Intercultural Mediation

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Abstract

The Intercultural Mediator facilitates exchanges between people of different socio-cultural backgrounds and acts as a bridge between immigrants and national and local associations, health organizations, services and offices in order to foster integration of every single individual.

As the use mediation increases, mediators are more likely to be involved in cross-cultural mediation, but only the best mediators have the opportunity to mediate cross border business disputes or international politics conflicts. This article attempts to provide a new perspective about the intercultural mediation.

Keywords: Intercultural, cross border business disputes, conflict, mediation.

Introduction

There are a lot of factors that mediators should consider when assisting parties in cross-cultural mediation. Many researchers found few factors who can influence an intercultural mediation. Asian negotiation styles is the polar opposite approaches to western negotiation. For this reason mediators have to understand and adapt to cross-cultural differences of the parties.

They have to understand what the culture means. One useful definition of culture is the total accumulation of identifiable group’s beliefs, norms, rules, laws, activities, institutions and communication patterns. Ethnic and religious components is strong pressure on individual forces behind its education, (Radulescu, Cetina, 2010) and thus have a bearing on his behavior. The real concern is how the cross-cultural differences impact mediation.

What is the impact cross-cultural differences in conflict situations? Cross-cultural differences often result in labeling behavior that is interpreted by a person as, at a minimum, strange, if not insulting or offending. Unfortunately, most all of us interpret the behavior of people from other cultures as if those people were from our own culture. We also react of cultural differences as if they were intensional responses to our own behavior. This can make disputes more difficult to resolve, or create international incidents.

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When we encounter people from different cultures their language and non-verbal communication may be different. They can be very different in other fundamental ways can impact their behavior, vie of life, values, the way they see and solve the problems.

**Cultural Influence On Mediation**

Many Americans and Europeans mediators follow many of the basic negociaction principles who they studied, but they are influenced by their own culture, too. We have accept that mediation process is in USA and Europe from 30 years, but in other cultures, mediation functioned from thousands of years. Ever since there were three people on earth, it is likely on of them, at times, mediated between the other two. In old traditional societies probably wise old man mediated in business, social and religious disputes (Radulescu, 2011). Today in USA and Europe people can learn many mediation skills through training.

Very important tools for mediating cross-cultural disputes are pre-mediation meetings, CAUCUS during the mediation and the Socratic method of questioning. All of these three mediation tools can be used in any mediation, but they can take a different form and focus in cross-cultural mediation.

A pre-mediation meeting between mediator and every part (or all of the parties) is very common in commercial mediation (Lisman, 2011). The mediator can have several reasons for such a meeting, such as performing administrative tasks like signing a mediation agreement and confidentiality agreement, developing a working relation with parties.

A party can have reasons for a pre-mediation meeting, such as determine the mediator’s style and approach, to advance the party’s case or to ensure that there will be enough time to resolve the case. The Asian business people are interested to establish a good working relation, but American and European people usually don’t want to spend time for this reason.

The cross-cultural mediator can call upon mediator’s power to bring the parties together in a CAUCUS with the intend to re-establish the pre-dispute relation, or at least to improve the relation.

American and European business people think of business deals as simple, negotiated agreements. Much of the rest of the world think of business deals in terms of introductions by mutual friends or business associates, the presentation and receiving of gifts, the calling upon of old favors, the forming of trust-based relation, business relation formed in entertainment settings, and business arrangements based upon a handshake, not a written contract.

Cross-cultural mediation will usually benefit from extensive use of caucuses and pre-mediation meetings because the mediator has the opportunity to meet privately with each party to define the issues of mediation, to understand the cultural awareness pf each party about the other party’s culture, explore the parties knowledge of the culture and values of the opposing party,
serve as interpret, coach, teacher and create an opportunity for parties to re-established or create the social relation useful for resolving their conflict.

If one of the parties is not aware of or doesn’t appreciate the importance or teaching of cultural differences, a soft, Socratic, method approach of teaching through questions asked by the mediator and answers given by the parties can be very effective. With Socratic method the mediator used an indirect approach and allowed the party to come up with the answer himself.

Cross-cultural factors

A discussion of cross-cultural factors should begin with the concept of high and low-context communication. High and low context refers to how people interact and communicate with other members of their culture. In the low-context cultures, people communicate directly and explicitly and rely on verbal communication, as opposed to non-verbal communication to express themselves.

Important issues are explicitly discussed no matter how sensitive the subject matter is. In the high-context cultures, the informations lies in the context, is not always verbalized and the talk goes around the points like a circle. The major issues are not stated explicitly and this can create understanding problems for outsiders (Tomescu, 2012).

People from USA, Canada, Australia, Europe use direct, explicit, low-context communication and people from Asian countries use indirect, implicit, high-context communication.

If one party is a high-context communicator and the other party is a low-context communicator, the mediator might need to act as a translator between parties. Although there is some risk that high-context communicator might be insulted or otherwise put-off by the low-context communicators, without interpretation, low-context communicator cannot understand the right message.

Mediator can help parties to understand messages, people from lo-w context cultures are more focused on the facts and people from high-context cultures will be generally be implicit, indirect and assume that the mediator and the other party understand the nuances of communication just as well as they do.

The low-context communicator can be confused and not understand what the other party wants, why they want it, what their interests are. The low-context communicator can be very direct and assertive and a high-context party can feel that the other party is aggressive and “pushy”. The mediator have to translate this information to the high-context party and present it in a less direct and less aggressive form.

The researchers talk about 5 factors that influence a cross-cultural mediation. These factors are: Power Distance Index, Individualism, Masculinity, Uncertainty Avoidance Index and Long-Term Orientation.
The Power Distance Index is a measure of hierarchy in a culture. The central value is “respect for the leader or for the elder”. People from a high Power Distance culture accept inequalities like normal. For them absence of hierarchy is a frustrating situation. In a low Power Distance culture people believe that all of them are equal and should be treated that way.

In these cultures, the boss and the employee are considered almost equals. Subordinates will approach and contradict their boss. There is less dependence on superiors and more interdependence. Two parties from two different cultures consider different words as positive.

People from high Power Distance culture consider like positive words: respect, father, older brother, master, servant, wisdom, favor, protect, order, pleasing, but these words have a negative connotation for a low Power Distance culture. The positive words for a low Power Distance culture are: rights, complain, negotiate fairness, necessity, codetermination, objectives, criticize and question.

These words are negative for people from high Power Distance culture. Countries with a high Power Distance culture are countries from Asia (but not Japan), Latin and South America and Arab countries. Countries such as USA, Canada, New Zealand, Australia and many countries from Europe have a low Power Distance culture. This factor influence mediation.

High Power Distance cultures will use senior people as negotiators and will expect to be addressed by their formal titles as sign of respect. There is an expectation that the opposing negotiator will be of equally senior status or higher. If they have to meet a person in a inferior position they can think that is a lack of respect for the senior. Parties from a low Power Distance culture will often attempt to treat everyone equally, from the company president to the lowest ranking person at the meeting.

They will be informal and want to use first names for addressing the other party. If people from a low Power Distance culture are mediating, they might appear to be disrespectful, improper, rude for a party from high Power Distance culture. In a high Power Distance culture, the decision-making structure is likely to be highly centralized and the authority of negotiating teams to make commitments may be limited. In low Power Distance culture, the negotiator may not have to consult superiors before making decisions. These differences to status and hierarchy can easily lead to conflicts.

The status of mediator comes to help in many ways. If a party is from a high Power Distance culture is an insult to not send an equally high status person to a mediation. It might be important to have a mediator of the same or higher status level as the parties. The mediator should treat the high status party with respect. In pre-mediation meetings, the mediator should be sure that parties with equal status will be at the bargaining table. Status issues do not affect only parties. A mediator from high-status culture should try to not be offended if they are not treated with the same respect like home.
A second factor that can influence the mediation is Individualism. It focuses on how much a culture reinforces individual achievement and interpersonal relations. The central value is “respect my freedom”. Individualism is defined by the extent to which individuals’ behaviors are influenced and defined by others.

The interests of the individual prevail over those of the group. For a individualistic culture important values are: self-sufficiency, personal time, freedom, challenge, material rewards, honesty, privacy and individual rights. Americans and Europeans think and act individually and respond to individual interests. Asians think and act collectively and respond to collective interests. These differences can be a source of friction because the parties may have different interests. Collectivists act as members of their group. They value harmony more than honesty. They place the interests of their group over the rights of individuals, and governments may invade private life and regular opinions. They are more introverted and individualists are more extroverted. Positive words for Individualistic culture are: self, friendship, do your own thing, contract, litigation, self-respect, I, me, positive connotation, individual, self-interest, dignity, pleasure, guilt, privacy. These words are negative for a collectivist culture.

The positive words in a collectivist culture are: harmony, face, obligation, sacrifice, group, family, tradition, honor, duty, loyalty, decency, shame. Countries that have a Individualistic culture are: USA, Canada, Australia, New Zealand and many European countries. Collectivist countries include Asian, South and Latin American countries.

In mediation, individualists are focused on the negotiation task and collectivists are focused on building and maintaining a relationship with the groups. Individualistic cultures are usually low-context communicators who prefer being direct, specific, confrontational and straightforward. Collectivist cultures are usually high-context communicators who prefer being indirect, ambiguous, cautious, non-confrontational.

Status of the parties and sovereignty of the nation are very important issues for collectivist parties. For collectivist cultures, the maintenance of harmony and the absence of discomfort are very important. For them the relationship prevails over task.

Classically western business teams have individual decision makers and are teams that are given the authority to make the final decision at the bargaining table. Other groups, particularly Asian negotiation teams usually do not have authority to make a concession to reach a final agreement. A mediator have to try to clarify the decision-making procedures for the parties at mediation. Individualist cultures have a “task focus” when they want to get down to business quickly and Collectivist cultures prefer to spend their time in rapport activities.

These kind of cultures will also impact mediator selection. Individualists seek neutral and impartial mediators, but Collectivists seek mediators who are already “insiders”.

The other factor that influence mediation is masculinity dimension focuses on traditional male values and gender, such as achievement, control, power, money, recognition, challenges,
assertiveness, dominance, aggressiveness, ambition, wealth, independence and physical strength. This factor is a measure of competitiveness.

The central value is “win at any costs”. Traditional feminine cultures are characterized by cooperation, security, pleasant relations, modesty. In this kind of culture, women are subordinated to male leadership. Positive words for masculine cultures are: careers, competition, fight, aggressive, assertive, success, winner, deserve, merit, force, power, action and positive words for feminine cultures are: caring, solidarity, modesty, compromise, help, soft, slow.

A party from a masculine culture attempts to dominate each other through power tactics and maybe they do not want to make concessions. The other side, cooperatives (feminine) are more willing to discuss interests, offer concessions, to separate the people from the problem. A specific case is Japan, because Japan has a masculine dimension, but their negotiators are not tough, they don’t use hardball negotiation tactics. Their polite nature is deceptive.

The other important factor in mediation is Uncertainty Avoidance focused on the level of tolerance, the importance of truth in a culture, as compared to other values. A high Uncertainty Avoidance creates a rule-oriented society that institutes laws, rules and controls in order to reduce the amount of uncertainty in the environment. People from these cultures prefer rules and structured circumstances. For them “time is money”, precision and punctuality are important.

They choose strategies that offer lower rewards, but have a higher probability of success. They prefer to have a precise answer to questions, precise instructions, detailed job descriptions. Low Uncertainty Avoidance cultures show more tolerance for a variety of opinions and are less rule-oriented. They accept risks and change.

The other factor that influence mediation is Long-Term Orientation. Its central value is “sacrifice for the future”. People from these cultures make long-term commitments and have respect for tradition. In Short-Term Orientation cultures change can occur rapidly because they don’t have impediments to change. They have expectations that effort should produce quick results. LTO people think that people from STO cultures as being irresponsible and throwing money away. STO cultures think that people from LTO cultures as being stingy and cold.

Conclusion

Mediators must understand and adapt to cross-cultural differences of the parties, because cross-cultural differences affect mediation.

All these factors can influence mediation and the mediators have to consider all parties in mediation and their culture. In these conditions they can help parties to solve their problems and to obtain the best result of their conflict.
Moreover, mediators can help parties understand and others' culture, paving the way towards a sustainable relationship by the parties to avoid future conflicts.

References


