

Abstract of Reforming the People's Mediation System in Urban China

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After its "revitalization" after the Cultural Revolution, China's people's mediation system declined throughout the 1990s. However, the second "revitalization" that began in 2002 has reversed this trend. This article explores the reasons for the 1990s decline of people's mediation in urban China and the government's interest and policy reform to strengthen this institution. The article also describes the basic unit in the urban people's mediation web and concludes with discussion of the new "legalized" nature of urban people's mediation and evaluates the significance of the reforms.

Beijing's demands on the form, function and operation of the people's mediation committees (PMC, *tiaojie weiyuanhui*) have evolved along with the national goals of the China Communist Party (CCP). Unlike mediation in traditional China, the PMCs formally established in 1954 were not intended to simply preserve harmony by encouraging mutual compromise. Maoist saw mediation as "essentially a political endeavor" where PMC use CCP promoted ideology and values to educate conflicting parties or even suppress disputes that interfere with socialist construction. However, PMC stopped operation during Cultural Revolution and was not revived until late 1970s. A new set of regulations on people's mediation was issued in 1989 (1989 Regulations) to replace the 1954 provisions. The 1989 Regulations emphasize preeminence of law and treat mediators as more professional and allow them to receive stipends and extend their terms from 1 year to 3 years. In spite of this, 1990s was a period of decline for the people's mediation system. The decline is largely explained by how the legal system and attitudes towards it have advanced since the Cultural Revolution. People were no longer afraid to go to courts to resolve disputes. Besides, people's mediation's lack of change is another reason for the decline. The government did not provide much funding for people's mediation in the reform period, so it was unable to attract new, better-qualified mediators or even train the existing ones. Another factor is that people and thus conflicts are increasingly falling out the control of the work and residential units which tightly controlled their lives in Maoist period. More and more Chinese are working for private enterprises that have not established a PMC. Meanwhile, migrant workers or other residents are moving into less formalized or new housing complexes that are not overseen by a PMC. Finally the fact that the agreements reached through mediation lacked legal weight both discouraged parties from employing PMCs and de-motivated mediators. Mediators often complained that parties frequently violated the mediated agreement without consequences.

Despite the obstacles mentioned above, the government was interested in strengthening the mediation institution due to three reasons. First, the government at all levels sees PMCs as the "first line of defense" to "preserve social stability". It would be ideal for the mediators to prevent or resolve conflicts before they intensify. Mediators also conduct legal propaganda work and "educating citizens to abide by the law and respect social morality". Secondly, if PMCs handle more cases, it reduces the pressure on the government to solve them. Finally, the Ministry of Justice (MoJ) which oversees people's mediation, wanted to fully utilize the vast infrastructure of the eight million people's mediators.

In order to promote the people's mediation mechanism, the government has been improving the

policy environment. After the 1989 regulations, year 2002 witnessed the clarification and reform of the people's mediation institution through issuance of what is commonly referred to as "Three Documents". The first and most important document is 2002 Judicial Interpretation which clarifies the legal status of mediation agreement. The second one, 2002 "Some Provisions concerning the Work of People's Mediation", seeks to promote the social stabilization goal of people's mediation and try to raise mediators' quality and professionalism. The last document is the "Opinions of the Supreme People's Court and MoJ on Further Enhancing People's Mediation in the New Era". This document is largely a restatement of other documents to emphasize the improvement of the people's mediation system. This document is very important because it is issued by the highest level of the government and CCP, showing the government's determination on reversing the declining usage of people's mediation. Some scholars speculate that China is likely to adopt a mediation law in the near future.

Besides improving the policy environment, the government also strives to change and expand the institutional structure of people's mediation. Throughout the 1990s, and particularly since 2002, there has been a significant push to create a "mediation web" scheme by expanding both vertically and horizontally from the community PMCs. Vertical expansion refers to creation of new mediation bodies to operate at different levels in geographic areas when a PMC already exists. It is designed to better equip PMCs to gather information about what is occurring in the area they govern, deal with problems at an appropriate level and offer multiple chances to successfully mediate a conflict. Horizontal expansion describes the establishment of PMCs in areas where no formal mediation organizations were previously operating. It seeks to ensure that conflicts of all forms and in all places have a chance to be mediated before they escalate or are dealt with by the courts, police or government.

Due to the above-mentioned expansion, the urban people's mediation system is becoming far less monochromatic: street-level, courthouse, police station and other PMCs have diversified this institution formerly comprised almost exclusively of community PMCs. Increasingly, PMCs's work is regulated, the principles and procedural rules of mediation are respected, mediators' legal knowledge is deepened, written agreements are produced based on law and mediation work is overseen by Judicial Assistants. People's mediation is not selling itself as an "informal" alternative to court, but rather is emphasizing its formality and similarity to court. The expansion and creation of new PMCs have also contributed to an increase in the number of cases handled by PMCs overall. Legalization and formalization are also making parties more willing to bring disputes to PMCs, especially complex ones, and helps to ensure better processing of those conflicts.

In coming years, legislation of people's mediation will continue. New forms of PMCs and the range of areas in which they operate can also be expected to continue expanding.

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