

## Explanation of the Ministry of Justice on the Provisional Organizational Rules of the People's Mediation Committees

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### 1. Organization and leadership issues

Experiences in various places have proved that the mediation committee is an organization that the people need very much, because it can mediate civil disputes in a timely manner, facilitate people's unity and production, and reduce the number of cases that do not need to be tried in court, thereby alleviating some unnecessary burdens. All places where the mediation committee has been established and is relatively sound, and where mediation work is carried out under leadership, have achieved good results.

In the clearing of backlogs of cases in judicial reform, cases resolved by mediation committees generally accounted for more than 70% in North China, and in some counties, the number reached 94%. In East China, more than 125,000 cases were resolved through mediation, accounting for 75% of all backlogs, and in some areas, the number accounted for more than 90%. The masses are very satisfied with places where mediation work is done well. For example, due to the development of mediation work in Pingshun County, Shanxi, the county court now has only three to five backlogs per month. The masses believe that mediating cases on the spot does not delay work, does not cost money, and does not hurt feelings. Precisely because of the needs of the masses, some have persisted since the land reform and have achieved great results. For example, the Zhangjing Village Mediation Committee in Pingshun County, Shanxi was established on the basis of the rent and interest reduction movement in 1942. However, the village power was usurped by the landlord class. The mediation committee under the control of the village power not only failed to help the farmers resolve disputes, but also oppressed the farmers, and thus collapsed invisibly.

After the land reform in 1946, the majority of farmers took control of the power. Under the task of ensuring the development of production, the Zhangjing Village Mediation Committee was reorganized after rectification. The reorganized mediation committee was elected by the masses, and was very concerned about the interests of the masses and enthusiastically served the masses. In the past few years, the mediation work in Zhangjing Village has achieved remarkable results under the care and close leadership of the county and district leadership organs. As the farmers in the village said: "Disputes are getting fewer and fewer every year, and grain is getting more and more every year." On the contrary, in Changzi County of the same prefecture, because mediation work was not established at that time, the county court often had 300 to 500 cases, which caused cadres to complain, the masses to complain, and the leaders to blame. The sharp contrast between these two different situations shows that the mediation committee is necessary for both the masses and the court, and it is not a superfluous organization.

From historical examples, the key to the quality of the mediation committee lies in whether the leadership is tight and whether the organizational composition of the mediation committee is pure. In the past, the basic reasons for the collapse of most mediation organizations were mainly lack of leadership, poor work style of cadres, or impure organizational composition. The members of the mediation committee should be elected by the masses and should be people who can faithfully serve the people and have a decent work style, and bad elements should not be allowed to mix in. In the future, in order to consolidate and improve the organization and work of the mediation committee and better play its positive role, it is necessary to seriously strengthen its leadership politically,

ideologically, and organizationally, and regularly supervise and inspect it. Its work is closely related to the work of the court, and should be guided by the grassroots people's government and the grassroots people's court at the same time. Grassroots courts and their circuit courts must regard the leadership of mediation work as one of their regular and important tasks in the future, and attach equal importance to it as they do to trial cases.

The organization of mediation committees is generally based on the jurisdiction of police stations or streets in cities, and in townships in rural areas. This work must be carried out with a steady and progressive approach. Where mediation committees have been established but their organization is impure and their work style is bad, they should be rectified immediately; where they have not yet been established, they should be established with emphasis, leadership and steps; where land reform has not yet been carried out, where the suppression of counter-revolutionaries has not been thorough, and where the masses have not yet been fully mobilized, they should not be set up in a hurry to prevent saboteurs or even counter-revolutionaries from controlling and manipulating them and using them to carry out activities that are detrimental to the country and the people. The situation in cities is more complicated than in rural areas, and leadership should be tightened. All localities must regard the development of mediation work as an important task in judicial construction, earnestly strengthen leadership, and steadily and actively carry out construction.

## 2. Tasks of the Mediation Committee

The task of the mediation committee is to mediate general civil disputes (such as minor disputes over land, housing, debts, marriage, inheritance, etc.) and minor criminal cases (such as minor embezzlement, fighting, injury, damage, petty theft, fraud, defamation, etc.). However, cases of a more important nature, more complicated circumstances, and more significant impact, whether civil or criminal, should still be handled directly by the court. As for major criminal cases and disputes involving public, private, and foreigners, mediation is not allowed. All localities must strengthen inspection and control to avoid mistakes.

The mediation committee also has the task of publicizing policies and laws to the masses, but its publicity activities are mainly carried out through its daily mediation work. It is not appropriate to set up a separate system, nor should it be required to be too high. In addition, it can also assist the court in understanding the situation and reflecting the opinions of the masses within the scope of the township (village) and the police station. However, the tasks assigned should not be too many, so as not to affect the work of the mediation committee members.

## 3. Three principles that the mediation committee must abide by

The mediation committee must abide by the following three principles when conducting mediation:

- (1) Act in accordance with the policies and laws of the people's government;
- (2) Mediation can only be established after obtaining the consent of both parties;
- (3) Mediation is not a necessary procedure in litigation. When a party wishes to file a complaint with the court, the mediation committee shall not interfere.

Mediation is different from trial. It is originally built on the basis of the voluntary participation of both parties. We must strictly prevent and overcome the style of forced command. All forced mediation practices such as "forced mediation", "using mass pressure on the parties", "holding

struggle meetings", "passing by raising hands", "limiting prosecution", "cases cannot leave the village", "prosecution must be introduced by the district and village", and "taking turns to persuade" are wrong and must be firmly opposed. If the parties are unwilling to go through mediation, or the mediation is not established, or the parties regret after the mediation is established, they can directly sue the court. The mediation committee should give them the necessary help to smoothly file a lawsuit with the court, and shall not prevent, restrict or make things difficult for them for any reason.

Secondly, the establishment of mediation and the time limit for the parties to perform the agreement must be voluntarily agreed by both parties. The mediation committee has no right to force any party to agree. If one party neither performs the agreement established through mediation nor sues the court, the mediation committee should report to the court for handling. On the other hand, we must also oppose mediation that does not comply with policies and laws and is unprincipled.

During mediation, if the behavior and opinions of any party violate the policies and laws of the people's government, they should be criticized appropriately. Otherwise, the purpose of promoting policies and laws and educating the masses will not be achieved. Therefore, the general rules stipulate that we must act in accordance with the policies of the people's government. With these three basic principles, the people's right to freedom of litigation is fully protected from infringement, while at the same time the mediation committee can really play a certain role and reasonably resolve the disputes of the masses. For cases that should not be mediated or mediated improperly, or cases that violate policies and laws, the people's court should promptly correct or revoke them. After correction or revocation, not only should the mediation committee and the parties be notified, but it should also be used to educate the mediators and improve their awareness to prevent the same incident from happening again in the future.

#### (IV) Working methods and working systems

The most important thing for the mediation committee to do in mediation is to clarify the facts of the case. Therefore, it must patiently listen to the opinions of both parties and related persons, and conduct multiple field investigations and research to prevent preconceived ideas and hasty judgments. For cases to be mediated, except for very small disputes, the mediation committee should generally discuss and study before mediation, and at the same time maintain close contact with all relevant parties and work together to avoid arbitrary decisions and mistakes. During mediation, the mediation committee should adopt a sincere and kind attitude, explain the government's policies and laws according to the nature of the case to be mediated, and mediate in a reasoning way. After the agreement is established, the mediation committee should issue the mediation letter to those parties who request the issuance of the mediation letter in case of property and debt disputes, so as to serve as a basis for resolving their disputes.

The mediation committee should establish a certain meeting system, mainly to study the case and the mediation method. In addition, it should regularly check the work and summarize the experience. When encountering difficult problems during mediation, it should consult with the grassroots people's government and grassroots people's court and its circuit court at any time so that the superior can understand the situation in time and obtain instructions from the superior.