Community Mediation in Malaysia: The Challenges faced by Community Mediators and the DNUI

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ABSTRACT

The Department of National Unity and Integration (DNUI) designed community mediation programmes to provide mediation as a method of dispute resolution to be adopted at community level. The Department trained “Ahli Jawatankuasa Rukun Tetangga” (Neighbourhood Committee Members) to be community mediators. The objective of this paper is to study the challenges faced by these community mediators in practising and subsequently, providing mediation services to the community as well as the challenges faced by the Department in supporting the community mediators. The authors adopted the qualitative research method to gather data in writing this paper. From the data collected, it was found that community mediation programmes are new, the mediators were yet to be recognised widely in Malaysia, there was not enough promotion and the funds allocated for the programme were limited. These are the challenges faced by both the community mediators and the Department. It is suggested that the community mediation programme in Malaysia be given a proper centre and administrative structure in each state so as to ensure that the programme is administered by an appropriate body that will overcome all challenges, allowing the programme to succeed.

Keywords: Community mediation, challenges, dispute resolution, Rukun Tetangga, Neighbourhood Committee

INTRODUCTION

Community mediation programmes in Malaysia were initiated in 2008. It was the effort of the Department of National Unity and Integration (DNUI) under the Prime Minister’s Office and currently is placed...
under the auspices of the Unity Management Unit of the Department. The community mediators are grassroots leaders selected from Ahli Jawatankuasa Rukun Tetangga (Neighbourhood Committee Members). Most of the mediators are presidents of the Rukun Tetangga (Neighbourhood Committee) programme in their residential areas. Currently, Malaysia has almost 1,000 mediators throughout the country. The role of community mediators is to be a neutral third party in assisting disputing parties in their residential area or any other places by facilitating communication between the parties in order to provide them the chance to listen to one another in order to agree upon a settlement. The authors conducted interviews to collect data; the interviews were divided into one-to-one in-depth-interviews and short interviews. Community mediators, professional mediators, Rukun Tetangga committee members and DNUI officers were interviewed to collect information in 2012, 2013 and 2014. The challenges faced by both community mediators and the DNUI will be overcome if the DNUI were to establish a community mediation centre in each state in Malaysia with a proper administrative structure to handle the community mediation programme.

FINDINGS ON CHALLENGES IN PRACTISING MEDIATION

Community mediation programme in Malaysia is still new and there are many rooms for improvement. The programme is a great effort of the Malaysian government to provide mediation as a medium of dispute resolution at community level. The programme is in its early years, therefore it is expected that there are many challenges faced by the mediators and the DNUI. The researchers shall discuss the challenges facing by the mediators in the first part and the DNUI in the second part herein, respectively.

Challenges Faced by Community Mediators

Data collected revealed that there were challenges faced by the community mediators in practising mediation in Malaysia. The biggest challenge for the mediators was recognition and acceptance by the residents in their locality. Some mediators were unable to carry out their work of mediation due to not receiving cooperation and recognition from the residents. Many residents had received no information of the existence of the community mediation programme and the mediation process. The mediators complained that their authority to mediate was questioned every time they tried to approach disputants. Hence, the non-acceptance by the residents was perceived as a challenge in practising mediation. The mediators believed that the rejection was due to residents not being given prior information about mediation or the community mediation programme and the existence of the community mediators.

According to Respondent 88, none of the residents in his housing area were aware of the mediation process. He stated, “[T]he residents in my area have no information on
mediation as problem solvers.” Respondent 84 further elaborated that the residents were unaware of the programme because no promotion of the community mediators or their roles had been carried out at any time. He stated, “[T]he residents have no information because no one promotes [the programme].”

Thus, in order to overcome this challenge, the mediators suggested that the DNUI should create awareness programmes and promote community mediation programme immediately so as to ensure that residents recognised community mediators. They suggested the following:

[T]he DNUI should visit the KRT (Rukun Tetangga area) of each mediator and share information on the roles of mediators. (Respondent 88);

[T]he DNUI must inform the residents of the existence of [a] mediator. (Respondent 78); and

[T]he DNUI must promote community mediators and provide each mediator with an identification card. On top of that, the DNUI must promote the programme to show that the programme is recognised by the government. Upon promotion and recognition, then the mediator may offer [his] services. (Respondent 84).

Many of the mediators agreed that there was no promotion made in their state. According to them, when the officers requested committee members to participate in the community mediation course, they were not given full information about the course. They were only asked to send available candidates to join the programme. However, candidates in 2014 shared that they were selected because they were interested to be community mediators. Further, many mediators alleged that the officers of the DNUI had yet to share information on community mediation with Rukun Tetangga committee members.

Secondly, the mediators claimed that there was lack of support from the DNUI and no further training was given to them. They were not happy because the DNUI had yet to send them for extra training courses and they claimed that the officers at district level were not very supportive. Respondent 33 agreed with other mediators’ claim that the basic training alone was insufficient for mediators to move forward. She said that the responsibilities placed on their shoulders by the DNUI were not equal to the training given. They needed more courses to enhance their knowledge and skills. She expresses her dissatisfaction in the following words:

There has been little effort taken by the DNUI to improve the community mediation programme up to today. The programme is run by the community mediator. The only action taken by the DNUI was to issue the instruction letter that required the mediators to write to all government departments [about their services]. In my understanding, the community mediation programme was initiated by the DNUI and Institut Kajian dan Latihan Integrasi Nasional (IKLIN); they must take responsibility.
Her unhappiness was shared by Respondent 36. He was frustrated that the DNUI put in less effort to improve the community mediation programme. He stated, “The DNUI has never tried to assist us in improving the community mediation programme.”

Both mediators were practising mediation at the time of the interviews and had contributed to the community. But they believed that the inefficiency of the programme and the failure to overcome the challenges faced by the mediators were because they had not received adequate support from the DNUI. Respondent 33 felt the same way but took a different approach. The respondent admitted that the DNUI seemed to have forgotten about the mediators after giving them the certificate of appointment but she had taken the initiative to ensure the programme worked. She explained:

In the beginning, the DNUI forgot about the mediators after they had given us the certificate of appointment. They were not concerned about us. But then I took the initiative to start mediating problems and submitted reports to them. Just to ensure they saw my role in community mediation. We (the mediators) need to prove ourselves and then the DNUI will support us.

She believed that the DNUI would support them if the mediators played their roles. However, she disagreed with the attitude of some of the DNUI officers, who did not want to share the responsibility of any cases with the mediators. Such conduct suggested that the DNUI had no confidence in the mediators. She explained:

The DNUI is the authority that manages the Rukun Tetangga programme and is aware of all conflicts or problem faced by Rukun Tetangga committees in all areas. Sometimes, the mediator is aware only of the problem faced by the committee in his area and has no information about other areas, even though those communities may be in neighbouring areas. In this circumstance, the DNUI must play their role to promote mediation by referring the cases to community mediators or to mediate the case (there are many staff of the DNUI who have been trained as mediators). In cases that involve Rukun Tetangga committees or DNUI kindergarten teachers, the DNUI officers should call us (the community mediators) to conduct mediation. We have to give mediators the opportunity to practise and to solve cases.

Respondent 35 was aware of lack of support from the DNUI but he did not cease to practise. He shared that he practised mediation in his own way. Gradually, he developed the skills of listening and negotiating. He stated:

I gained experience in mediation from my practice that I did without strictly following the rules because I didn’t know of any rules. Most of the cases that I mediated were based on my own method or what we call trial and error. I feel that the main challenge
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that I face is to mediate without adequate knowledge and mediation skill. I’m still learning. Sometimes I could sense that my approach was wrong but I proceeded with the session (mediation). I sensed that I had done something that I should not have had. From that I improved my methods.

Thirdly, the mediators did not receive support from the Rukun Tetangga committee members. The residents as well as the Rukun Tetangga committee members had no information on the community mediation programme. The researchers conducted interviews with 65 Rukun Tetangga committee members in an attempt to obtain information on the relationship between the Rukun Tetangga programme and community mediation and the roles of Rukun Tetangga committee members in promoting community mediation. Unfortunately, 47 respondents had no information at all on the community mediation programme conducted by the DNUI. Ten respondents (RT1–RT10) had some information on community mediation, even though there was no community mediator in their areas. Eight respondents (RT11–RT18) learnt about the community mediation programme when the DNUI selected one of their committee members to join the programme and subsequently appointed the said member to be the community mediator.

All respondents unanimously answered “no” when they were asked whether there was a relationship between the mediation programme and the Rukun Tetangga. They looked upon the community mediation programme as a separate programme that was not a part of the Rukun Tetangga programme. Hence, they conducted many programmes for unity and integration purposes but never promoted community mediation. Furthermore, the mediators never attempted to share information with other committees and to spread the information. The respondents claimed that they had never been given any information on mediation either by the community mediator or DNUI officers. The respondents’ comments are given below:

[T]he mediator does not mingle with others and has issues with the Rukun Tetangga committee members. (Respondent RT11);

[T]he mediator never shared any information on the community mediation programme and I think he does not practise [mediation]. (Respondent RT12);

[W]e have a mediator in our area but he never shares any information with the other committee members, so we have no information on mediation. (Respondent RT13);

[W]e do have a community mediator but the information we get is insufficient, confusing and we don’t know what mediation is. (Respondent RT14);

[H]e does not share any information with others. (Respondent RT16); and

[W]e received no information on mediation. (Respondent 18).
Rukun Tetangga committee members assumed that the community mediators were not part of the Rukun Tetangga programme once they received the certificate of appointment, especially when the mediators did not share the information and present themselves as committee members of the Rukun Tetangga. Furthermore, unlike the committee members of the Rukun Tetangga programme, who are elected every two years, the appointment of the mediators is for life. Respondent 12 explained:

If the community mediators are not re-appointed by the people in his area as a committee member in the Rukun Tetangga, the title community mediator remains. He is not removed from the appointment.

Fourthly, some of the mediators were not actively practising community mediation. According to a few respondents, the mediator in their areas could not be contacted. This situation led to the perception that once a Rukun Tetangga committee member is appointed as a community mediator, he is not a part of the Rukun Tetangga programme. He need not be included in any of the Rukun Tetangga programmes as, it was believed, he worked alone.

Having said that, there are many practising mediators who are active in sharing information and yet Rukun Tetangga committee members are reluctant to assist them in promoting mediation. Respondent 2 shared with the authors that the mediator in his area practised mediation and had assisted a few people in the area. The said mediator also shared information on mediation with the Rukun Tetangga committee members. However, the Rukun Tetangga committee members never assisted the mediator in promoting mediation actively. They only introduced parties in disagreement to the mediator for him to help the disputants. He also felt that mediators belonged to another group and not to the Rukun Tetangga committee. According to him, one of the challenges faced by the mediators is difficulty in getting a response from residents in the neighbourhood. He stated:

RT committee members in this area have been informed of the roles of mediators. The mediators shared the information with us. However, up to today the RT has never promoted the programme because we believe that the mediators belong to their own group of mediators and have their own area of authority, which means once a person is appointed as mediator, he has his own jurisdiction and is separate from the Rukun Tetangga.

Rukun Tetangga committee members are not aware that community mediators are part of the Rukun Tetangga programme. The Rukun Tetangga committee members did not see any problem in assisting the mediators to promote mediation on condition that they are informed of the programme and of the roles and responsibilities of the mediators. If the mediators disseminated the information to their Rukun Tetangga committee members, the committee members would be able...
to assist them. Lack of information on the mediation programme has become an impediment for committee members in promoting mediation. According to the respondents, there were many ways to promote mediation at community level such as by sharing information with the residents:

[T]o give an opportunity to the mediator to explain and discuss his roles with the residents in his Rukun Tetangga area [including providing an explanation to Rukun Tetangga committee members]. (Respondent RT18);

[T]o design programmes to promote mediation in all Rukun Tetangga areas [to ensure Rukun Tetangga committee members were aware of the programme]. (Respondent RT17);

Rukun Tetangga committee members may assist the mediator in promoting the benefits and advantages of mediation by conducting programmes, writing proposals for the programme to finance the programme and to be committees for such programmes. (Respondent RT15);

Rukun Tetangga committee members may assist the mediator in financing his/her transportation and accommodation expenses for him/her to attend extra mediation courses and to assist the mediator in conducting courses to share his experiences with [communities in] surrounding areas. (Respondent RT 13);

Rukun Tetangga committee members [could] conduct programmes to educate the community on mediation. (Respondent RT 11);

Rukun Tetangga committee [members] may assist the mediator to gather residents for briefings on mediation and its benefits. (Respondent RT 10); and

[T]o conduct awareness programmes. (Respondent RT 4 & RT 8).

The mediators cannot practise if the residents refuse their services. This issue may only be solved if there is recognition from the community for the community mediation programme. However, it is not easy for residents to recognise if they have no information on the services offered by the mediator. Therefore, as a solution, there is an urgent need for awareness programmes to be held to inform residents and to promote the benefits of community mediation.

The fifth challenge was identified as the lack of monetary assistance to the mediators for transportation costs. The mediators were all volunteers and rendered their services on pro bono basis. According to Respondent 35, some of the mediators were using their own pocket money until recently when the DNUI issued a circular stating that each report submitted to the Department would entitle the mediator to RM50.00 as transportation fee. The circular brought relief to the mediators, especially those who were not Rukun Tetangga committee members. The comments by the respondents suggested that
community mediation in Malaysia needs a proper organisational structure to channel money as transportation allowance for the mediators.

Challenges Faced by the DNUI

The DNUI as the department that is responsible for the provision of community mediators also faces challenges in supporting the mediators financially. The DNUI require mediators to submit reports as evidence of their. It has been highlighted by DNUI officers that it is compulsory for the mediators to submit reports to the DNUI. It is very important for the DNUI to keep a record of each case handled by the mediators. However, many mediators have yet to fulfil this task. Respondent 14 was not happy with the mediators’ performance of their duty. He said, “It is compulsory for the mediators to report to us [about each mediation case] but up to now, we have received very few reports.”

As a solution to this issue, the DNUI started to collect reports by conducting meetings or case conferencing with the mediators at state level. One of the officers of the department that handles mediators, Respondent 15, stated that he had tried his best to collect the reports:

[W]e are trying our utmost best...by meeting all the mediators at the state level...through these meetings...we try to compile whatever cases that [the mediators] have managed to solve lah…. The problem with these mediators is some of them refuse to accept invitations to meet the DNUI officer.

Non-practising mediators was the second challenge faced by the DNUI. Despite providing training for mediators, some chose not to practise. In admitting this as a challenge for the DNUI, Respondent 15 stated:

The mediators are community leaders; they render their services voluntarily. We (DNUI) understand that voluntary means sometimes they are very active, sometimes they are not… . Secondly, these people are not permanent in one place. The knowledge of mediation is not imparted to others. And thirdly, of course, the financial constraints.

Lack of funds for community mediation programmes was the third challenge facing the DNUI. According to Respondent 15, the DNUI needed evidence to show the effectiveness of the programme to enable them to obtain funds. If there were no positive results, it was difficult for the DNUI to channel grants to the mediators for them to conduct programmes or to send the mediators for extra courses. Funds were also needed for awareness programmes and to promote community mediation at the national level. Therefore, it is crucial for the DNUI to have a record of all cases handled by the mediators. The respondents were aware that many mediators practise but do not record the cases they have solved. The DNUI are working hard to assist the community mediators and to ensure the programme is successful. But their effort would be wasted if the community mediators do not cooperate with them.
CONCLUSION
The challenges faced by both parties are inter-related. The DNUI need reports as evidence of the effectiveness of the community mediation programme for them to provide funds for the programme and conduct activities that promote mediation and create awareness among Malaysians. On the other hand, the mediators face challenges to render their services to the residents at their locality because they are yet to be recognised due to lack of information on the community mediation programme.

All these challenges may be overcome if the DNUI have a community mediation centre with adequate facilities and a proper organisational structure for the community mediation programme. The mediators need support financially as well as in many other ways. The DNUI need a proper organisational structure that could effectively solve all these issues. It is suggested that the DNUI establish a community mediation centre in each state with adequate staff to keep records, conduct awareness programmes, advertise the mediators’ services and promote the community mediation programme. Such centres would be the agent to disseminate information to Malaysians about community mediation services. Thus, these responsibilities would not be a burden on either community mediators or the DNUI. The centre would solve the challenges faced by both parties.

REFERENCES