

THE INSTITUTION OF FAMILY MEDIATION: LEGAL EXPERIENCE OF  
UZBEKISTAN AND ARAB COUNTRIES (UAE AND EGYPT)

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**Abstract:** This paper presents a comparative legal analysis of the institution of family mediation in Uzbekistan, the United Arab Emirates (UAE), and Egypt within the context of the traditions of Islamic diplomacy. The author explores the theoretical connection between modern mediation procedures and the fundamental categories of Islamic law: al-sulh (reconciliation), islah (rectification/reform), tahkim (arbitration), and wasata (mediation). Special attention is paid to a critical evaluation of the experience of Uzbekistan, where the institutionalization of mediation within the mahalla system faces challenges of formalism and a deficit of professional competencies. The author formulates practical recommendations for improving national legislation, including the allocation of a dedicated professional staff of mediators within citizens' self-government bodies and the strengthening of legal guarantees for socially vulnerable dispute participants.

**Keywords:** Family mediation, Islamic diplomacy, sulh, islah, tahkim, mahalla, family courts, Uzbekistan, UAE, Egypt, alternative dispute resolution (ADR), pre-trial settlement, protection of women's rights.

**Introduction: Fundamental Categories of Islamic Law in Mediation**

Dispute resolution in the Islamic legal tradition represents a complex system that extends far beyond the boundaries of formal court proceedings. At the core of this system lies the idea of social harmony, which is viewed not merely as the absence of conflict, but as an active state of reconciliation and the restoration of relations within the community. For a scholarly understanding of the institution of family mediation, it is essential to examine the fundamental categories of Islamic law, such as sulh, islah, tahkim, and wasata.

The central institution is "**as-sulh**", which translates from Arabic as "reconciliation" or "settlement." In a legal sense, sulh is a contract aimed at terminating a dispute through mutual concessions. Unlike the Western model of mediation, sulh is perceived as a religious duty. Islamic justice prefers an amicable agreement over a judicial verdict, since the victory of one party in court often undermines relationships, whereas reconciliation strengthens them. Sulh can be initiated by the parties themselves, by a judge (qadi), or by an appointed mediator (hakam) directly during the proceedings.



A deeper layer of reconciliation is revealed through the category of "**islah**", which literally means "rectification," "correction," or "reforming." In the context of family disputes, islah implies not just the formal termination of litigation, but the restoration of the spiritual integrity of the family. While sulh aims at reaching an agreement on specific claims (for example, the amount of alimony), islah targets the elimination of hostility and a return to the state of "ma'ruf"—virtuous and customary good behavior.

The institution of "**tahkim**"—mediation or arbitration conducted by arbitrators (hakams)—plays a crucial role in this process. A hakim is not merely a mediator, but a trusted individual possessing moral authority and knowledge of Sharia. The Quranic injunction (**Surah An-Nisa, 4:35**) explicitly points to the necessity of appointing two hakams—one from the husband's family and one from the wife's family—in the event of serious disagreements ("shikaq"):

وَإِنْ خِفْتُمْ شِقَاقَ بَيْنِهِمَا فَابْعَثُوا حَكَمًا مِّنْ أَهْلِهِ وَحَكَمًا مِّنْ أَهْلِهَا إِنْ يُرِيدَا إِصْلَاحًا يُوَفِّقُ اللَّهُ بَيْنَهُمَا إِنَّ اللَّهَ كَانَ عَلِيمًا خَبِيرًا

"And if you fear dissension 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."

Hakams must be impartial, wise, and sincerely committed to reconciliation. In modern practice, hakams often act in the role of mediation or arbitration, where their primary goal is to achieve peace; however, if reconciliation proves impossible, they hold the authority to issue a decision on the dissolution of the marriage. Historically, a hakim was not required to have a specific formal legal education or knowledge of statutory laws; the primary quality a \*hakam\* had to possess was wisdom.

Finally, the concept of "**wasata**", meaning "middle" or "intermediation," reflects a social mechanism involving the intervention of a respected third party to prevent the escalation of a conflict. Islamic law encourages the concept of an independent mediator through the practice of "Al-Wasata", which is in many ways similar to modern mediation methods. Al-Wasata is a practice whereby one or several persons intervene in a dispute either at the request of one or both parties, or on their own initiative. The independent mediator attempts to resolve the dispute by proposing solution options to the parties, after which they are free to decide whether to accept the proposed options or not.

In Arab culture, wasata serves as a form of social capital, where the mediator assumes responsibility for the stability of the community. Unlike a Western mediator, who is expected to be a strictly neutral facilitator, an Islamic intermediary (whether a hakim or a wasita) often takes an active stance by proposing concrete solutions (which is restricted in modern classic mediation) and utilizing their social status to persuade the parties (persuasion is also generally unacceptable based on the standard principles of self-determination in mediation).

## The Experience of Uzbekistan: Institutionalization and Challenges

Modern Uzbekistan is undergoing a stage of institutionalization of mediation, striving to combine the centuries-old traditions of the mahalla with international mediation standards. In 2018, the Law "On Mediation" was adopted, establishing the legal framework for the activities of both professional and non-professional mediators. However, the uniqueness of the Uzbek experience lies in assigning the mahalla the status of a key link in strengthening the family unit.



In 2024, the governance structure at the grassroots level was reformed into the "**mahalla yettiligi**" (the mahalla seven) system, which includes the chairman, the khokim's assistant, the youth leader, the women's activist, and other key figures. One of their priority functions is the operation of "reconciliation commissions." These commissions analyze the root causes of family conflicts and attempt to prevent divorces at early stages. It is important to note that starting from 2025, the judiciary in Uzbekistan plans an advanced specialization in family disputes, which will allow judges to interact more closely with social services and mahalla mediators.

Despite active institutional building, the contemporary experience of family mediation development in Uzbekistan is often characterized in practice by formalism and insufficient adherence to the fundamental principles of voluntariness, confidentiality, equality of the parties, and impartiality. One of the most acute problems is the shortage of professional personnel possessing deep competencies in conflictology and negotiation techniques.

Delegating mediator functions to mahalla employees—who are already overburdened with a wide range of administrative duties and are bureaucratically interested in achieving target indicators for "reconciliation"—hinders the realization of the true goal of mediation, which is the restoration of qualitative dialogue and the creation of conditions for autonomous decision-making by the parties. Efforts aimed at reconciliation "at any cost" yield only a short-term effect: the family is formally preserved, but the absence of genuine communication and the failure to consider the interests of both spouses prevents the family from becoming stable in the long term.

In this regard, it seems necessary to transition from the practice of compulsory training of existing mahalla specialists to the introduction of dedicated, full-time staff positions for professional mediators within the mahalla structure. This will ensure the genuine independence of the process, compliance with professional standards, and the protection of the rights of dispute participants.

## **The Experience of the United Arab Emirates: Mandatory Family Mediation**

While mediation in Uzbekistan is voluntary, the UAE presents an example of a highly technological and institutionalized mediation system. The primary legislation regulating the family relations of Muslims is Federal Law No. 28 of 2005 "On Personal Status." However, a crucial innovation of recent years was the adoption of Federal Law No. 41 of 2022 (with amendments in 2024) on Civil Personal Status, which established a parallel system for non-Muslims.

In the UAE, family mediation is a mandatory pre-trial stage. Parties cannot apply directly to the court without first passing through the **Family Guidance Section** (Family Mediation Committee). According to Article 16 of Federal Law No. 28 of 2005 and the provisions of the new decree-laws of 2024–2025, personal status courts do not have the right to accept lawsuits for review without a prior referral of the parties to this structure to seek reconciliation.

The activities of the Committee are coordinated by independent family consultants whose role is to facilitate constructive dialogue, explain the legal consequences of divorce, and propose mutually acceptable solutions aimed at preserving family stability and protecting the interests of children. In the mediation process, consultants rely on scientifically grounded methodologies, such as the "Trilogy of Effective Dialogue," which involves strict consideration of:

1. **Timing** (choosing a psychologically appropriate moment for communication),



2. **Technique** (using a polite tone and non-verbal signals), and
3. **Topic** (maintaining a clear focus on the specific subject of the dispute without resorting to personal attacks).

Alongside traditional face-to-face meetings, the Committee actively utilizes digital tools, including remote consultations over the phone and via the **WhatsApp** social network, which significantly increases the accessibility of the procedures. If the parties successfully reach an agreement, it is recorded in an official report (mediated agreement). Once approved by the supervising judge, this agreement acquires the status of an executive writ (enforcement order) and is not subject to appellate review, except in cases of direct violation of statutory law.

An important feature of the system is the existence of specialized innovative programs, such as "**Al Solh Khair**" (Reconciliation is Good), launched in Abu Dhabi in 2020 to integrate psychological and social practices into the conflict resolution process. At the same time, the competence of the Committee has clear legislative boundaries: mediation is not conducted in cases concerning inheritance, wills, or in situations requiring urgent or provisional/interim measures, such as the immediate establishment of child custody or the urgent recovery of maintenance (alimony). Only in the event of a documentarily certified impossibility of reconciliation does the Committee issue a certificate transferring the case to court, making this institution an effective filter that reduces the burden on the judicial system and minimizes emotional trauma for family members.

### **The Egyptian Model: Family Courts and Dispute Settlement Offices**

The Egyptian model of family justice was significantly reformed with the enactment of Law No. 10 of 2004, which established specialized Family Courts and integrated mediation as a mandatory element of pre-trial proceedings. The central link of this system is the **Dispute Settlement Offices (DSO)**, which function under each court and are staffed by interdisciplinary teams of specialists, including lawyers, psychologists, and social workers. This approach allows for a comprehensive assessment of not only the legal aspects but also the emotional background of the conflict, contributing to an increase in the number of reconciliations at early stages.

According to statistics, the activities of the DSO have significantly reduced the workload of judges: the proportion of cases resolved prior to trial reaches 45%, with approximately 20% of disputes ending in a full amicable settlement agreement. Furthermore, in divorce cases filed on the grounds of harm (talaq al-darar), the institution of court-appointed hakam-mediators is actively applied for a 90-day period to attempt spousal reconciliation. If preserving the union proves impossible, the hakams determine the degree of fault of each party, which directly influences the final financial consequences of the divorce, including issues of compensation payments and the return of the dower (dowry).

### **Comparative Analysis: Digitalization, Proactivity, and Current Challenges**

Summing up these insights, it is vital to note that one of the most promising avenues for modern mediation is its digitalization. In the UAE, the experience of providing consultations via WhatsApp and specialized applications has demonstrated that parties are more willing to engage in contact in a remote format, which is less emotionally traumatic. Uzbekistan is also moving along this path, integrating mahalla services into interactive state service portals.



Another important aspect is "**proactive mediation.**" In the UAE and Egypt, mediators focus heavily on protecting the interests of children by creating long-term "parenting plans" that remain operational for many years. In Uzbekistan, the focus is shifting toward the early identification of dysfunctional families through the "mahalla yettiligi", allowing conflicts to be addressed before they escalate into a lawsuit.

However, challenges persist across all jurisdictions. In Egypt, critics point out the flaws of the "**vision system**" (nizam al-ru'ya), which limits a father's communication with his child to just three hours a week in public spaces, frequently becoming the subject of new disputes during mediation. In Uzbekistan, a significant problem remains the high percentage of reconciliations in cases involving domestic violence, which demands a clearer legal demarcation between "reconciliation for the sake of the family" and "the protection of the individual's safety."

## Conclusion

The traditions of Islamic diplomacy in family mediation are not merely a heritage of the past, but a living, evolving mechanism. The experience of the examined countries demonstrates that the combination of religious values (sulh, islah), community structures (mahalla), and modern legal institutions (family courts, mandatory mediation) creates an effective, human-centered model of conflict resolution oriented toward social cohesion.

In the context of globalization and digitalization, this experience holds significant interest for the international community as an example of sustainable and culturally sensitive justice. The integration of the principles of Islamic diplomacy into family mediation allows for the transformation of conflict from a destructive force into an opportunity for the rectification and strengthening of societal foundations.

The success of Uzbekistan, the UAE, and Egypt in this field confirms that reconciliation is not simply the absence of strife in the home, but a conscious labor toward constructing a harmonious future in which the interests of the individual, the family, and society are held in balance. The continuation of international dialogue on platforms such as the conference "Traditions of Islamic Diplomacy and Principles of Mediation" will further contribute to the perfection of these unique legal institutions.

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