

An Asian Perspective on Mediation

Reviewed by Kevin Avruch

Abstract

Joel Lee and Teh Hwee Hwee, editors. *An Asian Perspective on Mediation*. Singapore. Academy Publishing. 2009. 236 pages.

A project of the Singapore Mediation Centre, this book is a welcome addition to the growing literature on non-Western modes of conflict resolution (negotiation and mediation in particular), as well as a contribution to the broader debate on “Asian values” generally. Editors Lee and Hwee wrote several of the chapters, including an introduction that differentiates traditional, “indigenous” forms of mediation found in East Asian societies from modern conceptions of the practice. Modern practice, they note, has been heavily influenced by Western conceptions of ADR, particularly facilitative mediation based on the Harvard Program on Negotiation (PON) model of interest based negotiation. Many have raised the question whether such a Western form is appropriate and effective in other cultural settings. Lee and Hwee’s answer to both is in the affirmative. Practitioners in the Singapore Mediation Center, they write, adopt the interest based model of mediation. But they recognize that in actual practice mediation in Asia differs significantly from standard Western practice. They assert the relevance of interest based mediation by making a distinction between what they call the “functional aspects” of the model and its “operational” aspects. The former, defined as getting disputants away from positional bargaining to recognize their underlying interests, is universal. However, for actual practice to be successful one must pay attention to the model’s “operational level,” which is highly “context sensitive” (p. 22).

Another chapter by Lee and Hwee summarizes some of the modifications needed at the operational level to ensure successful practice. One of the prime modifications demands moving away from the purely facilitative conception of mediation – the mediator is a powerless neutral whose role is only to facilitate interest based problem solving between disputants, allowing them to “own the process” – to a more authoritative and directive role. If this was the only modification one could readily agree with the functional/operational divide. But the differences, rooted in East Asian values and cultural ethos, are greater than that, and the modifications needed to practice successfully seem to multiply. Chapters that follow (by Ian Macduff, Melanie Billings-Yun, John S.K. Ng, and Law Siew Fang), discuss in rich detail the nature of these modifications in relation to their Asian context.

The approach to culture taken by the authors – after acknowledging regional diversity and the problematic lumping of so many East Asian societies and their subcultures into one “Asian” rubric – is based first on noting three “core themes” in Asian culture that differ from the “cultural assumptions” intrinsic to the Western model. These are (a) Confucianism and its main values; (b) collectivist *versus* individualist orientations, and; (c) prevalence of concerns with “face” (p. 54). Secondly, in keeping with the individualist/collectivism dichotomy, the various authors use such well known distinctions as high and low context communication styles and high and low power-distance or hierarchical/egalitarian orientations to social status. One of the several virtues of the book is that none of the authors conceives of these distinctions in rigid binary terms. Another is that they all see how these cultural dimensions are interconnected -- collectivism “goes with” face concerns and hierarchy, and all affect such crucial

dimensions of negotiation/mediation as trust-building, commitment making, valuing procedural *versus* distributive justice, and free information exchange – and how, in turn, all reflect underlying Asian core themes.

The chapter by Law Siew Fang, for example, skillfully deconstructs “collectivism” and its implication for Asian mediation through the lens of multiple forms of *guanxi* (usually translated from the Chinese as “relationship”). After reading this it would be difficult to imagine “collectivism” as a single monolithic form. (The same, of course, could be done for “individualism” in a Western context.)

Building on Stella Ting-Toomey’s work, John S. K. Ng, discusses “four faces of face,” and how face concerns and face-work affect level of trust and information flow between disputants and mediators, and the implications of this for effective practice, particularly with regard to mediators’ use of “indirect” (high context) speech. Melanie Billings-Yun also focuses on trust in mediation, the requirement for open exchange of information being so crucial to effective problem solving, and connects collectivism with trust-building and the strong preference for “insider-partial” as opposed to “outsider-neutral” third parties.

Two chapters by Ian Macduff analyze the implications of high power-distance for a number of areas in practice, including the expectation that ideal mediators are persons of relatively high status who actively participate in and authoritatively direct the process. Beyond techniques of practice, Macduff moreover argues that high power-distance means accepting the legitimacy of social inequality, being committed to its maintenance, and that disputants may therefore see the conflict in terms of powerful cognitive and affective categories of hierarchy, authority, and deference, such that “not all participants will see the issues at stake in the same interest-oriented terms; they will also see disputes as values-based” (p. 118). Once values and affect enter the dispute alongside interests, the waters of problem-solving interest based negotiation turn muddy. In a second chapter, Macduff critically compares cultural assumptions of Western mediation, including neutrality, confidentiality, disputant autonomy, and the making of commitments, with Asian assumptions, and ends up arguing for a “distinctly Asian mode of mediation” (pp. 194-195).

After reading these chapters I ended up agreeing with Macduff, and not entirely with Lee and Hwee. If what is “universal” is that people often say (and think) they’re arguing about something when they’re really arguing about something else – and we name that deeper something else “interests” – then it is a thin conception of universality we have adopted, and perhaps an even thinner one of interests. The question this fine collection raised for me is where “functional” models of negotiation and mediation are so affected and constrained by “operational” ones – the ones that determine whether they work at all or not -- that the distinction loses meaning, existing in this book mainly to pay respect and “preserve face” for the venerable elders, and some of the youngsters, at Harvard’s PON.

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