

JURISPRUDENTIAL AND LEGAL STUDY OF MEDIATION AND ITS IMPACT ON IRAN-SAUDI ARABIA RELATIONS

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ABSTRACT

Preparing the ground for peace and reconciliation through mediation is a common practice in international law. The Criminal Justice System uses mediation to resolve the conflict between governments and achieve a criminal justice system, which is far from common formalities in criminal and civil arbitration. Given the inefficiency of international courts and lack of guarantee of performance of the penalties imposed by these courts, alternative solutions such as peace and conciliation and mediation have been proposed to resolve international disputes.

In jurisprudential terms, numerous verses and narratives about peace, reconciliation and mediation have been provided and this method of conflict resolution has been fully endorsed by the jurists of the Islamic religions.

The main purpose of this study is to identify the status of mediation in jurisprudential and legal terms as one of the methods of resolving conflicts between governments, whose role in Iran-Saudi Arabia relations will be investigated with respect to the disputes between the two countries, especially in recent years.

Keywords: Saudi Arabia; Peace and reconciliation; Mediation; Iran.

ESTUDO JURISPRUDENCIAL E JURÍDICO DA MEDIAÇÃO E SEU IMPACTO NAS RELAÇÕES IRÃ-ARÁBIA SAUDITA

RESUMO

Preparar o terreno para a paz e a reconciliação por meio da mediação é uma prática comum no direito internacional. O Sistema de Justiça Criminal utiliza a mediação para resolver o conflito entre governos e alcançar um sistema de justiça criminal, que está longe de ser uma formalidade

comum na arbitragem criminal e civil. Dada a ineficiência dos tribunais internacionais e a falta de garantia do cumprimento das penalidades impostas por esses tribunais, foram propostas soluções alternativas, como paz, conciliação e mediação, para resolver disputas internacionais.

Em termos jurisprudenciais, numerosos versos e narrativas sobre paz, reconciliação e mediação foram fornecidos e esse método de resolução de conflitos foi totalmente endossado pelos juristas das religiões islâmicas.

O principal objetivo deste estudo é identificar o status da mediação em termos jurisprudenciais e legais como um dos métodos de resolução de conflitos entre governos, cujo papel nas relações Irã-Arábia Saudita será investigado com relação às disputas entre os dois países, especialmente nos últimos anos.

Palavras-chave: Arábia Saudita; Paz e reconciliação; Mediação; Irã.

1 INTRODUCTION

From Islam's point of view, peace is the basis of social transactions. So, it is important to turn to the procedures that prevent nations from wars and strife. Peace and reconciliation of parties to the dispute have advantages from different dimensions and prevent future damages and losses that may be irreparable ('Amid Zanjani, 2011: 62).

In social life, people are naturally exposed to disputes and tensions. Numerous disagreements and disputes in political, economic, social and cultural issues can lead to irreparable conflicts, wars and losses. The Islamic perspective focuses on the peaceful resolution of disputes. Thus, with this perspective, the occurrence of any conflict can be far better and more easily prevented.

The Islamic State emphasizes the application of any means for the peaceful and fair resolution of international disputes, according to the interests of the Islamic and international communities.

Identifying and building relationships based on mutual respect is one of the basic principles of the presence and collaborative activity of the Islamic State. But because building relations with other peoples and nations depends on establishing relationships with the respective governments of those nations, in principle, the definition and design of proper relations with other governments should also be in accordance with the existing rules ('Amid Zanjani, 2011: 38).

The important point in the Islamic view of international relations is that Islam has permitted a fair relationship with and compassion and kindness to non-Muslims who do not fight

against the Muslims and have not pursued the path of bloodshed and war with them (‘Alavi, 2006: 33).

Islamic view of relations between communities is based on peace and reconciliation and humanitarian relations because peace is compatible with sound nature and human taste and Islam is the religion of peace and compromise and not the religion of aggression. So, the principle is peace at the beginning and the end. Islam welcomes the values of peaceful resolution. Accordingly, Islam has been a pioneer in maintaining international peace and security (Mirmohammadi, 2012: 196).

Among the methods of peace and reconciliation most commonly used in Islam and sometimes referred to as the reconciliation of two parties, mediation has a great effect on resolving hostilities, which is also applied to resolve the conflicts of international communities.

Mediation is a kind of arbitration in conflict resolution, which has a very important and undeniable role in the dejudicialization and avoidance of the prolongation of hearing (Samavati, 2006: 125).

The present paper, using the main sources and a descriptive-analytical and library method, seeks to examine the impact of mediation on Iran-Saudi Arabia relations based on Islamic teachings.

The Islamic Republic of Iran and Saudi Arabia are considered among the most important powers in the Middle East and the Persian Gulf due to their size and great amounts of fuel and fossil resources. Saudi Arabia’s close relationship with the Western colonialist countries, and in particular the United States, and also the existence of two pilgrimage cities of Mecca and Medina in this country have had a profound effect on regional events and developments.

Alongside Saudi Arabia, which claims to be the leader of the Islamic and Arab world, the Islamic Republic of Iran also claims the leadership of the Islamic world and always supports Islamic countries and movements in accordance with its political policies. This supportive policy became more prominent after the victory of the Islamic Revolution and led to significant changes and developments in foreign policy and political orientations.

The unique characteristic of Saudi Arabia, stemming from traditional and religious thoughts and Salafist doctrine, and Wahhabi beliefs among Saudi leaders caused this country to have a distinctive face relative to other Persian Gulf States (Rahmanian, 2015: 13).

Consequently, religious, historical, and cultural commonalities between Iran and Saudi Arabia make it important to examine Iran-Saudi relations since both countries are of particular importance in the Islamic world.

The existence of these historical and cultural features and commonalities has led to disagreement in some grounds between the Iranian and Saudi governments and these commonalities are considered as causes of stress.

2 CAUSES OF STRESS

Saudi Arabia's interference in the Iran-Iraq imposed war, the manner of holding Hajj rituals, Iran's support for Palestine, oil competitions in the Persian Gulf, the formation of the Persian Gulf Council as well as other measures such as the Nojeh coup and Saudi's constant efforts to condemn Iran in the Security Council and military disputes between Iran and Saudi Arabia and, in recent years, Mina incident and disrespect for Iranian pilgrims and lack of proper security for pilgrims can be introduced as causes of stress.

One of the most important sources of stress is the manner of holding Hajj rituals and the type of each country's impression in performing these rituals. However, this factor is somehow rooted in the political issues of Saudi Arabia, which is not in line with the political currents and the monarchy system of this country.

Considering the apparent leadership of Islam by the Saudi government and the dominant role of Wahhabism in the foundations of current Islam, the Saudis claim that only they carry out the Quran's commands in all fields (Aqaei, 1989: 55-56).

Anti-Shiite thoughts of Wahhabis created based on solidarity between Muhammad bin Saud and Muhammad bin Abdul Wahhab and also their attempt to represent Shi'ism as heretical and divergent have caused a lot of tensions and disputes between Iran and Saudi Arabia. Although there are many religious commonalities between these two countries, ideological and ethnic differences have kept peace and friendship away from their relations.

Therefore, attempts to gain the leadership of the Islamic world have fueled competition between Iran and Saudi Arabia (Shoja', 2007: 41). These ideological and religious differences have caused competition and challenge and play a fundamental role in the formation of the thoughts and mentalities of the politicians of each country. Systematic understanding of these conflicts and differences can help to resolve them. In this regard, researchers have reported a

great deal and Sherin Hunter says: “It was easy for Saudi Arabia to deal with secular radicalism and communism as anti-Islamic, atheist and illegitimate phenomena; but Saudi Arabia did not know how to counteract the phenomenon that considered itself as the representative of true Islam and challenged Saudi Arabia's Muslim leadership and called the Saudis a symbol of American Islam (Hunter, 2001: 260).

3 MEANING OF PEACE

Peace is one of the pleasing words for human society. It is originally an Arabic word which means reconciliation in Persian. In Islamic culture, the word “Selm” is synonymous with peace and means compromise (Mousavi, 2007: 89).

Peace and reconciliation mean the cessation of hostilities and the aim is to compromise and eliminate hatred among people (Mirmohammadi, 2012: 188).

The word Harb (war) is found only in six verses of the Holy Quran while the word Salam and its derivatives have been mentioned more than a hundred (Mahmassani, 1968: 50).

Islam views peace as an important and established principle in human societies, whose maintenance will lead to greater solidarity in societies.

4 JURISPRUDENTIAL PRINCIPLES

In jurisprudential discussions, with regard to the coherent and unified relations of individuals and communities, great emphasis is laid on forgiveness and satisfaction as well as conflict resolution through dialogue and reconciliation. Therefore, as punishment and judicial decisions lack adequate guarantee of performance in the international dimension, replacement of methods such as mediation in conflict resolution is very appropriate.

According to the verses of the Holy Quran and the peace treaties of the Prophet (peace be upon him), including the peace treaty of Hudaibiyyah, the issue of reconciliation is one of the accepted manners in ending the wars in which the opposite side is Muslim or non-Muslim.

Although in the jurisprudential sources, no such word as mediation has been used, in most cases, words that are synonymous with mediation have been mentioned, such as reconciliation of two parties and arbitration and judgment.

5 QURAN

The Holy Quran, as the first source of Islamic law, affirms the legitimacy of mediation and peace in its verses.

There are verses in the Quran that indicate peace and reconciliation. One of these verses is Verse 1 of Surah Al-Anfal, which is the most obvious and clear verse in this regard. Another verse is Verse 182 of Surah Al-Baqarah, which says: “But should someone, fearing deviance or sin on the testator’s behalf [toward his heirs], set things right between them, there is no sin upon him; indeed, Allah is all-forgiving, all-merciful”.

In addition to these two verses, there are other verses in which the word peace has been applied, such as Verse 14, 35 and 128 of Surah al-Nisa and Verse 9 and 10 of Surah al-Hujurat. In these verses, God has encouraged humans to make peace and reconciliation and wants them to avoid strife and conflict and live together in peace and with kindness.

Although the verses on peace, reconciliation and mediation are about the relationships between individuals and families, they are not specific to this subject and mediation can be used to resolve conflicts in all societies and most commentators believe that appointing an arbitrator for establishing peace and reconciliation is one of the duties of the Islamic State (Qurtubi, 1986, 115/5).

6 TYPES OF MEDIATION IN THE QURAN

Based on Islamic and religious texts, mediation can be divided into three parts:

- 1- Mediation between two groups of Muslims
- 2- Mediation between Muslims and non-Muslims
- 3- Mediation between non-Muslims

It may even be possible to consider mediation between non-Muslims among Islam’s recommendations.

Verse 9 of Surah al-Hujurat states: “If two groups of the believers happen to fight, make peace between them”. This verse is about mediation between two groups of Muslims. Further, Verse 85 of Surah al-Nisa states: “Whoever intercedes for a good cause will have a reward therefrom”. This verse, while permitting mediation, indicates the generalization (of Muslims and non-Muslims) and at the same time gives the mediator the promise of reward (Va’ezi, 2008: 197).

7 TRADITION

In addition to the Quranic verses which have put great emphasis on peace and reconciliation, tradition can be named as the second source of extraction of Islamic jurisprudence since the issue of reconciliation and mediation has been addressed many times in narratives provided in this regard, which suggests the high importance of this issue. For example, the Prophet (PBUH) says: “Peace and reconciliation among Muslims is the highest charity and beneficence for humanity” (Einani, 2005: 19).

After the defeat of the Jewish tribe of Banu Qurayza (guilty of breach of promise) by the army of Islam, some of the people of the Aws tribe, who were allies of the Banu Qurayza during the age of ignorance, mediated and came to the Prophet and asked him to treat the tribe of Banu Qurayza like other Jews who had fought with the Prophet before and allow them to leave the city, take their possessions with them or at least reduce their punishment (Ziyaei Bigdeli, 1993: 124).

As is evident from this event, the Prophet (PBUH) personally used mediation, peace and reconciliation in international disputes as a rule of international law and resolved the conflicts with the tribe of Banu Qurayza through the mediation of the Aws tribe and the parties agreed to entrust the cessation of hostilities to a third party (Asadi-nezhad, 1999: 23).

Other infallible Imams have also emphasized the issue of peace and reconciliation. In this regard, Imam Sadiq (AS) says: “Mediation is the zakat of position” (Feiz Kashani, 1994, 375/3).

Imam Ali (AS) tells Malik Ashtar about the importance of peace: “If your enemy has called you to the peace in which God's satisfaction lies, never reject it because peace brings calm to your soldiers, comforts you and brings security to your land. But be fully alert to the enemy after peace” (Sobhi Saleh, Letter 53, p. 442).

Imam Musa Kazim (AS) says: “Blessed is the one who brings peace and reconciliation among people. They are the nearest to God on the Day of Resurrection” (Ibn Shu'ba, 2014: 414).

Imam Hussein (AS) also says: “The most peaceful people are those who make reconciliation with someone who has broken off relations” (Majlesi, 2004, 182/74).

By carefully examining these verses and narratives, we come to the conclusion that in Islam and Sharia, peace and reconciliation are of crucial importance and mediation in the relationships between other people to end the hostility is one of the most important and valuable affairs. The generalization of these hadiths and narratives indicates that peace-making is not only between individuals, but trying to bring about peace and reconciliation can be between different

communities. In today's world where relations between countries are vast, resolving international disputes is a very useful and valuable job.

8 CONSENSUS

Consensus literally means agreement and in jurisprudence, it means unanimity of jurists or people involved in conflict resolution based on religious rulings. Sahib al-Jawahir has considered consensus as one of the arguments of reconciliation and mediation and has stated: “No one has disagreement over it, but the appearance of the word of some companions and the explicit word of some other companions show that the issue of reconciliation and mediation is a matter of consensus” (Sahib al-Jawahir, 1936, 23/40).

Shahid Thani, in Masalik, and Sheikh Toosi, in Khalaf [Misdeed], have also accepted this consensus (Sahib al-Jawahir, 1936, 23/40).

In Shiite thinking, all matters related to war and peace have been entrusted to the leader of the Islamic State (Tabatabaei, 2001, 66/7) because these cases as well as international relations require thought and prudence and consideration of the general interests of society and the conditions of time and space and according to the consensus of all jurists, peace is permissible for the Islamic state (Sahib al-Jawahir, 1936, 11/21; Muqaddas Ardabili, 1995: 310; Fazel Meqdad, 1994, 381/1).

Among contemporary jurists, people like Muhammad ‘Abda, Sheikh Muhammad Shaltut, Muhammad Abu Zahrah, Wahba Zuhayli and many others put the principle on peace and believe that the establishment of friendly relations and peace and reconciliation is a priority (Wahba Zuhayli, 1997: 122).

9 REASON

Today, the only way out of the current disputes between Islamic countries is the unity of Muslims because global arrogance has, with all its power, ridiculed Islamic societies.

The Quran has laid great stress on the unity of Muslims; for example, Verse 103 of Surah al-Imran says: “Hold fast together to the cord of Allah and be not divided”.

Moreover, unity and solidarity have been emphasized in narratives and in this regard, Imam Sadiq (AS) says: “Someone who keeps aloof from the Muslim community as much as one inch has torn the string of Islam off his neck” (Koleini, 1987, 405/1). As a result, in the narratives

and verses of the Quran, peaceful resolution of disputes and conflicts, which is the same as mediation, has been considered.

10 THE UNITY OF THE ISLAMIC NATION

Tarihi has defined unity as oneness, unification and empathy (Tarihi, 1993, 476/4). Given the importance and necessity of Islamic unity that everyone acknowledges, the words and attitude of the infallible Imams along with the Quran and the manner of the Prophet (PBUH) convey the spirit of unity and peace in the Islamic societies.

The unity and solidarity of Muslims is one of the most important issues, emphasized by the Word of God and the Prophetic tradition.

The soulful and refreshing call for unity came to the Prophet's (PBUH) tongue when the aggressive customs of the ignorant Arabs spread everywhere and division and hostility spread throughout the land of the ignorant Arabs.

Now that the Western colonialist countries incessantly look for division and tensions among the Islamic countries, Islamic societies, especially Iran and Saudi Arabia, must keep away from tensions and conflicts and welcome the mediation of other countries and seek resolution of disputes and establishment of peaceful relations.

Meanwhile, Pakistan and Iraq have come forward to mediate and seek to improve the relations between the two countries.

After years of costly and difficult war by Saudi Arabia in Yemen, there are reports of potential Iraqi mediation between Iran and Saudi Arabia. According to analysts, improving relations between Iran and Saudi Arabia could ease the political and economic pressure on both countries.

According to media reports, Mohammad bin Salman, Crown Prince of Saudi Arabia, called on Heydar Al-Ebadi, Prime Minister of Iraq, to mediate between Tehran and Riyadh and the Iraqi minister has also said that Iran has responded positively to the request. The reported call for Iraqi mediation was revealed a few days after Muqtada al-Sadr, Iraqi Shiite leader, traveled to Saudi Arabia to meet with Mohammad bin Salman and other Saudi officials.

Iran's positive response to Iraq's mediation effort indicates that the disputes between the two countries are purely political and have nothing to do with religion or sectarianism.

Besides, as tensions between the two major Muslim countries increased, Senator Rahman Malik, former Pakistani Interior Minister, has called on Nawaz Sharif, Prime Minister of this country, to act as a mediator between Iran and Saudi Arabia. In a letter to the prime minister, Malik solicited for urgent action to end Iran-Saudi crisis.

Noting that Saudi Arabia is Pakistan's long-standing and reliable friend and Iran is its Muslim neighbor and tensions between the two countries will lead to divisions between Muslims worldwide, he wrote: "It is time for Pakistan to take the initiative to end tensions between the two Muslim countries".

Senator Malik, while emphasizing the need for unity of the Islamic nation and reconciliation between Saudi Arabia and Iran, has cited a verse of the Holy Quran, meaning that "those who enjoins charity or goodness or reconciliation between people and whoever does this seeking Allah's Pleasure, We will give him a Mighty Reward" (Surah al-Nisa, Verse 114).

11 MEDIATION

Peaceful dispute settlement principle is, indeed, one of the fundamental principles of the international community's structure. In fact, most disputes are resolved through political means. Dispute resolution is usually achieved through negotiation, with or without the assistance of a third party. The third party may be a government or one of the organs of an international organization, such as the Security Council or the Arab Community Council. This third party may officially mediate in the form of good offices or this mediation or compromise may occur unofficially (Baut, 1997: 14).

Peaceful dispute settlement methods are divided into two types of diplomatic and judicial practices. In diplomatic methods, including negotiation, investigation, good offices and compromise, governments try to resolve disputes between them without referring to the judicial authority. But in legal methods, governments voluntarily refer disputes to legal authorities, including arbitration and the International Court of Justice (Malcolm Shaw, 2015: 23).

Mediation means third-party intervention to reduce or resolve disputes between two or more countries through providing the necessary facilities to bring the parties to a dispute closer together and ultimately presenting various proposals for resolving the dispute as one of the peaceful ways of international dispute resolution.

Cessation of hostilities through mediation can also be applied both in individual hostilities and in the conflicts between governments. In the cessation of hostility between governments, this method is more commonly used and supporters of this method are also added day by day because it has other features besides being fast and low-cost and countries have increasingly welcomed this method because they do not trust international courts and there is no guarantee of performance for their rulings (Kowalchik, 2012: 5).

12 MEANING OF MEDIATION

Literally, mediation means intervention, acting as a mediator and referring to a mediator or making peace and reconciliation between the two sides of the dispute (‘Amid, 2005: 69).

In other words, “mediation refers to the intervention of a legitimate and impartial party in a dispute or negotiation to assist the parties to the dispute to reach an agreement on the issues at stake (Garshasbi, 2009: 28). Mediation is a way in which a third party as a mediator facilitates the settlement of disputes by holding meetings and dialogue between the parties and discussing the matters under dispute. In addition, the mediator encourages the parties to resolve the dispute rather than imposing a decision, like a judge or arbitrator, on them. The mediator also helps the parties communicate effectively by clarifying the subject, explaining the real interests of the parties, identifying and limiting disagreements, and discovering possible options for reaching agreement (Hadi & Hajipour, 2016: 88).

So, it can be stated that mediation is a method of resolving a dispute and the parties to the dispute seek to end the conflict and reach an agreement during the negotiations and dialogues. This method is completely voluntary, without force or threat, and both parties are free to make decisions.

Mediation and good offices are political ways of resolving international disputes, which overlap and have common features such as third-party intervention in resolving disputes between governments and the non-compulsory nature of third-party assistance (Sabbaghian, 1997: 47).

Mediation is one of the most important methods of dispute resolution. In this method, a third country or authority that is not involved in the conflict between the two countries intervenes and peacefully implements specific initiatives to stop conflict between two hostile countries because of the special position of the mediator or other causes and settle their disagreements in peace. For jurists, mediation is the friendly intervention of a third country to resolve the dispute

between two countries and its difference with friendly intercession is that the mediator usually participates in the negotiations between the parties and proposes a solution, but the same is not true in friendly intercession. This method seems to have no record in the history of the Prophet's and the caliphs' life, but it has been encouraged in many narratives (Khaluzadeh, 2012: 267). Furthermore, one can examine the causes of disputes between countries by forming a group of three or five and this group must express its opinion in a completely unbiased manner and in the opposing country, there is no legal obligation to accept the group's proposals. This approach is preferred to referring to international courts because it is more consistent with the principle of independence and national sovereignty (Office of cooperation between university and seminary, 1998: 42).

Article 33 of the Charter of the United Nations states: "The parties to any dispute, the continuation of which may endanger international peace and security, must first of all make their choice through negotiation, investigation, mediation, compromise, arbitration, judicial settlement, resort to international institutions and arrangements or other peaceful means".

There is no doubt that mediation in the new legal and international framework is an issue that belongs to the modern world. But this does not necessarily mean the lack of a religious basis for the mediation by an Islamic state. The mediation by the Islamic State, in addition to moral and human dimensions, is based on a set of duties and responsibilities and religious teachings have obliged the Islamic State to follow and pay attention to them.

According to the Constitution of the Islamic Republic of Iran, the government must establish its main and general policy based on the coalition and solidarity of Islamic nations and make continuous efforts to achieve the political, economic and cultural unity of the Islamic world.

13 HISTORICAL BACKGROUND OF MEDIATION

Undoubtedly, arbitration was used during the age of ignorance to resolve disputes and the reason for its importance was tribal life. Usually in internal disputes between tribal people, the Sheikh of the tribe acted as an arbitrator or mediator (Saket, 1996: 35).

Due to the population density and dispersed population in the past, the conflict between the two tribes, rural communities or city-states had little impact on the surrounding area. But with the expansion of relations between societies and the possibility of extending the dispute between

the two countries to a third country, the necessity of third-party intervention to end conflicts between the two countries has increased.

Population density, lack of information supply facilities, independence of communities and lack of their communication with each other in the past have made the interests of communities not much intertwined. Still, the strained relations of the countries had an impact on the countries around. This caused the countries in the past to pay attention to peace, compromise and mediation in international conflicts.

In ancient China, India and Greece and elsewhere, governments have found that restricting the conflicts and violence between warring countries will be advantageous for them. At some point in time, the Pope was in charge of this task and over time, the United Nations and other international organizations recognized the right to mediation (Sabbaghian, 1995: 50).

14 MEDIATION FEATURES

Voluntariness: The most important feature of mediation is that it is voluntary. This voluntariness and acceptance of mediation is true for both the third party and litigants since mandatory mediation is not much considered in practice (Safdari, 1963, 607/3). Besides, the outcome of mediation is never binding for the countries involved in dispute and the parties act based on their own will and have no obligation in this regard and can act against it.

Maintenance of credibility: Another important feature of mediation is that it does not harm the reputation and credibility of either party, meaning that the interests of both sides of the dispute are largely taken into account during the mediation process without undermining their independence and sovereignty.

15 MEDIATOR FEATURES

Justice-seeking: Having a fair view in peace-making is among the most fundamental features of a mediator because he must look at the two sides equally in order to eliminate hostility (Sadeqi, 2013: 53/6).

Benevolence and confidentiality: The mediator must have good will and willingness to make reconciliation in order to achieve this important task and if he does it compassionately and impartially, God will undoubtedly bless it and eliminate hostility (Zamakhshari, Bitá, 508/1).

16 MEDIATION GOALS

- 1- Eliminating the state of war and violence
- 2- Establishing relationships with countries
- 3- Establishing common commercial, economic and cultural relations, etc.
- 4- Making treaties in the field of private international law
- 5- Regulating the matters concerning religious, worship and sacred places in Islamic lands

By expressing the goals of mediation, it is clear that the most important purpose of building a relationship with Saudi Arabia and using mediation to resolve disputes is to establish religious relations and use the huge Hajj travel capacities by both countries.

Hajj as a divine commandment and its performance apart from other political issues is undoubtedly the most important reason for establishing good relations and accepting the mediation of other countries in resolving disputes. The two countries of Iran and Saudi Arabia, which have many cultural and religious commonalities and both claim the leadership of the world of Islam, should definitely move towards peace and reconciliation and welcome the mediation of third countries, including Iraq and Pakistan, in resolving disputes according to the directives of Islam and the verses of the Holy Quran.

Implementation of Hajj pilgrimage, which is considered an Islamic obligation, shows the great importance of communicating with Saudi Arabia.

17 IMPORTANT PRINCIPLES IN MEDIATION FROM THE ISLAMIC PERSPECTIVE

It is clear that mediation, from the viewpoint of Islam, has principles and regulations that must be maintained in order to achieve the desired result. Maintaining the framework and characteristics of these principles causes that in accordance with the Islamic view and international regulations, the mediator becomes successful in fulfilling his mission which is the establishment of peace and reconciliation.

1- Principle of peaceful settlement of disputes: Governments' willingness for peaceful resolution of conflicts between nations and states in international claims aims to strengthen other principles and rights governing international relations.

2- Principle of goodwill¹: Considering the principle of goodwill is one of the key pillars of resolving disputes to improve international relations and cooperation. The lack of goodwill in making peace and reconciliation and mediation creates some kind of injustice and keeps countries away from accepting mediation. Although the third country benefits from mediation, the priority should certainly be conflict resolution.

3- Principle of trust-building: Clearly, creating an atmosphere of trust and confidence between the parties in a cooperative relationship is essential, which leads to peace of mind and lack of a sense of threat and future damage. Trust-building in mediation helps to resolve disputes as soon as possible and gives way to good relations and in the absence of trust, peace, compromise and mediation will certainly be meaningless.

4- Principle of competence: Competence of the arbitrator (mediator) and litigants has been one of the first steps in resolving a dispute. As stated in the Quran: “Indeed Allah commands you to deliver the trusts to their [rightful] owners”².

5- Principle of fairness and justice: Respect for the principle of justice is also among the important principles for resolving global disputes and in dealing with and calculating the profits and losses of the parties to a dispute, one must act in a manner that justice is observed. The Holy Quran also states: “Judge with fairness when you judge between people”³.

6- Principle of exigency and expediency (‘Amid Zanjani, 2011: 65): Expediency (prudence) is one of the inherent characteristics of governments. Governments inevitably resort to resolving international disputes in accordance with their national circumstances and interests and the requirements of the international community. As can be seen in the story of arbitration in the Battle of Siffin, when political pressure created a bottleneck for Imam Ali (AS), he was forced to accept the arbitration (Nahjul Balagha, Sermon 127).

18 MEDIATION AND THE PRINCIPLE OF NON-INTERVENTION

According to Verse 118 of Surah al-Imran, it is not permissible to ask help from non-Muslims because one must rely on believers. But under certain circumstances, one can depart from this general rule.

¹ Noor, 48, 49, 50

² Nisa, 58

³ Nisa, 58

1- State of exigency: If necessary, one can ask help from non-Islamic governments and unbelievers. With this description, it is permissible to get help from infidels in case of emergency if the conditions of the Muslims are such that the only way is to seek help from them and if it is assured that they do not harm the Muslims and Dhimmis¹ (Abul Wafa, 2001, 31/5).

2- The dominance of Islamic power: The Prophet's refusal to ask help from the Jews and the polytheists was due to their unreliability and suspicion of their espionage because he sometimes got help from Jews and polytheists in battles (Al-Jassas, 1994, 559/2). If there is no doubt or uncertainty in asking help from non-Muslims by Muslims and this makes the unity and cooperation of Muslims and their power even greater than before, getting help from non-Muslims is undoubtedly permissible.

3- Benefits of the Islamic State: If no one asks help or the situation is equal, then resorting to asking help does not appear good in legal and religious terms. When the Islamic State's interest is in being able to accept the assistance of non-Islamic governments, it must definitely be accepted because the Islamic State's victory and benefit is a priority.

Therefore, based on the views expressed by various religions in this respect, the following can be stated: According to the Hanafi jurists, it is permissible to seek help only when needed. But Shiite and Hanbali jurists permit it only in case of exigency and Maliki scholars believe that seeking assistance is permitted in the field of services and Shafi'i sect also considers it as permissible only in case of being safe from their betrayal.

Based on the foregoing, it can be concluded that the principle of non-intervention and mediation are completely separate issues. The principle of non-intervention aims to preserve the independence and unity of countries and to maintain the power of Islamic society and involves independence and non-interference of others, but mediation has another purpose, which is to make peace and maintain unity and harmony between countries and prevent war, bloodshed, violence and disputes.

19 CONCLUSION

In the verses of the Quran, although there is no such word as mediation, the terms such as peace, compromise, arbitration and reconciliation of two parties convey the same meaning of mediation. The overwhelming emphasis of the verses of the Quran on peace and reconciliation

¹ Non-Muslims living in an Islamic state with legal protection

brings to mind that in Islam, the principle is peace and disputes should be discarded and peace and reconciliation should be replaced.

There are also many narratives and hadiths in relation to mediation which indicate the importance of this issue. The practical manner of the Prophet (PBUH) in the story of Banu Qurayza also proves the existence of mediation in Islam.

The consensus of Islamic jurists also endorses mediation, suggesting that the Islamic State must accept peace, compromise and mediation to resolve disputes if it is expedient.

Another important topic that emphasizes the importance of mediation is the unity of the Islamic nation which contributes to the durability and sustainability of Islamic communities. Islamic societies should make efforts to maintain their unity. In this regard, one way is the peaceful settlement of disputes and acceptance of mediation of other Islamic countries.

The Islamic Republic of Iran, on the basis of both religious teachings and legal principles contained in the Constitution, obliges itself to work for the establishment of peace and understanding among nations, especially the Islamic nation.

In recent years, some Western countries have attempted to introduce Islam as a threat to regional and international relations.

The issue of compromise and mediation between two warring groups is one of the most important recommendations in the field of the foreign policy of the Islamic State.

Although the two countries of Iran and Saudi Arabia have many cultural and religious commonalities, the most important of which is the issue of Islam and holding Hajj rituals annually, the existing political disagreements have caused tensions and conflicts between these two Islamic countries.

Other Muslim countries with the same commonalities have taken a step to resolve these conflicts so that they can bring peace and reconciliation between Islamic countries and mediate to resolve the disputes.

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