute resolution and mediation in Morocco
- the strengths and weaknesses of implementing ADR, mediation and conflict resolution in Morocco
- the conceptual basis for implementing ADR and methods for mediating between Islam and contemporary approaches to conflict resolution
- the various efforts deployed by the state and other stakeholders to form and promote ADR and peaceful conflict resolution within a Moroccan context
- the dynamics of Islamic dispute and conflict resolution and their relevance in today's society
- the significance and potential of a conceptual, institutional and practical amalgamation between contemporary and traditional approaches to conflict and dispute resolution in Morocco.

The contributions of the panelists were interdisciplinary in nature and employed four types of research methodologies to substantiate their arguments. Some papers adopted composite research methods in the development of their arguments. Some authors (namely Mohammed Nouri, Salah Ennachat, Achak Abdelhamid, Farida Zoumourod, Nabil Rochd and Hakima Laala Hafdane) employed conceptual research methods to examine the notion of Islamic and contemporary ADR integration. This worked well with the overall theme of the consultations as traditionally, conceptual research methods are used to interconnect ideas and theory, develop concepts or re-interpret existing ones. In the context of Islamic and contemporary ADR amalgamation, efforts to map key concepts such as mediation, arbitration, intercession (*Chafa'a*), conciliation and peace were undertaken. In addition, the consultations aimed to place emphasis on the philosophical, historical and practical dimensions of the two approaches to ADR and conflict resolution, to add weight to the concepts put forth.

Some papers alternated between analytical and descriptive forms favoring the separate and in some cases combined documentation of judicial provisions governing both approaches. Analytical exercises emphasized the gaps that exist between:

- the legal apparatus and practice (Laaraj, in the case of arbitration laws in Morocco)
- the mismatch between traditional institutions and their actual roles today in the practice of ADR and mediation
- creating connections between the conceptual foundations of ADR in both contemporary and Islamic settings in addition to exploring the ways in which ADR, mediation and conflict resolution are applied in Morocco both at legal and practical levels.

Participants in the consultations scrutinized the adoption of applied research methods. Most of the papers featured a practical component, as they sought to document, analyze and validate the culture and practice of peaceful alternative dispute and conflict resolution.

In terms of scope, the papers presented examined a wide array of issues that encompassed conceptual, legal, institutional and practical aspects of the overall theme. Salient developments included the following rationale:

- the expansion of the practice of ADR as a vehicle for facilitating sustained social cohesion
- the establishment of connections between contemporary and Islamic approaches in ways that guarantee the development of organically coherent models for an integrated practice of conflict and dispute resolution
- the formation of practical proposals to further the ADR and conflict resolution agenda as well as supporting cultures of peace conducive to stability and social cohesion in Morocco and beyond.

Conceptual Foundations

While terminology to encompass both contemporary and Islamic approaches to conflict and dispute resolution is common, the consultations also identified a number of marked distinctions. In the case of papers focusing on contemporary approaches to dispute and conflict resolution, conceptual delimitations of ADR and conflict resolution processes surfaced. Indeed, most authors (with the exception of Hakima Laala Hafdane and Nouri Mohammed) mapped a conceptual ADR continuum focused on practical and legal dimensions rather than probing into the philosophical underpinnings and historical contexts from which ADR and conflict resolution concepts have evolved.

In terms of Islamic approaches to conflict and dispute resolution, there were detailed examinations into a vast repository of Islamic philosophy and jurisprudence as well as historical and cultural practices. The argumentation rhetoric adopted to investigate ADR mechanisms and concepts within an Islamic context, consisted of legal arguments emanating from jurisprudence and interpretations that emphasized the practical value between core principles, cultural and religious practices and procedures for resolving conflict.

Such arguments derive from the fact that institutional and legal regulatory apparatus fashioned by the state shapes contemporary approaches to conflict and dispute resolution. This apparatus frames conceptual and practical processes and practices falling within the ADR continuum. The other reason behind the emphasis on legal and practical dimensions is the notion that these elements introduced to the Moroccan institutional and legal framework, the rhetoric of policy reform used has been reminiscent of similar international models. Likewise, Morocco has been engaging in vast projects of modernization and reform to the extent that alignment with innovative international practices has become more than often than not, a new reality. Also significant is the fact that in academia and the public sphere, key actors make little effort to deconstruct the conceptual foundations of conflict resolution and initiate cogent dialogue employing indigenous and Islamic conflict resolution traditions.

Thus, when approaching the fundamentals of conceptual ADR frameworks, the following considerations are relevant:

- 1 - insight into the dynamics of contemporary ADR frameworks
- 2 - concepts related to the practice of conflict resolution and ADR
- 3 - Islamic concepts and methods of dispute and conflict resolution
- 4 - rationales and justifications for investing in ADR and other tools of conflict resolution.

ADR mechanisms institutionalized by Moroccan legislation:

Arbitration (*Tahkim*): a process used as an alternative to litigation, especially in commercial and labor disputes. It offers less formal procedures, abbreviated presentations and the due diligence of the neutral arbitrator(s). The arbitrator reviews documents to determine necessary actions and to what degree expert witnesses and cross-examinations are required. The arbitrator also hears arguments by counsel before rendering a decision. In general, this process can be either binding or non-binding.

Traditionally, arbitration has been practiced by tribal leaders, known as *Oulema'* as well as dignitaries because the role is invested with prestige and social status. Arbitrators also had the power to issue rulings ending disputes (Hafdane, 2013). In so doing, they employed a variety of principles derived from Islamic jurisprudence, communal and cultural norms (Ourf, 2013).

In the Moroccan judiciary and legal systems, law 08-05 governs arbitration, constituting international arbitration, internal arbitration and conventional (contractual) mediation (Rochd and Hafdane, 2013). This law has delimited the scope and modus operandi of arbitration in Morocco, thus internal arbitration is used in commercial disputes and litigations involving the state or local collectives (Rochd, 2013). The arbitration services of the Moroccan judiciary system is legally binding and requires either an arbitration clause in contractual relations or a voluntary arbitration agreement by the constituent parties in a case. Procedurally, a law for arbitrators to settle disputes stipulates a period of six months. In case this period passes, the law terminates this issue by default.

Conciliation (*Essoulh*): is an alternative process for resolving disputes. The disputants conduct this process voluntarily as they freely agree to engage in negotiation in an attempt to resolve their dispute. A conciliator facilitates this process with flexibility through their role, which is to create a positive environment and establish channels of communication conducive to an interest-based settlement of the dispute. The process furthermore utilizes social norms and values to encourage parties to resolve their disputes and its voluntary nature protects social connections and maintains cohesion.

Conciliation can also be a compulsory process in which social norms play an important role in exerting pressure on parties to find solutions to their disputes according to values and ethics.

In the context of the Moroccan judiciary, judges or other third parties often initiate conciliation processes. In cases whereby conciliation successfully leads to an agreement, the judge handling the case uses the agreement to end the litigation process. In such cases, the conciliation agreement becomes legally binding and irreversible. The Moroccan law constitutes conciliation as an embedded process for resolving labor, transactional as well as familial disputes.

Mediation (*Wassata*): a process in which a neutral third party assists two or more disputants to reach a voluntary, negotiated settlement of differences. The mediator uses a variety of skills and techniques to help the parties reach a settlement, but has no power to make a decision.

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Law 08-05 has instituted contractual (conventional) mediation as an alternative dispute resolution procedure that is confidential, flexible, straightforward, and has the potential to end disputes that would otherwise require long litigation proceedings.

The philosophical and conceptual underpinnings of contemporary approaches to dispute and conflict resolution

Resolving conflict entails a number of fundamentals. Conflict resolution practitioners need to have theories as to why and how conflict erupts in its particular context, what exacerbates and sustains it, and what conditions lead it to become violent, destructive and costly. Practitioners also need to understand the best ways of handling conflict and the appropriate tools needed to end it. In the consultations, such perceptions influenced how the participating authors viewed the practice of conflict resolution. Some of the papers presented also espoused these key ideas:

The nature of conflict: There are claims that this approach ultimately leads to more violence and destruction. Some members of the public still hold such a parochial view as well as some areas of research and practice. However, with the advent of research into the psychological, social, political and economic dynamics of conflict, the practice of conflict resolution is shifting towards an affirmative perception of conflict as a natural dimension of human interdependence.

Within the broader political and social arenas, there are often conceptual linkages between conflict and peace. Mohammed Nouri, for instance, emphasizes the difference between positive and negative concepts of peace and its links to conflict (Nouri, 2013).

Negative peace: the concept of peace as a condition solely predicated on the absence of organized, collective violence or disruption, as opposed to an all-encompassing positivistic condition experienced at all levels of society. Negative peace creates a win-lose situation in which conciliation occurs but the root causes of the conflict is not fully resolved. It is pessimistic about the ability of individuals to resolve conflict because peace does not always come about by peaceful means.

Positive peace: this concept of peace works on the assumption that while human interdependence involves the obvious risks of conflict and unrest, there should be a prevailing sense of optimism, acknowledgment of shared human values, nurtured interrelationships and structural integration to prevent conflict and achieve protracted peace by non-violent means.

The parties work together to construct fundamental processes for handling conflict and thereby produce a win-win situation. The patronage of institutions and civic bodies can enhance positive peace and cultivate productive cultures of conflict resolution. This in turn strengthens social ties and social cohesion.

The protection and preservation of social ties and social cohesion: frameworks for conflict resolution play central roles in fostering social cohesion and protecting social ties. Through varying means, they offer individuals, groups and communities the opportunity to seek assistance in obtaining support for dispute and conflict resolution without threatening the values of peace and unity within social structures. The lack of resources for conducting such modes of conflict resolution, as well as the paucity of certain values that aid constructive and effective outcomes, remains a threat to sustained social cohesion.

Cooperation, shared values and interdependence: Most alternative dispute resolution frameworks are voluntary processes that individuals and groups use because of their appeal. The frameworks have the potential to end disputes in a germane manner while offering the parties considerable amounts of control over the process. In many respects, such ADR processes appeal to the shared values commonly held on issues such as social provision, justice and rights inter alia. Indeed, cooperative behavior emanates from individuals' shared understanding and appreciation of what it means to take an interest in other people's needs and rights when encroached. The ability to establish shared values successfully thus creates optimal conditions for cooperation.

Difference and Dialogue: difference and divergent interests are characteristics of human life. Human interdependence and the preservation of peace in its positive sense, requires a proactive engagement with diversity. Therefore, conflict resolution processes offer individuals, groups and communities a wide range of tools to resolve disputes that arise from difference as well as divergent interests and views. An aspect of how conflict resolution frameworks function, relates to the creation of practical channels of communication in which dialogue about identities and divergent interests can take place. Such forms of dialogue bring people together and subsequently closer towards conflict resolution.

Islamic concepts, principles and processes for dispute and conflict resolution

The Islamic approach to conflict and dispute resolution is replete with vast repositories of ideas, principles, concepts and practices. Perhaps the most common base for scholars to navigate from has been *Wassata*, which in some respects epitomizes the Islamic ADR framework because it embodies the ethos of conflict and dispute resolution. In addition to this are other significant concepts such as intercession: *Chafa'a*, *Islah* or *Solh*, which also play key roles in the practice of mediation within an Islamic setting.

Mediation (*Wassata*): derives from the root *wasat*, which denotes the position of being in the middle or equidistant. As such, the term *Wassata* in Islamic literature and tradition refers to the agency of a benevolent third party intervening to resolve a dispute or a conflict (Abdelhamid, 2013). Such intervention is supposed to advance the attainment of justice. In fact, the very concept of identity in the Islamic community revolves around being a *Wassat* in a just society as the Qur'an explicitly exhorts, "Thus We have made you [true Muslims - real believers of Islâmic Monotheism, true followers of the Prophet Muhammad SAW and his Sunnah [legal ways], a *Wassat* [just] [and the best] nation" (Al Baq'arah 2:143).

Abass Elouardi and Farida Zoumourod highlight the emphasis on justice, balance, social interest, satisfaction and impartiality in Islam as characteristics of intervention mediation. They refer to the following Qur'anic verse, "If you fear a breach between them twain [the man and his wife], appoint [two] arbitrators, one from his family and the other from her's; if they both wish for peace, Allâh will cause their reconciliation " (An-nisa' 4:35). This verse underscores the balance and fairness of dispute resolution process both in its form (granting each party in the dispute the right to name a representative) as well as in its ethos of encouraging the attainment of a common ground whereby each party's interests are considered. The voluntary nature of the process is also discernable (Zoumourod, 2013).

Mediation like other ADR processes in the Islamic tradition derives its legitimacy from a number of Islamic precepts. Achak Abdelhamid, for instance, relates several aspects that supports this view, including the notion that mediation should be geared towards 'the good' and redressing or reversing 'wrongs' and harm (Abdelhamid, 2013). He cites the verse in the Qur'an, which exhorts Muslims: "So fear Allâh and adjust all matters of

difference among you, and obey Allâh and His Messenger [Muhammad SAW], if you are believers” (Al Anfal 8:1). Noteworthy is how this verse links true Islamic faith with the ability to adjust and redress matters of difference. Islam also highlights the primacy of maintaining and restoring peace and justice through mediation efforts founded on principles of fairness and justice. The driving force of this mediation is ‘doing the right thing’. In this way too, *Taqwa*, a term which denotes a state of utmost faith and piety, is also associated with efforts to end conflict: “And if two parties or groups among the believers fall to fighting, then make peace between them both, but if one of them rebels against the other, then fight you (all) against the one that which rebels till it complies with the Command of Allâh; then if it complies, then make reconciliation between them justly, and be equitable. Verily! Allâh loves those who are equitable” (Al Hujurat 49:9). Thus, the practice of mediation in Islam encompasses various teachings and principles that in turn reflect a number of actions and modes of intervention.

During the consultations, participants conveyed the following attributes as key concepts.

Intercession: *Chafa’a* refers to the act of intervening on behalf of a party in a dispute with the intention of finding a suitable resolution or settlement. In his paper, Abass Elouardi notes that while intercession should initiate positive and fair solutions to problems, care should be taken when implementing this mode of intervention (Elouardi, 2013). Intercession as a mode of conflict resolution predicated the positive role played by authoritative third parties who possess a great deal of respect and credibility. In practical terms therefore, the *Chafa’a* of a respected third party needs to engender values of forgiveness, mercy, justice and benevolence that the disputants will eventually adopt. The role of *Chafa’a* epitomizes the stance that individuals –especially those in high levels of authority, need to espouse in order to foster, restore and maintain healthy social relationships within the community.

Islah / Solh: As mentioned earlier, the term *Islah* denotes the efforts made to ‘reverse’ or ‘repair’ critical situations with the intention of promoting the ‘good’. *Solh* in turn relates to the notion of peace and the seeking of an amicable resolution.

Rather than merely being an alternative term used interchangeably with mediation and arbitration, *Islah* as a concept encapsulates the notion in Islamic teachings of seeking the ‘good’ in others on manifold levels. Conflict within this remit connotes a ‘breakdown’, ‘failure’ and an aberration of human agency, which should ideally be manifesting human goodness. Thus, *Islah* is viewed as a dynamic and positive process through which ‘repair’ measures are affected to rectify situations in which human rights and interests have been ‘wronged’ or violated. Farida Zoumourod explores *Islah/Solh* as an ADR process from different vantage points, such as interpersonal and family domains. She states that while *Islah/Solh* aim to find solutions to familial problems for example, in some cases it can lead to divorce, as the ultimate aim of *Islah/Solh* is that which is best for both parties; in certain cases this could be separation and/or divorce (Zoumourod, 2013).

The philosophy of *Islah/Solh* emphasizes the best interests of individuals and communities, thus aligning it to the hierarchy of virtues and goals within Islam. Overall, however, in areas such as familial disputes, Islam favors the restoration of relationships and the preservation of social ties above all other alternatives. The Qur'an exhorts, "And make not Allâh's (name) an excuse in your oaths against your doing good and acting piously, and making peace among mankind. And Allâh is All-Hearer, All-Knower" (Al Baq'arah 2:224). Islamic principles prompt individuals to explore ways of achieving common ground and solutions, which they can abide by, even if that means relinquishing some rights. The priority is constantly and ultimately to promote 'the good' and uphold justice.

Finally, it is important to note that the practice of *Islah/Solh* does not confine itself solely to interpersonal disputes; it also extends to complex situations such as armed or violent conflict emanating from either political differences and dissent or other motives.

Islamic values and concepts in relation to the practice of conflict and dispute resolution

In the pursuit of ‘the human good’ and ultimate justice, the practice of conflict and dispute resolution in Islam draws upon a rich repository of humanistic values with much practical application, as the following terms illustrate.

Faith fraternity: Islam promotes a sense of social and communal solidarity and fraternity based on a common faith. The Qur’an urges believers to remain unified and maintain respectful and fraternal relations, which in turn helps to cultivate a loving and caring environment. This in turn inhibits behaviors and attitudes that lead to the erosion of social bonds: “And hold fast, all of you together, to the Rope of Allâh [i.e. the Qur’ân], and be not divided among yourselves, and remember Allâh’s Favour on you, for you were enemies one to another but He joined your hearts together” (Al Imran 3:103). The call for the pursuit of reconciliation based on faith fraternity is also present in the following verse, “The believers are nothing else than brothers [in Islâm]. So make reconciliation between your brothers, and fear Allâh, that you may receive mercy” (Al Hujurat 49:10). Farida Zoumourod explores faith fraternity further by elaborating on avenues of research that touch on interpersonal, communal and intra-faith conflict within the Muslim community.

Social peace and peaceful coexistence: Islam foregrounds and promotes social peace. In many of its teachings, it highlights how Muslim individuals and communities can strive to maintain and develop peaceful relations towards each other even in the face of adversity and aggression. The Qur’an exhorts Muslims to manifest values of humility, forgiveness and non-violence, as expressed in the following verse: “And the slaves of the Most Beneficent [Allâh] are those who walk on the earth in humility and sedateness, and when the foolish address them (with bad words) they reply back with mild words of gentleness” (Al Furqan 25:63).

In addition to the view of peace as negative, i.e. a situation that is free of conflict, Islam also depicts peace in positive terms, advocating social peace and peaceful coexistence. Two core values documented in Zoumourod’s paper encapsulate this stance, namely, *Ta’aruf*, which denotes a deep desire to become acquainted with others and *Jiwar* or neighborliness. Islam acknowledges difference and diversity not only as a natural phenomenon but also as a divine universal law. The Qur’an urges all human beings to embrace diversity and proactively deepen one’s knowledge regarding the differences of others: “O mankind ! We have created you from a male and a female, and made you into nations

and tribes, that you may know one another. Verily, the most honorable of you with Allâh is that (believer) who has *At-Taqwa*" (Al Hujurat 49:13). This verse not only makes mention of a space in which intercultural communication can be pursued and developed for peaceful means, it also identifies equality as a trait to be used to incite human interaction. Likewise, neighborliness or *Jiwar* emphasizes the importance of social ties. The preservation of such ties and the maintenance of peaceful relations with neighbors is associated with *Ibadah*- worship, *Taqwa*- piety and devotion in faith, as well as *Ihssan* - the doing of good: "Worship Allâh and join none with Him in worship, and do good to parents, kinsfolk, orphans, Al-Masâkin [the poor], the neighbor who is near of kin, the neighbor who is a stranger, the companion by your side, the wayfarer [you meet]" (Al Hujurat 49:36).

In addition to the foregoing, the consultations explored other noteworthy Islamic concepts such as forgiveness (*Afw/Safh*) and tolerance (*Tasamuh*), all of which align to key ADR methods. Mohammed Nouri effectively captured this in his paper, which stated the following:

Intertwining deeds and intentions: Islam encourages individuals to build their appraisal of situations on the assumption that the other party's intentions are good. This demonstrates how attuned Islam is to understanding perception as a human psychological process and how it can play a nefarious role in igniting and escalating conflicts. In human relations, the basic norm is *Ibaha* i.e. the permissibility of actions. Actors must explicitly identify and name exceptions. This indicates that there is a vast scope in human actions and creativity to seeking solutions for disputes. It also harmonizes with the emphasis in contemporary conflict resolution research of finding creative solutions to settle disputes.

Islamic norms stipulate that contracts and transactions are binding once individuals voluntarily enter into them. The only exceptions are those deemed by jurisprudence as unlawful or 'un-Islamic'. This underscores the legal force that settlement and resolution agreements have in Islamic tradition. Maintaining peaceful relations is therefore dependent on legal and institutional guarantees obligating individuals to respect their transactional commitments.

Islamic norms favor the fulfilment of interests or *Reda* as a basis for settling disputes. Principles also acknowledge social mores as a source for establishing justice, as well as highlighting cost-benefit concerns (by ranking harms), which thus attempts to offset harms and minimize their impact.

Identified Gaps

Although aspects of Islamic peacebuilding and conflict resolution have substantial links to contemporary approaches to conflict resolution and work well in a variety of settings, certain challenges in this area remain. One such issue relates to the lack of scholarship devoted exclusively to peacebuilding, conflict and dispute resolution within an Islamic context. The basic conceptual infrastructure, as well as the practical and legal processes to aid development and progression, are sparse. This in turn affects the accessibility of these repositories for use within the wider peacebuilding, conflict and dispute resolution frameworks.

Another critical issue relates to pedagogical and educational factors. While Islamic tradition clearly offers a rich philosophical, spiritual, religious and ethical repository for conceptualizing Islamic peacebuilding and conflict resolution, there are no well-defined specifications regarding skillsets, criteria or attributes required to conduct conflict resolution within an Islamic setting. The Islamic landscape is wanting in terms of the availability and quality of educational resources that are necessary for training and development in this field. There are as yet no clear routes for pedagogical and educational growth within Islamic peacebuilding and conflict resolution outlined or implemented. Indeed, due to the lack of infrastructure currently in place, individuals exhibiting the potential to excel in this field have no alternative but to specialize in other disciplines. All these factors place Islamic peacebuilding and conflict resolution at a distinct disadvantage at a time when the world is in great need of its skills and expertise.

Another challenge relates to institutionalization and capacity building. While the Islamic jurisprudence and legal traditions offer feasible routes for identifying and working with key principles of conflict resolution, there is a deficit in the provision of institutionalizing a purely indigenous Islamic approach to conflict resolution. This is in addition to the need for clarity concerning the roles and functions of third parties in the field, along with a requisite for ethical and deontological considerations concerning practice and capacity increase. Of paramount concern however is the dearth of educational resources and standards.

Although there were efforts to amalgamate aspects of contemporary and traditional Islamic approaches to ADR and conflict resolution, it will be difficult to overcome the identified deficiencies impeding Islamic approaches to ADR and conflict resolution. Indeed, these challenges need the sustained guidance, direction and support of experienced actors in academia, governmental and non-governmental organizations as well as in religious bodies, to devise a feasible way forward.

The way forward: possibilities, opportunities and connections

Exploring the conceptual foundations of Islamic and contemporary approaches to ADR, mediation and conflict resolution within the Moroccan context has highlighted a number of important links between this approach and the contemporary practices of ADR. The vast research program currently taking place has allowed this to occur as it attempts to synthesize the practical tools and infrastructures of the two approaches.

One hopes that the consultations have succeeded in giving impetus to this monumental task and have furthermore highlighted key insights in this burgeoning field, cultivating possibilities for the future.

Final recommendations

The papers presented by the panelists conveyed several noteworthy recommendations along with a sense of the challenges that the Islamic-contemporary ADR and conflict resolution model needs to surmount before it becomes a fully functioning reality. Some of these recommendations include:

- ❑ Although there have been substantial efforts to legalize and institutionalize the practice of ADR and conflict resolution in Morocco, more momentum and support is needed to achieve large-scale implementations of the proposed model.
- ❑ While acknowledging the important role played by the state in legislating, legalizing and overseeing the initial adoption of ADR in Morocco, several panelists noted the pivotal role that the state still needs to play in order to maintain the advancement of ADR in Morocco.
- ❑ The legal and jurisprudence apparatus should continue to be strengthened, along with due consideration for ADR procedures, which is seen as essential for its continued effectiveness.
- ❑ The state needs encouraging by means of various partnership initiatives, to continue to invest in the institutionalization and proliferation of ADR in Morocco. Legislative support is crucial but it is not enough.
- ❑ The state needs to play a more active role in assisting communities to adopt ADR practices, along with developing institutional repositories of expertise with its own auditing infrastructure, as well as a level of autonomy oriented towards learning and knowledge management.
- ❑ Specific governmental actors need to work closer with civil society organizations and academic institutions in their efforts to institutionalize ADR practices through effective partnerships capable of providing capacity, awareness and expertise.
- ❑ The interdisciplinary survey of scholarship on the practice of ADR from a contemporary and Islamic perspective in Morocco indicated that there is immense potential for such models to instigate cultures of peace and maintain healthy social ties. However, the survey also identified that there is still work that is needed to acquire a suitable amount of ADR practitioners who are fully trained in all areas of dispute and conflict resolution and who can conduct the programs designed to foster a sustainable culture of peace.

❑ Participants in the consultations suggested that non-state associations such as civil society organizations, schools and universities, faith-based organizations and media outlets could enter into partnerships either with the state or with other bodies to advance the culture and practice of ADR.

❑ There is a pertinent need for sustained and meaningful engagement with both contemporary and Islamic approaches to ADR and conflict resolution, especially at a time when interactions between local and the global actors can potentially create misconceptions and assumptions that fuel tension and lead to conflict.

❑ There is a necessity for capacity increase to enable the construction and implementation of all forms of conflict resolution as well as a need for adequate resources to aid successful implementation of ADR models.

Due to the broad appeal of Islamic approaches to conflict resolution and peacebuilding, the institutional repositories of knowledge and expertise, which will primarily oversee the imparting of conflict resolution methods drawing on Islamic principles, will need to develop the following critical parameters:

❑ Clear ethical and deontological charters for the practice of conflict resolution within an Islamic context.

❑ A body of qualified conflict resolution practitioners capable of conducting training and capacity building to internationally recognized standards.

❑ A scholarly and dynamic repository of research and knowledge based on ADR and conflict resolution within an Islamic context.

❑ A rich repository of educational resources, curricula and training facilities devoted to capacity building and the training of Islamic conflict resolution.

❑ Institutional and legal specifications for the professional practice of all levels of mediation and conflict resolution.

❑ Set criteria for certifying and measuring the professional standards of practitioners imparting methods of conflict resolution with the application of Islamic principles.

Appendix | Papers presented for consultations

"Alternative Dispute Resolution and Mediation in Morocco: Merging Islamic and Modernist Contemporary Approaches", *by Abass Elouardi.*

"Mediation in Islam: Concept and Application", *by Achak Abdelhamid.*

"Visions of Islamic Alternative Dispute Resolution: Concepts and Mechanisms", *by Farida Zoumourod.*

"Mediation in Modern Morocco: Realities and Challenges", *by Hakima Laala Hafdane.*

"Renewing the Social mediation of Traditional Institutions to Ensure the Prevention of Conflict", *by Khalid Idrissi.*

"Legality of Arbitration in Public Disputes", *by Mohammed Laaraj.*

"Role of the State in the Institutionalization of Alternative Conflict Resolution Methods and Mediation in Morocco", *by Nabil Rochd.*

"The Role of Mediation in the Settlement of Disputes: from the Peaceful Managing of Conflict to Peacebuilding", *by Mohammed Nouri.*

"Intellectual mediation, controls and mechanisms", *by Salah Ennachat.*

Consultation Recommendations

The following recommendations emerged from the consultations:

- Prepare a manual on mediation taken from the perspective of Islamic and contemporary approaches.
- Translate a guide to mediation in local dialects.
- Train the trainers in the academic field.
- Organize training workshops on mediation.
- Legalize the profession of mediator in order to enhance legal resources for Alternative Dispute Resolution.
- Institutionalize mediation through the creation of a mediation institution.
- Set the concepts associated with the semantic field of mediation.
- Include mediation concepts in educational programs and the media.
- Build partnerships with various sectors, such as within religious and socio-cultural communities.
- Restructure the institution of mediation along with its pedagogues to include advisors and experts in the fields of psychology, sociology, research, anthropology and education.
- The institution of mediation should adopt a discourse, which combines the authenticity of Islamic principles and the efficiency of contemporary methods. (Religious discourse needs to develop from the archetypal religious speeches in mosques to the dynamism of communication within various community spaces such as schools, theaters, camps and the media, and using all possible and appropriate means to reach the recipients).
- Implement the usage of two arbitrators taking into account identity issues, and encourage Moroccan families to employ the two arbitrators in conjunction with the judiciary.
- Reform the regulation of Artisan Trustees predicated on specific criteria of their selection, which is based on ethical, professional and communicative efficiency.
- Train social mediators to simplify the concepts of conventional mediation and establish a culture of reconciliation.
- Sensitize civil society on the necessity of maintaining the specificity of the Moroccan model in conflict management and prevention.
- Develop an integrated media strategy, which highlights the value of Moroccan heritage in the field of mediation and reconciliation.
- Rationalize the religious discourse of mediation and peace to avoid conflict.
- Establish the institution of educational mediator.
- Employ a mediator for use between the components of civil society.
- Develop a strategy to support mediation institutions in legislation, funding and training levels.

ABOUT THE AUTHOR

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He currently works as an independent evaluation and capacity-building consultant with various international organizations in the MENA region as well as in West Africa. Seddik has worked with international organizations such as Search for Common Ground, Academy for Educational Development, IRD and Salam Institute for Peace and Justice. Throughout his career as a peacebuilding and conflict resolution practitioner, Seddik has conducted several evaluations and assessments related to peacebuilding and conflict resolution. He has also facilitated more than 80 training workshops in various areas of conflict resolution and peacebuilding.

Seddik is also an academic and researcher in the field of development. He holds terminal postgraduate degrees in education as well as in culture and development. Seddik is a trained mediator and has a certificate from the Center of Effective Dispute Resolution (CEDR) in London.