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Voice as Posture:
Power of Voice That Doesn’t Form into Stories*

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I. HOW VOICE WORKS IN CONFLICT RESOLUTION

In this paper, I will deal with the questions of what people in grief and conflicts are trying to tell, and the implications these voices have for conflict resolution, through the examination of a case of medical malpractice lawsuit.

In the large amount of research on the conflict resolution process focusing on the voice of the parties in conflicts, the “narrative approach” is particularly noteworthy. The works of John Winslade and Gerald Monk are the representative examples in the field of dispute resolution,

* This paper is a revision of my earlier study, Nishida, Hidekazu, “Migamae toshite no Koe: Kosho Chitsujo no Hanshouteki Seisei [Voice as Posture: Dynamic interactions generated through Escalation of Voices],” in Wada, Yoshitaka, Shiro Kashimura, and Masaki Abe, eds., Hou Shakaigaku no Kanosei [Possibilities of Sociology of Law], (kyoto: Houritsu bunka sha, 2002).

which are based on the social constructionism advocated by Kenneth Gergen, and apply and develop the theory and methods of therapy created by Michael White and David Epston to the various contexts of conflict resolution including school, workplace, and neighbor. Narrative mediation developed by Winslade and Monk is one of the most influential approach both in practice and theory.

One of the basic premises these theories share is that the reality doesn’t exist a priori, but is constituted through the activities which give meaning to experiences. This premise doesn’t mean, of course, the reality comes from subjective interpretations made by individuals. Instead, the reality is constructed between persons. This premise is associated with the concept of self. Gergen defines self as “relational selves” in that self doesn’t exist without relationships with others. As Gregory Bateson puts it, “the relationship comes first; it precedes,” the narrative approach focuses on relationships.

If the reality is constructed among people, how is it constructed? Another premise of the narrative approach is that the world is constructed in language, including dialogue, discourse, story-telling, and narrative. Among these language activities White and Epston focus especially on “storying.” They explain this point as follows: “in order to


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make sense of our lives and to express ourselves, experiences must be stori
d and it is this storying that determines the meaning ascribed to expe
rience.” and “if we accept that persons organize and give meaning to
their experience through the storying of experience, *snip*, then it
follows that these stories are constitutive—shaping lives and relation
ships.” Here are implied two points that experiences are organized
through telling, and telling is storying.

Based on these fundamental assumptions, White and Epston create
fresh new ideas about therapy. The problem which clients encounter
doesn’t come from somewhere in their mind, but from the gap between
the lived experience and the story which makes sense of it. They see
that “the person’s experience is problematic to him because he is being
situated in stories that others have about him and his relationships, and
that these stories are dominant to the extent that they allow insufficient
space for the performance of the person’s preferred story.” If so, an
acceptable outcome would be the identification or generation of alterna
tive stories that falls outside the dominant stories. It follows that the role
of the therapist would be oriented to encourage clients to rewrite and
restory.

Standing on the similar assumptions, Winslade and Monk have
created the model of narrative mediation. They criticize the commonly
espoused problem-solving approaches including the model developed by
R. Fisher and W. Ury. Dismissing the basic assumptions which are

（6）White & Epston, Narrative Means to Therapeutic Ends, pp. 9–10.
（7）Ibid., p. 12.
（8）Ibid., p. 14.
（9）Fisher, Roger, & William L. Ury, Getting to Yes: Negotiating Agreement Without
implicit in the problem-solving approaches that conflict happens because individual needs are not met, Winslade and Monk pay attention to the discourses that give meaning to personal experience and social practices. In the process of narrative mediation, the parties are expected and encouraged to know what kind of discourse makes them see some events as troubles, and to create an alternative story through telling-listening mutually.

The third assumption implied in the narrative approach is that storying or telling a story is not a means to find the needs or right solutions, but storying itself is an indispensable process of resolution. As Gergen emphasizes the performativity of language, and also as Winslade and Monk put it, language is not “a passive vehicle by which thoughts and feelings are expressed” but “performative.” The narrative approach suggests that in the very activity of storying lives the power of overcoming difficulties or creating alternative meanings. (10)

**Giving In** (Boston: Houghton Mifflin, 1981). Winslade and Monk object to the premises implied in the problem-solving approach; assumptions that (1) conflict is based on a individual psychology, (2) individuals are driven primarily by internal needs, (3) conflicts are assumed to happen because individual needs are not being met, (4) the mediator is an objective, neutral third party. For further details of the critiques of the problem-solving assumptions, see Winslade & Monk, *Narrative Mediation*, pp. 32–37.


(13) Concerning the nature of narrative, Jerome Bruner who advocates Folk Psychology suggests an interesting idea that plight gives power to narrative. As he put it, “It is the conversion of private Trouble (in Burke’s sense) into public plight that makes well-wrote narrative so powerful, so comforting, so dangerous, so culturally essential.” This may suggest that trouble needs narrative and
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Based on the premises observed above, the narrative approach which focuses on story-telling activities is shedding light on the potential of voice and opening up new fields of therapy and dispute resolution.

But, turning to the conversations in everyday life, it is true that there are various patterns of voices that don’t necessarily form into stories. As Epston et al put it, “stories enable persons to link aspects of their experience through the dimension of time.” White and Epston argue that “In striving to make sense of life, persons face the task of arranging their experiences of events in sequences across time in such a way as to arrive at a coherent account of themselves and the world around them.” Following these definitions, story seems to have the factors of time sequence, unit, and coherence. When we understand story as such, there are many ways of telling which certainly give meaning to our experience without the factors of time sequence, unit, or coherence.

In this paper, I would like to present a generation process of voice that doesn’t form into stories and suggest the force of voice in conflict

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(16) J. Bruner suggests that time sequence is the principal essential of narrative in two senses. As he put it, “Perhaps its principal property is its inherent sequentiality: a narrative is composed of a unique sequence of events, mental states, happenings. But these constituents do not have a life or meaning of their own. Their meaning is given by their place in the overall of the sequence as a whole — its plot.” See Bruner, Jerome, Acts of Meaning, (Cambridge: Harvard University Press, 1990), p. 43.
resolution process. Through the examination of a malpractice case, I will to discuss the questions as follows;

1. When people encounter the event of losing its beloved family member in an accident, what are people in grief and conflicts trying to tell other people?

2. Where does the voice come from? As Bakhtin put it, voice is always addressed to someone. We never speak in a vacuum, but do in the situated context. When people in grief attempt to speak up in court, through what interactions are these voices generated?

3. What implications do these voices have for conflict resolution?

Through the discussions, I would like to suggest “voice as posture” as another force of voice other than story-telling.

II. FACTS DESCRIBED

1) Legal Mode of Description

First, let me explain the outline of the event. One night a high school boy riding a motorcycle accidentally contacted the back of an illegally parked truck and fell onto the road. His body was hit hard, and

(17) Bakhtin emphasizes that voices always live in a social setting, and voices are always addressed to someone else. As he put it, “utterances are not indifferent to one another, and are not self-sufficient; they are aware of and mutually reflect one another,” voices always exist with other voices. See Bakhtin, Mikhail M., Speech Genres and other late essays, C. Emerson, & M. Holquist, eds.; V. W. McGee, trans., (Austin: University of Texas Press, 1986). As a concise, creative integration of the theories of Vygotsky and Bakhtin, see Wertsch, James V., Voices of the Mind: Socio-cultural Approach to Mediated Action, (Cambridge: Harvard University Press, 1991).
he was taken to an emergency hospital. Since his admission, he had complained of severe abdominal pain. Next morning he vomited two kidney dishes of blood, but he was diagnosed as having no big problem after X-ray and CT scans performed on the same day. Though he still complained of abdominal pain, the doctor thought it was the pain of a bruise and even prescribed an eating plan. Through the contrast radiography conducted on the ninth day, the rupture of internal organs was suspected. So the emergency surgery was carried out, but it was too late. Four days later, he passed away.

After the funeral, his parents “began to look back on the days we spent in confusion.” “Why did our son die in this accident?” “The more we think about it, the more incomprehensible matters arise.” Eventually they decided to go to court to clarify the whole truth. After they found a lawyer who was an expert in malpractice litigation, they moved to the preservation of evidence and the filing of a complaint.

Why did he die? To describe the process of his death is not to arrange the whole set of events in chronological order. Since we cannot describe all facts, we must sort out relevant facts according to certain plots, regardless of whether we are aware of them or not. We cannot describe a single event without any such plot. Furthermore, events are defined and constructed in line with assumed solutions. As Edward

(18) In a judgment the court described the blood as just “brownish-red liquid.” This illustrates that the court is primarily interested in the facts that are necessary to satisfy legal requirements.

(19) Sasaki, Takako, Kanashiki Shouso [unhappy winning of the suit], (Iryou kago wo kangaeru kai, 2000). This book was self-published by the mother of the boy. I am deeply grateful to Mr. and Mrs. Sasaki who told about the case and kindly let me see all the documents concerning the case.

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Bruner suggests, we never look for solutions based on preexisting incontrovertible facts.

For the parents who decided to find out the truth in court, the plot which guides the description of events is focused on proving the negligence of the doctors and its causal relationship with the death. The only things needed in court are the facts that are necessary to satisfy legal requirements. Needless to say, it is a heavy burden for medical nonprofessionals to uncover malpractice and prove its causation. But it’s true that these difficult goals became a sort of hopeful guide for the parents who tried to remove two weeks’ woolly-mindedness and know the reason of their son’s death. Toward the goal of the complete proof of negligence and causation, facts began to be collected and woven.

2) Plaintiff Unqualified to Speak

In the complaint, the facts concerning the negligence of the hospital and its causal relationship with the death were described. In response, the defendant side made medical explanations of the therapeutic process during the patient’s hospital stay. The defense lawyers presented a plot different from that provided by the plaintiff. They argued that the true

（20）E. Bruner put it, “As anthropologists, we usually think that we first investigate the present and anticipate the future. In my view, we begin with a narrative that already contains a beginning and an ending, which frame and hence enable us to interpret the present. It is not that we initially have a body of data, the facts, and we then must construct a story or theory to account for them. Instead, to paraphrase Schafer, the narrative structures we construct are not secondary narratives about data but primary narratives that establish what is to count as data.” See Bruner, Edward M., “Ethnography as Narrative,” in Turner, Victor W., & Edward M. Bruner, eds., The Anthropology of Experience, (University of Illinois Press, 1986), pp. 142–3.
cause of this unfortunate consequence was the traffic accident itself and that the parents should condemn the driver if the accident was caused by the illegal parking of the truck, shifting the starting point of the event from the hospitalization to the traffic accident and the ending point from the death to the hard-to-diagnose disease. By doing so, the hospital defined itself as having happened to be in between.

Along with these ways of describing facts, the defendant’s discourse strategy was to create the hurdle separating professionals and nonprofessionals. For example, the hospital pointed out that the wrong disease name was identified by the plaintiff. “The plaintiff seems to misunderstand the damage of duodenum. The plaintiff argued that the damaged part was lining of the abdominal cavity, but the right name of the part is retroperitoneum.” This argument, disguised as the correction of one single misunderstanding, was actually a declaration that the plaintiff was virtually unqualified to argue in court. It implies that only those who know absolute rightness (like “two cubed equals eight”) have the privilege to speak. It was the defendant’s strategy for totally denying in advance the believability of the plaintiff’s claim regardless of its content and instilling a negative impression especially in the judges.

Though the parents made efforts to overcome the expertise barrier and prove the negligence of the hospital, they had difficulty identifying conclusive evidence. Meanwhile, the mother thought of looking back on the two weeks she spent in the hospital by reading her diary. Every detail was written down in the diary, including the boy’s condition, body temperature, the doctors’ diagnosis, drug names, food and its volume, the words and behavior of the doctors and nurses, and the mother’s thoughts and wishes. When she rearranged those details in neat chrono-
logical order and linked them with the medical and nursing records, “what happened each day has surfaced much more clearly.” Driven by this new perspective, she began to travel across the nation to find doctors who could help discover the evidence of malpractice. At last she succeeded in gaining the critical evidence—the shadow of gas leaking from the broken duodenum on the X-ray photograph.

By rereading her diary and rearranging the events, the mother seems to have been released from the obsession with expertise and facts necessary to satisfy legal requirements. For the initial period of time, the exclusion of nonprofessionals by the defendant led the parents to learn legal and medical expertise. But once they were freed from the existing rules of the game, they realized that a nonprofessional (especially the mother) who was always with the boy at the hospital knows much more about him than any doctor or professional does.

3) Facts Ignored in Legal Argument

The attorney who heard about the finding of the shadow of leaking gas submitted the 4th brief to the court. Although the defendant acknowledged the existence of the shadow itself, they denied that it was their fault because it was quite difficult to suspect a duodenal rupture from the X-ray picture in question. Believing this X-ray photograph was conclusive proof, the parents submitted a written statement not necessarily related to the proof of the negligence.

In the first half of the statement, a strong distrust for the doctors was expressed.

（21）Sasaki, Kanashiki Shonso. p. 52.

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In the defendant’s brief, they have the nerve to say, “It was a case we had never experienced,” while emphasizing their experience and expertise like, “A veteran doctor and a mid-level doctor earnestly provided medical care,” and, “Both are experienced surgeons.” With all due respect, the “veteran” might mean just being “aged” and the “mid-level” might mean being “insufficient”. (Plaintiff’s written statement 1)

The display as experienced good doctors for denying negligence turned to an inverted opinion that they were all the less likely to make mistakes if they were truly experienced doctors. In the second half, the mother wrote about the conversation with the doctor.

As my son vomited blood, I repeatedly asked the doctor, “Isn’t it a visceral rupture?” The doctor answered, “Don’t worry. He just suffers a bruise.” I was relieved to hear that. So I didn’t raise any questions about irrelevant treatments such as fomentation and antiflatus. (Plaintiff’s written statement 1)

Did she replicate the conversation in order to demonstrate how inefficient the doctors were or to imply their fault? Given that their failure to detect the leaking gas on the X-ray picture was far more effective as evidence than their failure to investigate the cause of blood vomiting, there must have been another reason or background.

Actually the parents had already written about the conversation on blood vomiting in the brief submitted for the petition of the preservation of evidence prior to the filing of the action. After the filing, however,
there were very few references to the conversation in the briefs made by their lawyer. But now the conversation on blood vomiting has emerged again as a vital event for the parents.

III. HOW TO MAKE OTHERS UNDERSTAND GRIEF

1) Examination of Witnesses

Ironically, the discovery of the strong evidence—the X-ray photograph—didn't help accelerate the litigation process toward the plaintiff’s winning, but rather it worked unexpectedly to promote conciliation. Two months after the evidence was submitted, the court suggested a conciliatory agreement. But the parents steadfastly refused it and then dismissed the attorney who earnestly advised them to accept the recommendation for conciliation.

Why were the parents rigidly committed to fighting the court case by themselves, even though they knew how difficult it was to do so without lawyers? We can understand it from the words of the dismissed attorney:

“Only by calling the doctors to court and examining them by herself, does she (the mother) feel somehow better or satisfied.” “To her, it would be just a ritual if we, in place of the plaintiff, establish the negligence of the defendant in a way we usually do as lawyers.”

After the parents submitted ten briefs of their own making to the

(22) The attorney said this on a documentary program, “Hon-nin sosho” (Mainichi Broadcasting System, 1997).

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court, the day of the examination of the witness finally came. The mother sought to prove the negligence of Doctor A and then changed the subject by beginning to ask him about hematemesis.

(Mother) When I found my son suffering severe abdominal pain, I wanted you to suspect acute abdomen and to work with him properly. Next morning at 7:50 am, my son vomited blood. He vomited two trays of brown-black blood.

(Dr. A) According to the nurse’s note, it was half a tray.

(Mother) I caught the blood in the tray twice. After that you came in. What did you say when I said that it might be a visceral injury?

(Dr. A) I don’t remember well now. *snip*

(Mother) Didn’t you tell me, “The hematemesis was caused by the reflux of swallowed nosebleed. So don’t worry, Mother”?

(Dr. A) I don’t ever recall saying that.

(Record of examination of witnesses)

The reciting of conversations was heard again in another examination of the witness one month later.

(Mother) When I asked you if my son was all right, you told me, “He is okay because he just suffers a bruise.” On what grounds did you think so?

(Dr. B) I think I said he seems to be okay. But I have no recollection of saying, “He is okay because he just suffers a bruise.”

(Mother) Definitely you said. When I heard you say so, I believed not in medical science, but in a medical doctor—you.
It is now obvious that the matter of hematemesis is more than just a major fact necessary to establish the negligence. Instead what was heard in court was the “voice” which was hard to be translated into the legal mode of description, which was necessary for the parents to clarify the truth, and which could not be replaced by anyone or anything else.

Having been made virtually unqualified to speak by the defendant and repeatedly urged to accept conciliation by the attorney and judges, the parents rather jumped and moved to the opposite side like a compressed spring. Such suppression promoted them to give up on the expertise of law and medicine and even reconstruct the position of the non-expert.

In this case, the position of the mother was not that of a mother in general who lost her son in a traffic accident. She was the mother who was sitting by her son’s bed without sleep, called a nurse three times when her son complained of a severe stomachache, and caught his vomited blood in the tray the next morning. It is true she was an amateur, but as the doctor’s statement—“According to the nurse’s note, it was half a tray”—shows, she was an amateur who knew better than the doctors how her son was writhing in agony.

It is not only medical professionals who can diagnose diseases. We know various signs of illness, including complexions, expressions, actions, moans of pain, and hematemesis. The mother decided to speak in her own words, giving up explaining the events in the context of a cause-and-effect relationship.
2) Voice as Posture: Rescue from Obsolescence of Events

When we review the examination of witnesses, it’s worth noting, especially from the perspective of narrative style, that the mother recited the conversations with the doctors.

The event that she lost her beloved son in malpractice, that her son died a painful death being bitterly disappointed, that the event that she was driven to the depths of grief and loss by the rash promise made carelessly by the doctors.

In the court proceedings, the only goal was to prove the negligence of the doctors and its causal relationship with the death. And that goal was met. But this kind of “way to know” involves a dilemma. The more perfectly the events are described as a causal connection, the more likely they are to become commonplace.

Describing events as an inevitable cause-and-effect relationship is always associated with giving up their irrereplaceable aspects. This dilemma is exactly what Claude Lanzmann tried to resolve in his film “SHOAH.” He suggests that Hollywood-style TV dramas and movies make the Holocaust obsolete and discard its unique characters.

He criticizes that all the works dealing with the Holocaust depict the event, with the help of chronicles, as if it occurred naturally. He says, “They usually start with the topic of the power grab by Nazi in 1933.” “They proceed step by step and finally mention the extermination

(23) See Lanzmann, Claude, SHOAH: The Complete Text of the Acclaimed Holocaust Film, trns., Takahashi, Taketomo, (Tokyo: Sakuhinsha, 1995), by which we can read the full text of SHOAH, nine and a half-hour film.

policy as if such a huge multicide was naturally caused.”

Even if we logically describe events in a sincere manner, we cannot avoid reconstructing and mythifying them through the linguistic representative. For Lanzmann, reconstructing events is nothing other than making them up. Therefore he tried to create a way to avoid the obsolescence of events.

For example, Lanzmann directs Simon Srebnik, a rare survivor of the extermination camp, not to tell about his experiences in retrospect, but just to sing the same song on a boat going up the same stream as before. Takagi suggests, with deep insight, the significance of Lanzmann’s approach: “Lanzmann intended to stop the invasion of remembering between Srebnik and the scene. Srebnik completely replicated the same posture as at that time by singing the same song, in the same scene and silence, in the boat in the same way as before.” “By perceiving the posture of Srebnik, people can also perceive the Holocaust that Srebnik encounters as a present event.” He vividly illustrates the implication of posture with an metaphor of silhouette: “By just seeing the silhouette of a moving person, we can perceive how heavy or light the thing he carries is.”

The idea of a way to know through posture is highly suggestive to our discussion. By asking, “What did you say when I said that it might

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(26) See Lanzmann, “Holocaust, la representation impossible.”

be a visceral injury?” the mother attempted to recite the voice of hers and asked the doctors to recite theirs as well. The voice of the mother can be heard as the song by Srebnik.

Describing the events of the two weeks in hospital as a cause-effect relationship can make them comprehensible, but it’s associated with giving up their irreplaceable aspects, including pain, texture, and temperature. How law captures the reality is represented by a law journal’s description of this case: “a case where the court acknowledged the negligence of doctors who failed to take appropriate measures for a motorcycle rider who was toppled over and had his duodenum broken.”

It was exactly the mother’s reciting of voice that rescued the events from the risk of obsolescence. Voice or song as posture enables people to perceive what happened or is happening even if they don’t experience it directly. Actually, before the examination of witnesses, one judge said to the mother, “I don’t understand how you feel because I don’t have experience of losing a child.” I’m not sure he could understand it after

(29) The mother revealed the fact in a magazine interview. See “Tokushu Zadankai,” Causa, 2, (2002), pp. 18–29. This statement of the judge reminds us the discussion of ethnographic allegory of James Clifford. When Clifford put it, “Any story has a propensity to generate another story in the mind of its reader (or hearer), to repeat and replace some prior story,” he suggested a possible way to know other’s experience via allegory. See Clifford, James, “On Ethnographic Allegory,” in Clifford, James, & George E. Marcus, eds., Writing Culture: The Poetic and Politics of Ethnography, (Berkeley: University of California Press, 1986). As an analysis of the same malpractice case from the perspective of allegory, see Wada, Yoshitaka, “Houtei niokeru Hou Gensetsu to Nichijou-teki Gensetsu no Kousaku [Interaction between legal discourse and everyday discourse in court],” in Tanase, Takao, ed., Hou no Gensetsu Bunseki [Discourse Analysis of Law], (Kyoto: Mineruva

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the examination of witnesses. But the listeners in court, including the judges, must have been able to perceive the scene directly without representations. Saying like, “How deeply I was disappointed, frustrated and irritated when I was driven to the depths of despair in spite of having believed the words of the doctors,” would not be enough to appeal to the audience.

The voice behavior of the mother is quite different from the narrative as story telling in that it lacks such factors as causation, unit, and timeline. Instead, it conveys an event as it is, with a form of segment rather than unit, and as a moment rather than chronology. The voice behavior of the mother implies “narrative truth” of voice that is different from story telling.

3) Reencountering through Voice

The truth of voice as posture, however, not only makes the audience perceive events directly, but also has power to induce the audience

Shobo, 2001).
(30) As Renato Rosaldo suggests, it is not easy to know the experiences of others. He revealed that it took some fourteen years before he began to grasp the overwhelming force of grief and headhunter’s rage of the Ilongots who reside in an upland area 90 miles northeast of Manila, Philippines. Although Ilongots told him how the rage in bereavement could impel men to headhunt, he didn’t understand it before he lost his wife by mountain accident. He understood it not because he experienced the same event, but because he could get a perspective of situated self. See Rosaldo, Renato I., Culture and Truth: The Remaking of Social Analysis, (Boston: Beacon Press, 1993).
to make the same posture. Like the “communication dance,” a phenomenon discovered by Condon that a listener’s movements of face muscles are synchronized with those of a speaker, postures induce postures. The listener who takes the same posture would be involved in conversations. Through the posture induced, the speaker and the listener can be connected and related.

Actually in this case, the argument by the defendant before the examination of witnesses was solely concentrated on separating themselves from the event itself as well as from their negligence. This separation doesn’t come from their own ideas, but rather from the way of treating facts that is inherent in the adjudication system. This means that events dealt in court are what has already been done—what is described in the past tense. What can be heard in court are the narratives which tell about what has been done. The court usually has no interest in how the narratives would change the relationship between parties recursively.

Resisting the power of adjudication, the mother attempted to encourage the doctors to recognize their continuing relationship with her through the narrative of “I believed not in medical science, but in a medical doctor—you.” She successfully called the doctors, who tried to separate themselves from both the past and the mother, back to the scene by making them recover the posture they took. And indeed, the


(33) The posture worked on the mother as well. In an interview conducted several years after the ruling, she said, “When the doctor came into the court as a witness, he looked worn out. When I saw this, I thought he might have been suffering in his own way.” The perception of the facial expressions as posture induced her to reflect on herself as well as the defendants. After the examination of wit-
doctors admitted their failure to suspect a duodenal injury when they found the vomiting of blood. Six months after the examination of witnesses was conducted, the court ruled in favor of the plaintiff.

I’m not saying that the mother’s voice led to the winning as an ending of the story. But it might be true that voice as posture she demonstrated in her case implies another phase of voice and the power of conflict resolution. While the court supplies resolutions by evaluating the past in terms of legal rights/duties, the mother attempts to connect the past and the present and make people engage again by using voice as posture. What she did in court was not to represent the past standing a safe point detached from the past but to make the scene itself appear again in front of the people involved and to make them reencounter each other. It might be said that her attempts are another version of “re-authoring” with persons involved. Reciting the conversations about the vomiting of blood was an initial trigger to develop the course of interactions different from what is expected by the court.

nesses, she asked herself if she could blame the doctors like this and suffered from psychological distress coming from head-on confrontation with others. For further details of the review of the case by the mother, see Causa, 2, (2002), pp. 18–29.

(34) The re-authoring therapy, developed by White and Epston, intends to assists persons (1) to separate their lives and relationships from knowledge/stories that are impoverishing, and (2) to re-author their lives according to alternative knowledge/stories. See Epston, White, & Kevin, “A Proposal for a Re-authoring Therapy,” pp. 108–9. Following these ideas, what the mother tried to do was to separate her life from legal story that separates the past from the present, and to re-author the relationship with the doctors. And reciting the conversations with the doctors was not merely re-authoring but also co-authoring, at least a call for co-authoring.
4) Dialogical Process Generated Reflectively

There might be very few people who would conduct the examination of witnesses without lawyers, but this doesn’t mean the voice of posture is a special art that cannot be done by anyone else. Rather, people use the voice as posture in everyday life. If so, should we say the voice comes from outside of court?

This idea would not imply more than just putting the everyday practice opposed to the court. Instead, we should see that every voice of lay people heard in court comes from the interactions developed there, not from the sphere of daily life. It was general knowledge that the parents were not experts in law or medicine. But the negative impression as non-experts was created in the very interactions in court. Starting with pointing out the misunderstanding of the disease name, the defendant labeled the plaintiff as non-experts, tried to undermine their qualification to speak, and forced the parents to learn hard to catch up with the hospital, a privilege holder.

In response to these harsh attacks, the parents came to realize that they knew the patient most, rejected the image of the defendant as excellent doctors, and at last recited the conversations about the vomiting of blood. Thus, the voice is not imported to the court, but it is just generated through a sort of escalation of interactions.

IV. SUMMARY

I have discussed, through the examination of a case of malpractice lawsuit, what people in grief and conflicts are trying to tell and the implications of these voices on conflict resolution.
The adjudication system attempts to deal with the events of a case as what has been done and requires people to give a coherent account of these events in terms of legal concepts. But people, especially people in deep grief, often have much that cannot be molded into the form of legal account. In contrast, “Voice as posture” enables listeners to directly perceive the events that the speakers experienced through the resistance to the power of legal discourse. As we saw in the examination of the malpractice case, “Voice as posture” can rescue irreplaceable aspects of the events from legal explanation as representation. The truth of voice as posture implies the potential to induce the audience to make the same posture. Through the posture induced, the speaker and the listener can get a foothold with which they may be connected and re-related.

“Voice as posture” implies the force of voice as well as the limitations of adjudication as a dispute resolution, at least for those who need to make others understand their grief. If so, can we assume that Alternative Dispute Resolution would deal with “Voice as posture” properly?

In most mediation processes people are encouraged to speak using their own terms. But if people are expected to use the form of “story”, a different suppression from legal discourse might happen. I acknowledge the importance of storying or story-telling in the conflict resolution process. But if there exist voices that are not molded into story, we need to give them the proper space.

How should we deal with these two different phase of voice; story and posture? It is obvious that “Voice as posture” is not an alternative story to a dominant story of legal discourse. So is “Voice as posture” the voice of anti-story? Or is it a sort of infinitive mode of story-telling? Or does “Voice as posture” drive story-telling from the bottom? These
Voice as Posture

questions on the relationship between story and posture in voice would be the next task when we attempt to know and expand the potential of voice for conflict resolution.