



# Practical Steps For Acquiring Cross-Cultural Negotiation Skills

By Walter A. Wright

Illustration by Gilberto Saucedo

**T**he Texas Alternative Dispute Resolution Procedures Act<sup>1</sup> does not include negotiation among the alternative dispute resolution (ADR) procedures it authorizes, but several of the statute's provisions recognize the importance of negotiation. The sections concerning mini-trial,<sup>2</sup> moderated settlement conference,<sup>3</sup> summary jury trial,<sup>4</sup> and nonbinding arbitration<sup>5</sup> all establish at least one purpose of each procedure as the development of a basis for "realistic settlement negotiations" or "further settlement negotiations." While the section authorizing mediation does not use the word "negotiation," it does identify "settlement" as one of mediation's purposes.<sup>6</sup> Settlement, of course, rarely occurs without negotiation. Clearly, negotiation is at the heart of ADR.

Texas, a large state with a growing<sup>7</sup> and varied<sup>8</sup> population, is home to people with diverse negotiation styles. Current immigration patterns<sup>9</sup> and increasing international trade between Texas and foreign countries<sup>10</sup> ensures the need for cross-cultural awareness during many negotiations in our state. If current trends continue, the usefulness of cross-cultural negotiation skills will only increase. This article, which recommends practical steps for Texas negotiators to acquire cross-cultural negotiation skills, suggests negotiators should learn about two broad categories of culture — objective and subjective — if they wish to negotiate effectively with people whose cultural backgrounds differ from their own.<sup>11</sup>

## Identifying and Approaching Objective Culture

Objective culture is "observable from the outside."<sup>12</sup> Social institutions (e.g., economic, political, educational, and linguistic institutions) produce information that each society's members formally learn and consciously pass on to subsequent generations. Objective culture often manifests itself in distinctive types of music, dance, and literature. When negotiators attempt to improve their cross-cultural knowledge by studying a society's language, law, or history, they are studying objective culture.<sup>13</sup>

Approaching objective culture is like viewing the tip of an iceberg: it is relatively easy to see and describe.<sup>14</sup> As a result, objective cultural knowledge is often easy to acquire. Negotiators regularly involved with people from a specific culture may wish to take advantage of opportunities — some simple, some more complex — to learn about the objective aspects of that culture.

One of the best ways to learn objective facts about a culture is to study its language, as language courses tend to immerse students in multiple aspects of a society's objective culture, including its history, literature, and art. Knowledge of a language also provides insight into a social group's perception of reality.<sup>15</sup> While language courses may be readily available, not everyone has the time, inclination, or aptitude to learn a foreign language.

If learning a foreign language is not a feasible option for studying a society's culture, objective cultural information is available through other means. Negotiators who interact frequently with people from another culture may choose to study aspects of the culture formally at a college or university. Informally, negotiators can read books written specifically about the culture, including "how to negotiate with" books related to that culture.<sup>16</sup> Music, films, dance, and sports events representative of the culture can also provide useful insights into the culture. Meeting people from the culture — through travel or otherwise — is an excellent way to acquire objective cultural knowledge.

Texas is an excellent state for acquiring objective cultural knowledge about many societies, particularly Mexican society. In every Texas city, information abounds about Mexico, its history, government, politics, and art. Spanish-language courses are available through schools, colleges, universities, and private businesses. Multiple objective cultural opportunities allow Texans to acquaint themselves with regional variations in Mexican food, attend ballet folklórico performances, and enjoy the quinceañeras of their friends' (or their own) children.<sup>17</sup> Mexico's proximity to Texas also makes it possible for Texans to travel, make friends, and visit relatives there, all the while familiarizing themselves with Mexico's cities, towns, beaches, cathedrals, and museums. As a consequence of Texans' frequent interactions with Mexican culture, relative "fluency" in Mexican objective culture is a part of Texans' objective culture.

### **Strengths and Weaknesses of Objective Culture**

A key strength of objective cultural knowledge is its usefulness in establishing rapport with people from other cultures. Negotiators who learn others' languages can readily demonstrate their interest in others' cultures and begin the rapport-building process directly, without need of interpreters. Likewise, negotiators familiar with their counterparts' legal and political institutions, as well as their history, literature, music, and art, can quickly begin to establish rapport and earn their counterparts' trust. Negotiators who lack objective knowledge of their counterparts' cultures may find it more difficult to build rapport and earn trust.

Objective cultural knowledge also enhances negotiators' awareness of their counterparts' potential sensitivities. If negotiating with Latin Americans, for example, knowledgeable Texas negotiators may choose to refer to the country in which they live as the "United States" rather than "America," as Latin Americans also consider themselves residents of America. Likewise, knowledgeable Texas negotiators are not surprised when their Latin American counterparts refer to them as "North Americans" rather than "Americans," as Latin Americans believe most people who live in the Western Hemisphere are Americans.

While objective cultural knowledge is useful, it has limitations. No negotiator can become completely knowledgeable about the objective cultural aspects of every society. In fact,

negotiators generally must limit their quest for objective cultural knowledge to the types of people with whom they interact most frequently. In addition, it is possible to acquire in-depth knowledge of certain aspects of objective culture (history, government, geography) without acquiring any effective skills in communicating or negotiating with people from that culture. Knowledge of objective culture, to be effective, must be combined with knowledge of subjective culture.

### **Identifying and Approaching Subjective Culture**

Subjective culture, not as easy to identify as objective culture, consists of "the learned and shared patterns of beliefs, behaviors, and values of groups of interacting people."<sup>18</sup> Negotiators often are unconscious of their subjective cultures, which they learn informally.<sup>19</sup> Differences in subjective cultures may manifest themselves as unforeseen barriers to effective negotiation. Consequently, subjective culture, while difficult to identify, is just as relevant to negotiators as objective culture.

Approaching subjective culture is like attempting to view the base of an iceberg: it is relatively difficult to see and describe.<sup>20</sup> While information is available about subjective culture, the best information often is found in scholarly journals or textbooks, which makes it less accessible than musical concerts or sports events (and not nearly as much fun). Nevertheless, negotiators can learn some of the basics of subjective culture with a little effort.

Negotiators should begin cross-cultural negotiations with an understanding that subjective culture manifests itself in the process of negotiation rather than its content.<sup>21</sup> Negotiators begin each negotiation with assumptions — all culturally based — about who should be involved, when and where negotiations should take place, and how negotiations should be conducted. Sometimes, when negotiators do not share each others' assumptions, unexpected problems arise, and negotiations end abruptly, perhaps rancorously. Because negotiators often are unaware of their own cultural assumptions, they have little appreciation for their counterparts' cultural assumptions, and allegations and counter-allegations of bad faith may arise.

Cultural values, major components of every society's subjective culture, form the basis of negotiators' cultural assumptions. If the cultural values among negotiators differ, those values can clash. For example, individualist and collectivist values often can be sources of misunderstandings in negotiation. Individualism, a cultural value emphasizing individual rights and autonomy,<sup>22</sup> is a widespread (but not universal)<sup>23</sup> value in the United States.<sup>24</sup> Collectivism, a cultural value emphasizing obligations to groups,<sup>25</sup> is a widespread (but not universal)<sup>26</sup> value in Asia, Latin America, and Africa.<sup>27</sup> When individualists and collectivists participate in the same negotiation, they may have fundamental disagreements about such matters as the number or types of people who should participate, the amount of time that should pass before substantive negotiations begin, whether major issues should be

subdivided or negotiated globally, and whether an agreement is tentative or final.<sup>28</sup> If negotiators are unaware of cultural values' importance to the negotiation process,<sup>29</sup> they may find their cross-cultural negotiations long, tedious, and frustrating.

Communication styles, important components of subjective culture, can also be sources of misunderstandings in negotiation. In the United States, for example, the "discussion" style, which tends to emphasize directness and emotional restraint, is preferred when negotiators find themselves in conflict.<sup>30</sup> In many parts of Asia and Latin America, on the other hand, negotiators prefer the "accommodation" style, which emphasizes indirectness and emotional restraint during conflict.<sup>31</sup> When negotiators, each accustomed to a different style among these two communication styles, attempt to sort through a conflict, discussers may miss indirect messages from accommodators, and accommodators may become offended by discussers' direct statements about the sources of conflict. As a result, negotiations could break down. At the same time, both discussers and accommodators, given their preference for emotional restraint in conflict, may encounter problems with practitioners of two other major communication styles: "engagement,"<sup>32</sup> common in Southern Europe, Russia, and Israel, which emphasizes emotional expressiveness and directness, and "dynamic,"<sup>33</sup> common in the Arab Middle East, which emphasizes emotional expressiveness and indirectness.

Useful tools for acquiring basic skills in various aspects of subjective culture often come in the form of testing instruments and videos. For example, the "Kraybill Conflict Style Inventory,"<sup>34</sup> a testing instrument for assessing conflict styles, is designed for people from both individualist and collectivist cultures, and is available in English and Spanish. "Individualism and Collectivism,"<sup>35</sup> Dr. Harry Triandis's definitive book on those two cultural values, contains useful instruments for measuring individualism and collectivism. "The Cross-Cultural Conference Room,"<sup>36</sup> a video developed by Intercultural Resource Corp. (IRC) and accompanied by its own testing instrument for individualism and collectivism in workplace contexts, illustrates essential differences between individualist and collectivist nego-

tiators. The same video is helpful when used in conjunction with the "Kraybill Conflict Style Inventory" or the Triandis testing instruments. "The Intercultural Conflict Style Inventory,"<sup>37</sup> developed by Dr. Mitchell Hammer, is a helpful instrument for determining whether a negotiator, during conflict, behaves as a discussor, accommodator, engager, or dynamic. Another IRC video, "A Different Place: The Intercultural Classroom,"<sup>38</sup> masterfully demonstrates most of the communication styles in Dr. Hammer's "Intercultural Conflict Style Inventory."

### Strengths and Weaknesses of Subjective Culture

Subjective culture encompasses broad categories of values and communication styles unlimited by territorial or political boundaries. As a result, subjective cultural knowledge, once acquired, may be applied broadly across multiple cultures, not just one. Negotiators who acquire subjective cultural knowledge have a greater understanding of their own subjective cultures and the assumptions upon which they rely when they negotiate. At the same time, they have a greater appreciation for the cultural assumptions upon which negotiators from other cultures rely and the potential effects of those assumptions on cross-cultural negotiations. Consequently, negotiators who become "fluent" in subjective culture should become increasingly effective as negotiators.

Subjective culture's strength as a broad cultural tool is also its weakness: it is not specific to any culture. Negotiators, no matter how aware of subjective cultural differences, will find it difficult to build rapport with counterparts from other cultures if they know nothing of their counterparts' laws, politics, history, literature, art, or music. To be fully effective, negotiators should join their subjective cultural knowledge with objective cultural knowledge specific to their counterparts' culture.

### Conclusion

Texas negotiators, who live in a dynamic, multicultural society, are increasingly likely to become involved in cross-cultural negotiations. To be effective as cross-cultural negotiators, they must be able to build rapport with their counterparts by demonstrating a genuine interest in such things as their counterparts' law, politics, history, literature, art, or sports (objective culture). At the same time, they must acquire an understanding of the cultural assumptions they bring to a negotiation, as well as their counterparts' corresponding cultural assumptions (subjective culture). With a healthy, balanced understanding of objective and subjective culture, negotiators should enjoy success in their cross-cultural negotiations.

### Notes

1. Tex. Civ. Prac. & Rem. Code Ann. §§154.001-154.073 (Vernon 2005).
2. In mini-trial, "[e]ach party and counsel for the party present the position of the party, either before selected representatives for each party or before an impartial third party, to define the issues and develop a basis for realistic settlement negotiations." *Id.* at §154.024(b) (emphasis added).
3. "A moderated settlement conference is a forum for case evaluation and

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- realistic settlement negotiations.*" *Id.* §154.025(a) (emphasis added).
4. "A summary jury trial is a forum for early case evaluation and development of *realistic settlement negotiations.*" *Id.* §154.026(a) (emphasis added).
  5. In nonbinding arbitration, "[i]f the parties do not stipulate in advance that the [arbitration] award is binding, the award is not binding and serves only as a basis for the parties' *further settlement negotiations.*" *Id.* §154.027(b) (emphasis added).
  6. "Mediation is a forum in which an impartial person, the mediator, facilitates communication between parties to promote reconciliation, *settlement*, or understanding among them." *Id.* §154.023(a) (emphasis added).
  7. As of July 1, 2005, the officially estimated population of Texas was 22,859,968. U.S. Census Bureau, *Texas Quickfacts*, <http://quickfacts.census.gov/qfd/states/48000.html>. The state's estimated population increase, from April 1, 2000 to July 1, 2005, was 9.6 percent. *Id.*
  8. In 2005, the estimated percentage of "white persons" was 83.2 percent, "black persons" was 11.7 percent, "Asian persons" was 3.3 percent, "American Indian and Alaska Native persons" was 0.7 percent, and "Native Hawaiian and other Pacific Islander" was 0.1 percent. Persons reporting two or more races were 1.1 percent. *Id.* At the same time, the estimated percentage of "persons of Hispanic or Latino origin" was 35.1 percent, and the estimated percentage of "White persons not Hispanic" was 49.2 percent. *Id.*
  9. As of 2000, the percentage of foreign-born persons living in Texas was 13.9 percent. *Id.*
  10. "In 2006, for the fifth year in a row, Texas was ranked as the number one state by export revenues. Texas exports for 2006 totaled \$150.8 billion, which is \$22.1 billion more than 2005 and represents a 17.2 percent increase." Business And Industry Data Center, "Overview of the Texas Economy," <http://www.bidc.state.tx.us/overview/2-2tc.htm>.
  11. The cultural categories are adopted from Dr. Milton J. Bennett's lecture in "Better Together than Apart: Intercultural Communication, An Overview" (Intercultural Resource Corp. 2002) [Hereinafter Bennett lecture].
  12. *Id.*
  13. See Intercultural Resource Corp., "Objective Culture," <http://www.irc-international.com/objective.htm>; see also Bennett lecture, *supra* note 11.
  14. See, e.g., University of the Pacific, "The Iceberg," [http://www.pacific.edu/sis/culture/pub/1.1.1\\_Activity\\_The\\_Iceberg.htm](http://www.pacific.edu/sis/culture/pub/1.1.1_Activity_The_Iceberg.htm) [hereinafter The Iceberg].
  15. Milton J. Bennett, *Intercultural Communication: A Current Perspective*, in "Basic Concepts of Intercultural Communications" 1, 12-15 (Milton J. Bennett ed., 1998).
  16. E.g., Michael Blaker Et Al., "Case Studies in Japanese Negotiating Behavior" (2002); Charles Cogan, "French Negotiating Behavior: Dealing with La Grande Nation" (2004); Tony Fang, "Chinese Business Negotiating Style" (2003); Robert T. Moran, "Getting Your Yen's Worth: How to Negotiate with Japan, Inc." (1985). Books with a general perspective on cross-cultural negotiation include Frank L. Acuff's "How to Negotiate Anything with Anyone, Anywhere Around the World" (1997); Jeanne M. Brett's "Negotiating Globally: How to Negotiate Deals, Resolve Disputes, and Make Decisions Across Cultures" (2d Ed. 2007); Raymond Cohen's "Negotiating Across Cultures: International Communication in an Interdependent World" (1997); Richard R. Gesteland's "Cross-Cultural Business Behavior: Negotiating, Selling, Sourcing, and Managing Across Cultures" (2005).
  17. A quinceañera is a party celebrating a young woman's 15th birthday.
  18. Bennett, *supra* note 15, at 3.
  19. *Subjective Culture* in "The Cross-Cultural Conference Room" (Intercultural Resource Corp. 2002) [Hereinafter IRC Video].
  20. See, e.g., The Iceberg, *supra* note 14.
  21. See IRC Video, *supra* note 19.
  22. See Geert Hofstede, "Culture's and Organizations: Software of the Mind," 49-79 (1997); Harry C. Triandis, "Individualism and Collectivism," 10-12 (1995).
  23. Both individualism and collectivism exist in all societies, but in varying degrees. See generally Triandis, *supra* note 22.
  24. *Id.* at 103-05.
  25. Hofstede, *supra* note 22, at 49-79; Triandis, *supra* note 22, at 10-12.
  26. See note 23, *supra*.
  27. Triandis, *supra* note 22, at 103-05.
  28. See, e.g., Walter A. Wright, "Cultural Issues in Mediation: A Practical Guide to Individualist and Collectivist Paradigms, Alternative Resols.," April 1998, at 18-25, available at <http://www.attorney-mediators.org/wright.cfm> (discussing individualist and collectivist negotiation styles and their effects on the mediation process).
  29. Individualism and collectivism are only two of the cultural values that may affect negotiation. Others include power distance (i.e., acceptance of inequality), uncertainty avoidance, masculinity/femininity, and long-term/short-term orientation. See generally Hofstede, *supra* note 22.
  30. Mitchell R. Hammer, "Intercultural Conflict Style Inventory Interpretive Guide 5," 12 (2003).
  31. *Id.*
  32. *Id.*
  33. *Id.*
  34. Ron Kraybill, "Style Matters: The Kraybill Conflict Style Inventory" (2005).
  35. Triandis, *supra* note 22.
  36. IRC Video, *supra* note 19.
  37. Hammer, *supra* note 30.
  38. "A Different Place: The Intercultural Conference Room" (Intercultural Resource Corp. 1993).

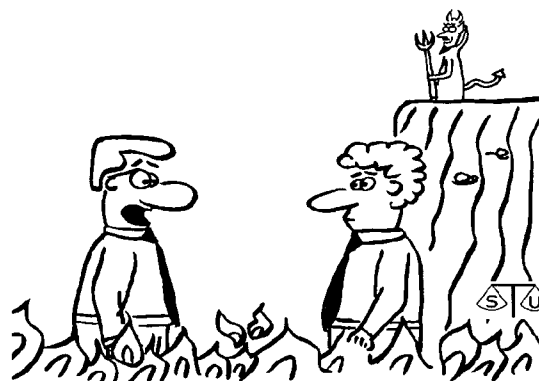


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#### Stu's Views

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Bob said, "Let's negotiate."  
 I said, "Over my dead body."

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