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Research on the Theory of Procedural Justice in Civil Litigation Inclusiveness

-- From the Perspective of Civil Litigation and Diversified Dispute Resolution Mechanisms

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ABSTRACT

The theory of procedural justice, which was transplanted to China in the 1990s, has undergone theoretical development and has had a profound impact on China's civil litigation procedures and judicial practices. However, it has also encountered challenges such as procedural instrumentalism and judicial centrism. The overall value orientation of our society is developing towards diversification, which has also led to the diversification of civil disputes and people's demand for justice in China. The theory of procedural justice in civil litigation not only needs to break the closed nature of research fields, but also needs to break the closed nature of justice theories in other fields. The inclusiveness of civil litigation procedures also requires the concept of sharing and co governance to resolve disputes. This article systematically constructs a program based on the theory of dialogue mechanism, aiming to open up channels for all forces that can assist in resolving civil disputes to enter the civil litigation process and help resolve disputes; On the other hand, based on the theory of open procedural justice, the connection and inclusiveness between civil litigation procedures and other dispute resolution mechanisms have been constructed at the theoretical and institutional levels, thus forming an inclusive theory of procedural justice.

KEYWORDS

Inclusiveness; Diversity; Justice.

1. REFLECTION ON THE DEVELOPMENT OF PROCEDURAL JUSTICE THEORY IN CHINA

The theory of procedural justice, which was transplanted to China in the 1990s, has undergone theoretical development and has had a profound impact on China's civil litigation procedures and judicial practices. However, it has also encountered challenges such as procedural instrumentalism and judicial centrism. After entering the new century, with the acceleration of reform and opening up, in the context of time and space compression, examining the previous theory of procedural justice from the perspective of the needs of social change, it will be found that the expression of the main contradiction in Chinese society is still applicable in the field of civil dispute resolution. On the one hand, with the tremendous changes in the distribution system, social structure, and social contradictions caused by the transformation of society, as well as the improvement of the quality and level of people's demand for dispute resolution systems, there is an urgent need to build a dispute resolution system that is in line with the Chinese situation during the transformation period; On the other hand, through the author's description of the development and limitations of procedural justice

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theory in China in the previous text, it can be seen that at present, China's civil litigation procedural justice theory and procedural practice are still in a state of intertwined game between imported theories and local judicial traditions. In the face of social contradictions intertwined with different value orientations and interest demands in a transitional society, it often appears inadequate.

1.1. The Development Path of Procedural Justice Theory Should Avoid Mechanization

The overall value orientation of our society is developing towards diversification, which has also led to the diversification of civil disputes and people's demand for justice in China. With the tremendous changes in family structure, the diversification of social interest classes, and so on, many disputes have gone beyond the scope of pure substantive justice evaluation. In some disputes, the behavior of both parties cannot be simply evaluated by justice or injustice. At this point, procedural justice becomes crucial in the process of dispute resolution. A large amount of research on social psychology has shown that "experiences of procedural justice not only enhance evaluations of individuals, institutions, and specific outcomes, but also increase overall satisfaction with legal experiences and make people's reactions to the judicial system they encounter more positive." [Allen Lind, Tom Taylor: "Social Psychology of Procedural Justice," translated by Feng Jianpeng, Law Press, 2017 edition, p. 64]Based on the important role of procedural justice in dispute resolution, the author would like to explore a question related to the development path of procedural justice theory, namely whether the construction and development of procedural justice theory should pursue a theoretical framework that can be applied to all types of dispute resolution (hereinafter referred to as path one), or whether a unique procedural justice theoretical framework should be proposed based on different types of disputes (hereinafter referred to as path two). From the development process of procedural justice theory, it can be seen that at present, both domestically and internationally, the development path of procedural justice theory has basically chosen path one. Outside the domain, the theory of procedural justice has been based on the idea of natural law since its inception. In the writings and theories of proponents of procedural justice outside the domain, scholars generally conduct research on the theory of procedural justice as a whole, focusing on civil litigation procedures or dispute resolution procedures. The theories constructed are often aimed at being applicable to the entire civil litigation procedure. In China, the construction of procedural justice theory and its practical application are also oriented towards path one. This development path has a particularly prominent impact on China's judicial practice field. When a reform idea becomes the focus of judicial reform, the judicial field often does not fully consider whether specific types of disputes match this reform idea. Instead, it conducts regional pilot and extensive promotion of this idea, and then adjusts the problems encountered during the implementation process.

The author believes that it is not inappropriate for the theory of civil procedural justice to develop along the first path proposed in the previous text outside the country. However, in the context of China's social change and "unbalanced and insufficient" development, if the development of the theory of civil procedural justice cannot take into account the second path, it will fall into the trap of mechanization.

The theory of procedural justice was already conceived in the theoretical framework of natural law during the Greek and Roman periods, and the earliest expression of procedural justice theory can be traced back to the period of the promulgation of the Magna Carta in Britain. It can be said that the development of procedural justice theory runs through the entire process of Western society, from the dissemination of Enlightenment ideas to the establishment and development of capitalist systems, and has a history of hundreds of years until today. The long historical process and relatively balanced social development environment have prevented Western scholars from encountering the concentrated outbreak of problems caused by China's unbalanced development outside the region for hundreds of years in just a few decades. In the unique national conditions of our country, if the construction and development of procedural justice theory in our country still only follow the first

path, that is, the principle of "universal applicability" in theoretical development, it is likely to result in a mechanical "one size fits all" approach in the practical field, leading to the dilemma of civil justice being unable to respond to the needs of social change, that is, the misunderstanding of mechanization.

I do not deny the exploration and development of the theory of procedural justice that is universally applicable to the entire civil litigation process in the theoretical field, nor do I oppose the practical application of theories and procedural values such as party theory, procedural fairness, and procedural efficiency in the practical field. The theoretical research and exploration of the development path of procedural justice theory in both theoretical and practical circles are indispensable for the development of my civil litigation procedure. What the author wishes to emphasize here is that, under the unique national conditions of our country, the development and practice of procedural justice theory need to increase consideration of different types of disputes, disputes in different regions, and other unique characteristics in order to truly help solve the main contradictions in current Chinese society and respond to the changing needs of Chinese society for civil justice.

1.2. The Development of Procedural Justice Theory Should Avoid Procedural Closure

At present, the academic research on procedural justice theory in the field of civil disputes in China is mainly focused on the field of litigation procedures. However, non litigation dispute resolution mechanisms have been included in the evaluation system of national rule of law worldwide and have gradually achieved a position equivalent to litigation procedures. In China, non litigation dispute resolution mechanisms are also playing an increasingly important role in resolving civil disputes. In recent years, China's legislation on it has also begun to mature continuously. In this context, if the research scope of procedural justice theory is still confined to the field of litigation, it will obviously cause the development of non litigation dispute resolution mechanisms to lose theoretical guidance, and at the same time greatly weaken the practical foundation of civil litigation procedural justice theory. From this perspective, the author believes that the theory of "civil litigation procedural justice" should break the closed state that only revolves around the litigation procedure, realize the systematic research of procedural justice theory on litigation procedures and non litigation dispute resolution mechanisms, and ultimately develop towards the theory of "dispute resolution procedural justice".

The theory of procedural justice in civil litigation not only needs to break the closed nature of research fields, but also needs to break the closed nature of justice theories in other fields. The theory of procedural justice is ultimately a part of the social justice system. In the transitional period of China, with the changes in social structure, people's value orientation and social interest pattern are developing towards diversification and complexity. For example, the complex and diverse value orientations of the diverse circle culture introduced by the author in the first section of this chapter. In addition, with the development of society, the demands for justice in various fields have their own characteristics, such as the distributive justice mentioned by the author in the previous text, and the "digital justice" [Jessica McLean, Digital justice in Australian visa application processes, Alternative Law Journal, Vol. 44, Issue 4, 2019]

that has emerged with the development of electronic data technology to achieve or restrict certain reasonable or unreasonable demands through data means, as an important component of environmental philosophy, and so on. The theories of justice in these fields are closely related to the theories of justice in civil litigation procedures and specific institutional arrangements. Therefore, if the theory of procedural justice in civil litigation is closed off from other theories of justice and diverse value demands, and only focuses on the study of litigation and trial procedures, then the civil litigation procedures constructed based on and guided by this closed theory of procedural justice will inevitably fail to meet the demands of various fields and value groups for justice, greatly weakening the function and authority of civil litigation procedures in dispute resolution.

1.3. Deepening the Theory of Procedural Justice and Resolving Practical Difficulties

The practical difficulties faced by civil litigation procedural justice in China mainly come from three directions: procedural instrumentalism, the impact of the concept of emphasizing substance over procedure on procedural justice, and trial centeredness. These practical difficulties are the problems that must be solved in the process of transplanting the theory of procedural justice in China, otherwise the transplantation of the theory of procedural justice will be declared a failure as described by the author in the first chapter due to "adaptation to the local conditions" and "rejection reactions". From a biological perspective, maladjustment is mainly due to the inability of the transplanted organism to adapt to its environment, which belongs to external factors; And rejection reaction belongs to the attack initiated by the environment on the transplanted organism, which is endogenous. This also corresponds to the dual reasons for the practical difficulties faced by the transplantation of procedural justice theory in China.

As an imported concept, the theory of procedural justice has undergone hundreds of years of development in the West, forming a logically rigorous and rigorously structured theoretical system. However, its construction is based on Western society rather than Chinese society. The many differences in social environment, ideology, value system, etc. have instead made the advantages of "logical rigor and rigorous structure" of procedural justice theory a shackle that restricts its development. Because the more rigorous the logic and structure of a theory, the more likely it is that even slight changes made to it will have a "ripple effect", that is, the "elasticity" of the theory to adapt to changes in external factors will be greatly weakened. This is also an important internal reason why the theory of procedural justice in China has encountered difficulties in adapting to local conditions.

From an external perspective, although the theoretical and practical circles in China have reached a consensus on the recognition of the theory of procedural justice from the early 1990s to the present day, the theory of procedural justice in civil litigation is still an important component of Western political philosophy and legal philosophy. The political system, philosophical foundation, and social ideological foundation it is rooted in are significantly different from those in China's civil litigation process. This has also led to the inability of the theory of procedural justice to be perfectly embedded in China's national governance system at the practical level. It can be said that if the theory of procedural justice is not developed in accordance with local requirements, it is likely to trigger an "exclusionary reaction" from the social system towards it.

Therefore, the author believes that to solve the practical dilemma of the theory of civil procedural justice, it is necessary to first respond to the practical problems faced by the theory of civil procedural justice. This response should not only be based on the repetition of past theoretical frameworks, but should respond to the challenges of reality through the development of theory. As the basis for theoretical development, the author believes that it should first be based on China's national conditions; Secondly, targeted development should be made based on the specific type of dispute; Finally, the practical advantages of theoretical transformation should be highlighted. Only when the transformed theory is more suitable for China's national conditions and more conducive to solving the contradictions in our society compared to the old judicial concepts, can the successful transplantation of procedural justice theory be truly achieved.

2. THE INCLUSIVENESS OF THE THEORY OF PROCEDURAL JUSTICE IN CIVIL LITIGATION

'Inclusiveness' is not a concept exclusive to law, and from the perspective of national development,' inclusive development 'has become a global consensus. For example, the 2011 Boao Forum for Asia Annual Conference set "Inclusive Development: Common Agenda and Global Challenges" as the theme of the forum, which quickly became a major issue of widespread concern both domestically and internationally. Scholars define "inclusive development" as"a type of development that allows all

members of society to fairly and reasonably share the rights, opportunities, and especially the results of development, with sharing being its main feature."[Qiu Gengtian, Zhang Rongjie: "On Inclusive Development," Learning and Exploration, 2011, Issue 1.]In addition, various academic perspectives on designing inclusivity also include "promoting inclusive growth, using inclusive development to promote the construction of an inclusive society, promoting the construction of an inclusive political system, and even following inclusive growth with the rule of law."[Yuan Dasong: "Towards the Construction of an Inclusive Rule of Law Country," China Law Journal, 2013, Issue 2] In the field of procedural law, criminal procedural scholars have studied the construction of a criminal rule of law country.[Liu Yanhong: "Construction and Promotion of Inclusive Criminal Law Governance - Conflict and Solution of Basic Models of Criminal Law Governance", Modern Law, Issue 2, 2009.]The angle has been explored. In addition, some scholars have proposed that inclusive growth is an important connotation of socialist economic rule of law. [Shi Jichun and Zhao Zhonglong: "The Historical Dimension of China's Socialist Economic Rule of Law", Legal Journal, Issue 5, 2011.]From the perspective of procedural justice in civil litigation, the author believes that the inclusiveness of the theory of procedural justice should be reflected in the following aspects:

2.1. The Tolerance of the Theory of Procedural Justice in Civil Litigation Towards Types of Disputes

The inclusiveness of the theory of procedural justice in civil litigation first requires the provision of corresponding procedural theoretical basis for the resolution of different types of disputes. This requires the development of the theory of procedural justice in civil litigation not only to develop a theory that can be universally applicable to all types of disputes, but also to make theoretical developments that are in line with the characteristics of different types of disputes and different dispute resolution procedures. For example, in the face of contract disputes and family disputes, although it is necessary to adhere to the basic principles of procedural justice such as judge neutrality and party equality, due to the significant differences in the nature of the two types of disputes, the theory of procedural justice also needs to be adjusted accordingly. Just as the diversified dispute resolution mechanism based on the theory of approaching justice may have a good effect in family disputes, in property disputes, especially those involving major commercial property, real estate ownership, and other types of property disputes, what both parties need is protection of property stability and accurate procedural judgments. If non litigation dispute resolution mechanisms are still emphasized, the mechanization mentioned above will emerge.

2.2. The Tolerance of the Theory of Procedural Justice in Civil Litigation Towards Social Co Governance

The main purpose of civil litigation procedures is to provide authoritative, stable, and appropriate solutions to civil disputes, and in the existing framework of civil procedures, the judicial power still holds an absolute advantage in the current process of achieving this goal. But just as inclusiveness itself embodies the concept of sharing and co governance, the inclusiveness of civil litigation procedures also requires the concept of sharing and co governance to resolve disputes. Specifically, the theory of justice in civil litigation procedures should provide theoretical support for all entities that can play an active role in dispute resolution to enter civil litigation procedures and participate in dispute resolution. These subjects can be influential family members or unit leaders on both sides of the dispute, administrative subjects with administrative management power over the dispute, or even judges in other types of litigation procedures related to the case.

Of course, introducing the power of various social classes to achieve co governance does not mean encouraging civil litigation procedures to "invite" social co governance subjects into the procedural process through informal and arbitrary means. On the contrary, the inclusive procedural justice of shared co governance requires precise theoretical analysis of the types of disputes, the characteristics

of different types of disputes, and whether co governance subjects have comparative advantages over judicial power in dispute resolution, to construct a formal and binding procedural approach.

2.3. The Tolerance of the Theory of Procedural Justice in Civil Litigation to Judicial Practice Experience

The imbalance, insufficiency, and diversification of interest patterns in the development of Chinese society are the national conditions that China's civil litigation procedures must face. In such a national context, disputes between people of different regions, interest groups, and ages often have different characteristics. Sometimes, similar types of social disputes may have different requirements for dispute resolution procedures due to various factors such as the location, age group, education level, and professional background of both parties involved. Therefore, in order for the theory of procedural justice in civil litigation to achieve scientific tolerance of dispute types and social co governance, the first requirement is to have a full understanding of disputes, dispute subjects, and the difficult problems encountered in dispute resolution. The most capable of providing empirical content for the development of procedural justice theory are the judicial personnel who are fighting on the front line of civil justice work in China. As judicial personnel who have been engaged in civil judicial work for a certain type of dispute for a long time, they have the most say in the above-mentioned unresolved issues. However, at present, due to the lack of emphasis on accommodating different types of disputes in the development of China's civil litigation procedural justice theory, the experience accumulated by judicial personnel in handling civil disputes has not yet effectively become an important resource for the development of procedural justice theory.

The author emphasizes that the inclusiveness of procedural justice theory in judicial practice does not necessarily mean that the author supports empiricism. Empiricism and experience have a certain connection, but they are completely different concepts. Empiricism believes that "all knowledge comes from feelings... it cannot derive universal theoretical knowledge... it leads to relativism... it is not suitable for the rational world and cannot foresee the future."[Zhang Jianming, Tan Bohua: "Plato's Critique of Empiricism epistemology," Journal of Xiangtan University, 2019, Issue 2.]Experience itself is a kind of knowledge, and the experience accumulated by judicial workers in dispute resolution is a valuable resource for the development of civil procedural justice theory. However, due to the fact that judges in our country do not adopt a lifetime system, and there is no established normal theoretical conversion channel between the theory of procedural justice and the experience of judges in dispute resolution, this itself is another waste of valuable judicial resources in our country. To avoid this situation, it is necessary to continuously construct channels through the "Judges Law" and the organization, training, and communication of judges to achieve a positive interaction between judicial personnel's practical experience and inclusive civil litigation procedural justice theory.

3. THE TOLERANCE OF DIVERSIFIED DISPUTE RESOLUTION MECHANISMS IN CIVIL LITIGATION PROCEDURES

3.1. Statistical Data Analysis of Diversified Dispute Resolution Mechanisms

At present, the total number of civil disputes resolved through mediation in China has exceeded three to four compared to the number of first instance cases tried by the people's courts, while the number of marriage and family disputes resolved through mediation is close to the same as the number resolved through litigation. Although the National Bureau of Statistics does not specifically count cases involving neighborhood disputes accepted by the people's courts in the first instance, from the composition of the causes of first instance civil cases, subtracting the number of cases that do not involve neighborhood disputes such as personality disputes, marriage and family inheritance disputes, and contract disputes from the total number of first instance civil cases accepted, the remaining

number of cases is far from reaching more than two million. However, the data also shows that mediation is in a relatively weak position compared to litigation in cases involving property payment as the main content of compensation for damages. The number of disputes resolved is less than 8% of the number of infringement disputes handled by civil litigation procedures, and the disputes involving compensation for damages handled by civil litigation procedures are not just one type of infringement liability disputes. If all the data is counted, the proportion may be even lower.[See China Statistical Yearbook (2019), published on the official website of the National Bureau of Statistics]

3.2. The Theory of Dialogue Mechanism Proposes a New Perspective for the Inclusion Mechanism in Civil Litigation

The theory of dialogue mechanism emphasizes cooperation and consensus in dispute resolution, therefore the mechanism of dialogue theory naturally excludes and suppresses strategic behaviors. At the level of dialogue content, the theory of dialogue mechanism emphasizes four aspects: the comprehensibility of expression, the truthfulness of statements, the sincerity of expression, and the legitimacy of speech. The author believes that this thinking is not only applicable to civil litigation procedures, but also to non litigation dispute resolution mechanisms. This also provides a new perspective for examining the inclusiveness of non litigation dispute resolution mechanisms in civil litigation procedures.

From the perspective of dialogue mechanism theory, the tolerance of civil litigation procedures towards non litigation dispute resolution mechanisms should not only be limited to the confirmation and guarantee of the results of non litigation dispute resolution mechanisms by the judicial power, but also require mutual promotion of cooperation and consensus between the parties to the dispute. So the traditional theory of inclusive thinking and dialogue mechanisms has developed a relationship of mutual benefit and loss:

On the one hand, traditional inclusive thinking hopes to provide guarantees for the implementation of consensus reached in non litigation dispute resolution mechanisms through civil litigation procedures. The higher the degree of such guarantees, the more likely it is that the parties in the non litigation dispute resolution mechanism will increase their consideration of factors outside of dispute resolution, especially the results of dispute resolution, which will affect the dialogue and negotiation environment of the non litigation dispute resolution mechanism, causing the parties in the non litigation dispute resolution mechanism to increase strategic behavior and undermine cooperation and consensus.

On the other hand, if the mediation agreement reached through mediation is refused to be guaranteed in order to avoid affecting the negotiation environment during mediation, it clearly violates the principle of good faith and trustworthiness, which is known as the "imperial rule" in the field of civil law. At the same time, it does not meet the efficiency requirements for dispute resolution and ignores the work results of social mediation organizations and mediators.

3.3. The Inclusive Concept of Civil Litigation Procedure for Non litigation Dispute Resolution Mechanism

In the face of the trade-off between the traditional inclusive approach of civil litigation procedures towards non litigation dispute resolution mechanisms and the theory of dialogue mechanisms, the author believes that the types of mediation for resolving civil disputes and existing procedures should be examined, and based on this, the relationship between the two should be adjusted.

According to the data released by the National Bureau of Statistics, the number of civil disputes resolved through mediation is mainly concentrated in marriage disputes and neighborhood disputes, accounting for 40% -45% of the total. Many of these types of disputes involve identity relationships, non litigation interpersonal relationships, and potentially litigation related adjacent relationships. The

most closely related to the compulsory enforcement of property in civil litigation is the dispute over compensation for damages, which accounted for 8.1% and 7.6% in 2017 and 2018 respectively. According to the data on civil disputes resolved through mediation released by the National Bureau of Statistics over the years, the proportion in 2018 has dropped from 9.4% in 2009 to the lowest point in 10 years.

In addition, with the development of China's social economy, civil disputes have also begun to shift from a "life oriented" to a "market oriented" approach. Taking the civil disputes in a certain city in Shandong Province in recent years as an example, "neighborhood disputes, marriage and family disputes, and housing and homestead disputes account for 26%, 18%, and 7% respectively, with traditional three types of disputes accounting for 51% of the total. Rural contract disputes are on the rise, and new social contradictions continue to emerge. Although the proportion of land acquisition and demolition, medical disputes, labor disputes, environmental protection, road traffic and other disputes is less than 10%, the difficulty of mediation is high and it is easy to trigger group petitions. The operational space of the people's mediation system aimed at coordinating civil disputes needs to be expanded."[Huang Weiwei, Wang Wanyu: "Exploration of the existing problems and countermeasures of the people's mediation system - based on field investigations in X community, H city, northern Jiangsu province]Based on the above analysis, the author believes that for mediation agreements that do not involve compulsory enforcement, as they are not related to the compulsory enforcement procedures of civil litigation, there is no need for adjustment as the parties to the dispute will not be influenced by their consideration of the effectiveness of the mediation agreement in the mediation process. In response to mediation agreements that may trigger the court to enforce property, homestead, or adjacent rights and interests, the author believes that the following adjustments should be made to the procedure for confirming the effectiveness of mediation agreements stipulated in China's Civil Procedure Law:

Firstly, change the existing one size fits all initiation mode that requires both parties to jointly initiate the procedure, allowing one party to apply for the initiation of a procedure to confirm the effectiveness of the mediation agreement, while designing different procedures for different initiating parties.

Secondly, make different program settings for different startup entities. Specifically, when the initiating entity is jointly applied by both parties to the dispute, it indicates that the parties to the dispute have reached sufficient consensus during the mediation negotiations. Even if the mediation agreement is given mandatory enforcement effect from an institutional perspective, this situation will not retrospectively trigger strategic behavior of the disputing parties during the mediation process, thereby damaging the negotiation environment. Therefore, the effectiveness of the mediation agreement should only be established after a minimum review of the mediation agreement. If either party to the dispute refuses to comply with the provisions of the mediation agreement, the court shall initiate compulsory enforcement upon the application of the other party.

Thirdly, when one party who signed the mediation agreement requests the court to initiate the procedure for establishing the effectiveness of the mediation agreement, the court shall notify the other party whether they object to the effectiveness of the agreement. If the other party clearly states that there is no objection, it shall be handled in accordance with the provisions of the procedure for establishing the effectiveness of the mediation agreement jointly initiated by both parties.

Fourthly, when one party who signed the mediation agreement requests the court to initiate the procedure for establishing the effectiveness of the mediation agreement, and the other party clearly expresses their objection to the agreement and claims that the agreement was made under fraud or coercion or has a significant misunderstanding of the content of the agreement, it should be verified whether it is true. If it is a matter of fact, the procedure should be terminated. If the party who raises an objection does not have a clear violation of good faith, the agreement should be given enforcement effect.

Fifth, if one party who signed the mediation agreement requests the court to initiate the procedure for establishing the effectiveness of the mediation agreement, and the other party clearly expresses their objection to the content of the agreement, the court shall conduct a formal review of whether the objection has substantive legal basis. If the formal examination shows that there is indeed a substantive legal basis for the objection to the content of the mediation agreement, the procedure should be terminated, and both parties should be allowed to resolve the dispute through reaching a new agreement or litigation procedures; If the formal examination finds that there is no substantive legal basis for the objection to the content of the mediation agreement, the effectiveness of the mediation agreement should be confirmed. If the opposing party refuses to perform, the court may enforce it based on the applicant's application.

Through the above program settings, it is possible to minimize the strategic actions of the parties involved in mediation who may consider the possibility of the mediation results being linked to court enforcement, and achieve inclusiveness of the dialogue and negotiation environment in the mediation mechanism in civil litigation procedures. At the same time, it also takes into account the efficiency of dispute resolution and the principle of good faith in traditional inclusive mechanisms.

4. CONCLUSION

With the rapid development of the social economy and the continuous increase in the types and quantities of civil disputes, civil litigation procedures need to be inclusive in terms of dispute types, social co governance, and judicial practice. This is not only a requirement for social development but also the essence of procedural justice. In this regard, the theory of dialogue mechanism provides a theoretical basis for the inclusiveness of procedural justice. For mediation agreements formed under the mechanism of dialogue, their effectiveness should be confirmed in different situations, in order to avoid the subject making strategic actions that may be linked to court enforcement due to the mediation results, and to achieve the inclusiveness of the dialogue and negotiation environment in the mediation mechanism in civil litigation procedures.

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