

# How to Adapt the Teaching Reform of Law Major to “Great Mediation”

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**Abstract:** Because of the change of our current social structure and social situation, social behavior norm and social morality concept also change, then cause a variety of contradictions and disputes, to actively respond to the social reform, our country needs to build the structure of great mediation to promote the solution of social disputes and the maintenance of the social harmony. On this premise, the direction of law study applied in practice should also be reformed, and how to adapt the reform of law teaching to the “great mediation” should be considered.

**Keywords:** Law; Teaching; Great mediation; Teaching reform

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In the more than ten years since the People’s Mediation Law of the People’s Republic of China was officially implemented in China, the people’s mediation system has been continuously implemented, developed and improved. Currently, “grand mediation” has become an important means to solve the problems of grassroots governance. Under this background, how to adapt to the needs of The Times and reform the teaching of law major is a work that needs to be paid attention to and implemented. To carry out the mediation consciousness and mediation mechanism in the teaching of law major is conducive to the cultivation of students’ practical ability, which is in line with the needs of the current training objectives of law major.

## 1. The influence of the background of Great Mediation on the teaching reform of law Major

### 1.1 Big mediation mechanism

The great mediation mechanism, namely the trinity of people’s mediation, administrative mediation and judicial mediation, jointly completes the work of dispute settlement. The operation mode of the “Trinity” grand mediation mechanism is summed up on the basis of specific exploration of dispute settlement experience in various regions.

People’s mediation is a form of non-litigation mediation, which mainly refers to the mediation mode through the auspices of the people’s mediation committee, so that the two parties can understand and compromise each other and reach an agreement to achieve the purpose of resolving disputes. Administrative mediation refers to the way of persuading, educating and coordinating the civil disputes and minor criminal cases between the parties through administrative organs, so as to reach a voluntary agreement between the two parties to resolve the disputes. Judicial mediation, namely litigation mediation, refers to the mediation method that prompts the two parties in a civil case to reach an agreement to resolve the dispute through the people’s court. The civil mediation statement issued by the people’s court has the force of enforcement.

### 1.2 Current situation of mediation course in law teaching

In addition to the teaching of legal knowledge, the infiltration of practical mediation is also reflected in the teaching process. Many application-oriented law colleges offer courses such as “People’s Mediation”, “Mediation Theory and Practice”, and “Mediation and

Mediation Law”. Compared with the proportion of basic theoretical courses such as civil law, criminal law and civil procedure law, the content of mediation is less in undergraduate teaching. For students, mediation is not the main course of law major, nor is it in the scope of examination of legal professional qualification. Therefore, the study of mediation content does not receive much attention in the current teaching of law major.

Nowadays, the proportion of students participating in mediation social practice in undergraduate law schools is increasing, but it still cannot be well combined with specific theoretical knowledge and systematic mediation methods, which exposes the problems faced by mediation course in the teaching of law major.

## **2. The problems of mediation course in the teaching of law major**

### **2.1 Students lack mediation concepts**

Often when they are new to the legal discipline, students focus on how to hear cases, how to decide, how to provide effective evidence and so on, but lack of attention to mediation. More and more people think that the purpose of studying law is to master the provisions of the law, so as to win a lawsuit or make a judgment according to law, and despise the importance of mediation. Secondly, some students have cognitive problems with the definition of mediation.

Taking civil disputes as an example, suppose that Li Si claims that Zhang SAN borrows 10,000 yuan from Li Si during the period of love, but there is no specific IOU or other physical evidence to prove that the loan agreement has been reached, only the transfer record, Zhang SAN also does not approve of the loan, and thinks that it belongs to the joint expenditure of the two people during the period of love, then there are difficulties in the link of proof and judgment in this case. At this time, if mediation can be used to persuade both parties to take a step back, understand each other's efforts during the love period, advise the parties, Zhang SAN is willing to return part of the money to Li Si, Li Si is also willing to accept, in fact, the most beneficial situation for both parties, mediation is more able to help both parties to solve the dispute.

Mediation should take into account the essence of the dispute, the cost and return paid by both parties for the dispute, and the impact of the escalation or weakening of the conflict on the parties and other factors, so as to make the best communication and persuasion to protect the rights and interests of both parties.

### **2.2 Teachers lack mediation experience**

Mediation is a practical work in nature, which is inseparable from rich practical mediation experience. Some law teachers have entered the education industry since the end of their studies, so they have no chance to personally mediate conflicts and disputes, and lack of experience in mediation practice. In mediation practice, disputes of the same nature may change due to the specific situation, character and relationship of each party, which requires mediators to cope with and adjust mediation measures effectively.

In A loan case where the defendant is unable to repay the loan, in the mediation process, the relationship between the plaintiff and the defendant in case A is relatively harmonious, but the defendant is really unable to repay the loan. In the mediation, the plaintiff can ask whether the defendant can accept the repayment in installments. In case B, the plaintiff and the defendant have other personal grievances besides the loan itself, and the plaintiff does not believe the credibility of the defendant, and the defendant often loses contact in the litigation process. In such cases, it is necessary to consider persuading the defendant and asking him about the time and amount of repayment he is capable of.

Therefore, the lack of mediation experience of teachers actually shows the lack of practical curriculum teaching content.

### **2.3 The course lacks the combination of mediation theory and mediation practice**

In the current environment of great mediation, the reform of law teaching cannot be separated from the combination of theory and practice, and the theory and practice of mediation is a relatively weak link in undergraduate law major.

In the course setting, the mediation course was originally less and appeared late, students contact late, shallow learning. Although there are mediation studies in civil law and civil procedure law, most of them are auxiliary. Especially since most students are busy with internships or exams, they will delve less into the mediation content that is less common in theory courses and not covered by exams. Secondly, due to the lack of practical opportunities and limited practical time during the undergraduate period, it is difficult for students to combine their practice with legal theory courses. It is very difficult for them to understand and master the principles and strategies of mediation only depending on their subjective initiative.

## **3. The teaching reform strategy of law Major under “Great Mediation”**

### **3.1 Add mediation courses**

In order to adapt to the current environment of great mediation, the first thing is to require teachers and students to face the

importance of mediation, and the curriculum design needs to attach importance to adding mediation content.

For example, schools can take the People's Mediation Law of the People's Republic of China as the theoretical guidance, assisted by actual local mediation cases, design mediation case analysis course, requiring teachers to analyze the role of mediation cases in relieving judicial pressure, maintaining social harmony and regulating interpersonal relations under the guidance of teachers. The contrast between formal prosecution cases and people's mediation cases, judgment cases and litigation mediation cases in similar disputes can also be used as a part of the teaching design, aiming to make students understand that the settlement of civil disputes is not necessarily the best way of opposing judgments, so as to improve students' understanding of the significance of mediation and their familiarity with the mediation environment.

### **3.2 Systematic practice teaching**

In fact, the application of law is to apply existing legal provisions and legal theories to specific related events and cases. Theory is the basis for solving problems, but practical work also tests the application ability of the methodology of legal workers. The teaching work of law major needs to pay attention to the influence of practical teaching on students. Teachers can arrange practical learning according to the current theoretical courses to systematize the two. Whether it is civil extrajudicial mediation or actual observation in the judicial department, they must master the theory and summarize the review after practice. This kind of practical teaching can also be realized by organizing students to simulate disputes and mediation or mock court.

### **3.3 Incorporate mediation thinking into any law curriculum**

Mediation is not an independent subject unrelated to other legal knowledge, it is reflected and applied everywhere in all kinds of cases. In civil disputes, no matter the litigant sues, the lawyer represents or the court hears, the fundamental purpose is to solve the problem, which reflects that mediation is not the task of the third party, but a kind of ability that everyone who contacts the law should master.

Therefore, in any course of law teaching, can permeate the mediation thinking. In the teaching process, teachers should always guide students to think about whether there is possibility of mediation in such cases. In this teaching design, it is a great test of teachers' real-scene simulation ability. Students need to be personally involved in disputes, and take the initiative to think about ways of mediation. Only with the result of law teaching reform can outstanding talents be cultivated for the environment of great mediation.

In short, the changes in the current social pattern and situation require the practical ability of grassroots governance, which is closely related to the law teaching work of the output talents. In the environment of great mediation, the teaching work of law major must adapt to the situation, make reform and innovation, enhance the students' comprehensive quality of combining theoretical knowledge with practical learning, and build compound law talents in an all-round way.

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