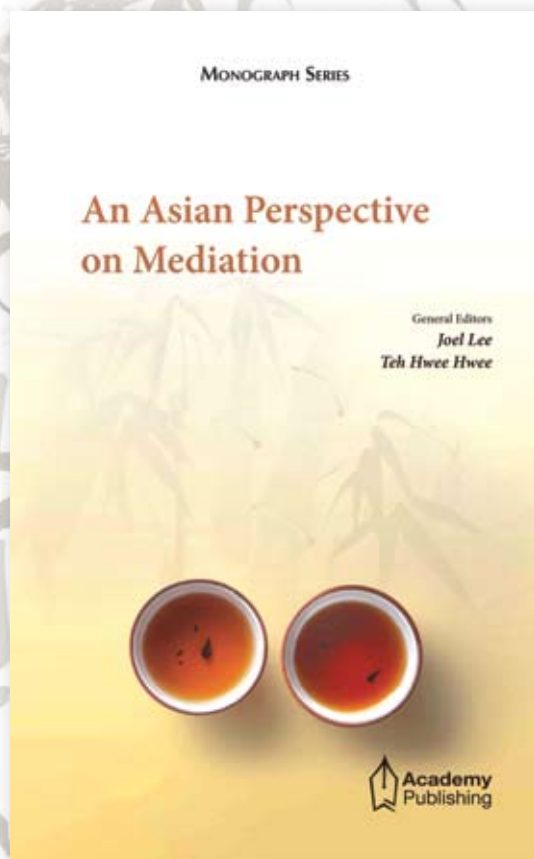


ON THE BOOKSHELF

WHEN IN ASIA, DO AS THE ASIANS DO

IN 1976, in a speech that has since been regarded as one which launched the mediation movement in the US, Professor Frank Sander of Harvard Law School spoke on the limits of traditional litigation with its use of a third party with coercive power, the usually “win-lose” nature of litigation and the tendency to focus on legal issues rather than the underlying relationship between the parties at the Pound Conference convened to address popular causes of dissatisfaction in the American legal system. Sander envisioned alternatives that may provide far more “effective” conflict resolution, in particular, the use of mediation to help parties to reorient towards each other and reach consensual solutions towards their conflict. Since then, the mediation movement has grown apace, not only in the US but in other countries including those in Asia, which recognised the same limitations of traditional litigation and imported mediation practices from the US.



By Joyce Low, Director, Primary Dispute Resolution Centre

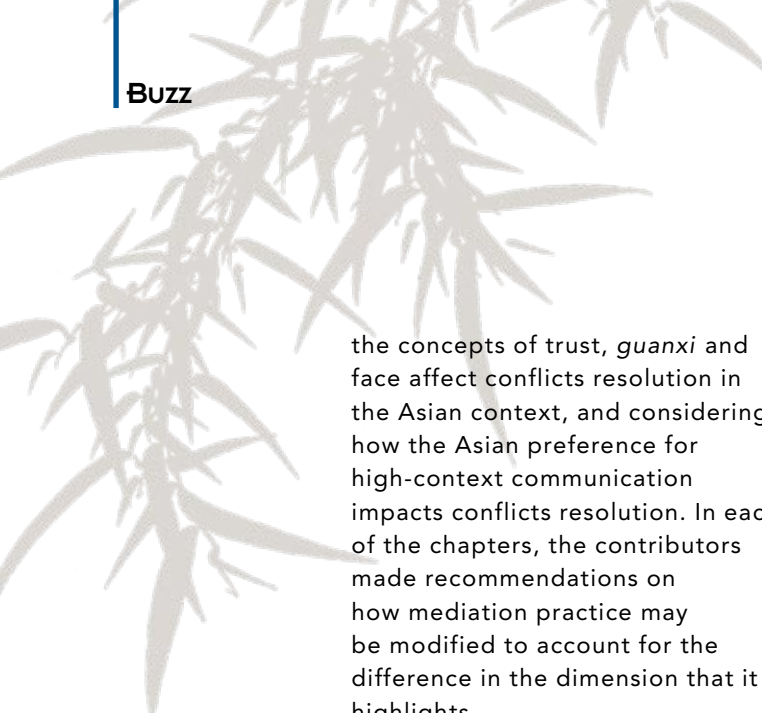
Title:	An Asian Perspective on Mediation
General Editors:	Joel Lee and Teh Hwee Hwee
Contributors:	Joel Lee, Teh Hwee Hwee, Ian Macduff, Melanie Billings-Yun, John S K Ng and Law Siew Fang
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The concept of mediation is, however, not new in Asia. Many of its countries have indigenous forms of mediation. As Asian countries imported modern mediation practices which contained cultural assumptions that were valid for Western societies, practitioners had to grapple with how to tailor those models for use in Asia where different cultural assumptions may apply. *An Asian Perspective on Mediation* explores the issue of whether there is a model of mediation that is more suited to the Asian context.

The first four chapters of the book are co-contributed by the general editors, Associate Professor Joel Lee of the National University of Singapore and Teh Hwee Hwee, Assistant Chief Executive of the Singapore Academy of Law. In the first chapter, the general editors described indigenous forms of mediation practised in Asia and contrasted it with modern mediation practices originating from Western societies to set the context of

the issue that the book addresses, that is, whether modern mediation models originating from Western societies should be modified to take into account cultural differences between Asian and Western societies. In the subsequent chapters, the general editors surfaced the cultural assumptions implicit in the interests-based model of mediation, suggested Asian-oriented cultural assumptions, and highlighted the tensions that may be created by incompatible cultural characteristics. In the fourth chapter, the general editors proposed one possible Asian perspective on mediation and offered useful practical suggestions on how the interests-based model of mediation may be modified to be culturally sensitive to Asians.

In the second part of the book, four contributors tackled specific issues of relevance to Asian mediators in more detail. These included examining the implications of mediating in a hierarchical and high power distance environment, exploring how



the concepts of trust, *guanxi* and face affect conflicts resolution in the Asian context, and considering how the Asian preference for high-context communication impacts conflicts resolution. In each of the chapters, the contributors made recommendations on how mediation practice may be modified to account for the difference in the dimension that it highlights.

The issue the contributors chose to engage in is not an easy one. There is immense diversity in the countries that make up Asia. There are differences in the social, religious, political and economic situations of countries and even the language they use. This diversity makes it challenging to identify commonalities and craft a model that may be broadly applicable in the Asian context. The general editors recognised the difficulty of the task and stated that the perspective they suggested was not meant to be a definitive prescription but *one* possible framework. In the same vein, their treatment of the difficult topics of culture and Asian values was sensitive and nuanced. Their intent was not to provide a cookie-cutter prescription for all mediations occurring in Asia but only those in which elements of the core Asian themes

of Confucianism, collectivist inclination and prevalence of face concerns are present.

The book is certainly a valuable contribution to the Asian mediation scene. Mediation practitioners will find many useful practical tips on how to modify the interests-based model of mediation to take into account cultural differences in the Asian context. More importantly, the book challenges the mediation profession in Asia to re-examine the role of a mediator as the contributors argue that a mediator should take on a leadership and more active role in the Asian context, instead of a purely facilitative and supportive role advocated by models of mediation imported from Western societies. It is timely to consider how mediation practices imported from Western societies should be modified to suit the Asian context as the practice of institutionalised mediation in Asia is expected to continue growing. I share the general editors' hope that the book will generate more discussion on the topic and advance mediation in Asia. ¹⁵

An Asian Perspective on Mediation is available for purchase through Academy Publishing's online bookshop at www.sal.org.sg and major bookstores.