# BOOK REVIEW

## CONTEMPORARY ISSUES IN MEDIATION (VOL 2)*

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1 This is the second volume of a publication by the Singapore International Mediation Institute ("SIMI") showcasing ten best entries from the second SIMI Annual Mediation Essay Competition. The second volume contains two parts – Essays on Family Mediation and Essays on General Mediation, complementing the first volume on Culture and Mediation, Mediation Theory and Techniques and Mediation and the Law.

2 The second in this series maintains from the first, a high quality of critical thinking, commentary, creative discussion and future aspirations. Agreeing with the editors, if something is worth doing once, it is worth doing it twice or more.

### I. Essays on Family Mediation

3 The significant number of entries on family mediation allowed for a dedicated section in the publication. That in itself is a testament to the maturing of our thinking. Many more are focused on considering and helping the family unit, signifying that it is within our contemplation to think more, do more and say more, for the betterment of the core of society. I am very encouraged by this.

4 Khoo May Ann wrote the winning entry for the second book. Her essay entitled, "Scaling up Safety for the Sake of Self-determination: Exploring Options to Mediation and Cases of Family Violence in Singapore" discusses screening for family violence, shuttle mediation, evaluating cases of abuse and neglect via the Signs of Safety framework, and e-Mediation. The piece encourages safeguards in the mediation process to help parties negotiate on a level playing field such that a settlement via mediation is tenable, with willing consent. As a practitioner in this field, the challenge of mediating often does surface where violence

* Singapore International Mediation Institute, 2017.

is present or alleged. It is timely that this essay has come to the fore to address what can be done to help parties under such circumstances.

5 The next essay is by Too Fang Yi – "Mediation of Family Disputes in Singapore Following the Amendments to the Women's Charter 2011". This piece examines honestly the difference between coercion into mediation and coercion within mediation, and whether coercion into mediation has an impact on settlement rates.

6 The first section of this book concludes with an essay by Yeoh Jean Ann entitled, "Mediation as an Appropriate Forum of Dispute Resolution for Family Disputes: The Case for an Interdisciplinary Approach", advocating the facilitative model with aspects of the evaluative and therapeutic models. Of particular interest are the benefits to interdisciplinary co-mediation to mend fractured families. Pre-mediation consultation and therapy is gaining more traction and we ought to consider how we can incorporate these models to better facilitate our processes within our community.

7 This compilation of three essays in the first section of the book is recommended to all involved in family law practice. They serve as a guide on insights to better enhance family law practice within our ever-evolving and improving ecosystem.

## II. Essays on General Mediation

8 The second part of this publication begins with Justin Low's essay, "Mandatory Mediation in Singapore: Cultural Compatibilities". His essay was the first runner-up in the series. It boldly confronts cultural aspects of resolving disputes in Singapore among the Chinese, Malays and Indians, with the ultimate aspiration to mediating without external intervention. By outlining Singapore's cultural disposition to mediation, a comprehensive examination of how the mediation process in our environment can be further encouraged is detailed.

9 The fifth essay is by Wang Chen Yen – "To Mediate or Not to Mediate: An Analysis of When It Would Be Reasonable to Reject Mediation". A presumption of alternative disputes resolution ("ADR") is taken into account in Singapore when assessing costs against a party for a refusal to mediate. Lawyers have a duty to advise clients on ADR at the earliest possible juncture pursuant to the 2016 amendments to the Supreme Court Practice Directions. Wang also explains the very useful list of factors laid down in the case of *Halsey v Milton Keynes General NHS Trust*[1] of when the court should impose a cost award against a successful litigant who had refused litigation, including the nature of the dispute, merits of the case, extent to which settlement methods have been

1 [2004] 1 WLR 3002.

attempted, if the costs of ADR would have been disproportionately high, if any delay in convening ADR would have been prejudicial to the case and if ADR had a reasonable prospect of success. This essay emphasises the growing importance of directing ourselves to consider peaceable solutions.

10 "Promoting ASEAN as a Platform for Collaborative Dispute Settlement – Institutionalising Administered Mediation in ASEAN" is by Maryam H Rozlan, who writes about consensual mediation in ASEAN as a preferred non-adversarial and consultative method of conflict resolution. Propositions for an ASEAN model of administered mediation include a centralised body to administer mediation, consolidation of a panel of mediators and standardisations.

11 Rumani Kaushal Sheth produced an interesting piece on "Making Mediators Better Performers – Use of Neuro-linguistic Programming and Improvisation Theatre for Creative Results". A close read of this essay is recommended as an introduction to improv theatre and a start to developing new language skills in mediating.

12 Choong Jia Shun's contribution – "And Never the Twain Shall Meet? An Analysis of the Benefits of Caucus Mediation and Conference Mediation" is the eighth chapter in the second volume. Confidentiality and rapport between mediator and party are advantageous in caucus mediations while conference mediation encourages interaction between parties, keeping them together at the negotiation table. Whichever method is selected, the thrust of mediation should be to facilitate parties coming to an agreement, while maintaining party autonomy.

13 Tenets in mediation for neutrality are that a mediator must maintain independence and impartiality without interference. These facets are considered against a possible power imbalance in mediation in "The Paradox of Power and Neutrality in Mediation" by Seah Ern Xu. Preserving party autonomy in the mediation process is vital to the success of the mediation as mediator neutrality and control of the process is observed.

14 The second volume closes with an essay on our future sights. The final chapter is written by Michelle Wong – "Learning from Hong Kong for a Mediation and Apology Legislation in Singapore". The Mediation Act 2017[2] has been passed by Parliament. The time is ripe to look to an apologies ordinance in Singapore, with the view of reducing combative litigation and facilitating conflict resolution.

15 As described in the foreword by William Ury, this reviewer holds a strong belief that mediators are like the "*old man moving through the clearing in a very deliberate way*", planting the seeds of mediation not for us, but for those to come. The essays contained in this volume cover a

2 Act 1 of 2017.

breadth of issues central to mediation. I am encouraged by the enthusiasm pervading across each essay and am looking forward to reading the third volume.

16 I commend the second publication in this series to all who hope in peacekeeping efforts, to make the world a better place.

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