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## Understanding values important in cross-cultural negotiations, mediation

Cultural differences often play such an important role in mediation or negotiation that they can derail the entire process. Preparation for possible problems due to differences in cultural values and styles of communication therefore requires the same careful preparation as any other aspect of a client matter.

This topic was a focus of discussion this spring when Loyola University Chicago School of Law co-sponsored the InterNational Academy of Dispute Resolution's International Law School Mediation Competition. More than 400 students, mediators, professors and attorneys from around the globe gathered at Loyola for a four-day mediation and advocacy training and skills tournament, which included cross-cultural training by internationally respected mediators and professionals from the Association of Conflict Resolution.

The competition and cross-cultural program included students and professionals from the United States, Australia, India, Sri Lanka, Lithuania, Greece, Canada, Germany, Ireland and the United Kingdom (including England, Northern Ireland and Scotland) and, most notably, teams from both Russia and Ukraine.

The U.S. students clearly appreciated the benefits of practicing mediation and advocacy skills and developing contacts with future lawyers from all over the world, but they may not have fully realized the value of the cross-cultural exchange. U.S. lawyers often do not have the same opportunities and appreciation for cross-cultural experience and education as some of our counterparts from other countries, and we sometimes take for granted that everyone else will speak English and understand our negotiating behaviors.

Fortunately, resources exist for lawyers hoping to learn more about another party's possible cultural outlook ahead of a mediation or negotiation. One particularly helpful resource is the research assembled by Professor Geert Hofstede, the Dutch cultural anthropologist, and his colleagues.

In the late 1960s, Hofstede administered surveys to 116,000 IBM employees in 53 countries containing questions about cultural values. Since that time Hofstede and his colleagues have continued to collect data, and the updated research covering more than 100 countries is available in "Cultures and Organizations: Software of the Mind" (2010), by Hofstede, his son, Gert Jan Hofstede, and Michael Minkov.

This data is also available online through the Hofstede Center website at <http://geert-hofstede.com>. One may select the names of up to three countries, and a chart appears comparing the cultural values of each country.

For 15 euros, you can take the survey yourself, and the center will send you a report providing advice on how people from a particular country may perceive your actions as well as what you may find frustrating, all tailored to the role you will be playing (negotiator, employee, teacher and so forth). There is even a mobile app, making this information available as you travel.

The categories of cultural differences uncovered by Hofstede are the following:

- Power Distance (extent to which less powerful members of a culture expect and accept that power is distributed unequally).
- Individualism vs. Collectivism (whether individuals take care of themselves and immediate family or are bound to a larger group in exchange for loyalty).
- Masculinity vs. Femininity (extent to which achievement, heroism, assertiveness and material rewards are valued over cooperation, modesty, caring for the weak and quality of life).
- Uncertainty Avoidance (degree to which members of a culture feel comfortable with uncertainty and ambiguity).

Hofstede and Michael Bond later added a fifth dimension, Long Term Orientation, illustrated by Henry Kissinger's statement that "Chinese history goes back thousands of years, and in their mind, no problem has a final solution; every solution is an admission ticket to another problem."

### BEYOND DISPUTE



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Space does not permit explaining all the indices here, but looking at only the Power Distance Index, it is clear that a negotiator could find extremely helpful information by doing some research into the Hofstede data.

For example, a negotiator from a relatively low PDI country such as the United States would learn that people from high PDI countries often expect to show deference towards elders and other high status people.

As pointed out by John Barkai in his article "What's a Cross-Cultural Mediator to Do? A Low-Context Solution for a High-Context Problem" (itself an excellent resource for cross-cultural negotiators), many Asians find this so important that they often start meetings with an exchange of business cards so they can immediately be aware of the status of each person and know how to treat them.

A negotiator from a low Power Distance Index country might also learn that the reason she is feeling put off by a counterpart's bossy and rigid personality and his colleague's mincing subservience could be because they are from a high PDI culture and are merely playing their expected roles as they perceive them. A low PDI culture negotiator might also find it helpful to know that high PDI cultures use senior people as negotiators and could be offended by the appearance of a negotiator of lesser rank.

Similarly, it could be useful to know in advance that the U.S. habit of using first names in mediation may make high PDI culture representatives very uncomfortable.

The work of Edward T. Hall on high- and low-context communication is also excellent preparation for cross-cultural mediation or negotiation.

Have you ever been frustrated by dealing with someone who seemed to think a contract was still negotiable after it was signed? Perhaps you had to work with an opposing party who beat around the bush and never seemed to say what she actually thought. Or maybe you spent a long day in a mediation session only to learn that the participants on the other side could not get authority to make another offer without lengthy meetings back at their home office.

All of these scenarios could involve perceptions based upon the difference between high- and low-context communication cultures. If you are from the U.S. and your counterpart is from somewhere other than the U.S., Canada, Australia, New Zealand or northern or western Europe, it is very likely that while you were feeling frustrated, your counterpart was feeling equally frustrated.

He may have felt you were too focused on a written document and not focused enough on the relationship and that you communicated in a manner that made people uncomfortable. He may also have felt that you did not seem to spend the time you should building consensus with your own colleagues before making decisions.

Having a better understanding of cultural nuances can make all the difference in a difficult negotiation. Making assumptions, however, is always risky and applying cultural research can lead to unproductive stereotyping of culturally complex individuals in culturally complex situations.

Therefore, preparation should always include learning about the actual individuals involved and making every effort to avoid any negative biases you may bring to the table.