

Community Mediation in Malaysia: A Comparison Between *Rukun Tetangga* and Community Mediation in Singapore

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Malaysia is a multicultural, multireligious, and multiethnic country that is located in Southeast Asia. The social background of Malaysia as a multicultural state calls for the adoption of an alternative method to resolve community dispute which would offer solution and simultaneously promote harmonization in the society. Community mediation may be one of such alternative, if not the best method for interethnic relations. The government of Malaysia has introduced community mediation in Malaysia by providing training for community mediators through a pilot program, known as *Rukun Tetangga* (Peaceful Neighbor). The purpose of this program is to promote unity among the multi-races and multiethnic citizens. This paper will refer to the current practice of community mediation in Malaysia as provided by the National Unity Department in Peninsula Malaysia and the practice of community mediation in Singapore. It is hoped that by comparing the practices in both countries, suggestions and recommendations could be made to improve the practice of community mediation in Malaysia.

Keywords: ADR (Alternative Dispute Resolution), community mediation, *Rukun Tetangga*, law, Malaysia, neighborhood, Singapore

Introduction

Community mediation has become a popular method of dispute resolution. It is well established in many developed countries such as the United Kingdom, United States of America, Australia, etc.. In Asian countries, this method of dispute resolution has been in practice traditionally for a long time. For example, mediation is considered as an ancient concept and is deep rooted in Indian culture whereby any dispute that arises will be resolved at the community level in a *panchayat*¹. This concept has always been enshrined in the Indian culture². Currently, this old system has been adopted in the modern Indian social system administration and served as the backbone of the present society³.

Singapore and Malaysia shared the same history of traditional or informal mediation. Singapore, however,

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¹ Delhi Mediation Center, History (Online). Retrieved from <http://delhimediationcenter.gov.in/introduction.htm>.

² Delhi Mediation Center, History (Online). Retrieved from <http://delhimediationcenter.gov.in/introduction.htm>. Panchayat means a village council, a former group of five influential older men acknowledged by the community as its governing body and an elective council of about five members organized in the republic of India as an organ of village self-government. The member of panchayat will be elected by the people yearly. The panchayat will make decision with regard to the social issue of the villagers. The council leader is called as sarpanch and the council member is the panch.

³ Panchayat System in India (Online). Retrieved from http://www.indianetzone.com/40/panchayat_system_india.htm.

has established formal or institutionalized CMC (Community Mediation Center) modeling the developed countries CMC in 1998. The center manages to settle disputes and maintain harmony among the people in the neighborhood. Community mediation is a type of mediation that is chosen as a method of dispute resolution to the neighborhood problems because of the flexibility and informality of the processes, and it brings the disputing parties together in the presence of a community mediator, a neutral party, who assists them to work out their problems with each other, clarify the issues, discuss their opinions, and eventually reach a consensual settlement to their problems after having explored all options (Baig, 2010, p. 157).

The government of Malaysia through the DNU (Department of National Unity) has introduced Community Mediation Program by providing training to grassroots leader in a pilot program, Peaceful Neighbor (*Rukun Tetangga*) to be a community mediator. However, the government is yet to establish a center to accommodate the mediators and sets of rules or regulation or law to govern community mediation practice. This paper will refer to the current practice of community mediation in Malaysia provided by the DNU in Peninsula Malaysia and the practice of community mediation in Singapore, and to suggest and recommend improvement if necessary.

This paper involves library-based research and qualitative legal research method which involved fieldwork. The library-based research involves both primary and secondary legal sources whereby journals, articles, law reports, legislation, and historical record and the virtual library available online are referred to. Some other research resources are the database online such as LexisNexis, Law Net, and Current Law Journal online. This method helps to understand the mechanism of community mediation, mediation, and the legal framework in Singapore. The fieldwork is done by interviewing officer from the Department of Unity, the qualified community mediators and undergoing the training of the community mediator by the writer. From these, information was gathered on what are the best method to be adopted by the community mediation in Malaysia and the structure of the Malaysian CMC.

The Nature of Community Mediation

Community mediation is a mediation process adopted by the disputing parties within a community as a solution to resolve their dispute, mediation itself is one of the ADR (Alternative Dispute Resolution) or alternative modes of dispute settlement. ADR is an acronym popularly referred to such alternative methods of dispute settlement such as negotiation, mediation/conciliation, arbitration, mini-trial and private judging etc. (Rashid, 2000, p. 1). ADR is defined as a range of procedures that serve as alternatives to litigation through the courts for the resolution of disputes, generally involving the intercession and assistance of a neutral and impartial third party (Brown & Marriot, 1999, p. 12).

According to Sourdin (2008), dispute resolution processes that are alternative to traditional court proceedings are often referred to as ADR. She further explained that ADR is also used as an acronym for “assisted”, “additional”, “affirmative”, or “appropriate” dispute resolution processes. Thus, she concluded that, it is impossible to construct a concise definition of ADR processes that is accurate in respect of the range of the processes available and the contexts in which they operate (Sourdin, 2008, p. 3).

Mediation is one of the processes of the ADR (Rashid, 2000, p. 1) and is defined as a process that uses a third party (a neutral party to the conflict) to facilitate communication between the parties on their positions (Hardcastle, Powers, & Wenocur, 2011, p. 12). It is a private, facilitative, and informal form of the third party

assistance available to people who cannot manage their own conflicts and disputes (Baghshaw, 2009, p. 8). According to Liebmann (1998), in mediation, the impartial third party (mediator) helps two (or more) disputants work out how to resolve a conflict. If the mediation session succeeds, the disputants will decide the terms of any agreement reached. The focus of mediation is usually on the future rather than past behavior (Liebmann, 1998, p. 2).

Mediation is intended to resolve dispute and maintain the good relationship between parties. The role of a mediator is to assist the disputants to arrive at an agreed resolution of their dispute. The mediator bears no authority to make any decision that is binding, but uses certain procedures, technique, and skills to help the disputants to negotiate an agreed resolution of their dispute without adjudication (Brown & Marriot, 1999, p. 127). In mediation process, the disputants have opportunity to understand and explore their differences and come into an agreement taking into account the interests of all involved. There are many types of mediation such as civil mediation, family mediation, peer mediation, etc.. Despite the variety of mediation, most scholars seem to agree that in mediation there are three defining elements: assistance, a third party, and no authority to impose outcome on the disputants (Wall, Stark, & Standier, 2001, p. 375).

However, the definition of community mediation is different from one area to another. Furthermore, many authors defined community mediation differently. The reason is that the definition may be extended by including resolving disputes in a wider area instead of the community alone.

Community Mediation in Malaysia

Malaysia is a multiethnic, multicultural, multilingual, and multireligious country located in Southeast Asia. Geographically, Malaysia is divided into two regions, i.e., the Peninsula Malaysia or West Malaysia that used to be called Malaya, it extends from the Thailand border in the north to the Straits of Johor in the south and East Malaysia comprises the State of Sabah and Sarawak located on the island of Borneo. In the southern tip is the Republic of Singapore which was part of Malaysia till 1965. The main ethnic groups are Malays, Chinese, and Indian (Aun, 1999, pp. 1-2; Yaacob, 1989, p. 2). The population of Malaysia is 27 million and there are more than 60 ethnic or cultural differentiated groups which can be enumerated (Church, 2012, p. 82).

The ethnic groups have full liberty to retain their identities, i.e., their fundamental beliefs, religion, traditions, and ways of life, and at the same time being assimilated. The result has caused the emergence of a unique multicultural, multiethnic, and multireligious Malaysia. The diversity is not a barrier of having a harmony and peaceful life. The differences in terms of religions, languages, codes of dressing, customs, and behavioural patterns are tolerated for the sake of maintaining harmony, unity, and understanding (Abdullah & Pedersen, 2003, pp. 16-18).

Maintaining harmony and unity in the society was highly emphasized by the Malay community. Prior to the introduction of the English common law, the Malays refer their dispute to a headman (*Penghulu* or *KetuaKampung*), who acted as a third party to resolve the matter. The Indian and Chinese who have settled down in Malaya were considered as the immigrant practice their personal law and custom. They resolve their disputes through mediation by elders of the community, clans, or guild (Raman, 2005, p. 4). They tried to avoid chaos in any situation. Thus, Malaysians have been practicing traditional mediation long time ago. Therefore, community mediation is not a new method of dispute resolution in Malaysia.

In Malaysia, the city residents handle their conflicts as other residents of cities resident in the world do. Either they tolerate the conflict, manage it, or call the police for intervention. The situations in villages, however, are different since disputes are not usually taken to the police immediately but the matter will be brought by one of the disputants or a third party to the village administrator (*Ketua Kampung*) or to the religious leader (the *Imam*). The *Imam* will normally preside over family disputes since it is considered as a religious issue and the *Ketua Kampung* will preside over to other types of disputes (Wall & Callister, 1999, p. 345). This traditional or informal community mediation has later on been absorbed by the *Rukun Tetangga* in the cities in Malaysia.

The harmony enjoyed by Malaysia today is the result of the hard work of the Malaysian government. The government of Malaysia has played a vital role in promoting and maintaining the unity and harmony in Malaysia. Promoting unity in Malaysia is an untiring effort and ongoing process that was spearheaded by the Malaysian government since the 1970s. The Malaysian government views the issue of ethnic relations as a real threat to the social stability of the country since the occurrence of an interracial clashed on May 13, 1969 (A. Othman, 2002). To avoid and prevent further problem in the future, the government has taken preventive steps for example, the Ministry of Education introduced compulsory Ethnic Relation subject in universities to replace the earlier effort, the Islamic and Asian Civilization subject that is hoped to be a foundation for a harmonious community in Malaysia (Baharuddin, n.d., pp. 7-9). Institute of Ethnic Studies (Institut Kajian Etnik/KITA) was established in Malaysia National University (Universiti Kebangsaan Malaysia) on October 8, 2007⁴. One Malaysia, Integration School, and National Services Program were designed for the same purpose.

The most important step taken was the establishment of the DNU in 1969. The incident on May 13, 1969 led to the declaration of Emergency by the King on May 15, 1969 in pursuant to Article 150 of the Federal Constitution. Such declaration has empowered the establishment of a National Operation Council (*Majlis Gerakan Negara*)⁵. On July 1, 1969 under the command of the National Operation Council, the DNU was established to address issues related to rebuilding the social cohesion in the country at that time. The DNU has undergone many changes since 1969. The name of the department was changed few times and it has been placed under various departments such as Ministry of Unity, Culture, Arts, and Heritage. In 2009, the department's name was changed to DNU and placed under the auspices of the Department of the Prime Minister⁶. The department focuses on national and societal integration. Their mission is to promote unity and integration by increasing the opportunities for interaction between ethnic groups through activities such as organizing social gathering on festive occasion, for example, the celebration on Chinese New Year (for the Buddhist), Hari Raya (for the Muslims), Christmas (for the Christian), and Deepavali (for the Hindus).

One of the efforts by the government of Malaysia is the establishment of *Rukun Tetangga* in 1975 to initially ensure the safety of the local residents. An act known as the Peaceful Neighbor Regulation 1975 (PU (A)279/75) was approved to grant certain powers to the Peaceful Neighbor Association. In 1984, the focus of this organization changed to strengthen the relations between the various races in Malaysia⁷. In 2001, the focus of this program once again turned to the development of the community. The priority of this Peaceful Neighbor

⁴ Institute of Ethnic Studies (Online). Retrieved from <http://www.ukm.my/kita/profilekita.html/2009>.

⁵ Majlis Keselamatan Negara (Online). Retrieved from http://www.mkn.gov.my/mkn/default/article_m.php?mod=1&article=9.

⁶ Jabatan Perpaduan Negara dan Integrasi Nasional Negeri Selangor (Online). Retrieved from http://www.jpninselangor.gov.my/v2/ms/latar_belakang.

⁷ "Malaysia: Aspirasi Perpaduan Pencapaian JPNIN 2009-2011" (p. 10). Jabatan Perpaduan Negara dan Integrasi Nasional.

program is to help the disputants to resolve their dispute in the neighborhood and to avoid any racial tension and subsequently create a harmony in the society.

This program initially was introduced in few urban areas where crime rates and ethnic diversity are prominent. In 2012, *Rukun Tetangga* Act (Peaceful Neighbor Act) was tabled in the Malaysian Parliament and was gazetted on June 22, 2012. Section 8 of *Rukun Tetangga* Act 2012 provides function and duties of *Rukun Tetangga* Committee inter alia, to provide community mediation for the purpose of conciliation or otherwise settling any dispute or difference amongst the members of community (Section 8(d)). Currently, Peaceful Neighbor is placed under the auspices of Community Development Unit under the DNU.

The DNU in promoting integration and harmony residential area has developed the *Rukun Tetangga* program in certain area to a pilot project of “Community Mediation” program. The main purpose is to train the *Rukun Tetangga* Committee to be community mediators in their residential who plays the roles as a third party in helping the disputants/residents to resolve their dispute. The idea of having this pilot project emerged from the finding of DNU that the social tensions at the community level arise from the inter-ethnic and intra-ethnic fight. The project was developed in 2007 and implemented in 2008 (Hua, 2009, pp. 2-3). Presently, community mediator is placed under the auspices of the Unity Management Unit under the DNU. As a result, the *Rukun Tetangga* Committee is wearing two hats. They are the community mediators under Unity Management Unit and at the same time the *Rukun Tetangga* Committee under the Community Development Unit. Please refer to Figure 1 attached here in illustrating the position of community mediator and *Rukun Tetangga* in the DNU and Integrity organization.

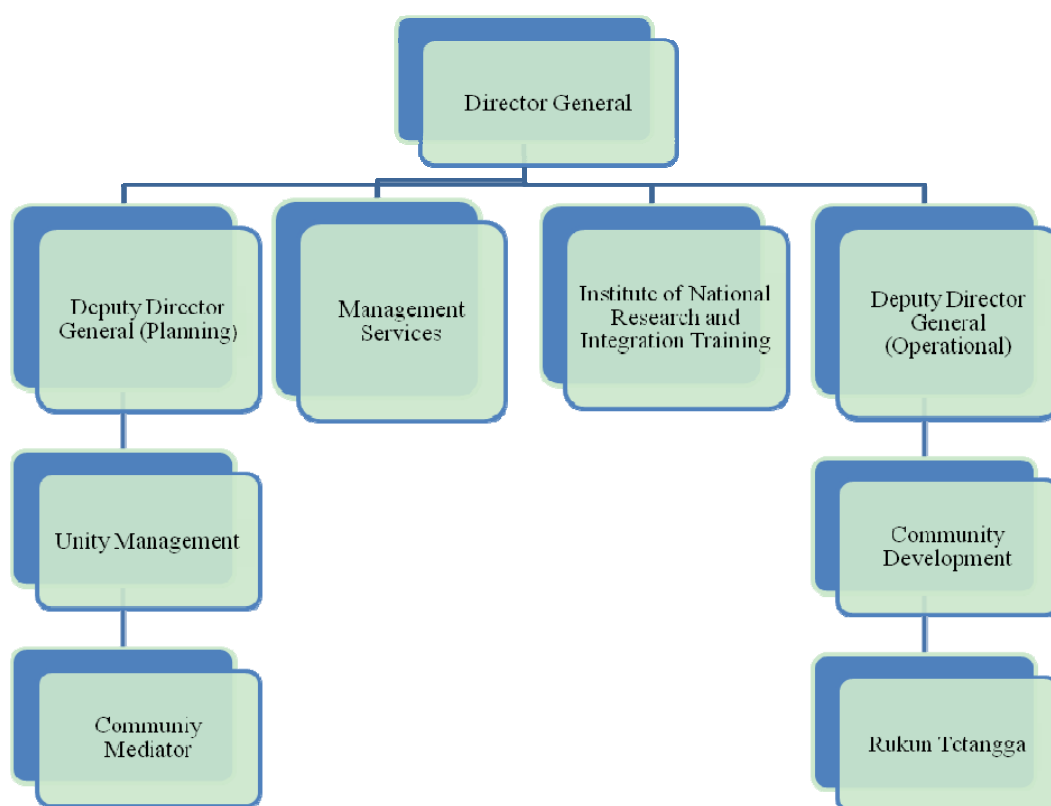


Figure 1. The position of community mediator and *Rukun Tetangga* in the DNU and Integrity organisation chart.

The mediators are trained by Dato Dr Wan Halim Othman, who has been appointed by the DNU. He is the only trainer since the program launched until today. The training began with the introduction of community mediation in general. This is because many of Malaysians do not have any information on ADR, mediation, or community mediation. Thus, the leaders of *Rukun Tetangga* or the participants need to understand the general idea of community mediation. The second part of the training focuses on the role of the participants as community mediators. There are 20 steps that need to be understood by the participants. Thus, the program is well-known or frequently referred to as “*KursusKemahiran Proses MediasiKomuniti 20 Langkah*” or “Skill of Community Mediation Process 20 Steps” in Malaysia. This program consists of four phases and each phase is a 4-day course. Each session has a large number of participants, for example 80 to 100 persons. The training methodologies adopted are workshop, attendee active participation, and role-playing sessions⁸.

The term “Community Mediator” in Malaysia under the Community Mediation Program by the DNU is different from the term “Community Mediator” in Singapore. According to W. H. Othman (2009), *Rukun Tetangga* committee leaders are trained as a second sense of the term “Community Mediator” rather than as professional community mediator. He explained that the first sense of community mediator refers to a person who has undergone a specific technique in conflict resolution, trained and recognized as official mediator or professional mediators. The second sense of mediator is a third party who involved in dealing with any social situation (W. H. Othman, 2009, pp. 216-217). He distinguished the two terms of community mediator. It is understood that the terms are differentiated to show the training received by the mediators to enable them to be community mediators. They may be professional community mediators if they have undergone a professional training. Nevertheless, they act as a third party and called “Community Mediator” in assisting people in their neighborhood in resolving disputes. Hence, Malaysian community mediators fall under the second sense of community mediator.

The program has been proven successful in defusing social and racial tension with over 200 cases resolved in 2010⁹. The government of Malaysia was very much interested in promoting unity and integration. Therefore, the government has given full support to the effort of the DNU and has increased the budget over this matter. This has given the DNU more room in enhancing this program. The DNU has sent more *Rukun Tetangga* leaders to the training. As a result, on March, 2012, a number of 519 individuals were trained as community mediators. The efforts of DNU paid off. The cases involving racial issue have decreased from 1,315 cases in 2007 to 912 in 2011. The DNU has planned to train more mediators in the future to ensure that each area of *Rukun Tetangga* will have at least one mediator (Koon, 2012b). The effort of the DNU has been further appreciated.

Malaysia has been ranked the most peaceful country in South East Asia, the fourth safest in the Asia Pacific behind New Zealand, Japan and Australia, and the 19th safest and peaceful out of 153 countries in the world. This ranking by the Global Peace Index (GPI) 2011 is the first time that Malaysia has been placed that high since 2007, being one of the six non-European nations making the top 20 list. (Bernama, 2011)

⁸ The author has attended three training sessions for community mediation, i.e., Phase 1, Phase 2, and Phase 3 under the DNU and Integrity. The first training was conducted at Regency International Hotel, Kuala Lumpur from March 30, 2012 to April 2, 2012. The second training session was conducted at Country Heights Resorts & Laisure Sports Living Club, Kajang from May 11, 2012 to May 14, 2012. The third training session was conducted at Hotel Excelsior, Ipoh Perak from June 29, 2012 to July 2, 2012.

⁹ “Jumlah Mediator Komuniti di Seluruh Negara Ditambah”, Utusan Online Archives (October 8, 2011) (Online). Retrieved from http://www.utusan.com.my/utusan/info.asp?y=2011&dt=1008&pub=utusan_malaysia&sec=Terkini&pg=bt_23.htm&arc=hive.

Previously, the community mediators are not governed by any rules, direction, or regulation. However, Mediation Act 2012 (Act 749) was gazetted and came into force on August 1, 2012. The procedures provided are applicable to the community mediators and shall be their guideline in practising mediation. The mediation session handled by the mediator is free of charge. There are no charges imposed on each mediation session and the mediators are not paid. They work on voluntary basis (Koon, 2012a). It is hoped that this program will continuously benefit Malaysian society in promoting unity and integrity between the different ethnic groups and to avoid social and racial tension in future.

Community Mediation in Singapore

The Republic of Singapore comprises the main island of Singapore and some 54 small islets within its territorial waters and jurisdiction. The country has a total land area of only 699.4 square kilometers, 500 of which is taken up by the diamond-shaped main island, which is 41.8 kilometers in length and 22.5 kilometers in breadth (Hock, 2007, p. 1). Mediation has been institutionalized much earlier in Singapore than Malaysia. Formal mediation in Singapore may be divided into three categories: first, court-annexed mediation; second, mediation in tribunals, government departments and agencies; and third, private mediation that has began in the middle of 1990s and now is gaining more popularity (Onn, 2009, p. 133). Mediation in this paper refers to formal mediation or institutionalized mediation, unless otherwise mentioned clearly that the word mediation refers to traditional, uninstitutionalized, or informal mediation.

Community mediation is also not a new method of dispute resolution in Singapore. Malaysia and Singapore shared the same history until the separation in 1965. Prior to the introduction of English legal system that leads to the embracement of litigation in courts by the people, the concept of solving problem by a third party as has been practiced by the Malays through the headman, the Indian through *panchayat* and Chinese who refer a dispute to the community leaders such as leaders of Chinese clan association (How, 2002, p. 4). The current formal mediation or the institutionalized mediation center has adopted the same method.

We often compare this process with the traditional “kampong style” approach of resolving problems through informal channels with the aid of respected third parties. The kampong ketua, the elder in village communities of old, performed a mediatorial role between squabbling Neighbors. Such activities promoted community cohesion.¹⁰

The CMCs have also embarked on a pilot project which involves the conduct of visits by paired teams of trained CMC mediators and grassroots leaders to the residences of unwilling disputants embroiled in Neighborly conflicts to persuade them to try mediation. In many ways, this replicate the concept of a “kampong ketua” or Malay village elder, who historically played the role of “mediator” in village disputes.¹¹

Community mediation in Singapore was established from the idea of Prof. S. Jayakumar, the Minister for Law and Minister for Foreign Affairs of Singapore in further promoting ADR process in Singapore. In 1996, the inter-agency Committee was tasked to explore on how to further promote mediation in Singapore. In 1997, mediation was recommended by the Committee¹² to be promoted to resolve social and community disputes. Particularly, mediation is an Asian tradition and culture that are worth to be preserved. Prof. S. Jayakumar

¹⁰ Community Mediation Center Annual Report 2002-2003, p. 5.

¹¹ Community Mediation Center Annual Report 2003-2004, p. 5.

¹² The Committee on the ADR (Alternative Dispute Resolution) was chaired by associate professor Ho Peng Kee, then Senior Parliamentary Secretary to the Ministry of Law. See Also Community Mediation Center Annual Report 2002-2003, p. 9.

supported the recommendation and the Ministry of Laws was tasked to look into introducing community mediation as part of Singapore's dispute resolution infrastructure¹³.

The committee in their report dated July 4, 1997, recommended that in order to prevent Singaporeans becoming too litigious, less expensive, and non-adversarial methods or dispute resolution should be introduced, covering a wide range of social, community, and family dispute¹⁴.

The government of Singapore was very serious in their effort in establishing the CMC. They have upon acceptance of the recommendation, and set up an ADR Division within the Ministry of Law to oversee and co-ordinate the operation of the CMCs¹⁵. The CMC Act (Community Mediation Centers Act) (CAP. 49A) came into force in January, 1998 providing for the establishment of the first CMC in November, 1998 (Seng, 2003, p. 159).

The first center was established in Marine Parade District Hall, known as CMC (Regional East) and commenced operations in January, 1998. Over the years satellite mediation venues have also been set up. Currently, there are three main centers and seven satellite mediation venues in Singapore to provide disputing parties with the additional convenience of having their cases mediated at an alternative location close to their residence¹⁶.

The first structure of the CMC is illustrated by Figure 2. The CMCs are managed by a team of Center Managers and Executives under the purview of the CMU (Community Mediation Unit) of the ADR Division of the Ministry of Law¹⁷. The center activities and daily case management function are run by full-time staffs who are civil servant employed by the Ministry of Law (G. Lim, C. Lim, & Tan, 2009, p. 2).

The latest structure is illustrated by Figure 3. The structure has changed where the CMU is set up within the Ministry of Law to oversee and coordinate the CMC's work. The consultant has replaced the Deputy Manager (Operation and Training). CMC (Regional East) has moved its operation to CMC (Subordinate Court) effective since February 16, 2007¹⁸. The CMC has improved its administration tremendously in ensuring the effectiveness of its services since 1998. The CMC Act provides that the minister may arrange for evaluation of the CMC at any time he thinks fit¹⁹. Subsequently, the ministry may make improvement and changes of the CMC in its operation and activities.

The CMC Act is the governing law for the CMC. It covers the CMCs, mediation includes mediators and some miscellaneous issue such as the mandatory submission of the CMC annual report by the director to the minister to be laid before the parliament²⁰. The act provides that any person is allowed to refer a dispute to the center and also the magistrate may refer any appropriate case from the Magistrate Court to the center²¹. The act

¹³ Community Mediation Center Annual Report 2002-2003, p. 3.

¹⁴ Community Mediation Center Annual Report 2002-2003, p. 9.

¹⁵ Community Mediation Center Annual Report 2002-2003, p. 9.

¹⁶ Community Mediation Center Annual Report 2009-2010, p. 4.

¹⁷ Community Mediation Center Annual Report 2002-2003, p. 11.

¹⁸ Community Mediation Center, Ministry of Law, Singapore Government (Online). Retrieved from <http://app2.mlaw.gov.sg/ContactInfo/tabid/312/Default.aspx>.

¹⁹ See Section 16 Community Mediation Center Act (Cap. 49A) (1998).

²⁰ See Section 21 Community Mediation Center Act (Cap. 49A) (1998).

²¹ Community Mediation Center Annual Report 2002-2003, p. 9. See also Section 15 Community Mediation Center Act (Cap. 49A) (1998).

also provides that the mediation process is voluntary²² in line with the tenet of mediation. Nobody will be forced to opt for mediation in resolving their dispute. In the event, the parties decided to withdraw from mediation session at any time, they may do so²³.

The fundamental character of CMC is to cater community dispute and relational issues consistent with its mission. The center resolve dispute within family, relatives, disputes between stall holders, provision for shop owners, neighbors, sometimes even land lord and tenant issues. It does not handle commercial disputes, family violence²⁴, and any dispute that involves seizable offence under any written law²⁵.

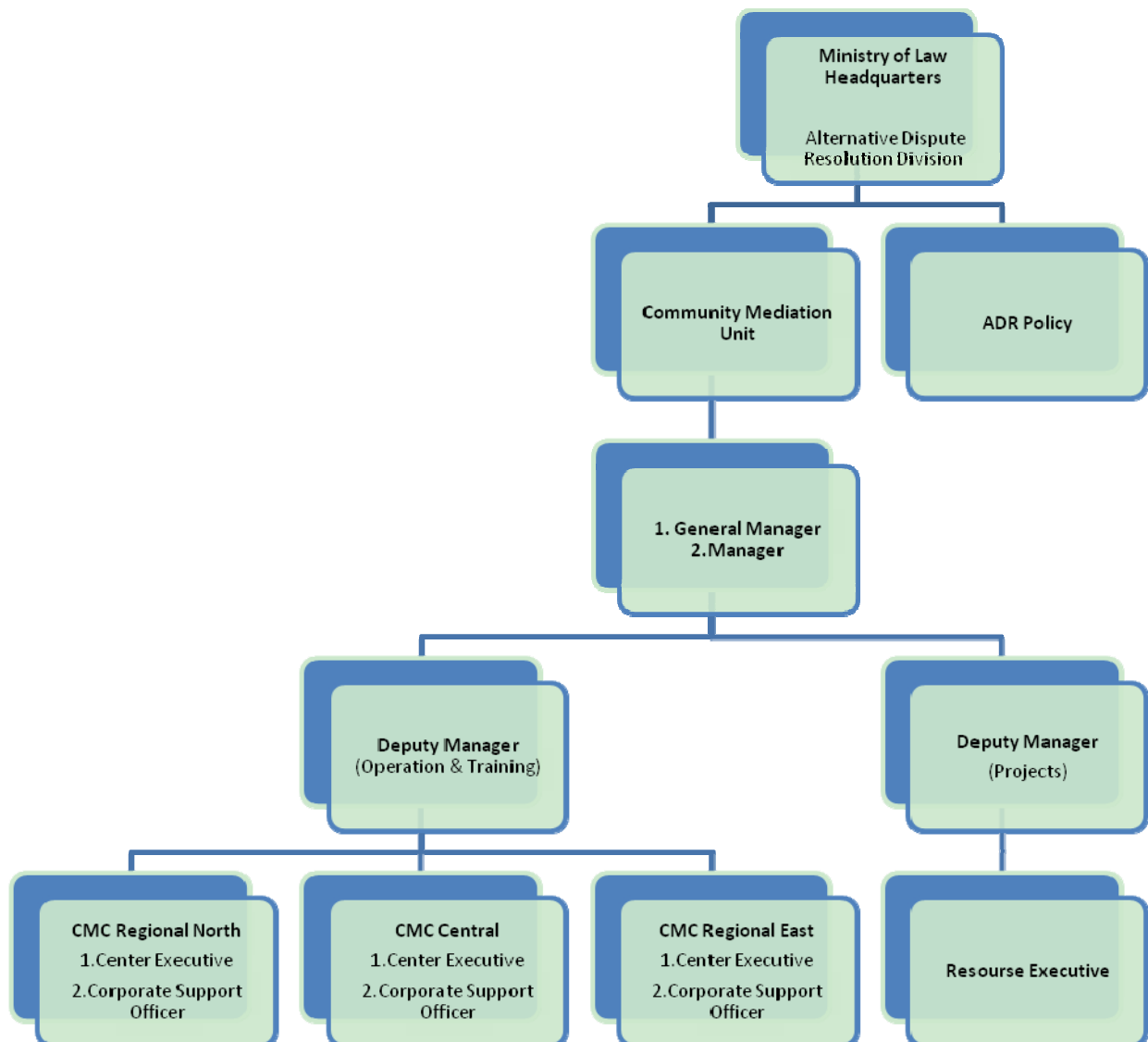


Figure 2. Organisation structure of community mediation in 2002-2003.

Source: Adapted from CMC Annual Report 2002-2003, at 11.

²² See Section 12(1) Community Mediation Center Act (Cap. 49A) (1998).

²³ See Section 12(2) Community Mediation Center Act (Cap. 49A) (1998).

²⁴ Community Mediation Center Annual Report 2003-2004, p. 13.

²⁵ Community Mediation Center Annual Report 2008-2009, p. 5. See also Section 15 Community Mediation Center Act (Cap. 49A) (1998).

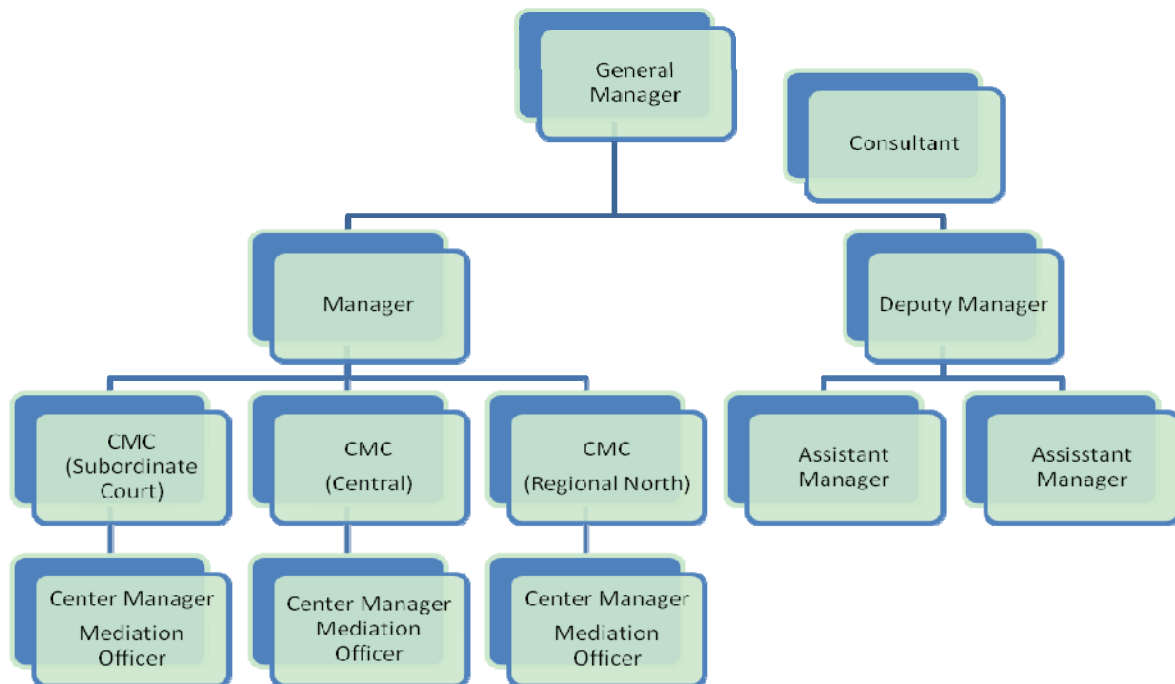


Figure 3. Organisation structure of CMC as at July 2011. Source: Adapted from CMC Annual Report 2010-2011, at 7.

The mediation session is to be conducted with a little formality and technicality, and with as much expedition as possible²⁶. This requirement is maintaining the original tenet of mediation, informality. The rules of evidence do not apply to mediation sessions²⁷. The mediation services are rendered free of charge, with only a nominal administrative fee of SGD (Singaporean Dollar) 5.00 charged to the complainant at the point of registration, to deter frivolous case registration²⁸.

The CMC's mediators are volunteers who have undergone basic mediation training before they are appointed for a 2-year term. The content of the training includes understanding the objective and philosophy of mediation, the mediation process, techniques of communication, and counseling skills.

During the early stages of the center, the training of mediators was provided by the center²⁹. However, in 2004-2005, the training of mediators has been shifted to the CMU and they have focused on this task to sustain a high level of professionalism of the center's volunteer mediators³⁰. In 2002 and onwards, mediators who had conducted a requisite number of mediations were conferred with the title of "Master Mediator". The highest title accorded is one of "Senior Master Mediator", where the mediator assumes the role of mentoring, training, leading, and developing fellow mediators³¹.

The basic training comprises an intensive 2-day Basic Mediation Workshop conducted by CMU Consultant, Senior Master Mediator Dr. Lim Lan Yuan. Volunteers who are deemed suitable will then be shortlisted and

²⁶ See Section 10(1) Community Mediation Center Act (Cap. 49A) (1998).

²⁷ See Section 10(2) Community Mediation Center Act (Cap. 49A).

²⁸ Community Mediation Center, Ministry of Law, Singapore Government (Online). Retrieved from <http://app2.mlaw.gov.sg/MediationServices/MediationProcedure/FeesCharges/tabid/307/Default.aspx>.

²⁹ Community Mediation Center Annual Report, p. 18.

³⁰ Community Mediation Center Annual Report 2004-2005, pp. 6-7.

³¹ Community Mediation Center Annual Report 2010-2011, p. 17.

nominated for appointment as mediators³² by the Minister for Law³³. They are required to upgrade their skills continually. The ongoing advance training in mediation, thematic workshops and roundtable session enables them to share experiences and learn from one another³⁴.

Community Mediation Report 2003-2004 provides training structure diagram as illustrated by Figure 4 attached herein showing the stages that need to be undergone by the mediator to be appointed as mediator and thereafter to upgrade their skills. Later, in 2005 on top of undergoing the 2-day course, the volunteer selected had to undergo two co-mediation sessions with experienced CMC mediators. The appointment of the volunteer is by evaluations and recommendation of the co-mediator and the CMC Director, and subsequently by an official appointment by the Minister of Law³⁵.

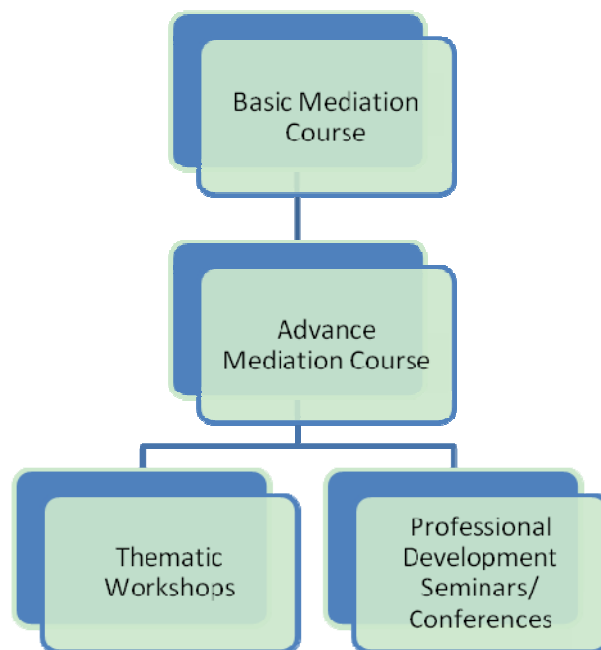


Figure 4. Training structure diagram of Singapore CMC. Source: Adapted from CMC Annual Report 2003-2004, at 22.

The latest structure of training is provided by the Community Mediation Report 2010-2011 as illustrated by Figure 5 attached herein. In 2010, the requirement of upgrading the mediators' skill was made mandatory. The mediators are required to attend courses organized by CMC as part of their continuing professional development. Thus, Advance Mediation Course (see Figure 4) previously provided by CMU was changed to Continuing Professional Development. The mediator training under Continuing Professional Development comprises Internal Training and External Training. In 2011, CMC introduced a series of Master Classes which comprise of three modules: (1) Situational Management Mediation; (2) Sharpening Mediation Skills; and (3) Moving towards Settlement, which are led by CMU Consultant under Internal Training course. CMC also invites external trainer such as the Singapore Mediation Center to provide courses under the External Training to improve the mediators' skills.

³² Community Mediation Center Annual Report 2009-2010, p. 11.

³³ See Section 8 Community Mediation Center Act (Cap. 49A) (1998).

³⁴ Community Mediation Center Annual Report 2004-2005, p. 17.

³⁵ Community Mediation Center Annual Report 2005-2006, p. 32.



Figure 5. Training structure diagram of Singapore CMC. Source: Adapted from CMC Annual Report 2010-2011, at 22.

The mediators are respected by members of the society from all walks of life, different age groups, and ethnic groups and professions. They comprise mainly of grassroots and other community leaders, chosen for their commitment and dedication to community service work. This made them easily recognized and respected by the resident. The reason to appoint such person by the CMC is to enforce the CMC philosophy of empowering communities to work out their own problem³⁶.

The efforts of the CMC have resulted encouraging increase in number of the cases referred to the CMC and the percentage of settlement. The CMC Annual Report 2005-2006 reported that in 1998, there were 120 cases referred to the CMC Regional East, the one and only center at that time. In April 1999, the second center, CMC Central was set up. Subsequently, the number of cases has increased to 211. In 2001, the third center, CMC Regional North was set up and the cases referred to the center were 273. Total cases referred to the center from 1998 to 2002 were 1,063 cases and the settlement rate was 75%³⁷. The cases that have reached settlement for the five years period were 797.

The CMC Annual Report 2010-2011 reported that from 1998 to 2010, there were 5,349 cases mediated and 72% have reached settlement³⁸. That means almost 3,851 cases have been solved by the center within the duration of 13 years. It may be concluded that from 2005 to 2010 the cases solved by the center through mediation increased by 79%. The Singapore CMCs show that an efficient center will provide good services to the people. Subsequently, it will encourage the citizens to resolve their dispute by community mediation in their neighborhood.

Result, Discussion, and Recommendation

Singapore has developed community mediation as the method of resolving neighborhood dispute upon the setting up of the CMC Act, i.e., the law and thereafter developed the CMCs. The law and the center provide a good foundation for CMC. Malaysia on the other hand has started a pilot program to see the effectiveness of

³⁶ Community Mediation Center Annual Report 2005-2006, p. 17.

³⁷ Community Mediation Center Annual Report 2002-2003, p. 21.

³⁸ Community Mediation Center Annual Report 2010-2011, p. 8.

community mediation in Malaysian urban society. The program was started without a center and regulatory laws. This is the difference between the Malaysian and the Singaporean community mediation in establishing this method of dispute resolution in both countries.

In Malaysia, there are two units under DNU involved in the pilot project of Community Mediation, i.e., the Unity Management Unit that deals with community mediator and the Community Development Unit that deals with the *Rukun Tetangga* Committee. Both are dealing with the same persons who are involved in the project. It is afraid that the instructions received from the two units might be redundant or contrary. However, the instructions in most of the times complement each other. If the instructions are contrary and redundant, the mediator cum *Rukun Tetangga* Committee may face confusions or problems. The only reason why the *Rukun Tetangga* Committees are chosen to be the community mediator in the Community Mediation pilot project is because they are the grassroots leaders. This situation may also create conflicts since the *Rukun Tetangga* Committees are holding two positions.

It is suggested that to avoid conflict between the two positions in future, the community leader should be given choice either to be a community mediator or *Rukun Tetangga* Committee. The community mediators then may concentrate on mediation and *Rukun Tetangga* Committee may concentrate on their duties. Nonetheless, *Rukun Tetangga* Committee must be trained for community mediation as they supposed to mediate under Section 8 of the *Rukun Tetangga* Act 2012.

The writer proposes that Malaysian CMC should be the institution to provide the training to the *Rukun Tetangga* Committee, despite that they have separate center. Thus, the DNU may utilize all the resources in CMC to provide the training. It is suggested that despite the fact the *Rukun Tetangga* Committee is also a community mediator, they should not mediate unless in an urgent case. They are advised to refer the cases to CMC to be handled by the community mediators. It is also suggested that with regards to the issue who may request for mediation, the CMC should adopt a method where the request may be made by the disputants or the third party. Hence, the *Rukun Tetangga* Committee will be the third party to request for a mediation to be conducted to the CMC. This situation will give confidence to the resident in the mediation tenet of impartiality of mediator.

Currently, the offer of training for community mediators is limited to the *Rukun Tetangga* Committee. In other words only the *Rukun Tetangga* Committee has the chance to be a community mediator. Many professions do not have the opportunity to join this program due to no information on how to join this program or the DNU is yet to open application for others except the department's staff. It is suggested that DNU opens the application to all professions to be community mediators with conditions that they need to be active in community service. If this takes place, the writer believes that many citizens are interested to get involved in this project.

It is recommended that the training provided by DNU may also be focused on professional mediators. Thus, there will be two types of training: the first sense and the second sense as mentioned earlier in this paper. The advantages to have two types of community mediators are mediators will have a proper training that will suit their practice with the level of thinking of the residents in their neighborhood. Singapore has been providing the professionals mediators training the community mediator and it works well. Singapore CMC under the Minister of Law managed to resolve 72% out of 5,349 cases mediated in the center. Even though Singapore has shown an excellent progress, Malaysia may not follow blindly. A suitable system needs to be created to suit the people since Malaysia is a bigger country with more population.

The second reason to have type of training is in recent situation, many Malaysian have information about ADR and mediation especially the professional persons. Every field now is promoting mediation for example mediation in business, mediation in architecture, court-annexed mediation, mediation in company, etc.. Thus, the second sense mediation is not suitable for the professional people as they may have advance information on mediation.

The writer proposes an organization structure of Malaysian CMC as illustrated by Figure 6 attached herein in the urban areas. It is proposed the CMC to be under the DNU under the Unity Management Unit. There will be a Manager who is answerable to the Unity Management Unit. The Manager will be assisted by a Deputy Manager (Development) who will handle further training for the mediator and liaise with Institute of Research and National Integration Training (IKLIN (Institut Kajian dan Latihan Integrasi Nasional)) that has been incorporated to handle all trainings for DNU. The manager will also be assisted by a Deputy Manager (Operational) who will be assisted by the Center Manager in handling CMC activities and operations. The Center Manager will be assisted by two officers: (1) the officer who manages the affairs of community mediators, the operation of mediation sessions, and any cases that have been reported directly to the center; and (2) the officer who manages the cases reported by the *Rukun Tetangga* and handles community mediators who are also Rukun Tetangga Committee.

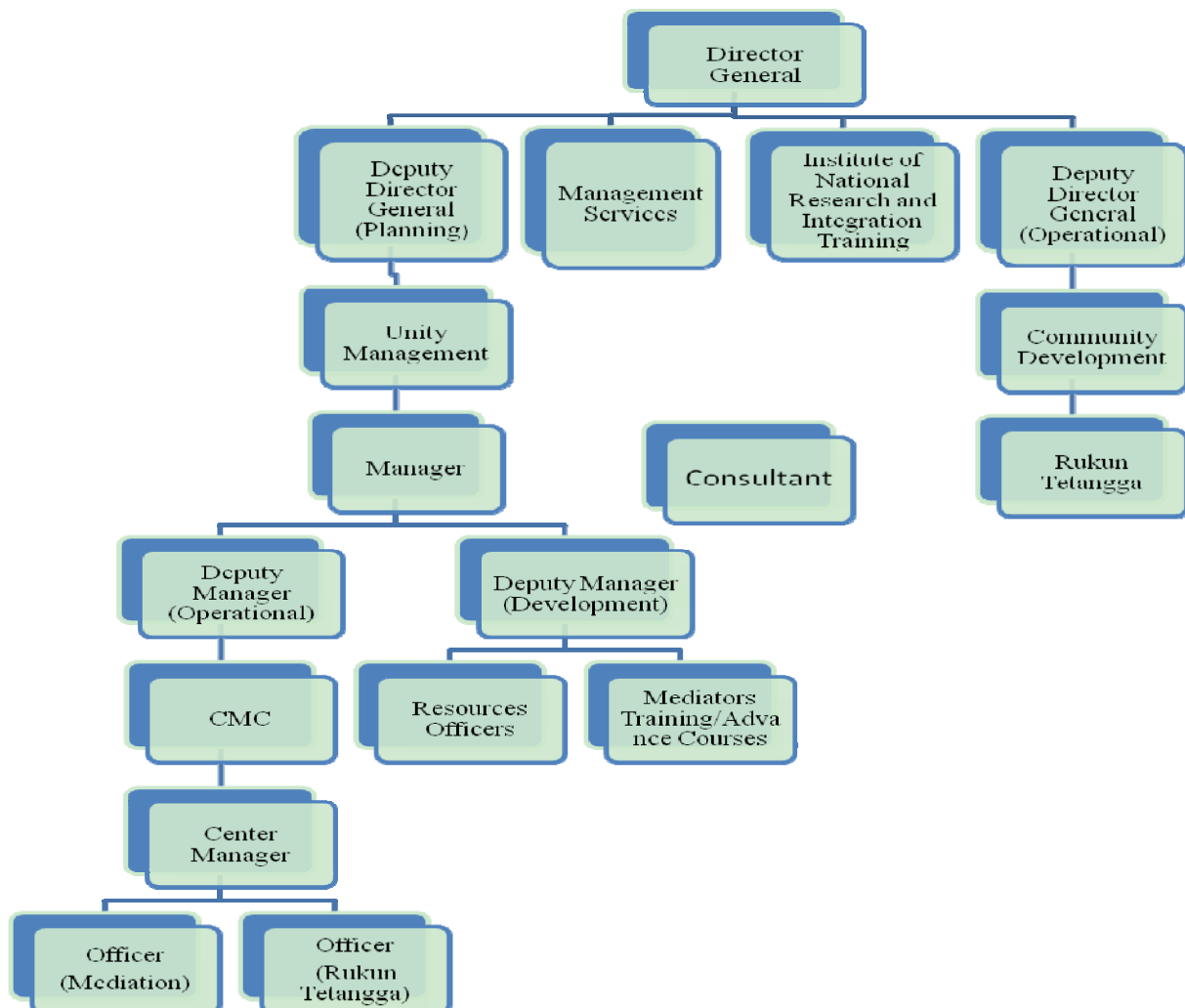


Figure 6. Proposed organisation structure of Malaysian CMC.

Malaysia needs to have a separate CMC from the *Rukun Tetangga*. It is important to have a different identity. The *Rukun Tetangga* is a developed program with a set of laws, whereas community mediation is developing and at its initial stage. The residents who might not have time to participate in *Rukun Tetangga* program will have the opportunity to participate in Community Mediation Program. It is hoped that the DNU will open application for others to join this Community Mediation Program. If this pilot project is prolonged with this nature, not many residents will have the chance to participate and contribute.

Conclusions

Malaysia has taken an excellent step in introducing formal community mediation in resolving dispute between her multiethnic, multicultural, and multireligious citizens. However, Malaysia is still new in implementing the formal community mediation. There are many rooms for improvements. The most important action to be taken is to have a CMC that is separated from *Rukun Tetangga* together with a regulatory law. The separate entity, a center, and a set of rules will develop the community mediation better under DNU.

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