

Primetime Dispute Resolution: Reality TV Mediation Shows in China's "Harmonious Society"

Colin S. Hawes

Shuyu Kong

Through a case study of reality TV mediation shows, this article joins the debate about the recent promotion of formal and informal mediation by the Chinese government, what some scholars have called a "turn against law" (Minzner 2011). We identify three converging reasons for the sudden popularity of mediation shows on Chinese primetime television: (1) the desire of TV producers to commercially exploit interpersonal conflicts without fanning the flames of social instability; (2) the demands of official censors for TV programming promoting a "harmonious society"; and (3) the requirement for courts and other government institutions to publicly demonstrate their support for mediation as the most "appropriate" method for resolving interpersonal and neighborhood disputes. Cases drawn from two top-rated mediation shows demonstrate how they privilege morality and "human feeling" (*ganqing*) over narrow application of the law. Such shows could be viewed merely as a form of propaganda, what Nader has called a "harmony ideology"—an attempt by the government to suppress the legitimate expression of social conflict. Yet while recognizing that further political, social, and legal reforms are necessary to address the root causes of social conflict in China, we conclude that TV mediation shows can help to educate viewers about the benefits and drawbacks of mediation for resolving certain narrow kinds of domestic and neighborhood disputes.

Over three decades have passed since China entered the postsocialist reform era. While economic progress has greatly improved the material lives of many people, the economic reforms and consequent decline in socialist institutions have also caused enormous upheaval and disruption of the social fabric. There has been a significant increase in social conflict, inequality, and class stratification. The decline in traditional forms of social belonging, such as work units, active membership of the Chinese Communist Party (CCP), and other social and political organizations, such as neighborhood committees, and a corresponding increase in social isolation and the spread of individualism, together with labor mobilization and urbanization, have raised major concerns about collapsing social networks and a decline in civic virtue (Sun & Guo 2012: 1–2). How to rebuild and strengthen the social fabric against

Please direct all correspondence to Colin Hawes, Faculty of Law, University of Technology Sydney, PO Box 123, Broadway, NSW, Australia; e-mail: colin.hawes@uts.edu.au.

Law & Society Review, Volume 47, Number 4 (2013)

© 2013 Law and Society Association. All rights reserved.

these threats is a crucial issue facing both the Chinese government, desperate to maintain social stability and its hold on power, and Chinese citizens who wish to form a civic society in a more dispersed, less tightly state-controlled, world.

Since around 2005, the government's response to the increasing domestic conflicts and social instability arising from these rapid social changes has been to emphasize the need for "harmony."¹ The CCP's imperative to promote a "harmonious society" has exerted particular influence in two areas: first, the legal system and the resolution of disputes more broadly, where the government has reaffirmed its belief in the "traditional Chinese" cultural ideal of mediation rather than adversarial litigation. This "new" policy approach culminated in the *PRC People's Mediation Law* in 2010, but it has been ongoing for several years within the Chinese court system, as we will discuss later. Second, the "harmonious society" campaign has strongly impacted the Chinese media, especially the content and genres of Chinese television programs. Several controversial shows that allegedly fomented unorthodox values and social instability have been censored in recent years, and television stations must desperately search for ways to promote the government's ideal of "harmony" while still maintaining audience ratings and increasing their profits. One method of satisfying these differing demands has been to produce reality TV mediation shows.

When the first of these TV mediation shows, "The New Family Mediator" (*Xin laoniangjiu*), started broadcasting in early 2008 on Shanghai Dragon Satellite TV, its "people's mediators" (*renmin tiaojieyuan*) quickly established a reputation for helping ordinary Shanghai citizens out of their interpersonal disputes using a mix of earthy wisdom, moral persuasion, and basic legal knowledge. The popularity of this show soon led to many imitations among other TV stations, and over three dozen similar reality TV mediation shows have sprung up since. Some of these shows may be merely using the guise of mediation to exploit sensationalistic interpersonal conflicts and raise their ratings. Yet their "infotainment" approach has apparently managed to find a niche that complies with government censors' demands for promoting "harmony" while at the same time broadly appealing to TV audiences. By early 2010, when Jiangxi Satellite TV station started its brand show "Gold Medal Mediation" (*Jinpai tiaojie*), reality TV mediation had morphed into a semi-formal alternative dispute resolution forum endorsed by the local bureau of justice and viewed by the CCP's propaganda department as an important tool for promoting "social harmony" (Zhu 2011).

¹ Hu Jintao launched the "harmonious society" campaign in a speech to the Central Party School in February 2005: see *Peoples Daily* (2005).

These emergent TV mediation shows are not just a new manifestation of the longstanding role of TV and media in socialist societies as “supervisors of misconduct and wrongdoing” (Liebman 2011: 169), but also provide an excellent case study of the impact of the popular media on China’s still relatively underdeveloped legal culture. Furthermore, these highly popular shows raise the broader theoretical issue of the effectiveness of mediation in practice.

The debate over the merits and defects of mediation and adjudication in the Chinese context has engaged scholars of Chinese law, such as Evan Minzner, Randall Peerenboom, and Xin He, as outlined later in the article. Yet this debate can be placed within a wider ongoing controversy about alternative dispute resolution. In other words, should we view Chinese television mediation, and the push for dispute settlement outside courts more broadly, as another example of what Laura Nader has criticized as “harmony ideology”—where there is an “intolerance for conflict” in a society, and an “intention to prevent the expression of discord rather than to deal with its cause” (Nader 1993: 285; cf. Nader 1990)? Does television mediation in China share some of the other perceived defects of mediation and “informal justice” (Abel 1982) as a forum where “important social and legal conflict is muted, significant public matters are privatized . . . power imbalances skew results and disempower the already subordinated . . . and the mediation process encourages unjust compromises of principles or rights that require sharp demarcations and enforcement” (Menkel-Meadow 2001: xv)?

Or does mediation instead offer a highly effective, or superior, alternative forum for ordinary citizens whose disputes cannot be fairly resolved by the Chinese courts based purely on legal adjudication? As a vocal supporter of mediation, Carrie Menkel-Meadow argues, “If the goal is to maximize joint gain, or at least improve the social conditions for those worst off, then we will need all the tools and all the strategies that are likely to help. . . . The outcomes reached by facilitated negotiation and consent, rather than externally imposed decisions, are widely thought to lead to greater satisfaction, legitimacy, implementability, and voluntary compliance” (Menkel-Meadow 2002: 50, 53, 57).

In the following pages, we will first outline the reasons for the renewed Chinese government interest in mediation over the past decade, and introduce some of the criticisms and defenses by legal scholars of this apparent “turn against law” (Minzner 2011). Next, we will explain the sudden emergence of reality TV mediation shows on Chinese television by placing them within the broader context of the controversial growth of reality TV in China—a phenomenon that involves various social and political agents pursuing their own, sometimes conflicting, agendas. We will analyze the legal

and moral discourse of TV mediation through a representative reality show “The New Family Mediator,” demonstrating how TV mediation mixes legal education and application, expert commentary, moral persuasion, and entertainment in a way that brings TV stations in line with official cultural policies, yet without sacrificing the commercial interests of their producers. Finally, we will examine the most recent developments and emerging trends of TV mediation shows since the promulgation of the *People’s Mediation Law* in 2010, focusing especially on the recent hit show “Gold Medal Mediation.”

We conclude the article by suggesting that these TV mediation shows exemplify the complexities and contradictions of the Chinese legal and dispute resolution system. It is true that these shows combine some of the negative features of “harmony ideology,” such as a heavy focus on social stability and propaganda, and they occasionally overemphasize the cheesy entertainment factor in the interests of boosting ratings and profit-making. But despite these defects, such shows do provide an effective forum for certain intractable kinds of interpersonal and family disputes that the court system would be ill-equipped to deal with. And when they are supplemented by other nontelevision forums, such as people’s mediation studios, they can act as an important educational tool to remind viewers that litigation may not always be the best or most cost-effective method to resolve their disputes.

Recent Official Promotion of Mediation to Address Emerging Social Disputes

Chinese courts and the legal system have been strongly impacted by the perceived rise in social instability over the past decade and the CCP’s consequent focus on “harmony.” Since the late 1970s, the government had engaged in a major effort to build a modern legal system, including passing thousands of new statutes covering all areas of civil and criminal law, court procedure, and the qualifications and duties of lawyers and judges (Peerenboom 2002). This rebuilding was necessary because, during the Maoist period (1949–76), formal trials and adjudication by impartial judges had been regularly criticized as biased in favor of the exploiting classes, and most civil disputes had to be resolved through mediation in courts or by so-called people’s mediation committees rather than through adversarial litigation (Huang 2010: 200–03). Indeed, during the Cultural Revolution, all courts were shut down, and many judges and lawyers faced persecution for their so-called bourgeois liberalization tendencies (Lubman 1999: ch. 3–4). This situation changed dramatically during the 1980s and 1990s, with

the revived People's Court system becoming gradually more professionalized, and increasing proportions of legal disputes being decided through formal adjudication rather than mediation (Fu & Cullen 2007: 10–12; Peerenboom 2002: 57–58).

Popular media were at least partly responsible for the growing awareness of law and the consequent increase in litigation, especially during the 1990s. The Chinese government engaged in a huge publicity campaign to promote the benefits of a modern, predictable, and fair “rule of law” society as opposed to the capricious, unstable, and frequently unjust “rule of man” society of the Maoist period (Lubman 1999: ch. 7; Peerenboom 2002: ch. 3). From legal literature to legal education programs on television and radio, the popular media played an important role in spreading ideas and information about the law (Kinkley 2000). Yet the preference for litigation was also due to changes in judges' incentive systems, which encouraged them to carry out formal adjudication rather than mediate as previously (Minzner 2011: 957).

With all this institutional, political, and media support, litigation rates increased dramatically—despite the alleged traditional Chinese cultural aversion to lawsuits—so much so that by 2002, the annual numbers of civil lawsuits had risen to some 3.5 million cases, compared with just over 300,000 in 1978 (Peerenboom & He 2008: 5). By contrast, while mediation still remained a regular part of the formal trial process, the number of court cases settled by mediation shrank from around 70% in 1989 to only about 30% in 2004 (Fu & Cullen 2007: 53). Having said this, as Philip C. C. Huang observes, informal, community-based mediation outside courts continued to be a central method of dispute resolution throughout the reform period (Huang 2010: 51–52).

However, the very success of these legal reform efforts and the government's promotion of legal awareness among the broader population came at a cost. One major problem was how to train and resource sufficient numbers of judges to staff all the new courts to deal with the huge numbers of legal disputes, especially civil and family lawsuits (Fu & Cullen 2007: 21–25). Even as recently as the early 2000s, many courts, especially in remote or rural areas, continued to be staffed by judges without formal legal training, and this included not just lower level judges but local court presidents, who in many cases had been transferred from military or Party positions as if the courts were simply another arm of the local government. Courts lacked independence from local governments, with appointments and salaries being controlled at the same level of government as the court, a situation that led to frequent interference with judges' decisions in cases involving local political interests. And judges' salaries remained low, which tempted many of

them to accept bribes and other gifts from disputing parties (Hawes 2006).

The result of these widespread endemic problems was an increase in popular dissatisfaction with court judgments and resistance to the enforcement of judgments, especially in rural areas and small towns. This, in turn, led to a dramatic increase in the numbers of disputants seeking redress through extra-legal methods including demonstrations and violent confrontations, as well as media and Internet publicity campaigns (O'Brien & Li 2006). There was also a massive rise in rural- or small-town disputants going directly to Beijing and other major cities to appeal to government officials and ministries: the so-called letters and visits (*xinfang*) system (Minzner 2006).

The sheer numbers of large-scale popular demonstrations and aggrieved citizens descending on the capital accompanied by regular negative media attention convinced the CCP (rightly or wrongly) that something was seriously wrong with the established legal mechanisms for dealing with disputes. By the early 2000s, Party leaders had concluded that litigation in the courts was no longer an effective method for resolving many kinds of social disputes, particularly those resulting from the “growing pains” of economic reforms, such as land claims, labor relations disputes, and domestic or family quarrels (Minzner 2011: 947; Peerenboom & He 2008: 13). Therefore, besides starting a propaganda campaign to promote a harmonious society and introducing policies to reduce discrimination against rural citizens and migrant workers, the Party also demanded reforms to the legal system.

Starting from around 2002, the Supreme People's Court (“SPC”) began to reemphasize the necessity for judges to mediate cases, rather than formally adjudicating them (Hand 2011: 133; Xiong 2006: 97). Over the next decade, the SPC published three opinions underscoring the benefits of mediated settlement both within and outside courts (SPC 2004, 2007, 2010). For example, its 2007 opinion stated: “The fundamental tasks of the people's courts include resolving contradictions in society, upholding social stability, supporting economic development, promoting social harmony, and realizing justice and equity . . . The people's courts must act as both a constructive force in building a harmonious society, and a protective force maintaining that harmonious society . . . [To this end] they must increase the proportion of lawsuits that are resolved through [court] mediation, . . . and strengthen their efforts to guide the people's mediation committees” (SPC 2007: art. 1 and 20).

Many courts subsequently altered their incentive systems to financially reward judges for increasing their mediated settlement rates. And the propaganda system went into overdrive to praise

exemplary judges who demonstrated outstanding mediation skills (Minzner 2011: 943–48, 949–53).

The government also made concerted efforts to revive mediation practices outside the courts. The people's mediation committees that had begun to fade away during the 1990s sprang to life again, now better funded and staffed by better educated, less political mediators who blended law with psychology, moral/social pressure, and dogged persuasion to resolve a range of typical disputes that arise in local communities (Read & Michelson 2008, 742; Xiong 2006: 99).

Senior government leaders also urged local governments to coordinate with courts and people's mediators in what they called "grand mediation" (*da tiaojie*), in order to deal with major intractable disputes between ordinary citizens and government institutions or state-controlled enterprises. Typical examples included collective disputes involving land expropriation, labor and environmental disputes, and conflicts involving socioeconomic rights or entitlements, such as pensions and medical/welfare claims (Hu 2011: 1075, 1080). Grand mediation involves grassroots government officials identifying potential large-scale disputes before they escalate into mass petitions and popular demonstrations, then working with the aggrieved parties, defendants, local courts, and Party-state institutions to find a workable compromise and defuse the tension (Hand 2011: 143–47; Hu 2011: 1072–76; Xiong 2006).

This promotion of mediation outside the courts was given even stronger institutional support with the passing of the *PRC People's Mediation Law* in 2010, which sets out the requirements for establishing mediation committees and the procedures for engaging in mediation activities and drafting mediation agreements, and perhaps most importantly, requires local governments to provide adequate funding for the work of mediation committees (Xinhua 2010). The purpose of the new law was clearly stated by Wu Aiyong, the Chinese Minister of Justice: "While China is experiencing profound social and economic changes, various kinds of social conflicts are also emerging . . . Mediation should be the first line of defence to maintain social stability and promote harmony" (Liang 2010).

Debates about Mediation in China

Some legal scholars have criticized the Chinese government's recent campaign to promote mediation over legal adjudication. Evan Minzner, for example, argues that promoting mediation undermines the still underdeveloped legal system by taking disputes that should be resolved consistently according to predictable legal principles, with clear winners and losers, and instead

pressurizing the parties to agree to settlements based on vague moral principles and policies that are not part of the written law. Referring to official efforts to increase mediation in Chinese courts, he claims that the authorities “are forcing individual parties to make concessions in closed-door proceedings as a means of addressing cases that attract significant social attention or that generate petitions by disgruntled parties. If civil and administrative dispute resolution norms simply devolve to oiling the loudest and squeakiest wheel in every case, what is left of the Chinese legal system?” (Minzner 2011: 961).

While it is true that some kinds of disputes may not be suited to mediation and should instead be adjudicated by judges based on clear legal principles, there are also huge numbers of disputes that involve family members or neighbors living in the same community. In other words, they are between people who must continue to interact with each other on a regular basis after the dispute is resolved. These are precisely the kinds of disputes that the legal system and the courts in formal adjudication are ill-equipped to deal with, because they involve long and sometimes complex histories behind the dispute, or they result from contradictions between the law and past government policies, and they cannot easily be sorted out by simply following the letter of the law (Fu 2010: 179–81; Peerenboom & He 2008: 15). A purely legal solution would only lead to injustice for one of the disputing parties, and possibly further escalation of the conflict.

In addition, poorer members of society doubtless could not afford to go to court or hire a lawyer in the first place. These are precisely the kinds of people who might otherwise be provoked into directly seeking help from government officials through letters and visits, or taking to the streets in social protests (Peerenboom & He 2008: 15–16). By contrast, mediators are not permitted to charge fees to the disputants for the services they provide (*People’s Mediation Law* 2010: art. 4).

Another common criticism of mediation is that it is not suitable for disputes where there is a clear power imbalance between the parties. In these cases, court adjudication is said to be more effective at overcoming the disparities and producing a fairer outcome for the weaker party (Fiss 1984: 1076–78; Minzner 2011: 959–60; *contra* Menkel-Meadow 1995: 2687–88). In China, the kinds of cases that the SPC urges courts to resolve through mediation specifically include those that: “(1) involve difficult, complex, or collective disputes; (2) require the cooperation of government organs; (3) influence social harmony and stability; (4) involve legal rules that are unclear, difficult to apply, or may be difficult to enforce; (5) involve sensitive issues common concern to society; or (6) involve extreme emotions” (Hand 2011: 134–35, citing SPC 2010: art. 4).

At first sight, it appears that the very cases that should be resolved through adjudication are being channeled toward mediation instead. This echoes one of Abel's main explanations for the rise of informal justice elsewhere: "The state . . . is seeking . . . to defuse protest . . . Aware that its repressive resources are limited, [the state] regroup[s] its forces and concentrates them on the primary loci of dissent, using less expensive, less coercive methods of control" (Abel 1982: 3–4).

But as Wu (2013) and others have pointed out, a problem specific to China is that the courts are in a relatively weak position in the political hierarchy, and they do not have the authority to enforce their judgments against powerful state institution defendants or state-controlled corporations supported by local CCP committees. Political reforms to correct this situation do not appear to be on the horizon. As a result, simple adjudication is not the best way to resolve such disputes in China, and that is why they so often escalate into social disturbances and instability. While "grand mediation" has been criticized as a top-down, government-initiated process that takes away the flexibility of forum choice from ordinary citizens (Hu 2011: 1082–83, 1086–87), in these complex multiparty disputes, it does at least bring all the involved parties together and allow some political pressure to be exerted on the more powerful entities that court orders normally could not reach (Hu 2011: 1088).

Finally, we should point out that despite the government's emphasis on mediation, the number of civil lawsuits appears to be still rising, reaching over 6.5 million cases in 2011, as compared with 3.5 million in 2002 (Supreme People's Court 2012). These figures do not indicate any drastic turn away from law.²

Clearly, the situation in China is highly complex, and as Menkel-Meadow (2002: 50) would put it, requires "all the tools and all the strategies that are likely to help" in resolving disputes. One such strategy that has emerged in recent years is reality TV mediation.

Reality Television, Social (In)stability, and the Emergence of TV Mediation Shows in China

Despite the recent explosive growth of the Internet, television still maintains a dominant position as a revenue generator in the

² True, the SPC's 2013 Work Report to the National People's Congress (SPC 2013: section 4) claims that 64.6% of these cases were either resolved by mediation or otherwise settled before trial, but that still leaves approximately 2.3 million that were presumably adjudicated.

mass media and entertainment industry in China. With 287 television stations and 2,262 broadcast channels (Miao 2011: 91–92), total advertising revenues from Chinese television reached 675.82 billion yuan in 2009, compared with just 19.3 billion yuan from the Internet. And while the national flagship station China Central Television (CCTV) received a quarter of the total advertising revenues, provincial TV stations have been among the fastest growing players in the market, especially since they established satellite channels (*shengji weishi*) over the last decade (Xinhua 2011).

This growth in provincial TV stations reflects a decade-long process of opening up television to marketization and competition since the late 1990s. Though CCTV still holds a partial monopoly over certain kinds of programs, such as national news broadcasts, the numerous provincial television stations that have recently been permitted to broadcast nationwide via satellite are now starting to vie for national market share through other genres. An effective shortcut to profitability and audience ratings has been to produce more entertainment-oriented shows and develop niche markets that cater to audiences' differing needs.

In particular, the genre that came to dominate primetime broadcasts of many provincial TV stations was reality talk shows. These so-called shows of human emotions (*qinggan jiemu*) more often than not focused on situations of domestic chaos and relationship turmoil, including extramarital affairs, tension with in-laws, disputes about parental responsibilities or child rearing, generational conflicts, family property disputes, ugly divorces or “abnormal” relationships (Miao 2011). In other words, the commercialized Chinese media, like that of media elsewhere, were keen to exploit audiences' voyeuristic fascination for sensational stories and airing peoples' dirty laundry in public.

Yet one of the biggest dilemmas Chinese TV stations still face is the continuing ambiguity of their identity, as part commercial businesses and part public enterprises, which has its roots in the broader contradictions of “socialism with Chinese characteristics.” While TV commercialization is generally encouraged by the current regime, the fact that all mainland TV stations are still effectively owned and supervised by the state means they can never be operated completely as commercial concerns. Even what appears to be nonpolitical, entertainment-oriented programming may face criticism by the State Administration for Radio, Film and Television (SARFT) for going against state policies and “socialist morality.”

Not only is the content of TV shows censored, but also many other operational affairs need the approval of SARFT. For example, in December 2008, SARFT issued an order criticizing the “vulgarization of television shows on human feelings,” including those

focusing on “bitter emotions, unusual relationships and extramarital affairs,” which the government blamed for their negative influence on viewers and their impact on social stability. SARFT’s notice required shows dealing with emotional life and family relationships to adopt a more positive attitude (Dongfang zaobao 2009). More recently, in October 2011, SARFT released a new directive, the “Opinion on Strengthening the Management of Programs Broadcast on Satellite Television Channels,” imposing strict new regulations on the entertainment shows that Chinese satellite TV stations are allowed to broadcast, including limiting the number of “entertainment” shows during primetime hours, and requiring that each TV station produce an “ethics building” program to fulfill its social responsibility role (SARFT 2011).

For television producers, social instability and the current moral uncertainty in society can create many tempting opportunities for exploiting sensational stories. At the same time, how to exploit these stories is a thorny issue that they must address with great caution. In order to succeed, they must keep one eye fixed on the censors and another eye fixed on the market. In this context, reality TV mediation shows are an ingenious solution that allows them to comply with the dual demands of providing both “social benefits” to viewers and “economic benefits” to themselves.

Chinese TV mediation shows started in 2008 with “The New Family Mediator” (hereafter NFM): a show that itself resulted from the structural changes and necessary program adjustments of a local TV station, Shanghai Dragon Satellite TV (Shanghai Dongfang weishi).³ This newly developed dispute resolution reality show included many of the same kinds of social and family conflicts that were a staple of previous reality TV shows, and thus satisfied audiences’ voyeuristic demands for “a world of emotion,” but by resolving the various disputes using professionally respectable mediation techniques, it also paid lip service to the official requirement to promote a “harmonious society.” This kind of show exemplifies the hybrid “infotainment” approach that many other TV stations in China have also adopted.

³ In the early 2000s, Dragon TV developed two highly popular offerings in the newly imported talent show genre, “My Style My Show” (*Woxing woxiu*, 2004–2009) and “Happy Boy’s Voice” (*Kuaijie nansheng*, 2006–2007). Like several other Chinese talent shows, both were eventually terminated for their “immoral” content, due to pressure from SARFT. Its new “infotainment” shows, such as NFM and “Magic Cube of Happiness” (*Xingfu mofang*), a psychological advice show, were attempts to fill the gap left by the banned talent shows (Baidu 2012). Many Chinese reality TV shows are based on imported foreign (especially European and U.S.) formats, such as “Voice of China” (*Zhongguo haoshengyin*: Zhejiang TV) based on *The Voice* (a multinational show originating in the Netherlands), and “If You Are the One” (*Feicheng wurao*: Jiangsu TV), based on the UK show *Take Me Out!* However, I have not managed to locate any foreign models for Chinese TV mediation shows.

To demonstrate how TV mediation shows fulfill the demands of various social agents, ranging from TV producers to courts, CCP officials, and TV audiences, and how they present a sometimes incongruous combination of law, morality, entertainment, and politics, we will now analyze NFM in more detail.

The New Family Mediator: Reality TV Packing a Moral Punch

The term *laoniangjiu* (which we translate family mediator, but literally means “old uncle”) is a folk dialect word from the Shanghai region that traditionally referred to senior and respected family members who played the role of mediators when family disputes and neighborhood conflicts arose. With the rapid urbanization and disintegration of traditional family structures and neighborhood relationships, one might imagine that this term would have become obsolete. However, the concept of *laoniangjiu* has been redefined over the last decade, mainly due to the influence of the popular media and the government’s reemphasis on mediation as a dispute resolution technique.

NFM was named after a popular sitcom called “The Family Mediator” (*Lao niangjiu*) that ran for 13 years on Dragon TV from the mid-1990s onwards. But in contrast to its sitcom predecessor, where the family mediator was clearly a fictional character and entertainment was the dominant motive, NFM is a reality show, and its *laoniangjiu* were selected from real “people’s mediators” working in Shanghai’s neighborhood committees. The show also burnished its official credentials by directly collaborating with the local government’s Bureau of Justice (*sifa ju*), and the TV set was arranged like a mediation room in a court, with disputants on each side and the mediator seated in the centre. Real disputes from neighborhood committees all over Shanghai were selected to be resolved on the show.

The typical format of a 40-minute NFM show is as follows. The disputing parties are invited by the female host into the mediation room (TV studio) to sit facing each other, often partly disguising their identities with hats, masks, and sunglasses. Each party recounts their side of the dispute to the mediator, while viewers watch on their TV screens. After listening carefully to each side, the mediator steps in and negotiates a settlement between the parties using a mix of legal arguments, moral persuasion, and sheer force of personality.

Though NFM is a reality TV show, obviously, the final product seen by viewers differs from real-life mediation in several ways. The mediation session is edited to fit into one or two 30-minute

episodes. Although the more complex situations are given 60 minutes of air time, it is obvious from regular voiceovers and edited clips of backroom negotiation sessions that the parties spent much longer working through their disputes, and we are only seeing a truncated version. In their choice of material, the producers purposely build excitement and suspense: they highlight and repeat heated arguments between the parties, insert cliff-hangers before commercials, and encourage spontaneous face-to-face advice from the mediators and expert consultants and even direct moral criticisms from audience members via call-in phone lines. Occasionally, they send reporters on location to investigate the true facts. Thus, although there is little doubt that the people are real and their disputes are real, the show does have the feel of a moralistic entertainment spectacle, and it occasionally blurs the lines between reality and dramatic representation, not unlike many American court TV shows.⁴

The most common topics on the show are family disputes, especially those between husbands and wives (usually involving suspected extramarital affairs, financial issues, or child-rearing disputes), and between parents and their grown-up children. For example, our survey of 3 months of NFM episodes from July 1 to September 30, 2012, included a total of 45 different cases (some cases are resolved in one episode, and others are spread over two episodes). Of these, 37 cases dealt with marriage disputes, and 18 cases dealt with disputes between parents and their grown-up children (some of these overlap with the first category, as parents often interfere with their children's marriage decisions). However, many of these family disputes revolve around the unfairness of property distribution among family members, as is clear from the examples given below. In our sample, we found 9 out of 45 cases directly involved property disputes, and several others were arguably caused by large families having to live together in the same cramped apartment due to their inability to afford adequate housing. Other less frequent topics included gambling debts or investment scams (4), elder abuse (1), and drug addiction (1).

As for the socioeconomic backgrounds of the participants on NFM, although jobs and qualifications are not explicitly mentioned on the show, it is clear from the context of the disputes and the parties' speech and behavior that they are virtually all urban workers, laid-off employees, poor seniors, or migrant workers

⁴ Compare the interesting studies of representation on the American court TV shows *Judge Judy*, *Judge Joe Brown* and *The People's Court* by Kohm (2006); and Wilson and Ackerman (2012).

living temporarily in Shanghai—in other words, people from lower socioeconomic levels.⁵

NFM captured the imaginations and interest of Shanghai audiences, and it soon jumped to the top of the ratings among Shanghai TV shows. Its success was largely due to the skill of one of its mediators, Bai Wanqing. A former Party official from the neighborhood committee of Jing'an District in charge of propaganda/organizational work and seniors' issues, Bai started off as just one of several people's mediators who took turns appearing on the show. She stood out with her quick but penetrating judgments, her no-nonsense attitude, and her authoritative yet amiable personality. The show increasingly featured her as the main mediator and she soon became an unlikely TV star. To demonstrate Bai Wanqing's approach to disputes and the broader discourse of TV mediation represented by NFM, we will analyze two domestic dispute cases from the show involving the pressing current issue of residential property ownership.

Shanghai has long been notorious for its high cost of living and poor housing conditions, and it is common for several generations of a family to share a single cramped apartment. This already serious situation has been exacerbated by major policy changes and social restructuring over the past decades. A particularly thorny issue has been the return of sent-down youth and their families from rural areas since the late 1970s, which brought up a whole set of legal and social problems relating to registration resettlement and property ownership. More recently, housing reform and the demolition of residential houses, together with the arrival of a massive floating population, many of whom are in fact educated professionals from other cities, foreigners, and overseas Chinese from Taiwan and Hong Kong, have led to massive development of the metropolis. The result has been a rapid spike in real estate prices, and a tendency for local people to become obsessed with the issue of finding a decent place to live.

Housing disputes are frequently interwoven with issues relating to parental support, the household registration system (*hukou*), disputes with in-laws, inheritance and estates, and other longstanding grievances. To mediate housing and property disputes, one not only has to be aware of traditional Chinese values and moral beliefs about family relationships, but also to be familiar with the historical and policy changes that have led to the current housing problem in the first place, as well as the relevant laws and regulations that cover the area of the dispute.

⁵ Bai Wanqing also notes that virtually all the participants on NFM are poor: see Bai (2010b).

Battling Brothers

On its November 7, 2010 episode, NFM featured a dispute between two brothers who shared a two-bedroom apartment left to them by their deceased parents.⁶ In this family with five grown-up children, the third son, who was divorced with custody of his daughter, lived with the parents in Shanghai, and had contributed a substantial sum when the apartment was first purchased by the parents in 2000. The eldest son, a sent-down youth in the Cultural Revolution, had moved to a town in Zhejiang province with his second wife, but in 2001, he lost his job when his employer, a state-owned company, closed down. His family soon broke up—his wife left him and took their daughter with her. Realizing that his elder brother was on the verge of a mental breakdown, the fourth son brought him back to Shanghai and arranged for him to stay with the parents and the third son. After the parents died in quick succession, legal ownership of the two-bedroom apartment was divided equally among the five children, but seeing the two brothers' difficult situation, the other children decided not to sell, allowing the two brothers to continue to stay there. However, the living arrangements and domestic dynamics in this shared space changed when the new girlfriend of the third son moved in with her teenage daughter. Soon the couple used the excuse of renovating the apartment for their upcoming wedding to throw out the belongings of the eldest son. When the eldest son persisted in coming back to sleep there, it led to physical altercations and even police intervention. In fact, one of the rooms that the eldest son used was so badly damaged by his brother that it became uninhabitable.

The mediator Bai Wanqing, after hearing the stories told by the two sides, wasted no time in bluntly telling the third son and his girlfriend that they were wrong to try and force the eldest son to move out: "You don't have the right to do this, because you don't have ownership of the property (*suoyou quan*).” She then clearly stated the legal situation: "What your parents gave you is the right to use the property (*shiyong quan*), but the name on the real estate certificate is that of your parents. And now [since the parents have died], even your right to use the place is just a generous gift from your other siblings.” In this way, Bai immediately showed the disputing parties how a court would look at the situation if it was a lawsuit.

The offending couple were obviously shocked by her conclusion but apparently still not convinced enough to agree to a reasonable settlement. Seeing this, the show's host, Yang Lei, opened

⁶ Episodes were viewed by the authors online using the archives of NFM available on the video syndication website Youku: <http://www.youku.com/>.

up the viewer call-in line and allowed three viewers to express their “public opinions.” They all sympathized with the eldest son and criticized the third son for forgetting the “value of family” and “brotherly love.” By this time, the aggressive couple looked defeated and much more willing to compromise in order to settle the dispute.

Bai then proposed two solutions: one was to sell the property and divide the proceeds among the five siblings, which was the formal legal option. The other was to maintain the previous arrangement whereby the two would share the apartment, with the third son’s family staying in the larger room and the eldest son in the smaller room. The third son, realizing his disadvantageous legal position, preferred the latter solution, but the eldest son insisted on selling the apartment. Surprisingly, Bai then made it clear that she supported them keeping the apartment rather than selling it. She appealed to the principle of “family feeling” (*qingqing*): “Don’t sacrifice family feelings for your individual interest.” She reminded the eldest son that if the apartment were sold, the third son, as a low income worker, could not afford to buy or even rent another place in Shanghai, due to the high living costs there, and the third son and his family would have to migrate somewhere else. She then repeated the moral exhortations of the call-in viewers, praising the other siblings for their generosity in dealing with their parents’ inheritance, and reminding the eldest son once again that “*qingqing* is more important than individual interest.” Eventually the eldest son accepted this compromise, or “middle way,” arrangement, and the episode concluded with the two brothers reluctantly shaking hands.

In a commentary on this case in the *Shanghai Legal News* column “Legal Weekend,” a lawyer Sun Honglin pointed out that “mediation does more than provide legal adjudication.” He particularly praised the strategy Bai used in this mediation, that is, to make the third son realize his errors using both legal and moral education, and to make him feel guilty about what he had done; and then to appeal to “family feelings” to influence the eldest son to calm his hostility: “The mediator should exert a positive psychological influence on the parties and guide their emotions so they will accept some compromise solution that will satisfy both sides” (Sun 2010).

A similar argument appears in an editorial in *Procuratorial Views* (*Jiancha fengyun*), the flagship publication of the Chinese People’s Procuracy. The author states that compared with court methods (including both litigation and court mediation), which often end up damaging family relationships even when the judicial decision complies with the law, family mediators such as Bai Wanqing offer an alternative solution: “The brilliance of Bai the family mediator lies in her use not only of the sword of law but also the softer weapons

of moral suasion and appeals to emotion . . . She makes us realize that our nation and our society have a great sense of love based on traditions going back thousands of years of helping the old, the young, the weak, and the poor” (*Jiancha fengyun* 2010).

Bai’s own summary of the principles she follows seems to confirm the argument of this editorial. She states that mediation must follow “three bottom lines”: the first is the moral line; the second is the (government) policy line; and the third is the legal line (Bai 2010d). She particularly emphasizes that NFM will never become a tool for those who seek to satisfy purely personal or individual interests. This last point is a direct comment on the motives of some of those who come onto the show. With NFM’s growing reputation, many parties may see it as a highly efficient way to get their disputes resolved free of charge, especially if they can enlist public opinion to “defeat” the other side. Yet both the previously mentioned case and the one that follows should deliver a salutary warning to those seeking to satisfy purely “individual interests” by coming onto the show.

The Suffering Step-Grandmother

Bai Wanqing’s mediation notes, published in *Shanghai Legal News* and *Xinmin Daily News*, summarize disputes that have already appeared on NFM, but they also include Bai’s explanations justifying her approach to each case, hence they are a valuable resource for analyzing the discourse of the show (Bai 2009). Our second case comes from one of these notes recounting another property dispute (Bai 2010c).

Bai first summarizes the facts of the dispute, which are quite complicated: Mrs. Zhang lives with her step-granddaughter in a one-bedroom apartment left to Mrs. Zhang by her husband Mr. Zhang. The granddaughter is the child of Ms. Yang, a daughter that Mr. Zhang had with a second wife. Mrs. Zhang is now under severe financial pressure due to her high medical costs and low pension, so she is planning to sell her apartment, but the step-granddaughter has refused to sign the transfer forms. Chinese law requires that cohabitants of a property must consent before the property can be sold. But Mrs. Zhang now claims that the registered residence of the step-granddaughter in Shanghai is invalid because she is not actually the child of a sent-down youth, and therefore she should not have benefited from the government’s resettlement policy after the Cultural Revolution. Mrs. Zhang claims that although the girl’s mother, Ms. Yang, did move to Jiaxing (in Zhejiang Province) in 1969, during the Cultural Revolution, she was not being sent down but merely following her birth

parents who had migrated voluntarily from Shanghai in the 1950s. Clearly, Mrs. Zhang is using this argument to deny her step-granddaughter's legal residency status in Shanghai, so that she can achieve her goal of selling the property without getting the step-granddaughter's consent. Believing that this is a strong argument, she has taken the initiative to come onto NFM.

Mediator Bai's first response to this situation is to defend the government's policy toward sent-down youth. She considers that the spirit of this policy was to allow all children of sent-down youth to resettle in the city where their parents came from. She reasons that Ms. Yang's move in 1969 should be considered as part of the sent-down youth movement even if she was not forced to move away from Shanghai. She also points out that in 1979, when Mr. Zhang helped his granddaughter to resettle her residence in Shanghai, it was treated as a legally recognized act as it satisfied the policy that was in force at the time. If Mrs. Zhang had an objection to this registration, she should have raised it many years earlier instead of suddenly bringing it up now that she plans to sell the property.

Bai thus makes it clear that the step-granddaughter has the legal right to use, and ultimately inherit, this apartment, and Mrs. Zhang certainly cannot sell it without the granddaughter's consent. Besides defending the past policy of the Party-state, Bai's interpretation of the situation here is obviously part of her broader tendency, revealed in many other episodes of NFM, to try to protect the rights of "disadvantaged groups" in society. These groups include previously sent-down youths, such as Ms. Yang, who often suffered again as laid-off workers in the 1990s, and their children; also migrant workers and the urban poor, who have been identified by various levels of government as "problematic groups" left behind by the economic reforms and have fallen to the bottom rungs of society in the ongoing process of social stratification. These resourceless and downtrodden citizens have become the most frequent initiators of social protests, petitions and, when driven to desperation, extreme antisocial activities, such as violent homicides and suicides (O'Brien & Li 2006; Peerenboom & He 2008). To pacify these groups with various forms of material and "spiritual" support has been a major policy initiative of the CCP over the past decade, especially at the local government level, and Bai understands this imperative very well.

However, Bai explains in her note that there happens to be more than one "socially disadvantaged" party in this case, as Mrs. Zhang belongs to the urban elderly poor (Bai 2010c). She sees two possible ways to resolve the dispute: one is to sell the apartment and split the proceeds, which Mrs. Zhang is demanding; the other is to keep things as they are, which the granddaughter and

Ms. Yang would prefer, because after Mrs. Zhang, already in her eighties, dies, they will inherit the whole apartment. While both solutions have some legal basis, on the show Bai clearly indicated to Ms. Yang (who was there representing her daughter) that the morally superior approach would be to agree to the sale of the property. Bai reminded Ms. Yang that Mrs. Zhang looked after her when she was young (before she left Shanghai for Jiaying). Now that Mrs. Zhang is ill, lonely, and needs help, it would be wrong for Ms. Yang and her daughter to insist on Mrs. Zhang keeping the apartment when she is in desperate need of money right now. Eventually, swayed by this moral pressure, Ms. Yang agrees to buy out the part of the apartment that belongs to Mrs. Zhang. Bai then immediately persuades Mrs. Zhang to agree on a reasonable price, as Ms. Yang and her husband are both laid-off workers and cannot afford to pay a high market price. In this way, Bai once again gets the parties to agree to a solution that “satisfies both sides,” yet goes beyond an “unfair” legal solution based purely on individual rights.

Clearly, legal or individual rights are not privileged at all in TV mediation, as exemplified by NFM. Instead, the people’s mediators, who we should not forget are mostly state employees, must ensure that their work helps to maintain social stability and build a “harmonious society.” To provide a legally based adjudication is not necessarily the primary goal; rather, they must attempt to achieve the more difficult task of repairing damaged social relationships and, in some cases, “robbing the rich to feed the poor,” thereby soothing the turbulent social emotions of frustration, anger and resentment among the mass of ordinary citizens.

Thus, NFM combines several different models of social governance and conflict-resolution in its mediation discourse: we see the influence of the neighborhood committees and similar peoples’ institutions that typified the governance system in socialist China; also traces of the family mediators in traditional Chinese society based on the Confucian family and clan system of reciprocal relationships; and the most recent overlay of professional legal advice and court mediation/adjudication techniques influenced by imported liberal conceptions of individual legal rights and “rule of law.”

In light of the popularity of NFM and its spin-offs, and the influential public role of TV mediation in carrying out social governance and legal education functions, it should be no surprise that Bai Wanqing has turned into a rare commodity: a popular celebrity who is also strongly endorsed by the government. She has been honored with numerous official awards and ranks, among them Representative of the Shanghai People’s Congress, and Public Ambassador for the 2010 Shanghai Expo. The director of the propaganda department of Shanghai Municipality also praised her

“work among the people” for its multiple positive functions, including acting as a “psychological consultant, moral educator, legal advisor, and a channel for the release of popular emotions” (Bai 2010a).

Clearly, NFM exhibits many of the features of what Nader would characterize as “harmony ideology.” We see the downplaying of legal adjudication based on individual legal rights in favor of more fuzzy concepts like “family feeling” and “morality.” We also see strong support from government and Party institutions, which treat TV mediation shows as an excellent forum to publicize the value of settlement outside court, to help reduce the numbers of lawsuits and petitions clogging up the system, and to “defuse protests” (Abel 1982: 3) before they escalate into calls for political reform. And finally, we find a total absence of cases on these shows involving government officials or state-controlled entities as defendants. Thus, from watching reality TV mediation shows, one gets the impression that the vast majority of disputes are interpersonal issues that can be resolved through compromise, as opposed to politically charged issues that can only be resolved through legislative reform and the fairer distribution of resources in society (Abel 1982: 6).

At the same time, this “harmonious” ideological message is juxtaposed with the commercial motives of the producers, leading to some incongruous results. Perhaps most obvious is the natural tendency of the show’s editors to play up the conflicts between the parties in order to keep viewers glued to their sets. At the start of each episode, and at several points during the show, the editors interrupt the flow with clips of one or both disputing parties losing their tempers, shouting at their family members, threatening to walk out, bursting into tears, or even kneeling on the ground begging the mediators for help. The repetition of these kinds of dramatic scenes suggests that conflict rather than harmony is the main draw of the shows, and in this aspect, they resemble some of their banned “world of emotion” predecessors. In other words, the commercial imperative of television results in a mixed ideological message being given to viewers.

More positively, these shows challenge the argument that mediation involves a coerced compromise without the procedural safeguards of an open and fair adjudication forum (Fiss 1984: 1076–78). Though most cases on NFM are resolved, there are some where the parties choose not to resolve their disputes in spite of all the persuasion and moral pressure exerted on them by the mediator and legal experts, and they are perfectly free to do so.

Equally significant, these shows demonstrate the complexity of apparently simple interpersonal disputes: we find that both parties may have equally valid justifications for their arguments, and both

may have contributed to the conflict. Viewers discover that resolving disputes is not a simple matter of deciding who is right and who is wrong but involves many difficult moral issues and social implications beyond the dispute that must be taken into account. We saw this in the case of Mrs. Zhang above, where both the poverty of the grandmother and the right of the step-granddaughter to have a place to live were equally valid considerations in the mediation. A purely legal adjudication would have given the granddaughter the right to refuse any sale of the property and left the grandmother with no money to pay her medical costs.

The underlying message here is far from a simplistic “harmony ideology”: rather, it demonstrates that the law can be a blunt tool that fails to consider the negative consequences of too great a focus on legal rights to the exclusion of other factors. We will return to some of these issues in our conclusion after tracing the further evolution of reality TV mediation shows since the 2010 promulgation of the *People’s Mediation Law*.

Growth of Television Mediation in China since 2010

The success of NFM and Bai Wanqing’s surprising emergence as a grass-roots TV celebrity inspired many other provincial and municipal TV stations to jump on the mediation bandwagon. Similar shows sprouted all over the place, including “The Family Mediator of Qiantang” in Hangzhou (*Qiantang Laoniangjiu*), “The Sincere Female Assistant” in Jilin (*Zhenqing nü bangban*), “The Third Mediation Room” in Beijing (*Disan tiaojie shi*), and “Feelings at Eight o’Clock” in Changsha (*Qinggan badianzhong*). In fact, by early 2011, there were already 38 TV mediation shows being broadcast regularly by 34 local TV stations and four provincial satellite networks. And these mediation shows generally seem to do very well in the ratings. Many of them, such as “The New Family Mediator,” “Gold Medal Mediation” (Jiangxi Satellite TV), and “Xiao Guo Runs Errands” (*Xiao Guo paotui*, on Shanxi TV Science and Education Channel) are broadcast daily, given primetime slots right before or after the national CCTV Evening News (which is shown on most channels), and then repeated twice each day. According to one estimate, these three shows were watched by 21.15, 15.10, and 12.63% of the regular viewing audience, respectively, in 2011 (Feng 2011).

Though we have mainly focused on the characteristics of NFM, which is probably still the best-known and most influential Chinese TV mediation show, we should also note some of the more recent variations and new trends that have emerged among competing shows. While not fundamentally altering the basic approach to

resolving social conflicts outlined above, some of these shows do position themselves in different markets, attempting to appeal to broader audiences, and they resolve other kinds of conflicts than those that predominate on NFM. Our observations are based on monitoring several of these shows in the years 2012 and 2013. In particular, we focus on “Gold Medal Mediation” from Jiangxi Satellite TV (hereafter GMM), currently the second most popular mediation show, which introduces a modified formula influenced by the *People’s Mediation Law*.

First, most of these TV mediation shows are predominantly oriented toward domestic and neighborhood disputes in their local communities. By focusing on highly specific local issues and neighborhood concerns, which they can deal with more authoritatively than nonlocal TV stations, they consciously seek to boost their ratings among local audiences. This feature also allows the TV stations to seek the cooperation of various local government bureaus to achieve their “common goal” of “building a harmonious society.” The “positive” social influence and impact of mediation shows are then acknowledged by local governments, and they are willing to provide both material and symbolic support (such as official endorsements, case materials, and professional advice). This in turn adds weight to the decisions of the mediators on the shows, and increases their authority in the eyes of disputants and viewers. Local governments and courts also benefit from these shows, as they constantly remind ordinary people with interpersonal disputes that mediation outside the court is generally preferable to lawsuits or petitions (Liang 2010).

GMM has taken cooperation with local government, courts, and professional practitioners a step further by requiring the disputing parties to publicly sign a formal Mediation Agreement (*tiaojie xieyishu*), which records the terms of their settlement on the show and is witnessed by a jury of experts in the studio and thousands of TV viewers. Unlike the typical oral agreement between the parties in NFM, we see here formal legal documents, stamped with official seals bearing the names of the local bureau of justice and the TV station. By doing this, the producers want to ensure that the results of the TV mediation are legally binding on the parties, and that they will pay more than just “lip service” to the power and authority of the media and its official sponsors. They are also following the letter of the law, which requires such written agreements to be signed by the parties and sealed by the mediator after any successfully concluded mediation (*People’s Mediation Law*: art. 29).

Second, in order to attract viewers, these mediation shows have clearly borrowed techniques from other reality and entertainment TV genres to dramatize their presentation of the cases and appeal to viewers. For example, GMM begins with an attention-grabbing

introduction to the core dispute accompanied by dramatic music reminiscent of an action movie. In the August 15, 2011, episode, a voiceover commentator asks an enticing question: why have two neighbors who were good friends for so many years now grown to hate each other?⁷ This commentary is followed by clips of emotional outbursts from the upcoming show, including an angry woman declaring that her neighbor has “betrayed” her. Only after this introduction do we get down to the details of the dispute. Some shows are filmed in peoples’ homes or in local community centres, and they take questions directly from people on the street, such as “Xiao Guo Runs Errands.” Others utilize voting mechanisms similar to talent shows to recruit new mediators, such as “Loving Heart Mediation” (*Aixin tiaojie*) from Henan, or they set up a debate between panel members to decide some of the cases, such as “Black vs. White Observation Room” (*Heibai guanchashi*) from Jilin. All these features are designed to engage viewers and provide a fresh approach in hopes of increasing their ratings.

Third, in terms of their mediation techniques, the more recent shows have increasingly emphasized their “modern scientific” approach to mediation, in contrast to the earlier emphasis on the mediator’s life experience and earthy folk wisdom exemplified by “Auntie” Bai Wanqing. For example, in GMM, besides the so-called gold medal mediator Hu Jianyun, a university professor with long experience as a student counsellor, the show also involves eight expert “observers” (*guan cha yuan*) drawn from among local lawyers, psychiatrists, police officers, teachers, and other professionals who are asked to provide analysis and professional advice throughout the mediation. Other shows also incorporate psychological games and analysis to get the participants to understand what is really driving their interpersonal conflicts, which adds both modern appeal and an aura of professional credibility to the process.⁸

Fourth, and related to the previous two points, recent shows have attempted to expand their audiences to include a broader demographic of viewers. Initially, the typical viewers of mediation shows—unlike say talent contests or dating shows—were less educated, less affluent, older middle-aged people and seniors. According to one survey carried out in 2011, 33% of the viewers of mediation shows were between 45 and 54 years old, 25% between 55 and 64, and 20% over 65. In other words, almost 80% of the viewers were over 45 years old. Also, female viewers constituted 57% of typical audiences (Feng 2011).

⁷ The official website of GMM contains an archive of episodes at <http://www.cjxtv.com/zt/jptj/index.shtml>.

⁸ For example, both GMM and “The Third Mediation Room” (Beijing TV) have psychologists on their regular expert panels.

While TV stations are certainly committed to retaining this steady and loyal viewership, they have worked to attract the interest of younger viewers as well, especially the post-1980s generation, by increasingly addressing their major concerns, such as career worries, romantic relationships, and problems with in-laws. One effective approach has been to broadcast shows online and add microblog sites (*weibo*), thereby utilizing new forms of social media that allow urban youth to interact with mediators and with each other in their own distinctive ways.⁹ In one recent show on GMM (August 4, 2012), the topic was an Internet relationship between a married woman and another man, which her husband strongly objected to, leading to incidents of domestic violence. In the middle of the show, the married couple's son sent a text message to his parents (which was posted up on the TV screen) saying that he was disgusted with both of them for their selfishness, and wanted to leave home. With episodes like these, the shows (and their official sponsors) can target their "moral teachings" about social harmony toward younger viewers who will later become the "backbone" of society.

Fifth, all these mediation shows contain very strong doses of moral teaching, sometimes directed at the disputing parties and sometimes at the broad mass of viewers. In most cases, morality is expected to trump or at least modify simple legal rights, and participants who selfishly insist on their rights will usually receive a very public dressing-down by one or more observers. For example, in the August 15, 2011 episode of GMM, a railway worker had helped his neighbor (the son of his good friend) to purchase a subsidized apartment from their state work unit back in 1997. The neighbor paid for the property, but to obtain the fully subsidized price, he had to get the railway worker to put his name on the registration certificate. In 2006, the neighbor attempted to sell the property, but by that time the railway worker had died, and his wife (Mrs. Yang) refused to sign the property transfer certificate, claiming that the property now belonged to her through inheritance.

Though this was a valid legal argument, the assembled observers on the show appealed to Mrs. Yang's sense of moral decency: one observer pointed out that her husband had acted in a truly selfless way by helping her neighbor to buy the apartment, and surely her husband would not want her to get into a bitter dispute with her neighbors about it after he died. Another observer, a judicial official, identified three aspects of the case: under the law, he said, the property belonged to Mrs. Yang, but in terms of morality (*daode*), knowing of her husband's arrangement with the

⁹ For a typical online bulletin board, see the link on GMM's official website: <http://bbs.cjxtv.com/forum-100-1.html>

Dings, it would not be right for Mrs. Yang to claim the property back, and finally, based on human feelings (*ganqing*), it would be better to keep on good terms with her neighbors rather than ruining their relationship with this dispute. Two other observers then took the other side: they criticized the neighbor for causing this dispute in the first place by trying to get a petty advantage instead of paying the full price for the property, and for selling the apartment to someone else without first getting Mrs. Yang's consent. Anyone with even the slightest legal knowledge should have realized that property disputes will occur if you do not have a valid ownership certificate. Finally, the mediator encouraged the parties to settle their differences, reminding them that a lawsuit would be extremely complicated and time-consuming. There appears to be a ritual of public shaming going on here, designed to exert social and peer pressure on disputants to "do the right thing."

Similarly, when the parties come to an amicable settlement, the mediator and commentator usually draw a broader moral from the story. By contrast, if the parties fail to agree, which does happen occasionally, the commentator will emphasize how unhappy they are in their present conflict, and how it is ruining their interpersonal relationships and poisoning their lives. Clearly, these shows are trying to prove their worth as morally edifying public "edutainment" programs, as opposed to socially divisive, tabloid-style reality shows.

The other interesting aspect of the moral teaching in these shows is its strongly traditional, even Confucian, character. Individualistic insistence on rights and self-interest is discouraged, but in its place we do not see a revival of Communist values; instead, there is constant affirmation of "family feeling," "brotherly love," and "filial behavior." We discussed the first two of these "Confucian" values when analyzing the episodes from NFM earlier, but the idea of filial behavior also frequently appears in disputes between parents and their grown-up children. In one recent episode of GMM, a middle-aged son refused to let his mother move back in with him after a dispute because she wanted his "lazy" younger brother to come with her and freeload off him. One of the observers strongly criticized the son: "As a man, you should be filial and act like a good son, but . . . your mother keeps shaking her head and weeping as she listens to you. If she's not comfortable, can you say you are being filial? . . . And after your mother cut off your phone service because she thought it was too expensive, you retaliated by cutting off the electricity in the house [thus forcing her to move out] . . . Can't you see she is your own mother! How can you claim you are being filial?" In response, the son quotes a classical Chinese saying: "I understand very well that 'among the hundred

virtues, being filial comes first.’¹⁰ But I *have* been filial: there are six people in this family [including my mother], and I have fed them all!” (GMM, October 16, 2012).

At the same time, law does also play an important, if subordinate, role on these shows, particularly GMM. Most episodes include discussions of the legal rights of the parties, often with lawyers or legal experts providing opinions on the parties’ chances of success in a court of law. Viewers could learn a great deal about current Chinese legal principles relating to contracts, property rights, family law, and wills and estates from watching such mediation shows regularly. Yet generally the law is used either as a stick to encourage both sides to compromise, or as an inferior option when viewed from the perspective of morality and social harmony. For example, in the GMM episode on the neighbors’ dispute above, the lawyer and the mediator both warned Mrs. Yang how difficult it would be to get a quick and fair resolution of her case in a court, even though she had a clear legal right of ownership over the property. Likewise, in the NFM dispute involving the battling brothers, even though the eldest brother had the legal right to demand the sale of their apartment and a division of the proceeds, Bai Wanqing urged him to think of the hardship this would cause his younger brother and family. The implication is that in most of these disputes, following the letter of the law would only lead to injustice and the destruction of community and family relationships.

Conclusion

Clearly, mediation shows offer a promising solution for television producers attempting to walk the narrow path between entertainment and education, between sensational tabloid stories and moral teaching, and between high ratings (translating to high profits) and official censorship. Local governments, especially departments of civil affairs, justice, and propaganda, have also found such shows extremely valuable and effective for disseminating the message of social harmony and helping to defuse social conflicts at the family and neighborhood level. Since the *PRC People’s Mediation Law* was introduced in 2010, this trend of promoting a mixture of legal awareness and moral education to resolve disputes out of court has become even more conspicuous. The various social agents involved in TV mediation have steadily guided the genre to become a kind of *Oprah Show* meets *Judge Judy* with

¹⁰ Saying attributed to Wang Yongbin (1792–1869), but obviously influenced by Confucian texts, such as the Han dynasty *Classic of Filial Piety*: “Of all the actions of man there is none greater than filial piety.”

Chinese characteristics: a public stage where a combination of socialist “people’s mediators,” traditional family mediators, modern therapists, and legal advisors scrutinize the problems of a “troubled population,” instill “correct” and “moral” codes of individual and interpersonal behavior, and provide a “valuable social service” in building a “harmonious society” (Zhu 2011).

But do these reality TV mediation shows provide an effective and useful dispute resolution forum for their intended subjects: ordinary Chinese people with disputes and grievances? For those who appear on the show, the majority certainly end up with what appear to be voluntary settlement agreements. Yet among the shows reviewed for this article, only GMM makes it clear that these are legally binding written agreements; other shows like NFM use language like “the parties have promised before the broad masses of viewers,” but do not show them actually signing any documents. So after the bright lights of the TV studio are turned off, it is not clear whether the parties will actually fulfill their promises, and what kind of legal force their promises will have.

Even assuming the resolutions on these shows are binding, they make up only a tiny proportion of disputes in China. With 38 mediation shows currently broadcasting, and assuming that each show mediates approximately 180 disputes each year (based on the average number mediated by NFM), this would mean a total of around 6,800 disputes resolved on television annually. This is only a tiny proportion of the 6.5 million or so civil cases that passed through Chinese courts in 2011 (SPC 2012), or the 7.67 million disputes that were mediated by people’s mediators outside the courts in 2009 (Xinhua 2010).

Nevertheless, even if only small numbers of viewers can have their disputes resolved on television, there are many other mediation forums available to them, some of which have been set up as spinoffs from reality TV shows. With the success of NFM, for example, and building on Bai Wanqing’s reputation as someone who could help ordinary people resolve their intractable problems, in October 2008, the Jing’an District Bureau of Justice “gave substantial support” to Bai to set up a “Bai Wanqing Mediation Studio,” which hired 18 mediators as regular staff and also retained two law firms to provide regular legal advice on disputes (Jin 2011). And there are approximately 4.9 million other people’s mediators available throughout China for disputants to choose from (Xinhua 2010).

Rather than viewing television mediation as an effective alternative dispute resolution forum in itself, therefore, perhaps we should see it more as an effective illustration to potential disputants of the benefits and possible drawbacks of choosing mediation over litigation.

In terms of the benefits, viewers can learn a great deal about everyday legal issues from watching these shows, gain a clear sense of the kinds of disputes that may be more suitable for mediated settlements, and become more aware of the complexity behind many apparently simple interpersonal conflicts. Those involved in disputes may also realize that mediation can be a much more cost-effective option than litigation.

In terms of the drawbacks, although there is no coercion of disputants to accept unreasonable settlements on these shows, many cases leave viewers with a feeling that the voluntary agreement is unsatisfactory and will be short-lived. For example, in the case of the battling brothers, they live together in overcrowded conditions because of unaffordable property prices (from which the government and its largely state-owned developers have been the main beneficiaries), and also because one of the brothers was laid off after the government's "restructuring" of state-owned enterprises in the 1990s, which led to the loss of his subsidized housing and the breakdown of his marriage. What is the "solution" offered by NFM in this kind of situation? Simply to tell the elder brother not to insist on his "legal right" to sell the apartment, because that will put his younger brother and the brother's fiancée and teenage daughter out on the street, unable to afford a place to live themselves. So even though the younger brother apparently caused extensive damage to the elder brother's room, which will cost a lot to repair, they are now supposed to put "family feelings" before "individual interests" for the sake of some abstract ideal of a "harmonious society." Though on the show the brothers shook hands and agreed to accept this compromise, one wonders how long their newfound "harmony" and "family feeling" will last in their cramped, stress-filled living conditions. Presumably, this necessity of making the best of a bad situation is common among nontelevised mediations too.

The other major drawback of television mediation shows is that in order to retain the support of local governments and justice bureaus, they must carefully avoid any disputes where the defendants are themselves local government officials or state institutions. Yet this is not unique to television mediation. As we noted earlier, Chinese courts do not have the authority to satisfactorily adjudicate lawsuits against powerful state officials and institutions (cf. Wu 2013: 116–29). And people's mediators off-screen would also find it very difficult to facilitate fair agreements between citizen complainants and state-supported defendants.

One would think that television mediation shows would be an ideal platform for publicizing the benefits of "grand mediation"—the coordinated effort among courts, government departments, and mediation committees to resolve major social disputes before

they escalate into popular protest. But presumably, television stations, which are themselves state owned, are not keen to focus on such major disputes, since most involve allegations of abuse of power by the state or its agents.

Thus, despite the claims of their producers and sponsors that they are helping to bring about a “harmonious society,” in many cases, it is not clear that TV mediation shows can do more than paper over some of the cracks in Chinese society with a thin veneer of harmonious rhetoric, and occasionally a minor adjustment of resources to slightly lessen the burdens of the poorest members of society. The central problem is that many family, neighborhood, and social disputes in China are caused by the unfair allocation of resources and the continuing harmful consequences of unjust or poorly executed past and present government policies, not to mention widespread official corruption.

The fact that so many interpersonal disputes and conflicts are continually emerging, not to mention much more serious demonstrations and protests throughout the country (some 180,000 reported “mass incidents” in 2010 alone, based on one Chinese estimate: Sun 2011), indicates that the roots of social injustice are not being addressed. Instead, the Chinese government prefers to focus on the tips of the branches: placing the burden of reform on ordinary people, and urging them to behave in a more moral and harmonious way. As Abel puts it, informal institutions treat “all conflict as individually caused and amenable to individual solutions”; they “disorganize” grievants, trivialize their grievances, and frustrate collective responses, making it seem “unnecessary to question basic social structures” (Abel 1982: 6–7). This has been the main thrust of the CCP’s propaganda campaigns in recent years, and this is why the official censors are so concerned to restrict “controversial” television shows and replace them with mediation shows and other on-screen offerings that loudly proclaim the benefits of social harmony. But in the long term, only a more representative political environment and a fairer allocation of resources through reforms to the tax and social welfare systems will provide the necessary conditions for a truly stable, “harmonious” society.

References

- Abel, Richard L. (1982) *The Politics of Informal Justice* (vol. 1). New York: Academic Press.
- Bai, Wanqing (2009) *Xin laoniangjiu tiaojie shouji: huajie yi chang mingjiao qinqing de zhanzheng* (Diary of A New Family Mediator: Declaring War in the Name of Family Feeling). Shanghai: Renmin chubanshe.
- (2010a) “Hutu xiongdi hutu chou,” (Mixed up brothers get into a crazy fight), *Shanghai Fazhibao* August 20.

- (2010b) “Wo dui laoniangjiu jiemu de tihui,” (My experience of the show New Family Mediator), Bai Wanqing’s blog, August 31. Available at: http://www.oldkids.cn/blog/blog_con.php?blogid=139363 (accessed 25 March 2013).
- (2010c) “Yi chang fangchan jufen de liangxin zhan” (A Battle of Conscience Caused by a Real Estate Dispute), *Xinmin Evening News* October 19.
- (2010d) “Bai Wanqing shouji: fangchan re de huo” (Bai Wanqing’s Diary: A Firestorm Stirred up by Real Estate), *Jiancha fengyun* 2010/22.
- Baidu (2012) “Shanghai Dongfang dianshitai,” (Shanghai Dragon TV), Baidu Baike. Available at: <http://baike.baidu.com/view/134044.htm> (accessed 25 March 2013).
- Dongfang zaobao (2009) “Guangdianju Yanguan Qingganlei Dianshi Jiemu: Xinling Huayuan Tingbo,” (SARFT regulates TV shows on human feelings, “Soul Garden” is Suspended), *Dongfang zaobao* Jan. 3. Available at: <http://news.hexun.com/2009-01-03/113022806.html> (accessed 25 March 2013).
- Feng, Bo (2011) “Tiaojielei jiemu shoushi zhidao jiexi,” (Analysis of viewing trends for mediation shows), *Shoushi zhongguo* 2011/7.
- Fiss, Owen (1984) “Against Settlement,” 93 *Yale Law J.* 1073–90.
- Fu, Hualing (2010) “Access to Justice in China: Potentials, Limits, and Alternatives,” in Gillespie, J., & A. Chen, eds., *Legal Reforms in China and Vietnam: A Comparison of Asian Communist Regimes*. Abingdon, UK: Routledge Press.
- Fu, Hualing, & Richard Cullen (2007) “From Mediator to Adjudicatory Justice: The Limits of Civil Justice Reform in China,” SSRN Working Paper. Available at: <http://ssrn.com/abstract=1306800> (accessed 25 March 2013).
- Hand, Keith (2011) “Resolving Constitutional Disputes in Contemporary China,” 7 *U. Penn. East Asia Law Rev.* 51–159.
- Hawes, Colin (2006) “Improving the Quality of the Judiciary in China: Recent Reforms to the Procedures for Appointing, Promoting, and Discharging Judges,” in Malleson, K., & P. H. Russell, eds., *Appointing Judges in An Age of Judicial Power: Critical Perspectives from around the World*. Toronto: Univ. of Toronto Press.
- Hu, Jieren (2011) “Grand Mediation in China: Mechanism and Application,” 51 *Asian Survey* 1065–89.
- Huang, Philip C.C. (2010) *Chinese Civil Justice, Past and Present*. Plymouth, UK: Rowman & Littlefield.
- Jiancha fengyun (2010) “Editorial to Bai’s Mediation Notes,” *Jiancha fengyun* 2010/22.
- Jin, Wei (2011) “Cong laoniangjiu dao laoniangjiu gongzuoshi,” (From mediator to mediator’s studio), *Shanghai fazhibao* June 28.
- Kinkley, Jeffrey (2000) *Chinese Justice, The Fiction: Law and Literature in Modern China*. Stanford, CA: Stanford Univ. Press.
- Kohm, Steven A. (2006) “The People’s Law vs. Judge Judy Justice: Two Models of Law in American Reality-Based Courtroom TV,” 40 *Law & Society Rev.* 693–727.
- Liang, Jun (2010) “Mediation Draft Law Could Ease Tension,” *People’s Daily Online* June 23. Available at: <http://english.peopledaily.com.cn/90001/90776/90785/7035843.html> (accessed 25 March 2013).
- Liebmman, Benjamin L. (2011) “Changing Media, Changing Courts,” in Shirk, S. L., ed., *Changing Media, Changing China*. New York: Oxford Univ. Press.
- Lubman, Stanley B. (1999) *Bird in a Cage: Legal Reform in China after Mao*. Stanford, Calif: Stanford Univ. Press.
- Menkel-Meadow, Carrie (1995) “Whose Dispute Is It Anyway? A Philosophical and Democratic Defense of Settlement (In Some Cases),” 83 *Georgetown Law J.* 2663–96.
- (2001) *Mediation: Theory, Policy and Practice*. Aldershot, UK: Ashgate.
- (2002) “When Litigation Is Not the Only Way: Consensus Building and Mediation as Public Interest Lawyering,” 10 *Washington Univ. J. of Law & Policy* 37–61.
- Miao, Di (2011) “Between Propaganda and Commercials: Chinese Television Today,” in Shirk, S. L., ed., *Changing Media, Changing China*. New York: Oxford Univ. Press.
- Minzner, Carl F. (2006) “Xinfang: An Alternative to Formal Chinese Legal Institutions,” 42 *Stanford J. of International Law* 103–80.

- (2011) “China’s Turn Against Law,” 59 *The American J. of Comparative Law* 935–84.
- Nader, Laura (1990) *Harmony Ideology: Justice and Control in A Zapotec Mountain Village*. Stanford, CA: Stanford Univ. Press.
- (1993) “Controlling Processes in the Practice of Law: Hierarchy and Pacification in the Movement to Re-Form Dispute Ideology,” 9 *Ohio State J. on Dispute Resolution* 1–25.
- O’Brien, Kevin J., & Lianjiang Li (2006) *Rightful Resistance in Rural China*. Cambridge: Cambridge Univ. Press.
- Peerenboom, Randall P. (2002) *China’s Long March toward Rule of Law*. Cambridge: Cambridge Univ. Press.
- Peerenboom, Randall P., & Xin He (2008) “Dispute Resolution in China: Patterns, Causes and Prognosis,” LaTrobe University School of Law, Working Paper Series 2008/9. Available at: <http://ssrn.com/abstract=1265116> (accessed 25 March 2013).
- Peoples Daily (2005) “Building Harmonious Society Important Task for CPC: President Hu,” *Peoples Daily English edition* 20 February. Available at: http://english.people.com.cn/200502/20/eng20050220_174036.html (accessed 21 March 2013).
- Read, Benjamin, & Ethan Michelson (2008) “Mediating the Mediation Debate: Conflict Resolution and the Local State in China,” 52 *J. of Conflict Resolution* 737–64.
- State Administration for Radio, Film and Television (SARFT) (2011) “Guanyu jinyibu jiaqiang dianshi shangxing zonghe pindao jiemu guanli de yijian,” issued October 25.
- Sun, Honglin (2010) “Qinqing mianqian liyi rangdao,” (In the face of family feelings, profit yields ground), *Shanghai Fazhibao* August 20.
- Sun, Liping (2011) “Shehui shixu zui hexin de shi quanli shikong,” (Runaway power is the root of social disorder), *Jinyang wang*. Available at: http://sp.ycwb.com/2011-09/06/content_3555777.htm (accessed 25 March 2013).
- Sun, Wanning, & Yingjie Guo, eds. (2012) *Unequal China: The Political Economy and Cultural Politics of Inequality*. London: Routledge Press.
- Supreme People’s Court [SPC] (2004) “Zuigao Renmin Fayuan guanyu renmin fayuan minshi tiaojie gongzuo ruogan wenti de guiding,” [SPC provisions on several issues relating to the civil mediation work of the people’s courts], Baidu Baike. Available at: <http://baike.baidu.com/view/438810.htm> (accessed 25 March 2013).
- (2007) “Zuigao Renmin Fayuan guanyu jin yi bu fahui susong tiaojie zai goujian shehui zhuyi hexie shehui zhong jiji zuoyong de ruogan yijian,” [Several opinions of the SPC on further promoting the positive role of mediation in lawsuits in the building of a socialist harmonious society], China Baikewang. Available at: <http://www.chinabaike.com/law/zy/sf/fy/1338426.html> (accessed 25 March 2013).
- (2010) “Zuigao Renmin Fayuan guanyu jin yibu guanche tiaojie youxian, tiaopan jiehe gongzuo yuanze de ruogan yijian,” [Several Opinions of the SPC on further implementing the working principle of “giving priority to mediation and combining mediation with adjudication”], Zuigao renmin fayuan wang. Available at: http://www.court.gov.cn/qwfb/sfwj/yj/201008/t20100811_8489.htm (accessed 25 March 2013).
- (2012) “2011 nian quanguo fayuan shenli gelei anjian qingkuang,” (National adjudication rates for all categories of cases in 2011), Zuigao renmin fayuan wang. Available at: http://www.court.gov.cn/qwfb/sfsj/201206/t20120628_177547.htm (accessed 25 March 2013).
- (2013) “Zuigao Renmin Fayuan gongzuo baogao,” (SPC work report), Zhongguo wang. Available at: http://www.china.com.cn/news/2013lianghui/2013-03/10/content_28191634.htm (accessed 25 March 2013).
- Wilson, Joshua C., & Erin Ackerman (2012) “‘Tort Tales’ and TV Judges: Amplifying, Modifying, or Countering the Antitort Narrative?” 46 *Law & Society Rev.* 105–35.
- Wu, Yuning (2013) “People’s Mediation in China,” in Cao, L., I. Sun, & B. Heberton, eds., *The Routledge Handbook of Chinese Criminology*. Abingdon, UK: Routledge Press.

- Xinhua (2010) "Chinese Legislature Passes People's Mediation Law," Xinhuanet, August 29. Available at: http://news.xinhuanet.com/english2010/china/2010-08/29/c_13467472.htm (accessed 25 March 2013).
- (2011) *Report on the Development of Chinese Broadcasting, Films and Television in 2010* (2010 nian zhongguo guangbo dianying dianshi fazhan baogao). Beijing: Xinhua chubanshe.
- Xiong, Yihan (2006) "Renmin tiaojie de shehuihua yu zai zuzhi: dui Shanghaishi Yang Boshou gongzuoshi de ge'an fenxi," (The socialization and reorganization of people's mediation: A case analysis of Yang Boshou's studio in Shanghai municipality), 26 *Shehui* 95–116.
- Zhu, Jiuwen (2011) "Pinglun: fahui meiti liliang nengfou tuidong hexie shehui?" (Analysis: Can we use the power of the media to promote a harmonious society?), Jiangxi Weishi. Available at: <http://www.cjxtv.com/pages/jptj/2011/12/9/29810.shtml> (accessed 25 March 2013).

Colin Hawes is a senior lecturer in the Faculty of Law, University of Technology, Sydney. His research focuses on Chinese law and its relationship to culture and politics. He recently published a book titled The Chinese Transformation of Corporate Culture (Routledge Press, 2012).

Shuyu Kong is associate professor in the Humanities and Asia-Canada Program at Simon Fraser University, Canada. She is the author of Consuming Literature: Bestsellers and the Commercialization of Literary Production in Contemporary China (Stanford UP, 2005), and a forthcoming book titled Popular Media, Social Emotions and Public Discourse in Contemporary China (Routledge Press).