

PRINCIPLES OF ISLAMIC INTERPERSONAL CONFLICT INTERVENTION:

A SEARCH WITHIN ISLAM AND WESTERN LITERATURE

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INTRODUCTION

The purpose of this paper is to discuss potential principles for interpersonal dispute resolution models within an Islamic context. Such a task requires an Islamic researcher to walk a fine line in order to avoid falling in one of two methodological traps. The first trap is to draw upon western literature on conflict analysis and resolution without sufficient consideration of whether and how that literature may be applied in an Islamic setting. The subtle assumptions underlying most of the conflict intervention models developed in the west have gone undetected, until recently.¹ The other trap is to embark upon a review of the existing Islamic literature relevant to conflict. This approach leads directly to entrapment in circles of legalistic interpretations developed centuries ago, which lack the spirit of conflict resolution as a movement for social change and an interdisciplinary field of research.

However, to accomplish the task of framing appropriate principles, there is no escape from combining the two approaches, while developing the tools necessary to avoid the shortcomings of each. In this regard, this work takes an approach that is appropriately cognizant of the advances made in the west in the field of conflict analysis and resolution. These advances need not be dismissed merely because of concern about cultural appropriateness of western models for Islamic settings. Instead, western literature should be reviewed carefully in

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1. Mohammed Abu-Nimer, *Conflict Resolution in an Islamic Context: Some Conceptual Questions* 22 Consortium on Peace Research, Educ. & Dev., in 21 *Peace & Change* 22 (1996). John Paul Lederach, *Cultural Assumptions of the North American Model of Mediation: From a Latin American Perspective*, 4 *Conflict Resolution Notes* 24 (Jan. 1987). Christopher W. Moore, *The Mediation Process: Practical Strategies for Resolving Conflict* (2d ed., Jossey-Bass 1996).

order to extract principles, models and techniques which could properly inform an Islamic model; and exclude or set limitations those which are bound by specific western cultural conditions.

This article, while informed by various western-based models of conflict intervention and resolution,² is mainly grounded into two Islamic foundations. First, this article argues that historical misuses, abuses and misinterpretations of Islamic sources have diluted the strong emphasis on justice, equality and freedom in Islam as a value system. These centuries-long practices have been so enmeshed with the original messages of Islam that unjust, abusive institutions and structures now appear to be part of the Islamic heritage. Therefore, for an Islamic conflict intervention model to be of benefit to Muslim communities and individuals, its major principle should be to restore to Islam its principles and values of justice, equality and freedom.

The second foundation of this article is the unique status of Islam as a religion and as a value system so cherished by its followers. Islamic sources are rich with conflict intervention principles, values and models that are ready to be explored, researched and articulated in a language that would prepare them for contemporary practice. In addition, the interdependence and “culture of relatedness,”³ which are characteristics of Islamic communities could be employed to improve conflict intervention; they should not be ignored simply because western models for interpersonal conflict intervention are built upon assumptions of individualism and autonomous existence. Therefore, an effective Islamic model of conflict intervention will adapt a variety of techniques which are compatible with Islamic principles, and which best correspond to each conflict stage or condition. A successful conflict intervention will also benefit from the many strengths associated with “the culture of relatedness” by drawing upon the community to get involved in the process of conflict intervention and resolution.

2. Ronald Fisher & Loreleigh Keashly, *The Potential Complementarity of Mediation and Consultation within a Contingency Model of Third Party Intervention*, 28 *J. Peace Research* 29, 29-42 (1991); Jim Laue & Gerald Cormick, *The Ethics of Intervention in Community Disputes in The Ethics of Social Intervention* 205 (Gordon Bermant, et. al. eds., Halsted Press 1978); Christopher Mitchell, *The Process and Stages of Mediation: Two Sudanese Cases in Making War and Waging Peace: Foreign Intervention in Africa* 139 (David R. Smock, ed., U.S. Inst. Peace Press 1993); Preston Williams, *Comments on the Ethics of Intervention in Community Disputes in The Ethics of Social Intervention* 233 (Gordon Bermant, et al. eds., Halsted Press 1978).

3. Çigdem Kagitçibasi, *A Critical Appraisal of Individualism and Collectivism: Toward a New Formulation in Individualism and Collectivism* 61 (Uichol Kim et al. eds., Sage Pub. 1994). More on (the culture of relatedness) will follow in the section on “Engaging the Community in the Intervention and Resolution Processes.”

Based on these foundations, this article suggests the following three principles that must guide Islamic conflict intervention:

1. Restoring to Islam its messages of justice, freedom and equality.
2. Engaging the community in the intervention and resolution processes.
3. Adjusting intervention techniques according to the conflict situation and stages.

The first section of this article will address the methodological approaches used in this research; namely, the use of models developed in the west to inform the development of an Islamic model, and methods for exploring Islamic sources. The second section will focus on the North American model for mediation, revealing its cultural assumptions and discussing its suitability for an Islamic model. Finally, a review of the concept of “modeling” in Islam will be followed by a discussion of the principles of an Islamic model, combining arguments from Islamic sources and western literature.

I. METHODOLOGICAL APPROACHES

The methodological approach used in this article is twofold. The first approach builds upon dispute resolution research that has been developed in western settings in the past 20 years. Typically, the western-developed models, although useful in setting the foundation for such research and for conducting cross-cultural comparative research, do not capture several elements that are unique to the Islamic setting. Hence, the second approach explores dispute-resolution concepts, norms and practices which are central to Islamic theory and culture.

1. Using Western-Developed Models

Cross-cultural analysis of models of conflict analysis and resolution requires an understanding of the prevalent cultural values and norms in a given society. Lederach provides an example of how his attempts to implement a North American⁴ inter-personal conflict model

4. What is labeled the North American Model of Conflict resolution reflects the initial efforts in the field dating back to ten years ago. Many of the concepts in that model which emphasized a strong sense of individual autonomy and a heavy focus on self interest have undergone serious modifications in the past decade. Advances in the studies of communication, relationships, community, and effects of culture and gender differences caused most authors to develop models that are less “individualistic,” and which take into account relationships, community interest, and cultural differences. The new editions of Chris Moore, *The Mediation Process*, *supra* n. 1, published in 1996, and Joyce L. Hocker & William W. Wilmot, *Interpersonal*

in South America revealed to him the numerous cultural assumptions embedded in every aspect of the model.⁵ From defining issues, to the concept of neutrality; from the proper entry of a third party, to the procedures; from communicating to generating options, the North American model for inter-personal conflicts seemed too ‘Yankee’ for the indigenous South American. More profoundly, Lederach recognized the underlying North American cultural emphasis upon the individual and upon independence:

We assume a large degree of autonomy and individualism. This may be the most important assumption. We expect people to be responsible for resolving their own conflicts. That is an empowering thing, but it assumes a strong emphasis on the “I” and a weak emphasis on the “We.” There are many people in the world that have a strong emphasis on the “We.” They are not autonomous decision makers but are closely integrated with the wider social network. It is within that network that decisions are made.⁶

In the case Lederach related, it became obvious that models for conflict analysis and resolution that were developed to reflect social values of individualism and autonomy in one society were not applicable in societies that did not share the same values and foundational norms. The implications for cross-cultural transfer of social models such as the conflict resolution models are both explicit and implicit. One explicit implication is that transferring an institutional model based on specific norms and values in a certain society may not prove to be effective in another society. Such transfer also has implicit implications: 1) it may force a change (desired or not) into the “import” society, by requiring that society adjust to the model and; 2) it may deprive the import society of the opportunity to design models based on its own unique norms and values.

Designing Cross-cultural Research Models

The discussion above, which highlighted the significance of cultural norms and values to the building of conflict resolution institutions, also emphasized the need to acknowledge, preserve, and improve upon existing indigenous models which have proven to be

Conflict (5th ed., McGraw-Hill 1998) illustrate these changes, especially when compared to the earlier editions that were written in the 1980s or early 1990s.

5. Lederach, *supra* n. 1, at 24.

6. *Id.*

effective conflict resolution mechanisms. These assumptions raise questions about how, then, we can design research models to explore and explain conflict patterns in different cultures. Do we “reinvent the wheel” every time we research one society or the other? Or is it possible to draw upon existing research models?

A review of the literature on these matters shows that theorists on all sides seemed to agree on the usefulness of adapting models already developed in one setting to the other.⁷ The usefulness stems from the adaptation process itself. In that process, researchers attempt to adjust the existing model to fit the research needs in another setting. In doing so, cultural and methodological shortcomings become apparent, thus highlighting the differences which a researcher must take into consideration when applying the model. Ultimately, through the adaptation process, a new model emerges that contains elements of the original model and new elements developed in order to account for the unique conditions in the setting to be researched.

Augsburger distinguished between two approaches to cross-cultural analysis: the Emic and the Etic approaches. “The ‘emic’ approach describes a cultural phenomenon in terms of its own units. The ‘etic’ approach imposes categories that are external to the phenomenon.”⁸ The tendency in this research is to move towards an “emic” approach. However, with the lack of developed “emic” tools to analyze conflicts in Islamic settings, it seems proper to start the process using etic models, while continuing throughout the research process to refine and enhance the models in order to capture any aspects of conflicts that are not accounted for using an external model.

Actually, using an “etic” model developed in the United States, and refining it through the research process, may prove to be more helpful than attempting to develop an all-new Islamic model. One advantage is that such a model will help in contrasting conflict models across the two societies. It could also help in developing more encompassing tools that account for differences across several cultures. Berry recognized the usefulness of such approach:

Modification of our external categories must . . . be made in the direction of the system under study, until we eventually achieve a truly emic description of behaviour within that culture. That is, an emic description can be made by progressively altering the

7. In this case, the models are developed in the West, and are being adapted for use in an Arabic/Islamic setting.

8. David W. Augsburger, *Conflict Mediation Across Cultures: Pathways and Patterns* 35 (Westminster/John Knox Press 1992).

imposed etic until it matches a purely emic point of view; if this can be done without entirely destroying or losing all of the etic character of the entry categories, then we can proceed to the next step. If some of the etic is left, we can now note the categories or concepts which are shared by the behaviour system we knew previously and the one we have just come to understand emically. We can now set up a derived etic which is valid for making comparisons between two behaviour settings and we have essentially resolved the problem of obtaining a descriptive framework valid for comparing behaviour across behavioral settings.⁹

On the Islamic side, social researchers have raised two issues related to conducting social research in an Islamic context using tools developed in the West. The first issue is related to “is it possible to use tools developed in the West?” The answer to this question was quite similar to the statements discussed earlier from Augsburger and Berry. Muslim social researchers, too, recognize the usefulness of applying Western-developed tools to research in the Islamic context. However, they also realize that in the process of adapting the tools to the Islamic reality, modifications will be necessary until a new more conducive tool is finally developed, which will contain elements of the original tool, and the emerging ones. Elmissery, for example, stated:

We (Arab Islamic social researchers) recommend that a research design be as follows:

1. Provide a theoretical introduction to the issue of research bias [from a cultural standpoint], first in general, then in the specific field of study;
2. Utilize the “biased” model to illustrate the extent of its limitations because of its over-emphasis on certain elements, or its under-estimation of elements that are rather important [in the Islamic context];
3. Define a refined research tool and apply it, explaining the reason for selecting it;
4. Provide the findings of the research, comparing the explanation and prediction effectiveness of each research tool.¹⁰

Elmissery then used the theory of modernization to illustrate his points. He argued that using Western-developed tools to assess the

9. John Berry, *On Cross-Cultural Comparability* 4 Intl. J. Psychol. 119-128 n. 2 (1969).

10. Abdel-Wahab Elmissery, *Doctrine of Bias*, in *The Question of Bias* 10 (Abdel-Wahab Elmissery ed., Intl. Inst. Islamic Thought 1997) (in Arabic).

modernity of a certain society will likely result in “tunnel vision” on economic and technological aspects such as number of highways, work hours, etc. But such tools may neglect to assess the existence of family unity or the positive role of religion in ensuring a certain level of civility and humanity. Consequently, he concluded that a researcher of modernity in an Islamic context will have to re-assess the concepts of modernity specific to the Western experience, and search for concepts that do not judge the Islamic reality “through Western lenses, but attempt to understand that reality based on its own components.”¹¹

The second issue which Islamic researchers have discussed in this context is the existence of two conditions with Western-developed research models: universal conditions and specific conditions. The universal conditions are those that are found in all societies; while the specific conditions are the ways in which the universal conditions present themselves in each culture or society. Hussein addressed this issue in discussing the relationship between the universal and the specific:

We (Muslim social researchers) can accept concepts and analytical units such as: class, elite, social stratification, nation, social equilibrium, social preferences, planning, etc., [although] they belong to different Western schools of thought. These concepts or units are universal in nature, but [when applied to the Islamic setting] will include contents that are specific to our independent theoretical model which is influenced by our social reality.¹²

2. Exploring Islamic Sources

In developing models for dispute resolution within the Islamic setting, it is important to recognize two methodological parameters. First, the discussion of dispute resolution within the Islamic setting removes the focus of the research from the realm of jurisprudence to the realm of inter-disciplinary research, from legality to morality, from the letter of law to its spirit, and from application of law to the pursuit of justice. The focus of such research no longer remains to be legal interpretations and precedents, which have been labored over and documented by legal scholars over the centuries and are known in the Islamic heritage as *Fiqh*. *Fiqh* becomes only a part of a larger research

11. *Id.* at 10-11.

12. Ahmad Hussin, *Bias in Western Social Schools of Thought: Our Heritage is the Point of Departure for Development in The Question of Bias* 108 (Abdel-Wahab Elmissery eds., Intl. Inst. Islamic Thought 1997) (in Arabic).

which encompasses culture, history, sociology, and psychology. For example, the Qur'an provides several rules related to divorce situations and conditions. Usually these Qur'anic verses include four elements: 1) a description of a divorce situation; 2) a rule related to a certain aspect of the divorce (i.e., financial arrangements as a result of the divorce, custody or nursing children); 3) a description of the civility and mannerism which parties should maintain during the process of divorce; and, 4) a reminder to the parties that they are accountable to their Creator for their actions. *Fiqh* usually focuses on the first two elements: the situation and the rule; together they make the Islamic law. Dispute resolution, on the other hand, attempts to maximize the benefit to the parties of applying not only the first two elements, but also the third and fourth elements which relate to morality, justice and accountability. Dispute resolution, thus, attempts to operate within the larger Islamic world view, not just within its traditional legal system.

The second methodological parameter emphasizes the social justice and social change functions of dispute resolution in relation to Islamic theory and Islamic culture. In such research, it is necessary to distinguish between Islamic theory consisting of the main sources of Islam, Qur'an and *Sunnah*, and the Islamic culture which has developed over centuries of integrating the Islamic theory with cultural and traditional practices in different parts of the world. This distinction is vital because Islamic culture does not necessarily follow its sources in the Islamic theory. The mixing of Islamic theory with elements of existing cultures has often led to depriving Islam of its egalitarian, democratic drive. Abuses of power by Islamic rulers, and abuses against women and minorities at times, were triggered by inherent tribal and traditional norms, which overshadowed the pure Islamic message, or forced extreme interpretations of the sources in order to justify these practices. If the dispute resolution as a social movement is considered to be an agent for social change,¹³ it will be the responsibility of Islamic dispute resolution professionals to restore the Islamic principles of equality, justice and freedom through their practice. Therefore, in this research, it will be necessary to adhere only to Islamic sources, using interpretations which are consistent with the spirit of Islam. For example, in interpreting several of the Qur'anic verses and *Hadith* related to women, it is fundamentally important to recognize the Qur'anic emphasis on the equality of gender in terms of creation, action

13. Laue & Cormick, *supra* n. 2, at 219.

and accountability.¹⁴ This foundation sets the stage for a proper understanding of several matters which have been, for centuries, patriarchally misinterpreted. For example, several Islamic scholars tended to emphasize certain segments of Qur'anic verses while almost ignoring others, resulting in subjugating women and reinforcing male domination. Interpretations which loosely licensed polygamy, and which excluded women from public life, are abundant in *Fiqh* books. More on these practices will be discussed in detail in the section on "Islam: The Religion of Modeling."

This article is set to be an example of dispute resolution research which is geared towards social justice and social change. It is not sufficient, nor is it acceptable, to generate dispute resolution models in the Islamic setting which will only maintain the status quo described above, or impose western models without careful review of their advantages and their limitations. If the challenge for dispute resolution professionals in the west is against persistent racism, discrimination and capitalist injustice,¹⁵ for Muslims the challenge is to restore justice and equality by liberating Islam from the doctrine and cultural elements which subjugated its followers to political and social oppression.

II. CONFLICT INTERVENTION MODELS

Third party intervention has been the central focus of conflict resolution studies. How a third party, such as a mediator, intervenes, when, and with what purpose are all issues that are included in the conflict literature. In broad terms, the literature on third party intervention defines certain activities that must be performed by third party; namely:

1. Analysis of the conflict: this includes identification of parties and issues and assessment of the conflict stage; as well as an assessment of the parties' relationships.

2. Intervention method: this could include assessment of all, some or one of the third party intervention models. These models usually vary based on the extent to which they include elements of coercion (arbitration vs. mediation), and their emphasis on substantive issues, or what is called "relationship issues" (such as perceptions, trust and attitudes). Mediation is an example of the former, and consultation is an example of the latter.

14. Amina Wadud-Muhsin, *Qur'an and Women* 34-36 (Penerbit Fajar Bakti Sdn. Bhd 1992).

15. Laue & Cormick, *supra* n. 2, at 219-225.

3. Agreement: this is usually the final stage in which parties reach an agreement over their substantive issues. This activity usually includes other sub-activities that aim at ensuring the implementation of the agreement.

The western literature on conflict intervention describes a variety of interventions which vary according to the degree of control assigned to the primary parties, from private decision making by the parties, through third party assisted models such as mediation and arbitration, to adjudication and extralegal coerced decision making.¹⁶ All these models are based on how much decision-making is in the hands of the primary parties compared to decision-making put into the hands of the third party. Other theorists distinguished between intervention types based on the ethics of intervention; others on the suitability of intervention to the stage of conflict. An example of those who have distinguished among several third party roles based on the ethics of intervention were Laue and Cormick (1978). Examples of those who have distinguished between roles based on stage of conflict were Fisher and Keashly (1991), and Mitchell (1994).

The U.S. literature on dispute resolution assigns a special status for mediation, especially the North American Model of mediation. It is probably the intervention of choice, especially in inter-personal disputes. This is not surprising, considering the appeal of this type of mediation to the cultural values and norms prevalent in the west in general, and specifically in the U.S.¹⁷ Yet, these cultural influences limit how effectively the model may be transferred across cultures, or implemented in Islamic settings. Individualism, individual autonomy, the assignment of more significance to interests rather than to relationship, and the “professional” neutrality of third parties are major cultural themes that seem to dominate the literature on the North American Mediation model, as will be discussed below.

16. Moore, *supra* n. 1, at 7.

17. Christopher Moore accurately stated the underlying assumptions for the North American interpersonal conflict intervention model in the west; he stated that “members of these cultures often prefer the advice and help of independent “outsiders”, who are perceived to have no personal vested interest in the intervention or its outcome, to assistance from “insiders,” with whom they may have more complex and often conflicting relationships and obligations. Members of cultures that favor independent mediators tend to keep various groups in their lives—family, close friends, neighbors, superiors and subordinates at work, business associates, recreation companions, civic associates, political affiliates, church members—in separate compartments. They may rely on specialists such as therapists, employee assistance counselors, financial advisors, legal counsel, golf pros, ward leaders, and clergy to help them function well and handle potential or actual problems in each area. An advisor or assistant in one arena may have little or no connection with another aspect of an individual’s life, and members of these cultures seem to like it that way.” *Supra* n. 1, at 51.

Cultural Limitations of the North American Mediation Model

The following discussion will highlight the cultural influences affecting four aspects of the North American model: Conflict definitions, defining issues, third party neutrality and conflict resolution or management.

Definitions of Conflict:

One cultural influence on the American literature of conflict resolution is obvious from the dominant definitions of conflict in the literature. The definitions of a conflict in most of the American literature emphasize the divergence of interests or issues. For example, Rubin and Pruitt's definition focuses on the divergent interests and perceptions of parties.¹⁸ Hocker and Wilmot's definition emphasizes the expressed struggle and interference of parties with each other's goals.¹⁹ Framing conflict in terms of divergent interests results in the design of techniques which focus only on reconciling the differences in interests between parties. Such an approach is most suitable to social and cultural norms which profoundly emphasize individuals' autonomy, self-articulated-interests and free choices based on individuals' own "standard of fairness."²⁰

However, others have suggested a different approach to defining what a conflict is. That approach views conflict as a situation.²¹ Such definitions of conflict take the situation in which a conflict exists as their center of focus. Mitchell and Bercovitch, drawing from Galtung's work, offered an interrelated "triangle" approach to conflict. The triangle includes the situation, the behaviors and the attitudes of those in conflict. The situation element of the conflict "makes it apparent that a wider variety of situational factors (e.g. norms, rules, constituents etc.) affect conflict behavior and attitudes, and, more importantly for our purposes, it encourages us to propose better schemes of conflict management. Unless we are clear about conflict, we can not think about conflict management."²² Mitchell defined conflict as: "[a]ny situation in which two or more social entities or 'parties' (however defined or structured)

18. Jeffrey Rubin & Dean Pruitt, *Social Conflict* 5 (McGraw-Hill 1994).

19. Hocker & Wilmot, *supra* n. 4 at 18.

20. Moore, *supra* n. 1, at 17.

21. Christopher Mitchell, *The Structure of International Conflict* 17 (St. Martin's Press 1981). Jacob Bercovitch, *Social Conflicts and Third Parties Strategies of Conflict Resolution* 6 (Westview Press 1984).

22. Bercovitch, *supra* n. 20.

perceive that they possess mutually incompatible goals.”²³

The situational definitions seem to be more suitable for the Islamic setting. The interest-based or struggle-based definitions typically narrow their focus on the parties directly engaged in the struggle or the conflict behavior. This, combined with the cultural and social norms of individualism, individual autonomy, and independent existence of individuals, which are prevalent in the west, make such a definition appropriate in the western setting. Islamic settings, by contrast, both in theory and culturally, assume a great deal of social interdependence and community involvement even in interpersonal matters, which are more conducive to situational definitions that allow for a deeper and wider analysis of conflict situations.

In addition, as explained earlier, several aspects of the Islamic theory have been misconstrued over centuries to the point of creating or strengthening oppressive or unjust situations. In order for dispute resolution professionals to effect change of these situations, they need to operate out of a wider understanding of conflict situations. This understanding needs to encompass more than the mere interests of each party; it needs to allow for explaining structural and institutional injustices and abuses (as in the cases of spouse abuse), and for educating the parties and others about the aspects of their religion that could help their search for a resolution.

Defining Issues:

The tendency in the American literature is to assume that a party in an inter-personal conflict will, and is encouraged to, define the issues based on an autonomous view of what his/her interests are. The literature describes a spectrum of defining issues that ranges from emphasizing one's own interest to considering other party's interests as well.²⁴ In most cases the literature supports a position in which parties are willing to identify issues with consideration to other parties' issues.

Another element of defining issues in inter-personal conflicts is the consideration given to the relationship. The tendency in the American literature is to separate 'relational goals' from 'content goals',²⁵ 'substance' from 'relationship',²⁶ or 'interests' from 'relationships'.²⁷ It

23. Mitchell, *supra* n. 20, at 17.

24. Moore, *supra* n. 1, at 172-198; Hocker & Wilmot, *supra* n. 4, at 98-125; Roger Fisher & William Ury, *Getting to Yes* 21, 44 (Bruce Patton ed., 2d ed., Penguin 1991).

25. Hocker & Wilmot, *supra* n. 4, at 46-55.

26. Fisher & Ury, *supra* n. 23, at 21.

27. Moore, *supra* n. 1, at 27, 37.

follows that North American mediation is basically a process of negotiating the interests of each party to a point that would maximize the achievement of each party's interests.

The underlying cultural norms that affect the way issues are defined in the American literature are that: 1) each individual is autonomous and is free to identify his/her needs, interests or goals based on own 'standards of fairness';²⁸ and 2) relationships are separable from those interests, and should be treated in light of their serving the needs of individuals. Finally, the social context in which conflicts occur is almost always unspoken of, but perceived in light of the pre-assumptions of autonomy and individuals' free choice.

Third Party Neutrality:

A neutral third party is one who abides by societal rules of fairness during the intervention. This definition implies that each society has different norms by which a third party's neutrality is assessed. Therefore, the American literature on neutrality emphasizes the maintenance of each party's freedom to define his/her issues, and to determine, based on free choice, what proper outcomes are. A third party is neutral to the extent that he/she is not interfering with parties' freedom to "retain ultimate decision-making power."²⁹ Third party intervention is basically about assisting parties in defining issues and generating options that best achieve the interests of all parties.

Other experts who denounced neutrality which may preserve an unjust status quo, such as Laue and Cormick, promote a more active type of third party intervention. Although they were writing about community level conflicts, it is noteworthy that Laue and Cormick have advocated non-neutral third party intervention when the main cultural values (i.e., freedom and equality across race, class and gender) were threatened should the third party intervene in a neutral manner.

Resolution or Management of Conflicts:

Based on the distinction between content or substance goals or interests, and other forms of interests, especially relationship issues, the literature speaks of resolving conflicts through a collaborative mode of negotiation.³⁰ This collaborative mode is based on a notion of

28. *Id.* at 17.

29. *Id.*

30. Fisher & Ury, *supra* n. 23, at 40-80; Hocker & Wilmot, *supra* n. 4, at 116, 125.

“enlightened self-interest.” Enlightened self-interest usually refers to the ability to “get what we need from others but do it in such a way as to also help them achieve some of their goals.”³¹

Mainly, the western literature emphasizes the content goals or substance interests as the ones to be pursued. Relationships have a different position in the literature. For some,³² relationship issues ‘also’ should be recognized, and not simply shadowed by substance issues. For others, such as Janet Miller Wiseman, her form of inter-personal conflict resolution which she calls Mediation Therapy emphasizes an approach which “provides a safe, calm, rational forum in which already indecisive couples can discover the best alternative for themselves and for their families.”³³ However, like many others, Wiseman shows indifference to relationships; maintaining or breaking a relationship, it appears, is incidental to whatever rational outcome the parties reach.

In all these examples, the outcome of a conflict resolution process appears to be evaluated based on whether it achieves as much of each party’s substantive interests through a collaborative mode of negotiations as possible, with little attention to commitment to relationships. Maintaining or breaking up a relationship, regardless of its nature, is almost always incidental to the dispute resolution process. Relationship maintenance is determined according to individuals’ definitions of their “enlightened self-interest.”

This treatment of issues of substance versus issues of relationship in the western literature on dispute resolution resonates with similar sociological observations. For example, Robert Bellah notes that emphasis on self in intimate relationships reflects the strong sense of individualism and freedom of choice each one should have. Consequently, intimate relationships are no longer justified in terms of binding obligations or their wider social understanding; instead a relationship “exists only as the expression of the choices of the free selves who make it up. And should it no longer meet their needs, it must end.”³⁴

31. Hocker & Wilmot, *supra* n. 4, at 215.

32. Fisher & Ury, *supra* n. 23, at 19; Hocker & Wilmot, *supra* n. 4, at 50.

33. Janet Miller Wiseman, *Mediation Therapy: Short-Term Decision Making for Couples and Families in Crisis* 8 (Lexington Books 1990).

34. Robert Bellah, *Habits of the Heart* 107 (U. Cal. Press 1985). Bellah’s analysis in *Habits of the Heart* attempted to define the underlying norms and values of the American society. Bellah’s argument is that values of individualism, especially their utilitarian aspects, are becoming so pervasive in the American private or social sphere of life. Individual freedom of choice, along with a decline in the traditional-biblical sense of commitment to social relationships are influencing especially the American middle class. According to Bellah, the concept of what a relationship means in the social realm, and specifically in marriage and family, is being heavily

Using the North American Model in an Islamic Setting:

A few years ago, the North American model of mediation was the dominant model in the literature. But due to increased contact with other societies and cultures, scholars have expanded their views of mediation. Chris Moore, for example, recognized in his 1996 edition of "The Mediation Process" that:

what is characteristic of good practice, and what is needed from effective mediators, is the ability to be a "reflective practitioner" (Schon, 1983). Such a person can match mediation theory and the learnings of others with his or her own past experience in resolving disputes, so that situation-specific approaches and interventions can be developed that assist parties in establishing and building respectful and trusting relationships and resolving issues that divide them.³⁵

Based on this, the North American Model of mediation may not be ideal for wide implementation in Islamic settings, but neither should it be totally dismissed. The model could be effective to the extent that parties are focusing on specific interests, and at the same time if their relational concerns, and basic value issues are either not in conflict or have been already settled. Should relationship issues or value-based issues be part of the conflict situation, there will be a need to implement different types of intervention. In addition, if ethical issues of justice, rights or interpretations of Qur'an and *Sunnah* are prevalent in a conflict, an intervener will have to address these issues; the North American model for mediation does not provide the tools for addressing such matters.

The discussion that will follow will suggest that Islamic theory and culture are based on interdependence and relatedness of community members. Relationship issues are in many instances as significant as issues of substance. Further, the Islamic reality demands an approach to conflict that extends beyond divergence of interests; it requires a "situational" approach which takes into consideration, in addition to

influenced by types of utilitarian individualism; what Bellah referred to as the Therapeutic Attitude. The Therapeutic Attitude:

begins with the self, rather than with a set of external obligations. The individual must find and assert his or her true self because this self is the only source of genuine relationships to other people. External obligations, whether they come from religion, parents, or social conventions, can only interfere with the capacity for love and relatedness. Only by knowing and ultimately accepting one's self can one enter into valid relationships with other people.

Id. at 98.

35. Moore, *supra* n. 1, at 55.

parties' interests, the history of social and political injustice, abusive practices, and outdated or sometimes distorted interpretations of Islamic sources. Islamic conflict intervention is guided by a social mission of liberating Islam and Muslims of these ills. Reliance on the North American model, with its strong emphasis on immediate individual interests, and emphasis on individual autonomy, and its lack of emphasis on situational and contextual factors which contribute to institutional injustice, would run the risk of keeping the Muslim communities under the age-long traditions and practices of oppression and repression. In addition, the North American model could not employ the tools available for effective conflict intervention under the Islamic conditions of interdependence of community actors.

III. PRINCIPLES OF AN ISLAMIC CONFLICT INTERVENTION MODEL

An Islamic model for conflict intervention needs to reflect values, goals and processes as described in Islamic theory. The model also must respond to the specific needs and circumstances of the Muslim culture. In this respect an Islamic model of intervention should be guided by three principles:

1. Restoring to Islam its messages of justice, freedom and equality.
2. Engaging the community in the intervention and resolution processes.
3. Adjusting the intervention techniques according to the conflict situation, and its stages.

The Islamic model will be discussed within these three principles, taking the form of a "dialogue" between the supporting Islamic sources and the relevant western literature. These principles are derived from Islamic sources, especially the Holy Qur'an, and also have support in the western literature. This supporting western literature reflects the work of theorists in the field of conflict analysis and resolution who have grounded their intervention models in ethical frameworks³⁶ and others who have expanded their intervention models either by utilizing contingency models,³⁷ or by engaging various roles, in addition to mediation, which could solidify the intervention process.³⁸

But before discussing these three intervention principles, it is necessary to state in some detail certain assumptions about Islam as a

36. Laue & Cormick, *supra* n. 2, at 220-228; Preston Williams, in Gordon Bermant, et al. eds., *Comments on "the Ethics of Intervention in Community Disputes"* in *The Ethics of Social Intervention*, *supra* n. 2, at 233.

37. Fisher & Keashly, *supra* n. 2.

38. Mitchell, *supra* n. 2.

value system, and how it has been operating on group and individual levels over the centuries. This discussion is useful, especially in comparison to the underlying values which shape the North American models of conflict intervention.

Islam, the Religion of Modeling:

It is important to clarify an element of Islam that is so present in people's hearts and minds, yet seems to always escape those who write about Islamic culture, especially the secular writers. For the majority of Muslims, passionate sentiment attaches them to their Islamic heritage. The history of early Islam, as taught to the young at home, school, mosque and in the community, is rich with examples of self-sacrifice, courage, solidarity, love and compassion, justice and equality. Every Muslim seems to be able to identify with this heritage, and almost to feel a sense of ownership of this heritage. This heritage is not subject to the confusing scholarly interpretations, or the abusive institutions that have overshadowed the social and political history of Islam. Rather, it represents to Muslims the pure ideals of their religion. These ideals also represents a reality that once existed, of which any Muslim proudly feels that s/he is an integral part; that is, every Muslim owns this heritage, and this heritage is part of what every Muslim *is*. This "love" relationship with their Islamic religious heritage always provided continuity and momentum to Muslim societies, in spite of political and social institutions that strayed too far from that heritage.³⁹

Islam offers its followers a wide range of attitude and behavior models applicable in different situations. These models are prescribed in, and extracted from, divine sources.⁴⁰ The success of a Muslim, then, is based on her or his striving to model attitudes and behaviors after the ones presented in Qur'an and *Sunnah*. *Islam, thus, is a process of*

39. In the history of Egypt, for example, when people felt that the threat of a foreign invasion may deprive them of their right to their Islamic heritage, it was this love, and passionate sentiment towards Islam that made the people rise to the occasion and defeat foreign threats. For example, in the middle ages, as the Mongols swept the entire continent of Asia, they occupied Baghdad which was the capital of the Islamic empire. They then marched to Egypt. The Mamluks, who ruled at that time, mobilized the people to fight against this invincible enemy. As the armies faced each other, the leader of the Egyptian army made his historical cry "Wa Islamah." This cry expressed the feelings of love and passionate sentiment towards Islam. Islam was referred to in this cry as if it were a beloved who is about to be hurt or killed; it was the responsibility of every Muslim to protect it with all they could. The Muslims gave the Mongols their first defeat ever, which halted the Mongols' expansion, and which led eventually to their embracing Islam!

40. The divine sources of Islam are the Qur'an (the Holy Book revealed to the Prophet Muhammad), and the *Sunnah* of the Prophet (his statements and actions that were deemed to represent him as prophet, not as a human being).

modeling. Righteousness is measured by one's ability to model all aspects of life after the ones prescribed in divine sources. The major principles emphasized in the divine sources are recognition of monotheism, kindness to others, justice, charity, standing up for the weak, honesty, and belief in the hereafter.

The process of modeling attitudes and behaviors faces three obstacles. The first obstacle is the scholarly disagreement over the interpretation of several models for behavior found in Qur'an and *Sunnah*. Islam's jurisprudence has been subject to legal disagreement among scholars,⁴¹ which has its implications to how people model their behavior. One good example is the disagreement about attitude towards non-Muslims. Most Muslims uphold that their religion is about tolerance and acceptance of others, even if others' beliefs were different from the Islamic ones. They believe that matters of faith and belief are left to God to judge, not to us humans. Animosity, fighting or war are allowed only in self defense against those who transgress, but not against people who hold different beliefs. These Muslims base their position on several verses in the Qur'an which support such arguments.⁴²

Others have a less inclusive and tolerant attitude towards non-Muslims. Though they may rely on the very same verses that the tolerant group of Muslims uses! Their interpretation of these verses would suggest they are time-dependent; that is, these verses expressing tolerance were applicable only up to the time the Prophet Muhammad preached his message; from that point on, Islam became the only

41. There are at least four schools of interpretations within the Islamic doctrine (Hanafi, Shafi, Malek and Hanbali). Each is named after the scholar who established the school of interpretation. Their differences and disagreement extend to various aspects of Islamic rules of behavior; from marriage, divorce, and custody, to government and war, to the very specific details of how to conduct rituals during eating, fasting and prayer.

42. The following are selected verses from the Qur'an which support the argument for tolerance and inclusiveness:

If it had been your Lord's Will, all who are on earth would have believed. Will you then force people till they become believers? No soul can believe except by the Will of God, and he will place doubt (or obscurity) on those who will not understand. (10:99-100)

Those who believe (in the Qur'an), those who follow the Jewish (scripture), the Sabians, the Christians, Magians, and Polytheists, God will judge between them on the day of Judgement: for God is witness of all things. (22:17)

Those who believe (in the Qur'an), and those who follow the Jewish (scripture), and the Christians and the Sabians, any who believe in God and the Last Day, and work righteousness, shall have their reward with their Lord: on them shall be no fear, nor shall they grieve. (2:62)

Those who believe (in the Qur'an), and those who follow the Jewish (scripture), the Sabians, and the Christians, any who believe in God and the Last Day, and work righteousness, on them shall be no fear, nor shall they grieve. (5:69). (Abdallah Yusuf Ali, *The Holy Qur'an: Text, Translation and Commentary* (Amana Corp. 1983).

acceptable religion.

These varying interpretations lead naturally to a range of models for attitudes and behaviors, from tolerance of diversity to exclusiveness. Therefore, those who believe that Islam promotes tolerance and diversity are likely to model their behavior towards non-Muslims to reflect such values. Alternatively, those who believe that anyone who does not believe in Islam is in violation, are likely to model their attitudes and behaviors accordingly. Yet, both groups believe that they are properly modeling Islamic values and principles. Each believes to be the righteous ones. Other examples of such variations in modeling a righteous Islamic life exist with all spheres of life, sometimes with negative implications, such as the treatment of women because of patriarchal modes of behavior.

The second obstacle to the process of modeling is the intermixture of religious and traditional values, attitudes and behaviors. Over the centuries, Islam came to co-exist with other value systems, especially the traditional ones. And, as the Islamic expansion quickly took the shape of a state, its rulers incorporated institutions and techniques in use by the existing empires of the time such as the Byzantine and Sassanid empires.⁴³ Several of the traditions and institutions were not necessarily consistent with the basic divine value system; yet they persisted over the years until they became so enmeshed with Islamic history that many people, even Muslims, believed that they were part of their system sanctioned by Qur'an and *Sunnah*. The practice of slave dynasties,⁴⁴

43. Rafiq Zakaria, *The Struggle Within Islam: The Conflict Between Religion and Politics* 70 (Penguin Books 1998).

44. One institution that has been associated with Islam, the Islamic state and wars, was the military slave dynasties. Briefly, the military slave dynasties originated in the Persian and Roman practices of recruiting slaves to conduct their military and administrative affairs. When Muslims established in a span of 50 years a large empire, they emulated what they had seen other empires do; that is, to recruit slaves (mainly as children) into an exclusive military establishment devoted to the protection of the Islamic ruler, and the Islamic empire. This practice appeared to serve a unique need of Islamic rulers who always struggled with the issue of legitimacy. By entrusting the military to slaves who could not have a legitimate claim to the throne, they created a shield to protect themselves from others who may have legitimate claims. In most situations, the slaves took charge of the state, and created their own dynasties, under the nominal leadership of the "legitimate" rulers. Mamluks (who practically ruled Egypt for almost 600 years) were one of the famous slave dynasties, made famous by their role in defeating the Crusaders and the Mongols. This practice, and institution, of recruiting slaves for the military, so pervasive in Islam's political and military history, may appear, because of its pervasiveness, to be rooted in Islamic sources. But the truth is that Islamic sources discourage slavery, and consistently encourage the freeing of slaves. Therefore, the military slave institution was in fact a historical violation of Islamic principles. Yet, historically it became an integral part of the Islamic state. (Muhammad Muhib, *Internal Structure in The Question of Bias* at 409-411 (Abdel Wahab Elmissery ed., Intl. Inst. Islamic Thought 1997) (in Arabic)).

rituals associated with marriage, funerals, institutionalized violence against women, and the practice of female gentile mutilation are examples of traditions and institutions that not only were foreign to Islam, but also contradictory to Islamic divine values. Yet, in some nations, majorities of Muslims believe that they are rooted in Islam.

The third obstacle to modeling process is perhaps a consequence of the first two factors. As we have seen, several schools of thought have different interpretations for various issues; and, institutions and practices persisted that were not consistent with Islamic principles. Consequently, over the years a process of *selective recall*⁴⁵ of certain Qur'anic verses or taking prophetic practices or statements out of context spread among Muslims. In such cases, average people use a selected statement from a Qur'anic verse, or a part of a Prophetic statement or action, in order to support a certain practice or institution.⁴⁶ Selective recall is often used whenever it is necessary to justify excesses or misperceptions.⁴⁷

Having stated these assumptions about Islam as an operative value system, we can now move to discussing the three principles of intervention in light of these assumptions.

1. Restoring to Islam its Messages of Justice, Freedom and Equality

A conflict intervener within an Islamic setting should know and be able to recognize this modeling practice when it occurs in conflict. Yet, all Muslims do not necessarily adhere to their religion and religious norms when they are confronted with conflict situations. Muslims live all over the world in societies influenced by various value systems—

45. Mitchell, *supra* n. 20, at 78-84.

46. For example, the vast majority of Muslims anywhere would easily, and with authority, recall the portion of a Qur'anic verse which goes "Two, three and four," in reference to the number of women any man can marry. Recalling only this piece of the Qur'anic verse, while leaving out the context laid out in the beginning of this verse (protection of orphans), or the remaining part of this verse which emphasizes that monogamy is "closer to justice", serves the purpose of giving men excessive right to polygamy instead of regarding polygamy as a responsibility in times of distress.

47. Another example is also related to women. Qur'an's section 12 (Sura "Yusef") details the story of the prophet Joseph. In the story, the Egyptian minister, whose wife tried to seduce Joseph, said to his wife and other women, after their plot to blame Joseph was revealed, "verily, your ability to plot is severe." Today, among the populace in Arabic-speaking countries, this verse, which in the Qur'an reflects the Egyptian minister's opinion of his wife and other specific women, is repeated as follows: "verily, *their* [women's] ability to plot is severe." This misrepresentation of this verse results in two outcomes: the first is that the statement is now assigned to God; He, not the Egyptian minister, made the statement, and; secondly, the statement applies to all women at all times. So a statement that was made by a specific person in a given situation to describe the actions of certain women, is now assigned to God, and is applied to all women.

modern and traditional value systems usually exist simultaneously with Islamic value systems. In their daily life affairs and when confronted with conflict situations, individual adaptations vary. Not all Muslims adhere to the same extent to Islamic values and norms. Many Muslims, especially those living in the United States, may adhere more to secular modern value systems, especially in their interpersonal matters, rather than Islamic values. Therefore, a preliminary task for interveners is to assess parties' position regarding various value systems, keeping in mind that just because parties belong to the Islamic religion does not mean that they expect or want an application of an Islamic conflict resolution model.

Moreover, Just as the modeling process has been negatively affected by practices which diluted Islam of its messages of equality and its intent on social justice, conflict situations reflect these practices and these misperceptions as well. An intervener needs to assist parties in clarifying and correcting beliefs and attitudes which are influenced by these negative practices and misperceptions. The intervener may be able to provide the information needed in this regard, or s/he may seek the assistance of other individuals in the community (i.e., religious scholars, or community leaders) who may be in a better position to assist parties in this regard.

The role of dispute interveners in restoring to Islam the messages of justice, equality and freedom, was described in the Qur'an on several occasions.⁴⁸ Almost all stories in the Qur'an indicated that the prophets confronted societies which had institutionalized social, economic or political unjust and unfair practices.⁴⁹ Those who wanted to maintain the status quo usually rejected the message of a prophet because they grew accustomed to certain norms and practices, and were not about to change them.⁵⁰ A prophet's mission was usually to lead these societies away from distorted beliefs and practices, towards justice, compassion and equality. The mission of the prophet of Islam, Muhammad, was no exception. And as Muslims aspire to model their behavior after Qur'an and *Sunnah*, it becomes the task of Muslim conflict interveners to replicate the process of restoring the Islamic principles⁵¹ by clarifying to conflicted parties the misperceptions and negative practices that for long have influenced their lives.

48. Qur'an: 5:9, 9:71, 16:90. Ali, *supra* n. 41.

49. Qur'an: 7:85, 11:84-85, 21:11, 26:128-130, 26:146-152, 26:165-166, 26:181-184, 28:4-6, 29:28-29. *Id.*

50. Qur'an: 2:170, 5:107, 7:70, 10:78, 11:87, 31:21, 43:22-24. *Id.*

51. Qur'an: 3:104, 3:110, 31:17. *Id.*

Western Models of Dispute Resolution Serving Social Causes:

The dispute resolution movement in the west emerged, in part, out of a dire need to address the shortcomings of the traditional judicial system,⁵² and the realization that promoting issues of social justice, equality and freedom requires the development of dispute resolution models which will insure the fulfillment of these principles.⁵³ Among western models which address matters of social justice, two positions seem to be most relevant to application in Islamic models: The Empowering position and the Common Good position.

1. The Empowering Position: This position, held mainly by James Laue and Gerald Cormick, assumes that “justice is the ultimate social good.”⁵⁴ A third party intervention in community disputes should, by empowering the disadvantaged, lead to justice, which is the prerequisite to the maximum attainment of freedom by all individuals.⁵⁵ Their chief criterion for an ethical intervention is whether it contributes “to the ability of relatively powerless individuals and groups in the situation to determine their own destinies to the greatest extent consistent with the common good.”⁵⁶ For them, proportional empowerment is a crucial value upon which any successful intervention rests. As they stated:

[proportional empowerment] refers to a condition in which all groups have developed their latent power to the point where they can advocate their own needs and rights, where they are capable of protecting their boundaries from wanton violation by others, where they are capable of negotiating their way with other empowered groups on the sure footing of respect rather than charity. Given the fallibility of judges, sociologists, politicians, philosophers, and theologians, we can only trust that true substantive justice will flow from the procedural safeguard of proportional empowerment.⁵⁷

Based on their assumptions about the social functions of intervention, Laue and Cormick provided a larger spectrum of intervention roles. The third party plays the role that would more likely achieve the goals of empowerment and justice, even if it is not a neutral one. Thus, activism and advocacy for the cause of weaker parties in order to empower them may be more proper, at times, than mediation or

52. Abu-Nimer, *supra* n. 1, at 25.

53. Laue & Cormick. *supra* n. 1, at 217-225.

54. *Id.* at 219.

55. *Id.* at 218.

56. *Id.* at 217.

57. *Id.* at 219.

enforcement. Playing the role of a mediator, when empowerment of one party is needed, would be unethical, because it reinforces the unjust status quo.

The Empowerment position has been criticized by scholars who fear that too much emphasis on empowering the weak through third party intervention may become self-defeating. According to Luban, "too much empowering activity on the part of neutrals will lead to underutilization of Alternative Dispute Resolution by the more powerful parties who find themselves getting goosed by the process."⁵⁸ Luban can only perceive of a third party as neutral; thus, he warns against confusing the role of advocacy (for empowering the weak) with other "neutral" third party roles, because advocacy, by its nature, neglects at least the interests of one party, even if that party is powerful.

2. The Common Good Position: In a critical modification of the Empowering position, Williams agreed that social justice as the ultimate good is the goal of intervention in community disputes. However, empowerment, proportional empowerment, and participation will not necessarily lead to that destination. Williams stated that:

neither participation nor competition . . . will significantly alter the stigma of race and the burden of poverty. Only if greater attention is given to formulation of an adequate conception of the common good or just society will the possibility of significant change emerge. In addition, a notion of the common good or just society would act to limit the misuse of power or coercion by the community or the parties to the dispute. Competition has replaced cooperation and conflict has ensued precisely because . . . the conception of legitimacy of power has broken down. Consequently, one aspect of the ethical responsibility of the intervener is to restore the notion of common good that both parties to the dispute might come to acknowledge as valid and that can serve to set limits to the aspirations of all community members as well as provide a formative definition of the just society.⁵⁹

Unlike Laue and Cormick, Williams has not provided models of intervention that are guided by his ethical framework. However, his argument suggests that the only ethical model of intervention would be one that upholds the common good which the intervener attempts to get the parties to accept as grounds for resolving their dispute. As he stated:

the intervener should be urged to formulate over against the parties some general conception of what seems fair or right in a particular

58. David Luban, Report, *The Quality of Justice* 50 (Nat'l. Inst. Dispute Res. 1988).

59. Williams, *supra* n. 2, at 236.

situation. Such a tentative conception of a common good would not prevent joint determination by the parties in dispute. It would suggest instead some reasonable expectations about the transfer of power that ought to occur in the negotiations.⁶⁰

Thus, neutrality becomes a matter of adhering to the common good while not favoring any of the parties.

The Common Good position, although it represents most of the actual conflict resolution techniques in traditional societies, would face difficulties in modern diverse societies, where notions of common good may be too diverse and vague. Although the approach has good intentions, we doubt that it could stand the test of reality, and worry that it may become a vehicle for sustaining the established norms, even unjust norms.

Implications for the Islamic Conflict Intervention Models:

As with the western models of intervention, current Islamic intervention models operate within a context which has suffered from a variety of social ills and dysfunction. Islamic intervention, thus, must be guided by the goals of restoring to Islam its original messages of justice, equality and freedom, especially to those who have been disempowered over ages and centuries of distortion, misinterpretations, and domination of traditional norms. The Islamic model, however, is unique because of its emphasis on modeling norms and behavior after the sources in Qur'an and *Sunnah*. Therefore, efforts toward empowerment and search for common good in an Islamic settings must go through a process of reinterpretation of sources, revealing and understanding the main principles of these sources, and reviving the spirit of equality and justice. Such a process of reinterpretation has been labeled by John Esposito the "neomodernist approach."⁶¹ According to him, neomodernist "are activists who look to the early Islamic period as embodying the normative ideal . . . [they] distinguish **more** sharply [...] between the principles and values of Islam's immutable revelations and the historically and socially conditioned institutions and practices that can and should be changed to meet contemporary conditions."⁶²

A conflict intervener in an Islamic setting may not have the resources, credibility and knowledge to address all these matters. S/he

60. *Id.*

61. John Esposito, *Islam the Straight Path* 181 (Oxford U. Press 1988).

62. *Id.* at 181-182.

may have to rely on other resources to ensure proper interpretation and restoration of the Islamic principles. In addition, s/he may also need to engage others in the community who can provide legitimacy, sustainability and effectiveness to a conflict resolution process. All these are the matters of the second principle: Engaging the community in the intervention and resolution processes.

2. Engaging the Community in the Intervention and Resolution Processes

Islamic theory and culture always emphasized a strong sense of community. Unlike the western emphasis on the individual as the basic unit of the society, Islamic culture and Islamic theory regard family as the basic unit (although individual accountability is strongly emphasized in Qur'an). The entire social organization in an Islamic setting is based on what the Turkish social psychologist Çigdem Kagitçibasi called "the culture of relatedness" as opposed to "the culture of separateness"⁶³ . . . "the culture of relatedness refers to the family culture and inter-personal relational patterns characterized by dependent-interdependent relations with overlapping personal boundaries."⁶⁴

The Islamic theory, especially as presented in several "ahadith,"⁶⁵ emphasized this notion of relatedness and community.⁶⁶ Further, these statements, along with several Qur'anic advocated active involvement with community issues, standing up for justice (even against the interests of one's self and loved ones), and taking action in resolving disputes.⁶⁷

Mary Clark, one of several western writers on Islam and community building, stated that when one looks at contemporary institutions which foster shared meaning and social bonding:

[t]he major religions of the world, of course, come first to mind. It is no accident that they arose in parallel with the earliest civilizations, largely to ameliorate some of their worst excesses,

63. Kagitçibasi, *supra* n. 3, at 61.

64. *Id.* at 62.

65. The term "Hadith" refers to all statements made, or actions taken, by the Prophet Muhammad. These statements and actions were authenticated, validated and collected by several scholars over the years.

66. Abdul Rahim Alfahim, in his *The 200 Hadith* (1988) compiled 200 statements that were related to the Prophet. Several of these statements emphasized behavior that strengthens community solidarity (32, 34, 35). Others encouraged active engagement to resolve conflicts, or correct injustice (26, 55, 60, 67), and helping those in need (4, 14, 15, 74). (Abdul Rahim Alfahim, *The 200 Hadith*) (Abu Dhabi Printing & Publ'g 1988).

67. Qur'an 2:177, 4:36, 4:58, 4:75, 4:97-100, 4:135, 5:9, 49:10. Ali, *supra* n. 41.

and even today they represent important sources of sacred social meaning for tens of millions of people. Islam is perhaps the chief contemporary example.⁶⁸

This strong sense of relatedness and community can be utilized to the benefit of conflict intervention in Islamic settings. A conflict intervener cannot assume that the community is made of independent autonomous individuals who expect that interpersonal conflict intervention will take place only between primary parties and the intervener. An Islamic setting is likely to engage and involve other entities and parties (for example, extended family members) in any given conflict. This involvement of others can be a strength for conflict intervention, and would model Islamic norms and principles as described in Qur'an and *Sunnah*. In addition, building on the strength of the community, and its culture of relatedness, would put to useful purposes resources that are otherwise wasted or neglected.

Western Models of Dispute Resolution which engage the Community:

Not surprisingly, literature on interpersonal conflict hardly speaks about engaging the social network of the community into a conflict. This is because these models assume a great deal of individual autonomy and privacy in interpersonal matters. However, literature on international conflict refers to models which engage others in a conflict with the purpose of securing, improving or sustaining a resolution to a conflict. Mitchell's Mediation Process is one of these engaging models.

Mitchell's model views mediation, or other third party intervention to this effect, as a communal process in which the role of third party should not necessarily be played by only one third party. It takes into consideration the reality that in order to reach the mediation stage, and to maintain its outcome, several other roles need to be played. Mitchell stated:

Conceptualizing mediation as a process rather than viewing the mediator as a single actor helps clarify the nature of mediation and permits speculation about the conditions that lead to settlements or resolutions. In practice, envisaging mediation as a process helps draw attention to methods of overcoming obstacles to solutions in protracted internal conflicts. The first such method involves abandoning the assumption that all functions involved in a mediation process must be fulfilled by one actor in favor of

68. Mary Clark, *Meaningful Social Bonding as a Universal Human Need in Conflict: Human Needs Theory* 51 (Burton, J. ed., St. Martin's Press 1990).

allowing a variety of actors to fulfill the variety of functions that need to be fulfilled.⁶⁹

The advantage of Mitchell's model is that it recognizes the need for the different intervention roles and does not limit third party intervention to only one acceptable model based on escalation or on ethics of the situation; rather, it allows for the implementation of different roles simultaneously with the goal of facilitating negotiation and effectively maintaining a settlement.

According to this model, several intervention roles need to be implemented by several third parties. Some of these roles are required prior to the facilitation or negotiation stage; other roles are "post-facilitation", and aim at maintaining and enforcing the settlement. It is crucial to the success of this model to recognize that not each role could be performed by any third party. As a matter of fact, it is the position of the third party to certain parties, and their relationship, that could dictate who is most suitable for performing certain roles. In general, third party roles that are required before the facilitation stage include: the explorer, the convener, the unifier, the decoupler, the ensembler, the envisioner and the guarantor.⁷⁰ Then, the facilitator conducts the face-to-face negotiations between the parties in order to reach an agreement over substantive issues. Finally, after an agreement is reached, other roles performed by third parties include: the legitimizer, the enhancer, the monitor, the enforcer and the reconciler.

Mitchell's model is probably the most culturally sensitive model among the others discussed. The reason is that some of the pre-facilitation roles suggested by the model (such as the unifier and the coupler), and the post-facilitation roles (such as the legitimizer and the reconciler) exist in any intra-group conflict, and even in interpersonal conflicts in "relatedness cultures." However, the type of third party who can be effective and credible may well vary from one culture to the other.

The only critique about the Mediation Process model is that it could benefit from one additional role—that is, an *orchestrator*; a third party who could conduct, or be informed of, an assessment of the conflict situation. The orchestrator, then, may be in a position to determine what third party roles are required, and who would be the proper individual, group or state, to perform each of them. The

69. Mitchell, *supra* n. 2, at 146.

70. For a complete description of these roles please refer to Mitchell's article, and the chart on page 147 of his article. *Id.* at 147.

orchestrator could also perform several of the roles defined in Mitchell's model, specifically the roles of the explorer, the convener, the facilitator, and the enhancer. Such roles require certain levels of neutrality and impartiality, in addition to knowledge of the conflict and its development. It is possible that one party could perform all these roles, as they do not affect the third party's image of being concerned mainly for a fair resolution of the conflict.

Implications for the Islamic Conflict Intervention Models:

Mitchell's model provides a good example of how conflict intervention could build upon the presence and interest of community members (both in the international community and the local community) in actively getting involved in the resolution of a conflict. In an Islamic setting, a professional conflict intervener may function in the capacity of an orchestrator. S/he may then utilize the expertise, clout and influence of a variety of community members to facilitate the intervention process, and to secure a sustainable resolution or agreement.

One additional role, not mentioned in Mitchell's model, which may be rather crucial for the Islamic setting, is that of an interpreter of Islamic sources. As mentioned earlier, the task of interpretation is necessary for a successful modeling of Islamic values and principles. In some instances, parties may accept an intervener's interpretation of certain issues, but in others they may not. The question of who should interpret, and with what authority, has troubled the modern Islamic intellectuals.⁷¹ There is no easy answer to this question. But guided by the methodological principles set earlier, an intervener should assist parties in exploring interpretations which are consistent with values of equality and justice, and which separate Islam from traditional, authoritarian restraints.

3. Adjusting the Intervention Techniques According to the Conflict Situation, and its Stages

The dynamics of conflict vary according to the stage of the conflict, which does not necessarily go through a linear progression; more than likely it goes through "ups and downs." In the Islamic theory, an intervention technique should best correspond to the stage of a conflict with the purpose of restoring justice and adhering to Islamic principles and values. For example, the Qur'an, in a clear example of

71. Esposito, *supra* n. 60, at 174-175.

adjusting third party's intervention according to conflict stages, has promoted reconciliation as an intervention technique between two disputing factions. Yet, the Qur'an mandated a more active role against one party if it transgresses. Once the transgression is brought under control, the third party returns to the reconciliation mode, with the purpose of restoring justice. The ultimate goal of third party intervention, the Qur'an has declared, is to reconcile members of the community.⁷²

Qur'an has also declared that interventions be adjustable in marital disputes, distinguishing between situations of marital disagreement (sheqaq) and situations of deviance (neshouz) by one spouse. In the former situation, Qur'an mandates the intervention by two third parties representing each spouse. In the latter situation (though there is great controversy over the interpretation of some words) Qur'an mandates a "contingency process" to be followed by the man, and another to be followed by the woman,⁷³ where each party is responsible for taking actions to restore normalcy to the relationship, and should all these efforts fail, to pursue divorce.

In general, Qur'an, and the Prophetic examples, show that Islamic theory advocates an adjustable model for intervention in all types of disputes. The Islamic theory is guided by the principles of justice and adherence to the values of Islam. Therefore, third parties are expected to function in a reconciliatory mode, unless clear injustice or deviance take place. In this case, third parties should get actively involved in restoring justice and eliminating deviance before returning to the reconciliatory role.

Western Models of Dispute Resolution which employ adjustable interventions:

Again, literature on interpersonal conflict intervention hardly speaks about adjusting the type of intervention according to the stage of the conflict. Most interpersonal conflict literature describes a linear step-by-step model.⁷⁴ In the international arena, Fisher and Keashly developed a contingency model which adjusts the type of intervention to the level of conflict escalation. According to their model, to the extent that the conflict is violent, peace keeping enforcement would be the proper mode of intervention, followed by consultation which aims at

72. Qur'an: 49:9-10. Ali, *supra* n. 41.

73. Qur'an: 4:34-35, 4:128-130. *Id.*

74. Moore, *supra* n. 1; Hocker & Wilmot, *supra* n. 4.

clarifying needs, perceptions and attitudes in order to help parties get to the stage of mediation. Mediation is proper when relationship issues are resolved through consultation; the focus, then, is on settling substantive issues. Mediation with “muscle” is included as one model of mediation, which may be utilized when one party is unwilling to reach an agreement unless “carrots and sticks” are utilized. Finally, development aid is the process by which each party is granted certain types of aid to improve and stabilize the situation.⁷⁵

The contingency model is useful not only because it recognizes the need to adjust the type of intervention based on the specific level of conflict escalation, but also because it provides the third part with a wide variety of tools, with different theoretical and practical purposes. For example, consultation is mainly used when relationship issues (perception and attitudes) are not suitable for mediation, and to help parties clarify their underlying needs (security, or identity for example) and interests tied to such needs. Mediation, on the other hand, aims at negotiating certain substantive issues, based on a clear understanding of relationship issues and parties’ own needs and interests.

The use of this model, however, could be generalized, and extended beyond only the escalation of the conflict. The models of third party intervention may be widened by:

- a. Accepting intervention by multiple third parties in different roles. One problem of the Fisher and Keashly model is the assumption that only one third party would play all these roles based on the level of escalation. It is a problem because a third party who intervenes, for example as a mediator with a muscle, may lose credibility if the escalation level changes to a point where his/her intervention is needed as a consultant.
- b. Applying the multiple third party roles to a conflict based not only on escalation, but also on other factors. For example, despite low levels of violence, parties may benefit from a type of consultation which assists them in understanding and clarifying their needs and related interests. The problem with the Fisher and Keashly model is that it assumes that due to low escalation of violence and parties’ willingness to negotiate, the conflict is ripe for mediation, when lack of knowledge or clarity on issues by one or more parties may require the use of consultation rather than mediation.

75. Fisher & Keashly, *supra* n. 2, at 32-39.

Implications for the Islamic Conflict Intervention Models:

The Fisher and Keashly model resembled to a great extent the adjustable models described in the Islamic theory. Although developed for international conflicts, their model could inform the Islamic intervention practice in interpersonal conflicts. What facilitates the transfer of models developed for international conflicts in the western literature to other conflict levels in the Islamic setting, is the embedded value of interdependence. The western literature for international conflicts correctly assumes that nation-states in a conflict situation are inter-dependent, and that engaging actors from the international community is feasible. By contrast, the western literature does not make this same assumption about interpersonal conflicts, which take place between autonomous independent parties, who accept mainly professional intervention. Alternatively, the Islamic setting for interpersonal conflict, as explained earlier, is characterized by a culture of relatedness and the interdependence of its members. Therefore, the models developed in the west for the interdependent international arena may be transferred to the Islamic arena of interpersonal disputes.

CONCLUSIONS

The development of an Islamic model for conflict intervention in interpersonal disputes could benefit from two sources: the established values, norms and regulations in Islamic sources, and the rich literature that has developed in the west on the subject of conflict intervention. Islamic interveners, like their counterparts in the west, face the challenge of grounding their work in the ideals which their societies are built upon. In both worlds deviations from the ideal have caused damage to the institutions and to the individuals (i.e., racism in the west and the subordination of women in Islamic societies). The practice of dispute resolution provides hope to these societies that their ideals may be restored via careful application of intervention techniques. In addition, Muslim interveners face the great challenge of correcting the modeling process, which is characteristic of Islamic life. Their challenge is to push their communities forward while clearing their Islamic values and principles from centuries-long confusion, and pollution.

Islamic intervention models need not to mimic the popular North American model of mediation. That model is effective only when the cultural and individual conditions which make it possible are present. Only to that extent could such model be implemented as part of a larger Islamic intervention model. Other efforts in the western literature, such

as the ones described throughout this paper, provide more suitable models to be considered within the Islamic setting because of their recognition of the interdependence and relatedness of the Islamic communities, and their consistency with Islamic principles and values.

The ideas presented in this paper set the fundamental principals on which the Islamic model for interpersonal conflict intervention could be constructed: restoring Islamic principles of justice, equality and freedom; engaging the community, and; adjusting the intervention techniques to the conflict situation and stages. They reflect the contemporary needs, strengths, and goals of Islamic communities and individuals, and at the same time adhere completely to the Islamic sources (Qur'an and *Sunnah*). More extensive work will need to be done in order to complete a comprehensive, detailed, framework of intervention. Such a framework, it is hoped, will draw upon the many advantages present in Islamic theory and culture, which are yet to be explored or articulated for use in conflict intervention.

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