

Moral Values by Al-Sulh in Family Conflict Management

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Abstract: Moral values by Al-Sulh prioritize the principle of well pleased (redha) in seeking the mercy of Allah SWT. There are ten values basing the Al-Sulh to conduct conflict management namely Salam, Syahadah, Seruan, Sumpah, Sufi, Syukur, Simak, Sabar, Syafaat dan Silaturahmi. These values are designed based on the methods of Al-Sulh practiced at the Department of Syaria's Judiciary in Malaysia. The implementation of Al-Sulh values has established the essence of peace towards solving disputes in the Islamic household. The development of values in the Al-Sulh education is part of the findings from the study on issues of divorce and broken homes which was solved through the practice of Al-Sulh. In the Al-Sulh practice, the disputed parties are exposed to the ten values and majority of the divorce cases managed to be solved successfully and peacefully in terms of issues such as claims made after a divorce namely fasakh, mutaah, idah, hadanah, mahar and matrimonial property. The findings also showed that the disputed parties who have not agreed to follow the ten values of Al-Sulh often end in vengeance and distrust which will lead to bitter endings or at the worst, their cases would have to be settled in court. In the context of this study, the ten values in Al-Sulh education act as the guideline to understand the concept of peace in conflict management.

Key words: Moral values, Al-Sulh, peace, conflict management, majority

INTRODUCTION

Family is one basic social unit which provides human resource towards the development and in ensuring the continuity of human as future generation (Azrina and Keluarga, 2007). Based on the provisions in the Universal Declaration of Human Rights the family institution is one important unit in society. The National Family Policy emphasizes the concept of "Family Wellness" which is based on family values such as affection, honesty, fair and justice despite the difference in terms of status, gender and age. The principles of National Family Policy accentuate on family having inherent strengths, responsible to continue the legacy or generation; the family is responsible to inculcate and internalize the good values and family ties, the culture of sharing resources and co-exist, socially, to build a healthy and peaceful nation (Fatimah, 2011).

The issue of divorce in the Muslim society is categorized as at a critical level based on the statistics announced by the Department of Prime Minister where the number of divorce cases has reached 27,116 and from the Department of Islamic Development Malaysia (JAKIM) where one divorce happens every 15 min.

This data gives a negative impact towards the effort of developing the nation which focuses on family institution. Broken homes or divorce issues affect the human generation where instability of the relationship will cause children to turn to social ills and criminal acts (Fatimah, 2011). Therefore, this study aims to generate values in Al-Sulh education towards curbing the divorce issues in Malaysia. It is in line with the concept of Al-Sulh which prioritizes peace in a fight and this principle is also the elements in the National Family Policy. The concept explains the family unit as one unit that produces human resource towards human capital development and the survival of human as khalifah or Muslim leader with five main principles that are musyawarah, wasatah, tahkim, wakalah dan qada's (Azahari, 2005).

The principle of Al-Sulh became the base to build the study model through the qualitative and quantitative approaches. In the qualitative aspect, case study involving interview studies, observation of the Al-Sulh process and document analysis related to divorce cases were conducted to gather data for the development of instruments. For quantitative approach, a questionnaire was distributed to students who are victims of broken homes in Kedah, Kelantan, Sabah and Selangor. The

result is used to set up a framework towards solving or curbing the issues of alimony claim after a divorce. This Al-Sulh Model in family teachings is important so as to fulfill the national agenda that is to emphasize peace.

Research objectives: The aim of this study is to develop Al-Sulh Model in family teachings which will be used to help solve divorce issues in Malaysia. Below are the specific objectives:

- To produce Al-Sulh Model in Muslim family education
- Develop the elements of peace in solving disputes especially in Muslim family issues

MATERIALS AND METHODS

Qualitative approach such as interview study was conducted in Sabah, selangor, kedah and kelantan with the syariah court judge, registrar of marriage, divorce and reconciliation courts, Al-Sulh officers and counselors.

RESULTS AND DISCUSSION

Findings from the interviews with the syariah court judge, registrar of marriage, divorce and reconciliation courts, Al-Sulh officers and counselors in Sabah, Selangor, Kedah and Kelantan are as follows.

Analysis of issues based on the reasons for divorce: There is no understanding between the spouses and negligence in the part of the husbands in providing for the wives are the most common reasons mentioned in court. The findings showed that husband's no sense of responsibility and lack of communication as the main factors divorce happens.

Analysis of issues based on family crisis: Family crisis is the most reported cases where family counseling is needed especially in terms of no sense of responsibility, pronouncement of divorce without intention, disturbance of a third party, economy-based, social and communication problems (Fatimah, 2011). In the context of no sense of responsibility, the reported cases are no financial subsistence by the husbands, husband or wife left, wives living separately from the husbands, husbands practicing polygamy but not being fair.

For economy-based problems, the reported cases are no jobs, no income and debt load. Disturbance from a third party usually means that one is cheating on the partner. In terms of social problems, cases such as lying, jealousy, physical abuse, slandering, egoist, arguing,

insults or cursing and swearing and temperamental are reported. In the context of communication problems, the reported cases are no mutual understanding and frequent use of harsh words.

Analysis of issues based on divorce cases trials or hearings: Trials or hearings that take a long time usually is fasakh (wife asking for a divorce) where the process includes application of divorce, defense, argumentation, debate and summary. This process differs from the verification for pronouncement of divorce process where investigation has to be done to verify the validity of the pronouncement. In the context of trials between takliq and fasakh divorces, both types of divorce will undergo the same trial procedure. In terms of time, the duration of the process depends on the documents presented and agreement of both parties.

If both parties cooperate, divorce cases can be settled in two to three minutes. If otherwise, the court will have to do some investigation and results will be announced by the Appeal court which usually will take a long time to happen (Azahari, 2005).

Analysis of issues based on divorce rate: The divorce rate has been increasing although the 21st century living status is getting better. The 21st century living status is also affecting the society in terms of families not being able to get what they want and this makes them frustrated and as a result causes a stir in families. This means that the society's level of thinking and awareness about marriage is still below par. Civilization will have no meaning if we do not view marriage as an institution which needs a good base.

Analysis of issues based on family life in muslim family: The cause of divorce at present is due to members of the family not practicing the Islamic teachings. Married couples who want happy married life should follow the teachings of Islam and the Prophet Muhammad (SAW). The problems related to broken homes and divorce cases are due to the fact that people prioritize the wants on this world instead of focusing on the Will of Allah in their household.

Analysis of issues based on the importance of family discussion: In life, especially married life, we need guidance and advisers or counselors when things go wrong. Therefore, the role of marriage negotiation officer should be recognized as an absolute necessity in a marriage and one should be placed in every district. Society has to recognize its existence and make full use of it so that any problems arise can be nipped in the

bud. Generally, individuals need a mentor or a buddy in their lives to make sure that they do not go astray in life. A mentor or a buddy too can help in solving problems. However, the society denies this fact and see advisers or counselors especially as unimportant or an outsider who might spread the secret of their family.

The challenge at present is the society's understanding has not changed although people know that they need a place or person to share their woes. The Islamic Religious Department has already set up a marriage counselor office because they know of its importance (Salleh, 2005).

Analysis of issues based on function and the importance of Al-Sulh council: Al-Sulh has been the choice to settle issues during and after divorce because it is easy to be executed especially when the two disputed parties agree. Sometimes, the party in dispute has to be instructed to attend Al-Sulh study, participate in the process but the decisions are still theirs to make. Counseling and discussion will usually look at the needs and interests of both disputed parties in resolving the problems. Besides, the study which is informal and flexible will enable both parties to participate willingly (Azahari, 2008).

Al-Sulh council plays a very important role in resolving family cases such as alimony claims, division of matrimonial property, special provision, divorce confirmation and provision for the children. If a case is successfully settled in the Al-Sulh council, then it will not be taken up to court. In addition, it is a closed study and so the disputed parties do not have to worry about their issues being leaked or publicized. The Al-Sulh council is a good alternative towards negotiations in conflicts because it involves agreement between the plaintiffs and defendants. The difference in Al-Sulh council formerly and at present is that in 2007 when it started, it was a just position taken up by an officer in the Islamic Religious Department but now, it is a specially set up unit. Besides, the function at that time was to resolve problems including claims, outside the court but it did not involve divorce cases (Fatimah, 2011).

Al-Sulh council has been very helpful because many people who are called to the court are not aware of the procedure have zero knowledge about law or Islamic legislature and are usually very emotional. With the existence of Al-Sulh council, marriage couples can be exposed to law or Islamic legislature and the concept of peaceful argument.

Another advantage of the Al-Sulh council is that it saves cost and time of both disputed parties. The study is coordinated and not dominated by only one party. Syariah Court Judges in all the four states claim that

Al-Sulh council has managed to resolve cases related to family matters (Azahari, 2005). Based on the study findings, the main factor for the success of cases resolved through Al-Sulh method depends mostly on the attitudes and openness of both disputed parties where they practice the 10 elements of Al-Sulh peace model. The characteristics are listed:

- Both parties enthusiastically agree to resolve matters outside the court
- Both parties agree to present and listen to opinions honestly and openly without being emotional or seeking vengeance
- Both parties are aware that resolution is for the good of everyone in the future
- Both parties are aware of the pros and cons if their cases are brought to trial

Al-Sulh method has managed to attract the attention of the society based on its uniqueness in which it guarantees resolution with a win-win situation between both disputed parties (Atras, 2005). The Al-Sulh method also prioritizes on the elements of secrecy of both parties which is not practiced in a court trial. Usually, if the case is not resolved, it is because the disputed parties have not understood or practiced the 10 elements of Al-Sulh. The result showed that the disputed parties do not uphold the peace, dominate the study negatively such as being emotional and seek vengeance which resulted in inconclusive decision. Thus, the case has to be brought to court for trial. The main factors that cause the Al-Sulh method to fail and resulted in inconclusive decision, among others are:

- One party or both show no effort to make decisions
- One party or both show no real commitment to resolve their matters such as being absent when they are called to the Al-Sulh council
- One party or both are not fully prepared with documents
- One party or both do not have or lack information to make decisions
- One party or both are influenced or not by a third party who is more adamant

There are also cases where both parties could not tolerate each other and display bad attitude (Atras, 2005). The success of the Al-Sulh study depends mainly on the disputed parties. Therefore, each party should be committed and consider resolving the issues as serious matter. They should also understand the concept of giving before receiving, honesty in providing complete and true information, respecting the opponent during the

Al-Sulh study and controlling their emotions. Each party also has to make an effort to control oneself from displaying extreme and irrelevant behaviors.

Elements of Al-Sulh peace model: The values in Al-Sulh education prioritize the principle of succumbing to Allah's will because of Allah SWT. The core of peace in Al-Sulh has to be implemented in the issues of divorce such as fasakh, mutaah, idah, hadanah, mahar (dowry) and matrimonial property.

There are 10 elements grounding the Al-Sulh education namely Salam, Syahadah, Seruan, Sumpah, Sufi, Syukur, Simak, Sabar, Syafaat dan Silaturahmi. These elements are developed based on the Al-Sulh method practiced at the Malaysian Department of Syariah Judiciary.

Salam (sender's greetings and wishes that Allah bestows peace and happiness to the receiver): Greeting is the first step in fostering good relationship between people, before starting the study between the Al-Sulh council, plaintiff and defendant).

Syahadah (declaration of creed): Utter the syahadah to pledge that there is no God other than Allah and declaring Allah as the purpose, motivation and way of life.

Seruan (a calling to persuade): A calling to persuade people towards goodness and leave all that Allah prohibits or a calling for al-Amr bi al-Ma'sruf wa al-Nahy's al-Munkar's.

Sumpah (pledge/oath): To take the pledge or make an oath to always be true in providing information and not commit to lying.

Sufi (believing the spiritual aspects of Islam): Promise that every utterance during the study is based on honesty and being truthful to ensure transparency.

Syukur (showing gratefulness towards Allah): Giving praise and thanking Allah for His bequeath and showing adherence or devotion towards Him.

Sima's (listening): Listen to the arguments of both parties in fairness and openness during the process. Both parties are given equal opportunity to speak their minds.

Sabar (patience): To accept any decisions, good or bad, with openness no vengeance and submission as Allah's will.

Syafaat (aid and assistance): A help or assistance given to others in need as an effort to provide beneficial deeds and to evade maltreatment to others.

Silaturahmi (maintain good relationship): To maintain good relationship between Muslim believers and distance one-self from disputes or misunderstandings that can cause detachment or split.

CONCLUSION

The Al-Sulh method is an effective alternative for the society besides trials to resolve family issues. The effectiveness of Al-Sulh implementation in Syariah Court proves that the 10 elements of Al-Sulh peace Model has the capability to decrease outstanding cases which have been engulfing the Syariah Court (Atras, 2005). To guarantee a more effective Al-Sulh study, the method needs the participants involved to play their part well. The disputed parties have to be open and submit to the will of Allah. Meanwhile, the Al-Sulh council running the Al-Sulh study should understand its function and responsibility and uphold the ethics outlined.

Thus, it is clear that the 10 elements of Al-Sulh peace Model is the alternative for a better and guided negotiation in resolving family issues in line with the teaching of Islam. Nevertheless, there are still gaps that can be improved in the implementation of Al-Sulh in Malaysia. Therefore, efforts to strengthen and synchronize the Al-Sulh method in all the states in Malaysia should be executed to assist the Syariah Court in handling the divorce or family matters cases smoothly and efficiently.

ACKNOWLEDGEMENT

The research reported in this article is a part of Fundamental Research Grant Scheme FRGS (code: 12890) granted by Malaysian Ministry of Education (KPM).

REFERENCES

- Atras, M.Z., 2005. Practices and Problems of Al-Sulh in Selangor Syariah Judiciary Department. International Islamic University Malaysia, Kuala Lumpur, Malaysia,.
- Azahari, R., 2005. Al-Sulh in Legislation Islam. International Islamic University Malaysia, Kuala Lumpur, Malaysia,.
- Azrina, S. and I. Keluarga, 2007. Parenting Skills and Challenges. MPH Group Publishing, Petaling Jaya, Malaysia,.
- Fatimah, M.D., 2011. Divorce among the Malays in Melaka, 1990-2002: Survey of the history and management. Ph.D Thesis, University of Malaya, Kuala Lumpur, Malaysia.
- Salleh, M.F.M., 2006. Consultation Process Conflict Resolution through Sulh. Ph.D Thesis, Universiti Putra Malaysia, Seri Kembangan, Malaysia,