

## NURTURING THE NEXT GENERATION OF MEDIATORS

### A Review of the Mediation Landscape and Opportunities for Young Mediators in Singapore and Hong Kong

The gap in matching the demand for mediation services and the supply of *young* mediators in Singapore and Hong Kong is a market inefficiency which undermines the growth and vibrancy of the mediation industry. This happens because young mediators who often have to wait several years for the chance to mediate may become discouraged and leave the industry altogether. This article starts by analysing the similarities and differences between the mediation landscapes in Singapore and Hong Kong before exploring the challenges which young mediators often encounter and concludes with several recommendations for policymakers and young mediators to consider. The hope is that in so doing, the authors precipitate positive change to mediation communities both locally and abroad.

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#### I. Introduction

1 As two of the four Asian Tigers with common law heritages, Singapore and Hong Kong's legal systems are often compared. With respect to mediation, both jurisdictions have taken notable legislative and policy steps to give mediation (and other forms of amicable dispute resolution) greater prominence within the broader civil dispute resolution framework. This is a testament to the authorities' commitment to promoting amicable dispute resolution for appropriate disputes.

2 These policy developments have increased demand in both jurisdictions for mediation services. As a result, a full suite of professional services is required to support the increased demand for mediation, including mediators, mediation counsel and mediation service providers. This article will focus on the role of young mediators in this growing mediation landscape.

3 On the supply side, legal education providers in Singapore and Hong Kong have supported the growing demand for mediators by providing pathways for aspiring mediators to be trained and in some instances, accredited as mediators. In particular, the law faculties of universities have become significant players offering formal courses in mediation training which directly contribute to the pipeline of mediators. Universities and other legal education providers also indirectly support the ecosystem of young mediators by providing platforms for aspiring mediators to build communities and networks through co-curricular activities and student groups.

4 A potential gap exists in matching the supply of young aspiring mediators to the demand for mediators on the market. Despite keen interest and increasing savviness, young mediators find it difficult to secure appointments as mediators, whether paid or voluntary. Dr Tal Rotman, Partner and Chair of the Israel Alternative Dispute Resolution Practice Group of Pearl Cohen, has opined that the lack of awareness about mediation is a market failure.<sup>1</sup> Similarly, the failure to match young mediators to available mediation work must be properly understood as a form of market failure. By failing to fully tap on the potential of a skilled and talented pool of young mediators, resources invested by the government, legal education providers and the young mediators are wasted.

5 The mismatch manifests most prominently in the period between when a mediator receives their mediation accreditation to when they eventually mediate their first case. While we refer to this period of time as an “inactive period” or a “waiting period” in this article, young mediators in Singapore and Hong Kong are often far from inactive or passively waiting for mediation appointments. Instead, many of them proactively seek mediation work, apply for mediation schemes, offer *pro bono* mediation services, coach for mediation competitions, and find other ways of remaining in touch with the mediation community. Notwithstanding these efforts, young mediators are often unable to secure mediation work. In Singapore, young mediators have difficulty meeting threshold requirements to access volunteer schemes that will give them the chance to secure work. In Hong Kong, young mediators lack opportunities to even volunteer their mediation service.

6 While the difficulty of securing appointments when starting out as a mediator is not new, the effectiveness of legal education providers in building a pipeline of skilled young mediators may have the unintended consequence of prolonging the waiting period. This is because aspiring young mediators obtain their accreditation early in their careers or in some instances, even before they start their professional careers. The increased waiting period is worrying for several reasons. First, mediation skills which

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1 “Most People Don’t Go to Mediation. I Think That’s a Market Failure.” *CTech* (23 August 2022) <<https://www.calcalistech.com/ctechnews/article/hjz11lgzjj>> (accessed 1 November 2024).

are not utilised may start to atrophy. Secondly, young mediators may lose interest (and sometimes, heart) when their skillset does not appear to be valued by the market. Thirdly, the mediation industry may experience a hollowing out of the young to mid-seniority mediators which may cause a severe experience deficit with the eventual retirement of senior mediators.

7 This article does not set out to provide an economic analysis of the cost incurred by society and the industry when trained young mediators are not successfully matched to the existent demand for mediators. The authors start from the premise that the mismatch between young mediators and available mediation opportunities represents an inefficient and undesirable state of affairs. From this starting point, the authors seek to propose potential solutions for reducing the waiting period as a means to retain young mediators within the industry.

8 First, the article will analyse some of the similarities and differences between the mediation landscapes in Singapore and Hong Kong. This article will then delve into some of the challenges which young mediators tend to encounter in securing their first appointments as mediators. Finally, this article will conclude by offering several policy recommendations and practical suggestions for policymakers and young mediators, respectively, to consider. Given the background of the authors, the recommendations will be Singapore-centric.

9 As a precursor, the authors accept that not all mediation laws are found in legislation and statutory intervention is but one of the many ways in which the practice of mediation in Singapore and Hong Kong is regulated.<sup>2</sup> Further, the term “young mediators” is used in this article to refer to individuals (whether or not with experience as an appointed mediator): (a) who are accredited as mediators under any generally recognised mediation accreditation scheme; and (b) who have less than five years of post-qualification experience as lawyers.<sup>3</sup>

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2 Nadja Alexander, “The Emergence of Mediation Law in Asia: A Tale of Two Cities” (2021) 18(3) *Transnational Dispute Management* 1 at 3.

3 This is the same benchmark used by the Law Society of Singapore to determine which practitioners fall into the Junior Category for the purpose of Practising Certificate Applications. “PC Application” *The Law Society of Singapore* <<https://www.lawsociety.org.sg/for-lawyers/pc-application/>> (accessed 1 November 2024). The authors recognise that mediators in Singapore and Hong Kong do not necessarily have to be accredited, be lawyers, or be legally trained.

## II. Analysing rise in number of young mediators in Singapore and Hong Kong

### A. *Mediation laws and recent legal developments*

10 This section will focus on key developments in the mediation landscape which have contributed to the increase in rates of young legal practitioners becoming accredited in the early years of their careers or even before their careers formally begin.

11 As a preliminary point, this section is not intended to set out a comprehensive review of the mediation landscapes in Singapore and Hong Kong. Additionally, while this section will focus on the accreditation of young legal practitioners as mediators, a law degree or legal qualification is not necessary to become an accredited mediator. Further, unless mediating under mediation schemes with specific accreditation requirements, an individual may not need to be accredited to serve as a mediator.

12 Nevertheless, as explained below, legislative changes mandating consideration of amicable dispute resolution in the lead-up to trial have contributed to an increase in demand for mediation services, brought mediation to the forefront of legal education, and required legal practitioners to be sufficiently familiar with mediation. It is important to understand how the laws governing mediation in Singapore and Hong Kong have contributed to a growing interest in and demand for mediation services, which triggered a responsive increase in supply of young mediators. We will address in this section, in the following order, the legal framework governing mediation in Singapore, the legal framework in Hong Kong, and a comparison of the legal frameworks in the two jurisdictions.

13 First, we set out a brief overview of the legal framework governing mediation in Singapore. Mediation in Singapore is commonly said to have undergone a revival in the 1990s. In 1994, mediation was institutionalised when it was introduced in the State Courts as a pilot project for a range of civil disputes.<sup>4</sup> Over the 1990s and 2000s, from the pilot project sprung more permanent court-based mediation schemes and centres, covering a broader range of civil and criminal disputes. The objective then was to familiarise the public, culturally, with a process of dispute resolution which preserved family and societal cohesion while promoting a more efficient use of judicial resources.<sup>5</sup>

14 Subsequently, the mediation expanded beyond court-based mediation and became more generally applicable to civil disputes. Most

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4 Seng Onn Loong & Dorcas Quek Anderson, “Ch 03 Mediation” *Singapore Law Watch* (30 December 2018) at para 3.3.10.

5 Seng Onn Loong & Dorcas Quek Anderson, “Ch 03 Mediation” *Singapore Law Watch* (30 December 2018) at para 3.3.11.

notably, 2010 saw the introduction of the Alternative Dispute Resolution (“ADR”) Form at the Summons for Directions stage<sup>6</sup> and the amendment of O 59 r 5 of the Rules of Court<sup>7</sup> (“ROC 2014”). The Rules of Court broadly govern civil proceedings in Singapore.

15 Order 59 r 5(c) of the ROC 2014 provided that when the court exercises its discretion on the issue of costs, it shall take into account the parties’ conduct in relation to any attempt at resolving the cause or matter by mediation or any other means of dispute resolution. Since O 59 r 5 of the ROC 2014 took effect on 15 September 2010, there have been no reported decisions which discuss its operation in practice.

16 Two decades after these initial legislative steps, mediation is firmly embedded in Singapore’s dispute resolution framework through the introduction of O 5 of the Rules of Court 2021 (“ROC 2021”). The ROC 2021, which was an overhaul of the rules governing civil proceedings in Singapore, came into operation on 1 April 2022. Among other things, O 5 stipulates that a party to any civil proceedings has a duty to consider an amicable resolution (including mediation) before the commencement of any action or appeal and that a party must make an offer of amicable resolution unless they have reasonable grounds not to do so.<sup>8</sup>

17 In connection with the same, the court is imbued with the power to order parties to attempt to resolve a dispute by amicable resolution and may also order a party who refuses to do so to submit a sealed document setting out his or her reasons for refusal. After the determination of the merits of the dispute, costs may be ordered against a party if the court is of the view that his or her reasons for refusing to consider an amicable resolution were not reasonable.<sup>9</sup> Crucially, the court has wide powers to suggest any solution for amicable resolution which it thinks fit.<sup>10</sup> Arguably, O 5 of the ROC 2021 expands the court’s power as regards mediation as compared to its predecessor, *ie*, O 59 r 5 of the ROC 2014.

18 While there has not been any locally reported decision regarding a party’s refusal to mediate under O 5 of the ROC 2021 and what is considered a “reasonable” reason for refusal, the General Division of the Singapore High Court’s (“General Division”) recent decision in *Maxx Engineering Works Pte Ltd v PQ Builders Pte Ltd*<sup>11</sup> (“*Maxx Engineering*”) is indicative of the court’s willingness to compel parties to mediate especially where it was the parties’ initial intention to do so. In *Maxx Engineering*, the General Division granted an application for an order to compel a party to mediate

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6 Seng Onn Loong & Dorcas Quek Anderson, “Ch 03 Mediation” *Singapore Law Watch* (30 December 2018) at para 3.3.12.

7 2014 Rev Ed.

8 Rules of Court 2021 O 5 rr 1(1)–1(2).

9 Rules of Court 2021 O 5 rr 3(1) and 3(3)–3(4).

10 Rules of Court 2021 O 5 r 3(5).

11 [2024] 3 SLR 715.

despite objections from the refusing party that such an order of specific performance would be futile and impractical. In arriving at its decision, the General Division also stated that such an order was consistent with the trend of promoting amicable resolution in Singapore and that such values were legislatively grounded in O 5 of the ROC 2021.<sup>12</sup>

19 Unfortunately, landmark decisions involving mediation are rare in Singapore. The last notable Court of Appeal decision was the decision in *HSBC Institutional Trust Services (Singapore) Ltd v Toshin Development Singapore Pte Ltd*,<sup>13</sup> where Singapore's apex court upheld an express term to negotiate in good faith. There, among other things, the Singapore Court of Appeal opined that while an agreement (or settlement) cannot be guaranteed, it does not mean that parties should not try as far as possible to reach one. Importantly, the Court of Appeal was of the view that, in principle, there was no difference between an agreement to negotiate in good faith and an agreement to submit a dispute to mediation.<sup>14</sup> It is worth noting that the ADR Form remains a consistent and regularly employed feature under the ROC 2021.

20 There appears to be an increase in the use of mediation for dispute resolution. According to one news source, the Singapore Mediation Centre ("SMC"), which is one of Singapore's leading mediation service (and training) providers, saw an increase of 15% in the number of matters filed for mediation between 2015 and 2016, followed by another 8% in the next year.<sup>15</sup> This pattern continues to reveal itself at community-level mediations where, *eg*, the Community Mediation Centre received 2,060 registered cases in 2021 which was almost double the number of cases in 2017.<sup>16</sup>

21 This brief section would not be complete without mentioning one of Singapore's key pieces of legislation relating to mediation. Singapore's Mediation Act 2017<sup>17</sup> (the "Mediation Act") which came into force on 1 November 2017 states in its preamble that its objects are to promote, encourage and facilitate the resolution of disputes by mediation and codify mediation-related issues such as confidentiality of communications in the context of mediation.

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12 *Maxx Engineering Works Pte Ltd v PQ Builders Pte Ltd* [2024] 3 SLR 715 at [28]–[30].

13 [2012] 4 SLR 738.

14 *HSBC Institutional Trust Services (Singapore) Ltd v Toshin Development Singapore Pte Ltd* [2012] 4 SLR 738 at [43].

15 Tan Tam Mei, "Singapore Mediation Centre Saw Record Number of Cases and Disputed Sums in 2017" *The Straits Times* (16 January 2018) <<https://www.straitstimes.com/singapore/singapore-mediation-centre-saw-record-number-of-cases-and-disputed-sums-in-2017>> (accessed 1 November 2024).

16 "Written Answer by Minister for Law K Shanmugam to PQ on Cases Registered with CMC in Last 5 Years" *Ministry of Law Singapore* (2 August 2022) <<https://www.mlaw.gov.sg/news/parliamentary-speeches/written-pq-number-outcome-of-cmc-cases-in-last-five-years/>> (accessed 1 November 2024).

17 2020 Rev Ed.

22 Next, this article moves to a brief overview of the legal framework governing mediation in Hong Kong. In October 2007, Hong Kong's then-Chief Executive Donald Tsang in a policy address outlined the city's plans to employ mediation more extensively from high-end commercial disputes to smaller localised disagreements.<sup>18</sup> This address would lay much of the foundation for the widespread adoption of mediation in Hong Kong. After which, several working groups and committees were formed to develop Hong Kong's mediation policies including the cross-sector Working Group on Mediation (the "Working Group on Mediation") chaired by former Secretary for Justice Wong Yan Lung, SC.

23 The Working Group on Mediation which was established in 2008 set out to review and propose recommendations that would meet Hong Kong's city-wide mediation objectives.<sup>19</sup> They subsequently published a 188-page report in February 2010<sup>20</sup> (*ie*, the "Hong Kong Mediation Report") which would pave the way for numerous mediation-related initiatives, some of which would directly impact legal education providers.

24 Crucially, one key law which would come to shape Hong Kong's mediation landscape in a significant way was Practice Direction 31 on Mediation ("PD 31") which came into operation on 1 January 2010.

25 PD 31 was groundbreaking because it introduced a duty on civil litigants to consider and reasonably engage in mediation before trial with costs sanctions to follow for a party's failure to do so.<sup>21</sup> This is again, not too dissimilar from Singapore's O 5 of the ROC 2021. However, PD 31 is notably more extensive and prescriptive in terms of procedure. The current version of PD 31 which took effect on 1 November 2014 comprises of four parts, each outlining different aspects of how PD 31 is meant to operate. For example, Part A sets out the court's approach on costs when a party unreasonably fails to engage in mediation, while Part B sets out the applicable procedure to be adopted when parties wish to attempt mediation and have differences while doing so.<sup>22</sup>

26 In strikingly similar language to Singapore's Mediation Act, Hong Kong's Mediation Ordinance<sup>23</sup> states that its objects are to promote, encourage and facilitate the resolution of disputes by mediation, and

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18 Nadja Alexander *et al*, *The Hong Kong Mediation Manual* (LexisNexis, 3rd Ed, 2022) at para 7-1.

19 Nadja Alexander *et al*, *The Hong Kong Mediation Manual* (LexisNexis, 3rd Ed, 2022) at para 7-3.

20 Department of Justice, The Government of the Hong Kong Special Administrative Region, *Report of the Working Group on Mediation* (February 2010) (Chairman: Secretary for Justice Wong Yan Lung, SC).

21 Nadja Alexander, *Hong Kong: Mediation and the Future of Dispute Resolution* (30 January 2018) at p 5.

22 Nadja Alexander *et al*, *The Hong Kong Mediation Manual* (LexisNexis, 3rd Ed, 2022) at para 10-57.

23 Cap 620.

protect the confidential nature of mediation communications.<sup>24</sup> Though it is worth noting that Hong Kong's Mediation Ordinance came into force on 1 January 2013, which was a little over four years earlier before its Singapore counterpart. In general, Hong Kong's mediation laws tend to predate Singapore's.

27 Having set out very briefly the legislative regimes for mediation in Singapore and Hong Kong which bear a number of similarities, there are notable points of divergence between the two jurisdictions.

28 First, Singapore does not have an equivalent of PD 31. Second, the Singapore courts offer little guidance on how parties are to go about approaching mediation, often leaving it to the respective mediation service providers ("MSPs"). In the experience of the authors, this has led to several unintended consequences which can cause unnecessary delay to the dispute resolution process. A common example of this is that the Singapore courts do not prescribe or are hesitant to issue directions on how the parties are to make the necessary mediation-related arrangements after the parties have agreed to mediate. Arising from this, time is often wasted when parties are unable to agree on the MSP or the mediator to be appointed. These differences can sometimes be resolved if the MSP has a set of rules which articulate how such matters are to be decided, such as in the case of who should be the appointed mediator. However, if the parties are unable to even agree on which MSP to use, they may end up not attempting mediation altogether.

29 In contrast, the established line of locally reported decisions in Hong Kong suggest that the Hong Kong courts are more ready to address how mediation laws such as PD 31 are meant to operate in practice. It is worth noting that in the months following the introduction of PD 31, that several decisions were handed down by the Hong Kong Court of First Instance setting out how aspects of PD 31 were meant to be interpreted and applied. For instance, the Hong Kong Court of First Instance in *Hak Tung Alfred Tang v Bloomberg LP*<sup>25</sup> ("*Alfred Tang*") was quick to set out the standard for the minimum level of participation required under PD 31. There, the Hong Kong Court of First Instance held that the standard was at least one substantive mediation session of a duration to be determined by the mediator.<sup>26</sup> This decision came one month after PD 31 took effect.

30 And one month after *Alfred Tang*, the Hong Kong Court of First Instance in *Upplan Company Limited v Li Po Ming*<sup>27</sup> went on to lay out a three-step approach to how disputes concerning the appointment of a mediator would be resolved.<sup>28</sup> This including the use of "relevant objective

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24 Mediation Ordinance (Cap 620) (HK) s 3.

25 [2010] HKCU 2197.

26 *Hak Tung Alfred Tang v Bloomberg LP* [2010] HKCU 2197 at [13].

27 [2010] HKCU 1739.

28 *Upplan Company Limited v Li Po Ming* [2010] HKCU 1739 at [13]-[15].

data” (which the court elaborated on) to determine “who will most likely be able to conduct the mediation smoothly, successfully and economically”.<sup>29</sup>

31 While some of the above cases may seem overly prescriptive to some legal practitioners, the willingness of the Hong Kong courts to tackle mediation related issues head-on is more likely than not to be assistive to legal practitioners. From the authors’ perspective, such an approach lends operational clarity. This in turn enables practitioners to better advise their clients on how to comply with the relevant mediation laws and while doing so, potentially come to a settlement. Overall, such an approach is more likely than not a positive step toward promoting the adoption of mediation, especially by parties who cannot seem to agree on anything.

32 In any event, what can be confidently said is that following the initial years of implementation, Hong Kong saw a sharp uptick in the number of mediation cases. For example, the Hong Kong Court of First Instance recorded an increase of 34% in the number of cases where a mediation certificate was issued between 2011 and 2018.<sup>30</sup>

33 By creating legislative environments that were conducive to mediation, Singapore and Hong Kong have brought mediation to the attention of legal practitioners regardless of their views on its effectiveness as a dispute resolution mechanism. As noted by several academics, there remain legal practitioners who perceive mediation obligations as nothing more than a box-ticking exercise. Regardless, the changes to the mediation landscapes in both jurisdictions meant that legal education providers had to set their sights on equipping future practitioners with the necessary knowledge and skills to succeed in an industry where mediation was part and parcel. Although, and as will be elaborated below, that is not to say that mediation was not already an integrated part of legal education before such laws came into effect. Rather, that such changes made mediation education all the more crucial to legal education as a whole.

### ***B. Role of legal education providers in nurturing future mediators***

34 Having set out the legislative frameworks in Singapore and Hong Kong driving the growth of mediation in both jurisdictions, this section will examine how legal education providers have responded to the legislative developments through a proliferation of formal courses and student groups to prepare generations of future mediators.

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29 *Upplan Company Limited v Li Po Ming* [2010] HKCU 1739 at [14].

30 “Mediation Figures and Statistics” *Hong Kong Judiciary* <[https://mediation.judiciary.hk/en/figures\\_and\\_statistics.html](https://mediation.judiciary.hk/en/figures_and_statistics.html)> (accessed 1 November 2024).

35 In Singapore, mediation was first introduced in university classrooms as early as 1994.<sup>31</sup> This was in the form of the Negotiation and Mediation elective module taught at the National University of Singapore (“NUS”) Faculty of Law, where a limited number of students could register to attend the module. The elective course was not mandatory.

36 Today, negotiation and mediation are taught as separate courses at NUS and the Singapore Management University (“SMU”) Yong Pung How School of Law, in recognition that these are distinct skillsets requiring different modes of instruction. The Singapore University of Social Sciences (“SUSS”) School of Law, which was established in 2017, chose to focus on the skills required to be a mediation advocate and exclusively teaches Mediation Advocacy as a mandatory module.<sup>32</sup>

37 Beyond the classroom, mediation is also actively being pursued as a co-curricular activity in Singapore. In 2017, NUS students established a Collaborative Dispute Resolution Club to promote alternative dispute resolution skills such as mediation and negotiation. In 2019, students from SMU established a Mediation and Negotiation Club.

38 Most interestingly, several universities have also partnered with mediation training providers to streamline the accreditation process for students who are interested in becoming certified mediators. For example, NUS students who have successfully completed the Mediation course may go on to sit for the SMC Mediation Skills Assessment (“MSA”) without having to complete the otherwise required modules,<sup>33</sup> provided these students register for the MSA within two years of receiving their degree from NUS.<sup>34</sup>

39 In Hong Kong, universities similarly offer formal courses on mediation. Notably, the development of mediation education in Hong Kong is more clearly driven by directions set by policymakers in the form of the Hong Kong Mediation Report. In it, the Working Group on Mediation made 39 recommendations related to mediation, of which four directly impact universities. These are Recommendations 19 to 22. Recommendation 19, *eg*, expressly states that “[in] order to foster development of mediation knowledge in the legal profession, consideration should be given to revisit the question of mediation being incorporated into compulsory courses at PCLL, LL.B and J.D programmes at a later stage where the mediation

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31 Lim Lei Theng & Joel Lee, “A Lawyer’s Introduction to Mediation” (1997) 9 SAclJ 100 at fn 26.

32 “Bachelor of Laws – Overview” *SUSS* <<https://www.suss.edu.sg/programmes/detail/bachelor-of-laws-lawllb>> (accessed 1 November 2024).

33 *Ie*, the Singapore Mediation Centre’s Strategic Conflict Management for Professionals Modules 1 and 2.

34 “SMC Mediation Skills Assessment Accreditation – Eligibility Criteria and Exemptions” *Singapore Mediation Centre* <<https://mediation.com.sg/course/mediation-skills-assessment/>> (accessed 1 November 2024).

landscape becomes more mature”<sup>35</sup> While Recommendation 19 has yet to gain traction or be implemented, it is clear from the courses offered by universities in Hong Kong that the Working Group on Mediation’s recommendations have shaped the design of courses on mediation.

40 The University of Hong Kong’s (“HKU”) Faculty of Law offers a Mediation elective course (which is not mandatory as proposed under Recommendation 19). Students who successfully complete the Mediation elective course are exempted from Stage 1 of the Hong Kong Mediation Accreditation Association Limited’s (“HKMAAL”) General Mediation Training Course which is a pre requisite to becoming an accredited mediator in Hong Kong. Further, these students will also be eligible to apply for Associate Membership of the Chartered Institute of Arbitrators without having to sit for the otherwise required examination.<sup>36</sup>

41 The City University of Hong Kong offers a Mediation course and a Mediation Practice course, the latter of which provides a pathway to accreditation by the HKMAAL and membership with the Chartered Institute of Arbitrators. The Chinese University of Hong Kong (“CUHK”) similarly offers mediation courses, even to non-law students. The Business & Management programme at CUHK offers its part-time students two mediation-related courses, namely, the Certificate Programme in Alternative Dispute Resolution and the General Mediator Training Course.<sup>37</sup>

42 The clearly pro-mediation landscapes and design of legal education in Singapore and Hong Kong make it easy to understand why mediation as a profession has become more attractive for young legal practitioners, especially in recent years. Thus, the question remains – *why are mediation opportunities for young mediators limited despite the upward trend in cases?*

### C. *Becoming an accredited mediator*

43 Having covered the legislative context and legal education developments, we will now complete the picture by briefly discussing the accreditation processes in Singapore and Hong Kong.

44 Singapore presently does not have any national system or laws to regulate the accreditation of mediators.<sup>38</sup> Instead, various mediation

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35 Department of Justice, The Government of the Hong Kong Special Administrative Region, *Report of the Working Group on Mediation* (February 2010) (Chairman: Secretary for Justice Wong Yan Lung, SC) at p 50.

36 “LLAW6161 – General Course Information” *HKU* <<https://course.law.hku.hk/llaw6161/>> (accessed 1 November 2024).

37 “Mediation Course – General Mediator Training Course” *CUSCS* <<https://www.scs.cuhk.edu.hk/en/part-time/mediation-course>> (accessed 1 November 2024).

38 Department of Justice, The Government of the Hong Kong Special Administrative Region, *Report of the Working Group on Mediation* (February 2010) (Chairman: Secretary for Justice Wong Yan Lung, SC) at p 159.

training providers offer their own accreditation process. This includes *private* mediation training providers like Sage Mediation Pte Ltd (“Sage”) which has been actively producing cohorts of young mediators since it was incorporated in 2019.

45 Notably, some MSPs do not require its mediators to be accredited. Instead, these MSPs elect to conduct their own in-house training and prospective mediators who complete the said training can go on to mediate cases under the auspices of that particular MSP. The Tripartite Alliance for Dispute Management which facilitates employment-related mediation is one such example. However, it is important to point out that the absence of a national system of accreditation by no means diminishes the authority of the mediator or the legal effect of a mediated agreement obtained under such circumstances. According to Singapore’s Mediation Act, a mediator is defined as “an individual who is appointed to be a mediator for a mediation”.<sup>39</sup> Therefore, the Mediation Act which governs mediation in Singapore expressly does not require that an individual be accredited to be a mediator. They simply need to be *appointed* by parties to the dispute.

46 Nevertheless, the more common practice is for mediation training providers like SMC and Sage to partner with the Singapore International Mediation Institute (“SIMI”), which is Singapore’s independent professional standards body for mediation, to have their accreditation process recognised by SIMI.<sup>40</sup> This means that a prospective mediator can obtain his or her accreditation with a mediation training provider like SMC or Sage and have that accreditation subsequently recognised by SIMI. This allows the mediator to then use his or her SIMI accreditation as a common standard to mediate with other mediation providers which accept mediators with SIMI accreditation. However, SIMI itself does not offer any training or accreditation programmes.

47 Typically, a prospective mediator who wishes to obtain any form of accreditation in Singapore will need to undergo several hours of training followed by a written and/or role-play examination before they can sit for the accreditation assessment. The precise number of training or instruction hours is not regulated. SMC, *eg*, requires prospective mediators to complete 40 hours of instructions while Sage only requires its prospective mediators to complete two workshops (each lasting three full days).

48 Hong Kong’s accreditation process is not too dissimilar from Singapore’s. Notwithstanding that there is also no law preventing a person who is not an accredited mediator from offering or providing mediation

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39 Mediation Act 2017 (2020 Rev Ed) s 2.

40 “About SIMI” *SIMI* <<https://www.simi.org.sg/>> (accessed 1 November 2024).

services in Hong Kong,<sup>41</sup> the accreditation landscape in Hong Kong is more regulated in comparison to Singapore.

49 In Hong Kong, the HKMAAL is responsible for establishing an accreditation regime for mediators in Hong Kong with a view of maintaining and unifying these standards.<sup>42</sup> The HKMAL was set up in April 2013 at a time where there were approximately 30 mediation accreditation bodies in Hong Kong, each offering their own training and accreditation processes.<sup>43</sup> Therefore, one of the HKMAAL's goals was to be the uniform accreditation body for mediation in Hong Kong and much like Singapore's SIMI, HKMAAL also does not provide any mediation leading up to accreditation. One rationale for this may be to avoid any actual or potential conflict of interests. However, this is where some differences start to show.

50 Prospective mediators in Hong Kong who wish to be accredited by the HKMAAL must first possess some pre-accreditation qualifications. Prospective mediators must have at least three years' full-time working experience before they can submit their applications to the HKMAAL for consideration. In particular, prospective mediators who wish to become family mediators must have the same three years' full-time working experience but in the fields of family law, welfare or counselling *and* have a degree or postgraduation qualification in social work, psychology, counselling or law from a recognised university or institution.<sup>44</sup>

51 As regards the accreditation process, the HKMAAL uses a two-stage system which requires prospective mediators to complete no less than 40 hours of instruction. This is usually conducted within eight weeks with no more than 36 participants per class. Prospective mediators then advance to the assessment stage which involves a practical assessment of two simulated cases either in English or Cantonese.<sup>45</sup>

52 While neither jurisdiction publishes information regarding the passing rates by those who sit for the respective accreditation assessments, the above criteria in Singapore and Hong Kong do not appear to be particularly onerous. Further, in Hong Kong, the requirements for becoming an accredited mediator are arguably more uniform than in Singapore. In any case, when taken together with the other discussed factors, the relatively achievable barriers of entry to becoming a mediator

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41 Nadja Alexander *et al*, *The Hong Kong Mediation Manual* (LexisNexis, 3rd Ed, 2022) at para 10-35.

42 Nadja Alexander *et al*, *The Hong Kong Mediation Manual* (LexisNexis, 3rd Ed, 2022) at para 10-19.

43 Nadja Alexander *et al*, *The Hong Kong Mediation Manual* (LexisNexis, 3rd Ed, 2022) at para 10-14.

44 Nadja Alexander *et al*, *The Hong Kong Mediation Manual* (LexisNexis, 3rd Ed, 2022) at para 10-24.

45 Nadja Alexander *et al*, *The Hong Kong Mediation Manual* (LexisNexis, 3rd Ed, 2022) at paras 10-27–10-28.

(accredited or otherwise) may account for the rise in the number of young mediators presently.

### III. Challenges and opportunities for young mediators in securing appointments as mediators in Singapore and Hong Kong

#### A. *Common challenges unique to young mediators*

53 At the outset, the authors acknowledge that the difficulties for a younger, inexperienced mediator to secure mediation work have always existed. Even some of the most prominent mediators today had to wait several years before they received their first appointments as mediators. For example, one of Hong Kong's most sought after mediators today, Iu Ting-kwok ("TK") waited seven years after he received his accreditation before he secured his first case as a mediator.<sup>46</sup>

54 With examples like TK in mind, the waiting period faced by relatively inexperienced mediators is not a new problem. However, the problem may be becoming more pronounced ironically due to the effectiveness in raising interest in mediation and training young mediators, which has led to many young mediators obtaining their accreditation within a few years after graduating from university.

55 Drawing on the partnership between NUS and SMC as an illustration, the exemption granted by SMC, by its very design, requires students who have completed the Mediation course at NUS to register for the MSA within two years after receiving their degrees. This inevitably incentivises an eligible student to obtain his or her mediation accreditation shortly after graduating which, in turn, pushes down the average age of newly-accredited mediators while prolonging the waiting time since it is more difficult for young mediators to secure their first appointments as mediators in the immediate years following when they were accredited.

56 The relatively younger age (as distinct from the related but separate issue of lack of mediation experience) at which young mediators become accredited is a significant factor contributing to the challenges in securing appointments as mediators. In particular, we highlight below the two areas in which the relative youth of young mediators surface as challenges.

57 First, mediators are service providers. This means that the clients or customers, which in this case are the parties to the mediation, have the option of choice. Of course, if the parties are unable to agree on the

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46 Rozalin Mohanty & Samantha Lek, "Reflections of Sage Lab with Mr Iu Ting-kwok – Hong Kong's Mediation System: Black & White?" *Sage Mediation* (14 February 2020) <<https://sagemediation.sg/blog/reflections-of-sage-lab-with-mr-iu-ting-kwok-hong-kongs-mediation-system-black-white/>> (accessed 1 November 2024).

appointed mediator, most MSPs would have rules which dictate that the MSP appoint the mediator. In all other cases, the parties are left to choose their preferred mediator.

58 Invariably, when deciding which mediator to appoint, the parties are likely to consider factors like experience, subject matter knowledge or expertise and language competencies. Even when the parties are open to considering more intangible factors which may favour a young and enthusiastic mediator – like rapport, creativity or patience – the only way for the parties to know whether a mediator truly possesses these qualities is to take reference from his or her past experiences. Unfortunately, young mediators with no track record will be unlikely to attract any interest from such parties.

59 Here, it is important to highlight the distinction between the related but separate issues of relative youth in terms of age of young mediators and of relative inexperience as a mediator. While both factors are likely to influence the parties' choice of mediators, inexperience as a mediator is more likely to be surmountable if the potential mediator is older. First, the age of a potential mediator is arguably often used as an initial proxy to gauge the experience and/or expertise of the individual. An older mediator who is relatively inexperienced may still be more likely to be appointed simply by appearing to be more experienced because of their age. Next, even if a potential mediator does not have significant experience as a mediator, parties are often willing to overlook relative inexperience as a mediator in favour of other attributes such as technical expertise in an area of law or subject matter, or even simply the stature of the individual. On the latter consideration of the stature of the individual, it is not uncommon for parties and counsel to prefer to appoint former judges or senior lawyers with the hope that the perceived authority of the former judge or senior lawyer will help move the parties towards a settlement. For these reasons, the relatively younger ages at which young mediators are becoming accredited is a unique problem that is distinct from the challenge of lack of mediation experience that every mediator will have at the start of their mediation careers.

60 Second, even if the mediator is to be appointed by the MSP, most MSPs will draw from their published panel of mediators which often does not feature every accredited mediator. Setting aside the issue of how MSPs decide which mediators to publish since different MSPs employ different selection criteria, the reality is that there are simply fewer young mediators on such panel lists. In other words, while a mediator may be accredited by a particular MSP, they are unlikely to be referred any mediation work if they are not on the MSP's panel of mediators. This reality is largely true both in Singapore and Hong Kong.

61 Using SMC as an example, according to its website, SMC has four classes of mediators, namely: Senior, Principal, Associate and International

Mediators. With respect to its class of Associate Mediators, SMC's website states that:<sup>47</sup>

Our Associate Mediators comprise a group of young, accredited professionals. They bring fresh perspectives and provide creative ideas for guiding parties to settle. They are also adept at picking up new technological tools to navigate through the Mediation process.

62 However, a canvass of the 479 Associate Mediators published on SMC's website will reveal some of the following thought-provoking observations:

(a) The youngest mediator listed as an Associate Mediator is approximately 29 years old while the oldest mediator is approximately 76 years old.

(b) The dominant occupation is the legal industry with most being Partners at a law firm.

(c) Out of the 479 Associate Mediators, the authors were able to categorise 183 of them based on the information made available on the Ministry of Law's Legal Services Regulatory Authority's website<sup>48</sup> according to the Law Society of Singapore's three categories. Crucially, there is only one Associate Mediator under the age of 30 years old and a total of three Associate Mediators who fall under the Law Society of Singapore's "Junior" category.

(d) Most of the Associate Mediators who the authors were able to discern their approximate ages (after taking into consideration education, the time required to complete any relevant professional qualifications and National Service obligations) fell into the Law Society of Singapore's "Senior" Category. The following table summarises the authors' findings in this regard:<sup>49</sup>

Law Society of Singapore Category	No. of Years of Post-Qualification Experience	No. of SMC Associate Mediators
Junior	<5 years	3 (<1%)
Middle	5–15 years	36 (20%)
Senior	> 15 years	144 (79%)

(e) In other words, a large majority of SMC's Associate Mediators are considered to be in the Law Society of Singapore's most senior category of legal practitioners.

47 "Mediators – Associate Mediator" SMC <<https://mediation.com.sg/experts/mediators/associate-mediator/>> (accessed 1 November 2024).

48 <<https://www.mlaw.gov.sg/our-work/legal-services-regulatory-authority/>> (accessed 1 November 2024).

49 The authors would like to express their gratitude to Callista Neo for her assistance in consolidating the data contained in the following table.

63 In this regard, the landscape in Hong Kong is different. First, it would appear that unlike Singapore, MSPs generally do not categorise their mediators according to any purported seniority. The closest comparison is the Law Society of Hong Kong which categorises its mediators according to their area of speciality,<sup>50</sup> eg, “General Mediator” and “Family Mediator”. Other MSPs such as the Hong Kong Mediation Centre<sup>51</sup> and Hong Kong International Arbitration Centre<sup>52</sup> simply maintain a register of its panel of mediators. In the case of the Integrated Mediation Office (West Kowloon), mediators accredited by HKMAAL may apply to be included in its List of Accredited Mediators.<sup>53</sup> This presumably means that the parties either select their preferred mediator from one of these lists or leave it to the MSP to appoint a mediator in the event of disagreement. In either scenario, the authors understand that it appears to be rare for young mediators in Hong Kong to be appointed as a mediator.

64 Since young mediators are unlikely to receive mediation work from the MSPs, young mediators have the option of undertaking mediation appointments on a *pro bono* basis, ie, volunteer mediation work. While this may seem like an easy fix, the reality is that there are still challenges which young mediators will have to navigate to secure such appointments.

### **B. Current volunteer opportunities for young mediators in Singapore and Hong Kong**

65 As an alternative to mediation work from the MSPs or *ad hoc* paid mediation appointments, young mediators may turn to volunteer mediation opportunities to gain mediation experience and to keep their mediation skills fresh until they secure paid work. However, volunteer opportunities present their own set of limitations.

66 First, volunteer mediation opportunities may arise on an *ad hoc* basis or through informal initiatives in Singapore and Hong Kong. Common settings where such opportunities may arise include community legal clinics, legal clinics for non-governmental organisations serving various interest groups, or dispute resolution channels for schools or industry bodies. While these opportunities are good avenues for young mediators to cut their teeth in mediation, the informal and small-scale nature of such opportunities limit the number of young mediators who are able to access

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50 “List of Legal Service Providers – Panel of Mediators” *Law Society of Hong Kong* <<https://www.hklawsoc.org.hk/en/Serve-the-Public/List-of-Legal-Service-Providers/Panels-of-Mediators>> (accessed 1 November 2024).

51 “Panel of Mediators” *Hong Kong Mediation Centre* <<https://www.mediationcentre.org.hk/en/mediators/Panel.php>> (accessed 1 November 2024).

52 “HKIAC Panel of Mediators” *Hong Kong International Arbitration Centre* <<https://www.hkiac.org/mediation/mediators/hkiac-panel-of-mediators>> (accessed 1 November 2024).

53 “Mediation – Integrated Mediation Office (West Kowloon)” *Hong Kong Judiciary* <[https://mediation.judiciary.hk/en/imo\\_wk.html](https://mediation.judiciary.hk/en/imo_wk.html)> (accessed 1 November 2024).

work through these initiatives. There may not be a clear criteria or process for being appointed mediator.

67 Secondly, even where volunteer mediation opportunities are available under more structured schemes, the criteria for appointment may not be entirely transparent and the threshold requirement even for a volunteer mediator may be too high for young mediators to meet.

68 Following a review of the available opportunities in Singapore, the authors have put together the following table which summarises opportunities for young mediators and their respective entry requirements. To acquire the following list of opportunities, the authors wrote to different MSPs based on publicly available information or word of mouth that indicated that such MSPs offered mediation opportunities for volunteers. In some cases, this required extensive communications with the MSPs to clarify their entry and/or selection criteria.

MSP	Entry requirements	Remarks
Singapore State Courts Court Volunteer Mediator (Community Courts or Tribunals)	1. applicant must be a Singaporean citizen or permanent resident; 2. have at least one year of experience at the Consumer Association of Singapore (“CASE”), Community Mediation Centre (“CMC”) or SMC. Other similar experiences may be considered on a case-by-case basis; 3. be able to commit for one year in advance; and 4. be available to conduct at least six mediation sessions per year. <sup>54</sup>	The current term of appointment for court volunteer mediators is until 31 January 2025 and applications were last being received in 2022.

54 “Be a State Courts volunteer” *SG Courts* <<https://www.judiciary.gov.sg/join-us/be-state-courts-volunteer>> (accessed 1 November 2024).

MSP	Entry requirements	Remarks
Singapore State Courts Court Volunteer Mediator (Civil Mediation)	<ol style="list-style-type: none"> <li>1. applicant must be a Singaporean citizen or permanent resident;</li> <li>2. be a “Qualified Person” as defined under the Legal Profession Act 1966<sup>55</sup> (the “LPA”);</li> <li>3. be a member of the SMC’s Panel of Associate Mediators with at least three years of mediation experience or be a SIMI Accredited Mediator Level 3;</li> <li>4. have at least three years of post-qualification legal experience; and</li> <li>5. be available to conduct at least three mediation sessions per year.<sup>56</sup></li> </ol>	Same as above but the Court Dispute Resolution Cluster (Civil Mediation) mediates civil disputes for claims which do not exceed S\$60,000.
Singapore State Courts Court Volunteer Mediator (Criminal Mediation)	<ol style="list-style-type: none"> <li>1. applicant must be a Singaporean citizen or permanent resident;</li> <li>2. preferably be a “Qualified Person” as defined under the LPA;</li> <li>3. be a member of the SMC’s Panel of Associate Mediators with at least three years of mediation experience or be a SIMI Accredited Mediator Level 3; and</li> <li>4. be available to conduct at least three mediation sessions per year.<sup>57</sup></li> </ol>	Same as above but the Court Dispute Resolution Cluster (Criminal Mediation) mediates cases where a Magistrate’s Complaint has been filed. This usually involves minor criminal offences that arise out of a family, social or community context.

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56 “Be a State Courts volunteer” *SG Courts* <<https://www.judiciary.gov.sg/join-us/be-state-courts-volunteer>> (accessed 1 November 2024).

57 “Panel of Mediators” *Hong Kong Mediation Centre* <<https://www.mediationcentre.org.hk/en/mediators/Panel.php>> (accessed 1 November 2024).

MSP	Entry requirements	Remarks
CMC Volunteer Mediator	<ol style="list-style-type: none"> <li>1. applicant must be a Singaporean citizen or permanent resident;</li> <li>2. aged 30 years and above;</li> <li>3. fluent in written and spoken English;</li> <li>4. proficient in speaking a local language or dialect;</li> <li>5. proficient in using the Zoom virtual platform to conduct mediation;</li> <li>6. have been actively involved in volunteer community work in the past one year;</li> <li>7. have attained at least SIMI Level 1 Accreditation within the last two years; and</li> <li>8. be interested in contributing towards creating a more cohesive Singapore through mediation.<sup>58</sup></li> </ol>	While applications are open year-round, the selection interviews usually take place between September and November of each year.
CASE Volunteer Mediator	No publicly available information.	When contacted, a CASE representative stated that interested volunteers would have to complete the “CASE Volunteer Application Form” followed by two rounds of interviews, a final role-play organised by CASE and be an accredited mediator.
SMU Pro Bono Centre’s Mediation Clinic	No publicly available information.	When contacted, an SMU representative advised that interested parties should write to <a href="mailto:probonocentre@smu.edu.sg">probonocentre@smu.edu.sg</a> for more information.

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58 “CMC Volunteer Mediator Application Form” CMC <<https://cmc.mlaw.gov.sg/partner-with-us/apply-to-volunteer/>> (accessed 1 November 2024).

MSP	Entry requirements	Remarks
Intellectual Property Office of Singapore (“IPOS”) Young Mediator Initiative	By invitation only.	When contacted, an IPOS representative stated that “the top students of the [Mediation] module convened by [NUS]” will be invited to apply to become an IPOS Young Mediator.

69 While the above list may not be exhaustive, it should be of some comfort to young mediators in Singapore that, at the very least, there are some opportunities for them to undertake volunteer mediation work. However, whether such opportunities are realistically available to young mediators is a separate question.

### C. *Limitations of volunteer opportunities in Singapore*

70 The first observation is that the MSP’s selection criteria for volunteer mediation opportunities can be vague or difficult to access. For instance, the requirements to become a CASE volunteer mediator is not publicly available. Crucially, the authors were not provided with any indication of what metric or criteria would be applied at the interview stages and how the role-play would be carried out. Naturally, opportunities like these remain inaccessible to young mediators since the information is not easily accessible and the selection criteria is opaque to applicants.

71 A second observation is that some of the entry requirements, by design, are difficult or impractical for young mediators to achieve. For instance, to be eligible to become a Singapore State Courts Court Volunteer Mediator with the Community Courts or Tribunals, an applicant must have, among other things, at least one year’s experience with CASE, CMC or SMC. This is impractical for young mediators for a number of reasons:

(a) As explained above, the entry requirements to become a volunteer mediator with CASE are either vague or difficult to access. The requirement for volunteer mediators to have at least one year’s experience with CASE, increases the barrier to entry since becoming a CASE volunteer mediator poses its own set of challenges.

(b) The alternative is to have one year’s experience with CMC. However, CMC requires their volunteer mediators to be at least 30 years old. As it is not uncommon for young mediators to obtain their accreditation in their early to mid-twenties, age-related entry requirements limit young mediators’ access to mediation work for a few years from when they obtain accreditation until they reach

30 years old. These are important years that a young mediator could spend gaining experience and refining their skills.

(c) Lastly, if a young mediator was to rely on his or her experience with SMC, they would have to receive work referred by SMC, at least as an Associate Mediator, and the difficulties of receiving such work have been discussed above.

72 When examined together, the data suggests that the entry requirements for many of the MSPs which currently offer volunteers opportunities for young mediators are not designed with young mediators in mind. In fact, to be eligible for some of these opportunities, the mediator would naturally fall into the Middle Category of legal practitioners.<sup>59</sup> Even though some may argue that these opportunities were never meant to cater for young mediators, the concerns with such an argument are that many of the most active mediators in Singapore cut their teeth using such volunteer opportunities. The difference a decade or more ago was that as mediation was slowly being introduced, there did not exist senior cohorts of mediators who had already filled such volunteer spots. As a result, the chances are that a young mediator in the 2000s would have been more likely to secure an appointment as a volunteer mediator than a young mediator today.

#### **IV. Paving the road ahead for young mediators: policy recommendations and practical suggestions**

##### ***A. Policy recommendations from Singapore perspective***

73 With the challenges identified above in mind, the authors propose several policy changes to create more opportunities for young mediators to grow as mediators. Key stakeholders that are important in this respect include the State Courts and the Ministry of Law.

74 First, given that it is unclear when the last comprehensive review of the existing entry requirements was conducted, a good starting point may be a survey on the landscape of mediation opportunities and entry requirements. The State Courts and the CMC (which falls under the purview of the Ministry of Law) may be best placed to oversee such a survey. This increases the chances of key stakeholders reaching a common understanding on the challenges facing young mediators. The findings of such a baseline survey will provide a solid foundation for subsequent and effective change. State Courts and the CMC (which falls under the purview of Singapore's Ministry of Law) are likely best placed to be first movers in paving the way for young mediators to gain access to these opportunities.

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59 The benchmark used by the Law Society of Singapore for the purpose of Practising Certificate Applications define Middle Category practitioners as those with five to 15 years of post-qualification experience.

75 Second, as regards the selection process, MSPs may wish to consider allocating a percentage of new volunteer spots to young mediators. Doing so introduces new talent which may refresh the existing volunteer pool. Not to mention, the exposure to such opportunities would be an invaluable learning experience for young mediators.

76 To address the potential lack of experience of young mediators, MSPs may consider introducing mandatory co-mediation requirements. For instance, young mediators may be required by default to be paired with a more senior volunteer mediator. This addresses any potential concerns regarding experience and concurrently creates more mentorship opportunities. In turn, this strengthens the network of mediators in Singapore who are like-minded in their pursuit of promoting mediation.

77 Lastly, MSPs which currently have some kind of age requirement (eg, CMC) may wish to consider replacing such a requirement with a minimum qualification period instead. For practical reasons unique to Singapore, an age requirement may tend to be less favourable for female young mediators. Due to national service requirements in Singapore, males tend to be, on average, two years older than their female counterparts. As a result, by imposing an age requirement on young mediators, a female mediator with the same or more experience than her male counterpart would not be eligible to volunteer with CMC. However, her male counterpart with potentially less experience, by virtue of his age, may qualify. In place of an age requirement, MSPs like CMC may therefore wish to consider requiring their volunteers to have at least three years of post-qualification experience before they become *eligible* to volunteer.

78 The emphasis on the eligibility element is important because artificially high barriers should not be erected where volunteer opportunities are concerned. To broaden the pool of eligible candidates for MSPs to consider, the authors propose designing volunteer frameworks to make the entry requirements more accessible and transparent to young mediators. To strike a balance, MSPs can still retain their rigorous selection processes by retaining ultimate discretion over the empanelment decision to ensure that only qualified volunteers are ultimately selected. Such a calibration may be more appropriate to avoid keeping young mediators out of such opportunities simply because of their age or other arbitrary requirements which may not be truly reflective of one's mediation skills. For the mediation landscape in Singapore to thrive and mature, young mediators must be given the opportunity to learn and grow as mediators.

### ***B. Practical suggestions for young mediators***

79 Understanding that time may be required to study and implement policies which address the barriers to mediation work for young mediators, the authors set out below a few practical suggestions that young mediators can take in the interim.

80 First, despite the limitations of volunteer mediation opportunities canvassed above, volunteer mediation remains one of the most accessible routes by which young mediators can gain experience. In addition to availing themselves to existing volunteer mediation opportunities, young mediators may proactively propose and set up volunteer mediation schemes where a gap exists. A young mediator may set up channels for mediation after considering the appropriateness of mediation for the context and the necessary processes to ensure ethical and professional standards are met. Community legal clinics and non-governmental organisations are areas where mediation may be a cost and time-effective dispute resolution mechanism.

81 Secondly, young mediators may consider proactively reaching out to more experienced mediators to offer to assist as co-mediators, or to simply shadow whilst providing support with note-taking or administrative matters. Such arrangements would be subject to the parties' consent and clearance of conflict checks. Young mediators may also have to be prepared to be involved on an unpaid basis. Nonetheless, such arrangements may still present rich opportunities for a young mediator to gain exposure to the conduct of an actual mediation and serve to build confidence when time comes for the young mediator to lead their own mediation.

82 Thirdly, young mediators may consider getting actively involved in professional networks and groups of mediators. One such group is the Mediation Committee of the Law Society of Singapore. At this juncture, it bears disclosing that both authors are members of the Mediation Committee and further, the Young Mediators Sub-Committee of the same committee. The mandate of the Mediation Committee is to promote mediation as an expedient and efficient form of alternative resolution, encourage the routine adoption of mediation clauses in agreements, raise mediation awareness, and promote the Law Society Mediation Scheme both in Singapore and internationally. The Young Mediators Sub-Committee aims to form a community to support young mediators and to organise activities for the benefit of young mediators. Involvement in such professional bodies or networks, or in events organised by them is an easy way for young mediators to be known as a mediator. This is also an easy way for young mediators to get one foot in the door by tapping into networks through which volunteer or co-mediation opportunities may arise.

83 The practical suggestions are imperfect and by no means a substitute for a broader review of policies to make mediation work more accessible for young mediators. Nonetheless, the authors offer these as interim steps that a young mediator can take to remain connected to the mediation network and to keep their mediation skillsets fresh.

## V. Conclusion

84 The fact that pools of enthusiastic and skilled young mediators exist in Singapore and Hong Kong is testament to the effectiveness of the governments and professional bodies in promoting mediation, and the legal education providers in providing quality legal training. These young mediators represent talent pools that should be tapped on, and there are realistic and actionable policy steps that can be taken by policymakers to increase the opportunities available to young mediators. It takes two hands to clap and it is also incumbent on young mediators to take proactive steps to create opportunities for themselves.

85 By shedding light on the landscape of mediation in Singapore and Hong Kong for young mediators, it is hoped that this article will help to catalyse action on systemic and individual levels to make mediation opportunities more available.

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