

## Online Mediation in The Malaysian Shariah Court: Its Benefits and Challenges

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### ABSTRACT

Achieving amicable settlement of disputes has been promoted in various Islamic legal texts. Mediation or *sulh* at the Malaysian Shariah Court is a branch of alternative dispute settlement established since 2001. *Sulh* aims to cease on-going hostilities between the parties and restore their relationship peacefully. The outbreak of Covid-19 pandemic gives an impact on the marriage system among the Malaysian Muslim community as it is reported that there is a total of 6,569 couples divorced from March 18 to June 18, 2020. With the new norm, there is an innovative initiative introduced by the Selangor Shariah Judiciary Department (JAKESS). The Department has recently implemented online mediation or online *sulh*. This online *sulh* is executed using a video conference facility developed by the Malaysian Administrative Modernisation and Management Planning Unit (MAMPU). In empowering the court operation during the movement control order (MCO) and post MCO, JAKESS has introduced its "Operation Guidelines" which covers guidelines on online *sulh* too. The guidelines are in two volumes, namely the courts' operation within the MCO period starting May 13, 2020, and post MCO period begins on Jun 10, 2020. This guideline aims to guide the *sulh* officers, parties, lawyers and court officials in conducting *sulh* session for parties who had their settlements on the disputes and those who are yet to have an amicable settlement but wish to undergo online *sulh* within this period. A pilot case involving online *sulh* case at the Shariah High Court has been successfully conducted on 21<sup>st</sup> May 2020 to test on the effectiveness of the SOP that has been developed. The paper adopts library-based and qualitative research methodologies including the interview. This paper aims to discuss the advantages and disadvantages of online *sulh*, the issues and challenges faced in administering the conduct of online *sulh* in Malaysia. The existing operation standard introduced by JAKESS will be examined and experienced by the *sulh* officers conducting online *sulh* will also be discussed. Lastly, the paper will recommend the way forward for optimal use of online video conferencing into *sulh* practice.

**Keywords:** *alternative dispute resolution (ADR), online dispute resolution (ODR), sulh, online mediation, Syariah court.*

## Introduction

The COVID-19 pandemic, also known as the coronavirus pandemic, is caused by severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) (World Health Organization, 2019). The outbreak was declared a Public Health Emergency of International Concern in January 2020, and a pandemic in March 2020 (World Health Organization, 2019). The virus was confirmed to have reached Malaysia in late January 2020 (Staff, 2020). The administration of the Shariah court was among those affected by the implementation of the Movement Control Order (MCO) due to COVID-19. This includes the closure of courts that require the judicial system to function under the new norms such as the execution of court proceedings through the online system. Online *sulh* is one of the methods available that suits the current situation. Tan Sri Dato' Haji Muhyiddin Bin Haji Mohd Yassin, the Prime Minister of Malaysia in his speech while launching the Opening Ceremony of the Shariah and Judicial Conference of Nusantara 2020 on 29<sup>th</sup> September 2020 has emphasised that “the use of new technology must be given priority by the administration of the Shariah court. In my opinion, the experience we have gained from the COVID-19 pandemic episode shows that the use of technology is an obligation. Without technology, the administration of the Islamic judicial system can be affected and in turn prevent the implementation of justice which is a religious demand. These are some of the new norms in Islamic judicial administration that must be addressed.”<sup>1</sup> Apart from online *sulh*, to strengthen the administration of the Shariah law in Malaysia, the Family Support Division of the Syariah Judiciary Department (JKSM) also recently offers the online mediation services to the clients (Nora, 2019).

The practice of *sulh* in the Malaysian Shariah Court started in 2002. It is in line with the Islamic injunction that is to practise an amicable settlement as prescribed in surah al-Hujurat verse 9 “And if two parties of the believer quarrel, make peace between them; but if one of them acts wrongfully towards the other, fight that which acts wrongfully until it returns to Allah’s command; then if it returns, make peace between them with justice and act equitably; surely Allah loves those who act equitably.” In surah An-Nisa verse 128 “And if a woman fears ill-usage or desertion on the part of her husband, there is no blame on them, if they effect a reconciliation between them, and reconciliation is better, and avarice has been made to be present in the (people’s) minds; and if you do good (to others) and guard (against evil), then surely Allah is aware of what you do.”

Achieving justice without a court trial is one of the methods available for parties in obtaining a decision in their favour. In the 13<sup>th</sup> Muzakarah of Sulh Officers Throughout Malaysia on 12<sup>th</sup> August 2020, the Director-General cum the Syarie Chief Justice of JKSM, Dato' Dr Mohd Naim Mokhtar stressed that the practice of *sulh* in the Shariah Court not only reduce the backlogs of cases but also overcome the dissatisfaction between the parties involved. It also avoids delays in the trial process and reduces the cost that parties need to bear in their legal action (Mohd Naim Mokhtar, 2020). This is evidenced by the statistics produced by JKSM in the year 2019, out of 13,118 cases been registered and referred to the *sulh* process (*Majlis Sulh*) throughout Malaysia, 91.1% of the cases were successfully resolved by way of *sulh* (Mohd Naim Mokhtar, 2020).

According to Harry T, alternative dispute resolution or ADR system refers to “any system for resolving disputes that serves either as a substitute for or complement to conventional court litigation” (Edwards, 1985). *Sulh* or mediation that has been practised in the Malaysian Shariah court is one of the available means of disputes resolution for the settlement of disputes. Mediation forms a core component in the Malaysian judicial system where it provides an alternative to disputing parties to resolve their dispute without going through the trial process (Choy, Hee, & Siang, 2016). Originally, mediation was conducted in person or face-to-face sessions. However, with the development of the internet, online dispute resolution (ODR) have developed (Courts and Tribunals Judiciary, n.d.). According to Sodiq Omoola, ODR can be simply explained as taking dispute resolution to the cyberspace or also known as ADR mechanisms facilitated through the use of modern ICT equipment (Omoola, 2019). Started with handling the e-commerce disputes, nowadays online mediation become more popular and become an

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<sup>1</sup> Persidangan Kehakiman dan Perundangan Syariah Nusantara 2020 at the Movenpick Hotel, Sepang

accepted means of ODR of other disputes including the family disputes and those disputes in which money is not the main issue (Tallodi, 2020; Terekhov, 2019; Zhao, 2018).

### **Problem Statement**

The introduction of online *sulh* in Malaysian Shariah Court is still at an infancy stage. The pandemic COVID-19 becomes a pushing factor to the implementation of this online *sulh*, since the court was unable to run an optimum face-to-face *sulh* session. Moreover, there is a need for this service as there are parties who are unavailable to cross-state, or being instructed to quarantine. There are not many studies discussed on the implementation of this method as it is still new. Therefore, the study aims to look at how far is the implementation of online *sulh* has benefited the clients and what are the constraints that need to overcome in making online *sulh* successful.

### **Objectives of the Study**

This paper aims to discuss the benefits and challenges of online *sulh* and evaluate the existing operation guidelines introduced by the Shariah Judiciary Department of Selangor (JAKESS). Lastly, the paper recommends the way forward for optimal use of online video conferencing into *sulh* practice.

### **Methodology**

This study adopts a library-based and interview methodology. The data were analysed using content-based analysis.

### **Shortcomings of Trial**

The emergence of ADR as a complement to the shortcomings that exist in the traditional legal system. In the normal litigation process, parties not only experienced a delay of trials and high cost of litigation, but also experienced unfairness treatment to the less superior parties due to oppression by the other dominant parties (Marks, Johnson, & Szanton, 1984). Besides, ADR also promotes public participation in the disputes resolution process, a tool to facilitate access to justice, reducing backlogs of courts cases, an alternative effective mechanism for the settlement of the dispute, to maintain public assurance and confidence on the ability of the disputes resolution in bringing justice to the people (Edwards, 1985). Litigation process tends to discourage effective communication and cooperation between parents who have their disputes at the court. The adversarial mode of trial not only causes a traumatic feeling toward the children due to the separation of parents but also brings difficulties in child custody dispute cases as the result from the trial might not become the true intention of the parents.

Family litigation becomes a trend in both civil and Shariah Court. Every year in Malaysia, there is an increase in the number of marital separation and divorce cases. The statistic has shown that during the MCO period, a total of 6,569 couples divorced from March 18 to June 18, 2020, at the Shariah Court in Malaysia (Rahim, 2020). Beside this adversarial litigation mode, mediation especially in family disputes is a growing trend. As for the Shariah court, court-annexed mediation namely as *sulh* started in 2001 as a pilot test in the Shariah Court of Federal Territories (MSWP) and later in the year 2002 was officially launched and implemented at the Shariah Court of Selangor (JAKESS) (Mohamad Abdullah, 2003).

### **Definition of Mediation**

Mediation is a dispute resolution process lead by a non-partisan third party who seeks to help the disputing parties to negotiate freely to reach to an agreement (Pearson, 1981). According to Pearson, “mediation stresses honesty, informality, open and direct communication, expression of emotion, attention to the underlying causes of disputes, reinforcement of positive bonds, and avoidance of blame” (Pearson, 1981). Mediation is regarded as the most practical ways of alternative disputes resolution in

family disputes (Nora, 2007). Even though mediation has long been practised traditionally in China, Japan, Hong Kong and Singapore, the practiced has not been embodied into their state socio-legal system. It has been legally practised later after the West has incorporated ADR in their legal system (Nora, 2007).

Mediation is made available as an alternative to litigation at the pre-trial stage. However, mediation is also suitable to be practised in the middle of the litigation process.<sup>2</sup> Mediation differs from adjudication where parties to the dispute have a privilege to decide on how the dispute should be resolved. Mediator in the mediation process will supervise the negotiation process entered between parties. The mediator plays a facilitative role in creating a conducive environment that may help parties towards preparing a good settlement agreement that is mutually accepted by the parties (Mayer, 2004). Mediation creates relevant norms by parties themselves, not aiming at reaching conformity to the norms. For instance, in helping parties to formulate the terms of the agreement, the mediator will assist on the rights and duties of each party. The mediation process that parties entered into will then create all the relevant structures towards guiding a successful mediation, not using a pre-existing structure.

### Online Mediation at the Malaysian Shariah Court

Since the introduction of E-Syariah in 2002 to upgrade the quality services of the Syariah Courts, technical facilities are available and should be enough to initiate the online *sulh* ODR system. This is because the E-Syariah is equipped with basic technologies facilities for example internet, email communication and website that are available at all the Syariah Courts in Malaysia (Ahmad et al., 2018). In a study by Siti Noor Ahmad and other few researchers, it was found that out of 18 cases that can be mediated in *sulh* based on the Practice Direction No 1 of the year 2010 by the JKSM, it is suggested that there are only 5 types of cases that are suitable to be negotiated in the online *Sulh*. The 5 types of cases listed are the children maintenance, maintenance of wife during *eddah* period, child custody (*hadhanah*), application to vary the court order, and the application for the maintenance of wife (Ahmad et al., 2018).

The outbreak of COVID-19 has become a pushing factor to the implementation of virtual hearing by the Shariah Court in Malaysia since parties are restricted to move freely and as precautionary measures taken by the court to minimising contacts with parties. As trials are allowed to be conducted through online video conferencing, the same goes with *sulh*. Based on the interview session conducted with an officer at the JAKESS,<sup>3</sup> *sulh* session is allowed to be conducted online in the state of Selangor since 13<sup>th</sup> May 2020 during the Movement Control Order (MCO) period. However, the first online *sulh* case commenced after 10<sup>th</sup> June 2020 during the Recovery Movement Control Order (RMCO) period. The initiative to conduct online *sulh* in line with the direction given by the JKSM. Online *sulh* is executed using a video conference facility namely Skype for Business platform developed by the Malaysian Administrative Modernisation and Management Planning Unit (MAMPU) (Jabatan Kehakiman Syariah Selangor, 2020b). The reasons for allowing online *sulh* are targeted for those parties who have been instructed to be quarantined, international parties or Malaysian who are residing outside Malaysia and those who had health issues and not able to attend the face-to-face *sulh* session.<sup>4</sup>

In managing the smooth running of the online *sulh*, JAKESS has introduced its “Operation Guidelines” which covers guidelines on online *sulh* too. The guidelines are in two volumes, namely the courts’ operation within the MCO period starting on May 13, 2020,<sup>5</sup> and post-MCO period begins on Jun 10,

<sup>2</sup> see section 99 of the Syariah Court Civil Procedure (State of Selangor) Enactment 2003 state that “The parties to any proceedings may, at any stage of the proceedings, hold *sulh* to settle their dispute in accordance with such rules as may be prescribed or, in the absence of such rules, in accordance with *Hukum Syarak*.”

<sup>3</sup> Interview session with Puan Nurdiyana binti Aziz on 17<sup>th</sup> September 2020, a *sulh* officer at the Shariah Court of Selangor (JAKESS).

<sup>4</sup> From the interview with Puan Nurdiyana Aziz, *Sulh* Officer at JAKESS on 17<sup>th</sup> September 2020

<sup>5</sup> Garis Panduan Operasi Jabatan Kehakiman Syariah Selangor (JAKESS) Dalam Tempoh Kawalan Pergerakan (PKP), 2020

2020<sup>6</sup>. With the introduction of volume 2, the operation guideline volume 1 has been repealed. This guideline aims to guide the *sulh* officers, parties, lawyers and court officials in conducting *sulh* session for parties who had their settlements on the disputes, and those who are yet to have an amicable settlement but wish to undergo online *sulh* within this period. The guidelines or standard operation procedure (SOP) has been tabled and agreed in the Shariah Courts Coordination Meeting<sup>7</sup> lead by JKSM. JAKESS in their press statement dated 10<sup>th</sup> June 2020 mentioned that a pilot case involving online *sulh* case at the Shariah High Court has been successfully conducted on 21<sup>st</sup> May 2020 to test on the effectiveness of the SOP that has been developed (Jabatan Kehakiman Syariah Selangor, 2020b). In another press statement dated 9<sup>th</sup> June 2020, it has been stressed that the *sulh* session (*Majlis Sulh*) can be made through a video conference provided that such application get written consent from both parties to the disputes namely the Plaintiff/Applicant and the Defendant/Respondent (Jabatan Kehakiman Syariah Selangor, 2020c).

As of 17<sup>th</sup> September 2020, there were 7 online *sulh* cases has been initiated at the JAKESS. 6 of them are *sulh* cases at the Shariah High Court of Selangor and only 1 case was conducted at the Shariah Lower Court of Petaling Jaya involving a case on children maintenance.<sup>8</sup> The online *sulh* cases conducted at the Shariah High Court were mainly child custody disputes (*hadhanah*) involving 5 cases, and the remaining 1 case was an application to vary the child custody disputes (*hadhanah*) order.<sup>9</sup>

The implementation of the online *sulh* has not involved any amendment of the law since it is managed within the administration of the court.<sup>10</sup> Besides introducing the Operation Guideline for Online *Sulh*, the existing law and regulations regarding *sulh* are still applicable and enforceable.

### **Operation Guidelines for the Management of the Online *Sulh***

In the Operation Guideline volume 2, it listed 3 conditions of application to undergo online *sulh*. Firstly, applications can be made for cases that both parties agreed on the terms or the case has not yet had the consent of the parties, but subject to the permission of the court. Secondly, the parties agree to undergo online *sulh*. Thirdly, the respective court(s) and the parties have the Skype Application facilities (Jabatan Kehakiman Syariah Selangor, 2020a). The operation of online *sulh* must follow the operating procedures and conditions listed below:<sup>11</sup>

- i) Parties must make an application using the standard form provided by JAKESS and submit the form to the official email address of JAKESS;
- ii) Online *sulh* will be scheduled on weekdays only and subject to the date selected by the court;
- iii) Only the *sulh* officers and parties involved in the Sulh process (*Majlis Sulh*) are allowed to be present in the online *sulh* session. The public, family members and children are not allowed to participate in the online *sulh* process;
- iv) The appointed Sharie lawyer representing any parties cannot participate in the online *sulh* session, except with the permission of the chairman/*sulh* officer;
- v) Parties must dress modestly and cover their *aurah* (observe the Islamic dressing code) during the online *sulh* process;
- vi) The endorsement of the settlement agreement before the Judge will be made on the date to be determined by the court;

<sup>6</sup> Garis Panduan Operasi Jabatan Kehakiman Syariah Selangor (JAKESS) Pasca Perintah Kawalan Pergerakan (PKP), Vol.2.2020

<sup>7</sup> Mesyuarat Penyelaras Operasi Mahkamah Syariah Seluruh Malaysia

<sup>8</sup> From the interview with Puan Nurdiyana Aziz, Sulh Officer at JAKESS on 17<sup>th</sup> September 2020

<sup>9</sup> From the interview with Puan Nurdiyana Aziz, Sulh Officer at JAKESS on 17<sup>th</sup> September 2020

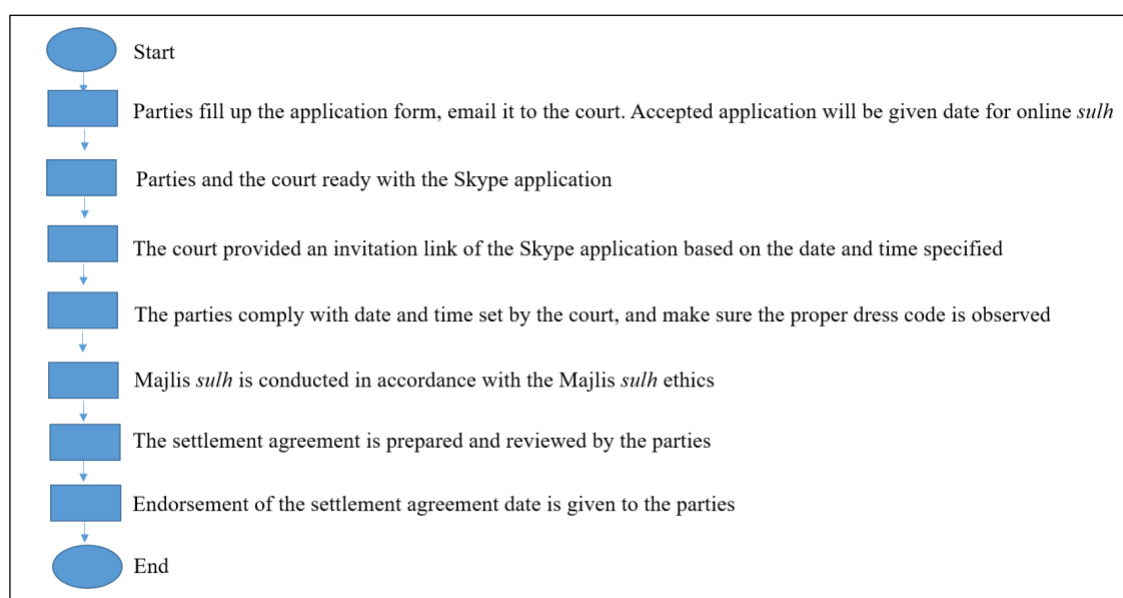
<sup>10</sup> From the interview with Puan Nurdiyana Aziz, Sulh Officer at JAKESS on 17<sup>th</sup> September 2020

<sup>11</sup> Operation Guidelines for the Management of the Online *Sulh* by JAKESS

- vii) Any visual or audio recording during the online *sulh* session is not allowed at all. Contempt of court proceeding will be enforced if any party breach this condition.

Based on the abovementioned procedures and conditions, the online *sulh* application will only be allowed with the consent of both parties to the disputes. The involvement of any third party is not permitted as same been practice in normal face-to-face *sulh* session, except with the permission of the *sulh* officer. Under rule 5(2) of the Syariah Court Civil Procedure (Sulh) Selangor Rules 2001, it stated that “In Majlis Sulh, every party shall appear in person and no Peguam Syarie may appear or act as such for any party and no party shall be represented by any person without the leave of the Chairman” (Syariah Court Civil Procedure (Sulh) Selangor Rules 2001, 2001). The whole online *sulh* process is conducted following the standard procedure of the face-to-face *sulh* as per listed in the Sulh Work Manual (Jabatan Kehakiman Syariah Malaysia, 2002). The parties are also reminded not to record the *sulh* process they entered into. The implementation of this online *sulh* has received good response from the customers and lawyers.<sup>12</sup> The flow chart of the online *sulh* is illustrated in Figure 1 below:

Figure 1: The Online Sulh flow chart



Source: *The Operation Guidelines of the Shariah Department of Selangor Post Movement Control Order (MCO) Vol.2 2020*

### Benefits of Online Sulh/Mediation

The practice of online *sulh* bring benefits in the management of the Shariah court. It might unlock the court calendar as parties who are not able to attend physically the *sulh* session at the respective courts, might apply for online *sulh*.<sup>13</sup> If their application is justified and accepted, their case might be proceeded without adjournment to further notice. The implementation of online *sulh* has facilitated the needs of court clients, no matter where they are, their case will proceed and resolve quickly. Furthermore, if there is no internet connection problem, the *sulh* session will become smooth and the parties have the chance to resolve their disputes amicably.<sup>14</sup> Having an online *sulh* will allow the parties to adjust their time wisely, as the parties can be in anywhere to conduct the session, as long as they follow the date

<sup>12</sup> From the interview with Puan Nurdiyana Aziz, Sulh Officer at JAKESS on 17<sup>th</sup> September 2020

<sup>13</sup> From the interview with Puan Nurdiyana Aziz, Sulh Officer at JAKESS on 17<sup>th</sup> September 2020

<sup>14</sup> From the interview with Puan Nurdiyana Aziz, Sulh Officer at JAKESS on 17<sup>th</sup> September 2020

and time scheduled. Parties may join the mediation session from the safety and comfort of their homes or their place (Tallodi, 2020).

Online *sulh* also able to reduce the cost incurred by the parties, as they might not need to pay for travelling cost or accommodation if they live far from the mediation office.<sup>15</sup> Time of the parties also could be saved since they might need not travel and waiting before their session started, they just need to follow the time determined by the court. Moreover, if the judge is available and agreed to endorse the agreement entered into between parties using the online platform, such agreement might be endorsed by the judge on the same day on the *sulh* session.<sup>16</sup> Mediation might become a success even if there is a significant geographical distance between the parties and/or the mediator, or if parties live in remote areas (Tallodi, 2020). Mediation via videoconferencing also helps the settlement of disputes without any physical meeting. There is a situation where for the best interest of the parties, they prefer to maintain distance due to security or safety reasons (Tallodi, 2020). Online mediation enables dialogue between parties when face-to-face communication is impossible (Conley Tyler & Raines, 2005).

### Challenges of Online *Sulh*/Mediation

Despite the fact there are many benefits from the implementation of online *sulh*, there are however challenges that faced by the shariah court in its enforcement.<sup>17</sup> Firstly, there are times where the internet connections is not stable, thus make the *sulh* session been interrupted. Secondly, parties who wish to use online *sulh* are not very familiar with the Skype application. The parties prefer using other means of available software like Zoom or Google Meet, but since the Malaysian government only provided Skype for Business platform, they have no other choice but to follow what is instructed.<sup>18</sup> Thirdly, some parties had no problem to proceed with the *sulh* session in an online platform, however, they are not very handy or IT literate with the new technologies (Ahmad et al., 2018).

Fourthly, another challenge is that the settlement agreement reached by the parties cannot be signed there and then, if later rise any disputes to the agreement, there is no written evidence to support on it.<sup>19</sup> Furthermore, based on the interview session with Puan Nurdiyana Binti Aziz, the *Sulh* Officer at JAKESS, the online *sulh* can be conducted in a situation where one party attended the online *sulh* session at the respective Shariah Court while another party was in the different location provided that another party agreed.<sup>20</sup> However, it is observed that the party who attended the session at the Shariah court was in the same room with the *sulh* officer, using the same laptop when the online *sulh* was conducted. Even though there is no objection from the other party, it is afraid that there might be possibilities of doubt that such party might have a pre-discussion session with the mediator without the knowledge of the other party who was not at the same place, and this might raise an issue of impartial of the *sulh* officer.

Another challenge that might become an issue in online *sulh* is the court was unable to control if any party who secretly recorded the *sulh* session. If the mediator found that such party attempting to do any recording on that time, the mediator might warn the said party, however, any conduct behind the view of the mediator is undeniably far beyond the control of the court.<sup>21</sup> Mediator was also unable to read the demeanours, sign language, non-verbal clues and micro-signals of the parties as what they can see in the online screen are the face or half body of the parties only, not same as parties appear physically in front of the mediator. The real eye contact is one of the most missed aspects of online mediation. This situation also may result in video mediation become more tiring than a face-to-face session as in face-to-face session, people may process emotions unconsciously and rely on nonverbal cues to make

<sup>15</sup> From the interview with Puan Nurdiyana Aziz, Sulh Officer at JAKESS on 17<sup>th</sup> September 2020

<sup>16</sup> From the interview with Puan Nurdiyana Aziz, Sulh Officer at JAKESS on 17<sup>th</sup> September 2020

<sup>17</sup> From the interview with Puan Nurdiyana Aziz, Sulh Officer at JAKESS on 17<sup>th</sup> September 2020

<sup>18</sup> From the interview with Puan Nurdiyana Aziz, Sulh Officer at JAKESS on 17<sup>th</sup> September 2020

<sup>19</sup> From the interview with Puan Nurdiyana Aziz, Sulh Officer at JAKESS on 17<sup>th</sup> September 2020

<sup>20</sup> The interview session was conducted on 17<sup>th</sup> September 2020

<sup>21</sup> From the interview with Puan Nurdiyana Aziz, Sulh Officer at JAKESS on 17<sup>th</sup> September 2020

emotional judgements, but in online mediation, people have to focus and make more effort to process the non-verbal cues (Gainotti, 2012). Another drawback of online mediation is a lack of effective control for the mediator to impose a 'cooling-off' period on the parties (Terekhov, 2019). Whenever the negotiations become tense, it is quite difficult for the mediator to remotely manage the situation.

## Discussions

Based on the above discussions, as to avoid any bias and impartial in conducting the *sulh*/mediation session, it is suggested that any party who wishes to attend the online *sulh* physically at the Shariah court office be stationed in a different room with the mediator or *sulh* officer and using a different device. As to improve the services in the future, the government should take further initiative by introducing more online platforms that parties might choose at their convenience. Moreover, since the signing of the agreement might become an obstacle, the government should think a possible way to overcome this issue. If there does not involve any legal implications, using the digital signature of the parties might become a possible solution for this issue. In the future, as online *sulh* become a trend and widely accepted in society, it is suggested that there is a need to introduce specific law to regulate the practice of online *sulh*.

It is argued that the process in video mediation is essentially the same as in-person, however, when mediating using video, the previous study suggested that a preliminary individual session with both parties is conducted before the joint mediation session as this helps mediator to build a good rapport with parties (Tallodi, 2020). As the online *sulh* is still new in Malaysia, the government engagement with the staff and officers who had experienced using this facility is highly recommended to know what needs to be improved in the future.

## Conclusion

Online mediation is a new development in many countries including Malaysia. The introduction of online *sulh* is a good initiative by the government to facilitate the need of the clients. It will further support the current mediation practice available in this country. The effect of COVID-19 resulted in social distancing become a new norm, thus make the responsibility of mediators to provide justice to the disputants is no exception. It is about time to fully utilize of the video mediation facilities and its potential in resolving parties conflicts. Training should also be given to the mediator and the support staff in handling online mediation, not only the facilities but also the skills that need to enhance to ensure that online *sulh* meet its objective. Whether it be online or offline mediation, to conduct a successful mediation, the mediator needs to build confidence and have good negotiation and decision making skills, communication skills, stress and conflict management skills, and problem-solving skills. The benefits and constraints outlined in this paper might become a consideration by both the mediator and the disputants on which available modes of mediation is suitable for their case. To provide justice, determining the right modes for mediation and mastering the appropriate skills is important in conducting online *sulh*/mediation. Lastly, security and facility issues cannot be neglected to make sure the system is reliable and available all the time.

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