

Mediating Neighbour, Racial and Religious Disputes – Takeaways from the Second Conference of the International Institute of Mediators

*Written By: Lim Yu Jie Isabelle

I. Introduction

On 8th – 9th October, the International Institute of Mediators (iiM) held its 2nd Conference on using mediation to resolve neighbour disputes, as well as racial and religious conflicts. Over one and a half days, the Conference covered a wide range of topics, ranging from discussions on the qualities of a good mediator, what makes a mediation session successful to how to increase the utilisation of mediation in handling racial, religious, and neighbourly disputes. It was officially opened by Mr Edwin Tong SC, Minister for Culture, Community and Youth, and Second Minister for Law. The event was also graced by many distinguished guests, including Mr Alvin Tan, Second Minister for Culture, Community and Youth, Dr. Lim Lan Yuan, master mediator and President of iiM, and six religious faith leaders.

The Conference was attended not only by legal practitioners but numerous community leaders and members of the public. The turnout reflects the significance of the topics being discussed at the event, especially against the backdrop of growing racial and religious tensions internationally as well as a high probability of neighbour conflicts happening today owing to high local population density.

II. Background to Mediation in Singapore

What is Mediation?

Mediation is defined by the Singapore Mediation Council (SMC) as a voluntary process involving a neutral third-party (the “mediator”) who helps disputing parties reach an amicable resolution in private.¹ It is an alternative dispute resolution mechanism to litigation that has grown in popularity in the past three decades as it offers several advantages to parties.

*Year 2 LL.B. student, Singapore Management University Yong Pung How School of Law

¹ Singapore Mediation Centre website <<https://www.mediation.com.sg/our-services/overview-of-services/mediation/>> accessed 17 October 2022.

Firstly, mediation is less procedurally complex than litigation. Little to no paperwork is required in a mediation except for the drafting of the mediation settlement, as opposed to the numerous affidavits and forms that parties will need to submit before court sessions if they pursue litigation. Thus, mediation is typically more efficient, helping parties save time and costs. Secondly, mediation confers autonomy to the parties to reach a settlement that best serves their respective interests. This is unlike litigation, where the settlement is completely determined by a third party. Thirdly, mediation can create mutually beneficial settlements that preserve or even improve the relationship between the disputing parties. Litigation is unlikely to offer the same benefit as it is an adversarial process that produces an outcome clearly favouring one party. Lastly, the mediation process is private and confidential, which is favourable to businesses and individuals seeking to preserve their reputation.²

Mediation in Singapore

The numerous benefits of mediation have inspired a concerted effort to increase the utilisation of mediation in Singapore in the past two decades. Furthermore, Minister Tong highlighted how Singapore's mediation services have expanded beyond the domestic setting with the Singapore Convention of Mediation coming into force, further boosting Singapore's standing as a premier global dispute resolution hub.³

Currently, there are numerous court-based and private mediation services available for potential disputants. Court-based mediation services are offered by the State Courts Centre for Dispute Resolution (SCCDR). For family disputes, mediations by the Family Justice Courts are currently conducted by the Family Resolution Chambers (FRC), the Maintenance Mediation Chambers (MMC) and the Child Focused Resolution Centre (CFRC).⁴ Private-based mediation services are offered by the Singapore Mediation Council (SMC) and the Singapore International Mediation Centre (SIMC).

² Dorcas Quek Anderson and Sabiha Shiraz, "Chapter 3. Mediation" *Singapore Law Watch* (30 December 2018) <<https://www.singaporelawwatch.sg/About-Singapore-Law/Overview/ch-03-mediation>> (accessed 17 October 2022).

³ "Singapore Convention on Mediation Enters into Force" *Ministry of Law* (12 September 2022) <<https://www.mlaw.gov.sg/news/press-releases/2020-09-12-singapore-convention-on-mediation-enters-into-force>> (accessed 17 October 2022).

⁴ *Supra* n 7.

More recently, the iiM was founded as another provider of private-based mediation services in line with a growing demand for such services. Initially founded by a small group of accomplished mediators, many more experienced mediators have since joined the non-profit organisation. This has enabled the organisation to both provide mediation services, organise various events including the iiM Conference, and provide training services to potential mediators to develop and promote the mediation profession on a local and global basis.⁵

Nonetheless, despite these praiseworthy developments, many speakers emphasised the need to continue encouraging the use of mediation in Singapore. In line with this, Minister Edwin Tong shared that the Ministry of Law was looking at decentralising public-based mediation clinics, which are currently centralised at the URA building, to place these mediation clinics closer to a variety of neighbourhoods. The Minister also mentioned that several amendments to the Community Dispute Management Framework were being proposed in Parliament to encourage the use of mediation in community disputes. Such amendments include mandating mediation for some neighbourly disputes, looking into how Community Mediation Centre (CMC) settlements could be enforced by court orders, and continuing the expansion of online mediation services.⁶

III. Summary of Key Issues Discussed at the Conference

Qualities of a Good Mediator

The Conference began with a series of sharings by distinguished mediators who discussed the qualities of a good mediator and mediation session.

In her sharing, Professor Fatimah Lateef, a former Member of Parliament, shared that a good mediator should possess four qualities. Firstly, a mediator should have the ability to assist parties in coming up with their own solutions whilst simultaneously trying not to impose solutions. This facilitative approach is in line with party autonomy being the focus in mediation. Secondly, a mediator should be emotionally intelligent in observing both verbal and non-verbal cues from parties and using one's own physical cues to reassure parties and

⁵ "About iiM." *iiM website* <<http://iim.sg/about>> (accessed 17 October 2022).

⁶ "Review of the Community Dispute Management Framework (CDMF)" *Ministry of Culture, Community and Youth website* (15 February 2022) <<https://www.mccy.gov.sg/about-us/news-and-resources/parliamentary-matters/2022/Feb/Review-Community-Dispute-Management-Framework>> (accessed 17 October 2022).

create trust. Third is creativity in proposing solutions that benefit both parties. Lastly, a mediator should have an open mind. This means that a mediator should assist parties in seeing each other in a positive light, and should not make assumptions or be swayed by any prejudices.

To illustrate the importance of these skills, Professor Lateef gave two examples of previous cases she had mediated. In one case, a young couple complained of how their neighbour, an elderly woman, would always spit at the door of the couple's flat whenever she walked past. With all parties keeping an open mind at the mediation, it was soon revealed that the elderly woman was upset as her husband had passed away after he had injured himself from tripping on items the young couple had placed outside their flat. After learning of the elderly woman's predicament, the parties reached a settlement that the young couple would clean up the outside of their flat, and the elderly woman would no longer spit at their door.

Another dispute involved a Taoist temple and residents of a nearby HDB flat who complained of soot entering their apartments from the burning of offerings during the Ching Ming festival. After communicating with the NEA, Professor Lateef learnt about innovative practices by the NEA such as a watering system to manage soot which could contribute to resolving the dispute. With the NEA's assistance, the parties were also able to determine the direction of the wind. Eventually, they reached an agreement where the temple would reduce the number of offerings burnt and would place the bins in a direction where the wind would blow the soot away from the residential areas.

Qualities of a Successful Mediation

Professor Lateef's sharing was followed by a sharing on *Compassion and Passion in Mediation* by Mr Viswa Sadasivan, a former nominated Member of Parliament.

In his sharing, Mr Viswa's focused primarily on envisioning what a successful mediation should look like. Citing the example of a discussion on s 377A between a LGBTQ+ activist and a Catholic priest that he had mediated, Mr Viswa suggested that for certain polarising subjects, a willingness to communicate and an agreement to civilly disagree, rather than a complete consensus, may already be indicative of a successful mediation.

Apart from this, Mr Viswa shared how a successful mediator is characterised by his focus on compassion, even if this may override other tenets of the mediation process, such as neutrality and efficiency. For example, Mr Viswa disagreed with the idea of rushing mediations and arriving at unfair settlements simply to increase the numbers or percentages of successful mediations. He also shared his belief that mediators should step into remedy imbalances in power between parties to achieve more truly mutually beneficial settlements between parties.

Mediation in the Context of Religious Disputes

A highlight of the Conference was a sharing by six religious faith leaders about their experiences in resolving conflicts within their faiths. The Conference featured sharings by faith leaders on the fundamental beliefs of followers of Islam, Christianity, Taoism, Buddhism, Hinduism, and the Baha'i religion.⁷ Whilst the Conference focussed on using mediation to peacefully resolve religious conflicts, it also emphasised the importance of constantly engaging in inter-religious (and intra-religious) dialogues to foster understanding and empathy amongst different religious groups to prevent conflicts from arising altogether.

The Conference also featured a live mediation skit demonstrating the use of mediation techniques in resolving religious disputes. The skit provided an overview of the standard elements of a mediation session, namely the mediator's opening, parties' opening statements, private caucuses with both parties, option generation and the signing of a settlement agreement.⁸

Two main points were highlighted through the skit. First was the utility of private caucuses to de-escalate tensions between parties and encourage parties to reveal crucial information they might not divulge in front of the other party that could contribute to finding common ground with the other party. Second was the importance of the mediator allowing the parties to find their own solution instead of imposing solutions. An ideal mediation should uphold religious freedom, diversity, and tolerance instead of undermining the freedom of both parties to practise their religions in achieving a compromise.

⁷ The Bahá'í Faith is a relatively new syncretic religion teaching the essential worth of all religions and the unity of all people.

⁸ See also "The Mediation Process" *Ministry of Law Website* < <https://cmc.mlaw.gov.sg/apply-for-mediation/the-mediation-process/>> (accessed 17 October 2022).

The first day of the Conference was concluded with an interfaith panel where the six faith leaders shared their perspectives on resolving a variety of difficult religious disputes. A particularly important point raised was the need to do more to include individuals who feel side-lined in religious dialogues instead of selecting those that are already attuned to ideas of religious harmony to build genuine religious harmony. The faith leaders also highlighted that intrafaith dialogues have long been a neglected portion of strengthening religious harmonies, explaining the importance of such dialogues in fostering a deeper understanding of the varying beliefs and practices espoused by different sub-groups within the same religious community.

Application of Mediation in Resolving Neighbourly Disputes

Day 2 of the Conference redirected the focus towards the use of mediation in resolving neighbourly disputes. The Conference was opened by a sharing by Dr. Lim Lan Yuan, President of the Association of Property and Facility Managers, on managing and mediating conflicts in condominiums. Dr Lim summarised that the common conflicts in condominiums often revolved around water leakages, conflicts over the use of common areas, poor maintenance of the property and other conflicts between residents and management. A multitude of measures are available to revolve such conflicts, such as statutory presumptions that the resident of the upper floor is responsible for water leakages unless proven otherwise,⁹ condominium by-laws for the use of common spaces and court mechanisms like the Community Dispute and Resolution Tribunal.

Dr Lim opined that many conflicts in condominiums could be prevented or resolved by drafting clear and comprehensive by-laws and promoting awareness of such by-laws amongst residents, especially amongst foreign tenants who may not be familiar with local practices. Nonetheless, Dr Lim shared how mediation could be appropriate where the dispute between parties was of a personal, not legal nature. One hypothetical scenario was where parties A and B that appeared to be in dispute regarding excessive noise created by party A. In actuality, the noise was not the cause of the dispute, but rather the way that party B approached party A, which party A deemed as overly aggressive. This led to party B becoming overly defensive, escalating the tensions between the two parties. Once the managing agents could encourage

⁹ Building Maintenance and Strata Management Act 2004 s 101(8).

the parties to converse and make amends for the ways they had approached one another, the tensions were greatly mitigated.

Dr Lim's sharing was followed by a sharing by members of different Town Councils ("TCs") on mediating similar disputes in HDB buildings. Similarly, legal measures, such as the drafting of by-laws, and harsher approaches, such as issuing notices of offences to residents for breaching by-laws and compounding penalties for repeat offences, were used to resolve such conflicts. However, in cases where fault is not as clear-cut and both disputing parties have contributed to the conflict, mediation is an indispensable dispute method as it can be used to convince both parties to make mutual compromises to resolve their conflict. A case study raised was where party A had obstructed the common corridor with his shoes, and party B had failed to persuade him not to do so. Party B then retaliated by installing a CCTV to monitor party A, violating his right to privacy. The dispute was mediated by the Town Council and a settlement was reached that party A would shift the angle of the CCTV such that it was no longer directed at party B's home in exchange for party B removing his shoes.

These sharings were followed by a panel discussion amongst Dr Lim and members of the TCs on mediation in neighbourly disputes. A key takeaway was to take a realistic view of mediation, to acknowledge its limitations along with its potential. In particular, the panel highlighted the potential inefficiencies of the mediation as a dispute resolution process amidst a climate of rising neighbourly disputes such as nuisance complaints due to an increase in work from home arrangements. At times, tougher measures such as notices of offences would likely be more expedient. Apart from mediation, the TC members highlighted other non-confrontational means of dispute resolution could be anonymous tips to the TC of potentially inconsiderate behaviour of neighbours. Such anonymous complaints would not require complainants to disclose their identity to their neighbour, thus avoiding escalating tensions between neighbours.

IV. Conclusion

All in all, the Conference was a comprehensive introduction to mediation for its audience members new to mediation. For audience members already acquainted with the concept, it was a reaffirmation of the key role of mediation in maintaining racial, religious, and neighbourly harmony in Singapore. The Conference also provided a nuanced and balanced

view of mediation, highlighting the difficulties of successfully mediating difficult disputes and emphasising the role of mediation as a complement rather than complete substitute to other forms of dispute resolution. Nonetheless, despite these limitations, the wide applicability of mediation in amicably resolving a wide variety of common disputes means that one can likely expect the continued expansion of mediation services in Singapore in the future.