

# 香港、台灣家事調解制度比較研究 ——以家庭暴力事件為中心\*

賴月蜜

慈濟大學社會工作學系助理教授

家事調解的介入，係因應家事案件的特殊性，跳脫家人對簿公堂、法庭相爭愁更愁的困境，使離婚後的財產及兒童監護等問題，以訴訟外的方式加以解決，藉由中立、公正的調解委員的協助，減低夫妻雙方的憎恨及怨懟，使為人父母者正視孩子的需求，能有所瞭解兒童的無助與無力，提升父母親間之溝通，能共同協調出親職合作的計劃，以疏減兒童介於父母親爭吵的痛苦，能及早適應父母親離婚後，所帶來的生活上變動。

本研究採質性研究，以訪談法及比較法，針對 14 位香港與台灣家事調解委員有處理家庭暴力經驗者進行訪談，提出九點研究結論與建議：1. 香港、台灣二地家事調解發展的同與異，台灣積極努力向前進。2. 台灣應建立家事調解專業資格認定標準。3. 加強家庭暴力專業訓練。4. 研擬家庭暴力處理準則及篩檢系統。5. 統整各法院的優點，建構本土化標準處理流程。6. 擴大法院審判功能，提供多元性服務，協助當事人徹底解決問題。7. 建構社區資源之運用與聯結。8. 發展社區家事調解——提供及早、多元的家庭服務。9. 加強社會法治宣導及倡導工作。

關鍵字：家事調解、訴訟外替代性爭議處理、家庭暴力、離婚、兒童最佳利益

# Comparative Study of Family Mediation in Cases Involving Domestic Violence between Hong Kong and Taiwan

Emily Yueh-mi Lai

Assistant Professor, the Department of Social Work,  
Tzu Chi University

## ABSTRACT

Owing to the nature of family disputes, it is not suitable for family members to fight each other in a Family Court. The system of family mediation is non-judicial devices and one kind of ADR (alternative dispute resolution). The mediator is neutral and impartial between the parties, tries to reduce their animosity, and reminds parents to focus on the best interests of the child. The mediator enhances the amicable nature of divorces while discussing the issues of property and custody, and encourages them to cooperate in parenting plans.

The study adopted qualitative research methods, including interviewing and comparative methods. The 14 interviewees are family mediators in Hong Kong and Taiwan. They have experience dealing with family mediation involving domestic violence. The conclusions and suggestions are as follows: Firstly, the development of Taiwan's family mediation is similar to Hong Kong's, as learned family mediation professional from Hong Kong. Secondly, Taiwan should set up the qualification standards for family mediators. Thirdly, family mediators should have enhanced training on domestic violence. Fourth, Taiwan should develop a domestic violence mediation screening protocol. Fifth, Taiwan's Court system should develop local family mediation model. Sixth, Taiwan's Family Court should provide multiple services. Seventh, family mediators should have connections to community resources. Eighth, Taiwan should develop community family mediation. Ninth, the government should promote and advocate the legal system for family mediation.

Key Words: family mediation, ADR (Alternative Dispute Resolution), domestic violence, divorce, the best interest of the child