

Strategy to Bring about a Predetermined Outcome in Chinese Mediation: A Study of Contemporary Chinese Mediation Sessions in a Southwestern Province of China

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This study explores the strategy of bringing about a predetermined outcome and the role of power in three mediation sessions in Sichuan, a southwestern province of China. Numerous studies with diversified methods have been carried out on American mediation. Mediators in the United States have the power to control the mediation procedure and facilitate the process while remaining neutral. However, literature on Chinese mediation in general has been lacking. To study mediation in China opens a window for us to know how conflict is typically dealt with and what cultural norms and values are respected in conflict resolution in today's Chinese society. This study is unprecedented in using first hand material—real mediation transcripts—to study the role of power in Chinese mediation. The mediation sessions are from both the urban and rural areas of Sichuan province. Audio recordings were transcribed and translated into English. The cases are analyzed with the method of discourse analysis. Five tactics are identified to demonstrate this strategy and the role of power in the mediation cases. Finally, cultural and social indications are drawn about today's fast-changing Chinese society.

Mediation and conflict resolution in the United States have been widely studied in the fields of law, communication, anthropology, and sociology. Mediator strategy and the role of power are important topics that are often discussed in mediation literature. In contrast, little literature has been found on Chinese mediation. Furthermore, using discourse analysis to study the details of actual conversation in Chinese mediation sessions can be very revealing. The advantage of having transcripts is that they are visible, and you can read the transcripts over and over again to study even the most subtle nuances. From these interactions in the transcripts, we can better study mediator strategy and the role of power, and consider the bigger picture driving these dialectical moves: the social and cultural indications of today's Chinese society. Also, having transcripts allows the investigator to better evaluate the gaps between what mediators should do and what they really do, as well as what mediators say they do and what they really do. The study of first hand data (that is, the audio-recordings and transcripts) provides us with a more accurate picture of what is happening in real situations when compared with interviews with mediators and the interview transcripts. This paper is adapted from my dissertation, in which I studied 10 cases and identified a total of three strategies with nine tactics.

Review of Literature

When discussing Chinese mediation, traditional values and ideals have to be considered. Some scholars think that Confucianism, Taoism, and Buddhism are still the guiding forces in modern Chinese conflict management and resolution (Chen, 2002). Some researchers (Chen & Starosta, 1997; Kirkbride, Tang, & Westwood, 1991; Knutson, Hwang, & Deng, 2000)

have identified harmony as a cardinal value in Chinese conflict resolution. Other values include conformity, contextualization, *guanxi* (interrelation), *mianzi* (face), seniority, and authority.

How important is mediation in Chinese conflict resolution? Is modern mediation still strongly influenced by the traditional values and ideals? What role and function does mediation serve in today's Chinese society? A brief history of Chinese mediation, as well as traditional philosophies, ideals, and values in conflict resolution will provide some context to address these questions. In the next section of this paper, a brief introduction of traditional and modern philosophy, ideals, and values in conflict resolution is provided. Then, the development of the ideology of modern mediation is summarized. At the end, I will review Wall and Blum's (1991) study, as well as Diamant's (2000) study on Chinese mediation.

Traditional Philosophies, Ideals, and Values in Conflict Resolution

Confucianism and Taoism have been two fundamental native philosophies in Chinese culture. Confucianism advocates that maintenance of harmonious interpersonal relationships is the result of abiding by a strict social hierarchy. For example, the boundary should be clear between the father and the son, the king and the officials. *Ren* (benevolence), *yi* (righteousness), and *li* (rites) are three spokes of the wheel of *zhong* (equilibrium), which is the foundation of harmony. According to D. C. Chen (1987) and G. M. Chen and Chung (1994), *ren* refers to showing love and affection to one's counterparts in social interaction. *Yi* is the internal criterion of appropriateness in displaying one's love and affection. In addition, *yi* guides individuals' behaviors by stipulating what one ought and ought not to do in the process of interactions to prevent them from deviating from social norms. *Li* is the fundamental regulatory etiquette of human behaviors and refers to propriety and respect for social norms (Yum, 1988).

The doctrine of Taoism is that all people are integral parts of nature (*tian ren he yi*) (Yang, 1989). Tao is the pivot of the universe and is surrounded by the harmonious natural equilibrium made up of the systems of interaction of all individual entities (Fang, 1980). According to Chu (1974), *zhong* (equilibrium) refers to the lack of bias towards either side and refers to the correct course to be pursued by all under heaven. The Doctrine of the Mean is embedded in both Confucian and Taoist thought (Zeng, 1989), and indicates that equilibrium and harmony are two sides of the same coin (Chen, 2002). The axis of the wheel of equilibrium and harmony is *chen* (a sincere and honest mind). Chen states that this wheel "has been running in Chinese society for over two thousand years and continues to influence Chinese behavior in the contemporary age" (p. 7).

When harmony and equilibrium are disturbed, conflict arises. This marks the corruption of the ideal state in the Chinese paradigm. The Chinese tend to keep a harmonious relationship with other people. However, as Chen (2002) notes, it is a mistake to think that conflict in Chinese society is rare. He states that the Chinese just deal with conflicts differently from the Westerners in that they are more "nonconfrontational, avoiding, obliging, integrating, and authoritarian in the process of conflict resolution" (p. 14).

Philosophies, Ideals, and Values Behind Modern Mediation

Three events in contemporary Chinese history will be introduced, which greatly diverted the progressive trajectory of Chinese traditional values towards their adaptation to the modern age. The first of these events occurred on May 4th, 1919. This event had great impact on the feudal culture at that time. Confucian and Taoist values that the government relied on were criticized for exploiting and suppressing the population. Revolutionary youth movements upheld the flags with the slogan “science” and “democracy,” and proposed to replace “the old morals” with “the new morals,” and “the old culture” with “the new culture.” Westernization was advocated. Marxism was introduced and adopted by some people during this event. The second event of interest is the founding of People’s Republic of China in 1949. With the slogan of “overthrowing the three big mountains,” the Communist Party decided to remove the influence of Confucianism and Taoism as feudal, outdated values. “Today mainland Chinese faithfully follow the admonition of Mao Tse-Tung that ‘dispute among the people’ (as distinguished from enemies of the people) ought to be resolved, whenever possible by, ‘democratic methods, methods of discussion, of criticism, of persuasion and education, not by coercive, oppressive methods’” (Mao, 1957, as cited in Cohen, 1966). The third event from modern Chinese history is known as the Cultural Revolution which occurred between 1966 and 1976. The national movement of “destroying the four ‘olds’” almost uprooted Confucianism as one of the “four olds.” After the Cultural Revolution, the Chinese people lost their trust in their government and their politics. Furthermore, Confucianism lost its original status in the spiritual and moral sphere.

These three events in contemporary Chinese history had a detrimental impact on the role of traditional values and ideals in everyday life. After Deng Xiaoping’s opening and reform policy was implemented, the western concept of law-governed society replaced the concept of a people-governed society. A movement to educate the population in the concepts of law was carried out on a national level. Since the Republican regime was established, the Communist government had been highly critical of the Confucian social practices on the grounds that they lacked modern law and legal institutions. Since then, there has been a growing interest in law in the post-cultural revolution period in the People’s Republic of China as a remedy for the anarchy of the Cultural Revolution (Diamant, 2000).

Today, the Hu-Wen government (the government led by Hu as President and Wen as Prime Minister) in China proposes to “establish a socialist harmonious society,” and some elites have advocated the need to re-establish the important position of the doctrines of Confucius and Meng Tze. However, restoring the damaged traditions and values requires many years of effort and is not an instantaneous event. Therefore, one question arises in my study of Chinese mediation: Do today’s mainland Chinese people still value Confucian and Taoist thought in mediation as some scholars (e.g., Jia, 2002) have claimed even after three major national historical events have attempted to eliminate the Confucian and Taoist traditions? In other words, do modern mainland Chinese people value these traditional notions in mediation?

Wall and Blum’s Study on Chinese Mediation

Wall and Blum conducted their study in the city of Nanjing, China in 1988. They interviewed 100 community mediators in the city. Wall and Blum (1991) state that in terms of

conflict resolution, most Chinese prefer mediation rather than adjudication and that the Chinese have a long history of community mediation. According to Wall and Blum, this could be traced back to the Confucius tradition, which emphasizes harmony among people's relationships. For Chinese, mediation literally means "adjust and resolve," compared to the Latin root of mediation, *mediare*, which means "to halve; to be in the middle." Wall and Blum (1991) point out that the western concept of mediation is when "a neutral third party uses logic and emotional appeasement to help disputants reach a mutually acceptable resolution" (p. 3). However, "mediation in Eastern cultures differs significantly from that in our society [the society of the United States then]" (p. 3).

In their discussion, they state that the mediators in China "aggressively 'persuade' the disputants to return to a proper harmonious relationship" (p. 18). They also note that Chinese mediators don't pay as much attention to specifics as their western counterparts; instead they tell the disputants how to think and behave. They "tend to preach (their term is 'educate') to disputants rather than to convince them with logic or help them to resolve their disputes" (p. 18). Wall and Blum found that "Unlike U.S. mediators, the Chinese rely heavily on (a) assisting the disputants with resources, (b) educating them, and (c) bringing in resources of additional third parties" (p. 18).

Diamant (2000) criticized Wall and Blum's findings in their 1991 article. He argues that the methodological limitation in Wall and Blum's 1988 study makes their conclusion that China is the "most heavily mediated nation on earth" invalid. Diamant's study was carried out in 1993, 1994, 1997, and 1999. He conducted his research in urban and rural archives in China and interviewed judges, mediators, and bureaucrats. He concludes that mediation is just one option for conflict resolution in China and "there are important differences among Chinese regarding the preferred method" (p. 543).

In terms of the role of power, Fraser (2003) states that the mediator's power is given to them by the parties and it is only effective during the period of time of mediation. However, in China, mediators are treated as the "quasi-arm of the law" (Wall and Blum, 1991, p.18), so they are actively involved in conflict resolution. Their power is given by the state and does not necessarily come from the parties.

Method

The Site of Data Collection: Sichuan

Sichuan province is one of the most populated provinces of China with a population of 87.246 million as of 2004, occupying 5.1% of China's total area. The information on Sichuan from Ministry of Culture, P.R. China says:

Sichuan Province, Shu for short, is located in southwest China, with Chengdu as its capital city. Sichuan, generally classified as a rice region, abounds in agricultural products. It is listed as one of China's major producers of rice, wheat, cotton, rapeseeds, raw silk, oil-bearing crops, meat, and fruit, and also holds a significant place in production of medicinal herbs, pigs and cattle. Sichuan's major industrial products are metals, coal, petroleum, machinery, electric power, well salt, chemicals, electronics, textiles and foodstuff etc. (Ministry of Culture, P.R. China)

According to Wikipedia (2008), the politics in Sichuan is structured as dual party-government governing system. The governor has less power than the Sichuan Communist Party of China Provincial Committee Secretary. Chengdu, the capital city, with a population of 8,873,000 and a history of 2000 years, is considered one of the most important cultural, economic, and transportation hubs of southwest China.

Cases

A total of 10 cases have been collected for my dissertation study in 2007, and three cases are used in this paper. All three mediation sessions were held in Sichuan. One occurred in Chengdu, the capital city. The other cases both took place in Xuling County subsidiary to Luzhou city. It is important to note that the term “county” refers to an area of smaller geographic area and lower population than a city. In addition, it is often quite a distance from a city. By Chinese standards, counties are rural. One step further removed from the city, and smaller than a county, is a township. “Village” is used to denote an even smaller region, with fewer inhabitants and is often in a quite remote or mountainous area.

Case 1: Chengdu owners’ committee versus management committee. The location is the community office and the participants are: The mediator (female, age around 55), a lawyer, three disputants, and a secretary. A brief case description is as follows: The conflict is between head of the management committee (manager) and assistant director of owners’ committee of a neighborhood. Dialogue between the parties had been going on for several months before parties’ turning to mediation. Director of the community office (mediator) had collected information prior to the mediation. The assistant director of the owners’ committee complains that the manager makes decisions without informing the owners’ committee, and implements decisions on his own of daily affairs such as whether and who to collect the costs of air conditioning in the community activity room and on what schedule the room should be open. Director and assistant director of owners’ committee also have split views on some issues.

Case 2: Xuling disengagement dispute. The location is the village office, and participants include: The mediator (female, age around 40) and two disputing villagers (ex-boyfriend and girlfriend). Case description is as follows: The conflict is between two villagers who were engaged to get married. The woman called off the engagement after moving to the city for work. While they were dating, the man gave gifts and money to the woman’s family. He also labored for her family for a certain amount of time. The man is seeking compensation for the gifts, labor, and money he devoted to the woman and her family during their courtship.

Case 3: Gulin adult son support of parents. The location is at the father’s house, and participants include: The mediator (female, age around 40), the head of the village, the director of the local committee of politics and law, as well as the disputants (parents and eldest son). The case is about the adult son’s financial support of his aged parents. The father is accusing his oldest son of refusing to support him. He maintains that this son should pay for his recent medical fee and share the burden with the other two sons. The son argues that the parents failed to support his child adequately while he and his wife went away to work in the city. Because his child failed to get support from his parents (the child’s grandparents)

growing up, he feels he is not obligated to support his parents. The case has been mediated on 10 occasions prior to the current presentation.

Transcription and Translation

All three cases were audio-taped on spot and transcribed word for word in their original Sichuan dialect. I did overall analysis on the Chinese transcripts, selected valuable excerpts from them, and conducted detailed analysis on the excerpts. Then, two rounds of translation were involved. In the first round, senior and graduate college students with English majors were hired to conduct literal translation from Chinese into English of the complete transcripts of all the cases. Then, in the second round, I revised the translation of the selected excerpts quoted in the paper to ensure their comprehensibility to native speakers of English.

Analysis

In my dissertations study, I identified three strategies: (a) a strategy to bring about predetermined outcomes, (b) a strategy to alleviate adversity, and (c) a strategy to motivate and facilitate compromise. The first strategy with its five tactics will be introduced in this section, as it is the least aligned with American notions of neutrality in mediation, and thus demonstrates the important difference between American and Chinese mediation. It is also a strategy that best demonstrates the role of power, and its adoption by the mediators. Five tactics will be illustrated by quoted excerpts of transcripts. Three points will be discussed: How the mediator achieves his/her goal (i.e., their predetermined outcome for the mediation), how they demonstrate power without violating mediation principles, and how they legitimize their position in the mediation.

Having a clear agenda/outcome/goal for the mediation is a common practice in Chinese mediation, which is well accepted and even expected by the disputants in China. We can observe this “way” in 9 out of 10 cases that I collected. All the tactics and techniques the mediator uses are mostly contributing to this agenda, which is formed during the earlier stage of the mediation, and oftentimes, even prior to the mediation. They usually carry out the agenda or plan, either by educating, coaching, coaxing, giving orders to the disputants, or by taking measures to fix the problems that lie in the center of the dispute. Therefore, some call Chinese mediators “the fixers,” as shown in the literal translation of mediation in Chinese (调解), to adjust and to resolve.

Tactic One: Appeal to Personal Relevance

This tactic is to persuade the disputant(s) by appealing to their personally relevant aspects such as occupation, education, age, needs, and so forth, sometimes to make the disputant(s) switch their mentality from morality to practicality.

This tactic is called by social psychologists “altercasting,” which is intended to influence and persuade people. According to Weinstein and Deutschberger (1963, 1964), altercasting describes a social interaction in which the persuader tries to cast a role onto the target that specifies an interpersonal task. “A role is a set of mutual (but not necessarily harmonious) expectations of behavior between two or more actors, with reference to a particular type of

situation” (Goode, 1968, p. 249). Pratkanis developed the altercasting theory further and made it a social influence tactic. The role defines what a person should do in a certain situation because of the target’s particular social status (Pratkanis, 2000). The role can also be a target’s position in interpersonal relationships that is informally defined, or the particular social values the target has (Coutu, 1951; Turner, 1956). By using this tactic, the target has social pressure to act according to how the role defines them. In other words, if a person uses this tactic to try to influence their target of persuasion, the target is cast into a certain role, thus adopting all of the rules, values, actions, and attitudes associated with the role so that the target will behave in the way that the persuader desires. Hofstede (1982) found that individuals are defined in relation to other people in a collectivist culture. For example, a woman may be a daughter, a teacher, a sister, a wife, or a combination of any of these roles in different situations. Individuals seldom think of themselves as independent beings, therefore, it is easy for people to be cast into roles in the interpersonal relationship. Confucius defined the roles and relationships of the king and the subsidiaries, the father and the son, husband and wife, and so forth, thousands of years ago. By invoking certain roles, altercasting is commonly and effectively used in Chinese mediation as the mediators maneuver to impose their agenda and to reach a compromise.

The following excerpt is from the case of a disengagement dispute where the woman wants to break the engagement and the man requests for compensation. The mediator talks about the reason why she did not invite both parties’ parents to the mediation, but most importantly, she wants both young people to take a step back and not to be too calculating:

As for this issue, therefore I informed both of you young people to come here without letting your parents come. You two young people should have been civilized, especially Wang Ying, who works (as migrant worker) outside the village, and has seen the world. You should know more about the current society, should know more. Also, your minds should be more advanced. If you informed your parents to come, it would be hard to deal with this problem. We would not be able to mediate for you. It is because you are both young people and have the education beyond secondary school, that you should understand the Marriage Law of our country. Yeah, you should understand about this freedom of Marriage, and the autonomy of marriage... Maybe, maybe on this property issue, (he thinks) because you don’t agree, you have to return. Maybe he holds this idea. In the countryside, one needle and one thread, everything must be returned completely. Then it prolongs the resolution of the issue. This thought, I think that as for you, Chen Gang, as a young man, with a decent amount of knowledge, it is not right to hold such thoughts.

As we can see, being “young,” being “civilized,” possessing “a decent amount of knowledge,” and “hav[ing] the education beyond secondary school” have been altercast onto the disputants by appealing to their age and education. Therefore, the connotation is “more advanced,” “understand[ing] the Marriage Law of our country,” and “understand[ing] about this freedom of Marriage and the autonomy of marriage” (see the underlined phrases). All these role characteristics point at the same direction of being liberal-minded enough to come to reconciliation for their conflict without interference from their parents who are aged, stubborn, and outdated. Not inviting/allowing the parents to the mediation session is a non-verbal tactic as explained by the mediator herself.

If altercasting is a more nuanced way to persuade the disputing parties—regulating individuals' behaviors in the guise of casting roles, then education is a more open and explicit tactic in motivating the disputants to compromise and to reach an agreement. In the following subsection, education as a tactic by Chinese mediators will be discussed.

Tactic Two: Education

This tactic is to educate the disputant(s) with traditions, norms, cultural values, the law, and so forth. Chinese mediators are famous for “lecturing,” “preaching,” or “educating” the disputants. In some situations, the mediator would go out of their way to “coach” or to “warn” the disputants.

Because of their positions in society, Chinese mediators are usually required to be the implementers of the community norms and the law. They usually consider it their responsibility to inform and educate the disputants in the mediation so that they would be aware of the law and the regulations concerned, and won't make the similar mistake or involve themselves in the same kind of troubles in the future. Obviously, by educating the disputant(s), the mediator's other purposes are to persuade the disputant(s) to accept a certain agenda, to placate the hostility between disputant(s), and to prepare the disputant(s) for a fruitful mediation.

Sometimes, education is an attempt to persuade a disputant(s) to take on a different perspective instead of maintaining their old one, so that the dispute could be resolved. In the following excerpt from an engagement dispute, the mediator educates the man to be more tolerant and to be more generous. She uses traditional views about males to call him a “man.” She also asks him to consider what other people may think about him if he was too calculating on this issue.

...Today, you are on the same road. Both make some compromise; make some compromise, especially Chen Gang. You should not think that because the female side doesn't want to marry you, you can carry some anger with you. If you come to solve this problem in an angry mood, you will.... You should be more tolerant and be a man, anyways... You are relatively educated, your family condition is good, and you are very clever. You can find a nice girlfriend other than Ying Wang. Don't care too much about this issue to cause some bad influence so that everybody would know about it and stay away from you. You should be a little tolerant, converge onto the same road, Ok? Converge onto the same road.

Requirements are clearly uttered and there is no room for negotiation. This tactic reflects a more powerful approach adopted by usually more powerful Chinese mediators compared with altercasting. The mediator warns the male disputant not to make a big deal out of this conflict; otherwise, he may not be able to find a girlfriend in the future. In this way, she is trying to persuade him to be more tolerant.

Educating young people with concepts of family and the family law (underlined sentences) can be observed from the following excerpts from the case of Luzhou adult son's support of parents. In this dispute, the first son refuses to take care of or pay the medical fee for his father. Two officials, two staff members from a law office, and a mediator are

mediating the dispute, trying to resolve it before the father brings the lawsuit against his son. The head of the village made the following speech:

On some stuff, as one family, the relationships cannot be eliminated. You will always have these parents. Under such circumstances, many things need to be forgiven by all. Of course, this issue of supporting parents, the offspring support of parents is mandatory according to the law. On the one hand, parents should take on the responsibility of supporting their children. On the other hand, as children, when parents have lost the ability of laboring to live or are without income for life, they (the children) have the obligation to support the elders. It is the law and it is stipulated as such, so I will say no more. If you, Guoqiang Deng, refuses to support the two elders, and if you have to go to the court, (you will) lose for sure. This is without doubt. If the judging institutions rule, then they will execute through the law, unlike us here, as we are trying to persuade you while we can still do that. Yeah, they are not supposed to reason with you. Then, at that time, you will go through such procedures as execution, judgment, etc. After the judgment comes the execution. After the judgment, you could be sentenced to two or three years' (imprisonment). Therefore, we wish you the best in everything, best in everything. Here, we are talking about something related to the law. Of course, you should read about this carefully.

Through this rather "intensive" and lengthy speech, the head of the village who also serves as a mediator tries to "urge" the first son to settle the dispute within the mediation and not to bring it to the court. He points out that, on the one hand, the father-son relationship will never disappear and they will always be one family. The role of family member is to take care of and to tolerate each other. On the other hand, the law stipulates that adult sons and daughters should support their aged parents. He warns the first son that he would lose if the case was brought to the court, and that the court will force him to execute the obligation of supporting parents. Note that this warning is made by the head of the village, a person who has both positional power and credentials from age. Therefore, his words have authenticity and his knowledge about the tradition and the law needs to be respected.

In the following excerpt from the same case, another official lectures the first son on relationships within a family and the Chinese traditions and virtues of supporting parents:

From what you said, I find that the main problem lies in your, this family problem, such relationships as between mother-in-law and daughter-in-law, between father and son. From what you have just said, what you have said is all others' weaknesses, others' shortcomings, not your own problems, including the two elders and the daughter-in-law. You talk about your own shortcomings, he talks about his shortcomings. Nobody has ever put this relationship... As the family head, just as being a branch secretary, and it is a household. You are the head of a family; therefore when there is conflict arising in this family, any conflict, you should stand out and mediate for them. Now, the condition in your family has risen up to such a serious extent. It is very close to going to the court. Then in this situation, if you still focus on airing your own views, it is harmful to your family's solidarity... harmful to the solidarity. Actually, from the angle of morality in our country, as sons and

daughters, the family rules need to reflect the morality. Running the country with morality, why should we run our country with morality? The reason is because it's the tradition of our Chinese people.

The official and the host continue educating the first son for quite a long time (about 30 minutes), talking about the law, the tradition, the humanity, the morality, and other peoples' experience. In the excerpt above, the official emphasizes the importance of the relationship between brothers, sisters, a couple, father and son, mother- and daughter-in-law, and within the family in general. His speech reflects the Confucius ideals governing human relationships, as well as the importance of maintaining harmony among people. At the end, the mediator justifies his position/argument by saying "because it is the tradition of our Chinese people." Seeking authority from tradition is a commonly used strategy in Chinese discourse. The idea that what is practiced in the tradition should be practiced now is assumed with no need for proof.

Tactic Three: Invoking or Claiming Authority

Invoking authority often involves mentioning the level of the officials, the administrative powers that are involved in the case, reference to laws, old sayings, and proverbs. Claiming authority is to show one's power by age, position, and disciplining the disputants.

In some cases, the mediator has positional power due to their administrative status. In fact, the role of mediator is usually played by officials or administrative personnel assigned by the government. The first way they invoke their authority is by stating that they represent the village government or the township.

One instance of the mediator invoking the authority of the government is seen in the excerpt below. In this expert from the disengagement dispute case, the mediator is a village official and represents the village's government. The mediator (M) starts the mediation session as follows:

Today is the fourth of July, 2006. Today our Qing Gang village has informed you two young people from group one and two, and the matchmaker to come here, to... Considering the relationship between the two families neighboring each other, and bad influence created by the constant quarrels between you two, the village, today, arranged time specially, and informed you, Chen, Wang and Zhang, your matchmaker, to sit down in the mediation hosted by me...Recently, the village government has been very busy, and there are a lot of things to deal with. We especially arrange this time for you, and hope you will be sincere. Try to resolve the issue. Resolve it.

The mediator speaks on behalf of the village government. Note that the mediator says "we," which gives much weight to her speech. She mentioned twice that the time is especially reserved for their mediation, even though the village government has been very busy with daily administrative affairs and urges the disputants to resolve the issue within this mediation session:

In my opinion, since the village host this thing to mediate for both of you, so hope that you will respect the opinions of the village. Yeah, respect the opinion of the village. The village just listened to the opinions of both sides, and I give you a suggestion, that is 5000 yuan and resolve it once and for all. Nothing else should be mentioned. I should... you both should...should understand...should understand. If you do not follow the mediation of the village and continue to be tangled up by it for a long time, you can only, you can only go to the court...Hope that both of you will respect the opinions of the township, and also respect the opinions of the village...Don't quibble over it anymore, if you two still continue entangling with it, our village will... the village cannot often spend time to deal with this problem for you. You two can go back and go through the Marriage Law, go through the Marriage Law. Then study it again and again. Study the law to see whether this will be protected by the law or not.

Note that the mediator avoids using the first person singular pronoun “I”; instead, she kept mentioning “the village.” This is to indicate that she is not speaking for herself but rather for the village government. M pushes the male villager to accept the female villager's offer and resolve the conflict. M tells them about the bad influence it may have on the relationship between the two families, as well as the economic loss they may have if they bring the case to the court. M asks both parties to respect the opinions of the village officials. Realizing that the parties may not easily accept authority from the village officials, she asks both parties to consider the authority of the village government, as well as invoking the authority of the law to try to persuade the parties to resolve the dispute within the mediation:

(W: female disputant; C: male disputant)

W: I've read the Marriage Law, and I went through it. It says that the money should not be returned. He gives it to others out of his free will and nobody forces him to do it. So if he is reasonable, just like you said, I will return him 5000 yuan.

I really read the Marriage Law and it says that you give these things out of your own free will, that is, I should not return the money

C: My marriage is not protected by the law, but my possessions should be protected by the law.

W confirms M's view that the Marriage Laws do not protect engagements. W's knowledge of the law and her showing off the fact that she has read the marriage law is a way to claim authority for herself. C fights back by saying that his possessions should be protected by the law, also adopting the same strategy—using the law—to claim authority:

...so the village has made, made a resolution for you. To mediate for you is because of your sincerity. As for us, the village has no right to settle the problem for you, no right to settle the problem for you. We can only mediate for you. As for mediation, you both need to sign. Once you sign, the problem is solved, and nobody will mention it any longer. If you do not agree, your problem will be dealt with through litigation, through the law and the court. It's up to you, your opinions.

The mediator explains the limited power of the village official on this conflict. They can only conduct mediation between the two parties, and the agreement of this mediation needs to be signed by both parties as a promise that they will adhere to. These words serve as a summary of the mediation, indicating that it is time to end the mediation and to sign an agreement. The mediator realizes that W, being an emigrate worker in a city outside the village, will not easily abide by the local authority. Usually having worked in the city means having broader horizons and greater capabilities. Therefore, she also says, “it’s up to you.” From here, we can see that the ideals in Chinese mediation also include volunteerism and respect of personal opinions, even though the mediator has been claiming positional power by trying to persuade the parties to accept the resolution from the village government. This is to counterbalance the education tactic the mediator uses and to say, “We think this is the right way for you, but the decision is yours and we respect your opinions on the matter.”

This happens in the mediation of the dispute involving the adult child’s rejection of financially supporting his elderly parents, during which the two mediators from a law office calls the son the “defendant,” as in the following excerpts. Note that the son accepts his lower position by addressing all the people present there as “you officials” despite the fact that two mediators are merely staff members from a law office and one is an ordinary local mediator:

(M2 – mediator 2; M3 – Mediator 3; S – the son)

M2: This is Deng. This

M3: Guoqiang Deng

M2: Guoqiang Deng. You, as the defendant of the case, say something about the situation.

S: If you want me to say something. You officials, you please ask the elders to say something. My (Cunhua) (his wife’s name). How did they treat her? Please ask them to talk about it, then please analyze (their words). Why didn’t she want to provide support? We both ... we are a married couple and there is nothing to talk about.

In some situations, one or both disputants will turn to the authority of the officials who serve as their mediators when they think that their stance could be justified by the officials. In the dispute of the father accusing the son of not providing support, the father tells his side of the story with constant reference to the officials (e.g., the village head, the branch secretary) who have been involved in the dispute along the way. He knows that it is the tradition and morality of Chinese culture that the elderly parents should be supported by their offspring. The father’s request for support by the eldest son is approved by the officials, the public, and the law:

(M1 – mediator 1; M2 – mediator 2; M3 – Mediator 3; S – the son; F – the father)

...

M1: Yeah, just briefly make your statement.

F: I wanna say to the leaders that, with the help of the village government... We invited the leaders and the village head to negotiate. It is no use if you cannot provide evidence... Secretary Xiong came to deal with it. Past two o’clock, it still has no result. Because of things about supporting me, they failed twice when dealing with it.

...

F: Director Xiong did some (persuasion) work several times. Yeah, after his persuasion work, you all agreed to divide the family. That evening several people along with Director Xiong came, and we started to divide the family from they two. Mr. Second son went out to work in the city, and Mr. Youngest was in school ...

M2: In this aspect, your eldest son might not have any objection.

F: Having objection or not, the village knows about that.

...

F: ...You leaders could ask the head of the village. He, Head of the village has dealt with it.

...

F: ...Head of the village is kind indeed. So head of the village came to talk, talked with them several times. It was hard to talk into agreement. We talked, but no agreement. As for the local government, I've also asked the former group leader to give it a try. That's why I ran out of ideas. So did the village. Disputes could not be mediated. When we went through the paperwork at last, the branch secretary Zhang said they would come to mediate again. But he (the son) said he would not go. In the beginning, the eldest daughter was home, and they both were at home, but none of them went there.

M1 is trying to assess when the father requested the support from his sons and daughters. He asks whether the support of parents is on the agreement when they divide the family. The father says that they did not reach an agreement at the time when the family was divided, nor could the local group or the village officials mediate the dispute at that time. M1 also asks at what age the father wants his sons and daughters to support him and who will take up the most responsibility. The father says that he would like to be supported when he got sick and now he has been sick for six or seven years, and it is mainly the sons' responsibility to support the parents, not the daughter's, according to the local tradition:

M1: There is no need talking about that now. What I mean is that you can talk about your request in detail now.

M2: What should the three brothers do? The other two brothers didn't say anything. What is your request on the support?

F: I've no idea. If I say too high, they won't accept it. If I say too low, I can't live with it. Anyways, through the leaders' judgment, I will accept whatever amount that is assigned to me.

M1: How much is your request approximately?

The father submits his request totally to the "judgment" of the officials and the mediators. This is a way to say, "I am willing to accept your authority, and please give me a fair and justifiable solution" (the underlined sentence). Note that he calls the solution "the leaders' judgment" despite the fact that it is a mediation session and the parties are supposed to come up with their conditions for agreement. In this case, rank in government outweighs age in determining the power distribution. According to his accounts of previous incidents and mediations which the local officials have participated in, the father has always entrusted the family conflicts to the authorities to handle. He is acutely aware that the authorities are sympathetic to his position with regard to his request for financial support by his adult

children. He also gains their support by referring to the past events where his request for support was backed up by the local officials including the group leaders, head of the village, branch secretary, and so forth.

Tactic Four: Bringing in Third Party

Mediators often bring in expert, authority, and other third parties to assist the mediation. Sometimes, the mere presence of an official, the authority, an expert, or a related person facilitates the mediation. Although too much interference from the officials, the authority, the expert, or others may bring too much pressure on one party and thus has the potential to backfire. Even so, Chinese mediators still rely on this tactic.

For example, matchmaking is still practiced in today's Chinese society. It is especially popular and follows traditional patterns more closely in rural areas. Matchmakers are the ones who introduce the two people, witness and facilitate the dating process, and sometimes, have to solve the couples' problems followed even after they are wed. In the case of the engagement dispute, the woman wants to break the engagement with the man, while the man does not want to dissolve the relationship but wants compensation from the woman if they break up. An example of the tactic of bringing in a third party is used by the mediator in this case. The village mediator brings in the couple's matchmaker and lets her talk about the dating history of the two people.

In fact, before the dispute went to the village office, the dispute had been mediated by the matchmaker. She went between the parties and their relatives to try to find out what the main point of conflict was and to determine whether it was possible for the two young people to get back together and how that may occur. Obviously, it is frustrating for her to find out that she cannot help them rekindle their relationship, and that she could not resolve their conflict. After every attempt failed, she was there to help them dissolve the romantic relationship civilly and become friendly neighbors again. Therefore, the former couple accepted the intervention of both the group officials and now the village officials to hold this mediation session for them. The matchmaker has her opinions on what each party should do in this engagement dispute:

(Z – the matchmaker; M – the mediator)

Z: The things passed through my hands to Wang Ying's parents, can be proved by the matchmaker (me). As for those things that are not passed through my hands, you can still refer me for proof. On Wang Ying's side, you need also to admit it and your parents need to admit it too. Now, you have proposed that you want to disengage from this boyfriend-girlfriend relationship, then you should really return things to Chen Gang as you took these things.

M: (Chen Gang) sent presents twice, and then? How about the third time? As you were not at home, you did not go with Chen Gang. One of your sisters went with them. Then, the third time was in October. You gave money when you came back for the engagement. It is 3000 yuan for the engagement. This has been passed through your hands. Are these what you know mainly?

Z: This is it. What I said was based on the facts. It is what it is. I hope you two... as both of you are my relatives, and I felt that you two match in many aspects, so I hope you two...to bind you two together. But you two don't feel good about each other,

and are not willing to be together, then I'd better not.... That's why I sit here to help you resolve the problem.

This speech happens at the beginning part of the mediation. That the man's family has given gifts and money to the woman's family and its total value is provided by the matchmaker as fact. Being witness to the whole relational progress, from initiation to dissolution, enhances her trustworthiness. Her position is clear that the woman should return the money and gifts given by the man if she breaks up the engagement. As an unbiased third party, the matchmaker's opinions have some weight in the mediation. Asking the matchmaker to speak at the very beginning has set the tone for the whole session. The authority of the matchmaker adds legitimacy to the mediator's agenda for the resolution of the conflict.

In the case of an offspring's financial support of parents, invited third party participants include the village head, the village mediator, and the branch secretary, while the mediators are served by the para-professional staff from a law firm:

(VH – village head; VM – village mediator; BS – branch secretary; M – mediator)

M: This is Deng and Zhang, the plaintiffs with their dispute on son's support of parents. As a law firm, we have been assigned by the Law Center to handle this case. Before we deal with the case, we arrange a pre-trial mediation at Deng's home. If the mediation succeeds, there will be no need to bring the case to the court. Right? So Deng, we've invited the village head. What is the name...

VH: Zhang.

M1: Yes, Zhang. Yeah, (we've invited) this Director Zhang to join us too. Now let's have Deng—what do you request—make a statement about what you have to say in every aspect.

The involvement of local officials makes the mediation authentic. Like the matchmaker in the previous example, the officials have been trying to resolve the conflict all along and their intervention guarantees the trustworthiness of the fact of the case. This also encourages the disputants to be honest and sincere in making their case.

In the case of "owners' committee versus management committee," I am introduced to the disputants as a student in communication. The mediator vaguely indicates that I possess the expertise in mediation to make the mediation more authentic. A lawyer is invited to be at the mediation, and he possesses the authority of the law. This adds further authenticity to the mediation. In the latter stage of the mediation, the lawyer asked about the seal and explained the legal issue concerning the seal, trying to persuade the parties that the seal does not have legal effect. His contribution from the perspective of the law is in support of the mediator's point of view. The mediator made the following introduction of me and the lawyer:

Therefore, you are invited today to sit here, that is, everybody go through a procedure, what procedure? It is Deng. This lady, she is studying the method of Communication, in the aspect of mediation. Our lawyer is also here today, being consulted about the family conflict caused by divorce. Therefore, we hold this illustration today for everybody. You all express your view fully today, that is, in this environment, individual express their view fully, that is the biggest barrier you feel,

for example, “what problem is my biggest barrier?” Please air your view, air your view in front of other people. For example...

This opening speech set the tone for the mediation session; that is, we have invited experts (even though I was merely an observer there) to make our mediation authentic. Therefore, there is an implicit polite request directed at the disputants to be constructive and sincere in their attempt to resolve the conflict. The mere presence of both the lawyer and a mediation scholar has brought power to the mediator apart from her positional authority as head of the Community Office.

Tactic Five: Side Taking

Side taking refers to emphasizing the opinions of one side over that of the other. In Chinese mediation, one-sidedness as a mediator’s tactic is easily observable. The mediator sides with one party and tries to persuade the other to accept the opponent’s points of view or offer. Contrary to the western ideal of neutrality, this tactic is the opposite of being neutral. How can the mediator achieve their goal by siding with one party, and how do they justify their position as a mediator if neutrality is violated? While many western scholars who have studied Chinese mediation tactics attribute the lack of neutrality to the style, factors such as culture, tradition, and value systems need to be taken into consideration. Chinese mediators have positional power, as they are usually involved in the community’s affairs and are familiar with residents. They often carry out investigation before the mediation session is held. As a result, they could come up with the agenda or at least gain a sense of the justifiable position before the mediation begins and try to persuade the disputants to accept the position during the mediation. This does not mean they will always stick to their positions or plans during the mediation. They sometimes will be flexible in order to accommodate the other disputant if their one-sided approach backfires.

The case of the dispute between the owners’ committee and the manager is an example of mediator one-sidedness. In this mediation, the mediator, who is the head of the community office, and has been involved in the process of the making a seal for the owners’ committee, clearly states that she does not approve the making of a new seal:

(M – the mediator/head of the community office ; S – the secretary of the community office; D1 – the director of the owners’ committee; D2 – the manager; D3 – assistant director of the owners’ committee; L – the lawyer)

D3: He, Director Liang, said that you must not make (a new one). I, I came to see you, and you said

M: I don’t want you to make (a new one). I try my best to propose that

...

S: Where is the second seal?

D3: The second seal, I have.

M: (The scripts on) this one (the second seal) are not complete, are they? It is still not right. It probably will bring problem in the work. Heh heh, probably will involve

D3: I think that seal has no serious problem.

The mediator and the assistant director of the owners' committee confront each other on whether the second seal should be made and adopted. She expresses her knowledge of the situation and her objection clearly in her first speaking turn, and she points out the defect in the second seal in her second turn. To balance her position as a mediator, she also used less powerful speech in her second turn, reflected in the usage of "probably" twice, and the laugh "heh heh."

In the following excerpts, the director of the owners' committee joined the mediator to condemn the assistant director's adoption of the second seal:

M: We will take this seal (the first seal) to the Street Office. You said it is ineffective, and it is really not right, therefore, we cannot say whether it is effective or ineffective.

D1: Ineffective, how can (you) say it is ineffective? You cannot say such things about this problem.

M: O, you cannot say it (the first seal) is ineffective.

L: (You) look at this problem beyond its practical meaning, than it has, it is not balanced. This this misunderstanding, this

D3: They used this seal (the first seal), and (it is) admitted. We are not saying that (we do) not admit it. It is that (need to be stamped with) another seal (the second seal) together. This is (my) meaning.

D2: It is impossible for me to use other seals. I have told you, I would assure you using my forty years' party membership.

M: Which seal are you talking about? What did he use it for?

(noise)

D2: She said I stamped on blank paper and used it for bad purposes. Since we are following such reasoning, can we still work together?

(D2 started to take off)

M: Hey, sit, sit. Still speaking here, why are you leaving?

D2: No common ground.

D3: No common ground is no common ground. (Whatever)

(noise)

The sudden departure of the manager marks his withdrawal from the mediation session. It sometimes happens in mediation sessions that one of the disputants leaves the session unexpectedly. In reality, the manager had to leave for another appointment. However, he leaves with the knowledge that both the mediator and even the director of the owners' committee are on his side, and therefore, there is no need to argue any longer. With the mediator and only disputants from one side present, the mediation session had to end.

On the fight over whether or not the old seal should be rendered ineffective and what to do with stamping the document, it seems that all four people including M, D1, D2, and L are trying to persuade D3 to stop her suspicion and distrust for D2 and for his abuse of the seal. L, representing expert power from the perspective of the law, explains to her that the owners' committee is not a legal entity, therefore, the seal representing it does not have legal power and is not binding, and therefore the parties should not make a big deal out of it. It becomes clear that the fight is not about the seal when the mediation comes to this stage. Rather, it is about who has more power over who. D2 and D3 obviously are fighting over power where the

seal is the symbol. Even though it does not have much legal effect/power, it is still important to the members of the owners' committee and the management section. This helps explain why, in spite of L's repeated explanation about the limited legal effect of the seal, D3 is still not persuaded to drop her "charge" against D2.

The reason why M and others side with D2 most of the time is both confusing and intriguing. Perhaps it is that people are generally tired of political and organizational control even though residents elect members of the owners' committee. The people's dissatisfaction may stem from the committee's efforts to exert some kind of hierarchical control through the rules/bylaws they make. It may be that there is now a drive for individualism and autonomy, unfettered by any kind of control. Equally possible is that since it is a fight over power and does not lead to any practical benefit for anybody, at least from the perspective of M and L, as long as peace is retained for the community, the mediator won't bother to determine who is right or wrong. Stability, as means to maximize economic development, is the first priority of today's Chinese society. Therefore anybody who creates chaos and disturbs stability and the peaceful life of the community should be ostracized or silenced. This conforms to both the primacy of Confucius ideas in conflict resolution and today's Hu-Wen government's slogan to build a harmonious society.

In the mediation of the dispute over the adult child's support of his elderly parents, the officials, the staff from the law office, and the local mediator side with the elderly father. In this case, the mediator has an agenda from the very beginning of the mediation session, trying to persuade the son to accept his responsibilities and to support his parents. This mediator partisanship helps to explain why the son refuses to talk or cooperate at every stage of the mediation. He realizes that all people in presence have the same goal, that is, to persuade him to change his mind. The mediation is much alike to an elaborated criticism session, attacking the son's reasons for not supporting his parents. Hence, no matter what he says, neither his views nor his reasons will be supported.

Discussion

It is not an easy task to achieve resolution for both disputants when conflict is the focal point of the discussion. However, seeking help from a higher authority, who wields more power, is to entrust one's conflict into the hands of the third party to be resolved in a way that puts the interests of the community first. From the discourse analysis above, we are able to say that the legitimacy created by the positional power of Chinese mediators, instead of strict neutrality, is reflected in all the tactics discussed in this paper (i.e., appeal to personal relevance, education, invoking authority, bringing in third party, and side taking).

Chinese media often describe modern Chinese society as being in a transitional period (社会转型期). The impact of this transition is far reaching and has implications for mediators in how they work to achieve successful mediation. Having a predetermined agenda is the most typical of mediator strategies in Chinese mediation. Due to the mediator's positional power given by the state and the high power distance of Chinese culture, the mediator will not hesitate to exert their influence on the outcome of mediation according to their point of view of the case. The tactics we reviewed in this paper lead to our conclusion that the mediator serves as the fixer, teacher, and judge, with the power to determine the outcome for the disputing parties. Furthermore, traditional values and morals are still adopted by mediators to

persuade disputants to reach an agreement; however, more often mediators and local officials quote legislations and bylaws, and try to implement them in such ways as education, bringing in third party, and invoking authority. Implementing the Confucius and Taoist doctrine of harmony, as well as the advocacy of the government to build a harmonious society are common grounds for all participants in the mediation. Finally, we can observe the problems caused by China's fast-changing pace. While the old views, such as taking care of groups' interest over one's own, respecting the elderly, and emphasizing harmony in interpersonal relationships, are still appreciated and upheld by the government, new values such as individualism and pursuit of freedom are developing and actually becoming more popular credos for many people.

Among all the limitations of this paper, I mainly find three. First, as it is part of a dissertation study, description and organization of parts of the paper may seem out of its original context. The reader needs to read my dissertation to have a complete idea of the context and background of the study. Then, analysis of interviews with mediators is not included in this paper due to the space limit. Therefore, the gap between mediation ideals and practices in the reality of China is not addressed in this paper. The last drawback of this study is that all three cases selected here occurred in Sichuan province. Thus, the findings may not represent every part of China. After all, it is impossible to find an area that can represent all Chinese mediation practices due to diversity of the sub-cultures of China. To select cases solely from one province has limited our perspective on the broad Chinese society and culture, and specifically, the view on conflict resolution behavior in China; however, taking into account cases from all over the country is not only impractical but irrelevant as well.

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