



Mediation
in Malaysia:
The Law and
Practice

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MEDIATION IN MALAYSIA: THE LAW AND PRACTICE

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Mediation as Enshrined in International Treaties.....	370
Who Are the Mediators?	371
MEDIATION THROUGH THE UNITED NATIONS	373
ATTRIBUTES OF A SUCCESSFUL MEDIATION	375
Conflict Ripeness (Timing)	375
Mediator Strength and Leverage	376
Effective Strategies for Implementation and Monitoring	377
MEDIATION IN INTERNATIONAL DISPUTES: SELECTED CASE-STUDIES	378
Iran Hostage Crisis and Algiers Accords: A Success Story of Mediation	378
Kosovo Crisis and Finnish Mediator Ahtisaari.....	379
Conclusion	381

PART XVI
Mediation in Syariah Law

Chapter 21

**Foundations of Mediation in Islamic Law and its
Contemporary Application**

ABSTRACT	385
INTRODUCTION	386
KEY WORDS: DEFINITION	386
Conciliation (<i>Sulh</i>)	386
Arbitration (<i>Tahkim</i>)	387
Mediation (<i>Wasaatah</i>)	387
Similarities and Differences	388
Proof of Legality of Mediation	388
Fundamentals of Mediation in Islamic Law.....	391
Contemporary Application of Mediation	393
Conclusion	394
REFERENCES	395

CHAPTER 21

FOUNDATIONS OF MEDIATION IN ISLAMIC LAW AND ITS CONTEMPORARY APPLICATION

by

SAID BOUHERAOUA

ABSTRACT

As humans are social beings, disputes among them are inevitable. Judicial settlement of disputes is unfortunately costly, time consuming and open to public scrutiny. Nevertheless Islamic law provides for settlement of disputes by many ways of *Sulh* including mediation. The purpose of this paper is to examine the principles on mediation laid down in the *Quran* and the *Sunnah* of Prophet Muhammad (peace be upon him), which are both the primary sources of Islamic law. The paper will seek to apply the deduced principles in contemporary mediation. Reference will be made to certain incidents wherein the final Prophet (peace be upon him), the earlier prophets and the Caliphs seemed to have resorted to mediation. The objective is many lessons that can be learned from the exemplary conduct of the Prophet (peace be upon him) who was a politically righteous person with highest moral and ethical values. His society wherein fighting would break out over petty matters and insignificant incidents and could linger on for generations had