MAKING PROGRESS: BRUNEI DARUSSALAM AS A HUB FOR ARBITRATION OF ISLAMIC FINANCIAL DISPUTES IN ASIA

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I. INTRODUCTION

A 2012 Huffington Post article reports that alternative dispute resolution (ADR) for family law may cost USD 500-3,000 whereas the same case may cost USD 15,000-35,000 if brought to court.¹ Based on this estimation, at least for family law disputes in the United States, litigation may cost five to 70 times more than ADR. The generally higher costs of litigation are attributable to its rigid need for formal procedures and rules of evidence.² In addition, litigation also consumes much of a person’s time, possibly tarnishes their public reputation and sours their relations with others. From these facts alone, there is no denying that ADR comes with glaringly greater benefits than courts. Thus, it would be a wonder why litigation is still the default method of resolving disputes in Brunei, if not for the fact that ADR is still relatively unknown there and because its specifics are yet to be sorted, which will be discussed later. This article, however, will not focus on the benefits of ADR over litigation, which by now is already quite well-known and widely written about. This article will instead argue that, in consideration of the country’s history and customs, ADR should be utilised far more than it is now. The current situation with ADR in Brunei will also be examined, which will show considerable potential for further development of the mechanism, perhaps even to the point of the Sultanate becoming a niche arbitral hub in the region.

II. ADR: THE BRUNEIAN WAY

What is ‘the Bruneian way’? A common and most definitely acceptable answer is a way that adheres to the national philosophy, Melayu Islam Beraja (MIB) or in English, the “Malay Islamic Monarchy”. It refers to the predominance of Malay customs and traditions, the application of Islamic values and the utmost respect to the monarchy.

In the Malay culture and Islamic religion, there is a concept called silaturrahim, meaning ties of kinship and relationship. The seriousness of breaking such ties in the Malay Islamic culture cannot be overstated. For this reason, it is not uncommon in Brunei for an extended family to live together in the same area and at times, even in the same house. It is also customary for Bruneians to regularly visit their relatives, most especially on special occasions such as eid ul-fitr.

Having said all of this, it is undeniable that legal disputes can and have, countless times in the past, destroyed families and friendships even to the point beyond repair and reconciliation.³ In Brunei, this is

especially applicable to disputes concerning inheritance, which can be resolved civilly through mediation as has been done before. On that note, one of the most commonly-cited benefits of ADR is that because it is often confidential and encourages cooperation rather than contention, it preserves relationships and saves face better than litigation does.\footnote{Benefits of alternative dispute resolution’ \textit{(New South Wales Local Court)} \<www.localcourt.justice.nsw.gov.au/Pages/adr/benefits_adr.aspx> accessed 31 March 2018.} Further, there is the fact that ADR is notably more cost- and time-effective. As stated earlier, it is estimated that litigation may cost up to 70 times more than mediation, a common type of ADR mechanism.\footnote{Danois (n 1).} Keeping this in mind and that, according to a study by an Australian House of Representatives committee, financial strain is a major factor in family breakdowns,\footnote{‘Chapter 4: Factors contributing to marriage and relationship breakdown’ \textit{(House of Representatives Committees – Parliament of Australia)} 53. \<www.aph.gov.au/Parliamentary_Business/Committees/House_of_Representatives_Committees?url=/laca/famserv/chap4-1.pdf> accessed 9 March 2018.} it is easy to see why familial relations deteriorate after a court battle, not only between opposing parties, but also within the same side of the dispute. Again, these all support the idea that ADR processes, compared to litigation, give people a chance to ease relationship tensions thus maintaining their \textit{silaturrahim}.

Additionally, Bruneians generally prefer to settle disputes out of court through unofficial mediation and other informal measures, as do the people of many other Asian societies according to an Asian-Pacific Economic Cooperation (APEC) report: ‘Parties from the Asian region are generally averse to referring disputes to the courts. There is a strong traditional cultural preference here to resolve disputes by discussion and by compromise.’\footnote{Ann Black, ‘Alternative Dispute Resolution in Brunei Darussalam: The Blending of Imported and Traditional Processes’ (2001) 13(2) p. 4 Bond Law Review, 4 <http://epublications.bond.edu.au/cgi/viewcontent.cgi?article=1208&context=blr> accessed 9 March 2018.} When involved in a road accident for example, most Bruneians prefer to settle it right away without police or judicial involvement, with the wronged party getting compensated for the cost to repair their vehicle often immediately in cash. Otherwise, Bruneians would opt to ‘just let it go.’ More simply put, if there were a scale of the most litigious nation to the least, the United States would be on one end of the spectrum\footnote{Armstrong Williams, ‘Most litigious nation in the world’ \textit{The Hill} (11 October 2011) \<http://thehill.com/blogs/pundits-blog/economy-a-budget/186667-most-litigious-nation-in-the-world> accessed 31 March 2018.} and Brunei would be on the other. In conclusion, ADR methods would fit in nicely with the way of life in Brunei and the people’s easy-going temperament, and further implementation of the mechanism would encourage Bruneians to not simply ‘biarkan tia’ (Bruneian Malay for ‘let it go’) in the face of injustice and wrongful treatment.

\section*{III. ADR IN BRUNEI’S PAST}

It is worth noting that ADR, particularly mediation, has historically been Bruneians’ preferred mode of dispute resolution.\footnote{‘Benefits of alternative dispute resolution’ \textit{(New South Wales Local Court)} \<www.localcourt.justice.nsw.gov.au/Pages/adr/benefits_adr.aspx> accessed 31 March 2018.} Especially in the past and sometimes even today, people in conflict consult village headmen (called \textit{penghulu} and \textit{ketua kampung}), religious leaders and scholars (\textit{imam} and \textit{ulama}) as well as elderly relatives to settle their differences. Further, before the establishment of the British Residency in the early 20th century, more serious disputes, particularly those involving valuable property or people of high status, would come before district chiefs and even the Sultan himself who would act as mediators/arbitrators. In fact, it is believed that formal and sustainable instruments of litigation (courts,
legislative measures, etc.) were only established in the country last century,\(^{10}\) thus perhaps explaining the people’s long-standing predilection for less formal ways of conciliation. Even after more than a century of development of its judicial system, Brunei still sees a clear preference for ADR for certain matters, namely personal matters (e.g. marriage, inheritance, custody, etc.) and surely, issues concerning labour, construction, securities regulation and a growing number of other business disputes.\(^{11}\)

### IV. ADR IN BRUNEI TODAY

As repeatedly mentioned throughout this article thus far, ADR is so seriously under-utilised in the country that not only are there no official figures as to the number of cases that use the mechanism, an estimation is even impossible.\(^{12}\) An officer of the Attorney General’s Chambers, Hashimah Taib, wrote that this lack of use may be attributed to a number of factors, namely:

1. The public’s persistent reliance on courts;
2. The costly, time-consuming and inconvenient nature of ADR; and
3. The current lack of real need for ADR.\(^{13}\)

Regarding the first point, while it is certainly true that, compared to ADR, the Bruneian public markedly leans towards litigation, it is arguable that this is due to an unfortunate lack of awareness of ADR and its many benefits over litigation.

As for the second point, although it seems to be in direct contradiction to the countless other sources saying the opposite,\(^{14}\) the author was actually writing strictly in the context of Brunei. Even now – years after the article’s publication – dedicated arbitrators are still lacking in the country, as is a well-established arbitration centre like the Kuala Lumpur Regional Centre for Arbitration. Nonetheless, we still maintain that ADR, for certain kinds of legal matters, is inherently a more suitable option than litigation and given more time and effort to expand the ADR scene, this would be evident in the Sultanate as well.

Lastly, the writer Hashimah Taib above also seems to suggest that because courts require disputing parties to attend a pre-trial conference in a preliminary effort for them to reach a settlement which ‘has so far proven to be effective’, mechanisms such as arbitration and mediation are not actually needed at this point in time. However, the need to develop ADR at this unpredictable time in this ever-evolving world goes beyond whether or not it is needed now. It may come without saying that to achieve success, one must prepare for the future. As this article will discuss later, Brunei’s economy is seriously undiversified and currently too dependent on oil and gas which may very well deplete sooner or later.

An obvious solution to this problem (which also happens to be the mainstay of the government’s plan for

\(^9\) Black (n 6) 5.
\(^{12}\) ibid 9.
\(^{13}\) ibid 9-10.
economic diversification) is to attract significantly more foreign direct investments (FDIs)\textsuperscript{15} which an Organisation for Economic Co-operation and Development (OECD) report cites as ‘a major catalyst to development’\textsuperscript{16} as evidenced by virtually all developed nations.\textsuperscript{17} One of the first steps to attract foreign companies is to try and accommodate their needs and desires which commonly include a need and desire for a convenient and trustworthy mechanism for resolving legal disputes which, coming as no surprise to anyone, is arbitration. A 2013 survey ‘Corporate choices in International Arbitration: Industry perspectives’ saw overwhelming support for arbitration over litigation, adjudication/expert determination and mediation with more than half of the participating corporations ranking it as their most preferred dispute resolution mechanism.\textsuperscript{18} Such preference is so widespread that ‘ADR has become a standard part of commercial dispute resolution.’\textsuperscript{19} Ergo, how does Brunei expect to attract much FDI when it has yet to properly build its ADR infrastructure? It is not, or at least should not be, a waiting game. While the country is waiting and hoping for a sudden influx of foreign companies’ operations (incorporation of subsidiaries in Brunei, transfer of technologies, etc.) they may find more outlets and opportunities in other nations.

Further, when a foreign company is considering to invest in Brunei, they would normally ask two questions. Firstly, whether or not they can own land. Secondly, whether or not they can sue the government. They usually turn away because they do not like the answers to the questions, particularly the second one. Section 84B of the Bruneian Constitution provides that ‘His Majesty [or any person acting on [his] behalf, or under [his] authority...shall not be liable to any proceedings whatsoever in any court...’\textsuperscript{20} In short, no one, including foreign investors, can sue the government. Arbitration may offer a solution to prospective foreign investors’ concerns regarding this issue.

\textit{iv.i. Arbitration Act (Cap. 173)}

The Act, which came into force in 1994, is the primary legislative instrument governing commercial dispute resolution outside of courts in Brunei. Under section 2, it defines ‘arbitration agreement’ as:

\begin{quote}
\textquote{[A]n agreement in writing (including an agreement contained in an exchange of letters, facsimiles or telegrams) to submit to arbitration present or future differences capable of settlement by arbitration whether an arbitrator is named therein or not.}\textsuperscript{21}
\end{quote}

\textsuperscript{14} Allison (n 2).
\textsuperscript{20} Brunei Constitutional Documents 2008 (Consti 2008) s 84B (Brunei Darussalam).
In addition to covering *ad hoc* submissions of existing disputes, this is also a validation for conflicting parties to use arbitration as a method for dispute resolution, should their contract include a clause providing the use of such mechanism.

Coming back to the above issue of the Brunei government’s immunity from ‘any proceedings whatsoever in any court’ or lawsuits, arbitration does not violate this constitutional assurance and given the confidential nature of arbitral proceedings, the mechanism is even viewed favourably by the government who commonly include arbitration agreements in procurement contracts.\(^{22}\) In addition, aggrieved parties are not at all prohibited from negotiating a settlement with the government. To reiterate, arbitration is not just inherently advantageous, it even has the power of shifting economics and bringing about development in such a way that its proper integration in a government’s legal infrastructure would attract foreign investors, who notably favour this ADR process, to conduct business with the said government, effectively creating numerous employment opportunities, diversifying its economy and so on.

**V. ASSETS AND CHALLENGES**

\[v.i.\] **Brunei’s Assets to Become Regional Arbitral Hub**

Besides the Arbitration Act abovementioned, the other two legal instruments governing the conduct of arbitration in Brunei or involving Bruneian nationals, residents or corporate entities are the Arbitration Order, 2009 and International Arbitration Order, 2009\(^ {23}\) which are enforced under article 83(3) of the Bruneian constitution.\(^ {24}\) As it stands, non-traditional means of dispute resolution in the country, particularly arbitration and mediation, are primarily utilised in the *kadi*’s (an Islamic judge’s) chambers for marital conciliation. One could say that the establishment of these orders marked the point at which the Bruneian government started to put more serious efforts into developing ADR processes to be applied beyond those chambers and in as many other civil matters as possible. However, particular attention has often been given to commercial disputes and not, for example, the equally common family conflicts over inheritance or disputes arising out of road accidents.

Following the enactment of the 2009 orders, the Brunei Darussalam Arbitration Centre (BDAC) was established five years later in 2014.\(^ {25}\) Its vision is ‘to be a centre for domestic and international commercial arbitration and mediation’ while its mission is ‘to provide excellent and efficient service in promoting arbitration and mediation as a preferred mode of settling disputes’,\(^ {26}\) statements that are evidently yet to be achieved. We say this because, for one, litigation is apparently still the preferred

\(^{21}\) Brunei Arbitration Act (Cap. 173) (ArbAct) s 2 (Brunei Darussalam).


\(^{23}\) Dr Colin Ong, ‘International Arbitration 2017 | Brunei’ (*International Comparative Legal Guides*, 24 July 2017) s 1.1

\(^{24}\) Consti 2008, s 83(3), 143.

\(^{25}\) ‘Establishment of the Brunei Darussalam Arbitration Centre’ (*ZICO*, 29 March 2017)

\(^{26}\) ‘Our Vision and Mission’ (*Brunei Darussalam Arbitration Centre* )

method of dispute settlement in Brunei and secondly, other establishments in the region such as the Singapore International Arbitration Centre (SIAC) and the Kuala Lumpur Regional Centre for Arbitration (KLRCA) are significantly more prominent as centres for international commercial ADR. Further, there are no official statistics on the number of cases the Centre sees annually and as mentioned earlier, this may be indicative of its underutilisation. This is a sad reality that may be attributed to the public and businesses’ lack of exposure to such new methods of conflict settlement as well as their (for now) lack of trust in the system. Nevertheless, these all point to the fact that at the very least, the Sultanate has a decent foundation for the further development of and perhaps even a breakthrough for its ADR scene such as an increasing regional recognition of BDAC as a hub of Islamic financial dispute arbitration in ASEAN.

That said, given the other remarkably more successful arbitration centres in the region that are being used for international disputes, at this point BDAC may not have a chance to replace or even compete with them, unless the centre suddenly finds a niche which, in view of Brunei’s Islamic background and the efforts its government has been putting into the industry, may be a focus on Islamic financial conflicts. This would be very fitting since the nation has been dubbed as a potential hub of Islamic finance, a mission the government is taken with and has been working fervently towards achieving, which culminates in the Bruneian Islamic finance market being ranked ninth in the world last year while Malaysia was the best performer who, additionally, is also now looking at becoming ‘the centre of arbitration with regards to Islamic financing’. This brings back the issue of competition for Brunei. Although one could say that there is room for multiple hubs, when private individuals, businesses and other institutions flock to one centre, the others are arguably ‘hubs’ by name only. But we shall elaborate more on this later in this article. All in all, not only does Brunei have a decent foundation for the further development of its ADR infrastructure, it also has the enthusiastic support of those in power to begin this endeavour.

While the arbitration act, orders and centre discussed above are the foundation for the ADR movement in Brunei, the country also has a striving foundation in Islamic finance. For nearly three decades now, the Sultanate has had its first Islamic financial institution/bank, the Perbadanan Tabung Amanah Islam Brunei.

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27 Wei Ming Tan, ‘Singapore Confirms Status as Asia’s Most Sought-After Dispute Resolution Hub’ (Singapore International Arbitration Blog, 14 June 2016) <https://singaporeinternationalarbitration.com/2016/06/14/singapore-confirms-status-as-asias-most-sought-after-dispute-resolutio
(TAIB) or in English, the Brunei Islamic Trust Fund Corporation. Another prominent Islamic bank is the Bank Islam Brunei Darussalam (BIBD) establish in 2005 with the merger of the Islamic Bank of Brunei (renamed from the International Bank of Brunei in 1991) and Islamic Development Bank of Brunei (converted from the Development Bank of Brunei in 2000). There are numerous other Islamic financial institutions in the country such as the insurance company Takaful Brunei Darussalam and the Centre for Islamic Banking, Finance and Management under the governmental Monetary Authority of Brunei Darussalam. In addition to all these establishments, the Islamic Banking Act (Cap. 168) was enacted in 1991 along with the International Banking Order, 2000 the next year. These all display the ardent devotion of the Bruneian government into advancing its Islamic finance industry, a worthwhile and succeeding venture given its rise in global rankings as well as such successes as BIBD being among the 20 strongest banks in the Asia-Pacific. On this note, when asked what makes Islamic finance in Brunei globally competitive, the bank’s former managing director said that, ‘BIBD is among the only Islamic institutions globally that leads its national industry.’ In short, given all these achievements and the country’s devotion to and decades of experience in Islamic finance, Brunei would be ideal as the regional centre of Islamic financial management, including the arbitration of disputes in this area.

Not only does Brunei have the foundation to back such ambition, it also has the means to achieve it. Since the discovery of its primary source of revenue, oil and gas, in the 1920s, the Sultanate has enjoyed economic prosperity and one of the highest gross domestic products (GDPs) per capita in the world. This wealth, however, is being threatened by the economy’s serious lack of diversification as mentioned before, though this issue is at the forefront of the government’s concerns to be remedied. Only time will tell if their efforts will prove effective. Regardless, this current prosperity would mean that the government could easily allocate resources and target efforts towards establishing BDAC as a regional ADR hub and branding it as having a niche for Islamic financial disputes. Still, having a solid foundation and abundant resources is not adequate to push an enterprise into international eminence. In the words of the CEO of a digital financial advisory Sallie Krawcheck: ‘Networking is the no. 1 unwritten rule of success in business.’ Brunei has had the fortune of being part of worthwhile international bodies and initiatives such as the Association of Southeast Asian Nations (ASEAN), Asia-Pacific Economic Cooperation (APEC), Organisation of Islamic Cooperation (OIC), Non-Aligned Movement (NAM) as well as the East ASEAN Growth Area initiative between Brunei, Indonesia, Malaysia and the Philippines (BIMP-EAGA), all of which aim for their members to support each other in their efforts towards economic development, global prominence and other such undertakings. These are all assets that can help Brunei in gaining a breakthrough in the international ADR scene, but it seems that, as has repeatedly been shown throughout this article, for every asset, there are several challenges that are (or may possibly be) getting in the way of Brunei achieving the status of a centre for Islamic financial dispute settlement in the region.

Before Brunei Darussalam will be able to establish itself as a hub for financial arbitration, there are several issues that must be addressed before this goal can be achieved. One issue that the country faces is concerned with the existence of competition in neighbouring countries that have already established themselves within the field of arbitration. One does not need to look far for this, as evidenced by Malaysia and Singapore which have both successfully ventured into ADR and set up centres of arbitration, as seen through the KLRCA and SIAC respectively. Due to this, it is necessary to find and determine a niche that will distinguish the ADR service provided by Brunei Darussalam from that of other countries.

It is suggested that another issue that Brunei Darussalam faces lies in the fact that the country is lacking in terms of exposure to the field of alternative dispute resolution. This may be attributed to the fact that the people of Brunei Darussalam have either relied on court litigations to settle disputes or have chosen informal methods of dispute resolution such as mediation by a village elder or the like as standard practice. As such, there has been little reason for the country to branch out into alternative forms of dispute resolution. The lack of exposure and minimal interest of the public in ADR has consequently left agencies which handle alternative dispute resolution such as the BDAC underutilised compared to other countries.

Arguably, one of the biggest challenges that Brunei Darussalam faces is that it requires an external platform, such as foreign businesses to facilitate its growth. As a small nation with a population roughly 420,000 strong, the country lacks sufficient labour force to accelerate economic growth so as to promote itself. Therefore, it is imperative for Brunei Darussalam to get a foothold in the global market by establishing itself in other regions in the field of arbitration, Islamic finance and the like.

**VI. STEPS TO PROGRESS**

As far as preliminary preparations are concerned, it is believed that Brunei Darussalam has a sufficiently strong foundation that can facilitate the growth of the country into a prosperous hub for regional arbitration. However, due to the challenges as specified in the section v, it is suggested that the Sultanate specialize in a niche area of law in which it has considerable experience and expertise in, namely Islamic financial and commercial law. However, given the challenges facing such a prospect, the Sultanate has a while to go before it will be able to achieve this. Below are some suggestions that may be taken as a start towards that direction.

**vi.i. Consolidating a Foundation in Islamic Finance and Arbitration**

In order for Brunei Darussalam to establish itself as a hub for arbitration of Islamic financial disputes, it must first establish itself on two fronts: finance and arbitration respectively. Within Brunei Darussalam, efforts in achieving these have been observed through the developments of Bank Islam Brunei Darussalam (BIBD) and Brunei Darussalam Arbitration Centre (BDAC).

In pursuit of establishing itself as a hub for Islamic financial arbitration, the Sultanate has taken steps in
order to consolidate itself, as observed in the growth of banks such as BIBD and Tabung Amanah Islam Brunei (TAIB) which conduct business based on Islamic principles which are compliant with Sharia (Islamic law). BIBD for example, is the result of a merger between the Islamic Bank of Brunei (IBB) and Islamic Development Bank of Brunei (IDBB) in 2005. Since its establishment after the merger, BIBD has become the largest bank in Brunei Darussalam, and has made efforts to branch out into the international market.

To this end, it is necessary to further develop the banks of Brunei Darussalam in the local corporate sectors as well as expand their presence internationally so as to be more accessible to more potential international clientele. Achieving this would consolidate the position of the banks of Brunei Darussalam as centres for business which may act as platforms for a truly worldwide network. Locally, this would strengthen the position of Brunei Darussalam as a hub for trade and financing in the region, whilst encouraging Foreign Direct Investment (FDI) within the country itself.

In regards to Islamic financial rule of law, Brunei Darussalam, as with many other Muslim countries has set up a Sharia Supervisory Board (SSB) aimed at the compliance of Sharia in conducting business and trade. In Brunei Darussalam, one such body is the Syariah Financial Supervisory Board39 which may be consulted on affairs concerning Islamic banking business, takaful business, Islamic financing business and the like.

On the matter of arbitration, the country has already taken preliminary steps in the form of the BDAC which aims to be a centre for domestic and international arbitration and mediation. Furthermore, it is stated in the BDAC rules document40 that the rules used are based on the internationally recognized UNCITRAL Arbitration Rules. The existence of these rules is significant as it ensures compatibility between parties adopting a similar rule set. Utilisation of these rules facilitates bilateral agreement as there is little in the way of translation of disputes since proceedings follow an international standard of procedural rules.

In order to further expand into global markets, it is imperative that agencies such as the BDAC are developed further, as the presence of qualified arbitrators encourages business on the international scale. Agencies that provide services such as international arbitration and mediation are useful in the maintenance and facilitation of business transactions, dealings and settlements. As stated in section ii, the presence of ADR agencies are beneficial and may be favoured depending on the needs of the parties involved.

It is also suggested that the country look into developing a system that enables FDI companies the ability to opt to abide by Sharia laws as opposed to civil rulings. Achieving this would require the setting up of independent Sharia legal representation (Sharia-compliant law firms) based in Brunei Darussalam. The creation of such agencies would be beneficial for both individuals within the country as well as potential foreign investors alike, as dealings made through such representatives enables the swift resolution of disputes.

40 The BDAC Arbitration Rules 2014.
vi.ii. Gradual Shift from Courts to ADR Agencies

Based on the above sections, it is suggested that there will be a shift in preference for dispute resolution. In such a situation, it is clear that agencies that specialise in ADR will bear a greater role in conflict resolution and other similar disputes. The switch from court litigation to alternative dispute resolution allows for progress on multiple levels.

Firstly, on the matter of dispute resolution, it is no secret that court litigations require both time and money. Reliance on ADR agencies would circumvent these issues as it not only reduces costs, but further affords the courts the leeway to focus on important affairs. In doing so, the workload of the courts is lessened by the ADR agencies who may also be better suited to handle particular disputes. Meanwhile, agencies such as the BDAC and others would further develop so as to handle affairs which would otherwise take up the resources of the courts.

vi.iii. The Reinforcement and Diversification of the National Economy

Islamic financing and diversification of the economy as described within the Brunei Darussalam Financial Sector Blueprint41 will play an integral part in the future direction of the country. This goal when looked at in addition to the support from developments in alternative dispute resolutions, show that the country is exploring a variety of avenues in order to achieve its vision. The Islamic finance sector for instance, is one of the fastest growing industries in the world. Brunei Darussalam may thus be able to attract investors who wish to enter the Islamic finance market.

Additionally, Brunei Darussalam possesses a largely untapped market with high growth potential. Foreign direct investment and further diversification of the national economy, may be used to fully utilise the varying skill pools of the local people. For example, locals who are trained at the Centre for Islamic Banking, Finance and Management (CIBFM) are qualified for employment in their respective fields. Furthermore, Brunei Darussalam also produces graduates qualified to work in the service industry as well as the sciences and technology. Utilisation of the labour force in these areas through investment and employment allows for advancement of the country in a way that is mutually beneficial to the parties concerned.

Another way in which Brunei Darussalam may attract investors lies within its location inside the East ASEAN Growth Area (BIMP-EAGA). The geographical position of the country in relation to other members of the BIMP-EAGA initiative may be fully exploited with the assistance of investors who have an interest in the area. Further developments may allow for the forging of a stronger alliance with the member countries as well as act as a gateway for expansion into areas beyond the region.

vi.iv. Exemplification from Nations with Flourishing ADR Mechanisms

Brunei Darussalam, as a Sharia law country may look towards other countries in their application of ADR mechanisms. It has the freedom to take certain elements from countries such as Malaysia and the United Arab Emirates which enjoy flourishing ADR mechanisms. In doing so, it is possible to integrate the best parts of each respective country in order to achieve an equally prosperous mechanism.

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41 Brunei Darussalam Financial Sector Blueprint, 2016-2025.
vi.v. Increasing Public and Business Exposure to ADR

It is proposed that one method that may be used to establish Brunei Darussalam as a hub for Islamic financial arbitration lies in exposing the general public and local businesses to alternative dispute resolution. For instance, reliance on ADR as opposed to the courts encourages further development in the field of dispute resolution. Once the public awareness on ADR increases, it follows that businesses and agencies which facilitate such methods of dispute resolution would follow suit in order to capitalise on the shift. This in turn eventually leads to efficiency in dispute resolution and competitiveness between the ADR agencies.

VII. CONCLUSION

For all of the progress Brunei has made and the enthusiasm its government has shown, the country still has miles and miles to go to even so much as truly establish its ADR infrastructure, at least to the level of its neighbour Malaysia a decade ago, much less to become a regional hub for arbitration of a legal area many would consider to be in its wheelhouse. This is very unfortunate considering that the spirit of ADR perfectly harmonises with the Bruneian way of life as history and even current attitudes demonstrate. This is not to say, however, that the ADR movement in the Sultanate is hopeless for if Brunei utilises its assets to their fullest potential and overcome such obstacles as the ones this article has outlined, then there is reason to remain hopeful that in the near future, alternative dispute resolution mechanisms will play a much bigger role in the small Southeast Asian nation.