Cross-Cultural Issues in Mediation

Presented by

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Agenda

Context: What is Culture? Is it important to mediators? Why? Some Caveats.

Some Cultural Dimensions and Variations

Sharing Ideas and Strategies

Questions and Suggestions for Further Learning

What is "Culture?"

- "Culture" is a complex concept, with many different definitions.

- We tend to limit our thinking about culture to racial and ethnic differences. A broader view also includes religion, class, gender, etc.

- Simply put, "culture" refers to a group or community that shares common experiences that shape the way they understand the world. It includes groups one is born into, such as gender, race or national origin. It also includes groups we join or become part of.

What is Culture? continued

- "Culture refers to the socially transmitted values, beliefs and symbols that are more or less shared by members of a social group." Kevin Avruch, *Culture as Context*

- "Culture is a common system of knowledge and experiences that result in a set of rules or standards; these rules and standards in turn result in behavior and beliefs that the group considers acceptable." Pat K. Chew, *The Pervasiveness of Culture in Conflict*
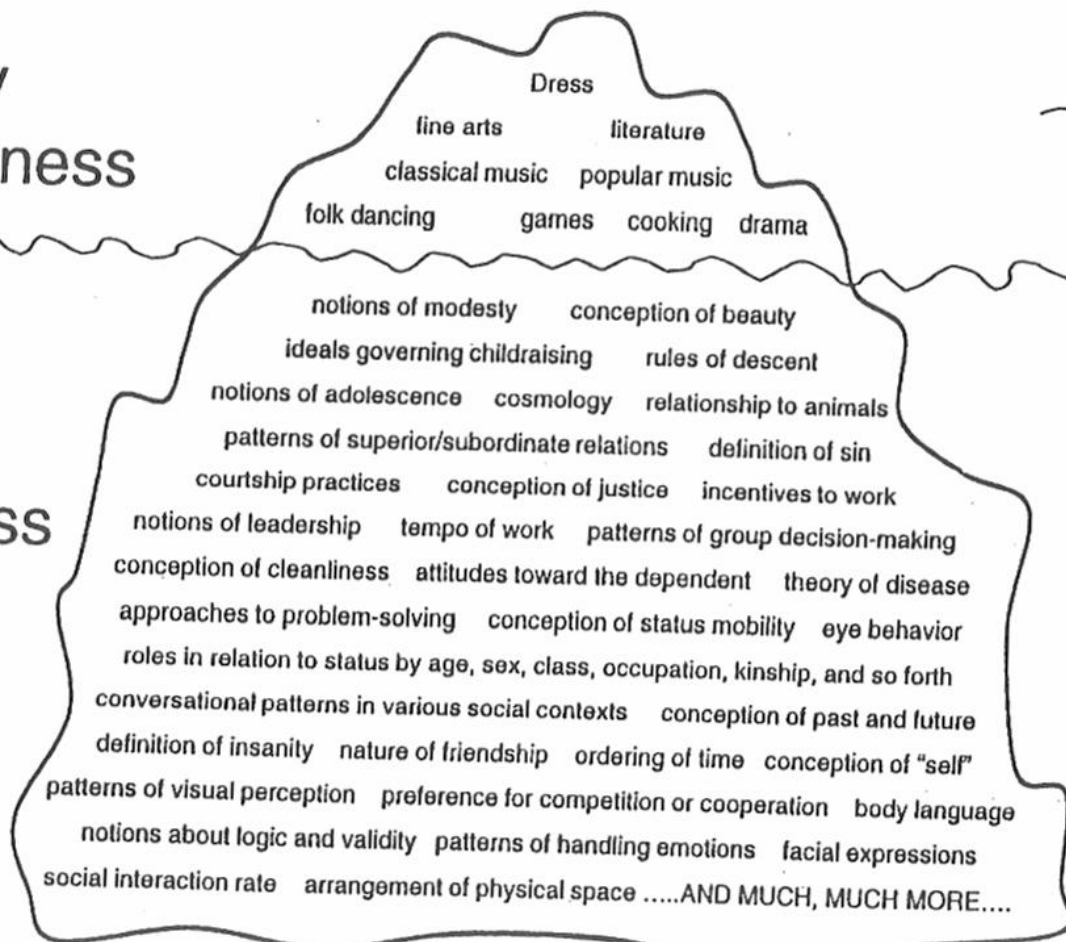
What is Culture? continued

- Along with formal definitions, there are metaphors, which lack the scholastic texture, but colorfully resonate. For example, culture has been described as:
  - "software of the mind;"
  - "a substitute for instinct;"
  - "a fundamental feature of human consciousness, the sine qua non of being human;"
  - "a grammar for organizing reality, for imparting meaning to the world;"
  - "a lens through which we perceive the other;" and the way we act and think.
  - Culture is to human beings, what water is to fish.

- Ilhyung Lee, *In Re Culture: The Cross-Cultural Negotiations Course in the Law School Curriculum*

ICEBERG

Primarily in awareness

Primarily out of awareness

Dress

fine arts   literature

classical music   popular music

folk dancing   games   cooking   drama

notions of modesty   conception of beauty

ideals governing childraising   rules of descent

notions of adolescence   cosmology   relationship to animals

patterns of superior/subordinate relations   definition of sin

courtship practices   conception of justice   incentives to work

notions of leadership   tempo of work   patterns of group decision-making

conception of cleanliness   attitudes toward the dependent   theory of disease

approaches to problem-solving   conception of status mobility   eye behavior

roles in relation to status by age, sex, class, occupation, kinship, and so forth

conversational patterns in various social contexts   conception of past and future

definition of insanity   nature of friendship   ordering of time   conception of "self"

patterns of visual perception   preference for competition or cooperation   body language

notions about logic and validity   patterns of handling emotions   facial expressions

social interaction rate   arrangement of physical space .....AND MUCH, MUCH MORE....

Just as nine-tenths of an iceberg is out of sight, so is nine-tenths of culture out of conscious awareness. The out-of awareness part of culture has been termed "deep

Multiplicity of Cultural Identities

- An individual may "carry" several cultures, for example, ethnic or national, religious, and occupational affiliations. Thus, for any given individual, culture always comes "in the plural," and therefore every interaction (including negotiation) between individuals is likely to be multicultural on several levels. Kevin Avruch, *Culture as Context*

Why Study Cross-Cultural Issues? Are they important to Mediators?

- Some say "No, it's irrelevant."
- "Some argue whether culture should be studied in the dynamic of dispute and the resolution of dispute." This approach posits that negotiation is negotiation, dispute resolution is dispute resolution, and culture is not a factor of much relative relevance. Pat K. Chew, *The Pervasiveness of Culture in Conflict*

Some say "No"

- Such views appear to be based on what is likely the single most widespread misperception of culture, namely, that understanding culture is merely having a list of do's and don't's when negotiating with persons from foreign countries.

  Ilhyung Lee, *In Re Culture: The Cross-Cultural Negotiations Course in the Law School Curriculum*

Culture Important?

- Some say "No, it's about individuals."
- Even if "differences between cultures do lead to systematic differences in negotiating behavior, individual variation will often be far more important for understanding the conduct of any particular negotiation than cultural variation."

  Russell Korobkin, *Negotiation Theory and Strategy*

Individual style trumps Culture?

- We can appreciate the central tendencies of multiple national societies, relative to each other, while bearing in mind the caveats of individual variation within each society.

  Ilhyung Lee, *In Re Culture: The Cross-Cultural Negotiations Course in the Law School Curriculum*

Culture Important? Some say "Yes"

- Culture determines what manner of things are subjects for competition or objects of dispute, often by postulating their value and relative (or absolute) scarcity: for example, notions of honor or purity, or accumulation of capital and profits.

- Culture also stipulates rules, sometimes precise, usually less so, for how contests should be pursued, including when they begin and how to end them. . . . [C]ulture provides individuals with cognitive and affective frameworks for interpreting the behavior and motives of self and others. Kevin Avruch, *Culture as Context*

Why Study Cross-Cultural Issues?

- Culture can be seen as a set of understandings, interpretations, and expectations regarding our environment. On that basis, it is possible to see all conflict as cross-cultural. Kenneth Cloke, *Mediating Dangerously*

- The basic strategies and tools for dealing effectively with cross-cultural differences are useful in all mediation and are seen in sharp relief in the cross-cultural context.

People are disturbed not by things,
but by the view they take of them.

Epictetus

What do you see?

Perceptions

- Help us make sense of the world. We fill in information to fit some pattern we know.

- Are not "right" or "wrong;" They just are.

- Can limit our options for acting.

- My perceptions make perfect sense to me. Your perceptions seem like nonsense to me.

- You don't have to agree with someone's perceptions to understand and respect them.

- Can be changed. We can learn from each other.

Perceptions & Conflict Management

- Discovering interests is an exercise in discovering perceptions

- Appreciating perceptions helps us distinguish between people and problems

- We tend to attribute different behavior to "badness." Often it comes from having a different perception.

- Understanding perceptions can expand the range of possible solutions.

Six Fundamental Patterns of Cultural Differences

- Communication Styles

- Attitudes toward Conflict

- Approaches to Completing Tasks

- Decision-making Styles

- Attitudes toward Disclosure

- Approaches to Knowing

Some Cultural Dimensions and Variations:

- Monochronic v. Polychronic Time Orientation*

- Low or High Context Communication*

- Power distance#

- Individualistic v. Collective#

- Gender Roles#

- Uncertainty Avoidance#

*Edward T. Hall, Beyond Culture (1989)

#Geert Hofstede, Culture's Consequenses: Comparing Values, Behaviors, Institutions, and Organizations Across Nations, (2001)

Some Cultural Dimensions and Variations: continued

- Universalism v. Particularism%
- Specificity v. Diffusion%
- Status: Achieved v. Ascribed%
- Inner v. Outer Direction%
- Sequential v. Synchronous time%
- Human Nature: Good or Evil+
- Man v. Nature Orientation+
- Activity Orientation: Being v. Doing+

%Charles M. Hapden-Turner & Fons Trompenaars, Building Cross-Cultural Competence, (2000)

+ Florence Rockwood Kluckhon & Fred L. Strodbeck, Variations in Value Orientations, (1961)

Monochronic/Polychronic

Relates to the use of time (and space) as frames of organization. The monochronic approach emphasizes "schedules, segmentation, and promptness," while the polychronic approach is "characterized by several things happening at once."

Monochronic persons tend to do things one at a time, have a high need for closure for one task before moving to the next and think in "terms of linear-sequential, time-ordered patterns." In contrast, those with a polychronic orientation "attempt to do a number of things simultaneously," and think in holistic pattern, in terms of pictures or configurations. They stress "involvement of people and completion of transactions rather than adherence to preset schedules."

The U.S., British, German, Swiss, and Scandinavian cultures are relatively monochronic, while Latin American, African, Middle Eastern, and Southern European societies are polychronic.

High/Low context communication

Addresses the amount of information contained in the context (or setting) rather than in the transmitted message itself. High context communications feature preprogrammed information that is in the receiver and in the setting, with only minimal information in the transmitted message. Low context communications are the reverse. Most of the information must be in the transmitted message in order to make up for what is missing in the context (both internal and external).

In high context cultures, there is an expectation of shared knowledge, the information is implicit, and the communication is less direct. In contrast, "in a low context culture . . . information is explicit; procedures are explained, and expectations are discussed," and a literal, direct style of communication is seen.

With respect to nationalities, the United States, Germany, Switzerland and other Northern European countries are considered to be low context, in contrast to the high context seen in cultures like Japan, Arabian and Mediterranean countries

Edward T. Hall, Beyond Culture (1989)

- <u>Universalism/Particularism</u> Universalism emphasizes rules that apply to a universe of people, while Particularism emphasizes exceptions and particular cases.   The U.S. is one of the most universalist of societies (7 out of 46); Japan is one of the most particularist (40 out of 46).

- <u>Individualism/Communitarianism</u>. Individualism emphasizes the individual, while Communitarianism stresses the family, organization, community, or nation in which that individual has membership. The U.S. is on the most individualist countries (36 out of 39), whereas Japan is one of the most communitarian (5 of 39).

- <u>Specificity/Diffusion</u>   Specificity emphasizes precision, analysis, and "getting to the point," while Diffuseness looks to wholes and to the larger context.. The U.S. is singularly the most specific country in the group (1 of 46); Japan is one of the most diffuse (43 of 46).

Charles M. Hapden-Turner & Fons Trompenaars, Building Cross-Cultural Competence, (2000)

- <u>Achieved status/Ascribed status</u>. "Status" dimension asks whether "cultures regard status as *achieved* by one's record of success or is status *ascribed* to persons for other reasons?" The U.S. is the most achieved (1 of 20); Japan is more ascriptive (16 of 20).

- <u>Inner direction/Outer direction</u> The "direction" dimension asks, "Are cultures inner directed – that is, motivated or driven from within – or outer directed – that is, adjusting themselves to the flow of external events?" . The U.S. is the most inner-directed (1 of 20); Japan is relatively more outer directed (11 of 20).

- <u>Sequential time/Synchronous time</u>. The "time" dimension asks whether societies "regard time as *sequential* or seriatim, a passing line of increments, or is time *synchronous*, key conjunctions of events, expertly timed? The U.S. is relatively sequential (3 of 23); Japan is more synchronous (13 of 23).

Charles M. Hapden-Turner & Fons Trompenaars, Building Cross-Cultural Competence, (2000)

What can Mediators do?

- Attitude and Approach
- Caveats about Assumptions
- Ideas, Tips, Strategies, Techniques, etc.
- Resources for Further Inquiry

To know yet to think that one does not know is best;

Not to know yet to think that one knows will lead to difficulty.

It is by being alive to difficulty that one can avoid it.

Lao Tzu

Approach to Diversity

- The natural response of a learner or a child to differences is delighted curiosity.

- The common, conditioned response of adults to differences is fear and insecurity.

- We must help people notice and respectfully embrace differences rather than pretend not to notice them.

- Appreciate differences as differences, non-judgmentally.   Roberto Chené

Building Cross-Cultural Competency

- Understand on two levels:
  - Self-awareness
  - Awareness of others
- Development cycle:
  - Unconscious Incompetence
  - Conscious Incompetence
  - Conscious Competence
  - Unconscious Competence

Tools for Mediators dealing with Cross Cultural Issues

- Regular Mediation Tools
  - Reframe into neutral terms
  - Focus on interests
  - Active listening
    - Elicit
    - Acknowledge
    - Summarize
  - Identify values, needs

LADDER OF PERCEPTION

Conclusions

Interpretations

Information
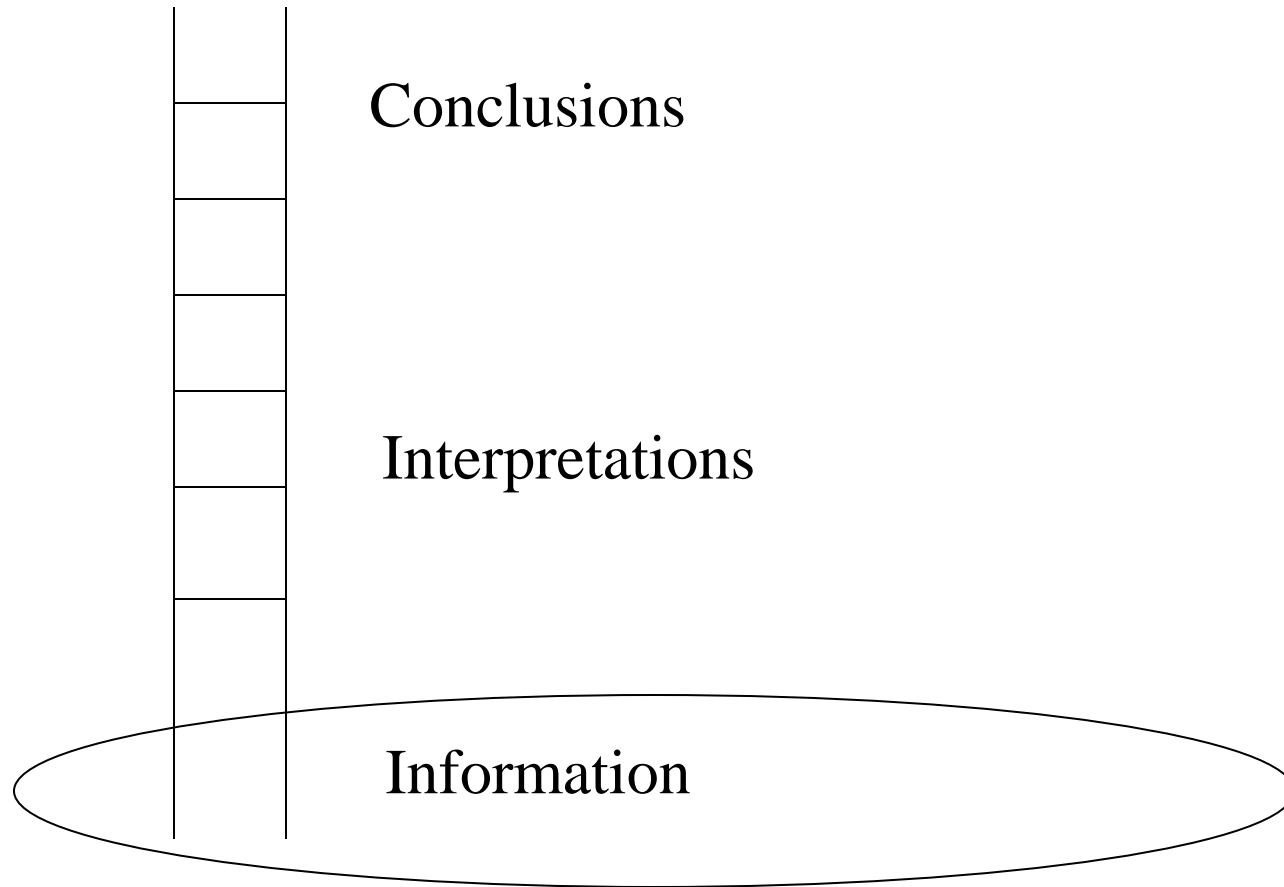
From - D. Stone, et al, Difficult Conversations: How to Discuss What Matters Most (1999)

REFRAMING

Imagine that during the course of a mediation session, one of the parties angrily accuses the other party of being "...the biggest racist/sexist I've ever known."
As a mediator, how do you handle this situation?

Reframe using neutral language:
- So you believe that the way_____ is perceiving you as an African American/woman is impacting this problem.

Reframe as an issue:
- How you're treated as a woman/African American person is an important issue here.

Reframe into interests:
- It's important that you're treated with respect.

Working with Cross-Cultural Differences What if a party is a racist, sexist, etc-ist?

- Even if you can't change attitudes, you can show:
  - This is a person, not a stereotype
  - How behavior affects a person
  - How behavior affects process

Caveats on Process: Gender Differences

- Evidence suggests that the experience and meaning of conflict may differ for women and men. Also, there are persistent beliefs in gender-linked behavior even when these behaviors are not found in research.

- Among mediators, women viewed their goal to be an understanding of parties and their differences, whereas men saw their goal to be the development of an agreement. Men believed they should be neutral, whereas women believed they should facilitate balance between conflicting parties.

  Loraleigh Keashly, *Gender and Conflict: What Does Psychological Research Tell Us?* , in *The Conflict and Culture Reader*, Pat K. Chew, ed., New York University Press, 2001, pp. 95-6.

Caveats on Process: Assumptions about Conflict

- "The Western assumption that working for peace is always a good thing might be questionable in other cultural contexts."

- "Western Conflict Resolution relies heavily on the assumption that pain is bad and pleasure or comfort is good. It is accepted as obvious that the suffering, physical or otherwise, associated with conflict is one of the main inconveniences that conflict resolution practitioners try to eliminate."

- "The focus of Western conflict resolution theorists on the suffering generated by conflict rather than on the justice or morality of the cause may not strike a resonant philosophical chord in other cultures. To the contrary, suffering itself in many cultures … including pre-modern Western culture, enjoys a fairly high valuation as a means for moral or spiritual purification or a necessary divinely-ordained component of life."

  Paul E. Salem, *A Critique of Western Conflict Resolution from a Non-Western Perspective*, in *The Conflict and Culture Reader*, Pat K. Chew, ed., New York University Press, 2001, p. 220

Some Guidelines

1. *Expect different expectations.*
2. *Do not assume that what you say is being understood.*
3. *Listen carefully.*
4. *Seek ways of getting both parties to validate the concerns of the other.*
5. *Be patient, be humble and be willing to learn.*
6. *Accommodate language differences.*
7. *Be sensitive to the location of the mediation.*
8. *Take full advantage of this unique time together to share understanding and respect for our differences by good modeling as a mediator.*

Mediator Jan Jung-Min

Some techniques for bridging cross-cultural gaps: (Cloke)

- Serve food or drink
- Ask each person to say what they expect of you and the mediation process, or who they think you are, and how they define your role.
- Ask each side to identify ground rules they need to feel respected, communicate effectively, and resolve their problems.
- Elicit a prioritization of conflicts from each side. Compare similarities and differences.
- Ask each side to list words that describe the other's culture, and next to this list, words that describe their own culture. Exchange lists and ask them to respond. Or do the same with ideas such as "time" or "anger" in relations and conflict.
- Ask parties to rank all the available options from war to surrender, and explore the reasons for choosing mediation.

Some techniques for bridging cross-cultural gaps: (Cloke)

- Ask parties to describe (pantomime, role play, draw, etc.) how conflicts are resolved in their culture. Who do they go to for help? What roles are played by third parties? How do they mediate? Then jointly design the mediation process.
- Establish common points of reference or values by asking each side to indicate their goals for the relationship or process.
- Invite each side to suggest someone within their culture who may be willing to co-mediate, and work with them to build consensus on a model for the process.
- Ask questions like: "What does that mean to you?" or " What does 'fairness' mean to you?"
- Acknowledge and model respect for cultural differences.
- Ask each person to say one thing they are proud of about their culture and why. If appropriate, ask if there is anything they dislike about their own culture, and explain why.

Some techniques for bridging cross-cultural gaps: (Cloke)

- Ask them to say the three most important things they have learned in their lives and explain why.

- Ask them to bring cultural artifacts, such as poems, music, or photographs, and to share their stories.

- Ask each side to identify a common stereotype of their culture, how it feels, and explain why.

- Describe your own culture, list the stereotypes you know of, and explain why they are inaccurate.

- Ask what rituals are used in each culture to end conflict, such as shaking hands, then jointly design a ritual for closure and forgiveness.

  Kenneth Cloke, Mediating Dangerously: The Frontiers of Conflict Resolution, Jossey-Bass, San Francisco, (2001), p. 224-25

Where to from here?

- Questions and Suggestions?
- Resources for Further Inquiry
  - LLM Program at UMC