

# 4<sup>th</sup> Asia Pacific Mediation Forum Conference

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By LEADR Chief Executive Officer, Fiona Hollier

Established in 2001, the Asia Pacific Mediation Forum (APMF) facilitates those involved in alternative dispute resolution in the Asia Pacific region to gain greater insights about mediation in its varied forms and to share and develop knowledge and skills.

The Board decided the CEO would represent LEADR at the APMF conference, this year in Malaysia, to give LEADR the opportunity to:

- promote ourselves as a significant ADR organisation in the region
- establish contacts that may provide business opportunities, both in Australia and in the Asia Pacific region
- learn about trends and opportunities in the region
- make contacts with appropriate Malaysian agencies
- increase our capacity within Australia to comment on ADR issues in the Asia Pacific region.

The conference was hosted by the Harun M Hashim Law Centre, Ahmad Ibrahim Kulliyah of Laws at the International Islamic University Malaysia, Kuala Lumpur from 16-18 June.

About a half hour drive outside the city centre, the University is located in 700 acres of parkland. It has 12 faculties (kulliyah) and attracts students from over 90 countries with female students outnumbering male students. Its teaching staff is also drawn from across the globe.

In her opening address, the Dean of the Ahmad Ibrahim Kulliyah of Laws, Professor Dato' Dr Zaleha Kamarudin said that in a world where there is 1000 battlefield deaths per year, mediation is

much needed and that she hoped that this conference "would be useful in resolving conflicts and promote peace and stability for the benefit of mankind".

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To contribute to peace and the betterment of human life was a recurring motif throughout the conference. Keynote speaker, Jan Jung-min Sunoo, eloquently described the particular opportunity provided by this conference for such a contribution to be made. He said that even for those of us who come with open hearts and minds, it is difficult not to be tainted by the media barrage of stories about the Muslim world. But on this campus, receiving such generous hospitality, we had the opportunity to connect with others on an emotional level and to become more aware of the filters

through which we see the world. In his address, through three powerful personal anecdotes, Sunoo elaborated on the theme “That the human spirit is basically good, and that given the opportunity people will do the right thing. The corollary to that belief is that it is our calling as mediators to help create those opportunities and circumstances”. [For his paper >>](#)

Minister in the Prime Minister’s Department in Malaysia, YB Senator Datuk Mohd Zaid Ibrahim, in his opening address, spoke of the dire need for the expansion of alternative dispute resolution in Malaysia. There are over 900,000 cases awaiting trial – many will serve the maximum sentence length before their cases are even heard, he said. Coinciding with the Conference, it was reported in the Malaysian press that the government had set up a committee called High Powered Committee on Backlog of Cases, to propose judicial reforms. Datuk Zaid Ibrahim was reported as saying that a mediation act would soon be drafted that will encourage the use of ADR.

Associate Professor Dale Bagshaw, Director of the Centre for Peace, Conflict and Mediation at the University of South Australia has been the driving force behind the Asia Pacific Mediation Forum and continues to be its President. In her keynote address, Professor Bagshaw addressed the “tendency of Western discourses on mediation to marginalise or subordinate the knowledge of cultural groups that have informed conflict resolution practices for centuries”. She concluded that to be culturally fluent, and to identify ourselves as transformative peacemakers, mediators need to recognise that there is no one, “right” way to mediate and “to find ways to design mediation approaches that fit the needs of our clients and that acknowledge and address the issues of culture, power

discrepancies and transgressions of human rights”. [For her paper >>](#)

The final keynote speaker Professor Nadja Alexander, Director of the ADR program at the Australian Centre for Peace and Conflict Studies at the University of Queensland presented a mediation meta model that systemizes the broad variety of approaches to mediation that are used around the world. This helps locate six different styles of mediation along two dimensions, intervention and interaction. The model provides a tool of self reflection for mediators and can assist in matching disputes to the most appropriate form of mediation. It also provides a reference for describing to consumers the type of mediation service that they will receive and a structure for researchers to use to analyse correlations between, for example, style of mediation and settlement rates. [For her paper >>](#)

In addition to these very stimulating keynote addresses, participants were able to choose from 18 different sessions that presented 75 different speakers, mostly as members of panels focussing on particular areas of practice.

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In visiting Malaysia, I was particularly interested to find out more about the contribution of mediation to Islamic law. Nora Abdul Hak from the International Islamic University highlighted the ways in

which “Sulh” (mediation) has traditionally been an important part of resolving family disputes in Shari’ah courts. The emphasis has been that the mediators are Muslims who have good morality and a commitment to making peace and settlement. Traditionally, the preferred third parties are those who are known to the couple, as these third parties know about the actual circumstances between the husband and wife, and the couple are more likely to speak out in front of relatives than they would be to strangers. In other ways, the expectations on *Suhl* officers are similar to those with which we are familiar – they are required to be impartial, to conduct the process fairly and not to have personal interests in the outcome. For her paper >>

Balanced against this overview of the tradition of “suhl” was an appraisal of its contemporary application. In a joint paper by of Assist Prof Dr Mek Wok Mahmud (Head Dept Fiqh) & Assoc Prof Dr Sayed Sikandar Shah Haneef (Dept Fiqh) concluded that the soft skills of counsellors and students of Shari’ah and Islamic judiciary need to be improved so that they will become better negotiators to help reestablish relationships between quarrelling couples. And next-of-kin should be included when this would be helpful in the process of reconciliation. [For their paper >>](#)

These insights into the place of ADR in not only Islamic family law, but also in criminal cases and financial disputes gave small but valuable insights into the ways in which Islamic academics, the courts and lawyers are grappling with appropriate applications that are both contemporary in nature and yet consistent with underlying Islamic precepts. It would be interesting to know to what extent Muslims in Australia are able to access “suhl” informally within their communities, or to what extent they

make use of other ADR opportunities; and whether the ADR offered is sufficiently similar to the traditions with which Muslims in Australia are familiar for it to be an attractive choice.

I have given only an overview of a few of the papers that were presented at the conference. Visiting the APMF website will enable you to dip into the broad range offered by presenters from across the region. [APMF papers >>](#)

Of course, at a conference the connections that you make with people are also of great value. In this regard, LEADR is deeply indebted to the efforts of one of our members, Datuk William Lau who lives and works primarily in Sarawak and increasingly in Perth.

William went to considerable effort to arrange meetings and dinners for me to meet with business and educational leaders in Kuala Lumpur who have an interest in ADR. William was a wonderful advocate for LEADR particularly in relation to its mediation courses. As a result, I am liaising with contacts in Kuala Lumpur to explore ways in which LEADR can assist in the training and professional development of mediators. Through William’s efforts, I was invited as a special guest to the opening of the Conference and LEADR’s expertise in accreditation was noted in the closing comments by former Judge of the High Court of Malaysia, Y Bhg Dato’ Syed Ahmad Iddid.

For me personally, attending the Conference was a great privilege. As well and as hoped, it gave LEADR the chance to understand better the varied directions that ADR is taking in the region, to be more aware of the interests and priorities of our neighbours and to raise LEADR’s profile so that we may be better able to support and encourage the growth of ADR in the region.