

Kluwer Mediation Blog

Bias & Virus – how mediators should carry themselves during this difficult time?

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This is a tale from an ancient piece of Chinese literature – Lu’s Commentaries of History – – compiled in 239 B.C. by Lu Buwei, the Prime Minister of the state of Qin.-

“There was once a villager who had lost his hatchet. Thinking it was stolen by his neighbour’s son, Wang, he began observing Wang’s demeanour. He noticed Wang behaving incredibly suspiciously, his facial expressions and the way he conducted himself suggested that he was the culprit. The villager, however, did not have any proof and so was unable to confront Wang. Later, as he was working on his land in the valley, he unearthed his own hatchet. When he returned to the village, he saw Wang again in the neighbourhood. This time, he found Wang differently, as Wang no longer appeared to be behaving suspiciously like a thief would.

What was the change? It was not the behaviour of Wang but the villager’s state of mind. Bias makes us have a different mindset.”

It is most interesting to note from this tale that the concept of bias has a very long history and had been narrated long before it was properly and systemically investigated. In the 1960s, [Peter Cathcart Wason](#), an English cognitive psychologist at University College London, developed the [hypothesis](#) of “confirmation bias” via the “2-4-6” task, four card task, and THOG task. Additionally, he had designed [a series of experiments](#) to argue against [Piaget’s formal operational stages of cognitive development](#), which proposed that adult humans were reasoned by logical analysis. According to Wason, our thinking is often illogical and irrational once expectations of outcome come into our minds.

Today, we use the term “confirmation bias” in a more general sense. “[Confirmation bias](#)” is a term describing the tendency to search for, interpret, favor, and recall information in a way that confirms or strengthens one’s prior personal beliefs or hypotheses. Often, one would subconsciously prefer remarks and feedback that assimilate with their beliefs, and at the same time reject or even devalue opposing ideas and notions.

Mediation practitioners and mediation teachers talk about “confirmation bias” to illustrate the challenges around being impartial. Because of each mediator’s unique upbringing as well as, educational, social and religious experiences, a mediator could be selective in comprehending information conveyed by the parties and also in the process of generating the “appropriate” options. One of the purposes of mediation training is to raise awareness of “confirmation bias” so that trained mediators will be able to facilitate the disputing parties to go through the mediation

process in a neutral and non-biased manner. Bearing the principle of parties' self-determination in mind, trained mediators should be conscious of their role in the mediation room, eliminating any preconceptions and biases.

Do mediators practise what they preach outside the classroom? The world is now faced with an unprecedented challenge in COVID-19, which has resulted in social distancing as well as draconian measures by government authorities such as the lockdown of cities to contain the spread of the virus. Like many others, mediators also suffer from the negative impact of the virus and the measures. The impact ranges from developing online mediation practice unwillingly, having to be stuck with the partner and children for an unexpected long period, reduction of income to illness and possible demise of life. So, one would not be surprised if mediators would have the negative feeling of being victimized or losing their identity which they normally find in the room. At the same time, politicians are quick to use whatever data they find to support their arguments about the source of the virus and point fingers. Lawyers are excited to prepare class action lawsuits against potential defendants. Others just cannot resist to moan. So, how should we mediators carry ourselves during this difficult time?

We must avoid the trap of "confirmation bias" outside the mediation room. We must not allow our egos to devalue any information proving us wrong. When we face disagreement, we should keep an open mind. We should not be making unsolicited remarks or unjustified conclusions on sensitive topics, such as where the virus originated and/or whether it is appropriate to wear or not to wear a facemask when one goes outside. If mediators are to be involved in the discussions of these issues or similar issues, we must remain cautious in order to not taint the image of our mediator profession. Remember the excellent quote of Dale Carnegie "*Any fool can criticize, condemn and complain but it takes character and self-control to be understanding and forgiving.*".

As I shared recently on another occasion ([Young Mediators Initiative](#)), mediators at this trying time have the greater responsibility of ensuring that there is no dispute at home, helping the community make peace, and continuing mediation work with protective measures or via modern technology. By showing empathy and the willingness to listen, mediators will not only overcome bias but also ease pain, reduce fear and facilitate positive communication so as to assist ourselves and people around us, whether they are disputants or otherwise, to learn the lessons from God.

With the higher goal of promoting mediation worldwide, we shall make good use of this challenging time (which can be reframed as a time with lots of opportunities ahead) to improve ourselves and do well at home.

I end this blog entry with another piece of ancient Chinese literature. "...*From ancient times, those who want to promote great virtue to the world, first need to govern their states; in order to govern their states, they need to first manage their family; in order to manage their family, they need to first improve themselves...*" – [Books of Rites](#), a collection of texts from various sources recording laws and customs of the Zhou Dynasty in China from 1046 to 256 B.C.

Thanks to Freddy Chiu Hon Lun, who holds a UCL master's degree in cognitive neuroscience, for his assistance and input.


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The graphic features a black background with white text and a circular icon. The icon depicts a group of five stylized human figures, with a magnifying glass positioned over the central figure. The background is accented with horizontal lines in blue and green.

This entry was posted on Thursday, April 2nd, 2020 at 2:00 am and is filed under [Bias](#), [Chinese Literature](#), [Cognitive Bias](#), [Conflict](#), [Mediator's Image](#), [Neuroscience](#), [Promoting Mediation](#), [The role of the mediator](#)

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