

# *Could Power Imbalance Be Power in Balance? Looking at Power Imbalances through a Singaporean Cultural Lens*

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## **I. Introduction**

The issue of power imbalance between parties to a mediation has been explored by a significant body of research.<sup>1</sup> Thus far, however, the conversation has been largely limited to an Anglo-centric perspective. Contrary to assumptions of Universality, commentators have found that the ideas and recommendations put forth in general literature with regard to various other aspects of mediation cannot be applied wholesale, but must be adapted to specific cultural conditions.<sup>2</sup> Thus, this paper seeks to expand the dialogue by considering its applicability to a local cultural context.

After briefly examining popular discourse and putting it in context in Part II, this paper will move on to consider how local beliefs and behaviours influence the current understanding of power imbalance. Part III looks at the effects of these local characteristics on the presence of imbalance between the parties. With this understanding, Part IV reconsiders the acceptability of power imbalances and offers some suggestions as to how it is to be addressed. It is hoped that this article yields a more nuanced picture of the topic in a Singaporean context.

## **II. Power imbalances in general**

Power, in the context of conflict scenarios, has been defined as the ability to get one's needs met and to further one's goals.<sup>3</sup> Imbalance between the parties can be due to differences in terms of (non-exhaustive): age, gender,

race, education, information, legal advice, funding, experience, personality and even moral beliefs.<sup>4</sup>

The concern is generally with disputes that involve individuals as pitted against other individuals or larger entities, as opposed to disputes between corporations. This essay will similarly focus on disputes of the first kind. While power imbalances similarly exist between larger entities, they can be taken to have entered into the unequal relationship of their own volition.<sup>5</sup>

### ***A. Effect on suitability for mediation***

The current literature generally adopts a strong stance against the presence of power imbalances in mediation. Symmetrical power relations are regarded as being optimal for effective mediation.<sup>6</sup> Vice versa, it is commonly accepted that strong power imbalance makes a case unsuitable.<sup>7</sup> Hence, contemporary literature is mainly focused on the question of whether and how power imbalances can be evened out.

Two main points have been argued, either separately or in tandem. The first focuses on the process itself and how the procedures of mediation counteract power imbalances.<sup>8</sup> The second advances strategies that can and should be employed by the mediator for the purpose of reducing imbalances.<sup>9</sup> Both assume that power imbalances undermine mediation. Even where it is admitted that power imbalance in some form is inevitable, the balancing of power in some form is still seen as desirable.<sup>10</sup>

### ***B. A Western POV is evident behind these claims***

Underlying the strong opposition to the existence of inequality between the parties is the notion that the principles of party autonomy and self-determination are fundamental to mediation.<sup>11</sup> Where one party has substantially less power than the other, his ability to participate in negotiating for his interests is compromised. The balancing of power is thus seen as a way to ensure parties are sufficiently empowered to make decisions for themselves<sup>12</sup> since priority is placed on the interests of the individual.<sup>13</sup>

This notion is a Western one, rather than one universal or intrinsic to the process of mediation in itself. According to Hofstede's cultural framework, all European and Anglo-Saxon countries qualify as "individualist" on the individualism/collectivism dimension.<sup>14</sup> Such cultures place emphasis on individuals rather than relationships. Further, those countries tend to measure as low power distance on Hofstede's power distance index (PDI) which measures society's attitudes towards the distribution of power. A low score indicates a societal preference for, and in fact an expectation of, equality. As such, the primacy of party autonomy and the need for power imbalance are in line with Western culture.

### **III. Power imbalances in a Singapore context**

The different cultural characteristics of Singapore warrant a consideration as to whether the current Western literature applies and to what extent. It will be argued that power imbalances manifest in a different manner such that power disparity between parties may be more glaring than in a Western situation, but whether the situation is of concern is dependent on context.

#### ***A. Singaporean characteristics***

Singapore is a multi-racial society, composed of 74.1% Chinese, 13.4% Malays, 9.2% Indians and the remaining being those of other races.<sup>15</sup> Of these, the major religions are Buddhism/Taoism, practiced by 44.2% of the population, Islam at 14.9%, Christianity at 14.6%.<sup>16</sup> While often regarded as a place where "East meets West", Singapore still retains its traditional Asian values.<sup>17</sup> It is suggested that the characteristics identified by Lee and Teh as being typical of Asian culture apply.<sup>18</sup> These are: (a) Confucianism, (b) collectivist inclination and (c) prevalence of face concerns.

Applying the Hofstede framework, Singapore scores high on the power distance dimension with a score of 74, indicating a highly hierarchical society.<sup>19</sup> This can be credited to a Confucian background both due to the predominance of the Chinese and national education efforts.<sup>20</sup>

The implication is that unequal relationships, or “vertical relationships” of senior and junior, are seen as the natural order of society.<sup>21</sup>

On the individualism/collectivist dimension, Singapore scores a low 20, indicating a collectivistic society.<sup>22</sup> Individuals place a higher value on group harmony above personal interest.<sup>23</sup> The concept of “group” must be qualified — cooperation is often limited to those of “in-groups” as opposed to “out-groups”.<sup>24</sup> In-groups among collectivist cultures are stable and tend to be maintained even at high individual cost.<sup>25</sup> However, the definition of an in-group and who constitutes its members will depend on the situation.<sup>26</sup>

The concept of “face” comes into play here. Individuals promote harmony within their in-groups by “giving face”, that is, according them the respect they are due by reference to their social position.<sup>27</sup> At the same time, they will act to preserve their own face (“save face”). This latter behaviour is more prevalent when with members of out-groups.<sup>28</sup>

The characteristics contrast with the earlier-mentioned Western notions of individual autonomy and hence warrant a re-examination of the issues surrounding power imbalance.

### ***B. Effect on power imbalance***

The effect of local culture alters the way in which Singaporean parties respond to power disparity. Generally, it serves to emphasise these inequalities. At the same time, however, some aspects of culture counteract the negative effects of these inequalities such that power imbalance is not always a concern.

#### *(1) Accentuating power imbalances*

A number of these characteristics can be seen to potentially worsen the problem of power imbalances.

The acceptance of hierarchy in society coupled with the ideology of placing society before self may lead to those with less power ceding to those with more power more easily. It is posited that in Singapore, these are likely to be along the lines of gender and seniority in terms of both age and rank.<sup>29</sup>

Face play may contribute to bringing about an unequal result as well. Someone in an inferior position may feel the need to give in to the wishes of the superior in order to give face to them and not aggravate the situation, especially where the other party is perceived as being in-group.<sup>30</sup> To do so would be proper behaviour.<sup>31</sup>

Face concerns may also lead a person of higher status to demand a settlement that is more than he should reasonably obtain, in order that he preserve his face in a dispute.<sup>32</sup> Such behaviour is plausible as the person is likely to have regarded himself to have lost face in having to come to the mediation in the first place.<sup>33</sup> Further, the opposing party's earlier transgression may result in him being considered an out-group, such that there is no obligation towards him anymore.<sup>34</sup>

Mediators who are from the same collectivist, hierarchical background may also not regard a settlement that satisfies more of the more powerful party's interests as being unfair. Being used to the social distribution of power, they would be less wont to intervene for the purpose of equalising power between the parties.<sup>35</sup> Furthermore, given the premium placed on harmony, they may regard the resolution of the dispute as having value that far outweighs the minor injustice of an imbalanced outcome.

## *(2) Counteracting negative impacts of power imbalances*

At the same time however, the mutuality involved in certain characteristics may act to ameliorate the likelihood of unjustness against the weaker party even with the existence of unequal powers.

On the flip side of the duty of obedience and respect to superiors is the reciprocal Confucian value of benevolence towards and even protection of the person in the junior position.<sup>36</sup> If the superior does have such an approach, power imbalance between the parties does not result in exploitation but in fact helps the parties move towards a mutually beneficial resolution.

Additionally there is the trait of granting compassionate treatment towards those regarded as part of their in-group. This follows from the strong obligations towards the group in collectivist societies. As mentioned above, unlike individualist cultures where in-groups can be easily

dropped and re-formed, collectivist cultures see themselves as greatly committed to their in-groups.<sup>37</sup>

These characteristics theoretically prevent any negative effects from impacting the power imbalance. However, it is unclear whether such magnanimous Confucian behaviours will be upheld at a conflict scenario at the mediation table with regard to a junior.<sup>38</sup> Further, the dispute may also have broken the superior's view that the disputant is still part of the in-group, at least for the time period. It is possible that the subordinate's behaviour in behaving in such a way that gave rise to the conflict in the first place, and allowing it to escalate to this stage, would be considered unworthy of any reciprocal positive treatment.

### *(3) Possible scenarios and areas of concern*

We must draw a distinction between the mere existence of a power disparity between the parties and its exercise in an abusive manner. Where the power imbalance remains merely "potential",<sup>39</sup> the problem of unjustness does not manifest.

To sum up the above, the traits that emphasise and add to the effect of power imbalances are: the acceptance of hierarchy as a norm in society, the Confucian value of respecting superiors and, related to that, the social expectation of subordinates to give face to superiors, especially to those perceived as in-group, and of superiors to save their face by demanding more.

Cultural traits that reduce the effect of power imbalances by preventing exploitation even where power differential exists are: the reciprocal Confucian duty of benevolence as exercised by superiors towards subordinates and, related to that, the social expectation of superiors to give face to and treat preferentially members perceived as in-group.

Diagram 1 depicts the various permutations that may result between an encounter between two disputants who fit into the Singaporean cultural framework proposed above.

Cells with horizontal strips indicate situations that do not involve the exploitation of power even where one party is significantly stronger than the other. These situations are likely to be resolved harmoniously.

		HIGH STATUS				
		Strong Confucian values		Weak Confucian values		
		In-group	Out-group	In-group	Out-group	
		Seen by other party as member of:				
LOW STATUS	Strong Confucian values	In-group	Harmonious resolution	Harmonious resolution	Harmonious resolution	Harmonious resolution
				likely	possible	possible
		Out-group	Abuse possible	Acceptable negotiation	Abuse likely (*)	Abuse likely
	Weak Confucian values	In-group	Harmonious resolution	Harmonious resolution	Harmonious resolution	Harmonious resolution
				likely	possible	possible
		Out-group	Acceptable negotiation	Acceptable negotiation	Abuse likely	Western-style negotiation (#)

Diagram 1. Mediation results matrix in Singaporean context.

Cells with vertical strips indicate situations of great concern where power imbalance is likely to reach an abusive degree. In these cases, the Asian values that aggravate power imbalances are insufficiently counteracted by those that negate its negative effects.

Cell (\*) indicates the worst possible scenario. This is where the senior does not buy into the Confucian ethic of showing compassion and also views the subordinate as an out-group and disregards any magnanimity on that accord, but the subordinate views the senior as in-group and acts in deference in accordance to Confucian norms, giving face and placing perceived group interests over his own.

Where parties regard the other as a member of an out-group, or do not adhere to the Confucian values (of either respecting superiors or being benevolent to subordinates), bargaining takes place according to Western norms where individual interests take priority. The analysis of current

literature applies to such cases. The archetypical scenario (#) is indicated in the last cell.

Unshaded cells indicate scenarios where exploitation of the weaker party is unlikely to occur.

#### **IV. The question of mediator intervention**

Given the altered picture of power imbalances in the Singapore context, how does it inform our consideration of whether and to what extent mediator intervention is acceptable and what forms it should take?

##### ***A. Acceptability of power imbalances***

As mentioned earlier, the conventional view that has gone almost unquestioned is that power imbalances must be addressed. However, there are views that go against the grain, arguing that power imbalances in mediation are no cause for concern — in general but particularly in an Asian context.

One perspective is that power imbalances enable faster and better results in negotiation.<sup>40</sup> Rubin and Zartman observed in a study that symmetry of power produces deadlock between the parties, and produced outcomes that are less mutually satisfactory and in a less efficient manner.<sup>41</sup> This would suggest that imbalances in a mediation should be utilised and in fact leveraged on in order to reach the desirable outcome of settlement.

It has also been argued that in an Asian context inequalities are “expected and desired” even in the context of mediation.<sup>42</sup> Based on the Confucian conception of fairness and the high PDI in such countries, it is further asserted that any action to neutralise such imbalances is likely to be offensive to such parties because of the disruption of social relationships.<sup>43</sup> This would be the mediator, presumably from a country with a low PDI, imposing his own cultural beliefs of fairness.<sup>44</sup> Commentators argue that this ethnocentric attitude is an unhelpful one.<sup>45</sup>

Indeed, a disputant of low status and power may feel self-conscious in being prompted to assert his rights, especially where it may be rebuked by the superior or cause any loss of face to the superior

himself.<sup>46</sup> The possibility of face-threatening confrontation where a mediator actively attempts to help them fight for equality may also be uncomfortable since direct communication would not seem an appropriate response even where there is perceived injustice.<sup>47</sup>

On the other hand, critics of the views above caution that mediators must not be blinded by the idea of cultural relativism, such that they allow outcomes of mediation that are not socially just.<sup>48</sup> This suggests that intervention in cases of power imbalance may still be appropriate. In fact, the mediator must do even more to work against such deep-set cultural norms.

It is suggested that a more considered stance is necessary rather than advocating a completely hands-off approach on the basis of the parties being of Asian culture or taking the other extreme in discounting the impact of culture altogether. It has been posited that Eastern cultures do not view power imbalance in itself as a problem, only the abuse of power.<sup>49</sup> It is suggested that this would be a more sensitive view applicable to Singapore as well. Simply because inequality is expected by the weaker party does not equate to the unjustness of its effects being desired in a conflict scenario. At the same time, overwriting cultural expectations held by the parties in favour of the mediator's own judgment of fairness is unhelpful to all. The acceptability necessarily depends upon views as to the desirability of mediator neutrality as well, an issue that is beyond the scope of this paper.<sup>50</sup> This author suggests that intervention, even in an Asian culture, must be acceptable where the situation is an exploitative one.

## ***B. Addressing power imbalances in a Singapore context***

### *(1) Desirability of guidelines*

The extent of intervention ultimately depends upon the objectives of mediation. Low had identified three legitimate goals: preserving relationships, promoting party autonomy and obtaining efficient settlements, while recognising that these conflict and there is no clear agreement as to how they should be prioritised.<sup>51</sup>

The desirability for the implementation of guidelines in this area has been espoused by some commentators.<sup>52</sup> If this were to be done, it is

important that the unique cultural context of Singapore be taken into consideration.

Local mediation centres have already shown some sensitivity in this regard. For example, the Community Mediation Centre has a diverse pool of mediators from different backgrounds and mediators are matched to cases according to the profiles of the parties.<sup>53</sup> They also adopt a co-mediation model, which reduces power imbalance where one party has one or more advantages in the areas of gender, race, religion and language. Further guiding principles as to the presence of a duty to reduce power imbalance, the extent of this duty, and what actions should be taken is desirable.

## *(2) Suggested points for consideration*

The author proposes that the following points will be helpful if intervention by the mediator is to be carried out.

First, it is suggested that mediators in Singapore be alert to potential exploitative scenarios by being cognisant of whether the parties are behaving in accordance with the Confucian values of respect and benevolence as well as whether they perceive the other party as an in-group or out-group member. This approach ensures cultural sensitivity, while acknowledging that not all parties may behave according to the “Asian rules”, especially in a conflict scenario,<sup>54</sup> and that, at times, the rules of Asian culture may operate in a grossly unfair manner that necessitates intervention.<sup>55</sup>

Second, any intervention must be executed through indirect communication, making sure to help parties save face. The Singapore culture is a high-context one, which has implications on the communication style preferred.<sup>56</sup> An approach that protects the face and honour of the parties would engender cooperation, while being confrontational and insensitive to parties’ face concerns will have the opposite effect.<sup>57</sup> When it comes to option generation for example, it has been proposed that the mediator should be the one to propose ideas even where the idea was generated by the person in the junior position, and to propose it in a caucus if necessary.<sup>58</sup>

A focus on repairing and restoring relationships may be the key to preventing exploitation. It has been seen that the treatment of the subordinate by the person in the position of power is highly dependent on

whether the subordinate is perceived as being a member of an in-group or out-group. Where this perception can be altered, the problem of power imbalances can be avoided despite the existence of a power differential between the two. However, this may not always be possible to achieve.

Finally, where intervention is executed with proper sensitivity, it is more than likely to be effective as parties will be receptive to a mediator's interventions. Because of the high PDI in Asian cultures, mediators are seen to be of high authority so their recommendations will carry great legitimacy.<sup>59</sup> Parties would also be inclined to give face to the mediator.

## **V. Conclusion**

The area of power imbalance in mediation is a tricky one, which many commentators have weighed in on. Exploring it from a Singaporean lens adds a unique dimension to the issue as we see how its cultural landscape affects the dynamics of the relationship between higher- and lower-powered parties.

A more nuanced examination of how power disparities may play out moves us away from both the blanket imposition of the Western-centric approach towards the issue, and, on the other end, the simplified view that power imbalances are acceptable simply because Asian cultures are hierarchical and prioritise group harmony. Instead, we see that in Singapore's cultural context, power imbalance is power in balance only in certain situations.

There is some way to go before local consensus on the issue of appropriate mediator intervention can be reached. However, with a more sensitive understanding of the topic, perhaps we can proceed to do so in a more culturally informed manner.

## **Endnotes**

1. For key authors who have written on this, see Carolyn Manning, "Power Imbalance in Mediation", Carolyn Manning Consulting Services (undated) <[http://www.carolynmanningconsultingservices.com.au/files/6514/3556/8396/Power\\_Imbalance\\_in\\_Mediation.pdf](http://www.carolynmanningconsultingservices.com.au/files/6514/3556/8396/Power_Imbalance_in_Mediation.pdf)> (accessed 15 October 2015).

2. For examples that also consider an Asian perspective, and for the question of the role of trust in mediation, see Melanie Billings-Yun, "Trust and Mediation in Asia — The Process or the Person" (2006) *Asian JM*. See Joel Lee & Sugene Gan, "Value Creation in Mediation" (2011) *Asian JM* for methods of value creation.
3. Bernard S. Mayer, *The Dynamics of Conflict Resolution: A Practitioner's Guide* (San Francisco: Jossey-Bass, 2000) at 50.
4. Christopher W. Moore, *The Mediation Process: Practical Strategies for Resolving Conflict* (San Francisco: Jossey-Bass, 2003, 3<sup>rd</sup> Edition) ("Moore").
5. Karl Mackie, David Miles, William Marsh & Tony Allen, "ADR and Injury Claims: Dealing with Power Imbalance and Emotion", in *The ADR Practice Guide: Commercial Dispute Resolution* (London: Butterworths, 2000, 2<sup>nd</sup> Edition) at 16.2.1.
6. Moore, see above note 4 at 389.
7. This is most apparent in cases of divorce mediation, but is by no means limited to such scenarios.
8. Jordi Agusti-Panareda, "Power Imbalances in Mediation: Questioning Some Common Assumptions" (2004) 59(2) *Dispute Resolution Journal* 24; Scott H. Hughes, "Elizabeth's Story: Exploring Power Imbalances in Divorce Mediation" (1995) 8(3) *Georgetown Journal of Legal Ethics* 553 ("Hughes") at 578.
9. John M. Haynes, Gretchen L. Haynes & Larry Sun Fong, *Mediation: Positive Conflict Management* (Albany: State University of New York Press, 2004).
10. Ruth Charlton & Micheline Dwedney, *The Mediator's Handbook: Skills and Strategies for Practitioners* (Sidney: Lawbook Company, 2<sup>nd</sup> Edition, 2004) at 310.
11. The primacy accorded can be seen for example from: Standards of Conduct for Mediators, Preface to Joint Committee of Delegates from the American Arbitration Association, American Bar Association Sections of Dispute Resolution and Litigation, and the Society of Professionals in Dispute Resolution (1994). Standard I provides "Self-determination is the fundamental principle of mediation."
12. Sara Cobb, "Empowerment and Mediation: A Narrative Perspective" (1993) 9(3) *Negotiation Journal* 245. The author here however is of the view that this common viewpoint is flawed as she sees the act of balancing power is disempowering instead. Regardless, she accepts that empowerment is one of the fundamental selling points of mediation.
13. Joel Lee & Teh Hwee Hwee, "Appropriateness of the Interests-based Model for the Asian Context", in *An Asian Perspective on Mediation* (Joel Lee & Teh Hwee Hwee eds.) (Singapore: Academy Publishing, 2009) at 36.

14. Geert Hofstede, *Culture's Consequences: Comparing Values, Behaviors, Institutions and Organizations Across Nations* (Thousand Oaks, CA: Sage Publications, 2<sup>nd</sup> Edition, 2001).
15. "CENSUS of population 2010: Statistical Release 1 Demographic Characteristics, Education, Language and Religion", *Singstat* (2010) <[http://www.singstat.gov.sg/docs/default-source/default-document-library/publications/publications\\_and\\_papers/cop2010/census\\_2010\\_release1/cop2010sr1.pdf](http://www.singstat.gov.sg/docs/default-source/default-document-library/publications/publications_and_papers/cop2010/census_2010_release1/cop2010sr1.pdf)> (accessed 15 October 2015) ("*Census 2010*") at 10.
16. *Census 2010*, see above note 15 at 11.
17. Lien Le Monkhouse, Bradley R. Barnes & Thi Song Hanh Pham, "Measuring Confucian Values among East Asian Consumers: A Four Country Study" (2013) 19(3) *Asia Pacific Business Review* 320.
18. Joel Lee & Teh Hwee Hwee, "Asian Culture: A Definitional Challenge", in *An Asian Perspective on Mediation* (Joel Lee & Teh Hwee Hwee eds.) (Singapore: Academy Publishing, 2009) ("*Definitional Challenge*") at 54–61.
19. Geert Hofstede, "Singapore Cultural Dimensions", The Hofstede Centre (undated) <<http://geert-hofstede.com/singapore.html>> (accessed 15 October 2015) ("*Singapore Cultural Dimensions*").
20. Charlene Tan, "Our Shared Values in Singapore: A Confucian Perspective" (2012) 62(4) *Educational Theory* 449.
21. Harry C. Triandis, Robert Bontempo, Marcelo J. Villareal, Masaaki Asai & Nydia Lucca, "Individualism and Collectivism: Cross-Cultural Perspectives on Self-Ingroup Relationships" (1988) 54(2) *Journal of Personality and Social Psychology* 323 ("*Triandis*") at 325.
22. *Singapore Cultural Dimensions*, see above note 19.
23. Law Siew Fang, "More than Collectivism — A *Guanxi*-oriented Approach to Mediation", in *An Asian Perspective on Mediation* (Joel Lee & Teh Hwee Hwee eds.) (Singapore: Academy Publishing, 2009).
24. *Triandis*, see above note 21.
25. *Triandis*, see above note 21 at 324.
26. *Triandis*, see above note 21 at 326.
27. *Triandis*, see above note 21; Stella Ting-Toomey, "International Conflict Styles: A Face-Negotiation Theory", in *Theories in Intercultural Communications* (Young Yun Kim & William B. Gudykunst eds.) (Newbury Park, CA: Sage, 1988).
28. *Triandis*, see above note 21 at 325; *Definitional Challenge*, see above note 18 at 66.
29. This would be in line with Confucianism which recognises superiority of the former over the latter in four relationships: ruler to subject, father to

- son, elder brother to younger brother, husband to wife and elders and juniors among friends. These relationships are governed by propriety and reciprocity.
30. Stella Ting-Toomey & John G. Oetzel, eds., *Managing Intercultural Conflict Effectively* (Thousand Oaks, CA: Sage Publications, 2001) at 139–140; Irene K.H. Chew & Christopher Lim, “A Confucian perspective on conflict resolution” (1995) 6(1) *The International Journal of Human Resource Management* 143 (“Chew & Lim”) at 145.
  31. *Definitional Challenge*, see above note 18 at 63.
  32. Byung-June Chun, “Facework and Its Effects in Korean Firms” (2005) 9(2) *Journal of Korea Trade* 71 (“Chun”), at 74; John Barkai, “What’s a Cross-Cultural Mediator to Do? A Low-Context Solution for a High-Context Problem” (2008) 10 *Cardozo Journal of Conflict Resolution* 43 (“Barkai”) at 82.
  33. *Definitional Challenge*, see above note 18 at 63.
  34. *Triandis*, see above note 21 at 326.
  35. Ian Macduff, “Decision-making and Commitments: Impact of Power Distance in Mediation”, in *An Asian Perspective on Mediation* (Joel Lee & Teh Hwee Hwee eds.) (Singapore: Academy Publishing, 2009) (“Macduff”) at 124.
  36. Bruce E. Barnes, *Culture, Conflict and Mediation in the Asian Pacific* (Maryland: University Press of America, 2006) at 9.
  37. *Triandis*, see above note 21 at 324.
  38. For the approach taken towards equals — business managers to other business managers, refer to *Chew & Lim*. See above note 30.
  39. *Hughes*, see above note 8 at 578 and 583.
  40. Rubin, Jeffrey & William Zartman, “Asymmetrical Negotiations: Some Survey Results that may Surprise” (1995) 11(4) *Negotiation Journal* 349 (“Rubin & Zartman”) at 350.
  41. *Rubin & Zartman*, see above note 40 at 359–360.
  42. *Barkai*, see above note 32 at 63.
  43. Jasper Ozbirn, “Mediating Cross-Cultural Power Imbalances — Maintaining ‘Fairness’ by Complying with Cultural Expectations”, *ADR Times* (20 June 2011) <<http://static1.1.sqspcdn.com/static/f/573702/12713888/1308090790317/06.13.11+Power+Imbalances+in+Mediation.pdf?token=Zu3tj%2Fi9HGgTXq7W5gSL%2Fpkk5T8%3D>> (accessed 15 October 2015) (“Ozbirn”) at 4–7, 10 and 13.
  44. *Ozbirn*, see above note 43 at 2.

45. Giyang An, “Enhancing the Effectiveness of Mediation in Korean-American Family Disputes: Cultural Sensitivity Training for Mediators and Co-mediation Teams”, (2010) 11 *Cardozo Journal of Conflict Resolution* 557 (“Giyang”) at 576.
46. R. S. Merkin, “Power Distance and Facework Strategies” (2006) 35 *Journal of Intercultural Communication Research* 139 (“Merkin”) at 140–141 and 144–145.
47. Merkin, see above note 46 at 145–146.
48. Dale Bagshaw & Elisabeth Porte, *Mediation in the Asia-Pacific Region: Transforming Conflicts and Building Peace* (New York: Routledge, 2009) (“Bagshaw & Porte”) at 13; Giyang, see above note 45 at 575.
49. Bagshaw & Porte, see above note 48 at 21.
50. Like party autonomy, neutrality is considered a key tenet of mediation as well. See for example Australia Law Council’s *Ethical Guidelines for Mediators*. Literature differ as to how parties from Asian culture regard the concept of a neutral mediator — some argue that neutrality is still desired but in a different form, while others argue that parties are not used to the idea of a neutral mediator at all. Dale Bagshaw, a proponent calling for intervention even in Asian cultures, argues that the concept itself should be discarded. Bagshaw & Porte, see above note 48 at 21.
51. Joyce Low, “Promoting Ethical Practice in the Mediation Community” (2011) *Asian JM* (“Joyce”) at 21–22.
52. Elizabeth Chua, “Procedural Safeguards to Combat Power Imbalances in Mediation” (2014) *Asian JM* at 34–36; see generally Joyce, for which see above note 51 at 21–22.
53. Ho Peng Kee & Gloria Lim, “Mediation to Resolve Community and Social Disputes” (2012) *Asian JM* at 7.
54. See cell (#) in the diagram.
55. See cell (\*) in the diagram.
56. Macduff, see above note 35 at 196.
57. Chun, see above note 32 at 74.
58. Other strategies that can or should be adopted are in Joel Lee & Teh Hwee Hwee, “One Asian Perspective on Mediation”, in *An Asian Perspective on Mediation* (Joel Lee & Teh Hwee Hwee eds.) (Singapore: Academy Publishing, 2009) (“Lee & Teh”) at 96–97.
59. Lee & Teh, see above note 58 at p 76.