



# Role of Mediation in Resolving Community Disputes

EMPOWERING PEOPLE TO MANAGE THEIR OWN PROBLEMS

IN THIS ISSUE

## Community Mediation in Malaysia

By Nora Abdul Hak

### Introduction

Malaysia is a multiethnic country - made up of Malays, Chinese, Indians and various indigenous ethnicities. Malaysia has had a fair share of inter-ethnic tensions and disputes historically up till today.

The Malaysian government, through the Department of National Unity and Integration (DNUI) has decided in 2007 to introduce community mediation (CM) as a means of resolving community disputes.

Ho Khok Hua (2009) addressed the challenges faced i.e., the limited number of trained mediators, the issues of providing mediation training to community leaders, the need

for case studies and financial constraints. In Malaysia, there is no legal framework as yet developed for CM.

### Background of CM

The social background of Malaysia as a multicultural and multiethnic country. The interaction and integration is somewhat dependent upon the knowledge and understanding of the various cultures, languages and religions.

Every single issue involving different racial and religious groups is sensitive and should be handled diligently.

Malaysia should have its own mechanism towards national integration and dispute

resolution is definitely a major priority.

CM is considered as the best method since the mediator will have to rely on the ethnic and racial identities to interpret the interpersonal problems and thus, achieve a fair result to all the parties.

Malaysia should revive its tradition that had been replaced by litigation by introducing CM and expose the people of self-empower which should be a better way to deal with their dissatisfaction and needs rather than leaving them in the hand of authority to deal with their disputes.



# Introduction

- Malaysia is a multiethnic/cultural country, whose current population is about 32 millions.
- Made up of Malays (majority), Chinese, Indians and various indigenous ethnicities.
- Coping relatively well peace wise, despite simmering inter-ethnic tensions and disputes.
- Every single issue involving different racial and religious groups is sensitive - to be handled diligently.
- CM is considered as the best method since the mediator will have to rely on the ethnic and racial identities to interpret the interpersonal problems and thus, achieve a fair result to all parties.
- The Government, through the Department of National Unity and Integration has decided in 2007 to introduce CM as a means of resolving community disputes.
- Ho Khek Hua (2009) addressed the challenges faced i.e., the limited number of trained mediators, the issues of providing mediation training to community leaders, the need for case studies and financial constraints.

## Outline of presentation

1. Definition of mediation & CM
2. Sulh in Islam
3. Background & development of CM in Malaysia
4. CM under the DNUI
5. Current laws/rules
6. Issues & challenges
7. Conclusion



# Definition of Mediation and Community Mediation

“Mediation” means a voluntary process in which a mediator facilitates communication and negotiation between parties to assist the parties in reaching an agreement regarding a dispute  
**(Mediation Act 2012 of Malaysia)**

## **EU Mediation Directive - DIRECTIVE 2008/52/EC**

‘Mediation’ means a structured process, however named or referred to, whereby two or more parties to a dispute attempt by themselves, on a voluntary basis, to reach an agreement on the settlement of their dispute with the assistance of a mediator.

CM concerns disputes between neighbours, but it can also include other disputes such as wider community matters, or disputes between groups and organisations. It does not usually include commercial disputes or family disputes concerning divorce and separation of couples and the ensuing problems surrounding children, property and money. However, family disputes outside the divorce/separation arena may well come to CM services as the only ‘generalist’ mediation service; these may be family disputes such as those concerning parents and teenagers, or estrangement of family members after a particular incident.

**(Liebmann, Marian, 1998, Community & Neighbour Mediation, Cavendish Publishing Ltd. London)**

# Definition of CM

There are two parts in the definitions of CM:

- the first part covers the basic elements of CM that is the common neighbourhood problems faced by neighbours alone.

- the second part covers the expanded definitions of CM.

The expansion has included other disputes facing by individuals or groups in workplace or with local organizations and local councils.

# *Sulh* (mediation) in Islam

It is provided in the Qur'an that when there is dispute between two parties, a third party may assist them to resolve the dispute and if there is dispute between husband and wife, let each of them appoint their own representative to resolve the matter.

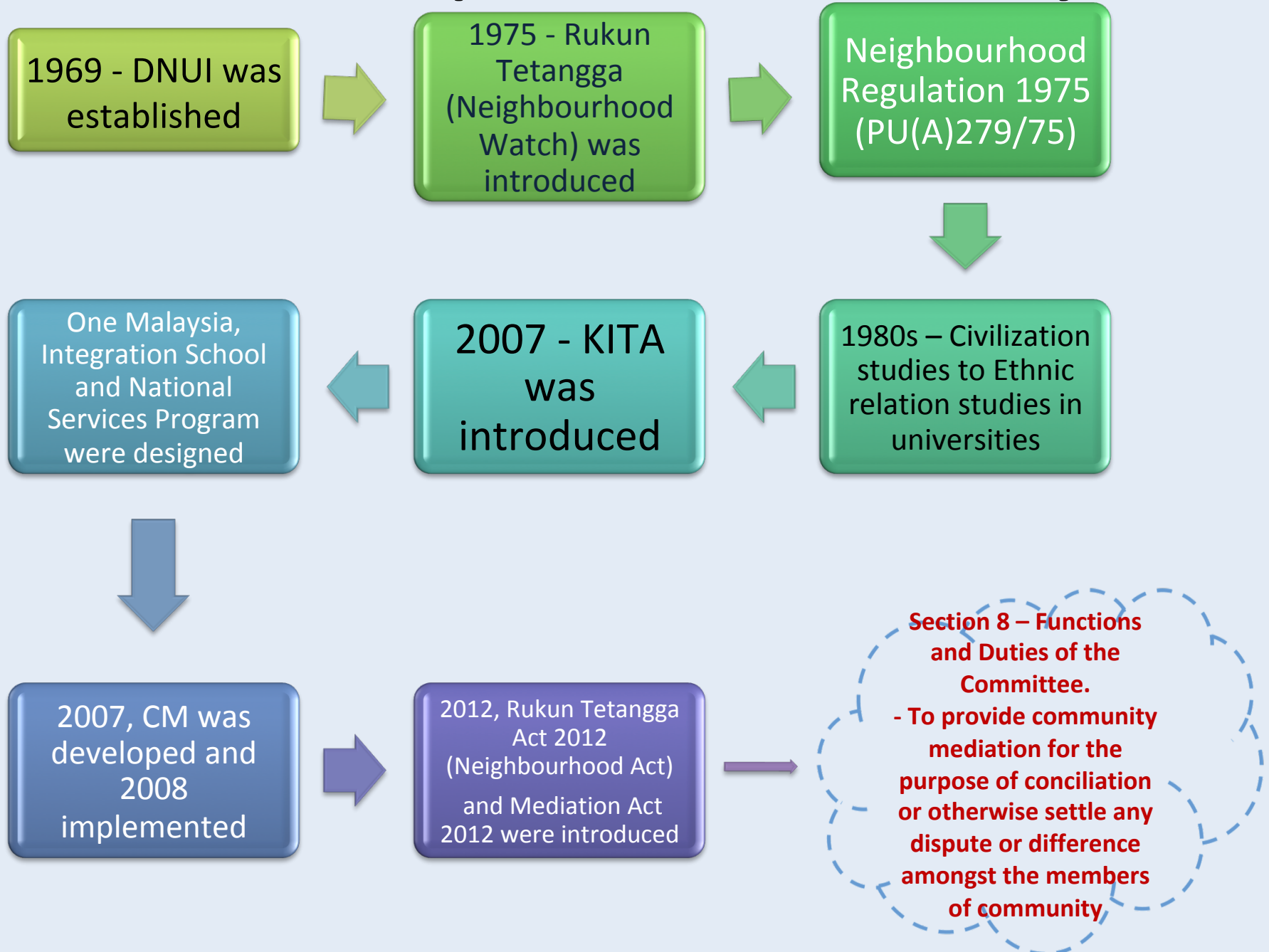
- “And if two factions among the believers should fight, then make settlement between the two” [49 (al-Hujurat): 9];
- “And if you fear continuous quarrel between the two, send an arbitrator from his people and an arbitrator from her people. If they both desire reconciliation, Allah will cause it between them.....”  
[4 (an-Nisa): 35]; and
- “..... And settlement is best” [4 (an-Nisa): 128].

# Background & Development of CM in Malaysia

- The Malaysian Government has since 1970s promoted unity among the citizens.
- The Government has started with education that is seen as the backbone of the unity program.
- The Government has introduced compulsory Ethnic Relation subject in the universities.
- This is to give an opportunity for students to have an idea of the subject and is hoped to be a foundation to a harmony community.
- Institute of Ethnic Studies ("KITA") was established in UKM on 8<sup>th</sup> October 2007 for the same purpose.
- The Government views the issue of ethnic relations as a real threat to the social stability of the country since the occurrence of a bloody inter-racial clashed on May 13, 1969.
- Later on March 9, 2001, a social disagreement between two groups, Malays and Indians, led to racial clashes that took 3 weeks to calm down.
- Pleas for national unity and a spirit of cooperation and compromise among the various races appear frequently in the mass media.
- Government has put many efforts including designing many programme such as *Rukun Tetangga* (Neighbourhood Watch), One Malaysia, Integration School, National Services Program to promote integration within the ethnic.
- RT under the DNUI was introduced in the areas where crime rates and ethnic diversity are more prominent.
- The focus of the RT changes emphasis from safety to ethnic relations to CM.



# The Development of CM in Malaysia



# Community Mediation under the DNUI

- The Government has initiated the plan on CM in 2007 and introduced CM program in the year of 2008 in some States (Selangor, Penang, Johor and FT of Kuala Lumpur).
- It was later implemented in all the States in Malaysia.



- ❖ The DNUI has developed the CM programme to promote integration and harmony in the neighbourhood by conducting mediation trainings to the Neighbourhood Watch (NW) members and officers of the Department.
- ❖ They are expected to have necessary skills in managing the disputes in the society wherever and whenever they arise.





# Community Mediation under the DNUI

- Mediators work on voluntary basis.
- The MK are governed by the Code of Conduct provided by the Community Mediator Association and the Department, a training manual prepared by the trainers and CM Operating Procedure provided by the DNUI.
- In 2010, it was reported that over **200** cases were resolved.
- In March 2012, a number of **519** individuals were trained as community mediators and the cases involving racial issues have decreased from **1315** cases in 2007 to **912** in 2011.
- Up to now, the Department has trained and accredited **1027 MK** for the whole Malaysia.
- They were trained by the trainers from IIUM and Pusat Bantuan Guaman, UKM
- The Department aims to train more of its staff and RT as MK for them to be able to handle the dispute that occurs in the community.

# Mediation Training

- The training courses conducted under the JPNIN focuses on the role of the participants as community mediators.
- The earlier training programme introduced 20 steps to be learnt by the participants.
- The programme was known as “Course on Skills in CM Process - the 20 steps”.
- Consisted of 4 phases, and each phase is a four-day course.
- Each session has a large number of participants i.e., 80-100 participants.
- The training methodologies adopted were workshop, attendee active participation and role-playing sessions.

Source: Dr Hanna Khan and Dr Wan Halim, the trainer



# The current law/rules that regulate CM in Malaysia

**1.** Currently, the Community Mediator is governed by “Prosedur Pelaksanaan Mediasi Komuniti” (CM Operating Procedure) provided by the DNUI.

**2.** The procedure enlists actions to be taken by both parties for preventive action to avoid racial tension in the society.

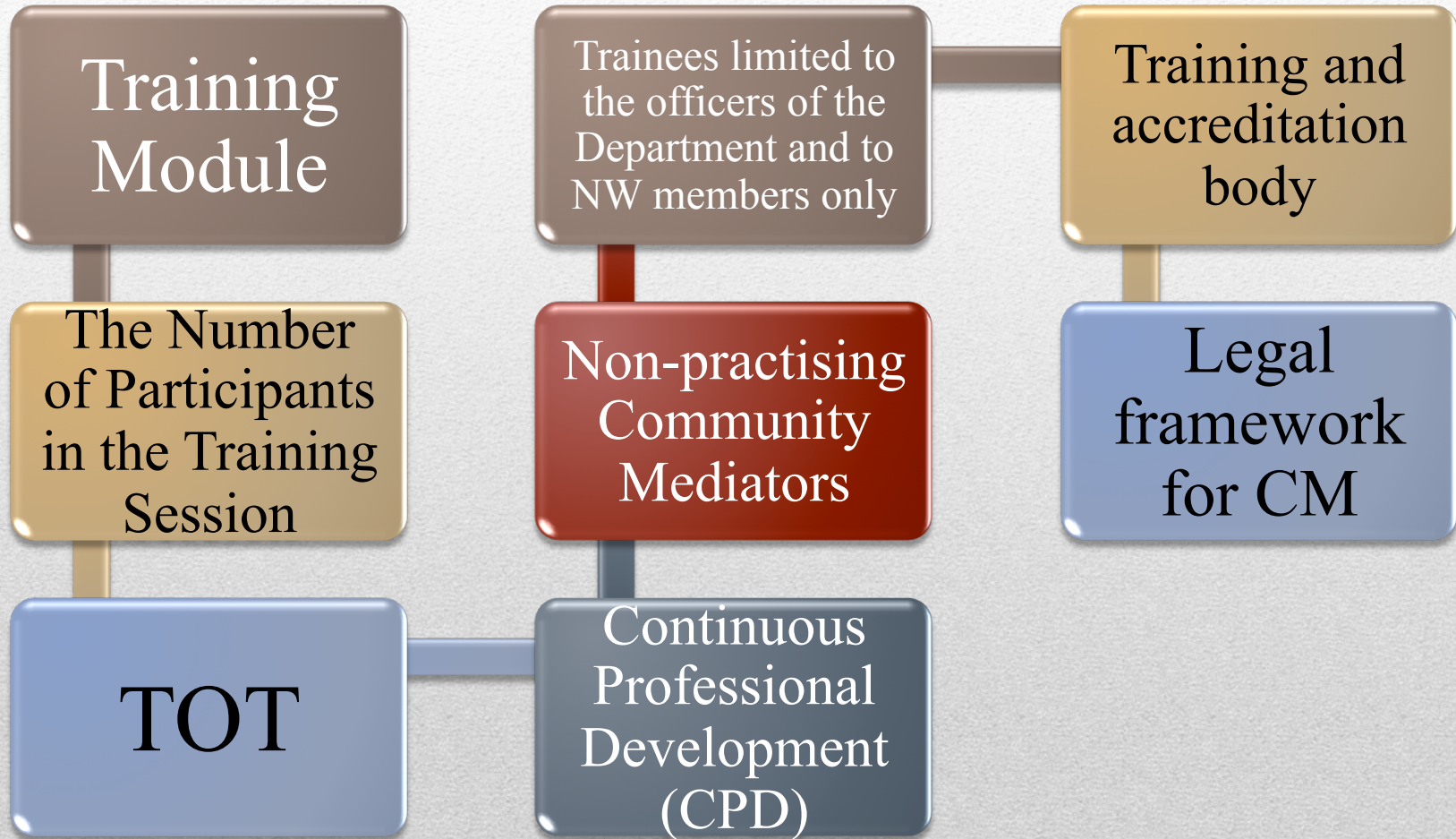
**3.** Both parties must work hand in hand to ensure harmony is maintained in the society.

**4.** Among the procedures, there is a mediation technique provided to the mediators, i.e., the mediators must give opinion or his point of view with regards to the dispute presented before him.

**5.** In 2012, the Parliament passed the Mediation Act 2012 (Act 749) which came into force on 1 August, 2012.

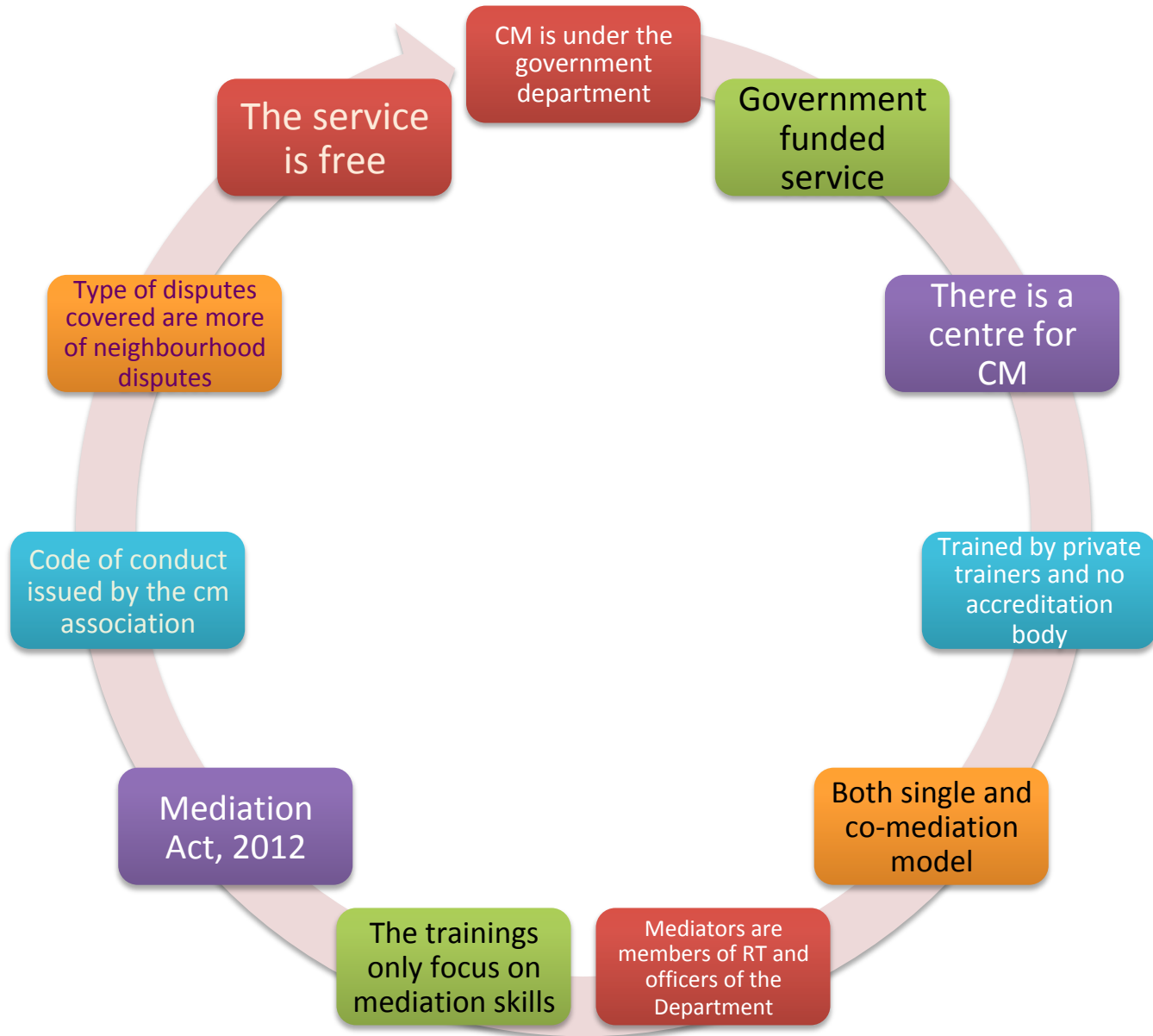
**6.** Section 8 of the Neighbourhood Watch Act 2012 provides function and duties of RT, among others, to provide CM for the purpose of conciliation or otherwise settle any dispute or difference amongst the members of community (Section 8 (d)).

# Issues and Challenges



Community mediation helps you **get heard, get healed, and get back to your life**

# Conclusion



**Thank you  
for your presence and  
participation**

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