False dichotomies and asking the right questions

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This is a response to a recent article in (2000) 19 Conflict Resolution Quarterly 49. The response encourages mediators:

(1) to avoid reacting to one model of mediation by embracing another potentially unsuitable model
(2) to ask the right questions about categories of mediation, diagnosis, suitability, and measurement of success, rather than reaching quick solutions.

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By John Wade

This is a comment on a recent article in the *Conflict Resolution Quarterly* entitled “Enacting and Reproducing Social and Individual Identity Through Mediation” by Ho-Beng Chia, Chee-Leong Chong, Joo-Eng Lee-Partridge, Chantel Chu Shi Hwee and Sharon Francesca Koh Wei-Fei (2000) 19 *Conflict Resolution Quarterly* 49.

The writing of these comments itself raises cross-cultural issues – when is it appropriate to debate in public? How can debates take place constructively without loss of face? How can a society or sub-culture manage the tension between complexity and simplicity?

The writer makes the following comments in an attempt to be helpful, and to erect signposts on certain dangerous paths. The conflict management movement in many countries (including my own) is replete with examples of practitioners and theorists jumping out of one frying pan into another fire.

The article reported how some Chinese-Malaysian village mediators were interviewed about their own mediation behaviors. Their self-reports suggested that these village mediators were respected, evaluative, emphasized community values, recommended solutions (thereby saving face for the disputants), were well known by the disputants, and encouraged social harmony. The article notes that this apparent Chinese-Malaysian village mediator behavior was different to the behaviors suggested in a certain facilitative “model” taught by foreign trainers who had visited Malaysia and Singapore.

In itself, such a study of self-perceived village mediator behavior, and emphasizing that reported behavior does not match a particular model of mediation, is commonplace and potentially helpful. However, in my opinion, the article is filled with silences and errors which are also common and potentially instructive. Each of the following comments emphasizes that asking the right question is half the answer. The silences and errors include as follows:

1. **Catalogue of mediation models**

No mention is made of the possibility or likelihood that many models of mediation are operating in Malaysia. The “village” model extracted from these few interviews is not labeled as one amongst many. The important basic questions is – How many types or models of mediation are there?

The article attacks a paper tiger when it stereotypes an inflexible, rule-bound model of facilitative mediation which is allegedly

- not interested in relationships (p 58)
- or third parties (p 58)
- and which avoids being judgmental (p 58)
• and which does not need respect or moral authority for the mediator (p 59-60)
• and where the mediator has no ties to either party (p 62)
• and where the mediator avoids proposing any solutions (p 66)
• is not interested in tradition (p 68)
• does not use notions of forgiveness or “let bygones be bygones” (p 65).

Such a rule bound paper tiger model of mediation exists neither in practice or theory anywhere. If it did, no-one would employ those mediators.

(2) Discovery of actual mediator behavior

One clear lesson in the mediation movement is – do not rely on mediators who self-report on what we do. Yet the article makes the double error of relying on what visiting teachers allegedly said is done five thousand miles away, and what traditional village mediators say they do nearby.

The next important question is – How to discover the diversity of what mediators do, beyond myths, propaganda and self-report?

(3) Marketing Competing Mediation Models

The article sets up a tone of competitive “them” and “us”. This is a worldwide pattern with new competitive products, including various mediation models. “Here is model X which is unsuitable for…, and contrasting model Y which is suitable for …”

Expressing this doubt about the suitability of any service or product is admirable, and an essential attitude for any responsible service provider. However, if the doubt leads to the unquestioning embrace of my service instead of yours, then we have jumped out of the frying pan into the fire – physiotherapy instead of surgery; exercise instead of chemicals; evaluative mediation instead of facilitative mediation etc. The best marketer wins, temporarily.

(4) Diagnosis – Which Model for Which Disputes?

The article suggests that the alleged behaviors of village mediators are culturally appropriate in Malaysia (p 57-68). Conversely, it suggests that the model introduced by some visiting teachers is inappropriate for Malaysia. Both of these are conclusions. What is the question? The standard question in all countries is – what model of mediation is appropriate for which kind of disputes with which kind of disputants?

Once again, the right questions is half the answer.

Would the five authors personally use an evaluative village mediator for their own international, national, personal and business disputes? If not, why not?

By missing the right diagnostic question, the article is in danger of perpetuating premature positional bargaining over the most “culturally sensitive” model. In the writer’s experience, this leads to an unnecessarily hostile debate between the many sub-cultures within each country. “The basic model should reflect my culture, not
yours”; “You are disrespectful to my culture by suggesting that”; “You are a dinosaur to make those cultural generalizations about our multi-cultural society” etc.

The failure to ask the right diagnostic question has led in Australia, UK and USA to vitriolic competition between counselors and mediators; litigators and mediators; and evaluative, facilitative and transformative mediators. I am hoping that Malaysia may be able to avoid some of our mistakes.

(5) Diagnosis – How Should a Model be Adapted to Suit the Cultural Practices of the Various Disputants?

This question is an important offshoot of the previous diagnostic question. The question applies whether the “culture” or sub-culture is unemployed mine workers, upper class Hong Kong Chinese, articulate Aboriginals or a motor-cycle club.

The article most helpfully objects to any mediation model or practice which ignores possible cultural adaptations (p 69). However, the article appears to jump to a conclusion by recommending a particular set of cultural adaptations – namely the alleged behaviors of village mediators. Is this a leap from one mistake to another? When will the village model be an entirely unsuitable and insensitive starting point for disputes within the geographical boundaries of Malaysia? How can a village model be adapted when there is a variety of different cultural groups at a mediation or negotiation?

(6) What is “Success”?

The article by implication suggests that the traditional village mediation model is “successful” in Malaysia (p 57-68). Once again this is a premature conclusion. On what criteria is “success” being determined? By what methods is each element of “success” being measured? Comparatively, is this observed and praised service more or less “successful” than… (doing nothing, litigation, personal negotiation, threatening letters, etc)?

What do the customers say about “excellence”, “competence” and “incompetence” of the (village) mediators?

Any alleged popularity of one conflict management process should also be considered in the context of economics, power, education and culture before it can be considered a “success”. For example, evaluative mediation may be more “successful” where litigation is expensive, distant and corrupt. Are traditional services more likely to be accepted in certain cultures, because criticism and reform are less tolerated? Are “successful” mediators politically and economically powerful (like the USA in international mediation) so that they have the ability to punish disputants who do not comply with their recommendations?

The article gives one tantalizing hint that the observed and praised methods of village mediators may not always be “successful” in Malaysia when at p 68 it states suddenly “The traditional model of mediation reinforces the status quo by reproducing the past (which may or may not be appropriate for today’s environment).”
(7) Visiting Teachers

The article indirectly raises other big historical questions – how should communities respond to the ideas, books and teachings of visiting “outsiders”? How should visiting outsiders adapt teaching and learning in process and content to take local cultures into account? (p 69) Should “outside” learning be rejected, adopted totally or adapted? If adapted, in what ways? Are visiting outsiders predominantly selling a product, or teaching changing learned and historic perspectives about conflict management and mediation?

I hope that these comments will be received in the spirit that they are intended. Knowledge of how new movements, including mediation, have historically been adopted, adapted or rejected in various cultures may help to avoid some of the mistakes of the past. To repeat – the right question is half the answer.

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