

# Investigation and criticism of arbitration in settle disputes and family emotional emotions

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## ABSTRACT

The familial conflicts stem from the complicated social conditions and statuses in the contemporary era and, in case of the emergence of conflicts between the couples, the government is required to eradicate the subject of conflict and establish peace between the couples through forming a familial peace institution. In Iran's laws, this institution is called arbitration (mediation) which is a Quranic strategy for resolving the familial controversies and this rule by the Holy Quran has also been taken into account by the legislator and there are accordingly regulations enacted in this regard. But, the jurisprudential perspectives' differences and the changes in the social conditions have caused the alteration of the current statutory provisions regarding arbitration with some flaws being still detectable therein. The present study makes use of a descriptive-analytical method to investigate the basics of arbitration and the evolution trends of legislations on arbitration so as to explore the present arbitration law and elaborate the legal shortcomings in the laws of Iran. In the end, it will be suggested that the judiciary has to form a sufficient number of arbitration divisions consisted of legal experts and family counselors and psychologists alongside with the family courts for helping the latter resolve the familial conflicts.

**Keywords:** arbitrator, arbitration, mediation, regulations, amending of the interrelationships, consensual divorce

## Introduction

Marriage and family formation are amongst the mankind's needs that have been abundantly recommended in the sacred religion of Islam to the extent that the great apostle of Islam (may Allah bestow him and his sacred progeny the best of His regards) orders that "*Al-Nikāh Sonnati Fa Man Raqeba An Sonnati Fa Laisa Menni*" meaning "marriage is my tradition and he who evades this tradition is not mine" [1]. However, the formation of family is just the beginning of the marital life and the preservation and continuation of it is a lot more important than the family formation. This goal cannot be achieved unless via observing the couples' rights in respect to one another the

details of which have been determined and specified in the sacred canon of Islam.

But, it is sometimes the case that one of the couples or both of them become indifferent towards the responsibilities before the other and this causes the emergence of conflicts between the couples and leads to divorce and separation in case of being left unresolved. Therefore, it is necessary to seek a solution with the emergence of even the trivial conflicts and prevent them from deepening. The best way for doing so is that the individuals with good will, experience and sufficient discretion and insight about the family affairs and also a beneficiary to the resolution of the problem mediate between the couples and take measures in line with the removal of the conflicts. The holy Quran calls these individuals mediators (NISĀ'A: 35) and they are named arbitrator in the laws of Iran and their presence at the right time and their interference on the trivial conflicts' occasions prevents them from getting more deepened. The legal bill of the special civil court has spoken of "divorcement permission" in lieu of the reconciliation impossibility's certification based on which a husband is permitted to divorce his wife meaning that the husband is allowed to divorce his wife

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after the court failed to establish reconciliation between them through an arbitrator<sup>1</sup> [2]. According to the regulations, all of the individuals have the right to agree on resolving their conflicts through referring to one or several arbitrators. Of course, it does not make any difference if the conflict is adjudicated or not and also it is not important in what stage it is in case of being filed to a court. The advantage of this method is that the parties to a claim can use it to resolve their conflicts without any administrative formalities in a simple language and occasionally with making lower costs [3]. However, efforts have been made herein to deal with the shortfalls of the arbitration law in regard of divorcement.

### 1. Basics of Arbitration:

The permissibility and influence of arbitration that is proposed in the Islamic laws under the title of arbitral judgment are in the first place attributable to the honorable ĀYA “*Wa En Kheftom Sheqāq Bainahomā Fa Eb’athū Hakaman Min Ahlehi wa Hakaman Min Ahlehā ...*” (NISĀ’A: 35). The contents of the ĀYA confirm the permissibility and influence of arbitration in familial conflicts and it can be generalized to the similar discrepancies via excluding some of its characteristics. This way, arbitration is found at least affirmed in the Islamic laws. Besides the abovementioned ĀYA, there are other ĀYĀT, as well, in the extolled Quran that somehow imply arbitration or reconciliation (NISĀ’A: 59&65 and HOJORĀT: 9-10). On the other hand, there are numerous narrations for prescribing and authorization of arbitration. These narrations have been predominantly cited in Sunni Fellows’ books including their substantiation on the great apostle (may Allah bestow him and his sacred progeny the best of His regards)’s acting of a verdict issued by Sa’ad Ibn Ma’āz in an arbitration between His Highness and Bani Qarizah as well as the Nesa’ei Narrations [4, 5] and Morsaleh Narrations [6] and Well-Known Narrations that have also been used as proofs by the Shiite jurists [1, 7, 8].

In addition to the above reasons, the Sunnis also resort to the assistants’ consensus over the permissibility of arbitration and, resultantly, they realize the arbitration permissibility as a justified issue based on the Book, the Sunnah and the consensus [4, 5].

The most important narration inserted in the book “Shiite Hadith” regarding arbitration is the news quoted by Ahmad Ibn Fazl Kanasi Azkashi from Imam Sadeq (PBUH) [9]. But, since the permissibility of the arbitration has been doubted due to the unknown appearance of the expressions in the Hadith and their implications [7, 8], the Shiite jurists have figured out the arbitration’s permissibility through consensus [7, 8].

However, the sure thing is that there is no relatively comprehensive writing in the area of the Islamic judgment not having dedicated a discussion to arbitration and its conditions. This is decisively indicative of the Islamic law experts’ agreement on the permissibility and influence of arbitration albeit in a succinct manner.

### 2. Arbitration Evolutions in Iran’s Legal System:

Considering the fact that arbitration has undergone a lot of changes in Iran’s legal evolutions, it is necessary to briefly investigate these changes.

2.1. It was for the first time in article 676 of the civil procedures law, approved in 1939, that it was stated “in case that disagreements between a wife and a husband are adjudicated regarding misbehavior and disobedience and alimony and job and accommodation as well as the expenditures of a child in the responsibility of the husband and in the custody of the wife, the courts can refer the lawsuit to arbitration if it is requested by any of the parties and, if they reach no agreement about the appointing of arbitrator, they can introduce at least two individuals from amongst their close relatives in the inaccessibility of which individuals with whom they are socializing and having communication can be specified. The arbitrators are obliged to do their best to establish peace between the couples and, if they fail to do so, they can present the court with their vote in favor of one of the parties they think to be more rightful and determination of the wife or the child’s expenditures in case that the subject of the lawsuit is the woman’s costs ...”

Corresponding to this article, arbitration is not firstly specific to divorcement and it can incorporate all the subjects of the familial life; secondly, referral of the case to the arbitration can take place with the request by one of the parties; third of all, the court is not obliged to refer a case to the arbitration.

2.2. Articles 5 and 6 of the law on family support, passed in 1974, are both related to arbitration. Article 5 states that “in case it is asked by any of the obliged parties, the court can refer the lawsuit, except the trial of the marriage and divorcement in essence, to one to three arbitrators. Moreover, the court can personally refer the case to arbitration if it is deemed expedient ...”

Article 6 stipulates that “the arbitrator(s) would have to do their best to establish peace between the parties and, in case they fail, they would have to present the court with a written document indicating their idea about the nature of the claim within the specified period of time. This, idea is announced to the parties after which they are obliged to declare their ideas within ten days to the court. In case that the parties happen to agree with the arbitrator’s idea, the court issues an order to enforce the arbitrator’s sentence unless it is found contradictory to the justified rules of right in which case it will be devoid of any effect. When any of the parties objects to the arbitrator’s idea or falls short of offering a reply within the specified period of time or when the arbitrator’s sentence is contradictory to the justified rules of right, the court tries the subject and issues the

<sup>1</sup> Note 2, article 3 of the special civil law

appropriate order or a writ indicating the reconciliation's non-achievement".

In this law, as well, arbitration is not specific to divorcement and all of the familial differences can be referred to arbitration. Second of all, referral to arbitration happens with it being requested by one of the parties. Thirdly, the court is obliged to refer the case to arbitration. Fourthly, in case of no objection by the parties to the arbitrator's sentence, the court would act according thereto.

- 2.3. It is expressed in note 2 to article 3 of the legal bill of the formation of special civil courts, enacted in 1979, that: "the divorcement cases are the same ones stated in the civil law and canonical verdicts; but, in case that the husband requests divorcement based on article 1133 of the civil law, the court refers to the case to arbitration in adherence to the honorable ĀYA "*Wa En Kheftom Sheqāq Bainahomā Fa Eb'athū Hakaman Min Ahlehi wa Hakaman Min Ahlehā En Yorido Eslāhan Yūfeq Allah Bainahomā Enna Allah Kāna Aliman Khabirā*" and, if no reconciliation is achieved between the couples, the husband is allowed to divorce his wife. In cases that an agreement is reached between the couples for divorcement, it is not necessary to refer to the court". According to the aforementioned note, referral of the case to the arbitration is seminally to happen in case that there is posited a request for divorcement and if it is the husband asking so. Secondly, for referral of the case to the arbitration, there is no need for the couples' request and the court is obliged to personally refer the case to arbitration.

- 2.4. The last legislation regarding arbitration in regard of the familial conflicts can be found in the law on the reforming of the divorcement regulations, passed in 1992, by the National Exigency Council. It is stipulated in its single article that "since the enactment date of this law, the couples who want to get divorced and separated from one another should refer to a special civil court and file a lawsuit therein. If the conflict could not be resolved through the court and by the arbitrators, chosen by the two parties and verified by the court, as it is ordered in the Holy Quran, the court would issue a writ of no-reconciliation and they will be sent to the formal divorcement offices who consequently have no right to register the divorcement writs to which no certificate of non-reconciliation is attached by the court otherwise the violating office head (notary) would be disqualified". The first note to this article assigns the special civil court to the invitation of the arbitrators and verifying their qualifications in accordance to the executive procedures.

Corresponding to these procedures, the referral of the case to the arbitration is firstly pertinent to the divorcement and the other familial disputes are not included by them; secondly, when a divorcement lawsuit is filed by any of the parties, the court does not appoint the arbitrator rather it takes measures personally for establishing reconciliation and, if the dispute was not resolved, the trial of the case would be referred to arbitration through issuing of a writ; and, thirdly, referral to arbitration also includes consensual divorcements, dispossession and uncontested divorcement.

### 3. Investigation of the Present Arbitration Law:

The last law on the reformation of the regulations of divorcement was enacted on 28<sup>th</sup> of October, 1992, by National Exigency Council and its procedures were also passed in 9 articles on 2<sup>nd</sup> of March, 1993. These have been investigated below:

#### 3.1. Lawsuits in Need of Arbitration:

From amongst all the lawsuits related to marriage such as the claim for requiring the payment of alimony, the claim for requiring a wife to remain obedient, demanding dowry money, divorce and so forth, only the divorcement lawsuit has been stated by the legislator to be in need of arbitrator. Furthermore, there is no difference in terms of the type of divorcement demanded and the person asking for divorce. In other words, the couples' dispute should be referred to the arbitration no matter if divorcement is requested by the husband or the wife and also if it is mutually requested by both of the parties.

#### 3.2. The Time of Referral to Arbitration:

The court cannot preliminary work parallel to the referral of the parties to the arbitrator with the filing of a divorcement lawsuit by the couples rather it seminally makes efforts for resolving the dispute. In case that the court was found not making any accomplishment in reconciling the couples and the disputes were not resolved through the court's direct intervention, the trial of the case is continued via referral to arbitration. So, the arbitrators are the courts' deputies and they intervene in the lawsuit when the court has reached a dead end in resolving the conflict.

#### 3.3. Method of Selecting the Arbitrators:

After a writ was issued by the court for referral to arbitration, each of the couples is obliged to introduce one of their close relatives having the qualities of the arbitration as stated in the procedures within 20 days since the announcement date.

In case that no qualified person is found amongst the close relatives or if s/he is inaccessible or if the close relatives of a person deny accepting the arbitration, each of the couples can appoint his or her arbitrator from amongst the other qualified individuals and, in case of being incapable of introducing an arbitrator or denying to do so, the court personally appoints an arbitrator from amongst the qualified individuals.

#### 3.4. Arbitrators' Conditions:

According to article 4 of the procedures, the appointed and installed arbitrators should be qualified for six conditions: being a Muslim, relatively familiar with the canonical, familial and social issues, at least 40 years of age, married, trustworthy, not famous for perpetrating depravity and vice. The arbitrator's gender has not been mentioned by the legislator thus both men and women can be appointed and installed as arbitrator.

#### 3.5. Arbitration Stages:

The determination of the arbitrators and their acceptance of arbitration: the court should specify a time and remind the arbitrators of their duties and method of action and set a respite for the arbitrator's returning of their ideas about the disputed case to the court. The arbitrators are obliged to attend at least two sessions with the presence of the parties for investigating the problems that have caused the emergence of disagreement and come up with proper solutions thereby to remove the discrepancies and amend the interrelationships.

The sessions will be held even if one or both of the couples fails to appear and the arbitrators should investigate the dispute cases in any way and submit their idea within the specified term to the court regarding the possibility or impossibility of reconciliation. In case that the respite set for the arbitrator is envisaged insufficient, the arbitrators can ask prolongation of the respite from the court and, in case that the request is found necessary by the court, the respite will be extended. The arbitrators can demand a wage for arbitration and the court determines it and orders its collection and payment to them<sup>[10, 11]</sup>.

### 4. Comparing Arbitration with Dispute Resolution Council:

The law of the dispute resolution councils, passed in 07/11/2008, pertains to familial claims in articles 12-13 and allows the courts to refer the cases to the dispute resolution councils considering the qualities of the lawsuits and disputes and the possibility of resolving them through settlement and reconciliation. It is with the referral of the case to the council that the members of this authority are obliged to make efforts in line with resolving the dispute and creating peace and reconciliation and inform the court of the result of their efforts that might be success in correction or failure in achieving this

goal. The followings can be mentioned as the divergent and common points of arbitration and dispute resolution councils in an investigation of the two foresaid articles as well as the paragraph 1 of article 11 of this law:

#### 4.1. Divergent Points:

It is specified in the law of the dispute resolution councils that all of the familial lawsuits can be referred to councils for establishing peace and reconciliation but, as prescribed in the arbitration law, only divorce claim can be referred to arbitration and, in this regard, dispute resolution council enjoys more advantages than the arbitration office.

As asserted in the law of the dispute resolution council, the court is not required to refer the case to the council (unless for disputes about alimony and that if the amount of alimony exceeds fifty million RIALS) and the court can do so in case of finding it expedient. However, in arbitration law, the court is obliged to refer the dispute to the arbitration upon being presented with a divorce request. It seems that better results could be attained if it was necessary to refer the case to the dispute resolution council at least in familial lawsuits provided that the councils become specialized and hire specialists.

In dispute resolution council, the trying committee is introduced and selected by the judge but, in arbitration, the arbitration committee is selected by the lawsuit's parties and the court accepts and appoints them.

#### 4.2. Common Points:

Efforts should be made in both the dispute resolution councils and arbitration committees for establishing peace and reconciliation between the couples. In both of these authorities, there is no requirement for the absolute achievement of the intended result; however, the results of the committees' efforts should be reported to the court that has referred the case.

### 5. Comparison of Arbitration in Iran and Other Islamic Countries:

The following points can be inferred in a comparison of arbitration in the laws of Iran and other Islamic countries:

In the laws of Iran, the entire divorce lawsuits are referred to arbitration whereas the issue is sent to arbitration in the other countries when the wife claims insolvency of the husband in life but falls short of proving the loss she claims and the husband also rejects her claim. Thus, it is not possible to refer the case to an arbitrator in all of the other cases.

In Iran's laws, it is not necessary for the arbitrator to be just but justice is one quality of the arbitrators in Egyptian laws.

In Iran's laws, the arbitrators are only obliged to establish peace and reconciliation and, in case of failure, they would only have to present the court with a report thereof; but, in the laws of the other Islamic countries, the arbitrators are obliged to specify

the party guilty of causing separation and the court can specify the dowry money payable to the wife based on the degree to which each of the couples is found guilty and subsequently subtract the rest from the previously determined dowry money and it can even deprive the wife from dowry money in case of her insistence on divorcement with no fault of the husband.

It is not specified in the laws of Iran that the court is obliged to remain bound to the arbitrators' sentences; but, it is explicitly stipulated in the laws of the other countries that the court is not required to enforce the arbitrators' judgments.

In appointing the arbitrators, the priority has been given in both the laws of Iran and the other countries to the couples' close relatives and the arbitrators have to have the ability of correcting their interrelationships.

## 6. Criticizing the Arbitration Law:

Familial disputes were the subjects of arbitration and its jurisdiction in the regulations enacted before the Islamic Revolution after which the legislator reformed the regulations related to arbitration and limited its jurisdiction in the amendments. Based on the current regulations, the arbitration subject is only the divorcement claims and the law does not know arbitration necessary for the other family claims. According to the investigations, it can be claimed that the current regulations do not match with the Quranic basics because the arbitration subject has been dealt with in the laws more specifically than in the holy Quran.

1) Limitation of the arbitration's jurisdiction is in opposition to the basics and expediencies of the family. It seems that the legislator has underestimated the arbitration institution and its functions. Arbitration is a people-driven institution and, in fact, a "familial dispute settlement court" which is preferred to judicial trials for numerous reasons. To clarify the issue, the arbitration's advantages have been pointed out below:

- A) Family environment is the center of emotions; in this environment, no steps can be taken based on the rigid scales of the law and spiritless regulations and the disputes should be resolved as much as possible through affective ways. It is clear that there is no such a thing as affectionate feeling and emotion in the judicial courts.
- B) The parties of a lawsuit disclose all their lawsuits in the judicial courts for defending themselves. It is evident that the expression of the familial secrets before the other persons would injure the feelings of the husbands and wives. Under such circumstances, if the husband and wife return by the order of the court to their houses, there would be no more any news of the previous love, sincerity and spiritual unity. Experiences have shown that the wife and husband who have referred to the court would not be the same former couple. It is vivid that the familial secrets are not divulged in the familial settlement court for the shameful of the

family members' presence or, even if they are posited, they would not have any adverse effects for they are disclosed in the presence of close relatives and acquaintances.

- C) The judges of the courts are most often indifferent to the couples and their children's destiny. It is not so much important for them if the two parties reconcile and get back to their home or get separated while the issue is completely reverse in familial settlement courts wherein the arbitrators are not indifferent to the couples' future for they are selected from amongst the family members and share interests with them. Thus, they would spend all their efforts on the correction of the wife and the husband's interrelationships<sup>[12]</sup>.

According to what was mentioned, it becomes clear that the expanding of arbitration's jurisdiction in such a way that it can also encompass the other familial disputes would be in favor of the family because it is explicitly stated in the constitution that the rules and regulations should be enacted and amended in line with the solidification of the familial relations and it is stipulated in Act 10 thereof that: "since family is the fundamental unit of the Islamic society, all of the rules and regulations and the corresponding plans should be parallel to the facilitation of the family formation, safeguarding of its sacrosanctity and reinforcing of the familial relationships based on the Islamic laws and ethics".

So, reforming of the arbitration regulations for the development of its jurisdiction causes "the solidification of the familial relationships" which is also demanded by the legislator of the constitutional laws.

- 2) Limitation of the arbitration jurisdiction to the divorcement claims is in conflict with the objectives and policies of the judicial system. The reasons for this issue have been explained beneath:
  - A) The judicial system is confronted with the shortage of judicial cadre and human workforce. Under such conditions, the country's legislative policy should not be aligned towards the increase in the people's referrals to the judicial courts. If the arbitration's jurisdiction is expanded in such a way that it can embrace the other familial claims, this would lower the number of the people's referrals to the justice department. Conversely, limitation of the arbitration's jurisdiction to divorcement claims causes an increase in the people's referrals to the justice department.
  - B) Judicial trials take a long time due to the trial complexities and the large number of the files. The trials' elongation causes the people's wandering in the judicial courts and it is not also to the benefit of the families. The prolongation of the trials in the familial cases causes the blurring of the couples'

relationships. On the contrary, trial of the couples' disputes in the familial settlement court is done without formalities hence finished rapidly.

- C) The judicial trials are costly. For example, when referring to a court for achieving alimony, dowry money and so forth, a wife has to pay the trial cost at the time of filing a lawsuit while it is shown in the statistical surveys that the Iranian women have come out defeated in the majority of the cases in their referrals to the family courts for the reception of their financial rights after spending a lot of time and cost<sup>[13]</sup>. But, the trials are not followed by any costs for the wives and husbands in the familial settlement courts.

Now, the question raised here as to whether the limitation of arbitration's jurisdiction would be advantageous to the judicial system and family considering the abovementioned materials or not?

- 3) The time for referring the case to arbitration is not appropriate. In the holy Quran, arbitration is a preventive measure and it is formed with the emergence of the disputes' signs; thus, there is more hope in the accomplishment of the objective of interest whereas the current status of the arbitration in the law does not enable such a thing. The court takes measures for forming arbitration sessions when the parties' disputes have rooted deeply and the parties have reached a decision for divorce<sup>[13]</sup>.
- 4) The court is also not seminally obliged to refer the case to arbitration upon being presented with a divorce lawsuit rather it has to work parallel to the establishment of peace and reconciliation between the couples and, in case of failing to resolve the conflict, it refers the case to arbitration. This method is flawed in several respects:
- A) According to the Holy Quran, arbitration is a formation for familial not judicial settlements. The environment and setting of the court, albeit intending the establishment of the peace and reconciliation, is judicial and the parties engage in defense of themselves for satisfying the judge and, in doing so, they would usually take all the necessary measures. Such a spirit and performance is not only harmful to the improvement of the relations but it would also cause more enmity hence acceleration of the separation<sup>[12]</sup>.
- B) According to the fact that the lawsuit's result is not influential in the work process of the court and that they are mostly attentive to the resolution of the hostility, the judges would never have the sensitivity of the arbitrators who are in familial ties with the parties and their separation or reconciliation would have direct or indirect influence on their own lives<sup>[12]</sup>.
- C) In case that the court really intends the correction of the relationships between the couples and their

reconciliation, it cannot practically do so due to the multiplicity of the jobs and the numerosity of the files and considering the large deal of patience and time required for trying the familial lawsuits.

- 5) There are mentioned two arbitrators in the law: one of them is selected by the husband and the other one by the wife. According to the fact that there is a possibility of disagreement between the arbitrators, i.e. the husband's arbitrator might rule the possibility of their continuation of their marital life and the wife's arbitrator may sentence in favor of their separation and impossibility of their reconciliation, the court may become dubious as to which one has to be chosen.

This fault becomes more vivid considering the note 2 to the single article of the law on the reformation of divorce regulations. That is because, as stated in the note, the written report of the impossibility of reconciliation should be submitted to the court according to the entire in-contract conditions and materials mentioned in marriage documents of the Islamic Republic of Iran as well as the determination of the status and quality of proctoring the children and resolution of the financial issues after its being endorsed by the husband and divorced wife's arbitrators as well as after issuing a written document indicating the psychological health of the couples in cases that it is doubted by the special civil court.

- 6) The credibility amount of the arbitrator's theory and the court's requirement or non-requirement to this theory have not been specified in this law; put another way, it is not clear if the court is obliged to accept the arbitrators' ideas about the possibility of the couples' continuation of their marital life or not>

## 7. Suggestions:

- A) Many of the couples' disputes stem from their lack of sufficient information about their rights and duties before one another. Therefore, it is necessary to hold short-term instructive courses in the beginning of marriage for the couples in line with pursuing the judicial hygiene policy. According to the fact that it is currently compulsory for the couples to take part in the birth control classes in the beginning of their marriage, the behavioral instruction of the families in psychological, social, cultural and legal terms can be rendered obligator through coordinating the affairs with the judicature and the well-being organization and holding sessions for them in the beginning of marriage so that the young girls and boys can acquire more information and awareness for forming a family and become more acquainted with their duties and know the outcomes of failure in performing their responsibilities before the other.
- Actions should be taken based on what has been mentioned in the holy Quran regarding arbitration

meaning that any sort of familial dispute and conflict filed to a court should be referred to arbitration so that the subject of dispute can be eradicated and the gap between the couples can be prevented from widening. In fact, the law should be reformed parallel to the idea that the couples can refer to the ruler and dispute resolution council when they are in the beginning of their conflict and presenting the subject of their dispute to the arbitrators in specialized authorities like wellbeing organization's offices and advisors, specialists and psychologists as well as the family counsellors in them and the centers for intervention in the family affairs certify it that the arbitrators and experts' efforts have not been effective for the creation of reconciliation.

- B) Alongside with the family compounds, a number of arbitration divisions composed of legal experts, family counsellors and psychologists should be formed and the courts should take the required measures in line with preventing the intensity of the dispute and divorcement through dispatching two of the couples' appointed arbitrators to any division wherein the couples' dispute is being investigated.
- C) The role of the arbitrators has been limited to the establishment of peace and settlement in Iran's laws and, in case of failure, they can inform the court and do nothing more whereas the arbitrators in some of the Islamic countries are responsible for introducing the guilty party who has caused the separation and the percentage of his or her guilt in case of failing to establish peace and reconciliation between the couples. Therefore, it is necessary for the legislators in Iran to make the role of the arbitrators more accentuated in the country's laws like the rules of those countries for the specification of the guilty party who has caused separation and dispute.

Therefore, the addition of the following cases to the law of family support posited in the Islamic Consultative Assembly is advised:

- "The judicature is obliged to form alongside with the family courts a number of arbitration divisions consisted of the legal experts and family counsellors for assisting the court for the resolution of the familial disputes.
- The courts are obliged to refer any familial dispute, including the requiring of the husband to the payment of alimony, requiring of the wife to remain obedient, divorcement and so forth, seminally to the arbitration divisions and in case that the latter divisions fail in establishing peace and reconciliation between the couples, they should introduce the guilty party causing the dispute and determine the percentage of his or her guilt and return the file to the court for judicial trial.

**Note:** the value of the arbitration division's sentence should be equal to that of the specialized sentence made in the other authorities for the other lawsuits".

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