

Sociological Reflection on Cause of Multipartite Mediation Mechanism

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Abstract

Relative to traditional mediation system, multipartite mediation mechanism refers to a kind of resolving system based on the situation that social conflicts and social disputes wide spread in our country. From the view of sociology, this article analyzes multipartite mediation mechanism, which has great significance to realize cause of multipartite mediation mechanism, perfect multipartite mediation mechanism further and pursue social harmony process.

Key words: Multipartite mediation mechanism; Sociology; Social integration

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INTRODUCTION

Comparatively speaking to traditional mediation system, Multipartite Mediation Mechanism means a kind of dissolving system which is founded because of a lot of existing social contradiction and social dispute. Its main feature is

a wok system that unified leadership by Party committee and the government, comprehensive coordination of political-legal comprehensive management department, administration of justice, department of legal institution and People's Court take the lead respectively, wide social participation, people's

mediation, political mediation and judicial mediation play fully function, as well as coordinate and cooperated with each other. ¹

From sociological perspective analyzing Multipartite Mediation Mechanism will have a significant meaning to fully understand social objective requirement and inevitability of historical development, perfect Multipartite Mediation Mechanism, and promote the process of building society.

1. MULTIPARTITE MEDIATION MECHANISM IN THE VIEW OF SOCIAL INTEGRATION

Social integration is a problem being concerned especially by sociology. It is also important content being studied by sociologists. Social order and progress are the core problem of academic research to Comte, the originator of sociology. He advocates using social order to norm differentiated society, hoping social development to proceed in stable social order, which expresses his thought of social integration from one accepts. Social integration is an important method and form, especially in the transformation period of society. In this period, the prime social resource, element and its arrangement mode, traditional social institution, order and its law of operation is going to be broken down, relevantly, the new social resource, element and its arrangement mode, new social institution, order and its law of operation is going to be established. This process of from "breaking down" to "establishment" is social integration. China is in the period of social integration in the stage of social transformation. As the important method that promoting and pushing social integration, mediation mechanism

¹ Commentation from China National Radio: Applaud Chinese Multipartite Mediation Mechanism! Retrieved from http://www.cnr.cn/newscenter/sp/201003/t20100323_506193958.html

itself is faced with the problem of integration.

Subjectively, any mediation mechanism presently in China has obvious deficiency in the face of new social structure and social demand. Firstly, see from people's mediation system, it has many disadvantages such as arbitrary pattern of mediation lacking strict procedure norm; shortage of capital, lacking relevant reward system and subsidy system; low educational level and professional quality of mediator; reconciliation agreement has validity of contract merely, lacking of legal authority. Secondly, see from judicial conciliation system, "retardation of conservatism of law, inflexibility of rules for social development is gradually obvious, the chasm between just in form and just in essence is completely unmasked". (Chen, 2009) It is hard to avoid producing such problems as material costs (litigation costs, consuming time, etc.), family affection and ethics being impacted, limited legal resource being occupied. Especially to some problems such as neighborhood dispute, family dispute, small litigation, dispute of socially sensitive question, the way of judicial remedy is more disadvantages than advantages. Thirdly, see from administrative mediation, traditional authority idea is relatively strong. It will bring some problems such as mediation emphasizing punishment and sanction; the relationship between administrative subject and relative person existing inequality, even opposition, confrontation, mutual distrust; the elastic characteristic of public power usually brings opportunity to corruption, which leads to injustice of mediation; the efficiency of mediation has the characteristic of non-finality, which leads to low public confidence. The deficiency that presents all kinds of mediation systems has existed means every kind of mediation system needs to solve integration of connotation itself, most importantly to solve external connotation itself.

Objectively, the changes of existing modes of social dispute in the transforming period of society bring new requirement to mediation system. In the transforming period, economy, culture and society are all in the sharp turbulence. At this time, social disputes such as proper and unreasonable, reasonable and illegal, un-proper and illegal, dispute active but laws and regulations relatively hysteretic, problems of professional industry requiring high technology and the ability of mediatory organization is limited etc. not only coexist but also interweave mutually. The changes of existing modes of social dispute mean that the original existence of mediatory resource has been out of keeping with the times.

It is thus clear that mediation system has problems whether subjectively or objectively. And the main way of solving these problems is to integrate according to new social needs. Through integration, breaking original structure of original mediation system, exploding unreasonable factors of original mediation system, and then optimizing the distribution of mediatory

resource, building "Trinitarian" Multipartite Mediation Mechanism which is based on people's mediation system, administrative conciliation orientation and judicial conciliation as guarantee.

2. MULTIPARTITE MEDIATION MECHANISM IN THE VIEW OF SOCIAL CONFLICT

Social conflict is accompanying the inevitable product of social development. The sociologists pay close attention to social integration also because they have seen the existence of social conflict. Also Karl Marx is famous for his proletarian ideology in the world, but his idea of social conflict can be seen as the most important academic source of theories of social conflict. Subsequent sociologists such as Georg Simmel, Max Weber, Lewis Coser, Ralf G. Dahrendorf etc. also have expounded from each level to social conflict. Social dispute is the presentation of social conflict and meditation system which set solving social dispute as existence value is followed with social conflict. Social conflict decides the existence and development of mediation system. So, modes of mediation system must suit types of social conflict. If the forms of social conflict changed, mediation system also needs to change accordingly.

At present, China has entered into the critical period of reform and development. In this period, economic system reformed profoundly, social structure changed deeply, interests pattern adjusted profoundly. This kind of unprecedented social reform brings enormous vitality to Chinese development. At the same time, it certainly brings such-and-such conflicts and problems as well. In this stage, mediation system faces rigorous challenge. Social conflict which expressed by the form of social dispute occurred unprecedented changes with the outstanding features of tendency of polymerizability, sensibility, relevance, complexity enhanced constant. Firstly, the content of dispute presents diversification. The content of dispute extends from traditional marriage and family, neighborhood dispute to ownership of resource property, environment and ecology, compensation for land acquisition, displacement and resettlement, restructuring of enterprise, labour and social protection, consumer rights and interests, educational dispute and medical dispute and so on. Secondly, the subject of dispute presents complication. Traditional subject behavior is one-to-one basically. Nowadays, the subject behavior has changed to bilateral such as personage and legal person, legal person and legal person, personage and government, legal person and government etc. even multilateral subject behavior. Participants include worker, peasant, student, retired officer and individual household and so on. Thirdly, the number of participation is large-scale. The number of participation of group dispute is dozens frequently,

even hundreds. And that the tendency of unionization is obvious. There is organizer to manipulate at the back for some events of group disputes. And the events have rigorous relatively organizational leadership and thorough action plan. Finally, the behavior of demand expresses is radical. Some behaviors apply for an audience with the higher authorities to appeal for help bypass the immediate leadership collectively, contain blockade or attack Party and government offices, sit-ins and present a petition, strike or boycott classes, block traffic, even appears the extreme behaviors of abusing and hitting police officers and government staff, suicide and self-harm by taking advantage of national important political action or political sensitive period.

These new situation and characteristics that social conflicts have presented require urgently changing traditional mediation system, building the new corresponding mediation system in order to defuse all kinds of conflicts and disputes all sides, multilevel, respond quickly and effectively through using comprehensively various kinds of mediation means, and finally making mediation system be the "safety valve mechanism" to the nation. "Multipartite Mediation Mechanism" is born at the right moment.

3. MULTIPARTITE MEDIATION MECHANISM IN THE VIEW OF THE THEORY OF SOCIAL STRUCTURE

The study of the social structure is focus of attention to numerous sociologists, as well as the important component of sociological theories. Karl Marx stated his theory of social structure from practice. He thought that the nature of social life is practical. Analyzing social structure from practice can not only see the elements of social structure, but also observe the motion and variation of it. This analytical angle decided Marx's theory of social structure is comprehensive, integral and systematized. Talcott Parsons discussed social basic structure in his structural functionalism. Anthony Giddens had a total structuring study base on Parsons' theory, "proposed using duality of structure to replace subject - object dualism". (Liu, 2008)

Transition of mediation system is also determined by social structure. Mediation system is set up on the base of more profound social foundation. It can't exist and develop without specific social condition. Just as Marx's saying "The society isn't based on the law. That is jurists' fantasy. On the contrary, law should be based on the society."² Transformation from traditional mediation system to Multipartite Mediation Mechanism is the result of variation of social structure. Before the

² *Karl Marx and Frederick Engels*. (1961, Vol.6, pp.291-292). Beijing, China: People's Press.

reform and opening-up, China is in traditional society basically. Traditional society is society of acquaintance. In this community, the members have the same survival space, value orientation, moral standard, cognitive style and life logic. The method of solving disputes relevant to traditional society is traditional mediation system. The purpose of mediation emphasis patching up a quarrel and reconciles the parties concerned. After the reform and opening-up, China shot into modern society. The significant feature of modern society is interpersonal unfamiliarity. The reform of the economic system shakes economic foundation on which traditional society relies for existence. Society of acquaintance was replaced by strangers' society. In strangers' society, people's social relation is provisional karmic connection. People disentangled from intrinsic territory and danwei, became free man and social man. People haven't been a common history and delight of life, lack of common single standard and value pursuit.

These characteristics in strangers' society indicate that the variation of social structure made modern social heterogeneity strengthen, homogeneity exterminate, diversity promotion and uniformity decline. These outcomes produced by the variation of social structure lead to traditional mediation system faced incommensurate discomfiture. Because

the largest characteristic of base level is taking advantage of local resources, including interpersonal relationship, public morality, habit and village regulation and agreement etc. and reconciliatory atmosphere facilitated by specific interpersonal relationship and environment. Once these elements lose the force of constraint litigant, basic mediation suffers desolate naturally. (Fan, 2004)

So, from acquaintance society to strangers' society, variation of social structure need to institutional innovation to traditional mediation system, build mediation mechanism combining civil, judicature, administrative suitable to dispute solving requirement between strangers in modern society. This is objective requirement and inevitable trend of the product of Multipartite Mediation Mechanism.

4. MULTIPARTITE MEDIATION MECHANISM IN THE VIEW OF SOCIAL INTERACTION

Social interaction means "interdependency of social interaction activities produced by the diffusion of information between individual, individual and group, group and group." (Zheng, 2103) There is a lot of writes about the theory of social interaction. Symbol interaction theory of Mead George Herbert, social exchange theories represented by George Casper Homans, Peter Blau and Robert Emerson is all made particular exposition to interaction of life. They thought that the society isn't

isolated existence entirely, neither individual behavior of personal subjective consciousness.

Multipartite Mediation Mechanism combines rights and interest maintenance of the masses led by party and government, collection and analysis mechanism of social public sentiment, social contradictions mediating mechanism into one; includes legal, political, economic, administrative methods and ways of education, consultation, persuasion etc. as a whole. This kind of diversified multipartite mediation pattern which joins and complements mutually promotes powerfully social benign interaction.

The first one is to play the function of communication in the interaction from traditional values to modern values. People's mediation system is the traditional form for society solving disputes among the people. It has long historical origin and profound culture base what it reflective is harmonious and unified value orientation and form of thinking between personage and society, personage and country that traditional culture proposed in China. Administrative mediation and judicial mediation are the methods of solving disputes through the way of combination of mediation and law of the nation's administrative department and judicial organizations. What it reflective is people's value pursuit and way of thinking in the situation of diversification of interest pattern and moral idea of fairness and justice and the concept of rule the country by law in modern society.

In the process of social transformation, the new concept is going to pass information to the old concept which will be replaced. And at the same time, the old concept is going to pass information which will continue to exert excellent influence to the new concept. Multipartite Mediation Mechanism joins people's mediation which represents traditional culture and administrative mediation and judicial mediation that represent modern concept together. It provides a field domain of information communication for traditional system going on playing good affectation and new system creating new. It also promotes both benign interactions, forms people's mediation system with Chinese characteristics that both reflect traditional excellent culture and embodies modern consciousness.

The second one is to play function of bridge in the interaction of planned economic system and market economic system. There is a stage of "breakage" and "collision" for system from planned economic system transits to market economic system. What it embodies is the old system is broken down, the new one hasn't been built yet; the new system has been built, the old one's affectation still exists. Many new conflicts and new problems emerge in this stage such as proper and unreasonable, reasonable and illegal, legal and unproper and so on. It is incompatible with present needs continue to use traditional mediation method to solve these problems simply start with the situation of "the new

system hasn't been set up, the old system's affection still exists". However, it can't prove effective entirely merely using modern mediation method to solve these problems simply start with the situation of "the old system has been abolished, the new system has been set up". This is because that many of these methods haven't solved the problem of "breakage" and "collision" of system during the stage from planned economic system to market economic system.

Multipartite Mediation Mechanism fused the successful methods of traditional mediation system and innovative measures of modern mediation system together, formed new mediation system that could solve the disputes of "the new system hasn't be set up, the old system's affection still exists", as well as the disputes of "the old system has been abolished, the new system has been set up" in the special need of adapting period of transition. This mechanism turns "breakage" and "collision" of the system into benign interaction generated at the stage from planned economic system to market economic system.

The third one is to play function of bond in the interaction of national administration and social management.

If public protection and private protection are corresponding to national official power and folk unofficial power, national office system and folk unofficial system, then social reliever--Multipartite Mediation Mechanism is intermediate zone between two exactly, reflecting the intersection and interaction between the nation and society. (Song, 2008)

Multipartite Mediation Mechanism is the mechanism of solving disputes that nation and society participate together. In this system, the traditional people's mediation is regarded as particular authority technology and base of work. And it plays irreplaceable function because of its characteristics such as voluntary consultation, simple procedure, cheap costing and of its methods such as emotionally moving, enlightening with reason, displaying with interest, advocating trust and compression, averting opposition and contrary etc. At the same time, "in this field, the Party and the nation enlarge its influence to the best of its abilities, don't limit to the method of self-management by folk society, but set up a number of institutional frameworks of solving folk disputes affected by the nation." From 1980 to now, the Party and the nation issued successively a series of legal provisions such as *General Principles of Provisional Organization of The People's conciliation committee*, *Organization Regulations of The people's Conciliation Committee*, *Civil Disputes Treatment Method*, and *A Number of Rules Relating to The People's Mediation Work*. Especially in 2002, *A Number of Rules Relating to The Trials of Civil Cases of People's Mediation Agreement* which ascertained the nature of contract of mediation agreement, intensified legal effect of people's mediation. All of these embody national consciousness. Multipartite Mediation Mechanism reflects social power

as well as national power as solving disputes participated together.

CONCLUSION

Mediation system in China translates from traditional, single “small mediation” to now polybasic “multipartite mediation” is not occasional. That is the desirability of social development and necessity of historical development. It must have great meaning introducing sociology into the research process, analyzing the cause of formation of Multipartite Mediation Mechanism from the theories of social integration, social conflict, social structure and social interaction.

REFERENCES

Chen, Y. (2009). Sociological consideration on people’s mediators coming into the court—The analysis and expectation to the court has mediation organization as an attached institution. *Jouranal of Southwest University (Social Science Edition)*, 4.

- Chen, Y. (2009). Sociological consideration on people’s mediators coming into the court—The analysis and expectation to the court has mediation organization as an attached institution. *Jouranal of Southwest University (Social Science Edition)*, 4, 100
- Fan, Y. (2004). *People’s mediation system of social transformation—Set experience of reform of people’s mediation unit in changning district of Shanghai as pilot*. Retrieved from http://article.chinalawinfo.com/Article_Detail.asp?ArticleID=35978
- Liu, S. J. (2008). *Foreign sociology theory* (p.406). China: Higher Education Press.
- Song, M. (2008). Modern location of people’s mediation: The third field of dispute solving mechanism. *Law and Social Development*, 3.
- Wang, J. (2009). Modern transformation of urban people’s mediation. *Reform and Development*, 3.
- Zhang, S. J. (2004). Existence between mediation mechanism and traditional society—A sociological analysis. *Academia Bimestris*, 1.
- Zheng, H. S., & Huang, J. L. (2008). Discussing on legitimate crisis and remodeling of people’s mediation system in modern society—Basing on sociological analysis of field investigation of urban community in Shenzhen. *Thinking*, 6.
- Zheng, H. S. (2103). *New introduction to sociology* (3rd ed., p.124). China Renmin University Press.