

The Dilemma and Optimization Pathways of People's Mediation in the New Era

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Abstract

People's mediation is a dispute resolution method with Chinese characteristics. It has been developed through legal practice, inheriting the traditional culture of people's mediation in China. However, with the development of society, the people's mediation system in the new era faces dilemmas such as the number of mediators decreasing year by year, insufficient professional development of the mediator team, and decreasing social recognition of people's mediation. Based on a clear legal positioning of people's mediation, this paper addresses the challenges facing people's mediation and proposes solutions for improving the financial support system for people's mediation, enhancing the professional development of mediation teams, and refining the mediation process, aiming to make full use of the functions of people's mediation.

Keywords

People's mediation; Chinese characteristics; Dilemma.

1. Introduction

People's mediation system has a long history in China and plays an important role in social governance. The Central Committee of the Communist Party of China emphasizes the importance of making full use of people's mediation as the first line of defence. Therefore, it is of great importance to study how the existing system can be improved and how the power of people's mediation can be better utilized. This paper examines the existing dilemmas and proposes solutions after studying the positioning of people's mediation.

2. Legal Positioning of People's Mediation

The *Organizational Regulations of the People's Mediation Committee* and *People's Mediation Law* contain detailed provisions on people's mediation. In terms of composition, village committees and neighbourhood committees set up people's mediation committees according to the law. Enterprises, institutions, cities, streets, social organizations and other entities may set up people's mediation committees as needed. Obviously, people's mediation is characterized by its mass and grassroots nature. People's mediation committees are usually elected by the masses through meetings or representative assemblies, and their members are often people who are considered to have authority, higher cultural levels and moral integrity [1]. Hence, people's mediation is an important form of practice for socialist democratic politics.

In terms of nature, people's mediation committees are mass organizations that mediate in civil disputes and take on the tasks of resolving civil disputes, promoting national laws and policies, and educating citizens to observe discipline and morality [2]. This also means that because they have no public power, law enforcement or judicial powers, people's mediation committees are different from state administrative and judicial organs. People's mediation committees are

widespread at the grassroots level. By 2023, there will be 698,000 such committees and 3.078 million mediators nationwide [3]. It is obvious that people's mediation bears the heavy responsibility of grassroots governance. It is the most fundamental force in national governance for resolving disputes and maintaining social stability.

In terms of the principles and effectiveness of mediation, people's mediation must respect the will of the parties and cannot force the parties to mediate. Successful mediation cases result in mediation agreements that are not inherently coercive unless they are confirmed by a court. Therefore, people's mediation possesses its autonomy.

3. Current Challenges in People's Mediation

3.1. Decline in the Number of People's Mediators

The China Statistical Yearbook for 2014-2024 sourced from the National Bureau of Statistics provides the data in the following two tables. According to the National Bureau of Statistics, the number of people's mediators decreased every year from 2013 to 2023. As shown in Table 1, there were 698,000 people's mediation committees nationwide in 2023, with a total of 3.078 million mediators. This is a decrease of 1.151 million mediators compared to 2013.

Table 1. Number of People's Mediation Committees and Mediators Nationwide

Year	Number of Mediators Nationwide	Total Number of Mediation Cases by People's Mediation Committees	Number of Civil and Commercial Cases Accepted for Trial by People's Courts	Relative Proportion of Case Numbers
2023	3,078,000	17,200,000	17,530,000	0.981:1
2022	3,176,000	8,923,000	15,827,000	0.564:1
2021	3,162,000	8,744,000	16,613,000	0.526:1
2020	3,209,000	8,196,000	13,136,000	0.624:1
2019	3,378,000	9,315,000	13,852,000	0.672:1
2018	3,497,000	9,532,000	12,450,000	0.766:1
2017	3,629,000	8,741,000	11,374,000	0.769:1
2016	3,852,000	9,019,000	10,762,000	0.838:1
2015	3,911,000	9,331,000	10,098,000	0.924:1
2014	3,941,000	9,330,000	8,307,000	1.123:1
2013	4,229,000	9,439,000	7,782,000	1.213:1

Table 2 shows that from 2013 to 2019, the relative proportion of people's mediation cases accepted for trial by people's courts also showed a declining trend. This indicates a significant reduction in the role of people's mediation in resolving disputes. Despite the beginning of an increase in the relative proportion between 2019 and 2023, the number of people's mediation cases will continue to decline. As the economy and technology continue to develop, social disputes are increasing. The "less people and more cases" situation will inevitably affect the quality of case mediation if cases are simply diverted to People's Mediation Committees without increasing the number of mediators. Therefore, the continuing decline in the number of mediators is an urgent issue that needs to be solved.

Table 2. Comparison of People's Mediation Cases and Civil and Commercial Case Filings from 2013-2023

Year	Number of Mediators Nationwide	Total Number of Mediation Cases by People's Mediation Committees	Number of Civil and Commercial Cases Accepted for Trial by People's Courts	Relative Proportion of Case Numbers
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3.2. Insufficient Professional Development of the Mediator Team

Mediating disputes is a task that tests the overall quality of mediators, requiring a certain level of education, reputation, local knowledge and legal expertise. At present, the team of people's mediators is made up of both part-time and full-time members. According to a report in the *People's Daily*, there were 3,176,000 mediators in 2023. But only 412,000 were full-time. Part-time mediators make up the majority of the mediation team and face problems such as older age, insufficient legal knowledge and limited energy. As a result, the overall quality of the mediators cannot be guaranteed. Although "auntie-style" mediation has played an important role in resolving grassroots disputes such as neighbourhood and family conflicts, it is often ineffective in dealing with complex disputes based on experience and emotion. Disputes mediated without a legal basis tend to be rejected by the parties involved, leading to unsatisfactory mediation outcomes.

Furthermore, in accordance with the *People's Mediation Law*, funding for people's mediation committees is from government support, and mediation committees cannot sustain their operations by charging case fees. However, due to the lack of specific and clear support plans, the financial support and subsidies given by local governments to mediation committees and mediators is influenced by the local economic level, the number of mediated cases and the quality of mediation. This lack of long-term job security affects the enthusiasm of mediators and makes it difficult to attract quality personnel to participate in mediation work, leading to a decline in the number of mediators.

3.3. Decreased Social Recognition of People's Mediation

A people's mediator is a profession that requires interaction with a wide variety of people. Mediators need a certain level of social recognition to facilitate better communication between mediators and parties and to promote the smooth running of the mediation process. In traditional, close-knit communities, mediators were often locally respected individuals who were familiar with the local situation. Residents respected and trusted mediators, which led to good compliance with mediation agreements. However, with the development of society, there has been a significant change in the way people interact socially. Frequent population mobility and online social interactions have changed traditional face-to-face socializing. Familial relationships between people have weakened and the living environment has changed from a

close-knit community to a stranger society. Relationships between people are more likely to be maintained through transactions and contracts in a stranger society. Therefore, when disputes arise, mediators and parties are in a state of mutual unfamiliarity, which greatly reduces the parties' trust in the mediators. Moreover, because the provisions of the *People's Mediation Law* on mediation procedures are too simplistic, many mediation practices do not follow standardized procedures. Coupled with the uneven quality of mediators, this often leads to a lack of trust and non-recognition of mediation outcomes. Although there is a large amount of people's mediation cases, most of them are referred by the relevant state bodies, with fewer people actively applying for mediation. In addition, with the construction of a rule-of-law society and the strengthening of legal education, people's awareness of rights protection has qualitatively improved, so more people choose to go to court to resolve disputes. In contrast, many people are unaware of the functions of the People's Mediation Committees or even of their existence. Therefore, when disputes occur, people tend to seek relief from courts with judicial power rather than mediate with mediation committees without public authority, resulting in a decrease in the social recognition of people's mediation.

4. Optimizing Pathways for People's Mediation in the New Era

There is a close connection between the challenges faced by people's mediators. The insufficient development of the team of mediators is linked to the decline in social recognition of people's mediation. The decrease in social recognition contributes to the continuous decrease in the number of mediators by undermining their sense of identity. Therefore, a comprehensive approach to optimization is needed to address the problems in people's mediation.

4.1. Strengthening the Financial Support System for People's Mediation

The working environment of mediation organizations, the social recognition of mediation work and the motivation of mediators and their self-realization can be improved by strengthening the financial support system for people's mediation.

First, legislative guidance and support should be provided. The *People's Mediation Law*, as a national framework, provides comprehensive provisions for financial support. Local legislative powers should be used according to regional needs to ensure operating funds for mediation organizations. On the one hand, local legislation should refine the *People's Mediation Law*, allocate powers among relevant departments according to regional needs and practical experience, establish a rational mechanism for fund evaluation and distribution, optimize the fund application and approval process, and facilitate communication between mediation organizations and administrative departments, so as to ensure that operational fund issues can be "reflected", "responded to" and "implemented".

Second, broadening the incentive mechanisms for mediators. In addition to the provision of operational funds, the incentives for mediators are also in need of attention. In rural areas, many mediators are paid little or nothing, which affects their enthusiasm and efficiency, and thus the public recognition of mediation. Although some regions have introduced a 'case-based subsidy' mechanism, the low subsidy is symbolic and fails to motivate mediators, making it difficult to stabilize the mediation team [4]. Therefore, to strengthen mediators' sense of identity and stabilize the mediation team, basic economic incentives should be strengthened and various non-material reward mechanisms should be explored.

Finally, a comprehensive fund supervision mechanism should be established. While ensuring that funds are operational, a sound mechanism needs to be established to supervise the funds. To ensure that all funds for people's mediation are used effectively, funds with different

purposes should be managed separately, the use of funds should be standardized, and external supervision channels for funds should be established.

4.2. Enhancing the Professional Development of the Mediator Team

The success rate of mediation and the social recognition of mediation work is influenced by the professional level of people's mediators. Efforts can be made both externally and internally to strengthen the team of mediators.

Externally, the guidance of government departments and judicial organs should be improved. First, the training of new mediators should be strengthened. In order to improve the cognitive and professional level of newly appointed mediators, they can receive guidance and training from judicial administrative departments. Second, regular work guidance should be enhanced. When dealing with complex disputes, mediators may find it difficult to ascertain the facts and to interpret the law. Therefore, a smooth working exchange mechanism can be established to allow the difficulties encountered in the work of people's mediation can be reported to the judicial and administrative organs and receive effective guidance in their work. Third, a regular training mechanism should be established. With the rapid economic development, there are diverse social disputes and continuous legal updates. Hence, judicial administrative authorities can conduct regular training for mediators to keep their professional knowledge up to date.

At the internal level, a sound mechanism for business exchange should be set up. Various forms, such as discussing cases, exchanging experiences, evaluating work and legal knowledge competitions, can be used to strengthen internal communication within the mediation team, thereby improving the overall quality of the mediation workforce.

4.3. Perfecting Mediation Procedures

Procedural and substantive fairness are important in both law enforcement and judicial processes. Standardized procedures plays a crucial role in the improvement of efficiency, the protection of rights and the assurance of fairness in the handling of cases. The current *People's Mediation Law* contains overly simplistic regulations on mediation procedures that do not provide effective guidance on how to conduct mediation work. This has led to a phenomenon where the focus is on results rather than procedures. This undermines the seriousness of mediation work, thus reducing public recognition of mediation. Hence, there is a need for refinement and improvement of mediation procedures. In refining mediation procedures, the autonomous nature of people's mediation should be taken into account to ensure that procedures are both standardized and convenient for the public. First, people's mediation can provide a certain degree of procedural choice for the parties, while establishing different mediation procedures according to the type of case and the size of the subject matter. Parties often choose people's mediation to resolve disputes, taking into account factors such as court costs, transport convenience and the length of the dispute resolution process. Therefore, the perfect of mediation procedures should reflect flexibility and convenience, while respecting standards, and should be distinct from court procedures. Second, a low implementation rate of mediation agreements not only wastes mediation resources, but also reduces the public recognition of mediation work, as mediation agreements are not enforceable and have limited binding force on disputing parties. In this regard, monitoring of mediation agreements can be included as part of the mediation process to ensure the implementation rate of agreements. Finally, people's mediation committees should monitor mediation processes. Parties have the right to file complaints or reports against mediators who do not follow proper procedure.

5. Conclusion

Optimizing Pathways for People's Mediation in the New Era. Therefore, a comprehensive approach to optimization is needed to address the problems in people's mediation.

Strengthening the Financial Support System for People's Mediation. On the one hand, local legislation should refine the People's Mediation Law. Second, broadening the incentive mechanisms for mediators. Therefore, to strengthen mediators' sense of identity and stabilize the mediation team, basic economic incentives should be strengthened and various non-material reward mechanisms should be explored. Finally, a comprehensive fund supervision mechanism should be established. Enhancing the Professional Development of the Mediator Team. The success rate of mediation and the social recognition of mediation work is influenced by the professional level of people's mediators. Efforts can be made both externally and internally to strengthen the team of mediators. Perfecting Mediation Procedures Procedural and substantive fairness are important in both law enforcement and judicial processes. Finally, people's mediation committees should monitor mediation processes. Parties have the right to file complaints or reports against mediators who do not follow proper procedure.

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