

# **COMMUNITY MEDIATION TRAINING IN BALI & PAPUA: ACCESS TO JUSTICE IN INDONESIA**



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## Failure of Litigation Process:

- Providing fast, simple and low-cost, especially for vulnerable parties such as women, the poor and indigenous people

# Movement to return to Traditional way of resolving disputes

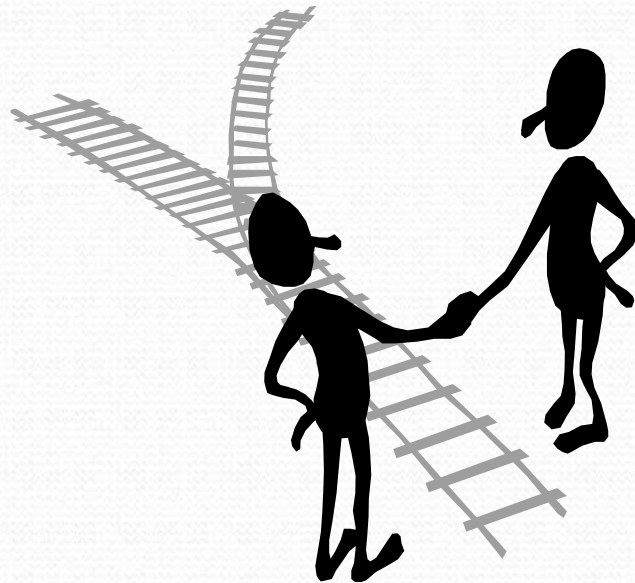


- People play dominant role
- Supreme Court supports the movement
- Based on *musyawarah*

# Indigenous way of resolving disputes

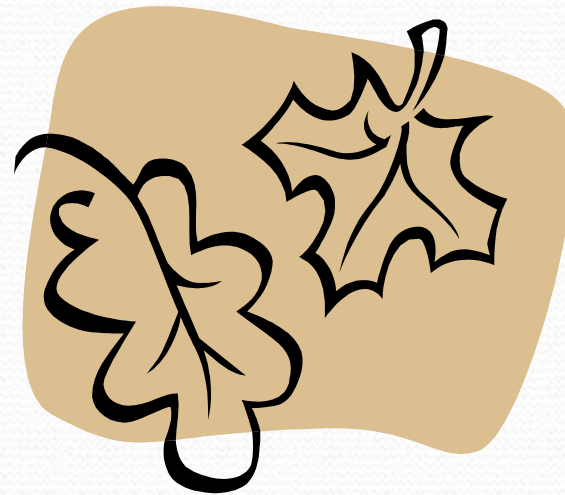
→ Musyawarah mufakat

reaching consensus through negotiation  
or mediation



# *Development of Mediation*

- **Law on Arbitration & ADR**
- **Other practices: environment, labor, banking, etc.**
- **Court-Annexed Mediation (CAM)**



# Why Mediation Training

- CAM allows non-judges to become mediators in CAM
- Parties play dominant role
- Creates fast, simple and low-cost procedure

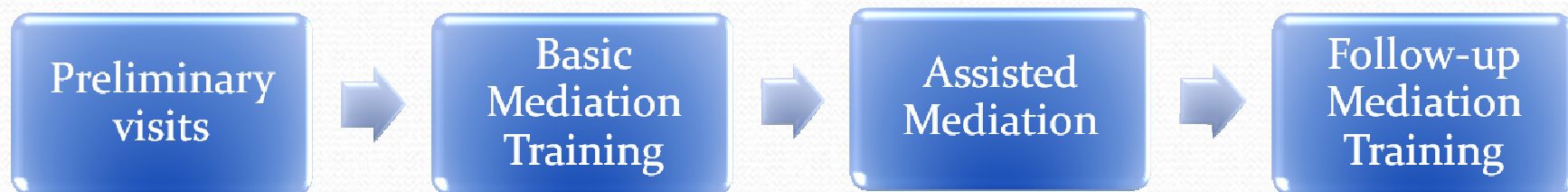


# Community Mediation Training

- Part of good governance in Indonesian Judiciary Program
- Funded by EU
- Held in 5 provinces



# Comprises 4 Activities:



# Criteria to select participants

## Personality traits

- Non-authoritarian
- Talent/style of mediator



*Criteria continue...*



## **Level of Education**

- was set minimum high-school
- able to speak and write Indonesian language

*Criteria continue...*

## Professional Background

- **none set**
- **min. 25 years old**



*Criteria continue...*

## Cultural Issues

- Understand local culture
- Mediate 1 case
- Position in tribe/religion



*Criteria continue...*



## Gender Issues

- ✓ Impossible to balance gender participants
  - Bali (6 females, 15 males)
  - Papua (3 females, 20 males)

*Criteria continue...*

## **Constraints in selecting participants**

- ✓ Few participants were illiterate
- ✓ Leniency in age requirement

# Training Method

Based on  
adult learning  
model

Simulation  
role plays and  
games

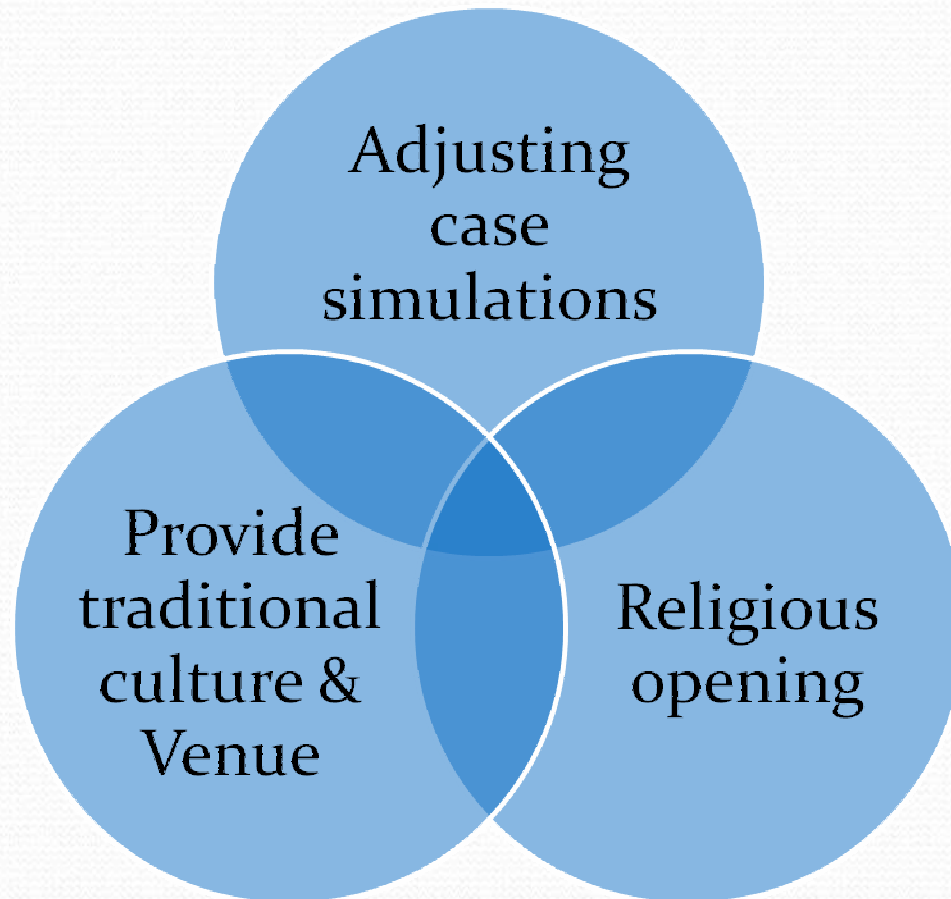
Adjusted  
theory and  
cases

# Training Syllabus

## 🌐 Basic & Follow-Up Mediation Training



# Cultural Approach



# Findings

*Arbitration, not mediation*

Conflicts are settled by adjudication

Not to change, but educate

Med-Arb process



*Findings continue...*

## **Out-of-court settlement to have court enforcement**

- Mediated by certified mediator
- Tribal/religious leaders play bigger role
- Major breakthrough in Judicial Procedure



*Findings continue...*

## **The class between indigenous values and state laws**

- Indonesian legal system → custom, Islam & State laws
- Superiority of State laws
- The breakthrough & State laws as benchmark



*Findings continue...*

## **Gender Issues**

- Women's interests are still marginalized
- Increase female mediators
- Women need to speak for themselves