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CROSS CULTURAL AWARENESS AND COMMUNICATION IN ASIA

Introduction

1. This is a difficult subject to grapple with.
2. What is contained in this paper, insofar as it identifies different communication styles between peoples of different cultures; backgrounds; experience and education, holds good for communication across a wide spectrum of peoples. As an advocate in international arbitration, one should remain conscious of the potential for differences in communication styles and possibility for miscommunication in all circumstances when dealing with parties/advocates/tribunals with differing backgrounds to one's own.
3. However, due to Australia's geographic proximity to Asia; and the strong trading relationships that Australia has in the Asia-Pacific region, the focus of the paper is on communication with people of Asian heritage.
4. In saying this, I am conscious that 'Asia' does not consist of one people. It is a region of people with diverse cultures, ethnicities, languages, religions and practices. In discussing cross cultural awareness and issues of communication in Asia, I do not wish to generalise but admit that I have done so for the purposes of this paper. However, I note that in the main the focus is on China.
5. When communicating with people of Asian heritage, regardless of any similarities that you perceive in educational and language background, it is

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important not to assume that the person is going to give and receive messages in the same way that you do

6. Communication is obviously different between an arbitrator and a witness or an opponent with an Asian heritage. However, there are lines of communication, and, as described in the Module 1 paper, it is necessary to achieve a rapport with the person by overcoming the linguistic and cultural differences that produce barriers to effective communication and different responses to the communication.
7. The start is cross-cultural awareness. That is, how do people of different ethnicities respond to particular situations or stimuli.

Cross Cultural Awareness

8. A basic example of the cultural difference between East and West, often used is:
 - 8.1 an Australian will indicate satisfaction with a meal by eating all the food on a plate;
 - 8.2 in some parts of Asia, it may be the tradition to leave a small amount, because if the plate is empty it may signal that the person is questioning the host's hospitality and the host will call for more food to be put on the plate.
9. Even with Western penetration into Asia, and of course Asia penetration into the West, the position has not changed greatly for many years.
10. Westerners dealing with Easterners see the obvious differences through:
 - 10.1 linguistic difficulties; and
 - 10.2 mannerisms. Asians, for instance, will hand you their business cards with both hands, a slight bow and receiving cards by carefully looking at it and asking a question arising from the card given to them.
11. What Westerners do not see and therefore do not accommodate in the communication process creates significant barriers to communication.
12. Chinese society, for example, has one of its underlying principles, Guanxi, which gives importance to social networks and influential relationships that facilitate business and other dealings.

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13. It has wide cultural implications and largely originates from Confucianism, which stresses the importance of associating oneself with others in an hierarchal way to maintain a social and economic order.
14. Guanxi has a major influence on the management of businesses based in China and in businesses owned by overseas Chinese particularly in South East Asia.
15. Social commentators and people who have lived in the region for many years say that the importance of Guanxi has not diminished greatly.
16. There are closely related concepts including:
 - 16.1 Ganqing, which is a measure that reflects the depths of feeling in an interpersonal relationship;
 - 16.2 Renqing, the moral obligation of reciprocity in a relationship;
 - 16.3 Face, which refers to the social status; propriety or prestige of those in a relationship, or a combination of all three;
 - 16.4 Wu-lun, the idea of a long-term developing relationship between a business and its client;
 - 16.5 Yi-ren, which describes a righteous person likely to fulfil Confucian principles;
 - 16.6 Ren, which describes empathy in a relationship.
17. What does this have to do with International Arbitration? A lot.
18. The way a business is structured and the way it conducts its business are often driven by those concepts.
19. When a Westerner comes in and starts questioning the way the business was conducted or the way people communicated by email or letter without knowing the underlying principles by which the participants acted is likely to do two things:
 - 19.1 if you are questioning a witness, the person is likely to think that you are an idiot and will shut down; and
 - 19.2 where the business operation seems completely normal to the Asian Arbitrator who you are trying to persuade, your argument will achieve no traction at all.
20. All of these matters act as hidden influences on communication between a Westerner and an Asian, and if the westerner is not aware of the influences,

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then the westerner's interpretation and mode of communication of the responses to the communication can create barriers to effectively transferring and receiving messages.

21. Another aspect is education. Westerner education focuses on fostering independent thinking. Asia still has a lot of rote learning, and questions at school are not particularly encouraged.
22. In Asia, familial relationships are very important. Whereas in the West, they may take a lesser priority.
23. The rules of communication have not changed. However, Western trained lawyers and arbitrators of Asian backgrounds may communicate in a more Western way and that is something that the advocate needs to assess very early in the communication process, no matter whether the person is a witness or an Arbitrator. It comes back to knowing your audience as best you can.

Asian Values

24. As a consequence of, amongst other things, the way Asian society is organized, Asian values are particularly important:
 - 24.1 respect to elders - people will often defer to the oldest person in the room;
 - 24.2 filial Piety - the sense of obligation and duty to parents; elders and ancestors. An average 30 year old in the West does not have that sense of obligation.
 - 24.3 Humility is a highly regarded virtue. A person who is seen as boastful is immediately disregarded;
 - 24.4 Gratitude is very important.
25. What I am about to deal with may sound like I am describing a medieval backward society.
26. It is not. It is a vibrant; hierarchical, well-functioning society, merely with values and priorities that differ in part from those of the West.
27. Having a debt in Asia carries with it a societal obligation to repay it.
28. Acknowledging a debt therefore becomes a problem because it carries with a moral as opposed to the legal obligation to repay it. People may therefore avoid acknowledging the debt to avoid the moral repercussions.

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Hospitality

29. In Asia, hospitality is a paramount feature. In a business context in Asia, there is often a dinner at the beginning of a business relationship; one in the middle and one at the end.
30. In the West, there is usually a dinner at the end.
31. In the West, independence is seen as a virtue. In Asia, it can be seen as the opposite.
32. Importantly, it is the audience who determines what is polite and what constitutes good manners.
33. What does that have to do with international arbitration?
34. Display bad manners; ignore what is normal to an Asian; be loud or otherwise offensive to an Asian audience and you will immediately be discounted or disregarded. Whether the person affected is a witness or an arbitrator, being culturally insensitive makes the process of communication and persuasion that much harder. Certain rules need to be followed.

Communication Styles

Indirect	Direct
Imply/hint	Speak for themselves
Implicit meanings	Explicit meanings
Non-verbal messages	
Not direct	Cut to the point
The meaning is determined by who said it and in what context	
Japanese; Chinese; Hong Kong Chinese; Arab; Latin American communication tends to follow this style.	German and Swiss Italian; English; French; Australian and North American communication tends to follow this style.

35. An example is “yes” in Japan can mean “*I’ve heard you*” and “yes” in the West means agreement.

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36. A direct speaking Westerner communicating with an Asian audience in the way Westerners normally communicate can create a perception in the Asian audience that the communicator:
- 36.1 has no tact;
 - 36.2 is harsh and insulting; and
 - 36.3 is insensitive.
37. The consequence of dealing with a subject directly, rather than in the indirect manner which the Asian audience is used to is to increase tension in the communication, and therefore in the relationship.
38. Often in Asia there is reluctance in the communication to disagree. It is particularly important when examining or cross-examining witnesses to see whether they disagree or not.
39. It can manifest itself in a number of ways:
- 39.1 the witness will not answer the question; or
 - 39.2 the witness may give an irrelevant answer.
40. The point is that irrelevant answers may be telling you something.
41. They may be giving you the answer which you want, so be alert to answers giving you a message and what that message may be.

An Objection may mean disagreement

42. “I want to paint the wall black”
- Objection *“It will disrupt the office”*
- Response *“It will only take a day or two”*
- Objection *“It will cost too much”*
- Response *“It’s only a painter and some paint”*
43. The general rule is that two objections usually means disagreement.
- 43.1 Silence means no.
 - 43.2 “I will chase it up” means no; or
 - 43.3 Totally changing the subject means no
44. Unless you receive a direct answer of “yes”, then the response is either ambivalence or a “no”.
45. Both are often speaking English, but communicating completely differently.

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46. A submission that the witness was being evasive may offend the Asian Arbitrator who has received the message that the answer is one of disagreement. The cultural barriers preclude the witness from answering directly.

East/West Communication Style

47. The Asian attitude is:
- 47.1 the more you say the more mistakes which you can make;
 - 47.2 the less you say the fewer mistakes you can make;
 - 47.3 if you do not say anything, you cannot make a mistake.
48. Asians do not generally market or big note themselves.
49. The focus of Western communication is the content of the message.
50. The purpose of Western communication is usually to help people to learn, change and discover.
51. The focus of Eastern communication is to the mode of delivery.
52. The purpose of Eastern communication is to promote stable, harmonious relationships. If a Westerner has a need to communicate urgently, it is brisk and politeness is sacrificed in the interest of speed and ensuring that the message is received.
53. In urgent Eastern communication, the most important aspect is to be polite.

Approach to communication with an Asian witnesses

54. As with most advocacy, the witness is in a foreign environment and is usually nervous.
55. In international arbitration, added to these difficulties is:
- 55.1 the witness is usually not speaking his or her first language;
 - 55.2 a Western advocate is speaking English and has a strange accent to an Asian;
 - 55.3 not all of the arbitrators will be Asian;
 - 55.4 the person is not at the top of the societal hierarchy and is afraid of making a mistake.
56. It takes time and patience to build a rapport, and it is essential that you do in the context of international arbitration.

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57. In cross-examination, you are probably not going to achieve the complete trust of the witness, but you can establish a basic communication by simply working at it.
58. In Western, culture individualism is promoted. In Eastern society, collectivism is promoted. Unanimity is preferred by most members of Eastern society.
59. In an Eastern society, there is a low tolerance for dissent and productive disagreement is a learned skill.
60. Simply telling a witness in cross-examination that he or she is wrong will almost result in an Asian witness shutting down and refusing to co-operate any further.
61. An approach that says *“I’d like you to think about that answer”* or *“Maybe you would prefer to reconsider that answer”* would be far more productive.

Demeanor

Facial expression

62. Asian cultures tend to suppress facial expressions, creating the stereotype of the “inscrutable” Asian. On the other hand, Westerners tend to use facial expression as a part of the communication process.

Use of Gesture

63. Similarly, Asian cultures tend to not use their hands as a communication tool, whereas in the west, hands are often used.

Eye Contact

64. In Asia, too much eye contact can be seen as disrespectful.
65. In the West, it shows that a person is listening or showing interest.

Tone

66. In Asia, the most important people speak softly.
67. In the West, the more important people speak loudly.
68. Speak softly to an Asian. It shows respect. Shouting will only cause the Asian offence and to shut down, both as a witness and as an Arbitrator.

Obstacles to Communication

69. A lack of curiosity about the other person in Asia is seen to be indifference, whereas asking questions of a Westerner can be seen as intrusive.

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70. One of the most dangerous things to do is to assume that you or your culture is better than the other person's culture. Just because you are better at some things doesn't mean that you are better at everything.
71. Further, cultural stereotyping can become a real issue. If a person is quiet and unresponsive, it is easy to say "Typical Asian". Whereas, the problem may lie in the way in which you are communicating with that person.

Conclusion

72. Asians do not expect you to be like them, but if you convey respect, even if you do not know every aspect about their background; education and the communication process, such as what assists and what does not assist the communication, you are well on the way to building a rapport, which is what an advocate is about.
73. Respect and friendliness/warmth is obvious even if there is no common language. It is more likely to produce a positive response than brisk; loud to the point of being rude communication.

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