

The Call for Economic Students to be Introduced to Mediation Course as to Encourage the Usage of Mediation as the Alternative Dispute Resolution in Resolving Issue Relating to Halal Industries in Future

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Abstract. Halal industry incorporates almost everything like medicines cosmetics, tourism, banking and finance, and etc. The industry is growing fast globally. This paper will look at a different angle of halal industry i.e., dispute resolution with the aim of educating students about mediation through a course at university level. Mediation is one of the ADR process. It involves an impartial third party who uses his skills and knowledge in assisting disputants to communicate and negotiate so they can come with solutions for their problems. The increment of the usage of mediation in various field including banking and finance calls for this subject to be introduced to students at university levels. In Malaysia, ADR is a compulsory subject for law students. However, the non-law students have no opportunity to learn and acquire knowledge about this process. This paper discusses about alternative dispute resolution in general and in Islam. It also discusses about mediation and Islamic banking and finance in Malaysia. The current litigation system might not able to understand some Islamic elements in certain Islamic products such as in Islamic banking and finance. This paper proposed introducing mediation as one of the courses offered to the students at School of Business and Economics, Universiti Putra Malaysia (UPM). It is important to equip them with the knowledge before they embark on the working environment in economics fields. This paper examines students' understanding of mediation and their opinions in proposing mediation as a subject. This paper adopts qualitative research method alone. The findings show that the majority of the students support the idea. This paper also suggests a simple module for the course to be offered to the students.

Keywords: Mediation Course; Alternative Dispute Resolution; Halal Industries

1. Introduction

The halal industry is not limited to the food sector as previously. It was extended to cosmetics, pharmaceuticals, medical devices, packaging, etc. It has rapid growth. It is available to Muslims and non-Muslims. It has so much potential [1]. The economic halal industry encourages the development of Small and Medium enterprises (SMEs) [2]. Islamic banking and finance fall under this category as well. In all markets or economic ecosystems, there will be issues or disputes. Currently, there is no Islamic method of resolving disputes for this purpose. In Malaysia, the available forum is the civil courts. However, there are many other ways of dispute resolution, especially the one that is very near to or within the Islamic concept.

American Bar Association defines dispute resolution as a term that refers to several processes that can be used to resolve a conflict, dispute, or claim. It is further defined as its processes are alternatives to having a court (state or federal judge or jury) decide the dispute in a trial or other institutions determine the resolution of the case or contract [3]. Alternative dispute resolution commonly known through its abbreviation ADR, is defined as procedures that serve as alternatives to Court process or litigation that resolves disputes. Generally, ADR involves an impartial third party who assists the disputant in resolving the conflict [4]. The third party is the expert in the area, and the process is much faster than the court process. One of the ADR branches is mediation. Mediation may be defined as a process where an impartial third party assists the disputants in communicating and generating ideas and solutions to their problems. The mediator will not provide answers, but they may create options. The solutions come from the parties themselves. Mediation empowers the parties to resolve their disputes with a mediator's assistance [5]. Mediation is a private, facilitative, and informal form of third-party aid available to disputants who cannot resolve their problems independently [6].

In Islam, the practice of amicable settlement (sulh) or mediation is found in the Qur'an; Chapter

4: 114 says to the effect that:

“In most of their secret talks, there is no good; but if one exhorts to a deed of charity or justice or conciliation (sulh) between men, (secrecy is permissible): to him who does this, seeking the pleasure of Allah, We shall soon give a reward of the highest (value).”

It is stated that the process of sulh (mediation, arbitration, and reconciliation) takes place when the parties agree to have a third to assist them in resolving disputes [7]. The word *ṣulḥ* may be translated as conciliation and mediation since there is no semantic difference between them in Arabic [8]. The practice of dispute resolution by the elders in many Muslim societies is derived from the course of the Prophet Muhammad (peace be upon him). He separated the process of dispute resolution in Islam into three: reconciliation (*ṣulḥ*), arbitration (*taḥkīm*), and a transparent step-by-step process of mediation (*waṣāṭa*) [9]. *Waṣāṭa* is the common term for conciliation, which means a benevolent and non-binding procedure to end a dispute [10]. Regardless of the time, Islam provides mediation as an amicable dispute resolution.

However, this method is not widely accepted or provided to settle issues or disputes relating to the halal industry. This paper will refer to Islamic banking and finance to represent halal industries. The reason is that there needs to be more awareness of mediation in Malaysia. In Malaysia, the government must provide a center to resolve Islamic banking and finance issues through mediation. However, a non-profit organization is licensed by Central Bank Malaysia to be an independent and impartial body assisting a customer who has a problem with the financial provider known as the Financial Mediation Bureau. It provides mediation and was established in 2015. The Bureau has settled many cases involving various issues in banking by applying mediation [11]. An alternative method for resolving Islamic banking and finance issues was proposed since “the current trend of litigating Islamic banking and finance disputes does not augur well with the prospects of Islamization of the industry” [12]. Mediation is suggested to be applied in resolving Islamic banking and finance cases. It is a non-binding and benevolent procedure for resolving disputes. The intervening of one person or more (mediator) based on request or by their own will has been adopted in resolving disputes in Islam [1].

The issue with the introduction of mediation was discussed many years before [10] and recently [1]. The challenge of introducing mediation needs to be more awareness. The mediation process has yet to be discovered by many [13]. Even though mediation is faster and cheaper to resolve the issue, it is challenging to introduce if the industry players have no knowledge and are not interested. Hence, mediation needs to be submitted to the future players in the industry. Mediation is being offered at law schools in Malaysia as part of the ADR course. It is a compulsory course. However, there is no similar course offered to economics students. They are equipped with relevant subjects such as Companies Law, Employment Law, and Business Law. However, they are not exposed to ADR or mediation—the extension of halal industries in economics calls for economic students to learn about mediation as dispute resolution. Mediation is accepted by both Syariah and civil law in Malaysia. Hence, mediation is a method applicable in Islamic and civil law. Therefore, it is perceived that economics students need to be equipped with the knowledge, skills, and process of mediation. This paper aims to Examine whether economics students understand mediation and whether, in their opinion, the university (UPM) may offer the course to them. The findings show that most students agreed that the mediation course might be provided to them, and they know the advantages of mediation.

2. Research Method

In this research, the qualitative method is adopted in collecting data. A library-based method is applied to collect information from books, journals, etc.; a short interview through email is used to collect data from the respondents. First, the potential respondents were approached through messages. The questions were emailed to them once they agreed to join the brief discussion. All respondents are students of the School of Business and Economics (previously known as the Faculty of Economics). There were almost 150 students approached. However, only 46 students replied and agreed to participate. Four questions two were posed to them to get their opinions on mediation and whether

UPM may offer mediation. The other two questions were posed to see if they prefer the course to be elective or compulsory and to check their opinion on conciliation. The respondents were chosen since the idea is to see if they are ready to be taught with an extra course if it happens to be introduced by the university.

3. Results and Discussion

3.1. Findings

The following were the results of the questions posed to the respondents. The first question posed to the students was to check their understanding of the meaning of mediation. The majority of the students (43 respondents) (91%) answered in the affirmative, and four respondents answered no (9%). This is shown in Figure 1.

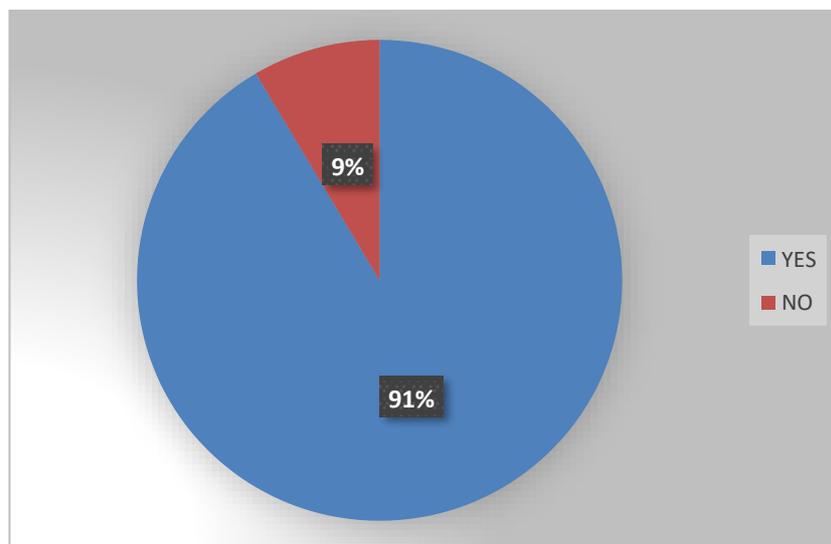


Figure 1. Understanding of Mediation

The second question posed to the respondents was, “Do you think the university (UPM) may introduce mediation or alternative dispute resolution as a subject to its students? The majority of the respondents answered yes (46 respondents) (98%), and only one respondent said no (2%). This is shown in Figure 2.

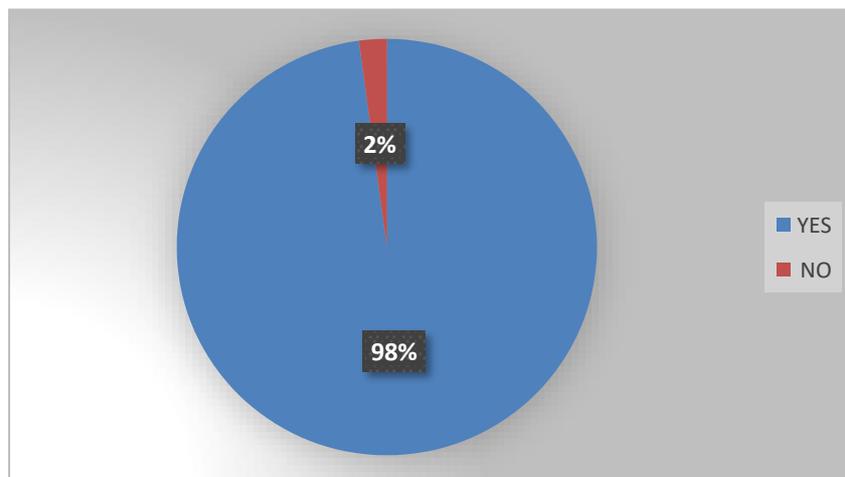


Figure 2. UPM may Offer a Mediation Course

The third question posed to the respondents was, “If, in your opinion, the university may offer mediation as a course to economics students, do you think it should be taught as an elective or a compulsory subject/course? The majority of the respondents (26 respondents) (57%) answered “elective,” and the rest of the students answered “compulsory” subjects (20 respondents) (43%). One of the respondents did not answer because he did not think that the university may offer mediation as a course to economics students. This is shown in Figure 3.

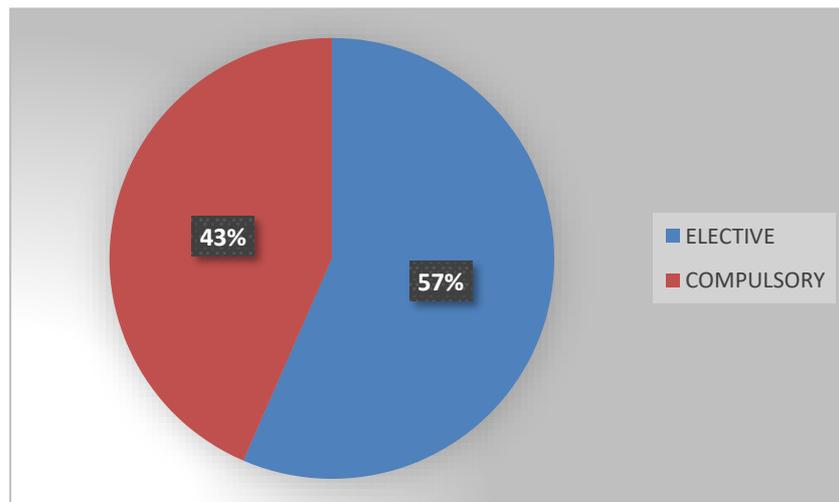


Figure 3. Economics student respondents

The fourth question asked their opinion on how the course would benefit them. The answers given by the respondents are grouped into 5 points as follows:

1. Mediation skills will assist the students in the future while dealing with disputes. *“Mediation is a useful skill for students to analyze and resolve conflicts logically rather than emotionally. This also allows them to prepare and practice good manners (i.e., perseverance and self-control), which benefits their future working environment.” (R1)*
“In my opinion, I can learn some knowledge about legal mediation, which will be helpful to deal with things in the future. Deal with things more strategically and rationally. It’s a good skill.” (R5)
“During university, every student should have the opportunity to choose this course because this is not only a course, but every student may come into contact with problems in future work. So students can apply what they have learned in this course and draw inferences.” (R13)
“I think having something to dispute in life is easy. If we can learn to meditate, it is a big possibility that it will fundamentally solve legal proceedings. Save money and avoid disputes, so I think UPM should open this course.” (R37)
2. Mediation enhances empathy, preventing future disputes (sometimes due to a lack of heart).
“Firstly, it will help us take a more holistic view of things, and it may help us enhance our empathy so that there may be fewer disputes in the future. Secondly, I think it is a great way to improve our negotiation skills.” (R7)

3. Mediation provides negotiation skills that will be used in the future.
“In my opinion, it is necessary for everyone to know the law and know how to negotiate with others. If you are in trouble, you would know how to solve this problem”. (R28)
“This course can enable students to master mediation skills. When working in a company, there will inevitably be some disputes that need to be mediated. A good grasp of negotiation skills can solve some disputes easily and efficiently”. (R31)
“Let us students also have negotiation skills because mediation is an aid to negotiation and can improve our language skills.” (R45)
“Based on many recent studies, apart from technical skills, many employers seek soft skills from their potential employees. One such skill is negotiation skill. Mediation studies, by extension, can be a good learning tool to promote the usage of negotiation in the workplace and our personal lives, too (in my opinion). Hence, I think this is a great advantage of learning mediation.” (R46)

4. Mediation will indirectly improve students’ communication skills.
“Master a communication skill.” (R3)
“Mediation is an important way to resolve disputes. If students master this skill, they will also effectively improve their communication skills. No matter which aspect, it is beneficial.” (R10)
“Through this course, what I think directly is that it can strengthen the communication skills between people. As we all know, communication is essential.” (R14)

5. Mediation is better than choosing litigation or going to court.
“I will learn more about the law of mediation. I believe it will be more helpful for us to communicate with others in the future. We all like a peaceful solution. Moreover, mediation is more efficient than litigation, does not delay too much time, and does not cause unnecessary trouble, such as the influence of revenge.” (R18)
“Learning mediation can help us better talk with others regardless of disputation between us. I think it also can help us to avoid disputation with other people. If even it exists exactly, we can use the knowledge we learned from mediation to solve it by ourselves, rather than in courts.” (R35)
“It is beneficial for students to solve disputes with others or help others to avoid going to the court when they get ready to enter into the society.” (R40)

3.2. Discussion and Suggestion.

From the data collected, it is found that in the opinion of the economics students, Universiti Putra Malaysia (UPM) can introduce mediation as one of the courses. It is essential to look at this matter from the students’ view to see their acceptance of this course/ subject. Most students are interested and know the importance of this course and how it could benefit them. In their opinion, the system will assist them in resolving disputes in the future, enhance their empathy, equip them with negotiation skills, improve their communication skills, and avoid choosing court or litigation as the first choice in resolving issues or problems in the future. Hence, it is suggested that this course be introduced at UPM for economics students and others.

Educating economics students with mediation knowledge prepares them to embrace mediation

as the first method in resolving disputes in the future. The economics students will be spread in all departments, fields, and areas, including the halal industry. It is also essential to prepare the halal industry from the angle of dispute resolution. This angle must not be seen as unimportant because disputes or issues arise everywhere and at all times.

It is further suggested that the module for the mediation course will include Introduction to Mediation and Islamic Mediation, Ethics in Mediation, Mediation Process, Mediation Techniques & Skills, Negotiation Skills, and Mock Mediation. The students will be imparted with skills of mediating, the knowledge, principles, and the value of mediation in Syariah-based and non-Syariah issues. Students will also learn negotiation skills and how to address the root causes of conflict. This course promotes awareness of the psychology behind the problems and disputes. The mediator may not be Muslim but can grasp the idea and value involving muamalat (business) in Islam.

4. Conclusions

All relevant issues that may arise in supporting halal industries must be tackled. It is hoped that producing future economics players with mediation skills and knowledge will encourage and increase the usage of mediation in resolving disputes involving halal industries to ensure that justice will be served, especially when it involves various Islamic issues such as in Islamic banking and finance that some of the civil courts could not do. It is better to choose ADR or an amicable settlement in which process and values are accepted both in Syariah and civil law. Hence, it is hoped that UPM will offer mediation as a course for economics students. It is expected that other universities in Malaysia or outside Malaysia may provide the study of economics students. Other researchers may extend this idea by conducting a pilot project at their university.

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