

# Kluwer Mediation Blog

## Bridging Cultures in Mediation: Insights from a Multicultural Mediation Panel

Angela Abala (Singapore International Dispute Resolution Academy) · Monday, July 15th, 2024

Culture shapes how we see the world. It affects perceptions, behaviours, and expectations even within the context of mediation. In a world characterized by diversity, understanding the nuances of cultural influence is important for effective mediation as culture can significantly impact the process. A panel entitled “Cultural Context in Mediation”, hosted by the Thailand Arbitration Center (THAC) on 29 March 2024, which I moderated, explored the important topic of the crucial role of cultural considerations in mediation.

In the panel discussion, **Henning Glaser** (Director and Head of Mediation Center, German-Southeast Asian Center of Excellence for Public Policy and Good Governance), **Thaevan Uthaiwath** (Chairman CSR and Sustainability Committee, TATA Steel (Thailand) Public Company Limited), **Ethelwald Olimpio Mendes** (Mediator, Advocate, Arbitrator and Legal Consultant) and **Eliza Stefaniw** (Advisor for Innovation Ecosystem Development, King Mongkut’s University of Technology Thonburi’s Knowledge Xchange and Intellectual Property Management Specialist) shared their thoughts on the impact of culture on mediation and approaches as to how parties, counsel and mediators can navigate different cultural landscapes.

### Understanding Culture

Given that culture is a dynamic and complex concept that covers shared values, goals, customs and beliefs of a particular community or group, it is difficult to define culture succinctly. As such, [one way to understand culture is through a framework, such as Geert Hofstede’s six dimensions of culture](#). These dimensions are:

1. Power distance: how a society handles social inequalities resulting from wealth, fame and power.
2. Individualism versus collectivism: how people feel independent compared to being interdependent in a given society.
3. Masculinity versus femininity; the emotional roles between men and women in a society.
4. Uncertainty avoidance; a society’s tolerance for uncertainty and ambiguity.
5. Long term orientation versus short term orientation; whether a society is forward-looking with long term objectives or focuses on the present.
6. Indulgence versus restraint; how a given society manages gratification versus control of basic human desires.

Thinking of culture in mediation through a framework helps contextualize disputes and how it can

be resolved.

### **The Impact of Culture on Mediation**

All panellists agreed that culture has a significant impact on mediation. Ethelwald explained that culture is a type of stimuli that affects how we think and how we understand other individuals. Eliza said that culture is like an operating system, the software that runs on a computer, affecting how we store, process and act on information. Consequently, culture can affect an individual's negotiation style, whether it be collaborative or competitive, for instance.

Henning also shared that “*culture is everywhere, but it is not everything*”. While culture is significant and people in a mediation should be aware of its importance, there are other factors that affect the mediation process. One factor he mentioned was personality, as individuals also have different personalities that may affect the overall process. Those personalities may not fit with the assumed “cultural norms” of a particular society.

### **Cross-cultural Behaviour and Thinking in Mediation**

Over the course of the panel discussion, the esteemed panellists highlighted examples of cross-cultural behaviour and thinking that occur in a mediation setting.

For instance, how people communicate may vary depending on their culture. Eliza shared the differences between high context and low context communication. On one hand, high context communication tends to be more implicit and relies on tone and context. High context cultures focus more on non-verbal communication such as body language and facial expressions. East Asian societies generally lean towards high context communication. Low context communication, on the other hand, is more explicit and straightforward. Direct verbal communication is necessary in a low context culture to get the message across. A low context communication style is generally more common in the English-speaking world. She also added that there are other cross-cultural behaviours that need to be considered in mediation as compared to other dispute resolution mechanisms such as litigation. For example, one must consider whether the food at a mediation is halal or whether the individuals participating in a mediation are fasting for religious reasons.

Thaevan also shared how the optimistic attitude of Thai people affects how they participate in mediation. He said that Thais prefer consensus and tend to avoid confrontation, and this is reflected in how they approach mediation. Eliza then mentioned that Americans are a low context communication society and tend to be more upfront about what they want to get out of a dispute. They would also like disputes to be resolved in the quickest way possible.

Ethelwald cited the rise of the Belt and Road Initiative, a massive China-led economic initiative. He said that there have been and will be disputes arising out of this initiative that will need to be resolved through mediation as [Chinese parties find mediation to be line with its Confucian legal culture and promotes social harmony](#). As such, he highlighted that face value, or the importance placed on reputation and social status, is important to Chinese parties. This may affect how Chinese parties participate in a mediation.

### **The Mediator's Cultural Background**

More than a majority of respondents to [a survey conducted by the Singapore International Dispute Resolution Academy in 2021](#) indicated that when choosing a mediator they look into the cultural

background of a prospective mediator. This is because a mediator's culture may also affect the results of a mediation. The panel briefly discussed that a mediator's cultural background is important in understanding cultural nuances between the parties involved, in being able to contextualize the dispute and the conflict resolution preferences of the parties, as well as in building trust and rapport.

### **How Mediators, Counsel and Parties Can Navigate Culture in Mediation**

Given the importance of culture in mediation, the panellists shared some strategies that mediators, counsel and parties can employ to ensure that cultural factors are appropriately addressed and respected in mediation.

Henning observed that mediators should be mindful of non-verbal cues and be able to take charge of the process. Mediators should be able to create an atmosphere of trust, where despite cultural differences between parties, the process would lead to a win-win outcome.

Eliza shared that mediators themselves should also be aware of their *own* culture. In understanding the culture of others, she said that they can make use of available tools such as Hofstede's dimensions, abovementioned, to help them become more aware of culture, detect it, and adjust according to the needs of the parties involved in the dispute.

For his part, Thaevan highlighted the importance of a pre-mediation meeting, which was echoed by all panellists, at which mediators can learn more about the parties. It can thus help mediators determine how they should conduct themselves during the mediation. According to Henning, a pre-mediation meeting is also particularly useful for counsel and parties. Since dealing with diverse cultures may be challenging, the meeting can help counsel and parties anticipate what could happen during the mediation. A pre-mediation meeting is also a valuable opportunity for parties and counsel to learn more about the mediator and his or her culture. This, in turn, could help parties and counsel to better communicate their needs with their mediator.

As for counsel, Ethelwald opined that they should also know how to read body language and should be able to balance the expectations of their respective clients. He emphasized that to be able to do this, counsel needs to prepare for the mediation thoroughly. He also mentioned that mediation advocacy training could also be helpful for both counsel and parties, as it can help them prepare for inter-cultural mediation.

Thaevan also advised that counsel should take off their lawyer hat in a mediation and be more open to learning the culture of the opposing party and their respective counsel, if any. He said that counsel should not participate in a mediation to prove who is right or wrong. Rather, counsel should be able to assist their clients to speak up and share what they want to during the process. As for parties, he was of the view that for a mediation to be effective, they should be sincere. Eliza echoed this and added that while different cultures may be at play in a mediation, it is always important to be kind.

### **Conclusion**

Culture is important in mediation. It affects communication, conflict resolution, and negotiation strategies. While it may not be the factor that would make or break a mediation, being mindful of culture can significantly enhance the effectiveness of the process. As such, mediators, counsel, and parties should be able to navigate diverse cultural landscapes to have a deeper understanding of the

mediation process. The panel shared that mediators, counsel and parties can do so by being self-aware of their own cultures and by detecting that of others through training, preparation and utilizing pre-mediation meetings. However, for mediation to be effective, mediators, counsel and parties must also go beyond cultural nuances. They must do their research to prepare for the mediation sufficiently and approach the mediation with an open mind to reach an amicable solution. As Henning said, “*culture is everywhere, but it is not everything*”.

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