

Case Management System and Dispute Resolution Methods

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Abstract:

This study aims to locate the case management system among the means of resolving disputes and identify the concept and objectives of this system. This research intends to illustrate the establishment of this system, while the main question of the study is to know what are the legal and practical justifications and the historical circumstances that led to the emergence of this system? How does the UAE legislator regulate this system, and explain the position of this system in practical life compared to alternative dispute resolution methods? The problem of the study is the modernity of the case management system compared to the means of resolving disputes through other alternative methods on one hand. On the other hand, the extent of the ability of the Emirati legislator to codify all provisions related to organizing this type of dispute resolution method. To achieve the objectives and find solutions to the problem of the study, the researcher adopts the historical method to find out the justifications, causes and factors of the emergence of this system. Thus, the descriptive-analytical method used, taking into account that it is the appropriate approach which achieves the objectives of the study. This case is newly established in comparison with the means approved by the provisions of Islamic Sharia law. The study finds that the United Arab Emirates legislator is one of the first to adopt the implementation of this system. The conclusion of this paper shows a set of recommendations, the most important of which were: The need to enforce the provisions of Islam in the judiciary and in various aspects of life, as well as the need to expand the powers of those responsible for the administration of proceedings in the United Arab Emirates by enabling them to adjudicate disputes once and for all.

Keywords: Case Management; Reconciliation; Mediation; Arbitration; UAE legislator.

1. Introduction

In recent years, Emirati society experienced great development in various fields, with an increase in the number of local and expatriate residents that has been observed. It is natural that these changes are accompanied by the complexity and intertwining of people's relations. The courts are the place to which

individuals refer to their disputes, given that the judiciary is the authority authorized under the UAE constitution to adjudicate those disputes.

Moreover, the increase in the number of disputes brought before the judiciary reflects negatively on the performance of the courts. Often there was a need for a large number of judges, a delay in adjudicating cases before the courts, an increase in the complainants' distress and an increase in their demand for a speedy dismissal in their case. However, all these reasons made the Emirati legislator look for a tool or a way to reduce the negatives and problems that exist in the courts. For the scientific seminars, workshops, and correspondence between senior jurists in the UAE in which they have reached the introduction of a case management system in the courts and amend the legislation in line with the achievement of the desired goals of this system. It represents facilitating and simplifying Judicial Procedures in the Cases systems (Al-Manasara, 2012).

The UAE lawmaker seeks to achieve justice, introduced the idea of a case management system into the Federal Civil Procedures Law. Furthermore, Article 42 bis of the Federal Civil Procedures Law No. 10 of 2014 amends the Civil Procedures Law No. 11 of 1992 which stipulates the establishment of Offices to manage the civil case. In its five paragraphs, the article, specifies the body entrusted with the formation of these offices, the system of work in them, their head, and their tasks, starting from their registration and announcement, and the exchange of notes, documents and reports, up to referring them to the competent judge.

The Islamic Sharia establishes a solid judicial system by allowing preliminary means in the case before referring it to the competent judge to adjudicate it. The arbitration system, the reconciliation system, and the mediation system are solid examples in which they confirm that the Islamic Sharia has precedence in adopting regulations. Also, this would control the case early in order to reduce the burden of litigation, and this is what confirms that Islam has given the judicial system great importance since the era of the first message. As a result, if this indicates something, it indicates that Islam has preceded the establishment of the rule that "the establishment of justice is one of the foundations on which mankind is based" (Hajar, 2017).

In this research, the researcher attempts to review the case management system by examining its definition, purpose, and historical development on one hand. On the other hand, to examine the mechanism of the Emirati legislator organizing this system. Lastly, to explain the alternative dispute resolution methods approved by Islamic law, as the researcher shows in the following details.

2. Literature review

The previous study section is an important and fundamental one in any research; it has a crucial role in understanding and topic of the research. Also, it also contributes in letting the readers know the causes and factors of the case management system, its perks, and role in giving alternative methods of dispute resolution. Furthermore, previous studies provide punch of information which helps the researcher in putting the appropriate methodology to find answers of the questions of the study in order to achieve its goals. Here are important previous studies:

(Al-Morshedy, 2016) Stated that “case management in the comparative systems” about the importance of the case management system and its role in achieving justice. The researcher set goals during her study that she sought to achieve. One of those goals is having more information about the case management, its history of emergence, stages of development and the foundation. The researcher has used the historic research, analysis, and comparative as approaches to achieve her set of goals. She has set hypotheses, such as, justice sector and judiciary suffer from the existence of a range of complicated procedures, in addition to the huge number of cases in courts, therefore, a slow pace of justice occurs, and conflict resolution will take a lot of time. Furthermore, the researcher hypothesized that case management system is crucial, yet, there are some challenges stand as an impediment for the adoption of this system. At the end of her study, the researcher concluded that the case management system is no less importance than the importance of the courts.

The researcher also came up with the case management system as an alternative solution to the problems of the judiciary, which are the most important of those solutions created by the Jordanian legislator. Also, the researcher recommended the Jordanian legislator to put guarantees for those in charge of the case management offices that enable them to carry out their duties to the fullest. The researcher also recommended the Jordanian legislator to approve a special law that regulates the work of case management offices.

(Howrah, 2016), in her study entitled: “The Civil Case Management System, a Comparative Study between the UAE and Jordanian Legislations,” to mention information about the nature of the case management system in terms of definition, characteristics, reasons for origin, the foundations on which this system is based, the legal implications of its implementation and the most challenging obstacles that end up not having those in charge of the case to carry out their duties to the fullest. The importance of this study appears in being the first study ever to deal with the civil case management system in accordance with the Federal Civil Procedure Law amended by Federal Law No. 10 of 2014.

It has also used the historic, analytic, and the comparative research methodologies. To gather more information in her study, the researcher relied on statistics issued by the courts conducting personal interviews with Dubai Courts employees. At the end of her study, she recommended to amend. At the conclusion of her study, the researcher recommended amending all legislation related to the Civil Procedures Law so that the case management office is replaced by the court clerk's office or the court's clerk's office, and to make a legislative addition and amendment so that the issue of whether the case's passage to the case management office and its preparation is an imperative consequence of violating the procedures will be null or void. It is nothing more than a regulatory action that does not lead to invalidity.

(Musleh, 2015) mentioned in her study, which was titled: "Legal Case Procedures, a Comparative Study with a Civil Case", about what a lawsuit is in terms of concept, characteristics, conditions of acceptance, types of courts and degrees of litigation, eligibility for litigation and the legal capacity to file a lawsuit, and then she mentioned procedures of the legal case, starting from organizing the case list through its registration and ending with notification and conducting the trial.

The importance of this research is centered on the necessity of identifying the procedures of the legal case and comparing it to the civil case. The researcher has set a set of goals that she sought to achieve through her study, which is to identify the procedures for filing a legal case and the most important obstacles it faces compared to the civil lawsuit. She relies on the inductive research methodology in its study by collecting information from different sources, and the comparative approach for comparing the legal texts that were collected from various sources. and the analytical approach to find out the nature of the texts and their explanations, analyze the regulating materials of the progress of the legal case and compare it to the civil lawsuit. The researcher concluded her study that the case is a request for a right that is legally acceptable to others in the Judicial Council to be bound, recommending the establishment of an implementation department affiliated with the legal court trial instead of subordinating it to the enforcement departments in the regular courts.

(Al-Hija, 2009) in his book “Electronic Means of Conflict Resolution: Mediation, Conciliation, Arbitration, Direct Negotiations,” identifying the concept of alternative means of resolving dispute, and he shows nature of each method. The researcher relies on the Descriptive analytical methodology in his book to achieve its goals which is represented by knowing to what extent the legislator was able to activate alternative dispute resolution methods through electronic means. Moreover, the researcher aims to review practical applications to activate alternative dispute resolution methods in the judiciary of Egypt, France, Lebanon and Jordan. He concludes his book by talking about the most important findings related to the role of electronic means in resolving disputes between individuals in reducing the burden of litigation, recommending the activation of monitoring tools in order to reach the desired goal of these means.

3. Methodology

Through the research, the researcher sought to obtain the required information in order to reach the results for the sake of achieving the desired goals of this study.

4. Discussion

The Case Management System is considered a new system, created by the need. In this part of the study, the researcher reviews the definition of the case management system as follows:

- **Case Management Definition**

The term case management contains two concepts, one of the administrative and the other legal, and this calls for defining the administration and then defining the case. Accordingly, the researcher concludes to clarify what is meant by case management in this way:

- **What is Meant by Management?**

The administration is a word derived from the verb administer which means to surround and then to manage the thing. It is the name and the source of the administration, while the manager is the one who undertakes the consideration of the thing or whoever assumes the management of a specific part of the country (Al-Aboudi, 2009).

As for the terminology, there are many fields to define management according to the administrative doctrines, so that the researcher finds that the definition is determined according to the purpose for which the administration was established. Moreover, this calls for a general definition of management, as management in its general meaning is defined as “a kind of cooperation and coordination between different human efforts in order to achieve a specific goal” (Al-Turki, 2002).

Another definition defines it as “carrying out the work of forecasting and pre-planning and then carrying out the work of the organization and as a result the issuance of directives and orders that guarantee the progress of work, coordination and control over it” (Al-Tahiwi, 2009).

By extrapolating the above definition, the researcher notes the extent of the importance of administration. Therefore, the Emirati legislator tried to introduce this concept in the field of governmental institutions and departments. So, the legislator tried hard to employ the administration within his laws, and this is what he did when he introduced the civil advocacy management system.

- **What is Meant by the Case?**

The case is the word derived from the name of what is claimed, and it's the plural of cases. Case in the judiciary is a way by which a person asks to prove the right of others.

As for the terminology, the Emirati legislator leaves the burden of defining the case for jurisprudence and the judiciary, as it is the case for the majority of legislators. However, some jurists see it as the authority to resort to the judiciary to obtain or protect the right report, while others define it as the power to resort to the judiciary with the intention of reaching respect for the law.

By reviewing the definitions of the concept of case, it is possible to deduce its characteristics, the researcher aims to mention them according to the following:

1. It is a legal method: this is what distinguishes it from any other method (Al-Muhaimid, 2011).
2. A means of defense and protection of rights, obtaining or approving them: because the claimant of the right must resort to the competent authorities to determine that right, and he is not permitted to take his right into his own hands.
3. An optional and not compulsory method: the choice is with the person concerned to resort to the judiciary or waive his right for any reason whatsoever (Hamdallah, 2009).

4.1 Case Management System Definition

Through the combination of the two terms that make up the concept of the case management system, this system can be defined as the set of procedures aimed at organizing the lawsuit, gathering data, determining the substance of the dispute, discussing the settlement in the presence of the litigants, and using alternative means of settling disputes, reconciliation and arbitration.

Thus, against the litigants in the event that they violate what he decides, or refer the case file to the trial judge after preparing it and determine the schedule of litigation sessions before it. The aim is to ensure

that the lawsuit proceeds in a correct and systematic manner, and the case is decided in the fastest time and with the lowest costs for either the court or the litigants (Rawashdeh, 2010).

By examining and scrutinizing the above definition, we conclude the elements of the case management system, represented in:

1. Early judicial control of the case.
2. The presence of the litigants and their agents with the case management office to discuss means of settlement.
3. Determine and clarify the legal issues and facts subject of the dispute and disclose them to the case management person.
4. Encouraging the use of alternative methods of dispute settlement represented in mediation, arbitration and reconciliation.
5. Ensuring the implementation of orders issued by the Case Management Office by imposing procedures in the event of non-compliance with the implementation of judgments (Al-Manasara, 2012).

4.2 The Objectives of the Case Management System

The objective of creating a system for managing the case and developing it within a long period of time was not in vain. Rather, it was found to achieve a set of goals in their entirety aimed at overcoming the difficulties facing the litigation process, and this goal is: Keeping pace with scientific development.

- **Keeping pace with scientific development**

Those interested in the justice sector cannot ignore the developments in legislation, whether Arab or foreign, in order to keep pace with scientific development and employ it to serve litigation procedures.

- **Activating the Principle of Data Collection**

The case management idea contributes to activate the provisions of the law that required the litigants to commit themselves to restrict their data and submitting it to the court all at once and within a predetermined period (Al-Qudah, 2017).

- **Shortening Litigation Procedures**

It is indisputable that the value of justice rises and stabilizes in the society's conscience if the judiciary rulings are completed and fast, not limited by slow or complicated procedures. The researcher may realize in this regard that completed justice is not related only to shortening and simplifying litigation procedures in order to shorten the time period that takes the case to be deliberated in the courts, but it is also related to ensuring that judgments are executed expeditiously (Al-Manasara, 2012).

- **Affecting the Investment Process**

The countries of the world, including the UAE, have witnessed a revolution in most areas of life, including the economic field, which prompted the countries of the world to breathe in bringing capital

and creating a suitable environment for investors to check on their money. Since businessmen and investors are interested in the judiciary system in countries and its procedures and they take this into consideration when they are directed to invest in a specific country, as they tend to invest in countries where the judicial procedures are proceeding quickly (Rawashdeh, 2010).

- **Enhancing Judiciary Confidence**

The main goal of resorting to the judiciary is to obtain legal protection for rights, which is the basis of the case management offices. Consequently, they accelerate litigation procedures and reduce expenses, which achieves the litigants' goals in a shorter time and lower costs. Thus, to enhance the confidence in the judiciary, and the case management system contributes to restoring the prestige of the judiciary that was stolen as a result of the accumulation of cases and the slow pace of litigation procedures.

- **Developing Alternative Solutions to Litigation**

The adoption of the case management system is the best framework for activating and developing alternative solutions to litigation as it allows the case management person with the powers, he/she possesses and the opportunities to meet the parties to the dispute to discuss the case, review its details and evaluate the degree of its complexity. Thus, his/her endeavors to reach an amicable settlement through reconciliation or presenting the case is to a mediator or resorting to arbitration (Klub, 2016).

4.3 The Emergence of the Case Management System

The idea of case management goes through many stages until it became present, as many reasons were found to justify its necessity in all societies. In the past, the reason for the slow process of litigation procedures was not the number or complexity of cases brought before the courts, but the reason was the small number of judges and administrators. In the courts, as well as the lack of modern technology means that help in reducing time and effort, this is what forced decision-makers to make a tangible and clear change in the field of the judiciary (Rawashdeh, 2010).

One of the first modern countries to adopt the idea of a case management system in the United Kingdom, specifically in "England and Wales". Moreover, the British legislator organized it in the year 1900 AD, and in France, the legislator took this system according to the decree issued in 1935 AD in which the legislator introduced the system of the judge in charge of monitoring. The functioning of the courts is for the advancement of justice (Klub, 2016).

The United States also adopted this system, as the state of "Michigan" knows this system, and for the first time, it allows the judge to meet with the parties to the conflict two weeks before its consideration in order to try to reach a solution to this dispute. In 1958 Federal Judicial Centers were established, according to which it was allowed to appoint judges to administer the case (Rawashdeh, 2010).

The Jordanian legislator defined this system according to Law No. 20 of 2005 amending the Code of Civil Procedure, which stipulated the formation of a judicial administration called the "Civil Case Administration" (Al-Qudah, 2017).

The Egyptian legislator also defines this system according to the provisions of the National Procedure Law of 1883 AD, under the name of the judge preparing the case. Additionally, one may note that the legislator cancelled the work of this law in 1962, and he returned to work according to it in 2008, but this was restricted to economic courts only (Klub, 2016). It is noteworthy that the Kingdom of Bahrain and the State of the United Arab Emirates have stipulated within their laws to establish case management offices.

4.4 The Mechanism for the UAE Legislator to Regulate the Case Management System

The eyes of legislators, justice pioneers and specialists in judicial matters turn to find ideas that contribute to reducing the problems that prevent the achievement of the purpose of the judiciary. This means achieving justice in the shortest period of time while preserving the quality of performance. The Emirati legislator perseveres with the perseverance of many legislators who embraces the idea of establishing offices to administer the case. And for that, the legislator incorporates the idea of case management into the Federal Civil Procedure Law No. 10 of 2014 amending Federal Law No. 11 of 1992 as Article 42 bis stipulates the establishment of offices.

To administer the case, the law specifies in accordance with the provisions of Article 42 bis in its five paragraphs the body entrusted with the formation of these offices: the system of work in them, and their tasks, including the registration and announcement of the case and the exchange of notes and experience reports between the litigants. Also, for leading to their referral to the issues of the matter, in implementation of the will of the legislator, the Minister of Justice issued Decision No. 140 of 2005, which provides for the establishment of an office for case management in the courts of the United Arab Emirates.

The regulations for the work of case management offices were issued and a guidebook for work inside the case management offices. The heads of the judiciary departments in the UAE Federation issued decisions requiring the establishment of Cases management offices. The researcher refers to the chronology of the emergence of this system in the United Arab Emirates, as follows:

- **Federal Civil Procedure Law No. 10 of 2014 amending Federal Law No. 11 of 1992:**

Under the provisions of Article 42 bis of this law, the Emirati legislator introduced the idea of a case management system for the UAE judiciary. - Each according to its competence - the authority to establish an office called "Case Management Office".

- **Minister of Justice Decision No. 140 of 2015 regarding the establishment of a case management office in federal courts and defining its work system:**

According to this decision, the UAE Minister of Justice established an office for case management in every federal court of different degrees, and this decision indicated the formation of a case management office and its name the case management person pursuant to this decision shall be the case manager.

- **Federal Decree-Law No. 10 of 2017 amending some provisions of the Civil Procedures Law promulgated by Federal Law No. 11 of 1992:**

Under this decree, the legislator added a number of articles according to which it approved the issuance of regulation for the regulation of civil procedures, defined the controls of assignment in cases, and introduced a system of employment. Remote communication technology in civil procedures, and many contemporary civil procedures.

- **Federal Decree-Law No. (18) of 2018 amending some provisions of the Civil Procedure Law promulgated by Federal Law No. (11) of 1992:**

According to this law, the legislator cancelled a number of previous articles and clarified the case management office's role in appeals as well as clarifying the case management office's role in cassation. Under this law, the legislator amended Article 162 of Law No. 10 of 2014 regarding the appeal.

- **Decision No. 57 of 2018 regarding the bylaws of Federal Law No. 11 of 1992 regarding civil procedures:**

This decision is the basis for the work of case management offices in the Emirates, as the legislator, according to this decision, defined the term of the judge in charge of managing the case, as he explained According to the decision, the notification procedures, duration and timing, and the mechanism for filing a case through the case management office, and the powers of the judge supervising the case management.

- **Minister of Justice Decision No. 260 of 2019 regarding the procedural guide for organizing litigation using electronic means and remote communication in civil procedures:**

This decision represents the main reference in civil procedures that have been organized using electronic means and remote communication and is complementary to Minister of Justice Decision No. 140 of 2015 Concerning the establishment and functioning of the case management office.

- **Cabinet Decision No. 33 of 2020 amending some provisions of Cabinet Resolution No. 57 of 2018 regarding the regulatory regulations for Federal Law No. 11 of 1992 regarding civil procedures:**

This decision is the most recent legislation adopted by the UAE legislator within the framework of its regulation. For the work of the case management offices, and it is the basis on which to know the formation of the case management office, the office divisions, the names of those in charge, the functions of the case management offices and the reference in getting to know the rules and provisions of the announcement are set by the UAE legislator. The powers of the case reporter, the supervising judge, and the role of case management offices are in the appeal combined with cassation, assignment and petition.

4.5 Alternative Dispute Resolution Methods

One of the axioms that the researcher knows is that justice is the basis of property, Islam is the religion of justice and tolerance. The Islamic judicial system is based on the principles of justice, equality and the realization of truth, and this is what the behavior of Prophet Muhammad and his honorable companions (Al-Qatawneh & Kanakaria, 2003). However, the case administration system is a new

system, so how can one stop the idea of the emergence of this modern system and its existence in Islamic history. Thus, the fact that resorting to the judiciary may not meet the needs of the parties to the conflict. Moreover, taking this path requires submission to compulsory solutions to which the parties to the lawsuit are bound, it may be a cause of wasting the right of those who do not have the evidence, even if he/she is right. In addition to generating grudges and hatred among the disputants, therefore, the Prophet says, "I only judge you as I know". On the one hand, the increase in the number of cases before the courts arising from the bifurcation of people's relations affects the work of the judiciary. On the other hand, Islam creates alternatives that achieve justice based on mutual consent and consensus, before the litigation stage in which public rights may be lost (Hawadef & Hamdi, 2015).

The basics and applications of the Islamic judiciary were born in the birth of the message of Islam and this is fixed by the texts of the Qur'an, and the guidance of the Prophet and the actions of the honorable companions. As Islam approved reconciliation, arbitration and mediation as alternative methods of resorting to the judiciary, as these methods aim to end disputes before they are brought before the judiciary court. Thus, to achieve the speed of adjudication of the case and the low costs that it is the essence of the case management offices' work, and this calls for details as follows:

A. Reconciliation

Humanity has been known since ancient times the peace system, as it was urged by all the monotheistic religions, including Islam. Peace was defined as: "An agreement is concluded between a plaintiff and a defendant, which is concluded by mutual consent before resorting to the judiciary" (Muhannad, 2016).

This contract according to the theory of Islam is based on tolerance and the right holder has waived some of his rights in exchange for the woe of the dispute and not resorting to the judiciary. This is the purpose of the case management system in its modern form. The purity of souls and their comfort are better than those that are achieved through grudging and strife between disputes through the judiciary, while for Islam it is a religion based on tolerance and sometimes exculpation.

In Islamic culture, there is no shame for the righteous to forfeit some of his rights in order to seek reconciliation, and reconciliation is based on the principle of "goodness of soul and compromise between the two parties". Islam urged reconciliation, so God Almighty said: "And if two parties or groups among the believers fall to fighting, then make peace between them both", and said "The believers are nothing else than brothers (in Islâmic religion). so, make reconciliation between your brothers, and fear Allah, that you may receive mercy". As the Prophet said, "Reconciliation is permissible among Muslims except for a reconciliation that is forbidden is permissible or permissible for a forbidden reference".

It was also mentioned in the book that Umar ibn al-Khattab said, "Repel the litigants so that they can be reconciled" (Soualem, 2014). Moreover, article 1826 of the Code of Judicial Rulings stipulates: the judge recommends and notifies the reconciliation of the two parties, once or twice in the litigation between relatives, or between foreigners in which the parties' desire for reconciliation is hoped, if they agree to their favor according to the issues listed in the reconciliation book, otherwise not the trial takes place (Al-Manasara, 2012). The Muslim jurists in their judiciary preserve peace as a mechanism for

resolving disputes, and they excelled in activating its rules and enumerating its cases, pillars and conditions (Soualem, 2014).

This is because the judiciary is only legislated in Islam to achieve the interests of the people by restoring grievances to their owners. If their interests are achieved without resorting to the judiciary, then it is the goal for which the judiciary was legislated. We find that one of the most important contemporary legal manifestations is the openness to reconciliation and the broadening its horizons. Reconciliation has proven its worth and its impact until it has become a tangible reality that states have organized and approved. Even established rooms for it within official institutions, local bodies and centers, as it has become one of the most important alternative methods and means, as it has become parallel to the judicial bodies.

Thus, we find that the UAE legislator has a special law that regulates its means and methods, which is Federal Law No. 17 of 2016 Establishing Conciliation and Reconciliation Centers in Civil and Commercial Disputes. The Emirati legislator has found ways to resolve disputes, whether they are civil, labor, or personal statuses, before the lawsuit is formally filed before the courts. Where he created conciliation committees, such as, commercial dispute resolution committees, family guidance committees, settlement committees and reconciliation committees, rental dispute settlement committees, labor dispute committees, and settlement committees. These committees aim to resolve disputes amicably and reduce the burden of judicial fees for dealers. In the event of the impossibility of reaching an amicable resolution, the litigant party can request to obtain a "no objection" letter from the relevant reconciliation committee, and submit the case sheet to the competent court.

1. Mediation

Islamic law has been the forerunner in reaching alternative methods for resolving disputes, whether between tribes or those between individuals in the same family, and mediation was one of the most important alternative means adopted by (Harbeed, 2009). Mediation was defined as " One of the mechanisms of alternative solutions to settle existing disputes between people, and it is a friendly way to end conflicts, based on compromise and conciliation. Its goal is to prevent recourse to the judiciary that result in hatred among people. Muslim jurists have been concerned with defining the nature of mediation and the conditions and eligibility of the mediator (Shushari & al-Din, 2010).

Mediation has a set of characteristics that distinguish it. These characteristics are: It reduces the burden on the judiciary, it does not affect the independence of the judiciary. Also, it has a degree of flexibility and freedom, and contributes to shortening the duration of the conflict and speeds implementation of resolution. Moreover, it is characterized by confidentiality and privacy and preserving the friendly relations existing between the conflicting parties, and avoiding risk, and it has several types that can be presented as follows:

→ **Judicial mediation:** the mediator is appointed by the case management judge (as in Jordan) or the magistrate's judge, and he is called the mediation judge. The mediation judge tries to resolve the dispute within a specified period of the court.

- **Private Mediation:** The mediator is chosen from a pre-set list that includes the names of people with experience, impartiality and integrity. They are appointed by the Minister of Justice and the President of the Judicial Council, and their specializations vary between lawyers, retired judges, and professionals.
- **Consensual mediation:** The mediator in it is called the consensual mediator, whereby the disputing parties submit a request to the magistrate or case management judge to refer the dispute to an appropriate, competent, experienced and impartial mediator, who is chosen by their own will.

Islamic Sharia and man-made laws stipulate a set of conditions for whoever has the mediator's mission. These conditions are: "goodness, good conduct and behavior. Knowledge, experience, honesty, impartiality, integrity and transparency, respect for the parties and their views, and reality in proposing solutions and converging views, justice." (Aborkbah, 2011).

2. Arbitration

It is considered one of the means of settling disputes through alternative methods, and it is ranked below the judiciary. The litigants themselves are seeking their resolution, not the authority or whoever takes his place among the holders of guardianship over the people, similar in the case of the judiciary (Al-Qudah, 2017).

Arbitration has been defined as (Choosing a ruler to rule between two adversaries). The Judicial Rulings Magazine defined it as (Choosing a ruler between two adversaries with their consent to settle their adversary and their claims) (Shihab, 2016).

the International Islamic Fiqh Council in Jeddah defined it in resolution (No. 91) as (an agreement between the two parties who have a specific dispute to take over whoever settles in a dispute between them by binding rules that applies the Sharia, which is legitimate, whether between individuals or in the field of international disputes).

Islam has legalized and encouraged arbitration, and the evidence for that is the words of the God Almighty said If you fear a breach between them twain (the man and his wife), appoint (two) arbitrators, one from his family and the other from her's; if they both wish for peace, Allâh will cause their reconciliation. Indeed, Allâh is Ever All-Knower, Well-Acquainted with all things. (An-Nisa, 35).

Muslim jurists have given great importance to arbitration. They have identified its advantages and characteristics, and what came in the characteristics of arbitration is that the arbitrator sees justice and follows it, as it is distinguished as a private judiciary whose source is mostly agreement because it stems from the freedom of the parties and then the task of the arbitrator is the same as the task of the judge. The decision issued by the arbitrator Like the decision issued by the judge. On the other hand, arbitration does not have the character of a general judiciary, which is the judiciary of the state and the ordinary judiciary (Al-Morshedy, 2016).

Arbitration is a special method for settling disputes by an arbitrating tribunal to which the disputed parties are assigned the act of arbitrating according to an arbitration agreement without resorting to the regular

judiciary. This is by Finding a binding solution to a dispute between two or more parties through one or more arbitrators who derive their authority from a special agreement between the parties of the dispute. After that, they take their decision on the basis of the aforementioned agreement without being appointed by the official judiciary to perform this task. Arbitration is based on two important foundations:

a) The consensual basis for arbitration

An agreement between the parties on this, and in this way, arbitration differs from the judiciary as it is optional, while the judiciary is obligatory and the freedom of the parties in the agreement on arbitration extends to the choice of arbitrators, the language of the arbitration and its location, and the type of law applicable to the arbitration procedures. Also, a special arbitration body can also be chosen.

b) The judicial capacity of the arbitration

The duties of the jury are to settle the dispute, to give a final decision in which it addresses all the defenses submitted by the litigants to decide on the subject of the dispute between the litigants. It is thus similar to the judiciary, but it is different from the alternative methods of resolving disputes as the arbitrators' decisions are binding on the parties. Arbitration has a set of advantages, including speed in resolving the dispute with the least time, effort, and cost, and complete confidentiality of the dispute. Arbitration is associated with restorative justice since the decisions of the arbitrator or the arbitral tribunal are executed voluntarily without resorting to the judiciary.

Arbitration is distinguished by the fact that it avoids the possibility of lengthy procedures for settling disputes through trial courts (Daoud, 2012). In this regard, we point out that the UAE legislator has stipulated the implementation and enforcement of arbitration as an alternative means of resolving disputes and has regulated its provisions through Federal Law No. (6) of 2018. It is worth noting that the Emirati legislator derives most of its legal principles and rules from the provisions of Islamic law. Based on the above, it becomes clear that the religion of Islam has been the first to adopt regulations that are of lower cost and faster to resolve litigations contributing to reducing the number of cases before the courts which is the essence of the work of lawsuit offices.

5. Conclusion

The judiciary is one of the most important agencies in the country as It works to achieve the public interest by settling disputes arising between individuals and thus contributing to the state of stability in the country. The right to litigation is one of the most prominent rights guaranteed to individuals by international charters and national constitutions. Islamic law guarantees this right and elaborately regulates it. It is the right of citizens to resort to their natural judge when a legal problem arises affecting their social position or interest. The emergence of case management is a natural reflection of what the courts have been through in the countries. The backlog of cases in the courts has led to a delay in settling disputes and slowing the course of justice, not to mention the ineffectiveness of alternative dispute resolution methods due to the change in people's demeanors, prevalence of hatred, and people's desire for revenge. Case management has contributed to reducing the backlog of cases in the courts and the

slow progress of litigation procedures in the courts. The study concludes with a set of findings and recommendations. We review them as follows:

1. The case management system is modern compared to the provisions approved by Islamic Sharia law for settling disputes by alternative means.
2. The failure to apply the provisions of Islam in the judiciary and other various aspects of life has led to more injustice and a waste of rights.
3. The judiciary among the people in their antagonism is one of the most important mandates that Islam has shown because it achieves justice and equality.
4. There are real problems threatening the judicial system in the countries, which called for the creation of a case management system.
5. The case management system is not an alternative means of settling disputes, but rather a set of procedures that contribute to expediting the settlement of cases.
6. The researcher recommends the necessity to implement the provisions of Islam in the judiciary and other different aspects of life, because of their inclusiveness and perfection.
7. The researcher recommends the necessity of organizing a special law, independent of the laws in force, that organizes the work of case management offices, and clarifies its duties and the powers of those in charge of it.

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