

Kluwer Mediation Blog

Moon Festival

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According to the Chinese Lunar calendar, yesterday (1 October 2020) was the Mid-Autumn Festival, commonly known as the Moon Festival in the West. With more Chinese living in different parts of the world, the Moon Festival has been receiving more attention, and gradually, it is becoming a popular festival everywhere as we all like to have fun with lanterns and delicacies such as mooncake and seasonal fruits.

How did the Moon Festival come about? There are tales and legends surrounding the origins of the Moon Festival and even a native Chinese may not be able to tell with certainty as to which version is more plausible or probable. I would like to make use of this blog entry to share one of the tales relating to the Moon Festival and explain how mediators could on appropriate occasions make use of this story to share thoughts with the disputing parties and assist them to move away from their positions.

Hou Yi (“Yi”) was a superb archer and saved the world by using his arrows to shoot down nine of the ten suns resulting in a cooler world and putting a halt to the increasing deaths caused by heat stroke. To reward Yi, the Goddess of the West gave Yi a bottle of elixir that has the power to make one not only immortal but also have the ability to fly to heaven as an angel. Yi had no intention of taking the magic potion as he loved his wife, Chang’e (“E”) dearly and would very much like to spend more time with her. E was not only pretty but also kind-hearted. Yi trusted E very much and asked E to keep the elixir for him. One day, Yi was out when one of his apprentices, Feng Meng (“Meng”) had attempted to steal the elixir but failed as he was discovered by E. When Meng tried to rob the elixir from E, she felt helpless and was in panic. In order to make sure that Meng would not be able to get the gift from the Goddess of the West, E pushed Meng away and drank the elixir herself. All of a sudden, she started to fly higher and higher and eventually landed on the Moon where she became immortal. Yi lost his beloved wife and felt very sad.

As a mediator, I sometimes share this story with the parties particularly when the mediation session takes place around the time of the Moon Festival. I would ask the parties (probably in a separate meeting) to tell me whether the magic potion was more of a godsend or a curse. The bottle of elixir was a gift from the Goddess of the West and it was supposed to be an acknowledgement of Yi’s good deeds. Knowing that he would not drink it, Yi did not give it away but chose to keep it. Entrusting E with the important duty of keeping the elixir displayed his love to and confidence in her but ironically, Yi put E in great danger and eventually had paid a high price for it. In real life, a family heirloom may generate disputes, conflicts, hatred and years of litigation. Mediators dealing with probate disputes must have come across family feuds among those who are highly educated

and likely to be well-to-do. Children of the deceased spend years to fight for things (such as a slightly bigger portion of the estate or a particular piece of ornament) because, to them, these would represent more love or equal love from the deceased. I confront them with reality-testing questions such as “Do you really need the extra money?” or “Would you like to see something similar happening among your own children upon your demise? or “Is the legal battle that you are fighting for so important and essential or is it merely of a demon on your mind?”. I use my questions to assist each party to find out whether the “elixir” is in fact as precious as it appears to be.

Many of us have underestimated the negative impact on one’s health in the litigation journey. Winning a court case may mean more money but most of the litigants are not aware of the stress that may incur. Money, fame or health – what is your choice?

A spilt-second decision is likely to be a bad decision. E had a good heart and she had the kind intention of guarding against the attempt theft or robbery by Meng. With the benefit of hindsight, most of us today may think that letting Meng have the magic potion could have been a better decision as he would then have been the one got “imprisoned” on the Moon forever. In real life, people may have predicaments landing on them without wrongdoing on their part and yet they have to deal with these unexpected crises within a short period of time. So, one of the takeaways from the story of the Moon Festival is that we need to be ready to “Go to the balcony” at all times. According to William Ury, “Go to the balcony” is when one is negotiating, part of one’s mind should go to the mental and emotional balcony, which is a place of calm, perspective, and self-control where one could stay focused on the person’s interests. Had E gone to the balcony and managed to be more focused on her interests (i.e. needs, concerns and fear) than her position, she might have made a different decision and thus not got stranded on the Moon.

I draw inspiration from the story and am conscious that mediation success rate is not my “elixir”. The parties could have commenced proceedings out of anger or high emotions. Mediators help the disputants make informed decisions on the way forward through the mediation process. It is important that I walk through the process with the parties but do not rush them to settle in order to have the feeling of success. Settlement may make us feel good or famous. Nevertheless, the feeling of success is by no means more important than the interests of the parties. Too focused on the settlement rate is like being obsessed with the elixir and that may make a mediator unable to make the most appropriate process decisions.

I would like to end this blog entry with a personal sharing. This time last year, I went to Shanghai of China to visit my grown-up son. We had a good time together and on 3 October 2019, he gifted me a simple plastic watch before I left Shanghai for home. It was a wonderful gift from my son but to be honest, I did not expect at that moment I would wear the watch very often since I do have my other watches. With Covid-19, I have to wash my hands regularly every day and the plastic watch suddenly has become my best companion. All the more expensive watches with leather straps have to be sent to the drawer. Life is full of uncertainty and surprises. Something that seems to be more valuable may not be the thing that you need. The things or people that have positive impact on us may not be those that we dream to have or be with.

Thanks to Ching K Iu for giving me the watch and the assistance in touching up the contents of this blog entry.

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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 Friday, October 2nd, 2020 at 1:00 am and is filed under [Chinese Culture](#), [Go to the balcony](#), [Mediation Skills](#), [Mindset](#), [Reality-Testing](#)

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