A Conceptual Framework of Community Mediation Development in the PRC

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Introduction

According to mediation system in the PRC (China Internet Information Centre, 2009), community mediation is called civil mediation / people's mediation (人民调解, *ren min tiao jie*), which is managed by People's Mediation Committees (PMCs) outside the court. The Constitution of the PRC (Xinhuanet, 2004: article 5 and 111) states that PMCs are a working committee under grassroots autonomous organizations - Residents Committee (居委会, *ju wei hui*), Villagers Committee (村委会, *cun wei hui*) - whose mission is to mediate civil disputes and, through such mediation, publicize laws, regulations, rules, and polices and educate citizens to abide by laws and respect universally accepted morals. The Regulations for the Organization of People's Mediation Committees (People's Daily, 2002) also states that PMCs supervise the mediation practice of People's Mediators, and they work under the guidance of grassroots governments and courts. Judicial assistants are responsible for helping PMCs in their mediation work, and grassroots courts supervise PMCs through their tribunals. The above-mentioned structure seems quite well-established; however, many scholars still advocate for continuous reforms of the mediation system in both theoretical (Qu, 2008; Zhao, 2008; Zhang, 2008; Yi, Ren, & Sun, 2009) and policy levels (Zheng & Wang, 2008；Lu & Gao, 2008; Qin, 2008). Although all these reflections and discussions are constructive and helpful to the community mediation development in the PRC, it is argued that this so-called 'top-down approach' is not sufficient to the real growth of community mediation in practical level.

Being an accredited mediator and social work educator, I have been trying to promote a professional practice of community mediation in the Guangzhou city through my

teaching, training, and consultative services. Therefore, I do share the urge of community mediation system improvement but an alternative approach, which based on George Kelly's personal construct theory as well as his repertory grid technique (Kelly, 1955 & 1963; Fransella et al. 2004; Jankowicz, 2004), is identified. It is argued that the improvement of policies and related macro environments only acts as a catalyst for the actual advancement of community mediation practice. The perceptions of mediation practitioners toward their works as well as their motivation to make continuous adaptations to changing society and environment should be the foundations of the sustainable development of community mediation in the PRC. To further elaborate my arguments and reasoning, I would like to structure this paper as follows: First, a brief introduction to personal construct theory and repertory grid interview will be provided so as to clarify how these concepts and techniques make contribution; Second, in order to further demonstrate the need of the alternative approach, various latest experiences of the community mediation development of the PRC in different regions will be evaluated. Of course, a suggested framework including how constructs can be elicited for the repertory grid interview, for instance, will be proposed in the last part of this paper.

Foundation of the Conceptual Framework

1) Personal Construct Theory (PCT) - George Kelly, the psychologist and creator of PCT, declared that psychology as a natural science and the word "construct" is a key concept in his theoretical system (Kelly, 1955: 8-9):

> *(Hu)man looks at his world through transparent patterns or templates which (s)he creates and then attempts to fit over the realities of which the world is composed. The fit is not always very good. Yet without such patterns the world appears to be such an undifferentiated homogeneity that (hu)man is unable to make any sense out of it.*

In other word, a construct is an idea or thought that represents a consistent way for the person to understand of some aspect of reality in terms of similarities and contrasts.

It is also assumed that construct is bipolar and dichotomous, specifying how two things are similar to each other (emergent or similarity pole) and different from a third thing (implicit or contrast pole) (Hjelle and Ziegler, 1992: 400-401).

There are three properties of construct (Hjelle and Ziegler, 1992: 401-402). First, all constructs have a limited range of convenience, though the scope of the range may vary widely from construct to construct. Second, every construct has a focus of convenience that refers to elements within the range of convenience to which a construct is most readily applied. Third, a construct will be permeable if it is open to construe new events; an impermeable construct is to any experience beyond its range of convenience. For example, "sweet versus bitter" has no meaning for the decision of the quality of mediator.

2)   Repertory Grid - Jankowicz (2004: 14-15) argued that there should be no simply single meaning about what repertory grid is, which based on the assumption of constructive alternativism (Kelly, 1955). However, I would like to define repertory grid in this paper, at least, being a form of structured interviewing that arrives at an accurate and valid description with no / minimal contamination of the interviewer's thinking and perspective. It is because my aim of using repertory grid is to construct an indigenized community mediation model in the PRC that based on those experiences and ideas of local people, rather than designed by experts and government officers solely.

Apart from constructs, there are yet several fundamental components consisted in repertory grid: They are: topic – a realm of discourse in which persons construe sensible meanings (Jankowicz, 2004: 12); elements – "the things or events which are abstracted by a construct" (Kelly, 1955: 137), and thus elements are examples of a particular topic; and ratings – a scale to quantify persons' preference to constructs.

Since the nature of repertory grid is to elicit persons' constructs that they own, it is then my intention to use PCT and repertory grid to collect those perceptions and thinking from community mediation practitioners, rather than following the law sentences, procedure guidelines, and working manual only, to define what community mediation in the PRC means. Therefore, a comprehensive picture of community

mediation in the PRC could be articulated. Besides, based on the repertory grid findings, it is possible to identify the communities and differences between the perceptions on community mediation of the West and the PRC by compare and contrast various available constructs. As a result, an indigenized community mediation practice with the support of local experience and, at the same time, making sense to the western mediation theory and research findings can be achieved.

Current Situation

In facing of the great demands to improve the community mediation policy and practice continuously, there were several pilot works, or so-called 'showcase' projects, launched in the past several years, at least. And I will highlight some of them, which I have searched in the Chinese Journal Full-text Database (CJFD, http://dlib3.cnki.net/kns50) by using keyword '人民调解' (*ren min tiao jie*) and time frame '2008-2009' as follows:

1. The community mediation practice more than a decade at the Bai Bu Ting (百步亭) community in Jiang An (江岸) district, Wu Han (武汉) city (Shi, 2008);

2. Peng Zhou (彭州) city in Si Chun (四川) province after the earthquake in 2008 (Research Unit, Department of Justice, Si Chun Province, 2009);

3. The experiences of Xi Gang (西岗) district, Da Lian (大连) city in the past few years (Sun & Li, 2009);

4. A case study findings of Meng Zi (蒙自) county, Yun Nan (云南) province (Yang, Fan & He, 2008); and

5. A trial of peer mediation with proactive approach at Zhong Gu (钟鼓) community in Dong Cheng (东城) district, Beijing (北京) city (Sun & Sun, 2008).

It is not my intention to go into details of each of the cases mentioned above but try to compare all these experiences with my observations and insights accumulated in the Guangzhou (广州) city since 2006. First of all, all of the practitioners are closely related to the governmental system – they are either the employees or volunteers of Residents Committee / Villagers Committee, or retired officers who are living in their

serving boundary for a long time. And the trust and respect on a community mediator, which are based on practitioners' status in the community they served and *guan xi* with their service users, are the key successful factors of community mediation practice. Moreover, it is also expected that lawyers or those practitioners with high education level and sufficient legal knowledge, should be more suitable to provide community mediation.

While a number of similarities identified across the cases, differences among themselves should be pinpointed. It is because the PRC is one of the gigantic nations in the world (about 9,6000,000 km^2) with 56 official ethic groups living altogether sharing various histories and customs, and thus contexts around this nation should be diversified even though she have been governing in the principle of Marxist-Leninist-Maoist socialism since 1949. For example, the practice models of Peng Zhou is centralized for prompt actions in handling of chaotic situations after the earthquake; whereas the experience of Zhong Gu emphasizes decentralization so that community mediation can be provided effectively throughout a joint participation of residents and PMC.

The cultural characteristics of the PRC should be recognized also so as to understand the reasoning behind phenomena. For example, some sorts of elementary mediation trainings, which emphasize on disputers' interest and needs accommodation as well as roles of mediator and procedures of mediation, were introduced to the practitioners in Guang Zhou. Some of them shared with me informally that those trainings were not useful for their daily practice. One of the reason was those courses were too intensive so that it was too hard for them to learn and make use of it. And the other reason they disclosed was that conflict resolution should depend on their legitimacy in the community as well as their *guan xi* with local people, rather than how much knowledge and skill they acquired. Thus, they perceived those trainings just being requirements from their boss and no practical meaning to them. Another fact discovered in the review of literatures is that most of the statistical results in above-mentioned literatures are outstanding: the successful rate of community mediation is about 98%! According to my observation and experiences in Guang Zhou and information reviewed in the literatures, even though the marvelous result is really based on the evidences collected, the interpretation of a 'successful' mediation

of the practitioners in the PRC should vary from the West. For examples, one of the indicators to justify mediation project whether effective or not is the number of dispute issues reporting to the courts and / or government: the less number of reports means mediation project more successful. According to traditional Chinese culture, this situation can reflect a typical construe that no negative issues should be disclosed outside 'family' (the meaning includes family, organization, and community) (家丑不出外传, *jia chou bu chu wai chuan*).

If we still believe the western experience being valuable for the mediation development in the PRC, how we can fit-in that experience into the PRC context, and even synthesize all of the constructs regarding mediation to create an authentic model for the PRC practitioners, will be a direction of community mediation development in the PRC. In order to achieve this challenging mission, a conceptual framework to understand, compare, analyze, and evaluate all experiences around the PRC systemically should be proposed. And I would like to take this initiative to share some of my thinking about the framework in the below.

Suggested Conceptual Framework

In order to establish indigenized community mediation model in the PRC, the following conceptual framework is suggested as an initiative to provoke further discussion. First of all, constructs about community mediation can be elicited from practitioners through George Kelly's self-characterization method (1955) to describe themselves, as a mediator, in the third person. The practitioners then are requested to pick out 12 terms or phrases, at least, that they think being most important for describing themselves or are most important to their identity, as a mediator. They are also requested to express the opposite of those terms or phrases that they have selected. This procedure should be repeated on different practitioners till occurrence of 'theoretical saturation' (Glaser, 1992) (i.e. keep doing this until no new constructs is identified.). All these pairs of constructs are next to compare and contrast with existing Chinese and Western mediation theories and research results so as to figure out an initial set of constructs that are sensible to global mediation practitioners with

consideration of Chinese characteristics. Based on the constructs elicited and identified as mentioned above, repertory grids, with topic 'people's mediation in [name of geographical region in the PRC]', can thus be created for widespread rating. Results of the rating is therefore being a foundation of building indigenized community mediation model(s), across different regions of the PRC.

One of the contributions of the above-mentioned practice is to set up standardized structure and systematic procedures to all mediation practitioners (e.g. frontline workers, administrators, and researchers etc.) in the PRC to evaluate, monitor, analyze, and even improve their working model through the information collected by their own as well as using others' experiences as a reference. Since all data are collected according to the same conceptual framework, it is reasonable in theory to apply the concept of 'replication logic' (Yin, 2003) to compare and contrast all of the findings from different regions of the PRC so as to develop a general community mediation model of the PRC. Moreover, different regions can also maintain their own style of practice if no violation to those principles of the general model.

There is a methodological question about sample significance and representation: who should be invited to do the self-characterization? This is actually a twofold question about how we can select significant samples to represent the diversified situation in the PRC as well as how the interviewees can represent every mediation practitioners in the PRC. The first impression to answer the former one may be using probability sampling method but I rather choose to apply 'analytic generalization' (Yin, 2003) and 'falsification' (Popper, 1963; Wang, 2007) concepts in handling of this question. It is because case study methodology, which is proposed by Robert Yin (2003), is used as a basis of the framework construction. The latter part is more difficult to answer because the question arouses our concern about the original idea of Kelly's PCT that human beings live in a highly subjective world of personal constructs (Hjelle and Ziegler, 1992: 416). Therefore, the action proposed above seems contradictive to the assumption of PCT. However, I do believe that constructs can be socialized to share among individuals unconsciously within a community, especially in the context of the PRC that socialism is still an official ideology upheld by the state government and the communist party of the PRC. Based on the argument discussed, as a result, the nature of this question should be practical about how we can identify

some key informants, who are able to not only present their own constructs, but also socialize other peoples to use the same constructs as them. Of course, to ensure the plausibility of the model construction, other informants with totally different characterestics have to be involved in the process of self-characterization. For example, apart from inviting senior community mediation practitioners as well as related governmental officers, the young practitioners with no or weak *guan xi* with those communities they served should also be participated in the procedure.

Looking Forward……

Non-politically speaking, only if a standardized research platform / business development model established, would it be then possible to compare and contrast the communities and differences of the mediation practice in various regions of PRC. And thus rational debate and mutual-learning among mediation practitioners about the development of community mediation in PRC, which based on facts and evidences collected, can be possible. Nevertheless, despite the proposed ideas are reasonable, it is certainly not easy to accomplish them because of the diversified and complex socio-political environments of the PRC. Even though being a mediator, social worker, and researcher, it is out of my ability to take care of such a dynamic situation in fact. Therefore, my intention to propose this framework is to provide a rational choice of community mediation development and thus invite more evidence-based researches as well as pilot works to be done based on the proposed framework. If more empirical results produce, it is more possible to promote the suggested framework successfully as well as modified its shortcomings.

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