

Introduction to the Incidental Dispute Resolution in People's Courts in China

Speech at the Second Meeting of the International
Judicial Dispute Resolution Network (JDRN)

By LIU Xuemei, Deputy Chief Judge of the Case-Filing
Division of the Supreme People's Court of the People's
Republic of China

(On the afternoon of May 22nd, 2023)

Honorable Chief Justice Sundaresh Menon, distinguished fellow
judges and guests,

Ladies and gentlemen, dear friends,

Good afternoon! It is my great honor to attend the second
meeting of the International Judicial Dispute Resolution Network
(JDRN) at the invitation of the Supreme Court of Singapore to
share with you via video the practice and development of
incidental dispute resolution in people's courts in China.

The Chinese nation enjoys a long history of the tradition of

mediation. People value modesty and courtesy and advocate the principle of “it is harmony that is prized”, so when faced with disputes, they develop the national psychology of detesting litigation and the pursuit of avoiding litigation. Mediation, therefore, has become the fundamental method to resolve disputes and achieve harmony. Characterized by rooting in the grass-roots level, wide distribution, convenience and efficiency and the ability to preserve harmony, mediation is a mechanism for resolving conflicts and disputes with Chinese characteristics. It is known as the “first line of defense” for resolving conflicts and disputes and is acclaimed by worldwide judiciaries as the “Oriental Experience” with Chinese characteristics. It should be concluded that in China’s dispute resolution system, mediation has always been an important means of resolving the parties’ disputes and is integrated throughout the litigation process. The mediation mechanism is established in the *Civil Procedure Law*, *Criminal Procedure Law* and *Administrative Procedure Law* of China. In the new era, as an important method rooted in China’s national conditions with distinctive characteristics of the times for resolving contradictions and disputes, the non-litigation dispute resolution mechanism has been upheld as the priority by the people’s courts in China. By following and developing the

“Fengqiao Experience” in the new era, adhering to the core principle of “justice and efficiency”, and fully playing their active role, the people’s courts in China have established a one-stop diversified dispute resolution mechanism under the leadership of the courts, and formed a new model of judicial mediation with Chinese characteristics with the following

Firstly, the mediation mechanism has shifted from decentralized mediation to coordinated mediation. In addition to judicial mediation, China’s mediation system also includes people’s mediation and administrative mediation. In recent years, China has incorporated the improvement of the diversified dispute resolution mechanism into the overall layout of the national governance system, and promoted the construction of a coordinated work system of people’s mediation, administrative mediation and judicial mediation. The Supreme People’s Court has taken the initiative to strengthen the litigation-mediation docking with central administrative organs, and has jointly issued more than 40 normative documents on the litigation-mediation docking to improve the substantive docking mechanism of litigation and non-litigation methods such as mediation. A large number of disputes are first resolved by people’s mediation, administrative mediation, arbitration, notary, administrative

reconsideration and other non-litigation methods; those that cannot be resolved can be brought to the court for judicial mediation. An open, shared, and coordinated multi-mediation dispute resolution mechanism has been formed in this way. Let's take the dispute over damage compensation for road traffic accidents as an example. Currently, the ownership of motor vehicles in China reaches 420 million, with over 500 million drivers, making disputes over liability for road traffic accidents very common. To this end, the court, in conjunction with public security authorities, people's mediation institutions, accreditation bodies and insurers, has established an integrated dispute resolution mechanism. In this case, the mediation process will be carried out at the occurrence of road traffic accidents. Accreditation will be carried out if required, and if the mediation is successful, judicial confirmation will be granted by the court to achieve data sharing, integrated processing, unified compensation standards and disclosure to the public. More than 85% of road traffic disputes in the people's courts in China are resolved through this platform, and 83% are successfully mediated before litigation. The number of road traffic dispute cases dropped from the second place in civil cases in 2013 to the sixth in 2022, and their percentage of all civil cases dropped from 11.6% in 2013 to

4.7% in 2022.

Secondly, the distribution of mediation has shifted from platform construction to one-stop dispute resolution. Over 3,500 people's courts nationwide have established one-stop litigation service centers that can provide case filing, mediation, adjudication and other services for litigants to obtain all litigation-related services in one place. Diversified dispute resolution areas are set up in those service centers, providing litigation guidance services. These areas are equipped with intelligent assessment equipment for litigation outcomes, various types of mediation rooms and video mediation facilities and an increasing number of judges for expedited adjudications. If the parties agree to mediate, they can proceed in the mediation room. Successful mediation can be automatically enforced, or parties can apply to the court for judicial confirmation of the mediation agreement or issuance of a mediation agreement. For unsuccessful mediation, complicated cases will be separated from simple ones. Simple cases with clear facts and minor disputes will be handled by expedited trial judges for quick adjudication, while complicated ones will be handled by specialized divisions. Currently, over 80% of civil disputes in grass-roots people's courts are resolved at the one-stop litigation service centers. In

2022, people's courts at all levels handled 7.49 million cases through expedited adjudication, with an average duration of 28 days, reducing the average trial period of first-instance civil cases by 37%, which significantly lowers the time and economic costs for enterprises and individuals to resolve their disputes.

Thirdly, the mediation process has shifted from being primarily led by judges to involving diverse social participants. With the continuous social and economic transformation in China, there is a growing diversity and complexity of dispute types. China has established a diversified dispute resolution system of “courts + all social sectors”. Professional and industrial mediation organizations as well as individuals with specific professional backgrounds are widely invited to participate in mediation, providing parties with a variety of choices for resolving disputes. For example, chambers of commerce will be appointed to participate in the mediation of commercial disputes; labor unions, of labor disputes; lawyers or financial institutions, of financial disputes. This approach gives full play to the advantages of professional expertise in different sectors, enabling parties to reach optimal solutions. For disputes in villages, communities and neighborhoods, people's mediation organizations or grass-roots staff will be appointed as mediators.

For foreign-related and Hong Kong, Macao, and Taiwan-related disputes, domestic and foreign mediation institutions, as well as individuals from foreign countries and fellow compatriots from Hong Kong, Macao, and Taiwan, will be invited to participate in mediation to gain the trust of the parties to the maximum extent. In terms of the diversified personnel involved in court mediation, 39% are people's mediators, 27% professional mediators, 18% judges or retired judges, 12% lawyers and legal professionals, and 2.4% community workers, township administrators or five types of senior mediators, forming a "mediator menu" for mediation. By the end of March 2023, people's courts at all levels had collaborated with 99,000 mediation organizations and 383,700 mediators, and the amount of successful pre-litigation mediation has been increasing at an average annual rate of 83% since 2019. At present, the number of mediators stationed in people's courts at all levels has exceeded the number of officially-budgeted judges, becoming an important force in collaborating with courts to resolve disputes in a diversified

Fourthly, the timing of mediation has shifted from during the litigation to as early as possible before filing a lawsuit. Mediation in China is divided into two categories: one is mediation before the litigation process, which takes place after

the parties file the prosecution materials and before the case is filed; the other is mediation during the litigation process. In the past, judicial mediation in China mainly occurred during litigation. After accepting a case, the people's court, after examination, can organize mediation for disputes that could be mediated after obtaining the consent of both parties if the legal relationship and facts are clear, regardless of whether the case is in the process of first instance, second instance, or retrial. From 2020 to 2022, over 10.26 million cases were resolved through mediation in first-instance civil cases nationwide, accounting for approximately 23% of the total concluded cases. In other words, about one-fourth of the civil cases that entered the litigation process were resolved through mediation. Mediation during the litigation process is primarily carried out by judges. In recent years, to address the global challenge of the conflict between the surging caseload and the limited judicial resources, we have vigorously promoted mediation before filing a case. After the parties file a case, the court staff will initially evaluate whether the dispute is suitable for mediation. Apart from the disputes that are legally not eligible for mediation, the staff will explain to the parties the advantages of mediation, such as no fees, high efficiency, and the judicial enforceability of mediation

agreements as a guarantee. The court will then send a notification or confirmation letter to the parties to seek their consent for mediation, guiding the parties to prioritize mediation as their preferred method of dispute resolution. Pre-litigation mediation is generally completed within 30 days but can be extended if both parties agree. Agreements reached through mediation have the same legal effect as a civil contract, and the parties should perform in good faith or apply for judicial confirmation. If one party refuses to perform or fails to fully perform the mediation agreement confirmed by the court, the other party can apply to the court for enforcement. If no agreement is reached, the case will be registered by the court and filed. Pre-litigation mediation is usually not presided over by judges but by third-party mediators, such as people's mediators, industry mediators, and lawyer mediators. In 2022, among the 26.109 million disputes filed in the courts, over 80% of the parties in civil disputes agreed to pre-litigation mediation. Courts carried out pre-litigation mediation in 13.07 million disputes, with a success rate of 71.80% and an average mediation duration of 13.5 days. People's courts resolved 36% of civil and administrative disputes through pre-litigation mediation. To make mediation more convenient, the people's courts in China have also established judge's offices and

mediation service stations in rural areas, communities, and industrial parks. In remote areas with difficult transportation, the courts also provide circuit mediation and door-to-door mediation services, enabling a large number of disputes to be resolved through mediation in the early stages.

Fifthly, the way of carrying out mediation has shifted from being offline to being fully online. At the end of 2021, the Supreme People's Court issued the "Online Mediation Rules of the People's Courts", which, for the first time in the form of judicial interpretation, formulated the procedural rules for online mediation. All four levels of people's courts should carry out mediation on the mediation platform of the people's courts built by the Supreme People's Court. The platform provides a one-stop solution with functions such as conflict identification, consultation and evaluation, mediation upon appointment and entrustment, video mediation, automatic generation of mediation agreements, electronic signatures, application for judicial confirmation, and online case filing. It ensures a complete record of the entire mediation process that is searchable, traceable, and subject to supervision. For disputes that can be mediated or settled under legal provisions in civil, administrative, enforcement, and criminal private prosecution cases and the civil actions incidental

to criminal proceedings where the accused or criminals who are not in custody, judges, mediators and parties can organize or participate in mediation through the platform anytime and anywhere via computer or mobile phone. After the parties fill in the dispute information on the mediation platform, the court will appoint the case online. Mediators, upon receiving the appointment, will communicate with the parties to determine whether mediation will be carried out through video or offline means and set the mediation time. Parties can participate in the entire mediation process through the mediation platform. Since its launch in February 2018, the mediation platform of the people's courts has handled a total of 41.4414 million online mediated disputes by the end of March 2023. In 2022, an average of 54,000 disputes were mediated through the platform every working day, with 75 successfully being resolved per minute before litigation. For every 2.2 mediated cases, one was carried out through remote video. The online mediation model allows parties located thousands of miles away to resolve their disputes through one screen without having to leave their homes, making dispute resolution more convenient.

The meeting of the International Judicial Dispute Resolution Network provides a platform of communication and cooperation

to promote the work of courts on diversified dispute resolution, which is of great significance for countries to advance the resolution of conflicts and disputes. As a core founding member, China will always uphold an open-minded approach, deepen exchanges and mutual learning with judicial institutions worldwide, and together improve the guide to the best practice. We sincerely invite all friends to visit people's courts in China and experience the efficiency and convenience of our one-stop diversified dispute resolution mechanism with Chinese characteristics. We look forward to your sharing your experiences, providing your valuable suggestions, and jointly promoting international judicial dispute resolution cooperation to a new level!

Finally, I wish the meeting a great success! Thank you!