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Abstract
A notable feature of Chinese disputing behaviour is that it almost always carries some public element within it, unlike the essentially private nature of disputes with Westerners. Consequently, remedies reflect public characteristics. As an example, a remedy in the form of an apology may have better significance for a Chinese disputant than a monetary award which may be considered to be 'undignified'. An apology, expressed in a public forum like a newspaper, serves to vindicate not only private rights as being of immediate relevance not only to the disputants concerned, but also to the aggrieved families.

An enlightened cross-cultural mediator can truly benefit from insights into the remedies in Chinese dispute resolution. As it were, the settling of disputes is a desired outcome; the ability to render culturally appropriate awards must, by all accounts, represent a mediation highpoint. It is hoped that this article will shed some light on such a process.

Keywords
dispute resolution, People's Republic of China, remedies, cross-cultural dispute resolution

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REMEDIES IN CHINESE DISPUTE RESOLUTION

By Bee Chen Goh [1]

Remedies in dispute resolution can differ from culture to culture. For instance, with the Chinese who tend to be relational, the idea of tea drinking and feasting can carry cultural significance, and play an important part in the resolution of disputes. Such a cultural understanding may enable a Western mediator to be aware of the needs of Chinese disputants in a mediation process, lest the intentions of the mediator and the disputants be at cross purposes.

A notable feature of Chinese disputing behaviour is that it almost always carries some public element within it, unlike the essentially private nature of disputes with Westerners. Consequently, remedies reflect public characteristics. As an example, a remedy in the form of an apology may have better significance for a Chinese disputant than a monetary award which may be considered to be 'undignified'. An apology, expressed in a public forum like a newspaper, serves to vindicate not only private rights as being of immediate relevance not only to the disputants concerned, but also to the aggrieved families.

An enlightened cross-cultural mediator can truly benefit from insights into the remedies in Chinese dispute resolution. As it were, the settling of disputes is a desired outcome; the ability to render culturally appropriate awards must, by all accounts, represent a mediation highpoint. It is hoped that this article will shed some light on such a process.

Introduction

As a culture adherent, it has always been the writer's contention that culture plays an integral part in shaping, influencing and modifying human communication. Culture here is used in a wide sense to encompass the entirety of the belief systems, the habits, the behaviour patterns, and the unconscious tendencies of particular groups.[2] The condition cannot be said to be any less true in the context of disputes. How disputants perceive conflicts and how they deal with them can be attributed in large measure to their habitual ways of interpreting and contextualising things, that is, giving meaning

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2 For some definitions of 'culture', see Goh Bee Chen, *Negotiating with the Chinese* (1996) 17-18; William Gudykunst, *Bridging Differences: Effective Intergroup Communication* (2nd ed, 1994) 35-37.

to the people and events surrounding them.[3] Of course, personal sensitivities play a role, too. These are not to be confused with cultural sensibilities. The former relates to one's idiosyncrasies; the latter refers to one's conditioned or governed behaviour according to one's continual exposure to a given environment. Because culture, for the most part, operates at the unconscious level,[4] generally speaking, people tend not to attribute particular aspects of their behaviour to the culture to which they belong. According to Hall, this is especially true in the Western context.[5]

In the area of conflicts, there are certainly cultural imperatives present which guide disputing behaviour.[6] Boulle acknowledges that mediation is not a culture-free activity.[7] In the case of the Aboriginal people in Australia, for example, the traditional ways of mediation based on a system of kinship have been their guiding norm in settling disputes, rather than the Western-style litigation process.[8] As Merry says,

> Disputing, however, is cultural behaviour, informed by participants' moral views about how to fight, the meaning participants attach to going to court, social practices that indicate when and how to escalate disputes to a public forum, and participants' notions of right and entitlement. Parties to a dispute operate within systems of meaning; they seek ways of doing things that seem right, normal or fair, often acting out of habit or moral conviction. The normative framework shapes the way people conceptualize problems, the way they pursue them, and the kinds of solutions they look for.[9]

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3 A useful study can be found in Elizabeth Weldon and Karen A Jehn, 'Conflict Management in US-Chinese Joint Ventures' (1995) Carnegie Bosch Institute Working Paper 95-10 [http://cbi.gsia.cmu.edu/]. See also, forthcoming, Goh Bee Chen, *Law without Lawyers, Justice without Courts: on Traditional Chinese Mediation*, expected publication in mid-2002, 3.

4 See Edward T Hall, *Beyond Culture* (1976, 1981) 162; Paul R Kimmel, 'Culture and Conflict' in Morton Deutsch and Peter T Coleman (eds), *The Handbook of Conflict Resolution: Theory and Practice* (2000) 455.

5 Edward T Hall, above n 4, 162.

6 See Hilary Astor and Christine M Chinkin, *Dispute Resolution in Australia* (1992) 5. An insightful comparative article can be found in Bobette Wolski, 'Culture, Society and Mediation in China and the West' (1996-1997) 3 *Commercial Dispute Resolution Journal* 97.

7 Laurence Boulle, *Mediation: Skills and Techniques* (2001) 6.

8 Hilary Astor and Christine M Chinkin, above n 6, 5; Australian Law Reform Commission, *Review of the Adversarial System of Litigation*, Issues Paper 25 (1998) 78-79. See also Laurence Boulle, *Mediation: Principles, Process, Practice* (1996) 32.

9 Sally Engle Merry, 'Book Review: Disputing Without Culture' (1987) 100 *Harvard Law Review* 2057, 2063.

In the case of the Chinese who are predominantly a relational people,[10] their cultural preference for conflict avoidance, their inclinations towards harmony and compromise, and their characteristic non-litigiousness is renowned.[11] Such a preference is due to the deep-seated Confucian ideals present in Chinese society, as well as their cultural behaviour founded upon collectivism or homocentrism. In fact, it has been aptly remarked that Chinese disputing behaviour is characterized by conflict *dissolution* rather than by conflict resolution.[12] The chief difference between the two is that in the former case, there is a propensity to avoid conflicts to the extent that minor tensions are ignored or sought to be dissipated, in the hope that they disappear. Prevention of disputes is a cultural highpoint for the Chinese. Relevantly, a Chinese proverb goes thus: 'Let big differences become small, and let small differences disappear'. In the People's Republic of China, a political slogan similarly attests: 'combine mediation and prevention, and give primacy to prevention'.[13] Therefore, even as conflicts are seen as inevitable, Chinese disputants are culturally conscious of their socially disruptive influence and adverse impact. There is an underlying desire to strive continuously to preserve social harmony.

By way of contrast, in the case of Westerners, it is acceptable to deal with conflicts, to confront, litigate and attempt to settle them as and when they arise. The latter situation is typified by Western approaches to conflicts, made possible by individualistic inclinations and a propensity towards confrontational behaviour. In the West, to 'speak one's mind' represents a popular social injunction.[14] In this connection, it is relevant to keep in mind Auerbach's words:

> Litigation is the all-purpose remedy that American society provides to its aggrieved members. But as rights are asserted, combat is encouraged; as the rule of law binds society, legal contentiousness increases social fragmentation.[15]

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10 Goh Bee Chen, above n 2, 33; Goh Bee Chen, above n 3, 3. It is important to appreciate that cultural tendencies are a matter of degree. One should not, therefore, be tempted into stereotyping. Cultural inclinations *pre-dominate*, but they are not invariable.

11 Stanley B Lubman and Gregory C Wajnowski, 'International Commercial Dispute Resolution in China: A Practical Assessment' (1993) 4 *American Review of International Arbitration* 107, 110, 115-119; RH Folsom and JH Minan, *Law in the People's Republic of China: Commentary, Readings and Materials* (1989) 86.

12 Rene David and John E C Brierley, *Major Legal Systems of the World Today* (3rd ed, 1985) 518; Kung-Chuan Hsiao, *Compromise in Imperial China*, School of International Studies, University of Washington, Seattle (1979) 36; Stanley B Lubman and Gregory C Wajnowski, above n 11, 115; Goh Bee Chen, above n 3, 6 and 9.

13 See Michael Palmer, 'The Revival of Mediation in the People's Republic of China' in W.E. Butler (ed), *Yearbook on Socialist Legal Systems: 1987* (1988) 235.

14 Goh Bee Chen, above n 3, 6. See also Geert Hofstede, *Cultures and Organizations: Intercultural Co-operation and its importance for Survival* (1994) 58.

15 Jerold S Auerbach, *Justice Without Law* (1983) 10.

By the same token, cultural expectations influence what are regarded as culturally appropriate forms of remedy. It can be seen that the Chinese collectivism and Western individualism dichotomy is reflected in the remedies awarded. This article seeks to explore the available remedies in Chinese dispute resolution. Some salient features are: monetary awards in the form of compensation; the mediating tea; apology; feasting; gifts; and the traditional supernatural way of settling disputes by the cutting of a white chicken's head.

The term, 'the Chinese' as used in this article has an ethnological reference, rather than a political or nationalistic one.[16] It is a term used to describe both the Chinese in the People's Republic of China and the diaspora of the overseas Chinese who profess essentially traditional Confucian values. The term, 'Western' or 'Westerner' when used in contrast, refers primarily to persons of Anglo-Saxon origin who basically uphold individualistic ideals.

Monetary Compensation

Unlike in the common law justice system where monetary damages are the principal relief sought in civil remedies, a disputant in a Chinese dispute settlement process very rarely asks for monetary compensation. Monetary relief, however may become relevant if the subject matter in dispute is a monetary one. This would be the case, for instance, if the dispute is essentially commercial, or it relates to debt collection or arrears of rent or medical expenses in cases where physical hurt is caused. Such an attitude is consonant with the Confucian concept of yielding and compromise.[17] So long as social harmony is achieved, the disputants ought not go beyond the scope of the matter in question. Public peacekeeping seems to take precedence over private wrongdoing.[18] Thus, according to the Confucian view, 'the moral [person] is a peacemaker, not a litigation maker. Justice is, therefore, associated not with rights and duties, but with righteousness'.[19] This view runs contrary to the prevalent Western notion of preserving, upholding and championing individual rights and justice.[20] The form of remedy sought by a Western litigant, therefore, invariably leads to monetary damages as the most appropriate and approximate form of remedy in the vindication

16 Goh Bee Chen, above n 2, 2-3.

17 Donald C Clarke, 'Dispute Resolution in China' in Tahirih V Lee (ed), *Contract, Guanxi, and Dispute Resolution in China* (1997) 271; Michael J Moser, *Law and Social Change in a Chinese Community: A Case Study from Rural Taiwan* (1982) 66 and 68.

18 Lester Ross, 'The Changing Profile of Dispute Resolution in Rural China: The Case of Zouping County, Shandong' (1989) 26 *Stanford Journal of International Law* 15, 30.

19 Chin Kim and Craig M Lawson, 'The Law of the Subtle Mind: The Traditional Japanese Conception of Law' (1979) 28 *International And Comparative Law Quarterly* 491, 502. The authors assert that 'Chinese Confucianism stands out as the single most intellectual influence on traditional Japanese thought': Ibid 494.

20 Jerold S Auerbach, above n 15, 10.

of one's rights. Quite to the contrary, monetary compensation in the traditional Chinese view, was considered rather 'undignified'.[21]

One must not make the mistake of assuming that the Chinese dismiss monetary compensation completely. On the contrary, disputes involving money must be resolved by the use of money.[22] What needs noting is the fact that monetary compensation does not come across as the *only solution* in a mediated award. Often, the wronged party expects, or in cultural parlance, *demands*, more than that. A monetary award may suffice to repair the wrong done at the inter-personal level or at the level of transactions. However, it may do little to restore what the wronged party perceives to be a loss of face, reputation or good standing in the eyes of the community. A culturally sensitized mediator would do well to suggest ancillary remedies. Such a remedy, in addition to a monetary award, may take the form of the offering of mediating tea which serves to demonstrate respect and restore face. Feasting is another common remedy, acting as a public acknowledgment of the conclusion of a dispute.

What needs to be appreciated is the Chinese Confucianist-collectivist background. The guilty party is seen not to have only wronged the injured party, but his or her family and kin as well. In village disputes, the membership may be extended to the clans. This factor has ramifications in Chinese mediation. The mediator has to take cognizance of wrongdoing at two levels: personal and communal. Remedies awarded must, therefore, be seen to redress both personal and collective wrongs. Often, what is entailed is a loss of face. Such a moral injury can be deep and irreparable. A monetary award is not deemed sufficient to reclaim the loss of one's pride. Symbolic gestures, approved and accepted by the community, can prevail in a far more powerful manner in helping to heal the moral wounds suffered. At times, it must be recognized and acknowledged that the gravity of the harm done as a consequence of the disputes may mean that even such 'moral' remedies can do little to repair the rift caused.[23] However, the significance of such remedies cannot be under-stated, especially in their serving the public aspect of the Chinese disputing process.

Mediating Tea

Tea drinking may be said to be a commonplace activity with the Chinese. The popularity of 'yum cha', which literally means 'drinking tea', bears testimony to this

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21 See Sybille van der Sprenkel, *Legal Institutions in Manchu China: A Sociological Analysis* (1962) 101.

22 A good case study, *The Fertilizer Sales Case*, is provided by Lester Ross, above n 18, 38-39. Even so, the author acknowledges that the monetary claim was eventually discounted, in part reflecting 'the Chinese preference for compromise solutions that save face for both parties and restore social harmony at the expense of abstract principles of justice and the merits of the respective claims': Ibid 39.

23 Kung-Chuan Hsiao, above n 12, 67.

fact. What has been taken for granted, however, is the significance of tea drinking as an aid in settling disputes for the Chinese. From a young age, Chinese children are taught to offer tea to their family elders as a sign of respect. Such a gesture is consonant with the Confucian notion of hierarchy necessary for the maintenance of good social order. This hierarchical structure originates from the principle of observing the Five Cardinal Relations, those being between the emperor and the subject, father and son, husband and wife, older brother and younger brother, and friend and friend.[24] It is pertinent to note that of these five relations, three are founded within the family. In the Confucian view, an orderly family is the starting point for an orderly society, and hence the state. An orderly state is, in fact, a collection of orderly families under heaven.[25] The inculcation of such a value is manifested by various customary practices, the most habitual one being demonstrated by the popular tea drinking activity. In observing the many Chinese festivities like the lunar New Year, it is customary for the younger members of the family to offer tea to the family elders to symbolize respect and obedience to them. Similarly, tea is offered ceremonially to one's ancestors to perpetuate the sense of respect for the departed. Another example in the commercial world, which many foreigners doing business in China have commented on is the *ganbei* syndrome at Chinese meals, the frequent raising of drinking vessels in an honorific toasting fashion.[26]

In ancient China, it was recorded that in a Chinese village, a special teahouse had been set up purely for the purpose of enabling disputants to hold mediating tea sessions to conclude their disputes.[27] Such teahouses were regarded as providing a 'congenial… neutral and public setting for restoring harmony'.[28]

The main significance of offering the mediating tea as a form of remedy is the non-pecuniary benefit of conferring face on the aggrieved party. The restoration of face is both personal (to the disputants concerned) as well as communal (to the immediate families).[29] As stated previously, a Chinese dispute often contains both private and public elements, and it is the latter that requires some public demonstration and acknowledgment of redress. Seen in the context of Chinese collectivism, this desire for face restoration has a tremendous public significance and social value. The respect re-gained by the wronged disputant in the eyes of the community means a great deal more than monetary compensation.

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24 *Chung-Yung*, or *The Doctrine of the Mean*. XX:8. Tu Wei-Ming, *Centrality and Commonality: An Essay on Confucian Religiousness* (1989) 54; Goh Bee Chen, above n 2, 26; Goh Bee Chen, above n 3, 8.

25 Francis L K Hsu, *Americans and Chinese: Passage to Differences* (3rd ed, 1981) 378. Goh Bee Chen, above n 2, 52; Goh Bee Chen, above n 3, 44.

26 Carolyn Blackman, *Negotiating China* (1997) 103.

27 See Kung-Chuan Hsiao, above n 12, 59.

28 Jerome A Cohen, 'Chinese Mediation on the Eve of Modernization' (1966) 54 *California Law Review* 1202, 1219.

29 Kung-Chuan Hsiao, above n 12, 61.

Apology

The offer of a public apology represents a most common and usual form of remedy in conflict resolution with the Chinese. The apology may assume both formal and substantive aspects. In the matter of form, there are various ways of expressing one's apology. The clasping of hands close to one's chest and shaking the clasped hands in the direction of the aggrieved but vindicated person, in full view of those present at the mediation, is the most common way to express one's apology. An apology in the village community can be accompanied by ritualistic practices such as the hanging of red cloth above the front door of the residence of the vindicated person and the burning of red candles. This ritual involves the offer of an apology not only to the immediate disputants and their families, but is symbolic of the restoration of pride and reputation of the disputants' ancestors. By and large, in modern times, the publication of an apology in the major local newspapers serves the most effective and usual method of demonstrating one's remorse.

What is worth noting again is the public, not private, nature of remedies in Chinese dispute settlement. The remedy is consistent with the characteristic Chinese cultural inclinations towards homocentricity, the subjugation of personal rights, and the Confucian value of group harmony. The offer of an apology serves to vindicate the injured party's private rights by using the public medium. It is, therefore, seen as a powerful means of regaining one's face, reputation and standing.

Feasting

The partaking of food is both an enjoyable and meaningful activity in the Chinese context. The occasions for feasting are many and varied, as exemplified by the diversity of Chinese customs and festivals, the most notable being the Chinese New Year Festival.[30] As a natural consequence, Chinese disputing behaviour has similarly incorporated the concept of feasting as a form of appropriate remedy. The feast, usually held at the conclusion of a mediation, is public testimony of its resolution, and is a method through which the wronged party seeks vindication in a public forum. The guilty party has to host the feast at his or her expense and invite the immediate disputants, their family members, the mediator(s), the community elders and a cross-section of its influential members. Usually, the feast is held in a local restaurant. Speeches are given by the mediator and the guilty party. On such occasions, an apology is often expressed in a prolific way by the guilty party.[31]

In the traditional Chinese sense, feasting was both practical and symbolic in that it signified the 'public' nature of a dispute and a demonstration that social harmony was

30 See Goh Bee Chen, above n 2, 61-69.
31 Sybille van der Sprenkel, above n 21, 101.

the desired goal.[32] Feasting was also seen as a pleasurable activity, thereby acting as a sweetening end to the sour relations experienced during disputing. The feast also served to restore the 'face' of the disputants, a public indication that the past was forgiven, and the future should augur well again. Van der Sprenkel keenly observed that the idea of the feast served to penalize the offenders, to remind them and the community at large of the rules that they had breached, and, above all, to re-integrate the members and strengthen community solidarity. Further, 'by making the wrong-doer provide a feast or entertainment for the group, they gave him the chance to compensate for his recent loss of reputation. Not only was he accepted back into the group after estrangement, but he was restored to general favour by playing the honourable role of host to the whole membership'.[33] In the words of another commentator, Hsiao:

> The feast that came at the end of the negotiation not only served to formalize the settlement, but at the same time to provide a friendly atmosphere (or a semblance of it), as a token that the bad feelings formerly existing between the disputants were now patched up. The wine cup, in a way, was the Chinese version of the 'peace pipe' of North America.[34]

Gifts

Relational cultures are prone to gift-giving behaviour.[35] Gifts are tools in the expression of one's goodwill and represent by far, the most common method employed by a person desiring to foster and enhance inter-personal relations. By way of analysis, gifts may be expressive or instrumental tools.[36] Gifts are expressive insofar as the giver's intention lies in establishing friendship, enhancing goodwill and developing close ties, nothing more. Gifts are classified as instrumental when the giver's motivations are goal-driven in order to attain personal gains or favours. Instrumental gifts are popularly known as bribes. Analytical purity may well exist in theory only as, in practice it is often not easy to discern the intentions or motivations of a giver. Suffice it to say that collectivist cultures see gifts in a different light from individualists, with the latter more suspicious of gift-givers and deciphering their intentions as less than pure.

Because gifts are a common feature in the Chinese way of life, remedies may take the form of gifts in place of money. Food constitutes the main theme in gift giving. Baskets of fruits, or in modern times, supermarket hampers, are convenient gifts. Such

32 Jerome A Cohen, above n 18, 1219.
33 Sybille van der Sprenkel, above n 21, 115.
34 Kung-Chuan Hsiao, above n 12, 58-59.
35 Goh Bee Chen, above n 2, 93; Carolyn Blackman, above n 26, 101-103.
36 An excellent account of the Chinese gift giving behaviour can be found in Yunxiang Yan, *The Flow of Gifts: Reciprocity and Social Networks in a Chinese Village* (1996).

gifts again bear the sharing element: the gifts may be enjoyed by all and sundry in the family, symbolizing the vindication of family rights.

In the traditional Chinese way of life which is still prevalent in rural communities, the offer of red cloth and red candles is seen as a popular remedy. The colour 'red', an auspicious colour popularly used by the Chinese,[37] symbolizes happiness and a positive conclusion to the tensions experienced by the disputants. The hanging of red cloth on the front door of the wronged party is a public display of the restoration of one's moral face. The burning of red candles at the ancestral altar signifies the re-gaining of good family reputation amongst the community, a reputation once thought lost. Such traditional practices continue to be perpetuated. The symbolizms are deep and penetrating in a cultural sense, and carry a social value far more cherished than any monetary compensation.

Cutting of a White Chicken's Head

This ritual is based upon superstition, folk belief and, if at all, is perpetuated amongst rural Chinese folk but is quite unheard of in urban communities. What triggers this practice is the fact that there are certain occasions in which an effective mediation by the local elders is deemed impossible as a result of the credibility issue. An example would arise in the case of an outstanding debt which, supposing the debtor has already repaid the creditor but the creditor denies the fact and there are no witnesses to testify to the good faith of the debtor. This renders normal mediation very difficult, if not impossible. The mediator does not know who to believe. The closely-knit village community expects a closure to the matter, otherwise village harmony is affected. It cannot be left open and unresolved, subject to incessant gossip and continual harm to inter-personal relationships. In instances like this, there is a traditionally grave and serious method that the parties can resort to, that is, the cutting of a white chicken's head. Such a ritual is symbolic of the imposition of supernatural judgment. It is, according to the Chinese, a human cry for intervention by the heavens.

The white chicken is the symbol of innocence. By sacrificing the chicken before God, the accused party is in fact telling God that the white chicken is dying – and has to die – on his or her behalf to prove his or her innocence. The cutting of the white chicken's head is accompanied by an oath solemnly conducted, and deadly – in the sense that if the accused party is actually guilty, the chicken has been sacrificed for nothing, and he or she must, therefore, face the consequences of arousing the wrath of Heaven. It is believed that the ill consequences would be with the family for generations to come. For this reason, the fear of attracting such a high and incalculable karmic debt acts as an effective deterrent.

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37 Sarah Rossbach, *Feng Shui* (1984) 121; Lillian Too, *The Complete Illustrated Guide to Feng Shu* (1996) 71.

It is to be noted that the whole event is pretty much a public affair, involving a good cross-section of the village community. The public nature of it all is seen as consonant with Chinese collectivism, signifying that the nature of disputes is communal by extension and not just personal to the disputants concerned.

This supernatural form of remedy is considered extremely undesirable in the eyes of the Chinese community. It represents a last resort, providing all else fails in attempting to reach an amicable settlement. In other words, the lack of eye-witnesses compounds to the virtual impossibility of a sound resolution. It is beyond human power to attest to the truth of the matter. All the parties concerned have, therefore, got to decide on using other means. The idea of the power of God and the Heavens to pass judgment has to be invoked. Normally, the guilty party does not favour such a method, especially when it connotes immeasurable karmic proportions. Amongst the rural Chinese communities, this practice is confined to the Taoists, and not the Buddhists who do not believe in taking any form of life. As mentioned before, this practice is little known amongst the urban Chinese. But, when the writer was a child in her natal village of Paloh, Malaysia, there was an occasion when a neighbourhood dispute involved the challenge of cutting a white chicken's head as proof of innocence. As events later transpired, the challenge was not taken but the seriousness of the dispute was publicly noted.[38]

Conclusion

As the foregoing demonstrates, culture represents a silent shaper of mediated awards. What participants have come to expect from a mediated outcome is often unconsciously conditioned by their own cultural perceptions. This observation may be validated by the Chinese way of doing things, and their approach towards dispute settlement. The essentially Chinese collectivist orientation means that their disputing behaviour is largely a group matter, and is not to be confined personally to just the disputants concerned. What this means in the matter of remedies is that remedies proferred in a Chinese mediated dispute often carry public elements. These public elements are often associated with the loss of face experienced by the wronged party. In fact, it is not far-fetched to say that the public element overrides the personal. Further, because of the traditional Chinese love of harmony, a dispute should ideally be settled as quietly, expeditiously, and amicably as possible. The consequence of not doing so can incur public ignominy.

Monetary awards are generally not sought as the main vindication of one's rights. The public aspect of the dispute settlement process requires the restoration of one's reputation and good standing in the eyes of the community. As such, gestures such as the offer of an apology and customary gifts, and feasting activity, are culturally more appropriate forms of remedy in Chinese disputing behaviour. Supernatural means in

38 Goh Bee Chen, above n 3, 109-110.

the form of the cutting of a white chicken's head may be resorted to if all else fails in reaching an amicable settlement.

This article has attempted to highlight the significant forms of remedies in Chinese dispute resolution in the hope that mediators engaged in the solving of Chinese disputes are culturally equipped to deal with oriental expectations. A well-meaning Western mediator may miss the wood for the trees, as it were, if the desired outcome of a mediation appears to be incongruent to the mediator's own training and cultural beliefs and thus become totally baffling.[39] The 'unusual' remedies may turn out to be a source of frustration, or amusement, as the case may be, to a culturally unenlightened Western mediator dealing with Chinese disputants. The positive side is that such anecdotes may be good after-dinner stories. The negative side is that the mediator can totally miss the point and mess up the entire mediation process.

39 See Josefina Muniz Rendon, 'When you can't get through to them: cultural diversity in mediation', http://www.mediate.com/articles/rendon.cfm.