

# Importance of law and cultural differences in the success of negotiations

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**Abstract-** Representatives of international business and law from different countries, when preparing for a business partnership or transaction, often analyze the traditions, differences and characteristics of other countries. Companies try to adapt to the specifics of the other party in order to facilitate the business process. In order to achieve this, cultural dimensions can be analyzed that can convey essential incompatibilities between the parties. Analyzing the incompatibilities between different cultures, Hofstede's cultural dimension analysis can be used. This can be very useful in designing an international business negotiation process because it can convey the differences between different cultural dimensions among the negotiating parties. Dimensions of intercultural differences can influence the negotiation process between representatives of different cultures. There may be different understandings of different symbols or actions in different cultures.

**Index Terms-** law.business.companies.cultures.negotiating

## I. INTRODUCTION

Law and Culture is the main element of international business negotiations. It is often compared to an iceberg; there is more than meets the eye. These hidden elements, if not understood, can make or break an international business transaction. Therefore, it is important to be aware of the influence of culture on negotiations. Many leading negotiation experts have identified a dozen ways that culture affects negotiations. The context of negotiations at the international level is faced with differences between different cultures: long-term attitude towards communication, positioning of power, avoidance of uncertainty, emotional differences between negotiating parties, etc. These and other differences in intercultural dimensions can affect the negotiation process between representatives of different cultures. There can be various misunderstandings in negotiations between two parties of the same culture, and the process requires preparations for conversations with different cultures. Here we are talking about cultural dimensions, their influence on negotiations.

## Negotiations on the international stage

When companies from different countries meet to negotiate a business deal, they often face obstacles that have to do with national origin. The different contexts of both parties' perspectives must be addressed in order to reach a mutually satisfactory conclusion. Some researchers have questioned the very fact that cultural differences have an impact on international business negotiations, arguing that a negotiation is a negotiation regardless of where and with whom it takes place.

Before starting international negotiations, it is necessary to familiarize yourself with the cultural features of the other party in the negotiations, and even hire a mediator who knows the other culture well. Special literature recommends communication in international negotiations with mediators who are familiar with the culture of the other party and have legal experience, because they can have knowledge of cultural and legal aspects in negotiations about the other party.

International affairs do not only cross national borders, but also cultural ones. Culture deeply affects how people think, communicate and behave. It also affects the types of transactions they make and the way they negotiate them.<sup>1</sup> Differences in culture between business executives—for example, between the director of a Chinese public sector plant in Shanghai and the Canadian head of a family-owned company in Toronto—can create obstacles that hinder or completely disrupt the negotiation process. The great diversity of the world's cultures makes it impossible for any negotiator, no matter how skilled and experienced, to fully understand all the cultures he may encounter. So how should a CEO prepare to deal with the deal-making culture in Singapore this week and Seoul next?

For those who make deals from some cultures, the goal of business negotiations is, above all, a signed contract between the parties. Other cultures tend to think that the goal of negotiation is not to sign a contract, but to create a relationship between the two parties. Although the written contract expresses the relationship, the essence of the business is the relationship itself. For those who make deals from some cultures, the goal of business negotiations is, above all, a signed contract between the parties. Other cultures tend to think that the goal of negotiation is not to sign a contract,

<sup>1</sup> <https://iveybusinessjournal.com/publication/the-top-ten-ways-that-culture-can-affect-international-negotiations/>

but to create a relationship between the two parties. Although the written contact expresses the relationship, the essence of the business is the relationship itself.

### **How to formulate culture**

Much of the problem in any cross-cultural interaction stems from the expectations of the negotiating parties. The challenge is that whenever there is a negotiation between people from different cultures, people are expected to behave in the same way and for the same reasons. Cultural awareness most often refers to understanding the values and perspectives of another culture. People's value systems and reasoning are based on the teachings and experiences of their culture.<sup>2</sup> Political, economic and social philosophies influence the way people's values are shaped. Our cultural frame of reference—formed by our education, religion, or social structure—also affects business interactions in critical ways. As we study cultures, it is very important to remember that all cultures are constantly evolving. When you say "cultural", you don't always mean people from different countries. Each group of people has its own unique culture – that is, its own way of thinking, values, beliefs and way of thinking.

Professionals are wrong when they think that in today's shrinking world, cultural differences are no longer significant. It is a common mistake to assume that people think alike just because they dress alike; it is also a mistake to assume that people think alike just because they are similar in their choice of words in a business environment. Even in today's global environment, there are great cultural differences, and these differences affect the way people do business. Culture affects many things including business.<sup>3</sup>

Understanding the culture of the people with whom you do business is important for successful business interaction and for achieving business goals. Manners and customs refer to individual and collective traditional customs, fashion, manners and habits. It is a kind of pattern of behavior that has been observed for a long time in a certain socio-cultural area. Custom is formed from history, so it has a very strong social influence on its members. Custom is the foundation and complementary part of social morals and laws, including national customs, holiday customs and traditional etiquette. Every country has its own customs and etiquette, which are not easily changed. Thinking patterns: Thinking patterns refer to forms of reasoning and approaches to problem solving. Thinking patterns differ from culture to culture; a logical, reasonable argument in one culture may be considered illogical and unprovable in another culture. Negotiators have different mindsets, so they have different mindsets for negotiating. When preparing for a business partnership or transaction, international business representatives from different countries often analyze the traditions, differences and characteristics of other countries. Companies try to adapt to the specifics of the other party in order to facilitate the business process. In order to achieve this, cultural dimensions can be analyzed that can convey essential incompatibilities between the parties. Analyzing the

incompatibilities between different cultures, the analysis of Hofstede's cultural dimensions can be used. This can be very useful in designing international business negotiation processes as it can convey the differences between different cultural dimensions among the negotiating parties.

Ten specific elements that consistently appear to complicate intercultural negotiations have been discovered. These "top ten" elements of negotiation behavior form a basic framework for identifying cultural differences that may arise during the negotiation process.<sup>4</sup> Applying this framework to your international business negotiations can enable you to better understand your counterpart and anticipate possible misunderstandings.

There are different types of "distance" between potential partners: physical distance certainly, but also economic, educational and cultural distance, which tend to increase the cost of international negotiation. Difficulties in interaction, negotiation, planning of joint ventures, their development and joint realization are deeply rooted in the cultural, human and social environment of business people.

### **What are the possible aspects of international negotiations**

First, international negotiations can produce or face communication problems. For example, if in response to one of your suggestions your Japanese supplier says, "That's difficult," you might mistakenly assume that the door is still open for further discussion. In fact, your supplier, coming from a culture that avoids confrontation, may have given one no.

Second, cultural barriers also make it difficult to understand each other's behavior. While many Americans may view hiring relatives as dubious nepotism, Lebanese counterparts may see the practice as necessary to ensure reliable, loyal, and long-term employees.

Third, cultural aspects influence the form and substance of the contract. For example, when McDonald's first franchised in Thailand, it insisted on strict adherence to its traditional American menu.

### **Contexts of negotiations at the international level**

As for the importance of relationships in negotiations, the masculine/feminine characteristic of culture comes to the fore. People from more feminine cultures will worry more about relationships, and may also tend to be more collectivist in their thinking. Negotiators from more masculine countries are likely to use distributive bargaining – a more competitive approach to negotiation. You are more likely to see the use of power in negotiators from male cultures; they can also rely on the rules instead of bending them in search of a cooperative solution.

Negotiations with people from collectivist countries will more often take place with groups rather than between individuals. So expecting to negotiate one-on-one with someone from Japan or China may not be realistic. You can also expect a longer time to reach consensus, as the speed of negotiation will be slower in a

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<https://scholars.fhsu.edu/cgi/viewcontent.cgi?article=1028&context=aljsr>

<sup>3</sup> <https://www.360businesslaw.com/blog/cultural-aspects-of-international-business-negotiations/>

<sup>4</sup> Palgrave, Macmillan, *The Global Negotiator: Making, Managing, and Mending Deals Around the World in the Twentieth Century*, 2003

collectivist culture. Your negotiations may also be affected by long distance; although you may prefer to deal directly with the decision maker, you may find that your negotiating party is only the beginning of the chain of people you will have to deal with. In a country with low power distance, the negotiator usually has the power to make agreements; in a culture of high power distancing, the agreement will eventually have to be ratified by someone higher up.

The context of negotiations at the international level is faced with differences between different cultures: long-term attitude towards communication, positioning of power, avoidance of uncertainty, emotional differences between negotiating parties, etc. These and other differences in intercultural dimensions can affect the negotiation process between representatives of different cultures. The understanding of different symbols or actions may vary in different cultures. The influence of negotiation strategies on the final results is significant, therefore, in the preparatory phase of negotiations, it is necessary to examine the cultural dimensions of the other party. In a separate literature, it is noted that the negotiation team needs adaptation during negotiations with other cultures. Therefore, it is necessary to get acquainted not only with other people's cultural dimensions, but also with existing differences that can cause difficulties in communication.<sup>5</sup>

Differences in negotiation styles stem from the fact that each society places different degrees of importance on "relationship development, negotiation strategies, decision-making methods, spatial and temporal orientations, contracting practices, and illicit behaviors such as bribery."<sup>6</sup>

Successful negotiation requires not only the acquisition of technical communication skills, but also an understanding of the negotiation context of both parties.<sup>7</sup> Different cultures use different negotiation styles, and the style of the negotiating party directly affects the terms of the final agreement. It is important that they understand the different negotiation styles and cultural issues that influence negotiation behavior. A number of factors can affect the outcome of the negotiation process. The cultural difference manifests itself in the difference in values and represents a challenge to navigate in international business negotiations.<sup>8</sup> The impact of value differences on international business negotiations is mainly seen through misunderstanding and disgust due to differences in the concept of objectivity, equality and time.

Today, there is much empirical support for the view that culture has an impact on business negotiations. When negotiating at the international level, cultural knowledge and skills in intercultural communication are needed. Many contracts must be negotiated, drafted, signed and finally implemented: sales contracts, licensing contracts, joint ventures and various types of partnerships, agency and distribution contracts, turnkey contracts, etc. facts that are often emphasized as the only important facts, but

also about the quality of human and social relations, "soft facts" that become of utmost importance in an intercultural encounter.

### Negotiating context and law

In the negotiation strategy, the negotiation context is an important component, so without the negotiation context, it would be difficult to know which bargaining power you should use in negotiations, which tactics you should choose. The cross-cultural context of negotiation can be conditioned by the legal environment, organizational values, and cultural values. These variables must be taken into account; otherwise it would be difficult to understand the goals, strategies, tactics and relationships of the other side of the negotiation.

### Cultural context

The cultural context conveys a picture of the entire culture that enables understanding of the structure of ethical decisions. In the context of culture, the main focus is: not on cultural differences, not on whether any negotiation tactic is ethical or not - but on how the negotiators see the situation and what variables they will take into account during the decision-making process.<sup>9</sup> In the analyses, it was observed that the morals and philosophy of the culture govern the values of the organization, the legal environment and the perception of the other party. It can be emphasized that the goals of the organization, legal environment, culture; morals and philosophy, factors that influence the choice and implementation of negotiation strategies. It is also pointed out that morals and philosophy of culture influence the ethics of monetary relations.

Negotiators from different cultures (countries) use different negotiation strategies and communication patterns within one country and between countries,<sup>10</sup> these authors state two types of contexts that influence negotiations: the context of the environment in which the negotiator has no influence or control; the immediate context in which the negotiator influences the context and may have little control over it.

In preparing for international negotiations, one must take into account the fact that the negotiator does not necessarily have to be a representative of the same country and culture. Negotiating parties may engage a representative/expert from the other side of the negotiation to assist during negotiations. Therefore, before negotiations, this must be taken into account. It can also be useful to hire an expert from another country to be able to learn more about the negotiation context prevailing in that country/region's market. As far as experience in the market is concerned, it is difficult enough to find out about your own and other people's business context for new jobs. It can take time, so in this situation without professional help it would be difficult to achieve effective results in negotiations.

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<https://citeseerx.ist.psu.edu/document?repid=rep1&type=pdf&doi>

<sup>6</sup> Acuff, F. L. (1997). How to negotiate anything with anyone anywhere around the world. New York: AMACOM.

<sup>7</sup> Korobkin, R. (2000). A positive theory of legal negotiation. *George Law Journal*, 88(6), 1789-1732.

<sup>8</sup> Zhao, 2008, str. 26

<sup>9</sup> Rivers, C., Lytle, A. L., Hudson, M. (2003). Identifying Exogenous Cultural Variables In Ethical Decision Making In Negotiation: A Qualitative Study Of Differences Between Australia And China. 16th Annual IACM Conference Melbourne, Australia. 12 p.

<sup>10</sup> Lewicki, R. J., Saunders, D. M., Minton J. W. (2001). *Essentials of Negotiation: 2nd Edition*. New York: McGraw-Hill/Irwin.

## Conclusion

Scientific literature has not sufficiently investigated the effects of the process of intercultural negotiation on the final results of negotiations. Intercultural negotiation plays a significant role in the cultural dimension. They can have a negative impact on negotiating the understanding of communication different cultural values, symbols, patterns and so on. It is necessary to anticipate these elements in the preparation of negotiation strategies in negotiations at the transnational level. It is necessary to anticipate potential intercultural incompatibilities in intercultural negotiations, prior acquaintance with different cultures, and foresee measures to prevent or solve them. In order to prepare negotiations, it is necessary to develop an efficient negotiation team whose analytical work and capacities contribute to achieving the highest outcome of negotiations. This is especially important in the context of preparation for intercultural negotiations, which require understanding of another culture, another language, possessing legal knowledge, knowledge of the negotiation context, and so on.

When forming a negotiation strategy, it is necessary to familiarize yourself with the negotiation context. When planning international business negotiations, preparation is usually more complex than between subjects of the same country or regional negotiations. Analysis of the world scientific literature revealed a lack of research on the influence of the intercultural context of negotiations on the process and outcome of negotiations. Further research needs to be done exploring international negotiations, team building and preparation for negotiation issues and their impact on the negotiation process and the end result. There is also a need to investigate the process of forming a negotiating team in the international context of negotiations.

## REFERENCES

- [1] Acuff, F. L. (1997). *How to negotiate anything with anyone anywhere around the world*. New York: AMACOM.
- [2] Barry, S. (2001). Information sharing in global supply chain systems. *Journal of Global Information Technology Management*, 4(3), 27-50.
- [3] Buttery, E. A., & Leung, T.K.P. (1998). The difference between Chinese and western negotiations. *European Journal of Marketing*, 374 – 389. doi: 10.1080/1360080X.1998.550090
- [4] Cai, D. A., Wilson, S. R., & Drake, L. E. (2000). Culture in the context of intercultural negotiation. *Human Communication Research*, 26 (4), 591.
- [5] Drake, L. (2001). The culture-negotiation link: integrative and distributive bargaining through an intercultural communication lens. *Human Communication Research*, 27 (3).
- [6] Korobkin, R. (2000). A positive theory of legal negotiation. *George Law Journal*, 88(6), 1789-1732.
- [7] Lewicki, R. J., Saunders, D. M., Minton J. W. (2001). *Essentials of Negotiation: 2nd Edition*. New York: McGraw-Hill/Irwin.
- [8] Palgrave, Macmillan, *The Global Negotiator: Making, Managing, and Mending Deals Around the World in the Twentieth-First Century*, 2003
- [9] Rivers, C., Lytle, A. L., Hudson, M. (2003). Identifying Exogenous Cultural Variables In Ethical Decision Making In Negotiation: A Qualitative Study Of Differences Between Australia And China. 16th Annual IACM Conference Melbourne, Australia. 12 p. Zhao, 2008, str. 26.
- [10] <https://citeseerx.ist.psu.edu/document?repid=rep1&type=pdf&doi>
- [11] <https://iveybusinessjournal.com/publication/the-top-ten-ways-that-culture-can-affect-international-negotiations/>
- [12] <https://scholars.fhsu.edu/cgi/viewcontent.cgi?article=1028&context=aljsr>
- [13] <https://www.360businesslaw.com/blog/cultural-aspects-of-international-business-negotiations/>
- [14] <https://www.michiganstateuniversityonline.com/resources/leadership/how-international-cultural-differences-can-affect-negotiations/>

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