

Cross-Cultural Communication: Guidance for the American Negotiator

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In today's increasingly global marketplace, the need for effective cross-cultural communication is greater than ever. Attorneys need to meet this demand for cross-cultural negotiation skills in order to best serve their clients, both at home and abroad. Unfortunately, American negotiators are not always well versed in the delicate art of cross-cultural communication. Ineffective and inexperienced communication across cultures can be, in the best cases, drawn out and embarrassing. In the worst case scenario, a wrong word or gesture could cost an attorney existing or future business.

Cultural differences among countries influence perceptual processes between negotiators. The specifics of each situation determine the approach to resolving cross-cultural disputes. Thus, negotiating parties must first recognize the inherent challenges brought about by such disputes.

In some cultures, for example, competitive or aggressive negotiation behaviors are more acceptable than in other cultures. Another factor to consider is the concept of time. Time has different meanings of importance in various cultures. The European-American concept of "time is money" has no such value in Asia, Latin America and Africa. This difference can affect the pace of negotiations and the punctuality of meetings. The concept of bargaining also differs among cultures. Negotiators from individualist cultures (like the United States) tend to look to the "top person" on the other side to convince, while negotiators from collectivist cultures (such as Asia) strive to convince the entire group.

The concern for relationship building in Latin American countries includes networking to initiate business negotiations, exchanging gifts and other tokens of appreciation, accommodating schedules for associates and trusting negotiations to verbal rather than detailed written agreements. In that same vein, when a negotiation reaches an impasse in Latin American cultures, the friendship of the parties, rather than a written contract or hard-ball tactics, generally provides for a resolution. Honor and "saving face" are key concepts in such relationship-based cultures. On the

other hand, the individualist nature of American culture provides for more competitive bargaining and negotiation, rather than relationship building.

In Brazil, finding ways around the bureaucratic red tape often involves the use of one's extended social network, such as friends and family employed in organizational bureaucracies. This phenomenon is so common place that it has its own Portuguese nomenclature, *jeitinho*, which means, in this situation, to cut through red tape by utilizing one's social network. By contrast, North American negotiators are accustomed to using official channels in their business negotiations, and may be suspect of using a Brazilian negotiator's family friend to achieve a business end.

Negotiators should begin by identifying cultural differences in order to become better equipped to focus on the possibility that cultural misunderstanding, bias and stereotyping may occur. Similarly, negotiators should highlight cultural likenesses and leverage them strategically. By critically thinking about what traits are shared, and those that are distinct, a negotiator goes into a negotiation well-equipped to handle a variety of cross-cultural pitfalls. This analysis also helps explain why focus on a particular cultural aspect of a dispute may reign supreme even though that specific issue is not legally critical to the success of a case. This practice invites attorneys to look for multiple interpretations, especially when the parties reach an impasse in negotiation, which encourages creative thinking about behaviors, instead of proceeding on insufficient information. It also allows negotiators to ask questions such as "I wonder if there is another piece of information that, if I had it, would help me interpret what is going on?" Susan Bryant, [*The Five Habits: Building Cross-Cultural Competence in Lawyers*,] 8 Clinical L. Rev. 33, 72 (2001-02).

Culturally sensitive exchanges with the other side are crucial. The introduction ritual is an important ingredient in any cross-cultural exchange. Negotiators must pay special attention to cultural sensitivities regarding greetings, as these trust-building exchanges build rapport and encourage conversation. Negotiators are advised to consult transla-

tors, if applicable, and to pay special attention to cues from the other side in the opening stages of the negotiation.

By looking for cues from the other side, negotiators are able to plan for “red flags.” Such problem areas can include indications that the other side is disengaged, angry or actively uncomfortable. This alerts attorneys of the need to attempt a different approach.

People are more likely to be influenced by stereotypes when they are under stress and are unable to monitor for bias. An attorney who proactively addresses some of the factors that negatively influence a relationship may prevent a problematic negotiation from reaching an insurmountable impasse.

The greatest weapon against communication pitfalls and to avoid a potential faux pas is preparation. While it is unrealistic to anticipate every possible scenario, a basic understanding of a given cultural background is the key to effective communication. Research and preparation can include a number of sources, including country and regional guides from the U.S. State Department (www.state.gov). A simple place to start, if possible, is to discuss cultural sensitivities with a person experienced with the culture, such as a colleague with experience in a given region or the interpreter working the meeting.

While it is impossible to memorize every cultural rule that exists, it is helpful to bear in mind some of the following tips. It is best to understand some basic foreign decorum in order to avoid offense and prevent negotiation impasse caused by cultural misunderstandings.

In Southeast Asian cultures, never touch or pass something over a person’s head because the head is considered sacred.

The Japanese emphasize ceremony when giving and receiving business cards. When receiving another’s card, hold the card with both hands and read it carefully, making comments about the other person’s title. Never write on the business card as this is considered disrespectful.

In East Asia, avoid waving or pointing chopsticks, putting them vertically into food or tapping them on the bowl. These actions are considered extremely rude and a negotiator should use the chopstick holders provided.

When conducting business in France, remain calm, polite and courteous during business meetings. Appearing overly friendly and asking personal questions of the other side may be construed as suspicious.

Avoid giving gifts made from leather in India, as cows are considered sacred there. Additionally, winking is considered a sexual gesture.

If visiting a business associate’s home in Mexico, do not bring up business unless the associate does. Doing otherwise is considered presumptuous and rude.

While some cultural blunders may be inevitable, by understanding the other side’s culture and paying close attention to cues, American negotiators will be able to better avoid impasse and achieve successful results in any cross-cultural negotiation.



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