

Cultural aspects of intercultural and international mediation

A presentation to the Translating Cultures forum, University of Nottingham,

August 2012

Joanna Kalowski, mediator

Joanna Kalowski and Associates

Sydney, Australia

This session will focus on practical aspects of intercultural/ international mediation, drawing on this mediator's experience to illustrate insights and adaptations that might be necessary in order accommodate the needs of diverse parties.

Nothing can be sacred: no single process, no standard model or approach, no suite of mediator's techniques and interventions can be expected to work in all situations. The essence of intercultural mediation is flexibility and adaptation, and these emerge less from what is sometimes regarded as instinct, and rather more from an awareness of self. To be discarded at the outset is belief (dogma), such as arises in sterile debates about the inherent value of no-caucus or all-caucus mediation. Intercultural mediators cannot afford to overlook approaches which might add to the chances of durable settlement. Deciding what works and when is at the heart of that set of choices: being wedded to this or that approach is an obstacle.

intercultural mediators come to the table with their own preconceived, often unexamined, worldview and values, and can unwittingly create an imbalance if they are more comfortable with one party than with another/others. The uncomfortable truth is that it is the mediator, not just the parties, who can create and sustain power imbalances, and the resulting frustration risks infecting both process and outcome, particularly where mediators remain unaware of their part in bringing it about.

Mediators in the international arena must also deal with language issues, which can arise even when interpreters are not strictly necessary, such as when a common language is agreed which is a first language for some and not for others. Since Danny McFadden will deal with these questions, they will merely be touched upon here.

Unlocking the cross-cultural potential and viability of mediation depends on the mediator, and the assumption that mediation as a process is only culturally transferable if appropriately managed. In good hands it has the potential:

1. To assist in identifying the shared goals (shared intent) that underlie the different behaviours that give rise to conflict.
2. To confront the impact of the mediator's and the parties' beliefs and value systems on conflict.
3. To create an inclusive framework.
4. To enable parties to tell their story their way.

5. To suit parties of different class as well as cultural backgrounds.

6. To free people from or imprison them in cultural mode.

If mediation merely has the potential to work across cultures, then the mediator embodies that potential.

Some useful basic assumptions will also be examined:

- That in many cultures, relationship trumps task;
- That behaviour is not data until the cultural assumptions underlying it are properly understood;
- That different behaviours can have the same meaning and similar behaviours can have different meanings;
- That the mediator's prime task is to render what is usually implicit explicit, using the subtlest of language in the most carefully chosen settings;
- That deal-making is the by-product of excellent mediation/negotiation, not its prime goal.

None of this focus on difference or diversity can be allowed to overshadow the similarities that exist, the "bridges of shared concern which bind culturally different people to one another", as Paul Pederson so aptly put it.

Parties to international and intercultural conflict are more likely to be well served if intercultural mediators are comfortable with their own discomfort and can learn to put the comfort of parties above their own. Add to this the capacity to stay with ambiguity and manage tension, and intercultural (some would say all) mediators are well on their way to being able to frame the kinds of processes and interventions which will unlock the dispute and locate a suite of answers, among which only the parties can choose those that best guarantee durable settlement.

Joanna Kalowski

Paris

Bastille Day, 14 July 2012!