



A COMPARATIVE ANALYSIS BETWEEN MALAYSIA AND INDONESIA IN PRACTICE OF MEDIATION AS A MECHANISM OF FAMILY DISPUTE RESOLUTION

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INTRODUCTION

1. This comparative analysis study is to examine the practice of mediation in Malaysia and Indonesia;
 2. To analyse the similarities and differences in the practices of mediation in Malaysia and Indonesia;
 3. To explore the advantages of mediation in both countries, Malaysia and Indonesia; and
 4. To explore the challenges of mediation in both countries, Malaysia and Indonesia.
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RESEARCH METHODOLOGY

01 The researcher undertakes a socio-legal approach, which focuses on how the mediation operates for both countries

02 As a non-doctrinal study, this research employs a qualitative approach

03 Primary data such as semi-structured interviews, survey via questionnaire through SPSS Version 23 and Focus Group Discussion

04 Secondary data, such as library-based research, journal articles, books, and legislation and case law are used to achieve the research objectives

COMPARISON OF MEDIATION PRACTICE BETWEEN MALAYSIA AND INDONESIA (PART 1)

Historical overview
of mediation

Types of mediation

Duties of mediator
in mediation

Court-annexed
mediation

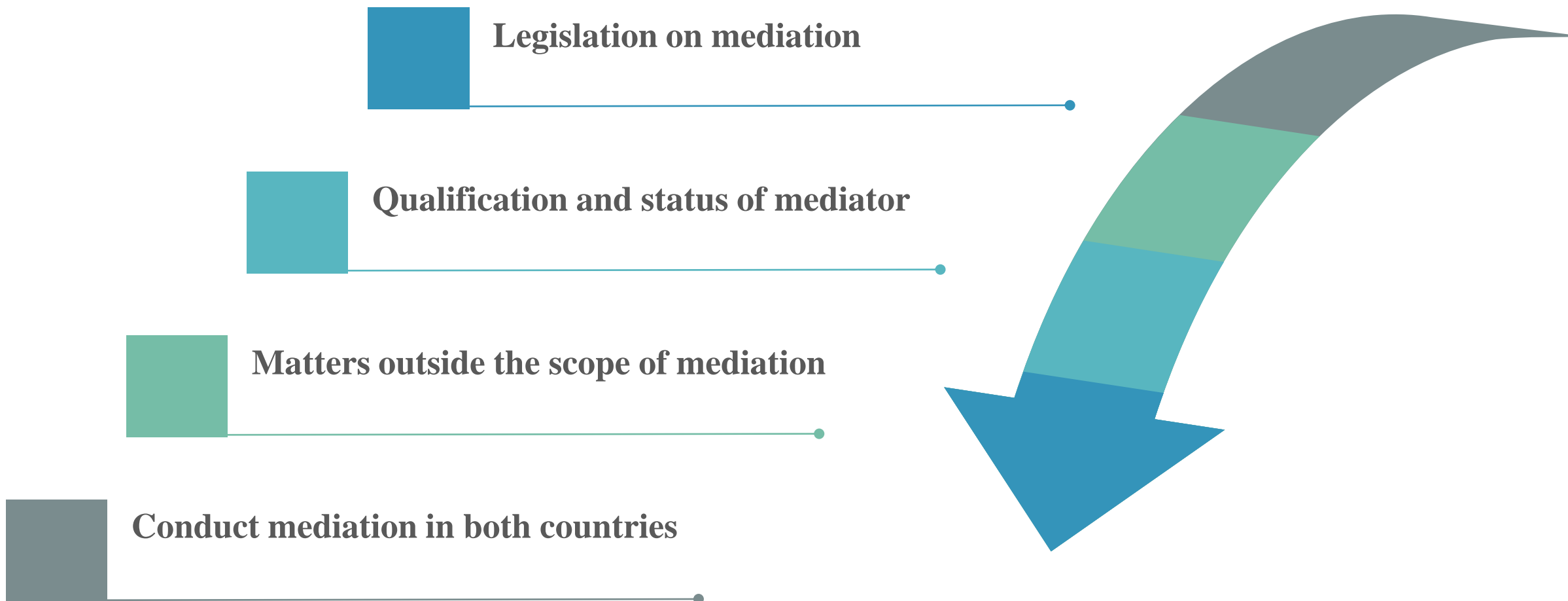
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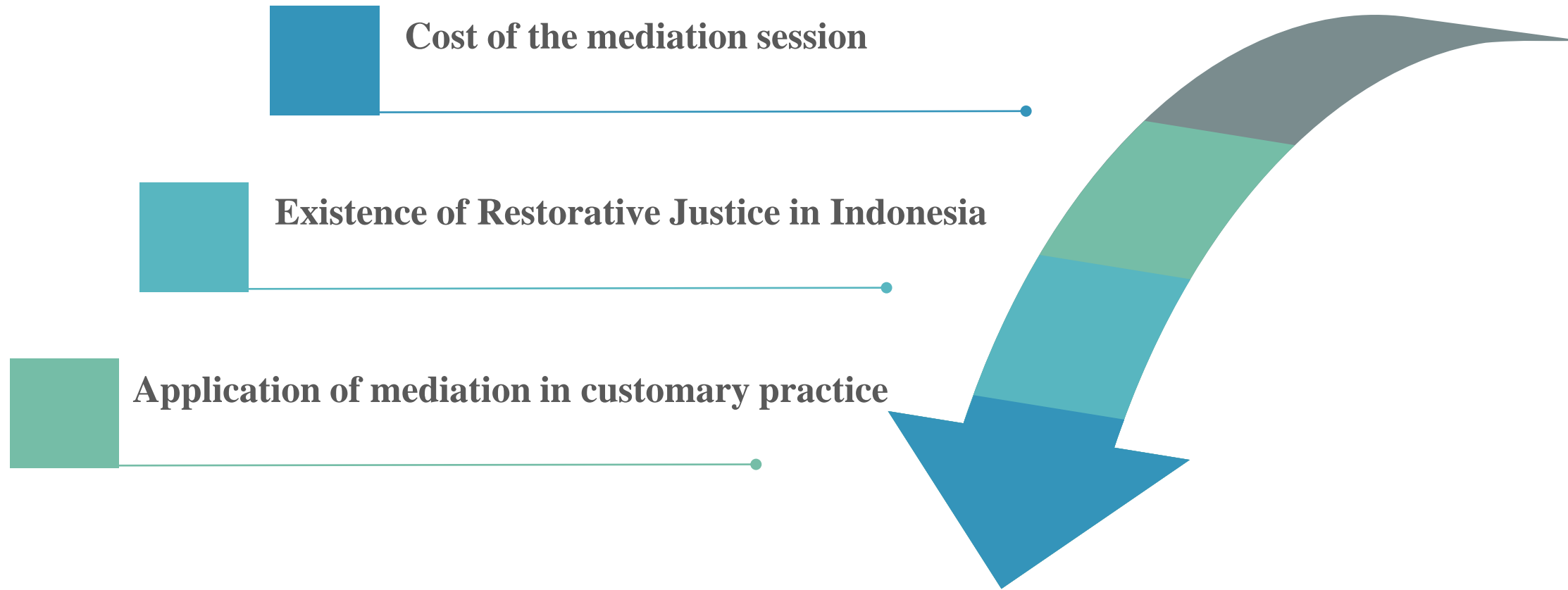
Existence of
Hybrid Arbitration
and Mediation

The aspect of
confidentiality in
mediation

ANALYSIS OF THE LEGAL COMPARISON OF MEDIATION IN MALAYSIA AND INDONESIA (PART 1)



ANALYSIS OF THE LEGAL COMPARISON OF MEDIATION IN MALAYSIA AND INDONESIA (PART 2)



ADVANTAGES OF MEDIATION

Both parties have the ability to influence the result by agreeing or disagreeing



The proceedings in mediation are informal



Mediation does not stop the parties from proceeding to court



Mediation is a private session



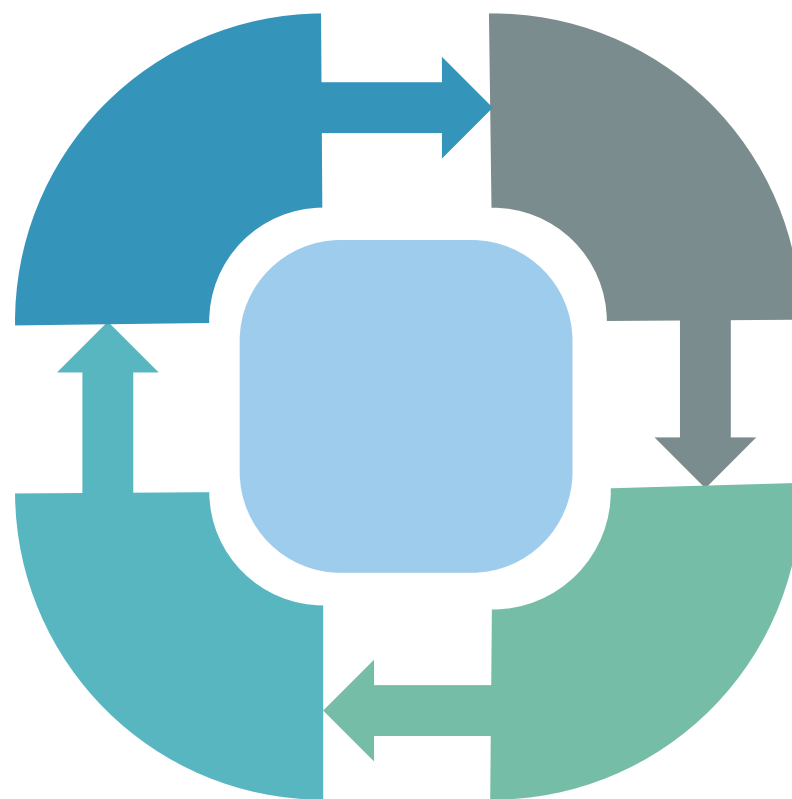
A successful mediation will result in a settlement agreement that all parties sign and accept as written proof of the resolution



CHALLENGES IN PRACTICING MEDIATION

Level of awareness among society for both countries is still at a low level

Lack of expert mediator who specialise in family dispute



Existing legislation regarding mediation for both countries are insufficient and too general

Lack of legal framework and procedures for both countries on how to resolve family disputes by using mediation

CONTRIBUTION

The author has made a historical comparison between mediation in Malaysia and Indonesia

The author has made a comparison between the duties of mediator for both countries

The author has made a comparison regarding the legislation on mediation for both countries

The author has listed all the advantages of mediation

IMPLICATIONS

Helpful not only from an academic point of view but also from the practical perspective for both countries, Malaysia and Indonesia

This research can achieve all the objectives set at the beginning of the research

The author hopes that mediation in both countries will be more efficient and be chosen as the best way to resolve disputes compared to litigation

CONCLUSION

- In conclusion, the practice of mediation in Malaysia and Indonesia are almost the same.
- To resolve family disputes, mediation can be considered as the most effective technique compared to other Alternative Dispute Resolution (ADR) considering that it has unique characteristics especially involving emotions and feelings.
- Since mediation is effective in resolving family disputes, both countries need to take proactive steps so that mediation in these two countries is more developed



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THANK YOU!

