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A modern, worldwide dispute resolution system inspired by Islam

I recently had the good fortune to become acquainted with a group of mediators from a Muslim community who have been doing admirable work around the globe for the past three decades mediating disputes and training mediators of all faiths.

While religious-based ADR is not without controversy, mediators, attorneys and mediation programs in the United States may benefit from some of its practices and institutional knowledge, particularly in cross-cultural disputes.

The Shia Ismaili Muslims are an ethnically and culturally diverse community of 15 million people living in more than 25 countries who practice moderate Islam and follow the Aga Khan as their spiritual leader.

In 1986, Prince Karim, the fourth Aga Khan, and 49th hereditary imam of the Ismaili, set out to establish a worldwide dispute resolution system to serve the Ismaili. The goal was to incorporate modern mediation techniques and build on cultural traditions of resolving disputes amicably.

Born in Switzerland, raised in Kenya and educated at Harvard, the Aga Khan lives in France and holds a British passport. He is a world leader known for balancing business, Islam and what has been described as a jet-setting lifestyle (including racehorses, yachts and estates).

He is also known for his enormously successful economic development projects around the globe and his dedication to building pluralism.

The mediation program is part of the Conciliation and Arbitration Board, and the CAB itself is part of the Aga Khan Development Network, a large organization that employs 80,000 people around the world and supports Ismailis in nearly all aspects of life. While the program offers both mediation and arbitration services, this article focuses on the mediation program.

The CAB mediators, more than half of whom are women, are part of a structure of international, national, regional and local boards.

For example, in the United States, the CAB has seven regional boards.

The mediation model used by CAB mediators comes from the Centre for Effective Dispute Resolution in London where the original CAB mediators were trained and is a "facilitative" or non-directive model similar to that of Chicago's Center for Conflict Resolution.

Parties are encouraged to find their own solutions to disputes with the assistance of neutral and impartial mediators. The mediators attempt to promote communication between the parties and employ such active listening skills as summarizing, reflecting and reframing parties' statements.

The CAB assesses satisfaction and efficacy through participant evaluations, including assessing whether confidential agreements remain confidential.

CAB mediators typically use a co-mediation model, where two mediators work together, which can be very effective in cross-cultural situations or where one mediator has technical expertise and the other has legal expertise. The program takes cases involving business, family and other civil disputes, but no criminal cases.

According to the man tapped by the Aga Khan to found the mediation program, Mohamed Keshavjee, the CAB operates within the laws of each country and the mediators do not impose solutions based on Sharia but appeal to

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Islamic ethics of reconciliation, compromise and forgiveness. (For more on this see his book, "Islam, Sharia and Alternative Dispute Resolution.")

Keshavjee was recently in Chicago on his way to receive a peacemaking award in Atlanta that honors the lives of Mahatma Gandhi, Nelson Mandela and



Teresa F. Frisbie is the director of the Loyola University Chicago School of Law Dispute Resolution Program; a mediator and arbitrator at ADR Systems of America; a member of the National Academy of Distinguished Neutrals; and of counsel to DeGrand & Wolfe P.C.

Daisaku Ikeda, a Buddhist founder of peace research institutions around the world.

A British barrister with a doctorate in ADR from the University of London, author and international expert on cross-cultural mediation, from 2000 to 2012 Keshavjee led Ismaili and non-Ismaili mediators in training more than 800 mediators in 20 countries in family and commercial mediation. As part of this effort they also trained many non-Ismaili mediators in countries such as Uganda, Tanzania, Canada, Pakistan, Syria and Portugal.

One of the highlights of the CAB program is the anonymous database tracking the mediations including demographics and information on how each case was resolved. Having such a database is extremely useful.

First, the database can help mediators assist parties in devising creative solutions. For example, in a dispute between two partners, the mediator might look at the database and note that in previous partnership disputes, the settlements involved such non-monetary terms as a donation to charity in lieu of payment to the

other partner, increased access to books and records, an employment agreement, or a buyout, and could discuss with the parties the existence of such options (being careful not to suggest a particular outcome).

While many U.S. mediators draw on their own experiences or what they have read to help the parties generate possible solutions, given the confidential nature of mediation this information is often difficult to access.

Perhaps more importantly, the database allows the program to detect trends in disputes based upon the demographic information and refer that information to other Ismaili social support programs, resulting in such things as premarital counseling for couples in a particular age group with a checklist of topics to discuss or programs to educate potential business partners in a particular location about the advantages of a written agreement with exit strategy provisions.

Another strength of the program is the cross-cultural aspect. When CAB trainers train mediators in other countries, according to Keshavjee, they try to design a program consistent with the laws of the country, whether common law or civil law, and to create a culturally sensitive program by getting feedback from the local people, often by inviting the elders and listening to their ideas about mediation and incorporating changes to the mediation model as the training takes place.

Similarly, because the Ismaili are spread around the world, a typical Ismaili dispute could involve an individual from Afghanistan living in New York and someone from South Africa. CAB mediators have had to learn how to make mediation work in such circumstances.

It is a shame that given recent terrorist attacks in the name of Islam and the news coverage surrounding such events, writing about Muslims engaged in peacemaking feels like a man-bites-dog story. This group of Muslims has a lot of mediation expertise to share.