

RGC Ref. No.: <u>UGC/FDS15/H10/19</u> (please insert ref. above)
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**RESEARCH GRANTS COUNCIL
COMPETITIVE RESEARCH FUNDING SCHEMES FOR
THE LOCAL SELF-FINANCING DEGREE SECTOR**

FACULTY DEVELOPMENT SCHEME (FDS)

Completion Report
(for completed projects only)

<p><u>Submission Deadlines:</u></p> <ol style="list-style-type: none"> 1. Auditor's report with unspent balance, if any: within <u>six</u> months of the approved project completion date. 2. Completion report: within <u>12</u> months of the approved project completion date.
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Part A: The Project and Investigator(s)

1. Project Title

Participants' physiological and behavioural responses to evaluative and facilitative mediation narratives

評估式和促進式調解敘事方法對參與者生理及行為反應的差異

2. Investigator(s) and Academic Department(s) / Unit(s) Involved

Research Team	Name / Post	Unit / Department / Institution
Principal Investigator	Dr. LUI Wendy Chit-ying / Assistant Professor	Department of Law and Business, Hong Kong Shue Yan University
Co-Investigator(s)	Dr. SIU Yat-fan / Lecturer	Division of Social Science, Hong Kong University of Science and Technology
Others	N/A	N/A

3. Project Duration

	Original	Revised	Date of RGC / Institution Approval (must be quoted)
Project Start Date	01/01/2020	N/A	N/A

Project Completion Date	31/12/2021	31/03/2022	19/10/2021
Duration (<i>in month</i>)	24	27	19/10/2021
Deadline for Submission of Completion Report	31/12/2022	31/03/2023	19/10/2021

4.4 Please attach photo(s) of acknowledgement of RGC-funded facilities / equipment.

Part B: The Final Report

5. Project Objectives

5.1 Objectives as per original application

1. *To build an inventory of facilitative and evaluative mediation narratives that are used in a typical mediation session;*
2. *To use the set of mediation narratives for future training of mediators in Hong Kong, or for future research particularly on neurophysiological responses;*
3. *To identify the behavioural and physiological responses of participants in a simulated mediation session (both in facilitative model and in evaluative model);*
4. *To provide an evidence-based set of data on the differences in the use of evaluative and facilitative mediation narratives, which are factors to be considered in enhancing the use of evaluation in mediation in Hong Kong;*
5. *To enhance the understanding on the use of evaluative mediation in Hong Kong.*

5.2 Revised objectives

Date of approval from the RGC: N/A

Reasons for the change: N/A

5.3 Realisation of the objectives

(Maximum 1 page; please state how and to what extent the project objectives have been achieved; give reasons for under-achievements and outline attempts to overcome problems, if any)

All of the project objectives are considered fully achieved.

Construction of an inventory of facilitative and evaluative mediation narratives

The first objective of building the narratives is achieved at an early stage of the project as the inventory must be built prior to being used in designing the experiments for the second stage of the project. The set of narratives were used in designing the role-plays on a typical mediation session.

The use the set of mediation narratives for future training and research

The establishment of a set of mediation narratives leads to the fulfilment of the second objective - the set of mediation narratives are used in the teaching of mediation in undergraduate courses within the university, and it is also used in mediation training sessions when the PI was involved in mediation training courses. In a follow up project funded by the University Research Grant, the set of narratives are used again in testing the neurophysiological responses of a participant attending a Mediation Advocacy session.

Identification of the behavioural and physiological responses of participants in a simulated mediation session

120 mediation role-play experiments were conducted as planned, and the behavioural and physiological responses of participants both in facilitative model and in evaluative model were identified. The results supported the hypothesis that there are certain differences in physiological responses of participants in different models of mediation.

Collection of evidence-based data on the differences in the use of evaluative and facilitative mediation

The set of evidence-based data on the differences in the use of evaluative and facilitative mediation narratives are collected and analyzed. The analysis shows some similarities of use of facilitative mediation and evaluative mediation, and the differences when evaluation on the merits of the disputed case was made. This provides the ground in support of the use of evaluative mediation with a limit on the extent of use.

To enhance the understanding on the use of evaluative mediation in Hong Kong

A public seminar organized by the Hong Kong Mediation Council of the Hong Kong International Arbitration Centre, Hong Kong, was held on 31 March 2022 to disseminate the research findings. The interaction during the question and answer

session between the project team members and participants, most of them being lawyers and accredited mediators, showed their interests in the positive support of using evaluation within the current legal framework.

5.4 Summary of objectives addressed to date

Objectives <i>(as per 5.1/5.2 above)</i>	Addressed <i>(please tick)</i>	Percentage Achieved <i>(please estimate)</i>
1. To build an inventory of facilitative and evaluative mediation narratives that are used in a typical mediation session;	✓	100%
2. To use the set of mediation narratives for future training of mediators in Hong Kong, or for future research particularly on neurophysiological responses;	✓	100%
3. To identify the behavioural and physiological responses of participants in a simulated mediation session (both in facilitative model and in evaluative model);	✓	100%
4. To provide an evidence-based set of data on the differences in the use of evaluative and facilitative mediation narratives, which are factors to be considered in enhancing the use of evaluation in mediation in Hong Kong;	✓	100%
5. To enhance the understanding on the use of evaluative mediation in Hong Kong.	✓	100%

6. Research Outcome

6.1 Major findings and research outcome

(Maximum 1 page; please make reference to Part C where necessary)

This research aims at finding whether there is a difference in disputants' physiological and psychological responses in a facilitative mediation setting as compared to evaluative mediation setting. The key findings are as follows:

- Physiologically, if evaluation is limited to the provision of legal information (objective evaluation), the measurements showed that the disputant is not having a more intense physiological response than disputants in a facilitative mediation when no evaluation is given. However, an evaluation made on the merits of a case (judgmental evaluation) was shown in the measurement in heart rate to have induced an increase in tension. Participants could have felt agitated by the conclusive evaluation, and are more stressed and anxious.
- Psychological measurements were made based on pre and post experiment questionnaire based on established measurement scales on self-esteem, satisfaction on one's own competence, hope. Measurements on participants in facilitative model and objective evaluation show improvement on self-esteem and hope. This is in line with the theoretical ground that when one is empowered, whether it is through an empathetic dialogue or the education process of provision of information, one feel more self-reliant in decision making. This proves that disputant felt better informed in making a decision, and the experience is an enriching one for the disputant. A judgmental evaluation will result in a less satisfactory sense of competence. The sense of frustration on one's own competence increased significantly, showing a sense of being defeated given the cruel fact of the likelihood of loosing a case
- It is interesting to note that participants are all having a better impression of mediation in all models, showing the similarity in acceptance of both facilitative mediation and the use of objective evaluation.

6.2 Potential for further development of the research and the proposed course of action *(Maximum half a page)*

The PI and the Co-I had taken out a pilot research on applying the mediation narratives into mediation advocacy sessions to analyze the neurological activities generated during the process of evaluation and facilitation. The major activities that were carried out was the use of EEG in experiment sessions for 30 participants. Further data analysis will be carried out to extract features on variations in brain wave amplitude, frequency spectra, brain wave distributions on the scalp and synchronization of signals across different electrodes.

7. Layman's Summary

(Describe in layman's language the nature, significance and value of the research project, in no more than 200 words)

The use of mediation as an alternative way of resolving dispute has been promoted by the HKSARG since 2009 when the Civil Justice Reform came into effect. Mediation is one of the most widely used methods, and the orthodox model is facilitative mediation when no evaluation is given. This project attempts to use physiological and psychological measures to find out the differences, if any, in the use of these two different models.

This result overrules the skepticism in making evaluation in a mediation. The legitimate use of evaluation in the process of mediation can be supported as participants' expectation has not been affected. As hypothesized, the limit of evaluation should be restricted to the provision of certain publicly available legal information while performed in a facilitative model. The result is that the overall effect of disputant's empowerment and self-determination is similar between two models. The findings will provide an option in legitimizing the use of evaluation in mediation through confining the evaluation to the provision of legal reference and information only within a facilitative mediation setting.

Part C: Research Output

- 8. Peer-Reviewed Journal Publication(s) Arising Directly From This Research Project**
(Please attach a copy of the publication and/or the letter of acceptance if not yet submitted in the previous progress report(s). All listed publications must acknowledge RGC's funding support by quoting the specific grant reference.)

The Latest Status of Publications				Author(s) (denote the corresponding author with an asterisk*)	Title and Journal / Book (with the volume, pages and other necessary publishing details specified)	Submitted to RGC (indicate the year ending of the relevant progress report)	Attached to this Report (Yes or No)	Acknowledged the Support of RGC (Yes or No)	Accessible from the Institutional Repository (Yes or No)
Year of Publication	Year of Acceptance (For paper accepted but not yet published)	Under Review	Under Preparation (optional)						
N/A	N/A	Yes	N/A	LUI Wendy Chit-ying, SIU, Yat-fan* LAW, Cheuk-yin, CHUNG, Hau-ching	Comparing the emotional changes in the use of legal references in facilitative mediation: an analysis using physiological and psychological measures / Law and Human Behaviour	No	Yes (Attachment 1)	Yes	No (not yet published)
N/A	N/A	Yes	N/A	LUI Wendy Chit-ying, SIU, Yat-fan*, LAW, Chuek-yin	Conceptualizing evaluative mediation to legitimize its use in enhancing social confidence: an analysis from psychological and physiological perspectives / Law and Social Inquiry	No	Yes (Attachment 2)	Yes	No (not yet published)
N/A	N/A	Yes	N/A	LUI Wendy Chit-ying, SIU, Yat-fan*	The use of body action and posture coding system in identifying the emotional aspects of participants in the process of dispute resolution through facilitative and evaluative mediation	No	Yes (Attachment 3)	Yes	No (not yet published)

					sessions / Negotiation Journal				
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9. Recognized International Conference(s) In Which Paper(s) Related To This Research Project Was / Were Delivered
(Please attach a copy of each conference abstract)

Month / Year / Place	Title	Conference Name	Submitted to RGC <i>(indicate the year ending of the relevant progress report)</i>	Attached to this Report <i>(Yes or No)</i>	Acknowledged the Support of RGC <i>(Yes or No)</i>	Accessible from the Institutional Repository <i>(Yes or No)</i>
N/A	N/A	N/A	N/A	N/A	N/A	N/A

10. Whether Research Experience And New Knowledge Has Been Transferred / Has Contributed To Teaching And Learning
(Please elaborate)

The research findings are used in teaching undergraduate courses related to mediation (e.g. LAW314 Commercial Dispute Resolution. Number of students in 2021-22 is 25, number of students in 2022-23 is 18; GEB202 Getting People to say Yes: Negotiation and Mediation. Number of students in 2021-22 is 28, number of students in 2022-23 is 24)

11. Student(s) Trained
(Please attach a copy of the title page of the thesis)

Name	Degree Registered for	Date of Registration	Date of Thesis Submission / Graduation
N/A	N/A	N/A	N/A

12. Other Impact

(e.g. award of patents or prizes, collaboration with other research institutions, technology transfer, teaching enhancement, etc.)

A public seminar organized by the Hong Kong Mediation Council of the Hong Kong International Arbitration Centre, Hong Kong, was held on 31 March 2022 to disseminate the research findings. Over 60 participants attended the events. From the discussions in the question and answer session, practicing lawyers were interested in knowing how to make the best use of evaluation without having to reform the current status of law, with a positive impact on users of mediation that conformed with their current practices.

13. Statistics on Research Outputs

	Peer-reviewed Journal Publications	Conference Papers	Scholarly Books, Monographs and Chapters	Patents Awarded	Other Research Outputs (please specify)	
No. of outputs arising directly from this research project	3 ¹	N/A	N/A	N/A	Type	No.
					N/A	N/A

14. Public Access Of Completion Report

(Please specify the information, if any, that cannot be provided for public access and give the reasons.)

Information that Cannot Be Provided for Public Access	Reasons
N/A	N/A

¹ 3 different manuscripts on different facets of the research findings were submitted to:

- Law and Social Inquiry in Feb 2023
- Law and Human Behaviour in April 2022. Revisions made in Feb 2023 as requested by the Editorial Team
- Submitted to Negotiation in Feb 2023