



Mediation  
in Malaysia:  
The Law and  
Practice

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# **MEDIATION IN MALAYSIA: THE LAW AND PRACTICE**

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## CHAPTER 31

# SHOULD COMPULSORY MEDIATION BE INTRODUCED IN MALAYSIA

by

NORA ABDUL HAK

### ABSTRACT

There are opinions that by mandating mediation, it may lead to a denial of access to justice; and if mediation is introduced in court, it can cause delay in court proceedings. This seems to be so in the United Kingdom, where they felt that mediation should not be compulsory, while in the United States there are strong opinions that it should. Concerns about compulsory mediation include placing a further hurdle in the court process that may take extra time and increase cost, unwarranted interference in the parties' autonomy in managing their dispute(s), and the opinion that this would be an attack on the core principle of resolving disputes by decision-making based on the rule of law. The advocates of compulsory mediation, on the other hand, are very positive about their successes, based on their own experience. In the United States, many lawyers, who initially shied away from this unfamiliar process, are now strong supporters, after being involved in court directed mediations. This study will deliberate on the possibility of mediation in Malaysia being made mandatory, where the practices in other jurisdictions such as in the UK, USA, Australia, Singapore and New Zealand will be gleaned into. There may be a need for