


Bilingual Mediation

Honoring Intercultural
Uniqueness

BY ROGELIO HERNANDEZ-FLORES



Parties in conflict frequently revert to their cultural and linguistic background to make sense of the variables that influence decision making. This article discusses bilingual mediation, which strives to ensure that meaning is conveyed across diverse cultural nuances, assumptions, and communication styles.

Mediators try to understand the parties' interests when crafting the best possible mutual agreement. The goal of bilingual mediation is no different. But bilingual mediators recognize that language and culture strongly influence perception and common sense and thus impact most decision making. In bilingual mediation, the mediator is not only well versed in two or more languages, but also understands the parties' culture.

This article addresses the influence that bilingual communication and cultural differences have over the parties and the mediator. The points made may seem evident to some, while for others, the comments about culture might cause disagreement. Regardless, all should agree that clear bilingual communication and an understanding of multicultural influences have an unmistakable impact on mediation and its outcome.

Culture and Language are Key

Although it may seem obvious, the combination of cultural background and the use of language to convey meaning significantly differs between cultures. These differences can be heightened in conflict situations. The bilingual mediator needs to be aware of the gamut of cultural and linguistic expressions that convey meaning. Underestimating these differences can easily disrupt the parties' efforts to reach agreements. Engaging the parties at their level of communication skills and cultural understanding is critical to helping them understand the variables that affect their lives. Communicating to connect across different cultures requires the mediator to have heightened listening skills. This ability to hear what the parties are really saying facilitates a good mediation and is the trademark of bilingual mediators.

Mediators must always be keenly aware of the factors underlying the dispute. When parties are from different cultures, this awareness is even more important. Bilingual mediators must not only communicate in different languages but also appreciate the cultural perspectives of the parties. This includes knowledge of nuances, habits, customs, and traditions that are inherent to their cultures. Effective bilingual

mediation encompasses both linguistic communication and cultural communication so the parties have a full understanding of the different aspects of the dispute and its possible resolutions.

For example, a party may contact a mediator to inquire about mediation services. The first round of questions is: "Do you speak Spanish? Can you mediate in Spanish *and* English? We need to understand what's going on! We only want to get divorced and they told us we needed to go to mediation. Why do we have to? We have a business between us; do we have to divide it?"

Another person calls a mediator, saying: "I've been working with this guy for a long time, and now he sends me some papers saying he wants to take me to court. I thought I was working with a man of his word; he was referred to me by a close friend from his country. That's why we made a verbal agreement; following their custom, as I did with his friend, we shook hands to seal our agreement. Now he wants money. This is insulting. I don't even know why he's saying this; we've been working well for a long time. Now he's angry and doesn't want to talk. How can I resolve this? I don't want to go to court; I just want to keep on working."

The parties in either case would benefit from the use of a mediator to help them communicate and facilitate a mutual resolution. Nevertheless, deeper listening reveals the parties are also seeking to gain awareness of their cases in a way that makes cultural sense to them. Understanding based on cultural common sense allows the parties to gain insight, discern different variables, gauge alternatives, and ultimately build on negotiated opportunities and recognize possible solutions.

If language is a concern, a bilingual mediator would help the parties communicate throughout the mediation session. Accurate communication alone resolves many cases. But reaching full comprehension requires a broader approach, one that goes beyond clear two-way communication; it relates to a person's past and present cultural background, which influences perception, beliefs, and decision making.

For many people, the norms of their culture of origin form an important part of their common sense. When asked to

assess their case, their cultural perspectives will influence the creation of alternatives and how they gauge the possible effects of their decision making during the mediation process. Cultural influences become more apparent in cases that carry high stakes, either at a personal level or in negotiated results, and in those that have a significant impact on the parties' lifestyle.

As populations increase and become more diverse, there are a growing number of cases in the judicial system that require diverse bilingual skills, which explains the increase in bilingual attorneys, certified court interpreters, and most recently, bilingual mediators. Intercultural experience and courtroom exposure show that clear two-way bilingual communication advances understanding, and accounting for perspectives that come from cultural differences enables the parties to have a deeper perception, empowering them to become actively involved in mediation and the judicial process.

Cultural Variables

Psychologist Geert Hofstede explains on his website why culture is so important:

Do we need to bother about culture? Every visitor of this site has her or his unique personality, history, and interest. At the same time, we share our human nature. We are group animals. We use language and empathy, and practice collaboration and inter-group competition. The unwritten rules of how we do these things differ from one human group to another. "Culture" is how we call these unwritten rules about how to be a good member of the group.¹

Cultural awareness is important in mediation. Multicultural parties may be trying to adapt to a new environment while trying to resolve a court case within a framework they can work with, based on their cultural background.

To facilitate the most favorable agreement, the mediator must try to figure out the parties' basis for decision making.² For example, during one of the author's workshops on bridging cultural differences in the workplace, the question about "truth" came up. One participant asked how to know if someone is telling the truth; another asked what the concept of truth is across cultures. The answer is that generally the

perspective of truth varies by culture. Someone from the United States or Germany might say truth is principled, the truth is the truth, and nothing else. But someone from China might answer that truth is in the eye of the beholder. Someone from Mexico or Latin America might dare say something along the lines of: "Tell me

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how much truth you want me to tell you, so we can resolve this issue and maintain our good relationship.”

What is interesting about this example is that we all can see the correlation of the concept of truth regardless of our different cultural backgrounds. We might give more value to one description instead of another, or smile about shrewd interpretations of truth. But it is precisely the awareness of the different cultural

correlation of concepts that is important. The ability to identify how a concept is used or applied based on different cultural interpretations gives the bicultural mediator a foothold to start working on those differences and move toward an understanding of equivalent terms and the weight these concepts carry with each person's perception. For example, while cultural concepts of truth such as "truth is in the eye of the beholder" or "tell me how much truth you want me to tell you" will not go far in the U.S. judicial system, mediators must be aware of these concepts because such views influence the parties' actions and decision making.

As people decide on matters of importance, some cultural qualities have more influence than others, depending on context. Context is of special interest for bilingual mediators, as it can refer to personal culture, life experience, gender, race, and national origin. Hofstede has defined six national cultural dimensions, which "represent independent preferences for one state of affairs over another that distinguish countries (rather than individuals) from each other."³ Interestingly, though national cultural dimensions differentiate countries, they ultimately permeate to the individual's cultural traits as shown through their actions and behaviors. Dimensions such as power distance, masculinity versus femininity, and uncertainty of avoidance become noticeable in the way parties build and express their proposals in trying to reach agreements. Thus, culture influences problem solving and negotiation styles and frames the parties' approach to reaching mutual agreements. It is very different to barter the price of goods in the marketplace than to negotiate strategy in business, or debate over the spirit and intention of the law in the courtroom. Cultural traits—whether national or individual, or acquired through acculturation—provide a lens through which information, actions, and behaviors are managed and understood.

Communicating to Connect

Personality influences our perceptions and actions and how we express ourselves. Communicating respectfully with others is not only important for building rapport, but also essential in mediation, and strongly empha-

sized in bilingual mediation. This requires an acute awareness of the other person and our own circumstances, perspectives, and relative contextual position to the other party. Positions of authority—judge, attorney, officer of the court—and positions of weakness both affect how parties communicate, exchange ideas, and negotiate. People react according to their experiences. The parties' exposure to different cultural and communication contexts, decision making, and negotiation styles creates a perspective from which the parties process the mediation. This perspective or positioning can be driven by cultural differences, regardless of the issue to be resolved. The bilingual mediator has to identify, understand, and work through these cultural variables to help the parties move toward a productive meeting.

Enabling two-way conversation is not all that easy, especially in cross-cultural settings:

Ideally, speakers mean what they say and say what they mean. Spoken communication is not that simple. Much of what we understand—whether when listening or reading—we understand indirectly, by inference. Listening involves a complex combination of hearing words, analyzing sentence structure, and attempting to find meaning within the context of the given situation.

The situation with the written word is no different. A text does not contain a meaning. Readers *construct* meaning by what they take the words to mean and how they process sentences to find meaning. Readers draw on their knowledge of the language and of conventions of social communication. . . . They infer unstated meanings based on social conventions, shared knowledge, shared experience, or shared values. They make

sense of remarks by recognizing implications and drawing conclusions.⁴

In bilingual mediation, much of the work involves bridging the gap between the parties' expectations and the judicial system's requirements. Sometimes, this means working with cultural nuances to modify perceptions and open the possibility of alternative solutions. For example, in a case the author mediated, the parties were second- or third-generation Hispanic-American. They did not need a bilingual interpreter, but their Hispanic cultural traits weighed heavily in their decision making, communication, and most of all, on their approach to resolving conflict. As the mediation became tense, one party's attitude and anger was narrowing his perception and obstructing progress. Before reaching an impasse, I provided this analogy: "If the flame is too high the rice burns, if too low it becomes soupy; the trick

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is to be patient and let it simmer . . . and let the mediator do his work.” The analogy was culturally driven to make the party aware of his behavior and make sense of its implications. Using the American expression “letting the water boil” instead of the Mexican equivalent of “cooking rice” might not have created the same awareness and response the mediator was looking for.

In practice, we all use different communication styles to exchange information and meaning. We rely on timing, context, and intention to convey our message. Some communicate in a direct way using analysis and data, while others use context, adding emotions and relationships to give meaning to the content in their message. The way we communicate often carries more information than the words themselves. The key is to understand our own particular communication style, and then listen to understand so we can connect and adapt our style to that of the people we are communicating with.

Mediators use clarity, meaning, and connecting as elements to encourage two-way communication and confirm understanding.

Context versus Content

Some cultures communicate using *content* to convey meaning, providing data and analysis, leaving context as supplementary information. Others use *context*, providing multiple stories that create content to make meaning fully understood. Understanding the differences in communication styles, where they come from, and how they may influence thought processes, actions, and behaviors can help us understand how we evaluate people from other cultures based on the perspective of our own cultural framework and communication style.

A communication style refers to the way we communicate, understand, manage, and transfer information. Multiple theories explain the progression of communication styles. Some are based on language and ecological factors, others on the relation and development of thinking styles based on language and culture.⁵

It is interesting to observe that most communication theories relate to the use of language, conceptual understanding, and thought processes. Anthropologist Edward Hall’s theories

bring to the forefront what we see in day-to-day practice, that actions and behaviors result from our beliefs and understanding.⁶ Hall’s theories also explain the differences between low-context and high-context styles, which are frequently used to provide a broad description of cultural differences between societies.

Low context, or direct communication, reflects an analytical thinking style. Most of the meaning is explicit and depends on the *speaker* to clearly state the meaning or objective of the communication. Direct communication focuses on being specific and structured, independent of the circumstances related to the subject. This is why we consider some people who are direct to be dry or blunt. Cultures that predominantly use this communication style include American, British, German, Swiss, Scandinavian, and other Northern European cultures.

High context, or indirect communication, reflects a holistic thinking style in which the meaning or objective of the communication is implicit in the expression. Therefore, the meaning is not clearly defined and it is assumed that the *listener* will be able to conclude or deduce the intended meaning. Overall context weighs heavily in this style and is taken into consideration when evaluating an action or event. This is why we consider that people from some cultures talk in circles. As such, most of the information is related to the physical context or is internalized by the person, and very little explicit information is relayed as part of the message. Cultures that use this style of communication include Mexican, Latin American, Spanish, French, Japanese, Middle Eastern, Mediterranean, and African cultures.

These differences in communication styles only provide a broad description of cultural differences in society and are not intended to reflect fixed stereotypes. The point is that the weight we give to content versus context tends to reflect the way we prefer to communicate and think, and is typically based on our culture of origin. In practice, as we communicate, we all move along the spectrum between low and high context depending on the setting or the expression we want to convey. For example, one might convey a sorrowful message by focusing on how to soften the hard blow (reflective of

communicating in circles, or high context), or conversely, make a point by using explicit, directive expressions (an aspect of low context communication).

These communication differences, although present in any language to a certain degree, become more visible as we speak and interact with people from other cultures. Generally, Americans consider Hispanic people to speak in circles (high context), while Hispanics consider Americans to speak as if they were writing a telegram, using direct, short sentences (low context).

The Impact of Different Communication Styles

It’s not only what you say, but how you say it! This is particularly important in bilingual mediation. In conflict situations, the parties tend to revert to their culture and communication style of origin. For instance, a person from a high context society traditionally may appear to be more expressive, talking in circles quite passionately, while the person’s counterpart from a low context society may appear cold, direct, and objective. Cultural variations or traits may also influence this process. These include *cultural values* that define broad modes of conduct and guide behavior and decision making, such as how family, relationships, truth, and loyalty are understood; and *cultural dimensions* that influence behaviors in relation to the other persons, such as direct or evasive eye contact, public demeanor, social norms, mental processes, learning, and work habits.

In general, people conduct themselves according to their cultural traits. Notwithstanding that U.S. society is considered to be a multicultural melting pot, or a person’s level of acculturation or familial generation, the person’s original cultural traits are still present in his or her actions and behaviors. Cultural traits influence common sense, thought processes, and perceptions. Values and cultural dimensions, as traits pertaining to a social group, influence our communication style and how we assess processes and judge the actions and behaviors of others. Thinking styles influence how we feel and act and how we process information and make inferences. They direct our attention

KEY CHARACTERISTICS OF BILINGUAL MEDIATION

Bilingual mediation differs from other mediation in its focus on language and communication styles and cultural nuances. In bilingual mediation:

- 1** Solutions and alternatives are not easily identifiable. A multi-layered approach is necessary for resolving conflict.
- 2** Parties can easily devolve into positional negotiating. Bilingual mediators should begin by having the parties frame the issues.
- 3** Cultural identification, alignment, and respectful understanding are important. Cultural alignment between the parties and the mediator is key to improving the mediator's insight on the parties' conflict and cultural bearing. A close cultural alignment between the parties facilitates the exchange of information, but regardless of cultural identification, the mediator must maintain an acute awareness of variations in the parties' cultural traits and their actions and behaviors. The parties' use of language and communication styles and their understanding, information management, decision making, and formation of alternatives will differ.
- 4** The focus is on conveying information in a way that makes cultural common sense for the parties, regardless of their background. Cultural diversity may provide different perspectives that can lead to resolving issues; unresolved cultural misalignment can easily cause breakdown in any mediation effort.
- 5** Capturing information expressed through contextual and direct communication is important. Interacting with parties using contextual communication, while guiding them in the use of direct communication, will help them understand their case and allow them to navigate between the big picture and the details in search of solutions.
- 6** Mediators should practice respectful, non-judgmental communication to enable the parties to share their interests based on their cultural perceptions.
- 7** The mediator must sustain a sharp awareness of communication variations and clarify their bilingual meaning as soon as they appear. The use of accuracy and clarity in bilingual communication is decisive for building trust between the parties and the mediator.
- 8** Working with interpreters, who are a communication conduit between the parties, is an important skill. While interpreters focus on providing language equivalency, mediators concentrate on facilitating agreements between the parties. Understanding the interpreter's work and professional responsibilities strengthens teamwork and enables a smoother flow of the mediation process.
- 9** The mediator should be aware of power imbalances and parties' fears of interacting with the community, communicating in English, and becoming an active member in society as an independent person.
- 10** Attentive listening is critical to identifying possible misunderstandings due to cultural differences. Mediators have to clarify mistaken concepts so the parties can move forward in their agreements. Mediators must take care to provide information, but not judicial advice.

and guide our communication context, and influence communication choices.⁷

Communicating and exchanging information with people who speak different languages adds layers of difficulty beyond stylistic communication differences. One author highlights these concerns:

Communication between people of different cultural backgrounds involves much more than overcoming the language barrier. Hidden cultural differences often cause a great deal of misunderstanding and friction. These differences are a serious problem because they are mostly invisible and inaudible, but they affect the true meaning of the messages sent and received by counterparts.⁸

Skilled communicators can relay information, emotions, and perspectives between different communication styles. Conveying meaning and connecting across cultures requires a balance between what is said, how it is heard, and the party's understanding of the message. The messages are typically conveyed with actions and behaviors. Depending on the circumstances and context in which the parties are communicating, the expression that is being conveyed is not always understood with the intended meaning. From different cultural perspectives, the same expression may indicate or imply different things.

More frequently than not, these communication differences, when not kept in mind, can become a major source of misunderstanding, distrust, and conflict, modifying the perception and understanding of the relationship with the other person:

Understanding differences in communication styles and where these differences come from allows us to revise the interpretive frameworks we tend to use to evaluate culturally different others and is a crucial step toward gaining a greater understanding of ourselves and others. . . . Needless to say, understanding the fundamental patterns of communication styles as well as the underlying systems of thought that give rise to them will help to reduce cultural barriers that hinder intercultural relationships and collaborations.⁹

Understanding the differences in communication styles, thought processes, and perceptions underscores much of the critical work done in bilingual mediation. It might be more accurate to call it bicultural mediation: the appropriate use of language and culture to convey an expressed message with the intended meaning. Communicating across different languages and communication styles requires awareness of the differences in communication styles and the ability to assess the other party's reaction to what has been stated. Mediators must keep in mind the possibility of a misunderstood expression, either from the listener or the speaker, in understanding the message and the way the expression was transmitted.

Multicultural parties are more susceptible to communication errors, misunderstanding, and ambiguity in communication. Thus, bilingual mediators must maintain bilingual clarity and accuracy. This allows the parties to confirm the reliability of the information provided in the opposing party's language, while increasing the trust and respect between the parties and the mediator.

The Role of Interpreters

Working with bilingual parties highlights the importance of defining the role of the interpreter. Interpreters convey spoken material from one language (the source language) into a different language (the target language). Translators convey written material from one language into a different language.

The National Association of Judiciary Interpreters and Translators states:

Judiciary interpreters are highly skilled professionals who fulfill an essential role in the administration of justice by providing complete, unbiased, and accurate interpretation between English speakers and non-English or limited-English-proficient (LEP) defendants, litigants, victims, or witnesses. They are impartial officers of the court, with a duty to serve the judicial process. The judiciary interpreter's role is to help remove the linguistic barriers that impede an LEP individual from full and equal access to justice under the law.

...

In legal settings, only three modes of interpretation are permitted by federal or state statute, court rule, or case law. These modes are: simultaneous interpretation, consecutive interpretation, and sight

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Interpreters
convey spoken
material from
one language (the
source language)
into a different
language (the
target language).
Translators
convey written
material from
one language
into a different
language.

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translation. All three modes require skills beyond near-native proficiency in both languages...The main technique in judiciary interpretation is that the interpreter uses the same grammatical voice as each speaker, without ever lapsing into the third person. This is called direct speech, and permits people to communicate with each other

directly. The interpreter's task is to interpret everything from one language into the other language, while preserving the tone and register of the original discourse. In any legal or quasi-legal setting, an interpreter is not permitted to add, omit, or delete any content. Nor is an interpreter permitted to give a summary (also known as “occasional” interpretation) of a speech or text.¹⁰

Each interpreting mode may provide a different level of clarity in the rendition, depending on the setting and the parties' understanding. In mediation, simultaneous interpreting can accelerate the interpretation process and save time but can easily become cumbersome and clutter understanding, thus adding stress to what might already be a tense mediation. Hence, consecutive interpreting could provide a better technique to exchange information.

Interpreters can only interpret with accuracy the expressions, words, and terms they can understand, which includes the speaker's pace and clarity of speech. Interpreters can be helpful during mediation. But overlapping discussions and shouting matches can block accurate interpretation as well as create confusion and frustration among the parties, escalating conflict in the mediation process. The mediator should address communication issues as soon as they occur by enforcing the mediation rules.

When working with interpreters in mediation, the mediator should

- make sure the interpreter follows the code of ethics and professional responsibility established by the Colorado Judicial Department. Mediation is as much a function of the judicial process as a court hearing, so it is critically important for the mediator to receive clear and accurate renditions.
- determine if the request for an interpreter addresses a legitimate need from either party rather than a strategy to create layers of complexity or an attempt to gain an advantage through the process. This is a sensitive issue. People whose native language is not English might be offended by a question on this need. But parties who can read, write, and speak English will often request an interpreter in judicial proceedings. Avoid the practice of having

an interpreter as a language backup as it can offset the mediation process.

- avoid asking for and/or receiving cultural explanations from the interpreter. Mediation is part of the judicial process, so the code of ethics for certified court interpreters fully applies. Neither the mediator nor the parties should be influenced by the cultural perspective of a third, uninvolved party in the mediation process. If cultural misunderstandings occur, the mediator should address them immediately.
- convey the intended meaning. Sometimes, not everything that is conveyed through the interpretation reflects the intended meaning for the other party. Typically, this effect is more related to cultural connotation and understanding than the quality of the interpretation. When accurate meaning is not conveyed due to cultural dissociation, this is typically evidenced by the listening party's comments and follow up questions, which indicate misunderstanding as they share their point of view and try make sense of their situation.
- communicate to be understood in another language. In bilingual communication, clarity of expression becomes a key factor for conveying meaning; in mediation it becomes an element that builds trust. The excessive use of complex language, concepts, and cultural idioms increases the risk of not delivering the intended impact and meaning. It can also challenge the interpreter's skills, frustrate the other party, and close down the mediation process.
- account for constraints not readily visible. As a general perception, people from other cultures tend to not reveal their personal weaknesses and are very careful in sharing their perspectives and opinions openly. Clarifying the party's understanding becomes an act of applied diplomacy in all mediations, but particularly in bilingual mediation.

When communicating across cultures and languages, simple, clean communication is the

best way to convey meaning with clarity. If an expression is not understood, it is the mediator's job to clarify the meaning and understanding of the message.

A Word on Translation

It is not advisable to request the interpreter to translate a document in the middle of the mediation. Translating a document on behalf of either party positions the interpreter as an

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advocate and will result in the interpreter losing impartiality and recusing herself or himself from the session. As with courtroom procedures, if a document needs to be translated, have it done before the session by a certified translator. From a practical perspective, not all interpreters are translators, and not all translators are interpreters. And simply because speakers are bilingual does not mean that they can be effective interpreters or translators.

Other Forces at Play

Underlying concerns may cause a party to take actions and make decisions that appear

extreme or unusual to attorneys or mediators. Such concerns can be subtle and not easy to identify; they frequently appear cloaked in a mesh of interweaving cultural variables and in the parties' perceptions and interpretation of information. Underlying concerns can be misunderstood as hidden agendas or extreme demands, but often reveal unexpected concerns. The mediator should address these concerns with an open mind to uncover the underlying interests.

Life changes provoke stress that may be similarly expressed across cultures. In tense situations (such as involvement in judicial processes), cultural beliefs, assumptions, and perceptions become heightened and influence reasoning and conclusions. For example, there's a popular saying in Mexico, "think the worst and you won't be far wrong." The author heard this expressed in a contentious bicultural mediation where there was disparity in the parties' bilingual capacity. The female party, whose main language was Spanish, argued that she was going to lose because the male party was in his own country, spoke the language, understood the system, and knew how to relate with others from his own country. Similar attitudes are expressed by bilingual parties who have different generational backgrounds.

It is also important to keep in mind the weight that access to justice has on the parties. In a permanent orders hearing, the wife was not fully evaluating the impact her decisions had over parenting time and was basing her decisions on the fear of being accused of "abandoning the household." The co-petitioner husband was trying to provide cautionary information for both parties but was misunderstanding the process for divorce. In an effort to understand and make sense of the information he was working with, the husband was not only confusing but combining different family law statutes from Mexico and the United States to guide their decision making. Under Mexico's family law, a married couple is required to foster a stable and harmonious coexistence for their family; abandonment of the household without a justified cause can be charged as a crime.¹¹ In Colorado, a no-fault divorce state, leaving the household is not a crime.


Bilingual mediators must be aware of the impact that American culture and the U.S. judicial system have over the parties. While these influences are present in all mediations, bilingual mediation has unique challenges. For example, current social and political conditions may strongly influence the decision making of bilingual parties. Recently, a couple in mediation asked what they would do with their children if they were unexpectedly deported. In another case, a father asked whether the court or social services could adopt his child. In addition to going through a divorce, he was facing deportation. He had no family in the United States, but his son was born here, and it was the only place he knew. The father feared that if he took his son with him, the son would be forced into a gang or beaten to death. The bilingual mediator needs to be sensitive to such concerns and strongly emphasize the importance of consulting an attorney.

Another factor that commonly influences bilingual mediation is one spouse's cultural dependence on the other spouse. For example, with intercultural partners, the non-American spouse may have become very dependent on the American spouse. Or where the parties are from the same country, one of them may not be as integrated into American society. At first glance this might seem to be a function of the ability to speak English. More likely, such parties may have fear and concern about having to interact with society as an independent person or single parent. The mere fact that they are divorcing carries an enormous weight in their decision making. A party may not know how to interact with society, register her son at school, or process medical insurance on her own. Or a party may defer decision making to the American spouse who dominated decision making during the marriage.

The situations described above illustrate power imbalances that affect the parties' decision making as much as the judicial requirements set by the court. Another common power imbalance occurs when the English-speaking party uses language and cultural traits to overpower the Spanish-speaking party. This behavior tends to focus parties on their anger and block the search for alternatives and solutions. If not

resolved, it pushes the parties out of mediation and into a contested hearing. Bilingual mediators should be alert for signs of power struggles and address power imbalances immediately.

Conclusion

All mediators, regardless of whether their clients communicate in one or multiple languages, strive to develop skills that enable the parties' self-determination in crafting mutual agreements. These skills include active listening, understanding underlying interests, and communicating concepts in a way that parties can understand. The value of bilingual mediation lies in tactfully applying mediation skills in a different language and through the perspective of diverse cultural values and background assumptions that guide the parties' decision-making. 

The author thanks 17th Judicial District Magistrate Bradley V. Varmo for his guidance and support in completing this article.



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NOTES

1. https://geerthofstede.com/?utm_source=link%20to%20hofstede%20site&utm_medium=link&utm_campaign=link%20to%20hofstede%20site&utm_content=hofstedesite. See Hofstede et al., *Cultures and Organizations: Software of the Mind* (3d ed. 2010), <https://geerthofstede.com/hofstede-books>.
2. The author's experience with different levels in agreement making and negotiation styles ranges from the popular knack of bartering in Mexico's streets, to cross-border business negotiations, to plea bargaining and mediation agreements in the U.S. judicial system.
3. <https://www.hofstede-insights.com/models/national-culture>; Hofstede et al., *Cultures and Organizations: Software of the Mind*, *supra* note 1. The dimensions are power distance, individualism versus collectivism, masculinity versus femininity, uncertainty avoidance, long-term orientation versus short-term orientation, and indulgence versus restraint.
4. Kurland, Inference: Reading Ideas as Well as Words, www.criticalreading.com/inference_reading.htm. (Emphasis in original.)
5. Nisbett's geography of thought theory or cognitive patterns explains how people in different cultures perceive the world differently and how thinking styles are related to cultural values. Nisbett, *Geography of Thought: How Asians and Westerners Think Differently . . . and Why* (Free Press 2004). Nisbett was a psychologist and the Theodore M. Newcomb Distinguished Professor of social psychology and co-director of the Culture and Cognition program at the University of Michigan at Ann Arbor. Sapir-Whorf's Hypothesis, 1954:92-105, is based on the principle of linguistic relativity, which

holds that the structure of a language affects the speakers' world view or cognition, shaping their thinking and behavior.

6. Edward Twitchell Hall, Jr. was an American anthropologist and cross-cultural researcher. He developed the concept of proxemics, explored cultural and social cohesion, and described how people behave and react in different types of culturally defined personal space. Hall was considered a founding father of intercultural communication. Rogers et al., "Edward T. Hall and the History of Intercultural Communication: The United States and Japan," *Keio Communication Rev.*, 24: 3-26 (2002), www.mediacom.keio.ac.jp/publication/pdf2002/review24/2.pdf.
7. Liu, Oxford Research Encyclopedia of Communication, "Verbal Communication Styles and Culture," <http://communication.oxfordre.com/view/10.1093/acrefore/9780190228613.001.0001/acrefore-9780190228613-e-162>.
8. Wederspahn, "Cross-Cultural Communication Between Latin American and U.S. Managers" (Grovetwell LLC), www.grovetwell.com/pub-Latin+US-mgrs.html (quoting Wederspahn, *Intercultural Services: A Worldwide Buyer's Guide and Sourcebook* (Butterworth Heinemann 2000)).
9. Liu, *supra* note 7.
10. <https://najit.org/resources/the-profession>.
11. Article 336 of the Criminal Code for Mexico City, Federal District, ref. 311457, First Room, Fifth Period, Judicial Weekly of the Federation, vol. L at 1767, <http://sjf.scjn.gob.mx/SJFSist/Documentos/Tesis/311/311457.pdf>.