ARTICLES

TRUTH, JUSTICE, AND THE SHAANXIAN WAY: REVISITING THE STORY OF QIU JU

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Officer Li: I’m sorry.
Qiu Ju: Forget about it.1

Qiu Ju da guansi is a Chinese film by renowned director Zhang Yimou.2 Known as The Story of Qiu Ju in the West, the main character is a woman in rural China who seeks a satisfactory resolution after her husband is physically assaulted by the local representative of a state agency. After its release in 1992, the film received significant attention from reviewers,3 and, over the years, commentators from various disciplines.4 This Article builds on that

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1 The Story of Qiu Ju (Sony Pictures Classics Inc. 1993). Unless indicated otherwise, all quotations from the film’s dialogue herein are taken from the English subtitles seen in the DVD format of the film that is readily available in the U.S.


commentary, with a focus on the film’s lessons about culture, dispute resolution, the legal process, and their intersection. After a summary of the story’s plot, the Article examines the relevant Chinese cultural norms that shape interpersonal interactions and affect notions of conflict and dispute settlement. With the culture component in place, the next section analyzes the variables toward a resolution of Qiu Ju’s grievance. Precisely what does Qiu Ju want—justice, an apology, or something else? What do “justice” and “apology” mean, and do these concepts have the same meanings in China, the United States, and elsewhere? Finally, I address the question of whether, under the circumstances and in the specific setting, Qiu Ju received the apology that she (and the audience) wanted.

A preliminary note: the film’s dialogue is in Chinese Mandarin; English subtitles are available for U.S. audiences. Although all viewers have the benefit of context and nonverbal cues in each scene, non-Chinese Mandarin speaking audiences are at the mercy of the English subtitles, which is an inexact science. Unless indicated otherwise, the discussion of the film herein relies on the subtitles seen in the DVD format of the film that is readily available stateside. Questions of translation will be noted where relevant.

5 See Judith Shulevitz, Subtitles Have the Last Word in Foreign Films, N.Y. TIMES (June 7, 1992), http://www.nytimes.com/1992/06/07/movies/film-subtitles-have-the-last-word-in-foreign-films.html?pagewanted=all. This article quotes Helen Eisenman, who received credit for the subtitling in The Story of Qiu Ju: “Try to be true to the picture, but get it all across so that people can read it. If they have to go back and read it again, you’ve lost them.” Id. Eisenman is highly regarded for her work. See Carrie Rickey, Not Lost in Translation, INQUIRER (Mar. 3, 1999) (on file with author).

6 In addition to the U.S. DVD, I also obtained two other DVDs of the film, one (by a Chinese colleague) from a Chinese website for online shopping, and another from a street vendor in Seoul, Korea. Both of these DVDs have subtitles in English, which are identical to each other for all corresponding scenes; in some instances, the English subtitles in these two DVDs differ from those for the corresponding scenes in the U.S. DVD. Where relevant, these differences are discussed herein. The DVDs from China and Korea also provide subtitles in traditional Chinese and simplified Chinese. The Korean DVD also provides subtitles in Korean. In my opinion, for some of the scenes, the subtitles in Korean and English did not coincide in meaning, and I began to wonder about the intended meaning of the spoken dialogue in Chinese Mandarin. This led to my request for assistance in the translation of the dialogue and the simplified Chinese subtitles for some scenes. On a stenographic note, in quotations of subtitles from the movie, the “...” notation indicates that the ellipsis appeared in the subtitles. In contrast, omission of quoted material is noted by “...” or “...,” per the citation system used herein.
I. QIU JU’S STORY

The story takes place in the Shaanxi Province in north central China7 (not to be confused with nearby Shanxi Province). The opening scene features a crowded street, with people walking or milling about, some on bicycles, and a few pulling wooden carts. Three individuals emerge from the crowd: Qiu Ju, visibly pregnant; her husband, Qinglai; and his sister, Meizi. The family surname is Wan. Qinglai is mostly immobile, lying under a blanket on a cart that Meizi is pulling. They head to a medical clinic where Qinglai is to be examined by a physician, who, as Qiu Ju describes, “looks more like a vet[erinarian].”

Physician: Well, what’s the matter?
Qiu Ju: My husband, he’s been kicked.
Physician: Kicked? Where?
Qinglai: Between the legs.

As is revealed in later scenes, Qinglai was not only kicked “there” but also punched in the ribs. The injury to that part of the male anatomy (i.e., his “privates” and “where it counts”), emphasized throughout the film and by reviewers,8 appears to satisfy two purposes. First, it prompts a visceral reaction from the audience, evoking sympathy and empathy. Second, the injury might have special significance in the Chinese setting. Or as Qiu Ju reminds her husband during the trek home, “If we can’t fix your plumbing, we’ll be stuck with the single-child policy for good.” In any event, the physician’s medical report reads: “Bruises on the right chest...left testicle slightly swollen.”

The audience does not see the actual assault on Qinglai, and is left to visualize it in light of the characters’ later descriptions. The assault occurred as a result of an exchange between Qinglai and

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8 E.g., John Anderson, New York Film Festival Politics and Sexism in Today’s China, News-
the village chief, Wang Shantang. The chief had previously denied Qinglai and Qiu Ju’s request to build a storage shed for the chili peppers that they grow. As Qiu Ju relates, “He claimed it was against the law. I said, ‘If there is such a law, let me see it.’ But he refused. ‘I am the law,’ he said. He wouldn’t show it to me.” The chief is, to say the least, a rather gruff personality, as is revealed in multiple scenes. The situation took a turn for the worse when, after being denied permission, Qinglai said that the chief could “only raise hens.” This was a pointed reminder that the chief has four daughters,10 no son, and according to Chinese law, he would have no male heirs. Qinglai’s words were cruel and hurt the chief deeply. The punches and kicks were the response.

With the medical examination concluded and treatment prescribed (“keep it straight and let air get to it”), the three return home. The next scene shows the traveling party on a lightly snow-covered dirt road. This setting, in contrast to the film’s opening, is rural and quiet, with no other persons present. The path is a vivid reminder that whenever Qiu Ju must leave home—to visit a physician, a government official or office, or, for that matter, anyone beyond her farmer neighbors—she must go “so far away.” Qiu Ju will return to this dirt road again and again, sometimes on a bicycle riding side-saddle with her sister-in-law pedaling in front, which will lead to a transfer to the back of a small tractor, and then to a bus or two. This will be Qiu Ju’s journey in her quest for whatever it is that she seeks.

Medical report in hand, Qiu Ju goes to the chief’s home. She attempts to give the report to him, but the chief is preoccupied with his bowl of noodles, held in one hand, with chopsticks in the other. “Tell us what to do,” she insists. Qiu Ju is rebuffed. “Do whatever you want,” the chief retorts. Qiu Ju returns home to confer with her family. Her father-in-law and bedridden husband express their displeasure with the chief’s attitude. Qiu Ju decides that she will go to the village office the next day. Meizi accompanies her. After rides on a bicycle and then a tractor, the audience is informed that the two have arrived at “THE VILLAGE.” They go to the village

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9 There is indeed such a law, as an official later explains to Qiu Ju. The simple rationale for the law is that farmland should be used for farming and not buildings. As the village officer explains, “The land is for growing crops. If everyone built on it, what would we eat?”

10 This leaves the viewer with a question as to why, in a jurisdiction with a one-child policy, the village chief has four children. One commentator notes that the chief, “the probable enforcer of the one-child policy in his community,” is not setting an example for his neighbors. Tahiri V. Lee, Media Products As Law: The Mass Media As Enforcers and Sources of Law in China, 39 Denver. J. Int’l L. & Pol’y 437, 482 (2011).
office of the Public Security Bureau ("PSB"), to speak to the chief's immediate supervisor, Officer Li. Qiu Ju (assisted by a reticent Meizi) explains what happened, objects to her husband being beaten up, and relays the chief's refusal to do anything about it. Officer Li agrees that the chief was wrong to do what he did, and assures, "I'll come and sort things out."

A note on the organizational structure of the PSB is a necessary aside here. The village chief is the local representative of the PSB. He is also a farmer resident of the area, and also grows chili peppers. Above the village chief in the chain of command is the village office, headed by Officer Li. It is from this level that officials of the PSB wear uniforms. Although some commentators describe Officer Li as a "policeman" and the office as a police station, the PSB village office is more than a local law enforcement unit. For example, the office serves as a community mediation center and a marriage license bureau. Above the village office in the hierarchy is the District and then the City PSB, to which Qiu Ju will eventually bring her case.

Officer Li, Qiu Ju, and the chief meet at the chief's house. Officer Li declares himself to be the mediator. After meeting with the chief separately, Officer Li informs Qiu Ju, "[B]oth sides

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11 BERRY & FARQUHAR, supra note 4, at 160.
12 FOWLER, supra note 7, at 181; ZHANG, supra note 4, at 295, 308; Cohen & Cohen, supra note 4, at 165, 308.
13 Cohen & Cohen, supra note 4, at 164.
14 As Qiu Ju and Meizi enter the office, there is a mediation in progress involving two men who were in a fight.

Man: He wore a padded jacket. He took it off. He said, "What's wrong?" I said, "You know what's wrong." And we started to fight.

Official: So he started it? Did he start it?

Man: No. He just took off his jacket. He didn't hit me. I took off my jacket and hung it up. I hadn't hit him yet. He took off his jacket...hung it up...and said, "You, your wife and daughters, all four of you...kicked me and hit me. What's the idea? Why did you do that?" I hit him. He didn't hit back. I don't think that's possible.

15 There appears to be a certain day and time of the week when marriage licenses are given, at which prospective applicants must appear. "There are many marriage applicants today," an official announces. Playful grilling of bashful young couples appears to be a perk of the job that might entail some tedium. One official asks, "You two are in love? Where did you first meet? Was it love at first sight? Did you like her right away?" In front of other seated couples waiting, the official continues, "And you? Do you love him? Miss, did you propose to him? He proposed to you. What did you say?" "Yes," she responds, with her fingertips on her forehead, looking down, and gripped with embarrassment. "Speak up if you want this license. Will you still love him tomorrow? Was it love at first sight? Once you sign this...it's love forever!"

16 Mediation is a "method of non-binding dispute resolution involving a neutral third party who tries to help the disputing parties reach a mutually agreeable solution." Mediation, BLACK'S
should admit they’re wrong.” He proposes a settlement: the chief is to pay 200 yuan [about US$36 at the time17] for Qinglai’s medical costs and lost wages. Qiu Ju instinctively reacts, “I’m not after his money. I just want an apology.” Officer Li urges Qiu Ju to accept the settlement, and she reluctantly agrees. “And it will all be settled,” Officer Li concludes. As directed, Qiu Ju returns to the chief’s house, bringing with her the medical bills and the receipt. The chief takes the papers, looks at them briefly, and tucks them away. He then removes money from his coat pocket—“Here’s 200 yuan. All yours.” As Qiu Ju extends her right hand to accept it (her left hand is obscured by the wooden fence), the chief tosses the bills into the air. Qiu Ju is shocked.

Qiu Ju: Chief, what is this?
Chief: Do you think it’s easy to take money from someone?
Qiu Ju: I don’t want your money. I want justice.
Chief: Justice? You think I’ve given in? . . . Here are twenty 10-yuan bills. Bow your head and pick them up. You’ll bow your head to me twenty times. Then we’ll be even.
Qiu Ju: [Walking away] I’ll decide when we’ll be even!

This exchange is a pivotal one, as it demonstrates the chief’s arrogance and refusal to make amends, which exacerbates the dispute. His actions were those of “an official of ancient times, demanding that [Qiu Ju] kowtow to imperial authority.”18 Qiu Ju pays a courtesy visit to Officer Li in the village office, but he is away. She then begins her first of several journeys to higher authority. The chili peppers that the Wan family grows will finance her trips, although as Qinglai points out, they are out of season, and Qiu Ju will not get much for them. Meizi loads the chili peppers on to a cart, and will escort Qiu Ju each step of the way. The two arrive at “THE DISTRICT.” Selling the chili peppers at the market is the first order of business. Given her limitations with the written word, Qiu Ju pays a hefty sum (for her) to a professional and experienced writer who prepares the complaint to be submitted to the District PSB. At the district office, a uniformed official asks her, “Officer Li has already dealt with this. Why come to us?”

17 Cohen & Cohen, supra note 4, at 165.
18 Silbergeld, supra note 4, at 123; see also Anagnost, supra note 4, at 139 (describing the movement as one “that would force her to ape the ritualized subordination of the ketou (kowtow)”).
She responds, "Officer Li might have favored the Chief. I want the District to handle it." She is told that the District PSB will issue a decision in five days.

The District PSB upholds Officer Li's decision—200 yuan for medical bills and lost wages. Officer Li relays the decision, first to the chief at an outdoor market, and then separately to Qiu Ju and her family at the Wan residence. To the chief, Li urges some effort to make amends, reminding him that Qiu Ju wants an apology. The chief remains stubborn and resistant. He insists that he has done nothing wrong. Officer Li is perturbed by the chief's recalcitrance. At Qiu Ju's home, where Officer Li accepts an offer to stay for a meal (noodles), Li also encourages settlement, and tries a different approach.

Officer Li: He asked me to bring you these. [Reaching behind and putting on the table three small boxes of cakes, held together by a tied string] Making this gesture wasn’t easy for him. Qiu Ju...you said you wanted him to do right. Consider this his apology. . . . You’ll be fully compensated. Your expenses will be paid. You won’t have suffered financially. . . .

Qiu Ju: Officer Li, did he really buy this?
Li: Of course. Who else? I spent all day yesterday persuading him. Don’t expect too much of the Chief. [Pointing to the snacks] Sending you these snacks...is his way of saying he’s sorry.

Qinglai: If that’s the case, then all is well. . . .

Qiu Ju: And in this case...the Chief has already apologized to us. As for the money, that’s not important.
Li: It’s your compensation. He should pay it. Then let’s consider it settled.

But all is not well, and nothing is settled. The chief did not buy the gifts or ask them to be delivered to Qiu Ju. It was all Officer Li's doing, and his scheme was revealed when the store keeper told Qiu Ju that Li bought the snacks himself. The gifts are returned to Li at his office, which must have caused him a loss of face.19

Qiu Ju takes to the road again, accompanied by Meizi, who pulls the cart with another load of chili peppers. They return to the market to sell the peppers, and then get on a bus that will take them to "THE CITY.” A bicycle cab driver charges them 30 yuan for a ride to a motel, even though the ride is actually no more than

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19 See infra text accompanying note 48.
5 yuan, taking the normal route. Qiu Ju and Meizi settle for the cheapest motel they can find in the area, where they can sleep in a communal room for 1.50 yuan per night. The motel owner fancies himself a lay expert of the law. "If you need help on legal matters, just ask me," he invites. After reviewing the complaint, he is not optimistic about Qiu Ju’s chances, but realizing her travels and pregnant condition, offers assistance. He gives Qiu Ju the home address of Director Yan of the City PSB, and advises, "He’s a nice man. . . . Go and see him."

Qiu Ju meets with the director personally, although the audience does not see the actual exchange. Qiu Ju and Meizi return home, bringing gifts purchased from the city for Qiu Ju’s father-in-law and husband. Neighbors are also present. The festive atmosphere gives way to a tense exchange between Qinglai and Qiu Ju. Her obsessive efforts have led to some strain between the couple. Qinglai tells his wife: “Win or lose...this is the last time, okay? . . . There’s no point in continuing this. . . . If we continue, people will say we’re difficult.”20 Qiu Ju remains determined, saying, “They can say what they like. I want an apology.”

The City PSB issues its decision, stating that the “first settlement and the decision of the District are basically correct,” but adds 50 more yuan to the sum that the chief should pay. The decision was to be sent directly to Qiu Ju, but was mistakenly sent to the village chief, who, instead of delivering it to Qiu Ju, summons Qinglai to his house. The chief gives the decision to Qinglai, saying, “Take it home and show it to Qiu Ju,” and then places the money on top of a dresser behind Qinglai. The chief’s arrogance continues: “All that fuss...only got you fifty yuan more!” The chief’s wife takes the bills and gives them to Qinglai, who resists, “No, no. You keep it.” There is some playful back and forth, and he eventually takes the money. The chief concludes the exchange, noting, “Good. It’s settled, then.” Qinglai responds, “I’ll talk to her. It’ll be all right.”

Qiu Ju comes to the chief’s residence with the money in hand. Initially, she asks why the City PSB’s decision was delivered to the chief. “It came to me. So what?,” he replies defiantly.

Qiu Ju: Qinglai wasn’t clear just now.
Chief: [Seated on log] About what?
Qiu Ju: The money you gave him. What’s it for?

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20 In the very next scene, the chief asks to see Qinglai. On his way to the chief’s house, Qinglai passes by a member of the village, who warns, “Keep your legs locked tight. If the family jewels get kicked again...Qiu Ju will head straight for Beijing!” Qinglai responds, “Shut up.”
Chief: It's what I owe him. It's in the [decision]. Look, Qiu Ju, let's put this behind us.

Qiu Ju: I can't take that money. [Extending her right hand with the money, to the chief]

Chief: I won't take it back. [Both hands in arm sleeves]

This time, it is Qiu Ju who tosses the bills, at the chief's feet. Back at Qiu Ju's house, she tends to washing dishes, while wiping away tears. Qinglai attempts to console—"Come on. Don't cry. It's not good for you or the baby. Let's just forget it. Don't be upset." With the all too familiar background music playing—that of a lyrical, quixotic voice leading into traditional instrumental music that accompanies every scene in which Qiu Ju prepares to depart her home in her quest—Qiu Ju calls for Meizi to load the chili peppers. Qinglai turns from consoling to castigating. "What? You're at it again? You went as far as the city. What good did it do us? What next? Will you go to Beijing? We have almost no chili[ ] [peppers] left to sell. All for nothing!" He does not try to stop her, nor does he help her with loading the peppers. He yells, "Go! Go ahead! Go, and don't come back!," and slams the door.

Back in the city, Director Yan, Qiu Ju, and Meizi converse over tofu soup. He acknowledges that the City PSB's decision should have been delivered to Qiu Ju directly, and not the chief. "I'll look into the matter." He asks Qiu Ju if she is happy with the City PSB's decision. Qiu Ju: "No. You see...I took my case to the village, then to the district...and finally to you. But the results are the same. . . . I'm just an ordinary citizen...and you're all government officials. Maybe you're all sticking together on this?" Yan is sympathetic. "You have a right to be suspicious," he offers. "And we could make mistakes." Yan states that Qiu Ju has another option, of taking the case to court, and recommends a lawyer, Wu. Qiu Ju meets with Wu, a "colorless, reticent, and overburdened lawyer,"21 who assures his new client that "the right thing will be done."

On the day of the court proceeding, Qiu Ju is initially absent from the courtroom. She is outside with Wu, and aghast to learn that the court action entails a lawsuit against Director Yan, whom she distinguishes from the chief. She refuses to sue the director. Wu explains that the suit against Yan is merely procedural, but this does not placate Qiu Ju: "I don't care. I'm only after the Chief. . . . Director Yan is a good man. I can't sue him. I won't. Sue him yourself." Yan emerges and explains that as the PSB director, he

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21 Cohen & Cohen, supra note 4, at 167.
must appear in court, but assures that “nothing bad” will happen to him if he loses and that “the right thing will be done.” Qiu Ju allows the suit to go forward. The court announces its decision:

The case has been heard by this court and has been carefully deliberated. It was found that the decision that was made by the [City PSB] regarding the plaintiff's application for a review in the case of the alleged assault of Wan Qinglai is right and proper and should receive the full support of the court. To safeguard the proper legal and administrative relationships and to protect the rights of all parties[,] the court, in accordance with the administrative law[,] Article 52, Paragraph 1, and Article 54, Paragraph 1[,] now upholds the decision of the municipal [PSB] with regard to the plaintiff's application for a review in the case of the alleged assault of Wan Qinglai. If the plaintiff wishes she may appeal to the Intermediate People's Court within fifteen days after delivery of this judgment. The case is closed.22

Qiu Ju is uncertain as to what the court's pronouncement means. Wu explains, “Qiu Ju, we lost.” Director Yan approaches Qiu Ju, and advises that she may appeal the decision if she is not satisfied with it. This time, there is no hesitation from Qiu Ju regarding the possibility of further legal action against the avuncular Yan: “I'm not happy. I will appeal.” While the appeal is pending, uniformed personnel from the Intermediate People's Court come to Qiu Ju's house “to investigate your case,” suggesting a de novo review in the appellate court that has fact-finding authority. One court official advises Qinglai to get an x-ray of his chest. “[A]n X ray of your injuries would be considered legal evidence. If a rib was broken...the law would consider it an assault.” This raises the question of why punches that lead to a broken rib would amount to assault, while a kick to the groin area resulting in a swollen testicle would not.23

All of the story occurs during the winter months and well into Qiu Ju's pregnancy. Qiu Ju's baby is due to arrive at about the time of the lunar new year. The audience is reminded of this time of the year by the scene of a local parade that includes drummers

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22 In this passage, ellipses in the original subtitles have been omitted. As Professor Cohen advises, Qiu Ju's foray to court proceedings is essentially one of administrative law. Jerome A. Cohen, China and the WTO: Progress, Perils, and Prospects, 17 COLUM. J. ASIAN L. 1, 12 (2003). The executive agency is the PSB. Qiu Ju exhausted her administrative appeals, and then sought judicial review. Qiu Ju's lawyer was using “the Administrative Litigation Law, which went into effect in 1990, to get judicial review of actions taken by the Public Security Bureau.” Id.

23 One reviewer explains: “Suffice it to say that a technicality turns up . . . .” Arnold, supra note 8, at E3.
and performers in costumes. The next scene is at the chief's home. It is a cold night; the darkly quiet setting is suddenly interrupted by shouts from Qinglai and a midwife who arrive hurriedly. Qiu Ju has gone into labor, and something is terribly wrong. She is bleeding profusely ("[b]uckets of it!," "like a river"), her life is in danger, and although she needs to be taken to the hospital, everyone is at the village, attending the opera. Qinglai and the midwife plead for the chief's help. The chief is heard saying, "Why come to me? Let her ask the court for help!" As he emerges from the house, he remarks caustically, "You remember me when there's trouble?" He quickly relents, and takes charge. The chief advises the two to get a stretcher, and then heads to the village on his own, on a bicycle on a snow-covered path and downhill through a wooded area. Arriving at the opera, the chief pulls two men from the audience; he then goes back stage, and physically removes a man in theater makeup preparing for the next scene. The chief directs these three men and another to come with him. With Qiu Ju lying on a stretcher, the four men carry her through darkness and snow-covered hills. The chief leads the way, with Meizi carrying a bag, and Qinglai offering support. At one point, the chief takes the place of one of the men, insisting that he rest. As day breaks, they arrive at the village with crowded pedestrian traffic. "Let us through!" Qiu Ju arrives safely at the delivery room of the hospital, as does her baby boy.

Over a meal of noodles, Qinglai and the chief, with the four transport men present, discuss the baby, some business (the still unresolved dispute between the Wans and the chief, and the pending lawsuit), and the next step.

Voice: Qinglai, you're lucky. The gods are kind to you. It's a boy!
Qinglai: He's quite small. . . .
Man: Still, it's a boy!
Chief: Qinglai...they told me you went for an X ray. What did the doctor say?
Qinglai: Qiu Ju wasn't doing well when I left...so I didn't wait for the results. I came straight home.
Chief: You know, don't you? This isn't the first time...that I helped a pregnant woman. This has nothing to do with the lawsuit. When Qiu Ju is well...let her sue me if she wants to. If I lose, I lose. If you lose, you lose.
Qinglai: Let's forget the past. I can't offer you much today...but come celebrate with us in a month.
Snowflakes fall as Qiu Ju, her husband, their son, and Meizi return home. This time, Qiu Ju is on the cart, holding the newborn baby. Qiu Ju and her husband discuss the events of the previous night. Qinglai: “The Chief really helped us. What an awful night that was!” Qiu Ju: “We’ll have to thank him properly.”

At home, preparations are under way for the baby’s one-month celebration. Everyone has been invited. The day before the party, Qinglai personally goes to the chief’s home to urge him to come. Qinglai pleads, “Chief, there isn’t any doubt. You saved the baby’s life.” Qiu Ju arrives a short time later, and hands the baby to the chief. This leads to a mesmerizing scene, with the normally cold and abrupt chief holding the infant. He stares at Qiu Ju’s baby warmly and humanly, with a smile not seen in the rest of the film.  

Qiu Ju urges the chief to attend the party: “We’re so grateful. . . . Chief, our baby...without you, we’d have lost him. He’ll be one month tomorrow. Come help us celebrate.” The chief is reluctant (“My family will come. But I—I probably won’t”), and then when urged again, is noncommittal (“We’ll see. We’ll see”).

The baby’s one-month celebration is a happy occasion, with many villagers present. There is much food and wine, and gifts for the newborn baby. Whether the chief will attend is an open question, providing for a tantalizing ending to the film. Will he or won’t he, and will his attendance be a symbolic resolution of the story-long dispute between the chief and Qiu Ju? The chief’s wife, mother, and four daughters arrive. The chief’s wife reports that “[h]e’s still home, washing and shaving...as if he [were] getting ready for the new year!,” which is received with mirth and smiles. Unexpectedly, Officer Li also arrives.

Officer Li: I’ve come to tell you something.
Qiu Ju: First, have some wine.
Officer Li: No, I’m in a hurry.

Qinglai...the X ray shows one of your ribs was broken. Although it has healed...it changes your case. Wang Shantang has now been found guilty of assault. The Court has ordered that he be detained for 15 days.

Qiu Ju: Detained?

24 Then the chief quickly returns to his routine manner: “Look at Qiu Ju. She wanted a son, and she got a son. And you...[looking at wife] you open your legs and you get girls every time! Girls, every single time! You drive me crazy!” His wife responds, “Don’t start that again!”

25 In Qinglai and Qiu Ju’s exchanges with the chief, note the multiple references to saving the (male) baby’s life, but not the mother’s.
Officer Li: The police took him away.
Qiu Ju: The police? [Distraught] I just wanted an apology! That’s all I wanted. Nothing more!

It is an ending worthy of O. Henry. The festive atmosphere is no more. Conversations by the party-goers come to a halt, and they look in the direction of the piercing siren of the police car taking the chief away to detention. (The audience does not see the arrest of the chief nor him being taken away.) Qiu Ju bolts away in an attempt to catch up to the police car, running up a hill, then over a snow-covered trail, arriving at the main dirt road, out of breath. The siren gives way to the sound of howling winds. It is too late. The film ends with a close-up freeze frame shot of Qiu Ju’s face.

II. The Local Culture, Comparatively

Commentators and reviewers have noted that the film possesses the feel of a documentary. That was the intention of the film’s director, who confirmed that only four professional actors were used for the film; the other characters—peasants, policemen, judges—played themselves. “Even the local Shaanxi dialect was strictly observed, so hard to understand that most of China saw it with subtitles.” Half of the movie was shot with hidden cameras and microphones. The result is a film of “seeming naturalness,” one that candidly and realistically captures everyday life in China.

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26 See Hunter, supra note 8, at 22; Maslin, supra note 3.
27 E.g., Silbergeld, supra note 4, at 126; Zhang, supra note 4, at 291; Mary Lynne Calkins, Censorship in Chinese Cinema, 21 Hastings Comm’l Ent LJ 239, 337 (1999); Cohen & Cohen, supra note 4, at 164.
28 Silbergeld, supra note 4, at 126 (quoting Mayfair Mei-hui Yang, Of Gender, State Censorship and Overseas Capital: An Interview with Chinese Director Zhang Yimou, 2 Public Culture 308–09 (1993)).
29 Id. at 127.
30 Id. at 126–27 (quoting Mayfair Mei-hui Yang, Of Gender, State Censorship and Overseas Capital: An Interview with Chinese Director Zhang Yimou, 2 Public Culture 308–09 (1993)); Cohen & Cohen, supra note 4, at 168.
31 Silbergeld, supra note 4, at 120.
especially in the rural setting. The Story of Qiu Ju is “full of the stuff of real life: squalid little government offices, dirty cold houses, dusty roads, city streets full of grifters and the blue dense air of congestion. The movie gets . . . into the fabric of the real, rather than the mythic, China . . . .” For example, the audience enters Qiu Ju’s home and sees the dirt floors there, and also the chief’s residence, where there is an open fire inside.

The film also provides an introduction to everyday traits of the people and locale, some of which may not be seen stateside. There is the local tendency to ask, “Have you eaten?,” the traditional means of a greeting, both in rural areas (by a passerby when Qiu Ju first visits the chief’s home), and in the city (by Director Yan when he meets Qiu Ju and Meizì to discuss the City PSB’s decision). One commentator notes that “food plays a prominent role in almost every scene.” By my count, there are four scenes of active eating in the film, another scene where tea or water is consumed, and two more where a beverage is offered but politely declined. Indeed, even “enemies, enmeshed in a bitter legal dispute, still sit down amicably to a meal of noodle soup.”

China is also a gift giving culture. Before meeting Director Yan, Qiu Ju and Meizì engage in a discussion of what gift to bring for him. They settle on a bag of fruit, but decide that it is not enough, and then get “a gaudily coloured black-velvet painting,” which often evokes laughter from the audience. Gift giving also plays a central role in Officer Li’s ill-fated attempt to deliver boxes of cakes as a proxy for an apology, which Qiu Ju was prepared to accept had it been genuine. Professor Xudong Zhang notes that the idea of the gift is “a kind of culture-based rationalizing effort”

33 Cohen & Cohen, supra note 4, at 168; Joseph W. Dellapenna, Peasants, Tanners, and Psychiatrists: Using Films to Teach Comparative Law, 36 Int’l J. LEGAL INFO. 156, 170 (2008); Today’s Best, supra note 32, at D5; Ebert, supra note 3.
34 Hunter, supra note 8, at 22.
35 Note the phrasing of the title of an article that addresses the institutions of marriage and family in China. William P. Alford & Yuanyuan Shen, Have You Eaten? Have You Divorced? Debating the Meaning of Freedom in Marriage in China, in REALMS OF FREEDOM IN MODERN CHINA 234 (William C. Kirby ed., 2004).
37 Maslin, supra note 3.
38 SILBERGELD, supra note 4, at 126. Director Yan declines the gifts, but as one commentator points out, when Qiu Ju returns to the city later and waits to meet with Director Yan in front of the PSB building, “[W]e see three officials just like him sauntering by, each one carrying just the kind of gift the director had said ‘no’ to . . . not something an American audience could easily notice, quicker perhaps than the censor’s eye, but a good laugh for anyone lucky enough to catch it.” Id.
by Officer Li, “a reversed bribe, so to speak,” a “poignant way of highlighting the communal wisdom, underlying the legalistic thinking . . . by [Officer Li’s] sociopolitical and bureaucratic functionality.”

The Chinese *mianzi*, or “face,” refers to one’s respect, prestige, and standing in the community. “Basically, *face* describes the proper relationship with one’s social environment, which is as essential to a person (and that person’s family) as the front part of his or her head.” The *Oxford Dictionary of Idioms* acknowledges the Chinese origin and informs simply that to lose face is to “suffer a loss of respect” or “be humiliated,” whereas to save face is to “retain respect” or “avoid humiliation.” Film viewers have noted that the story’s characters appear to be preoccupied with saving face, or not losing face, or are keenly aware of another’s face. There are scenes when face is mentioned in *haec verba*:

- When Qiu Ju expresses reluctance about settling the matter with a money payment from the village chief when she desires an apology, Officer Li urges, “The Chief is obstinate, but he’s the Chief. Don’t make him lose *face*.” To extract an apology would be a loss of face.
- When Qiu Ju relents and goes to the chief’s house with the medical bills and receipt, and extends her hand to receive payment, the chief inexplicably tosses the bills into the air, and then explains why he agreed to the settlement. “It’s only because Officer Li came so far,” he says. “I can’t let him lose *face*.” Here, although the chief was mindful and respectful of Officer Li’s face, he was not hesitant to humiliate Qiu Ju, someone under his charge.
- When Qiu Ju meets with a professional complaint writer, she is asked how strongly the document should be

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39 Zhang, *supra* note 4, at 308.
42 The *Oxford Dictionary of Idioms* 124 (Jennifer Speake ed., 1999). “‘Losing face,’ in the sense of being humiliated, is an expression which penetrated into the English language from the Chinese; the English had no equivalent for it.” Hofstede, Hofstede & Minkov, *supra* note 41, at 110; Hofstede, *supra* note 41, at 61.
44 Anderson, *supra* note 8, at 87.
presented. He advises, "If it's worded mildly, your opponent saves face . . . and can back down if necessary. But a merciless complaint letter would leave him no way out. He'd be cornered." Qiu Ju rejects the latter option: "Give him a chance to back down."

- When Officer Li meets the chief to relay the decision of the District PSB, Li urges the chief to say some placating words to Qiu Ju to pacify her. "I've made several trips here just for this case. You heard the decision of the District. You won't lose face."

In other scenes, face is not articulated explicitly but its impact is obvious. When Officer Li first comes to the chief's home, he says to the chief, in Qiu Ju's presence: "[Qinglai] shouldn't have cursed you."[46] I told him that. But you were wrong too. . . . You shouldn't have beaten him like that." For Officer Li to be dressed down this way, in front of a villager within the chief's jurisdiction, must have been a loss of face,[47] which likely fueled the chief's arrogant tossing of the bills. The loss of face continued for the chief as Qiu Ju pursued her case to his superiors in the hierarchy. Or as he protested to Officer Li after learning of the District PSB's decision, "Tell me Officer Li, why did she go to the District? Just to smear my name? . . . Besides, I'm an official. I have to run this place."

Finally, the loss of face was seen almost literally when Qiu Ju's father-in-law came to the village office to return to Officer Li the gift that the chief had supposedly purchased for Qiu Ju as a form of an apology.[48] "Qiu Ju said the Chief didn't buy them," the father-in-law said. "You did." With these words, Officer Li's misrepresentations and scheme were found out, and his cold pause and facial expression told all. I venture to guess that the embarrassment for Officer Li would have been larger and more unbearable if Qiu Ju, Qinglai, or Meizi—and not the father-in-law—had returned the gift instead. The selection of the father-in-law, who is more senior in age than Officer Li, was strategically decided by the family to lessen the blow.[49] The impact of rank (and differences in rank)

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[46] Apparently, saying to a man that he can "only raise hens" is considered cursing.

[47] One loses face when he "fails to meet essential requirements placed upon him by virtue of the social position he occupies." Hofstede, Hofstede & Minkov, supra note 41, at 110 (quoting David Yau-Fai Ho, On the Concept of Face, 81 Am. J. Soc. 867, 867 (1976)); Hofstede, supra note 41, at 61 (same).

[48] The discussion in the remainder of this paragraph refers to a point raised previously. See supra text accompanying note 19.

[49] Professor Anagnost refers to another scene where face is raised. In the scene when Qiu Ju and Meizi return home after their second trip to the City,
provides an opportunity to discuss the work of Geert Hofstede and its application to the film.

Geert Hofstede has been described as the "father of the cultural database."50 His pioneering text, *Culture's Consequences*,51 published in 1980, highlights major cultural differences between and among national societies, differences that Hofstede labels as "dimensions of culture."52 Hofstede's subsequent work has expanded and updated his earlier editions.53 With respect to the study of national cultural traits generally, some qualifiers are in order. Or as Hofstede notes, "In research on cultural differences, nationality—the passport one holds—should . . . be used with care."54 First, because culture is "learned, not innate," i.e., derived from "one's social environment, not from one's genes,"55 the culture of a national society is not permanent or static.56 Instead, cul-

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When she finds him leading home a stray ox, he tells her, "This is all I am good for," meaning, of course, "You have reduced me to this," and also, by implication, "You must feel shame for making me, a conscientious and caring official, lose face by not responding to my appeal." He apparently only humbles himself for his failure because he intends to make her feel shame.

Anagnost, supra note 4, at 150–51.


52 Hofstede, Hofstede & Minkov, supra note 41, at 31; Hofstede, supra note 41, at 14; see Hofstede, supra note 51, at 42.

53 The first edition of Hofstede's *Cultures and Organizations: Software of the Mind*, supra note 41, was published in 1991, the year before the release of *The Story of Qiu Ju*. The most current edition, published in 2010 with co-authors, is Hofstede, Hofstede & Minkov, supra note 41.

54 Hofstede, Hofstede & Minkov, supra note 41, at 21; Hofstede, supra note 41, at 12.

55 Hofstede, Hofstede & Minkov, supra note 41, at 6; see Hofstede, supra note 41, at 5.

ture may change over time. Indeed, since The Story of Qiu Ju was first released in 1992, and since Hofstede’s most recent edition, the Chinese (as well as American) culture that Hofstede reported may have evolved or is undergoing change. Second, culture is not monolithic. There are different identities within most countries due to differences in region, ethnicity, religion, and language. This statement is especially apt for a country like China, given the multiple provinces, dialects, and ethnic groups that comprise a population of over 1.3 billion people. “Nevertheless, many nations do form historically developed wholes even if they consist of clearly different groups and even if they contain less integrated minorities.”

With these observations in place, we turn to Hofstede’s cultural dimensions that are most relevant in The Story of Qiu Ju: (i) power distance and (ii) individualism/collectivism. Power distance, which relates to the question of how a given society addresses the matter of inequality within it, is defined as “the extent to which the less powerful members of institutions and organizations within a country expect and accept that power is distributed unequally.” Hofstede lists the following general norms distinguishing between low and high power distances:

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57 See id. Culture is “rarely, if ever, perfectly shared by all members of a group or community. Intra-cultural variation is likely to be present, perhaps considerable, and this should caution us against ascribing value, belief, or behavioral uniformity to members of a group—against stereotyping.” Kevin Avruch, Culture as Context, Culture as Communication: Considerations for Humanitarian Negotiators, 9 Harv. Negot. L. Rev. 391, 393 (2004).

58 Hofstede, Hofstede & Minkov, supra note 41, at 18, 45; see Hofstede, supra note 41, at 10, 15. Hofstede also identifies other “[I]layers of culture,” at the gender, generation, social class, and organizational or corporate levels. Hofstede, Hofstede & Minkov, supra note 41, at 18; Hofstede, supra note 41, at 10.


60 Hofstede, Hofstede & Minkov, supra note 41, at 21; Hofstede, supra note 41, at 12.

61 Hofstede, Hofstede & Minkov, supra note 41, at 61; Hofstede, supra note 41, at 28.

62 Hofstede, Hofstede & Minkov, supra note 41, at 72 tbl.3.3; see Hofstede, supra note 41, at 37 tbl.2.3.
In his most recent edition, Hofstede provides a list of seventy-six countries and regions by order of the numerical “power distance index.” China emerges as a higher power distance society (tied for twelfth), in contrast to the comparatively lower power distance that is the United States (tied for fifty-ninth). In Hofstede further comments on the origins of the high power distance orientation in the Middle Kingdom:

In China around 500 B.C., Kong Ze, whose name the Jesuit missionaries two thousand years later latinized as Confucius . . . , maintained that the stability of society was based on unequal relationships between people. He distinguished the *wu lun*, the five basic relationships: ruler-subject, father-son, older brother-younger brother, husband-wife, and senior friend-junior friend. These relationships contain mutual and complementary obligations: for example, the junior partner owes the senior respect and obedience, while the senior partner owes the junior protection and consideration. Confucius’s ideas have survived as guidelines for proper behavior for Chinese people to this day. In the People’s Republic of China, Mao Zedong tried to wipe out Confucianism, but in the meantime his own rule contained strong Confucian elements.

A high power distance culture is seen in the film. Wang Shantang’s position as the village chief is of significance to everyone. When Officer Li verbally reprimands the chief, he adds,

<table>
<thead>
<tr>
<th>Small power distance</th>
<th>Large power distance</th>
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<tbody>
<tr>
<td>Inequalities among people should be minimized.</td>
<td>Inequalities among people are expected and desired.</td>
</tr>
<tr>
<td>Social relationships should be handled with care.</td>
<td>Status should be balanced with restraint.</td>
</tr>
<tr>
<td>Less powerful people and more powerful people should be interdependent.</td>
<td>Less powerful should be dependent.</td>
</tr>
<tr>
<td>Less powerful people are emotionally comfortable with interdependence.</td>
<td>Less powerful people are emotionally polarized between dependence and counter dependence.</td>
</tr>
</tbody>
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“You’re older than he, and you’re the Chief.” This is a superior’s reminder that the chief position demands better, or in Hofstede’s parlance, “Status should be balanced with restraint.” The title of village chief is one that the chief does not hesitate to remind. To Qiu Ju’s husband, the chief flaunts, “I work for the government. I work hard all year long. My bosses know that. Don’t you think they’ll back me up?” There are other references by the story’s characters that the chief is the chief. “[H]e’s the Chief,” Officer Li tells Qiu Ju, and thus, in light of his position, he should not be made to lose face. “He’s the Chief,” laments Qinglai, to Qiu Ju. “What can I do to him?” And later: “He’s the Chief. The higher-ups calmed him down. Who knows what he’d have done otherwise.”

China may be a comparatively high power distance setting, but there are individual differences within a society, and Qiu Ju is unwilling to play along with the central tendency. She appears to operate from a lower power distance orientation, at least with respect to the particular situation at hand, which creates conflict and tension within the otherwise high power distance community. “You’re the Chief,” she accepts, but protests, “[h]itting him is one thing...but you shouldn’t have kicked him there!” Qiu Ju’s situation-specific lower power distance mindset puts her at odds with her husband, who makes plain his desire that she end her quest with the decision of the City PSB. “He’s the Chief. So, what?,” Qiu Ju responds. “Can he kick a man in his privates?”

The storyline offers another event that uproots the high power distance formula and abruptly thrusts Qiu Ju, a “dirty peon,” into a different status. The fact that Qiu Ju was invited to ride in the director’s car back to the motel was not a common event. “You rode in the director’s car?,” the motel owner asks in amazement. “Many of my guests take their cases to the PSB...but none were ever escorted home before!” Word of the coup traveled quickly to Qiu Ju’s remote village. When Qiu Ju and Meizi return home, neighbors are also present, with one exhorting, “You rode in the director’s car? . . . Is that true? That must have been exciting!” Indeed, even the chief heard about Qiu Ju’s special accommodation. In a high power distance culture, this must have been unsettling (perhaps a loss of face) for the chief, who probably had never ridden in the director’s car himself.

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65 Hofstede, Hofstede & Minkov, supra note 41, at 72 tbl.3.3.
66 Silbergeld, supra note 4, at 125.
Hofstede’s individualism-collectivism cultural dimension relates to “a fundamental issue in human societies: the role of the individual versus the role of the group,” and offers a dichotomy. “Individualism pertains to societies in which the ties between individuals are loose: everyone is expected to look after him- or herself and his or her immediate family.” In contrast, “Collectivism as its opposite pertains to societies in which people from birth onward are integrated into strong, cohesive in-groups, which throughout people’s lifetime continue to protect them in exchange for unquestioning loyalty.” One difference between the polar ends is that there is an emphasis on maintaining harmony and avoiding direct confrontations in collectivist cultures, while in individualist cultures, “speaking one’s mind is a virtue” and “self-actualization by every individual is an ultimate goal.”

In Hofstede’s rankings of seventy-six countries and regions, the United States emerges as the most individualist society (edging out Australia, Great Britain, and “Canada total”); China is far more collective, in a tie for fifty-eighth with four other countries, all in Asia (Bangladesh, Singapore, Thailand, and Vietnam). Hofstede elaborates on the U.S.-China distinction:

67 Hofstede, Hofstede & Minkov, supra note 41, at 90; Hofstede, supra note 41, at 50.
68 Hofstede, Hofstede & Minkov, supra note 41, at 92; see Hofstede, supra note 41, at 51. Professor Triandis offers a similar definition of individualism: “a social pattern that consists of loosely linked individuals who view themselves as independent of collectives; are primarily motivated by their own preferences, needs, rights, and the contracts they have established with others; give priority to their personal goals over the goals of others; and emphasize rational analyses of the advantages and disadvantages to associating with others.” Harry C. Triandis, Individualism & Collectivism 2 (1995).
69 Hofstede, Hofstede & Minkov, supra note 41, at 92; Hofstede, supra note 41, at 51. Likewise, Professor Triandis defines collectivism as “a social pattern consisting of closely linked individuals who see themselves as parts of one or more collectives (family, coworkers, tribe, nation); are primarily motivated by the norms of, and duties imposed by, those collectives; are willing to give priority to the goals of these collectives over their own personal goals; and emphasize their connectedness to members of these collectives.” Triandis, supra note 68, at 2.
70 Hofstede, Hofstede & Minkov, supra note 41, at 106, 113 tbl.4.2, 130 tbl.4.5; Hofstede, supra note 41, at 58, 67 tbl.3.3.
71 Hofstede, Hofstede & Minkov, supra note 41, at 107, 113 tbl.4.2; Hofstede, supra note 41, at 58, 67 tbl.3.3.
72 Hofstede, Hofstede & Minkov, supra note 41, at 130 tbl.4.5; Hofstede, supra note 41, at 73 tbl.3.4.
73 Hofstede, Hofstede & Minkov, supra note 41, at 95–97 tbl.4.1. In Hofstede’s 1991 edition, the U.S. also occupied the most individualist ranking, out of fifty-three countries and regions, while countries with a predominant Chinese population were comparatively and significantly more collectivist: Hong Kong (thirty-seventh), Singapore (tied for thirty-ninth), and Taiwan (forty-fourth). Hofstede, supra note 41, at 53 tbl.3.1, 71. Triandis also identifies the United States as the model individualist culture, and China and Japan as classic collectivist cultures. Triandis, supra note 68, at 89–91, 97–98.
Most Americans feel that individualism is good and that it is at the root of their country’s greatness. On the other hand, the late chairman Mao Zedong identified individualism as evil. He found individualism and liberalism responsible for selfishness and aversion to discipline; they led people to placing personal interests above those of the group or simply to devoting too much attention to their own things.74

Hofstede also relays an anecdote: “The interpreter for a group of young Americans visiting China in the late 1970s found the idea of ‘doing your own thing’ untranslatable into Chinese.”75

Perhaps the collectivist orientation regulates behavior within society, frowning upon individual protests to achieve justice. Qinglai is poignantly aware of the community’s rumblings about his family, saying to Qiu Ju, “If we continue, people will say we’re difficult”; and “What will people say? They already talk plenty about us.” As Professor Anagnost notes, “In Chinese society, to suggest that ‘people are talking about you’ (you ren jiangni) carries a tremendously potent force to constrain people’s behavior.”76 But as with power distance, Qiu Ju operates from an opposing orientation in pursuing her quest. Qiu Ju, displaying her individualist streak: “They can say what they like. I want an apology.” The word choice is telling. In collectivist societies, the “[u]se of the word ‘I’ is avoided.”77 The interplay of individualist and collectivist norms can also be seen in the film’s final sequence. When Qiu Ju runs to catch the police car taking the chief away, perhaps she is acting out of self-interest. That is, her efforts are in the hopes that the last gasp measure to prevent the chief’s detention would salvage her standing in the collectivist community that values harmony and looks askance at, to quote the vernacular, the nail that sticks out.

All of Qiu Ju’s efforts from a lower power distance and individualist software came at a cost. “[H]er persistence has subjected her family to much local ridicule.”78 One wonders if the stateside equivalent of Qiu Ju would bring about similar reactions from the neighbors.

74 Hofstede, Hofstede & Minkov, supra note 41, at 127; see Hofstede, supra note 41, at 71.
75 Hofstede, Hofstede & Minkov, supra note 41, at 129; see Hofstede, supra note 41, at 73.
76 Anagnost, supra note 4, at 152; see Hunter, supra note 8, at 22 (Qinglai was merely “responding to the pressures of conformism that oppress him.”).
77 Hofstede, Hofstede & Minkov, supra note 41, at 117 tbl.4.3. In individualist societies, “Use of the word ‘I’ is encouraged.” Id.
78 Silbergeld, supra note 4, at 122.
As noted above, the film reveals aspects of the Chinese culture and points to cultural differences between China and the United States (at least as of 1992). Another meaningful impact of culture is seen in how audiences in the two countries received the film. One writer observed, “The way audiences react to the film is very telling of cultural differences: in China it was lauded as a triumphant comedy, while in the West it is received as a somber melodrama.”

Apparently, The Story of Qiu Ju was taken as a joke in China. The film’s director stated that “the audience laughed non-stop from beginning to end.” The humor apparently was in the preposterous proposition of a peasant woman demanding an apology from the village chief, and then filing a complaint to his superiors at the PSB at the District and City levels, and then in the courts. One commentator wrote:

Most laughable, from a social perspective, is the repeated image of Chinese officialdom treating this semi-literate, pesty, obstinate woman with the most constant, delicate deference—turning down every appeal, as one might expect, but then confessing, ‘We might have made a mistake’ and urging her to appeal, to find a lawyer, to challenge the government.

To be sure, there are comedic elements in the film for U.S. audiences. Yet oddly enough, the Chinese story seemed to resonate more with the American culture. One reviewer described the film as “the saga of a determined woman who tries to fight city hall.” Another offered, “If you’ve ever had to deal with town, state or federal bureaucracy, you’ll better understand The Story of Qiu Ju . . . . It may take place in provincial China, but a lot of it

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79 Fowler, supra note 7, at 181; see Armstrong, supra note 8, at D3. Some U.S. reviewers were more amenable to characterizing the film as a comedy. See Boyar, supra note 8, at 20; Gabrenya, supra note 8, at 12D; Donald La Badie, Comedic Odyssey of Chinese Wife Unfolds into Gem, Com. Appeal, Sept. 11, 1993, at C1, 1993 WLNR 2787287.

80 Silbergeld, supra note 4, at 125.

81 Cohen & Cohen, supra note 4, at 167 (citing Joan Lebold Cohen, Notes from Zhang Yimou’s Introduction, New York Film Festival (1992)).

82 Id.

83 Silbergeld, supra note 4, at 125. In a similar vein, the Cohens noted that “Qiu Ju’s consistently easy access to the police, who graciously welcome and advise her at every level, culminating in PSB Director Yan’s implausible, cheery patience, strikes a false note.” Cohen & Cohen, supra note 4, at 168. More realistic is the candid assessment of the case by the sympathetic motel owner, who, after reviewing Qiu Ju’s complaint, initially advised, “You might as well forget it. Just think. There are a million people in the city. If one in a hundred has a dispute, that’s 10,000 cases. To you, this is a big deal. To them, it’s nothing!”

84 See, e.g., Silbergeld, supra note 4, at 123–25; Cohen & Cohen, supra note 4, at 167–68.

85 Boyar, supra note 8, at 20.
feels very close to home.”

Note in these passages characteristics attributable to the comparatively lower power distance and individualist culture that is the U.S., per Hofstede. Specifically, in the low power distance setting, “Less powerful people and more powerful people should be interdependent”; “[s]ubordinates expect to be consulted”; and “[t]he use of power should be legitimate and follow criteria of good and evil.”

The individualist culture emphasizes the “[i]ndependent self” and posits that “[s]peaking one’s mind is a characteristic of an honest person.”

Thus, culture must be borne in mind, as we prepare to examine Qiu Ju’s story with a dispute resolution lens. The PSB’s mandate—first expressed by Officer Li and later by the District—that each party “engage in self-criticism” is consistent with a collectivist society with an emphasis on harmony. Likewise, the goal of harmony and conciliation and avoiding direct confrontation seen in collectivist societies like China may lead to community pressure to settle disputes. There is a direct reference to this in one exchange. Handing over the gift of cakes and urging settlement, Officer Li states, “[T]his is a case for mediation. It’s not a case for a court.” Qinglai agrees: “We all live in the same village. Let’s put this matter behind us.”

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87 HOFSTEDE, HOFSTEDE & MINKOV, supra note 41, at 72 tbl.3.3; see HOFSTEDE, supra note 41, at 37 tbl.2.3. In contrast, in the high power distance setting, “Less powerful people should be dependent.” HOFSTEDE, HOFSTEDE & MINKOV, supra note 41, at 72 tbl.3.3; HOFSTEDE, supra note 41, at 37 tbl.2.3.

88 HOFSTEDE, HOFSTEDE & MINKOV, supra note 41, at 76 tbl.3.4; HOFSTEDE, supra note 41, at 37 tbl.2.3. In high power distance, “Subordinates expect to be told what to do.” HOFSTEDE, HOFSTEDE & MINKOV, supra note 41, at 76 tbl.3.4; HOFSTEDE, supra note 41, at 37 tbl.2.3.

89 HOFSTEDE, HOFSTEDE & MINKOV, supra note 41, at 83 tbl.3.5; see HOFSTEDE, supra note 41, at 43 tbl.2.4. In high power distance, “Might prevails over right: whoever holds the power is right and good.” HOFSTEDE, HOFSTEDE & MINKOV, supra note 41, at 83 tbl.3.5; HOFSTEDE, supra note 41, at 43 tbl.2.4.

90 HOFSTEDE, HOFSTEDE & MINKOV, supra note 41, at 117 tbl.4.3. In contrast, the collectivist setting emphasizes the “[i]nterdependent self.” Id.

91 Id. at 113 tbl.4.2; HOFSTEDE, supra note 41, at 67 tbl.3.3. In the collectivist setting, “Harmony should always be maintained and direct confrontations avoided.” HOFSTEDE, HOFSTEDE & MINKOV, supra note 41, at 113 tbl.4.2; HOFSTEDE, supra note 41, at 67 tbl.3.3.

92 I cannot imagine a mediator in the U.S. setting using this phrase. Urging each side to compromise might be a linguistic and practical equivalent.

93 Cohen & Cohen, supra note 4, at 172.
III. Lessons in Dispute Resolution: What the Client Wants—Shuofah (by an Apology)

The English language audience is informed that what Qiu Ju wants is justice, and more specifically, an apology from the chief. Indeed, reviewers and commentators have emphasized the protagonist’s quest for justice and demand for an apology. I address the matter of justice and the apology in turn, and in doing so, must discuss the Chinese shuofah, as explained herein.

For someone in Qiu Ju’s situation—that of a person whose spouse has been beaten up, with the offender (a public official) brutally declining to do anything about it and adding further insult—the desire for “justice” is understandable. Webster’s defines justice as “just treatment,” Black’s Law Dictionary defines it as “fair treatment of people.” Black’s also notes the definition by the Roman jurist, Ulpian: “To live honourably, not to harm your neighbor, to give everyone his due... Honesti vivere, alterum non laeere, suum cuique tribuere.” Other definitions of “justice” are the “impartial adjustment of conflicting claims” and “the assignment of merited rewards or punishments,” entailing a resort to a formal proceeding, which Qiu Ju indeed undertook, eventually ending up in the courts. But by justice, Qiu Ju did not wish for what actually resulted—the chief’s arrest and detention. Commentators have noted that in the case of Qiu Ju, law and the legal insti-

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94 It is the client who has the ultimate authority to settle the dispute, and under the terms and conditions that she desires, or those that are irreducible minimums. See Model Rules of Professional Conduct r. 1.2(a) & cmt. 1 (Am. Bar Ass’n 1983).
95 E.g., Fowler, supra note 7, at 181; Silbergeld, supra note 4, at 121; Zhang, supra note 4, at 291, 292, 299, 309; Calkins, supra note 27, at 337; Dellapenna, supra note 33, at 170; Lee, supra note 10, at 481; Jim Keogh, Pursuit of Verbal “Sorry” Makes Interesting Flick, Worcester Telegram & Gazette, Dec. 8, 1993, at C4, 1993 WLNR 4696310.
96 E.g., Berry & Farquhar, supra note 4, at 160; Cohen & Cohen, supra note 4, at 168; Dellapenna, supra note 33, at 170; Meyer, supra note 4, at 166; Woo, supra note 4, at 614; Armstrong, supra note 8, at D3; Boyar, supra note 8, at 20; Hunter, supra note 8, at 22; Keogh, supra note 95, at C4; Levesque, supra note 43, at C2; Daniel Neman, Yimou’s ‘The Story of Qiu Ju’ Has Both Tragedy and Comedy, Richmond Times-Dispatch, Aug. 21, 1993, at B7, 1993 WLNR 946547.
97 Webster’s Third New International Dictionary of the English Language Unabridged 1228 (1993). There is “the natural aspiration for justice in the human heart.” Id. (example attributed to W.A. White).
99 Id. (quoting Paul Vinogradoff, Common Sense in Law 19–20 (2d ed. 1946)) (emphasis added).
tutions were not only ineffective, but also were to blame for the undesired result.\textsuperscript{101}

One observer noted that Qiu Ju was seeking a different kind of “justice,” one that equates to “peace,” “a state of ‘everything in its place,’” or “equilibrium.”\textsuperscript{102} Likewise, Professor Xudong Zhang wrote that “what Qiu Ju demands, first and foremost, is . . . for her values defined by her immediate surroundings to continue to make sense.”\textsuperscript{103} Qiu Ju’s situation “is not a legal battle but a hermeneutic struggle to ensure the coherence and integrity of the world of meaning and value, of understanding and, indeed, of being. She is there not so much to litigate as to heal, above all her own peace of mind . . . .”\textsuperscript{104}

The U.S. audience is aware that Qiu Ju wants justice, because she says so. But this assumes that the subtitles in English accurately reflect the spoken dialogue in Chinese Mandarin. There is always the challenge of translation, made more complex by the requirements of the subtitle format. In the film, there are five instances in which “justice” appears in the English subtitles.

(1) “What kind of justice is this?” [Qiu Ju to the chief, when rebuffed after asking what should be done]

(2) “There must be justice somewhere.” [Qinglai to Qiu Ju after she returns home from her visit to the chief and states her intention to go to the village office, in light of the chief’s refusal to address the matter]

(3) “I want justice.” [Qiu Ju to the chief, after he throws the twenty bills into the air, saying that she is not after money]

(4) “Justice?” [The chief’s prompt response to Qiu Ju]

(5) “I want to believe that there is some justice.” [Qiu Ju to her husband after returning home from the tossed money incident with the chief, indicating her intentions to take the dispute to the District PSB]

In brief, there is some question as to whether “justice” in the above five instances is the intended message. Chinese colleagues

\textsuperscript{101} Anagnost, supra note 4, at 139; Berry & Farouhar, supra note 4, at 160, 162; Lee, supra note 10, at 481; Meyer, supra note 4, at 166; Woo, supra note 4, at 614; Haiting Zhang, Traditional Culture v. Westernization: On the Road Toward the Rule of Law in China, 25 Temp. Int’l & Comp. L.J. 355, 371 n.112 (2011).

\textsuperscript{102} Sharon S. Harzenski, Redefining Violence: Some Thoughts About Justice, Power, Peace, Respect, and the Fabric of Our Social Experience, 9 Am. U. J. Gender Soc. Pol’y & L. 305, 323 (2001). “Justice, understood from this perspective, is a quality, perhaps even a delicate quality, belonging to both a personal and a social condition.” Id. at 324.

\textsuperscript{103} Zhang, supra note 4, at 298.

\textsuperscript{104} Id.
whose counsel I sought offered different translations of the Mandarin dialogue. In the first scene (Qiu Ju’s comment to the chief), rather than “justice,” Qiu Ju’s reference could be to “solution,” “answer” or “justified answer,” “apology,” or “explanation.” For the second (Qinglai’s reaction to Qiu Ju), alternative translations relate to someone who can “punish,” “handle,” “supervise,” or “control” the chief, or have him “take responsibility.”105 Likewise, in the third and fourth instances, additional translation from the Mandarin yields “apology,” “answer,” or “reason,” instead of “justice.” Of the above five lines in which “justice” appears, in the fifth (and only the fifth), “justice” is the translation from the Chinese shuofah.

What Qiu Ju really wants is shuofah.106 The term appears in several scenes, and is most frequently uttered by Qiu Ju,107 and by others in a few instances. One Chinese-English dictionary defines the term as: “1 way of saying things; wording . . . 2 views; argument; version.”108 Onscreen, shuofah is translated in the subtitles as “justice” (in one instance, as above), and also appears as “apology” (seven times), and “do[ing] what’s right,” “do[ing] right,” “do[ing] right by us,” “the right thing,” “[getting] it right,” or “mak[ing] it right” (collectively, ten times).109 Interestingly, none of the various dictionary definitions of shuofah appear in the English subtitles when the word is uttered onscreen.

With respect to shuofah, the film’s director Zhang Yimou spoke directly on the subject: “What Qiu Ju wants is shuafa [sic]—a word used in the film that does not mean an ‘apology’ but an answer, an explanation, a clarification.”110 There appears to be a

105 It appears to be this line in the film for which Professor Xudong Zhang provides a similar translation: “[T]here will be someone to set [the chief] straight.” ZHANG, supra note 4, at 304.

106 See ANAGNOST, supra note 4, at 138.

107 ZHANG, supra note 4, at 297 (“[T]he word consistently, stubbornly repeated by Qiu Ju throughout the film is, actually shuofah.”). 


109 One commentator, without referring to shuofah, wrote, “She wanted only a ‘fair statement’ that the village head hurt her husband.” ZHANG, supra note 101, at 371 n.112.

110 ANAGNOST, supra note 4, at 138 & 207 n.2 (“[sic]” in original) (second and third emphases added) (quoting interview with Zhang Yimou, as reported in the China News Digest, Books and Journal Review, Apr. 25, 1993). Indeed, there is a separate dictionary entry for “apologize” and “apology”—dao qian. OXFORD CHINESE DICTIONARY, supra note 108, at 17. The Chinese pei or pei li also means “apologize.” Id. at 338. In the film, there are five scenes in which “apologized,” “apology,” or “sorry” appear in the English subtitles, but in none of these five is shuofah uttered in dialogue or presented in the Chinese subtitles:

(1) “Consider this his apology” [in the Chinese subtitles, pei li dao qian appear] (by Officer Li, referring to the gifts for Qiu Ju that he said were from the chief);
complexity to *shuofah*. Professor Xudong Zhang notes that it is a term "whose meaning and implications are not so much legal but moral, not putative but persuasive, not authoritative but communitarian and consensual, not judgmental but descriptive (or, better still, narrative). It is, indeed, close to something like "explanation," since, literally and in everyday usage, *shuofah* means the way things are discussed, talked about, and eventually, understood and accepted without coercion. The moral-cultural point of *shuofah* is that the way things are must be accepted by those to whom it is explained; that the politicolegal order must rest on a tacit agreement, a consent given by those to whom things are explained.\(^{111}\)

Quite on cue, in the DVDs of the film that were obtained in China and Korea (both of which also have English subtitles),\(^{112}\) in four of the seven different instances when *shuofah* is spoken in dialogue, it appears in the subtitles as "explanation," rather than the "apology" phrase seen in the U.S. DVD.\(^{113}\) Exactly what kind of an explanation did Qiu Ju want? In my view, this question inevitably takes us to a more detailed discussion of explanation’s cousin, the apology.

With due respect to the film’s director, who disclosed that *shuofah* as used in the film does not mean an apology, I believe it is the apology that best delivers the essence of the *shuofah* that Qiu Ju seeks. Perhaps only an apology can best effect the elaborations of "justice" described above—such as "peace," "equilibrium," "being," and "healing"—as well as "respect"\(^{114}\) and "dignity."\(^{115}\) As Dr. Aaron Lazare has emphasized, there is a healing nature to the

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\(^{111}\) Zhang, supra note 4, at 297 (emphasis of "explanation" and "explained" added).

\(^{112}\) See supra note 6.

\(^{113}\) Perhaps "explanation" is closer to the dictionary definitions of "way of saying things; wording...views; argument; version" than the other subtitles translated from *shuofah*.

\(^{114}\) Armstrong, supra note 8, at D3; Levesque, supra note 43, at C2.

apology, which restores the “vital aspects of the self” such as self-respect and dignity.\footnote{Aaron Lazare, On Apology 34, 35 (2004).}

Qiu Ju “simply wanted to obtain a dignified apology and then resume good relations.”\footnote{Cohen & Cohen, supra note 4, at 168; see supra note 96 and citations therein. Per the English subtitles, the chief, Officer Li, and Director Yan all knew that Qiu Ju wished an apology. But it is not clear that her lawyer knew. Note the exchange between the client and the attorney that took place in the latter’s office.}

Qiu Ju: Are you sure about this?

Lawyer Wu: Yes, yes. Leave everything to me.

Qiu Ju: Will the right thing be done this time? [shuofah appears in Chinese subtitles and spoken dialogue here]

Lawyer Wu: Of course the right thing will be done. [shuofah]

Qiu Ju: You see...this winter I’ve gone everywhere—to the village...the district and the city...but none got it right. [shuofah] [Note: In the Chinese and Korean DVDs, the subtitles here read: “But I couldn’t get an explanation anywhere.”] We’ve only spoken once, and you can make it right? [shuofah]

Lawyer Wu: Before, it was mediation. Now it’s a lawsuit. That’s different.

Qiu Ju: I don’t care, as long as you can do it.

Lawyer Wu: Didn’t you hire me as your attorney? I’ve agreed and accepted your money. I’ll represent you. That’s my job. I do it every day.

Qiu Ju: You mean, you take money every day...and every day the right thing gets done? [shuofah]

If to Qiu Ju, the “right thing” means receiving an apology, she did not make it clear to Lawyer Wu. She said shuofah. It was not until Qiu Ju left the lawyer’s office, when a puzzled Qiu Ju said to her sister-in-law waiting outside, “I still don’t get it. We pay him money...and he’ll get us an apology?” Here, Qiu Ju did not say shuofah, or for that matter, pei or dao qian. Chinese colleagues prefer a translation along the lines of “He will take care of everything for us.”\footnote{Erin Ann O’Hara & Douglas Yarn, On Apology and Consiliation, 77 WASH. L. REV. 1121, 1138 n.56 (2002) (citing Robert Marquand, U.S. ‘Sorry’ Heard in Beijing As an Apology, CHRISTIAN SCIENCE MONITOR, Apr. 12, 2001, at 1).}
rarely given and is apparently never offered by a person in power.”\textsuperscript{119} That was the chief here.\textsuperscript{120}

When Qiu Ju met Director Yan for the second time and expressed her disappointment with the City PSB’s decision, she went to the heart of what she wanted: “The Chief doesn’t admit that he was wrong. . . . Why can’t you make him admit...that he was wrong?” Indeed, one definition of “apology” requires that the offender admit that he did something wrong.\textsuperscript{121} As Professor Anagnost observes, Qiu Ju “is seeking some sort of acknowledgment . . . of [the chief’s] transgression.”\textsuperscript{122} But an apology was not possible here, because as the chief previously explained to Officer Li, “As for apologizing, I didn’t do anything wrong.”\textsuperscript{123}

Informative in the analysis of the apology is the definition advanced by Dr. Lazare, who identifies four parts of the apology process: “1) the acknowledgment of the offense; 2) the explanation; 3) various attitudes and behaviors including remorse, shame, humility, and sincerity; and 4) reparations.”\textsuperscript{124} The chief technically met the first element, in that he did not deny his kicks to Qinglai’s groin area, but this acknowledgment was accompanied by unkind and uncultured comments (to say the least). The chief also satisfied the fourth element, by paying for the medical costs and lost wages, though this was ordered by the village officer, upheld by the District PSB, and enlarged by the City PSB. But the chief failed in the second and third elements. His actions were devoid of

\textsuperscript{119} This explains why the chief could not or would not apologize. The saving of face, especially for a person of position in a high power distance culture, may be at work here. For the chief, apologizing would be a violation of his dignity. See Sterritt, supra note 32, at 12 (noting that “the village chief stands on his dignity and refuses to say he’s sorry”). It also appears that the chief “viewed himself as the victim of injustice more than perpetrator.” Cohen & Cohen, supra note 4, at 170.

\textsuperscript{120} Qiu Ju apparently received the rare third level of apology from Officer Li, when he apologized for his clerk mistakenly delivering the City PSB’s decision to the chief instead of Qiu Ju. Li’s apology (containing dao qian in the Chinese subtitles) and Qiu Ju’s response are seen in this Article’s epigram.

\textsuperscript{121} See Stephen B. Goldberg et al., Saying You’re Sorry, 3 NEGOT. J. 221, 221 (1987); see also Aaron Lazare, Go Ahead, Say You’re Sorry, PSYCHOL. TODAY, Jan. 1995, at 40, 76 (“To apologize, you have to acknowledge that you made a mistake.”).

\textsuperscript{122} ANAGNOST, supra note 4, at 139.

\textsuperscript{123} Nor did the chief satisfy another definition of the apology—an offender being sorry and saying so. See NICHOLAS TAVUCHIS, MEA CULPA: A SOCIOLOGY OF APOLOGY AND RECONCILIATION 36 (1991).

\textsuperscript{124} LAZARE, supra note 116, at 35 (emphasis added). In surveying the many definitions of the term, Professors O’Hara and Yarn note that common definitions of a full or effective apology include four basic elements: “[I]dentification of the wrongful act, remorse, promise to forbear, and offer to repair.” O’Hara & Yarn, supra note 118, at 1133.
any remorse, shame, humility, or regret (the third element). This brings us to the explanation element of the Lazare apology, which reminds of an alternate subtitle for shuofah and Professor Zhang's elaboration of the term. Lazare explains:

Offended parties often regard an apology as unsatisfactory if it does not include an explanation. They view the explanation part of the debt owed to them. They will make comments such as, “You owe me an explanation,” or “Please tell me why you did this,” or “You could at least have had the decency to explain yourself.” These statements suggest that the failure to offer an explanation is often perceived as an inadequate apology or even a further insult.\textsuperscript{125}

The chief's attempt at an “explanation” for his actions was nothing but disastrous. When Qiu Ju first tries to give her husband's medical report to the chief, he is preoccupied with his bowl of noodles, and for the first part of the exchange, does not turn to face her.

Qiu Ju: Chief, Qinglai is wounded, in case you're interested. Here's the medical report. Read it. \textit{[The chief looks back briefly but resumes eating]} Tell us what to do.

Chief: \textit{[Rising and walking away from the immediate area]} Do whatever you want.

Qiu Ju: \textit{[Retrieving the report, rising and walking toward the chief]} You're the one who kicked him. So tell us what to do.


Qiu Ju: You're the village Chief. You should know better. You can't kick a man in his groin.

Chief: So I kicked him. What do you want now?

Qiu Ju: You tell us what you think should be done.

Chief: If you insist. But don't blame me for being crude. I'll stand outside with my legs open...and let him kick me back.\textsuperscript{[126]} How's that?"

\textsuperscript{125} Lazare, \textit{supra} note 116, at 119. Lazare continues:

Explanations that diminish the seriousness of the offense communicate one or more of four things: 1) the grievance was not intentional and therefore not personal; 2) the behavior is not indicative of the “real self” of the offender; 3) the victim is blameless; and 4) similar grievances are unlikely to recur because of the uniqueness of the circumstances. Victims assess these matters and considering whether they will accept the apology, forgive the offender, and reconcile the relationship.

\textit{Id.} at 121.

\textsuperscript{126} This would follow the principle of a testicle for a testicle. \textit{Cf. Robert Francis Harper}, \textit{The Code of Hammurabi King Babylon, About 2250 B.C.} 73 (1904) (“If a man destroy the
The chief is given a second opportunity when Qiu Ju returns with the chief's superior in the PSB hierarchy, who attempts a mediated settlement.

Officer Li: Wang . . . I've read the medical report, and I've been to see Qinglai. He shouldn't have cursed you. I told him that. But you were wrong too. You're older than he, and you're the Chief. You shouldn't have beaten him like that.

Chief: I was just obeying the law.

Officer Li: But the law doesn't say you can beat people up.

Chief: If he had any sense . . . he'd understand why I kicked him.

Qiu Ju: [Interjecting] You're the Chief. Hitting him is one thing . . . but you shouldn't have kicked him there!

Chief: It shut him up, didn't it?

Unrepentant and unyielding, the chief's comments were not only an unsatisfactory explanation, but precisely the type that makes the situation worse. "If the reasons given for an offense seem dishonest, arrogant, manipulative, or an insult to the intelligence of the victim, the explanation may escalate the offense."127

Elemental definitions generally, and those for an apology specifically, are the stuff of "low context" academic commentators and litigation associates. By background, the low versus high context dichotomy in communication patterns relates to the amount of information contained in the transmitted message as opposed to the context (or setting) of the event. In low context communications, most of the information is in the transmitted message, with minimal "preprogrammed" information in the receiver and the setting; high context communications are the reverse.128 "[I]n a low context culture . . . information is abundant; procedures are explicitly explained, and expectations are discussed" with a literal, direct style of communication.129 In contrast, in high context cultures, there is an expectation of shared knowledge, the information is im-

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127 LAZARE, supra note 116, at 121.
129 CARLEY H. DODD, DYNAMICS OF INTERCULTURAL COMMUNICATION 89 (2d ed. 1987).
licit, and the communication is less direct.\textsuperscript{130} The United States is considered a low context culture, while East Asian countries are more high context.\textsuperscript{131}

Although black letter application of the multi-part definition of apology requires each of the elements to be present, Lazare notes that “[t]he importance of each part—even the necessity of each part—varies from apology to apology depending on the situation.”\textsuperscript{132} Indeed, “many effective apologies can be brief.”\textsuperscript{133} Given the importance of context, Professors O’Hara and Yarn state that sometimes, “an abbreviated expression of apology can carry with it the implied presence of unspoken elements.”\textsuperscript{134} In The Story of Qiu Ju, Officer Li attempted to broker a more contextual apology (in contrast to an apology with all of its elemental components) when he urged the chief to go to Qiu Ju and say some “kind words.” The chief played the unwilling and unknowing pupil, and sought low context details: “Kind words? How kind? What words?” The closest that the chief came to a conciliatory tone came when Qiu Ju returned with the 250 yuan, and the chief said tersely (but with no expression of remorse or regret or admission of fault for the incident), “Look, Qiu Ju, let’s put this behind us.” In context, it was not enough.

Lazare, while acknowledging that others may disagree, states that a nonverbal apology may be effective.\textsuperscript{135} In the film, knowing that the chief could not or would not deliver a verbal apology, Officer Li resorted to the possibility of a symbolic apology, by that of a gift from the chief to Qiu Ju. With assurances from Officer Li that the chief bought the gift for Qiu Ju and that it was the chief’s “way of apologizing,” Qiu Ju was amenable to the nonverbal apology, saying, “If that’s the case, then he has already apologized to us.” But it was not the case, Officer Li’s attempt to deliver a nonverbal apology failed, and Qiu Ju’s mission continued.

Another type of nonverbal apology is seen in the U.S. film, A Civil Action,\textsuperscript{136} based on Jonathan Harr’s nonfiction book by the

\textsuperscript{130} Id.
\textsuperscript{131} See Edward T. Hall & Mildred Reed Hall, Understanding Cultural Differences 6–7 (1990); Barkai, supra note 51, at 55 n.47.
\textsuperscript{132} Lazare, supra note 116, at 35.
\textsuperscript{133} Id. at 35–36.
\textsuperscript{134} O’Hara & Yarn, supra note 118, at 1139. The authors also add, “[B]ut other times it cannot.” Id.
\textsuperscript{135} Lazare, supra note 116, at 36–38.
\textsuperscript{136} A Civil Action (Touchstone Pictures 1998).
same title.\textsuperscript{137} The story involves a group of residents of Woburn, Massachusetts who alleged that the defendant companies contaminated the drinking water in the area by discharging toxic chemicals into the ground, leading to ailments, injury, and death.\textsuperscript{138} The named plaintiff, Anne Anderson, much like Qiu Ju, insisted that what she wanted was not money but an apology.\textsuperscript{139} In the film, Anderson, speaking for her similarly situated neighbors, explains to their attorney:

Now I wanna be clear. I'm not interested in money. None of us are. That's not why we're doing this. What we want . . . is to know what happened. And we want an apology. . . . From who[m]ever did this. I want someone to come to my house, knock on the door, and say, "We're responsible. We did this. We didn't mean it, but we did it and we're sorry."\textsuperscript{140}

Later in the film's story, the attorney apparently told the client (in an exchange not seen by the audience, but recounted by Anderson), "Money is the apology. That's how they apologize: with their checkbooks."\textsuperscript{141}

Across the Pacific, in Qiu Ju's story too, a nonverbal apology by a money payment was entertained. Qiu Ju was initially reluctant to accept Officer Li's proposed settlement of 200 yuan for medical costs and lost wages, saying, "I'm not after his money. I just want an apology." But Officer Li's response rationalizes that a financial payment includes an element of the apology, namely fault: "He'll pay. That means you're right and he's wrong. That way he'll apologize." Persuaded, Qiu Ju was prepared to accept the money as an apology, and the story could have ended with that resolution. But the chief's insulting delivery (throwing the bills into the air) drastically changed the dynamic, and from then on, money by itself would not be the apology.\textsuperscript{142}

\begin{footnotesize}
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\item JONATHAN HARR, A CIVIL ACTION (1995).
\item See Anderson v. Beatrice Foods Co., 900 F.2d 388 (1st Cir. 1990) (summarizing facts giving rise to litigation and case history).
\item HARR, supra note 137, at 452.
\item A CIVIL ACTION, supra note 136.
\item Id. Lazare also gives an example of an apology by monetary payment, with the story of a U.K. pilot of Muslim descent who was falsely accused of training the 9/11 hijackers. He was arrested and detained for months before a court found no evidence against him. He requested an apology and said that he would not have brought a suit if the government had given an apology. The government would not apologize. "Ultimately, the restoration of his dignity may come as a monetary award imposed by the court." LAZARE, supra note 116, at 51.
\item See Armstrong, supra note 8, at D3 ("[S]he refuses to accept money in lieu of an apology."). Thus, apparently, it is not always about the money or the amount of money, but also the mode and manner of the delivery. In this light, one wonders about the potential consequences if
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Ultimately, Qiu Ju’s story is one of an aggrieved party trying to find someone who can force the chief to apologize.\textsuperscript{143} There appears in the commentary some question as to whether the Chinese legal system could compel an individual to apologize. Professor Margaret Y.K. Woo, for example, wrote that although Qiu Ju wanted an apology, it was “a remedy the legal system did not and could not provide.”\textsuperscript{144} Other commentators have noted that the PSB has the authority to order its officials and employees to issue an apology,\textsuperscript{145} and the Chinese courts have the authority to order parties to do so.\textsuperscript{146} If the latter view is correct, the usual questions surrounding a “compelled” apology abound. What exactly is a satisfactory apology? Could it be a verbal apology made in person? In private or public? Must it be in writing (which allows for the possibility of publication)? May Wang Shantang apologize by delivering a gift? Would a one-sentence “Qiu Ju, I apologize”\textsuperscript{147} be sufficient? Or must it include the other elements of the apology described in the Western commentary—e.g., “I apologize for hitting and kicking your husband. I am sorry. I will not do it again. I will pay 250 yuan for your medical expenses and lost wages”?\textsuperscript{148} Is there a requirement of sincerity?\textsuperscript{149} What if the apology adds the words, “But the stupid fool deserved to be kicked there” or “He


\textsuperscript{144} Woo, \textit{supra} note 4, at 614.

\textsuperscript{145} Cohen & Cohen, \textit{supra} note 4, at 171.

\textsuperscript{146} As a preliminary matter, the Cohens note that Qiu Ju could have been better advised. After the City PSB’s decision, rather than going to court to challenge the decision under the then new Administrative Litigation Law, there was an “obvious alternative.”

Her husband could surely have brought a civil suit against the headman for damages and an apology, and Qiu Ju herself might have joined in the case, not only as his representative but also in her own right because of the loss of consortium she had suffered as a result of his injury. This would have avoided the need to make Director Yan her adversary in court and would have eliminated the risk that the court might order the PSB to punish the headman with the detention. Instead, the headman himself would have been summoned to court, but in a civil case, in which the worst that could have happened to him would have been a judgment demanding that he pay damages and apologize, precisely the justice that Qiu Ju wanted.

\textit{Id.} at 172 (emphasis added).

\textsuperscript{147} This is described as a “partial” apology. O’Hara & Yarn, \textit{supra} note 118, at 1127 & n.22.

\textsuperscript{148} This includes the four elements of a “full” apology as classified by O’Hara and Yarn. \textit{Id.} at 1133.

had it coming"? Must a court approve the sufficiency of the apology? Does Qiu Ju have a recourse if she deems the apology unsatisfactory? Indeed, “The inherent difficulty of legally mandated apologies is central to The Story of Qiu Ju . . . ”

No one ordered the chief to apologize, and he did not. What he did do: On New Year’s night when Qiu Ju’s life was in danger, the chief quickly, tactically, and efficiently arranged for the safe and timely transport of Qiu Ju to the hospital, and also provided his own muscle and legs. In this regard, one commentator wrote, “All that Qiu Ju wanted was an apology from the chief, and in fact and finally, she got one.” Continuing, “[I]n effect,” by the chief saving Qiu Ju’s life and the life of her baby, she received “the best apology imaginable.” The apology may well be a process that is unique to the parties under their particular circumstances.

For my part, I am not convinced that by arranging for Qiu Ju’s safe transport to the hospital, the chief thought that he was extending an apology, even in his own way. Note the chief’s words to Qinglai over a meal of noodles after they delivered Qiu Ju to the hospital: “You know, don’t you? This isn’t the first time...that I helped a pregnant woman. This has nothing to do with the lawsuit.” In providing for Qiu Ju’s timely arrival at the hospital, the chief was merely doing his job, just as deciding on the Wans’ petition for the building of a storage shed was part of his official duties. I also question whether Qiu Ju viewed the chief’s efforts that saved her life as an apology. In Qiu Ju’s final words in the film, she expresses shock at the news of the chief being taken away: “I just wanted an apology! That’s all I wanted. Nothing more!” Here, Qiu Ju said in Chinese Mandarin that she wanted “shuofah.” Whether she meant an apology, explanation, clarification, or justice is unclear. If Qiu Ju were pressed, would she elaborate: “And

150 These would be examples of the so-called “argumentative” apology. O’Hara & Yarn, supra note 118, at 1138.
152 Meyer, supra note 4, at 166.
153 Id.
154 And whatever the definitional requirements of the apology, after the apologizer’s initial effort, if the apologist feels that she has received an apology, the apology process is purportedly complete and the dispute is resolved. In this regard, perhaps the apology is in the eye of the apologist.
155 I acknowledge that this approach relies on the low context message, and that others may call for more context. Some will argue that despite the chief’s words that his efforts had “nothing to do with the lawsuit,” in the locale of rural China where neighbors in the village have frequent interaction, everything that happens there has much to do with everything else.
I didn’t get the shuofah I wanted” (my view), or “And I got it. He saved my life.”  Some may argue that by inviting the chief to the baby’s one-month celebration party, and personally urging him to attend, Qiu Ju considered the chief’s efforts as a satisfactory apology. Put another way, in some holistic manner, even when one causes such damage, hurt, or injury to another that demands an apology, when the offender saves the latter’s life, it could be considered the ultimate statement, peace, being, healing, or a sense of poetic life justice. But all of this seems better categorized under forgiveness than apology.

As with the commentary on the apology, there is an equally robust discussion on the subject of forgiveness. Dean Martha Minow defines forgiveness as “a conscious, deliberate decision to forgo rightful grounds for grievance against those who commit a wrong or harm.” It is “a choice, held at the discretion of those harmed.” Other commentators add what forgiveness is not—it is not “forgetting, condoning, excusing offenses, reconciliation, [or] re-establishment of trust.” The benefits of forgiveness—at its core, the reduction of anger—are especially meaningful for someone in Qiu Ju’s condition, who was in the final stages of a pregnancy, and at film’s end, faces the tasks of a new mother.

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156 Rewinding, immediately before, when Officer Li arrived at her house, he said, “I’ve come to tell you something.” In Chinese Mandarin, what he said included “shuofah.” It is doubtful that he meant an apology. Nor could he have thought that he was delivering the explanation, clarification, or the justice that Qiu Ju was seeking. A more accurate meaning may well be the passive message indicated in the English subtitle: “I’ve come to tell you something.” Shuofah is very much a term in which the context shapes its intended meaning.


159 Minow, supra note 158, at 1618.


Lazare states that there is a "complex relationship between apology and forgiveness,"162 and that the two "are inextricably bound together."163 Professor Susan Daicoff suggests a linking between the two: "Forgiveness occurs when persons harmed by the apologizer’s actions accept the apology, express that they are no longer angry with the apologizer, or extend mercy to the apologizer."164 In contrast, Dean Minow explains that forgiveness does not require or depend on an apology, although an apology can make forgiveness easier.165 The chief’s efforts in saving the lives of Qiu Ju and her baby may not amount to an apology, but those efforts made it easier for her to forgive if she wished to make that choice.

The observation that forgiveness does not mean a "release from legal accountability"166 or a legal pardon rings true here. Lazare gives the example of Pope John Paul II, who forgave the man who tried to assassinate him, but did not recommend a pardon from imprisonment; "[t]hat judgment was left to the authorities."167 But whereas some (like the Pontiff) can disassociate themselves from the consequences of proceedings against their offenders (e.g., an attempted assassin), Qiu Ju cannot detach herself from the effects of the chief being detained, given her own community.

IV. EPILOGUE

The Chinese film The Story of Qiu Ju offers an invaluable tool for examining dispute resolution opportunities with a lens of culture. Qiu Ju feels aggrieved and wishes for a resolution. The legal system failed to deliver a satisfactory result. Cultural norms shape each part of the story. At some points, the main character resists deeply-rooted societal expectations of her.

With hindsight reigning supreme (including knowledge of the O. Henry ending), the most advisable course of action for Qiu Ju

162 Lazare, supra note 116, at 231.
163 Id. at 229.
165 Minow, supra note 158, at 1626; see also Angela M. Eastman, The Power of Apology and Forgiveness, 36 Vt. B.J. 55, 56 (2010) ("[W]e do not have to wait until the other person apologizes before forgiving and healing ourselves . . . .") (citing Lewis B. Smedes, Forgive and Forget: Healing the Hurts We Don’t Deserve 150-200 (2007)).
166 Ambrose et al., supra note 160, at 104.
167 Lazare, supra note 116, at 231.
would have been to withdraw the appeal in the appellate court, assuming that was allowed under the governing law. After the birth of her baby and before the celebration at the Wans' home, Qiu Ju had thirty days to make this request. Qiu Ju could be persuaded to forgive the chief—especially in the happy yet hectic time of celebrating the arrival of a first baby—and attempt anew to restore and resume good relations with the chief. With time, perhaps the villagers' talking about Qiu Ju's antics would dissipate. But without this hindsight, there is in the denouement, a cruel mix of joy, irony, and tragedy. Qiu Ju is alive, the baby is healthy, and Qinglai has a male heir. The village chief is in detention, and may be stripped of his duties. A pall casts over the community due to the disharmony within and the loss of the collective face. "The villagers will blame [Qiu Ju], and she will blame herself for the result . . . ." It is not a welcoming premise for a sequel, but perhaps "[g]iven her personality, . . . she'll be on the road the next day, appealing for mercy for her former enemy." 

168 My co-panelists raised this possibility during our panel discussion. "Art Imitates Life," supra note 8.

169 Zhang, supra note 101, at 371 n.112. Judith Meyer stated it more bluntly, saying that by the film's end, Qiu Ju has become "a pariah." Remarks of Judith P. Meyer, "Art Imitates Life," supra note 8.

170 Arnold, supra note 8, at E3.