5-2017

Managing the inter-cultural dimensions of a mediation effectively: A proposed pre-mediation intake instrument

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Citation

QUEK ANDERSON, Dorcas and KNIGHT, Diana. Managing the inter-cultural dimensions of a mediation effectively: A proposed pre-mediation intake instrument. (2017). *Australasian Dispute Resolution Journal*. 28, (2), 89-97.
Available at: https://ink.library.smu.edu.sg/sol_research/2428

Draft version before publication on Australasian Dispute Resolution Journal (May 2017 issue);
Refer to ADRJ for the published paper

Managing the inter-cultural dimensions of a mediation effectively – A proposed pre-mediation intake instrument

Dorcas Quek Anderson and Diana Knight*

Abstract:

Being a culturally responsive mediator has become increasingly challenging amidst the growing cultural complexity within many societies. Drawing on the existing research on culture and the authors' experiences of mediating disputes amongst diverse disputants in Australia and Singapore, this paper proposes an emic-constructivist approach for the mediator to understand the individual disputant's unique cultural preferences. It also recommends bringing forward the exercise of understanding cultural preferences through conducting pre-mediation intake interviews. It is argued that this approach enables the mediator to embrace the parties' cultural complexity and to design the mediation process based on their rich milieu of preferences. Finally, the paper puts forward a framework for the pre-mediation intake instrument.

INTRODUCTION

Mediators are supposed to prepare for cultural differences and learn to be appropriately responsive to diverse cultural dimensions. However, it is certainly challenging to be a culturally responsive mediator, particularly as cultural complexity has grown exponentially within many cosmopolitan societies. As Avruch has pointed out, individuals are bearers of multiple cultures, not a single one,[1] and "no population can be adequately characterized as a single culture".[2]

It has not helped that culture has been defined in various ways. Some scholars have examined culture in terms of discrete ethnic or geographical groups. Triandis, for instance, has conceptualised culture as a meaning system shared by people of a particular language in a

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[1] Kevin Avruch, 'Type I and Type II Errors in Culturally Sensitive Conflict Resolution Practice' (2003) 20(3) *Conflict Resolution Quarterly* 351, 368.

[2] Kevin Avruch, *Culture and Conflict Resolution* (US Institute of Peace Press, 1998) 18.

specific historic period and in a definable geographic region.[3] More recent anthropologists and ethnographers have adopted a constructivist paradigm, acknowledging that culture is dynamic, situational and flexible.[4] In this vein, Swidler has conceived culture as a tool kit or repertoire of world views, symbols and stories "from which actors select different pieces for constructing lines of action".[5]

Mediators thus face very complex individuals who may not necessarily manifest the characteristics that are traditionally attributed to their group. Furthermore, each disputant may embrace worldviews and values that are associated with multiple sources of influence. As mediators from Singapore and Australia who have been grappling with these practical challenges, we propose a jointly developed pre-mediation intake instrument to help mediators better understand the parties' cultural frameworks and design the mediation process to fit their preferences.

HOW CULTURE HAS BEEN EXAMINED IN CONFLICT RESOLUTION RESEARCH

We first examine the different approaches that conflict resolution researchers have adopted in analysing the concept of culture.

Essentialist and constructivist paradigms

One scholar, Dominic Busch, has helpfully examined how conflict resolution research has perceived the influence of culture on its practice. Examining a sampling of 72 articles in the *Conflict Resolution Quarterly* journal written between 1996 and 2001, Busch found that a majority of the articles on inter-cultural mediation adopted an essentialist rather than constructivist perspective.[6] These articles tend to perceive culture as a static blueprint for human behaviour, and to view the individual as a manifestation of culture. They also examine culture from the standpoint of the "norm", such as a particular group or class they belonged

[3] Triandis, 'Generic Individualism and Collectivism' in M.J. Gannon, and K.L. Newman (eds), *The Blackwell Handbook of Cross-Cultural Management* (Blackwell, 2002) 16.
[4] Morgan Brigg and Kate Muller, 'Conceptualising Culture in Conflict Resolution' (2009) 30(2) *Journal of Intercultural Studies* 121, 128. See also Dominic Busch, 'How Does Culture Affect Conflict Mediation? Disentangling Concepts from Theory and Practice' in Dominic Busch, Claude-Helene Mayer and Christian Martin Boness (eds), *International and Regional Perspectives on Cross-Cultural Mediation* (Peter Lang, 2010) 29-30, 34, 37-38.
[5] Ann Swidler, 'Culture in Action: Symbols and Strategies' (1986) 51(2) *American Sociological Review* 273, 277.
[6] Dominic Busch, 'Does Conflict Mediation Research Keep Track with Cultural Theory?' (2016) 4(2) *European Journal of Applied Linguistics* 181.

to.[7] Criticising the essentialist paradigm, Avruch has argued that this perspective sees culture as being uniformly distributed across a group, thus encouraging stereotypes and ignoring intracultural variation. Conflict resolution then becomes a search for "*the* culturally appropriate method of resolution, which, it is thought, will automatically produce results".[8]

By contrast, a constructivist paradigm tends to perceive culture as shaping individuals rather than deterministic, and as constantly changing and evolving. It also takes the view that cultural understanding is achieved through human interaction. Avruch is probably one of the prominent advocates of this approach. He puts forward the view that culture is not monolithic, integrated and stable "wholes", but fragmented and contestable. Admittedly, cultures may be passed down to individuals through traditions. Nevertheless, Avruch points out that cultures, as acquired by individuals throughout their lives, are also emergent and responsive to environmental exigencies.[9]

Etic and emic perspectives

Busch also found that a large number of articles (44 out of 72) had an "etic" instead of "emic" emphasis. The former approach examines cultures from an external point of view, formulating universal categories and dimensions to help in cross-cultural comparison.[10] These articles tend to make comparisons between "Western" and "non-Western" practices, as well as discuss ways of transferring conflict management techniques from one culture to another.[11] By comparison, an emic paradigm construes a conflict as a unique event to be understood within its own context. The researchers holding this perspective usually try to understand a unique cultural setting using the culture's own terminology, allowing for a more precise and situation-specific picture.[12] Busch's study of inter-cultural conflict resolution literature appears to show a strong preference for etic-essentialist approaches.

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[7] Ibid. Busch referred to the coding used by David Gregory, Jean Harrowing, Bonnie Lee, Lisa Doolittle and Patrick S.O'Sullivan, 'Pedagogy as Influencing Nursing Students' Essentialized Understanding of Culture' (2010) 7(1) *International Journal of Nursing Education Scholarship* 30.

[8] Kevin Avruch and Peter W. Black, 'The Culture Question and Conflict Resolution' (1991) 16(1) *Peace and Change* 22, 30.

[9] Kevin Avruch, above n 1.

[10] Dominic Busch, 'How Does Culture Affect Conflict Mediation? Disentangling Concepts from Theory and Practice' in Dominic Busch, Claude-Helene Mayer and Christian Martin Boness (eds), *International and Regional Perspectives on Cross-Cultural Mediation* (Peter Lang, 2010) 21.

[11] Dominic Busch, above n 6, 195.

[12] Daniel Druckman, 'Doing Conflict Research through a Multi-Method Lens' in Jacob Bercovitch, Victor Kremenyuk and William Zartman (eds) *The SAGE Handbook of Conflict Resolution* (SAGE Publications, 2016) 2.

OUR PROPOSED APPROACH IN ANALYSING CULTURE AND MEDIATION

An emic-constructivist approach

There are, of course, differing degrees of the above approaches. Each paradigm also offers its own advantages for inter-cultural mediation research. For the purpose of helping mediators understand individual cultural dimensions, we advocate adopting *an emic-constructivist perspective with the individual as a starting point.* We seek to understand the individual disputant's unique cultural preferences, knowing that the way the person usually responds or communicates may not necessarily reflect his or her group's general characteristics. More specifically, we examine the way in which the individual responds *in the particular dispute with a particular individual*.

The overarching goal of our emic-constructivist approach is to help the mediator gain a nuanced, individualised and situation-specific understanding of the parties' cultural dimensions. The mediator will naturally have very different cultural preferences from the disputants. Adopting an emic rather than etic approach encourages the mediator to suspend assumptions concerning the parties' cultural traits and avoid perceiving the parties from the standpoint of his or her own preferences as the "norm". By avoiding generalisations, the mediator is able to embrace the disputants' cultural complexity and to design the mediation process based on their rich milieu of cultural preferences.

The importance of understanding the parties' cultural dimensions prior to the mediation

As explained above, our primary purpose in analysing culture is to enable the mediator to effectively interact with the parties. The focus is not on using culture to diagnose the sources of conflict or to formulate different models of mediation.

As mediators, we have often found ourselves understanding the disputants' cultural preferences too late in the mediation process. While we may have conducted pre-mediation intake interviews, we frequently made educated guesses about how the person is likely to behave based on his background. Yet some of these projections could well be based on misinformed generalisations and biases. It is only after the mediation commences that we incrementally reach a better understanding of the parties' characteristics and correct our

wrong perceptions.[13] Unfortunately, this discovery is often made rather late, when the mediator's interaction with the parties has already clashed with their cultural preferences. While the mediator may now make adjustments to the approach, the damage to the rapport with parties may not be easily undone at this late stage.

As an illustration, one of us was a mediator in a suit brought by a middle-aged man against his aged father for breach of contract. The father, who was more than seventy years old, repeated his sentences frequently throughout the mediation. The mediator thought that he simply had a short memory. However, the father made increasingly frequent statements about his high standing and influence within society, how his friends have been questioning him about his son's suit against him and how he was thoroughly disappointed with this son. During a private session, he continued making these assertions, and asked for the mediator's affirmation of his high standing. The mediation was postponed to another day, and the father again reiterated these views, refusing to discuss any possible solutions. It finally dawned on the mediator that "face concerns" were very prominent for him. He wanted the mediator to have a good impression of him as a father and individual, just as he was concerned about how his friends now seemed to doubt his standing because his son had sued him. The mediator then adjusted her approach to actively acknowledge the father's opinion about his high standing, and the great disappointment he understandably felt towards his son. After going through a few private sessions with this modified approach, the father was more prepared to explore solutions. The agreed solution addressed his need to restore his "face" through the son apologising for commencing legal proceedings. It turned out that "face concerns" emerged not only as a cultural dimension affecting the interaction between mediator and disputant, but also as a key interest to be addressed.

Experiences like this underscore the great importance of *gaining an early understanding of the individual disputant's cultural orientations*. It may be too late to start deciphering the person's cultural complexity only after the mediation has started. Time may no longer be on the mediator's side. More significantly, by the time the mediator has arrived at a reasonably

[13] This is a typical approach used by many mediators. See International Mediation Institute, *Criteria for Approving Programs to Qualify Mediators for IMI Inter-Cultural Certification* <https://imimediation.org/intercultural-certification-criteria#timeorientation>, para 5(a), "The aim of this preparation should be to construct hypotheses for how to proceed initially given what a mediator may know about the participants, their representatives and their wider constituencies, and plan how to test and adapt these hypotheses as the mediation progresses.

accurate understanding, he or she may have alienated himself from the disputants through inappropriate ways of interaction or designing of the mediation process. To avoid these detrimental effects on the mediation, we propose *bringing forward* the exercise of understanding cultural preferences.

A PROPOSED PRE-MEDIATION INTAKE INSTRUMENT

We therefore shift our attention to the earliest possible stage – the pre-mediation stage. The process of pre-mediation intake is fairly well-established, with a variety of questionnaires being designed to understand the parties' background, their expectations, details about the dispute and circumstances that may render mediation inappropriate such as domestic violence. Given the importance of understanding cultural complexity, there is no reason why the intake interview should not also examine cultural dimensions. Furthermore, there are currently instruments examining culture in disciplines such as psychology and organisational inter-cultural competence. The questions in these diagnostic tools are not suited for conflict resolution. A new instrument has to be created to fit the mediation context.

In devising an intake questionnaire, we have referred to some well-known dimensions that have been used for cross-cultural comparison, such as E.T. Hall's and Geert Hofstede's[14] dimensions of culture. These dimensions, such as power distance, individualism versus collectivism, and high and low context communication, have been widely accepted as models for analysing cultures. However, the usage of these dimensions has been limited to understanding national groups instead of individuals, which is a rather "etic" approach. To fit the context of mediation, we draw upon these dimensions to inform the intake questions that we may ask *of the individual*, rather than aggregate the dimensions for the purpose of classifying groups of people. Hence we seek to avoid the common pitfall of linking societal or national cultural differences with individual differences. The disputant's expressed preferences with respect to each dimension collectively build an individualised profile that helps the mediator make sense of the person's cultural complexity and design an appropriate mediation process.

[14] E.T. Hall, *Beyond Culture* (Random House, 1976); Geert Hofstede, 'Dimensionalizing Cultures: The Hoftede Model in Context' (2011) 2(1) *Online Readings in Psychology and Culture.*

We envisage the questionnaire to be administered in a face-to-face interview lasting about an hour. There is a mixture of open-ended and closed questions, with the respondent being able to indicate his choice out of a range of preferences. As with many other questionnaires, this instrument relies on self-reporting. Its efficacy thus hinges on the disputant's degree of self-awareness.

The table below shows how the well-established dimensions of culture have been broken down into specific types of preferred communication style, ways of discussing issues, values, expectations and decision-making behaviour. We have then drawn links between these discrete preferences and their likely impact on the mediation process.

DIMENSIONS OF CULTURE		**RELEVANCE TO MEDIATION PROCESS**
A.	**COMMUNICATION**	
A1.	Preference for direct vs indirect communication	Mediator has to adjust questions and communication style to avoid clashing with person's preferred way of communication. Mediator may rely more on private sessions to interact with person preferring indirect communication. When both parties differ in preferences, mediator has to actively manage conversation and reframe statements to facilitate mutual understanding.
A2.	Preference for emotional restraint or emotional expression	Mediator is able to understand possible reasons when a party is "unusually" expressive or reserved. If parties differ, mediator is better prepared for differing levels of emotional expression. The mediator is also better prepared to manage parties' understanding of each other's emotional expression.
A3.	Level of formality expected	[Similar to A1.] Mediator is informed on how to address parties and how to pitch language at right level of formality.
A4.	Personal space and eye contact	[Similar to A1.] Mediator is more equipped to ascertain from party's body language when he or she is feeling uncomfortable.
B.	**TIME**	
B1.	Pace of recollecting and describing events	Mediator is better able to anticipate the duration of the party's statement and the party's propensity to elaborate. Mismatches in the disputants' pace have to be managed through giving time limits or more active summarising. The mediator may also consider whether a party's support person should have a more active role.
B2.	Preference for sequence in discussing issues (monochromic and linear-sequential; or polychromic and holistic)	When facilitating discussion of issues and options, mediator can adjust style according to person's preference for "big picture" and non-sequential approach, or preference for sequential and issue-specific discussion.

B3.	Preference for regular updates on tasks	Awareness of preference helps mediator know whether a person is more likely to experience increased anxiety caused by unavoidable delay. The mediator may find it helpful to give clear follow-up tasks to parties in between mediation sessions and to manage expectations around delay.
C. POWER DISTANCE		
C1.	Expectations of mediator's attributes (age, status, gender, position in society)	Mediator understands whether he or she is the most suitable person to mediate dispute. Mediator may also assure party of his or her standing in other aspects (such as mediation experience).
C2.	Expectation of guidance from mediator	Mediator is more aware of the party's tendency to seek guidance, or to prefer a more directive and evaluative style of mediation.
D. INDIVIDUALISM VS COLLECTIVISM		
D1.	Which persons exert influence on person in decision-making for this particular conflict	By understanding who the influential persons are and the extent of their influence, the mediator can manage appropriate support persons and encourage suitable persons to attend the mediation.
D2.	To what extent person is guided by personal goals or goals of tribe / group / family; and influenced by guilt or shame in making decisions	Mediator can better understand how much a person relies on others to help make a decision for this dispute. In the event of divergence between person and group's views on how to settle, the mediator will need to test the person's level of comfort with conforming or diverging from group's preference.
D3.	Whether public interest is important in person's considerations (helping to improve situation for relevant community)	Public interest can be part of the person's underlying interests. If so, there is potential for mediator to explore options that may not necessarily advance personal interest but has potential to help the wider group.
E. FACE CONCERNS		
E1.	Importance of protecting self-face during conflict	Understanding the need for self-face helps mediator be careful not to use words or actions that will put person in bad light in presence of other party and mediator.
F. EMOTIONAL RESILIENCE		
F1.	How quickly person recovers from setbacks	Having an understanding of the person's level of emotional resilience in daily life helps mediator be more aware of moments within mediation when person may be emotionally charged (thus needing a break) or is not in the right frame of mind to reach an agreement.

In this section, we highlight a few of the above dimensions and explain our approach in designing questions to explore each dimension.

Direct versus indirect communication

Hall is known for his distinction between high-context and low-context cultures. This distinction encapsulates many inter-related aspects of communication style, such as whether communication is direct and explicit; whether there is high usage of non-verbal

communication; and the level of emotional expression. Each of these dimensions is separately explored in the proposed instrument. They are supplemented by other aspects of communication such as body language, personal space and level of formality.

The proposed questions on direct communication seek to understand how the party usually uses language in a conflict, and more specifically, with the particular person he will face at the mediation. There is therefore a question asking how the person has previously tried to communicate with the other disputant in this conflict.

DIMENSIONS OF CULTURE	PROPOSED INTAKE INTERVIEW QUESTIONS	RELEVANCE TO MEDIATION
A1. Preference for direct vs indirect communication	• Describe how you have tried to communicate your concerns to the person whom you now have a conflict with. • When I have a dispute with someone: o I tend to "say things as they are" rather than talking around the point. Strongly disagree / Disagree / Agree / Strongly Agree o I am comfortable with *the other person* fully expressing his or her disagreement with me. Strongly disagree / Disagree / Agree / Strongly Agree	Mediator has to adjust questions and communication style to avoid clashing with person's preferred way of communication. Mediator may rely more on private sessions to interact with a person preferring indirect communication. When both parties differ in preferences, mediator has to actively manage conversation and reframe statements to facilitate mutual understanding.

The responses to these questions will guide the mediator in adapting his communication style to be aligned with the disputants'. A person who prefers to communicate with implied messages may feel uncomfortable if the mediator were to repeatedly ask for clearer elaboration on the conflict or the dissatisfaction with the opposing party. Perhaps the mediator may explore the underlying interests more exhaustively in a caucus. Such a person is also more likely to be offended by the other party's direct communication style. In such circumstances, the mediator has to carefully observe the disputants' reactions and body language for any discomfort, actively manage their conversation and paraphrase or reframe to remove any sting from a person's potentially "offensive" communication style. Joel Lee has very helpfully discussed these interventions, suggesting that the mediator match the parties' common mode of communication and also play the role of "translator" between parties with differing modes.[15]

[15] Joel Lee, 'Culture and its Importance in Mediation' (2016) 16 *Pepperdine Dispute Resolution Law Journal* 317, 338.

Face concerns

With regard to face concerns, Ting-Toomey has done extensive research to show how people of all cultures try to maintain and negotiate face in communication, albeit in differing degrees.[16] Face has been construed as a sense of favourable social self-worth and projected other-worth in a public situation.[17] According to Ting-Tommey, face concerns comprise self-face (primary concern for one's own image when face is threatened in a conflict), other-face (primary concern for the other person's image) and mutual face.[18]

Ting-Tommey and other scholars have proposed that face concerns are closely related to other cultural dimensions including individualism versus collectivism, conflict management styles and power distance.[19] Nevertheless, we respectfully argue that it is not beneficial to project the likely links between face and other cultural dimensions for the purpose of understanding cultural complexity in a mediation. For instance, the mediator may predict that a person leaning towards collectivism rather than individualism is likely to be more other-face oriented (i.e. seeking to protect the other person's face), and to adopt an avoiding, compromising or integrating conflict style. However, this hypothesis may not hold true for all individuals with collectivistic tendencies. In the mediation experience described earlier, although the aged father came from a traditional Chinese background (and arguably with relatively collectivist leanings), he was not so much concerned with protecting his son's face as preserving his self-face.

Consider another example of a very hierarchical work environment involving uniformed personnel. A person occupying a high position in this setting may well be unconcerned with protecting his self-face in disputes involving his personal and family life. However, with respect to a conflict with his subordinate at the workplace, he may value his self-face very highly because of the particular work setting. As mediation processes seek to minimise power imbalance, it will then be important during the mediation that his standing before his

[16] Stella Ting-Toomey, 'The matrix of face: an updated face-negotiation theory' in W.B. Gudykunst, (ed), *Theorizing about Intercultural Communication*, (Sage Publications, 2005) 71.
[17] Stella Ting-Toomey and A. Kurogi, 'Facework Competence in Intercultural Conflict: An Updated Face-Negotiation Theory' (1998) 22(2) *International Journal of Intercultural Relations* 187, 187.
[18] Stella Ting-Toomey, above n 16, 74.
[19] John Oetzel, Adolfo J. Garcia and Stella Ting-Toomey, 'An Analysis of the Relationships amongst Face Concerns and Facework Behaviors in Perceived Conflict Situations: A Four-Culture Investigation' (2008) 19(4) *International Journal of Conflict Management* 382; John Oetzel and Stella Ting-Toomey, 'Face Concerns in Interpersonal Conflict: A Cross-Cultural Empirical Test of the Face-Negotiation Theory' (2003) 30(6) *Communication Research* 599.

subordinate is not diminished, whilst empowering the subordinate to be heard and acknowledged. In short, face concerns may not be constant for an individual, and should be analysed in a nuanced manner rather than being linked to ethnic or national cultures alone.

As such, in keeping with our emic-constructivist approach, we have focused on the simple concept of "self-face" in the context of the relevant conflict, and have refrained from linking it to other cultural dimensions. Our principal aim is to ascertain whether the person is very concerned about protecting self-image in the presence of the opposing disputant. The following questions are proposed:

DIMENSIONS OF CULTURE	PROPOSED INTAKE INTERVIEW QUESTIONS	RELEVANCE TO MEDIATION
E. Face Concerns: Importance of protecting self-face during conflict	• In trying to resolve this dispute with the other person, how the other party perceives me is important. Strongly disagree / Disagree / Agree / Strongly Agree • [follow-up question] In what way? How would you prefer the other party to perceive you?	Understanding the need for self-face helps mediator be careful not to use words or actions that will put person in bad light in presence of other party and mediator.

In a mediation setting, face concerns arise not only in respect of the disputant's image in the other party's eyes, but also his *perceived image before the mediator*. If self-face concerns are high, the person will not want to have his image tarnished before the mediator. He is also likely to crave for the mediator's high regard. Hence a disputant's high response for this dimension should alert the mediator to refrain from intervening in ways that may put the person in bad light or be embarrassing before the mediator. In addition, the mediator could actively demonstrate understanding of the party's perspective, so as to assuage any suspicion that the mediator has a poor impression of the person.

Power distance

Hofstede's power distance index is a rather established measure of one's acceptance of hierarchy and authority. Once again, this dimension has frequently been used to compare national cultures. By contrast, the goal here is to understand the individual party's comfort level with unequal distribution of power. Mediators have generally been trained to detect power imbalances between the parties, and to use a variety of tools to mitigate the disparity.

Our intake instrument shifts the focus to the *"power play" between mediator and each disputant.* As pointed out by two Singapore commentators Lee and Teh, when disputants place primacy on respecting social hierarchies, they probably expect the mediator, rather than the parties, to be the central figure within the mediation. If the mediator is regarded as someone of high standing, they may also expect to receive guidance from him or her. [20]

However, the practical challenge mediators face is to accurately discern each person's expectations of the mediator's level of authority. It cannot be assumed that the parties – even if they share the same background – will share the same preferences. We have, therefore, proposed questions that will reveal each person's preferences about the mediator's attributes relative to him or her. We also ask about how much guidance the person expects from the mediator.

DIMENSIONS OF CULTURE	**PROPOSED INTAKE INTERVIEW QUESTIONS**	**RELEVANCE TO MEDIATION**
C1. Expectations of mediator's attributes (age, status, gender, position in society)	• It is important for my mediator to have the following attributes: ○ Older in age than me ○ Same gender as me ○ Higher social position and qualifications than me Strongly disagree / Disagree / Agree / Strongly Agree	Mediator understands whether he or she is the most suitable person to mediate dispute. Mediator may also assure party of his or her standing in other aspects (such as mediation experience).
C2. Expectation of guidance from mediator	• I expect the mediator to give his or her views on the best way to resolve this dispute. Strongly disagree / Disagree / Agree / Strongly Agree	Mediator is more aware of the party's tendency to seek guidance, or to prefer a more directive and evaluative style of mediation.

The importance of grasping the individual preferences on power distance cannot be over-emphasised. It is highly risky for the mediator to adopt a directive or evaluative style premised on the assumption that all the disputants of a particular background will respond favourably to a mediator of higher social standing who will provide guidance. As argued above, each individual is a bearer of multiple cultures, and is likely to adjust his or her cultural preferences to fit the exact situation. It is therefore unrealistic to use a default mediation framework that is tailored to all mediations within one society or setting. Such an approach is likely to cause great dissonance between mediator style and individual

[20] Joel Lee and Teh Hwee Hwee, 'Asian Culture – A Definitional Challenge' in Joel Lee and Teh Hwee Hwee (eds) *An Asian Perspective on Mediation* (Academy Publishing, 2009), 3.47-3.62.

preferences. The mediator has to confront and understand the diverse cultural preferences in each dispute, and customise her style accordingly. In increasingly diverse societies like Australia and Singapore, the need for a culturally responsive and flexible mediation approach is even more pressing.

CONCLUSION

Being a culturally responsive mediator – this goal is a progressively difficult one to achieve amidst growing complexity and diverse sources of influence. This paper draws upon the authors' past struggles (and mistakes) in making sense of culture in the mediation setting. The proposed emic-constructivist approach recommends the use of a pre-mediation intake instrument to facilitate early understanding of the disputants' cultural frameworks. To help the mediator gain a nuanced insight into each person's profile, the paper also suggests a situation-focused and individualised perspective that shuns generalisations about aggregate cultural tendencies. The specific cultural dimensions and proposed questions in the instrument are but a preliminary exploration of tools that can effectively assist mediators navigate inter-cultural conflicts. The authors hope that these recommendations will stimulate more conversations amongst dispute resolution practitioners about practical ways to manage culture.