
In Theory

Mediation and Culture: The Example of the ICC International Commercial Mediation Competition

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The International Commercial Mediation Competition is organized by the International Chamber of Commerce (ICC) in Paris, which held the event for the eighth time in February 2013. As the competition has grown, participation has become more and more diverse and thus mediation and negotiation have become more and more cross-cultural. This led the ICC to invite external research on culture at the competition in February 2011. In this article, I discuss this student competition, the external research project question, and the culture of the competition. I also identify some of the further cultural issues raised by referring to relevant research on conflict and mediation across cultures, and conclude with some thoughts on how better to conceptualize the field of cross-cultural mediation in terms of a systems approach.

Key words: commercial mediation, cross-cultural mediation, mediation and culture, mediation competition.

Introduction

The International Commercial Mediation Competition, which is organized by the International Chamber of Commerce (ICC) in Paris, was held for the eighth time in February 2013. As the competition has grown, participation

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has become more and more diverse, and thus mediation and negotiation activities at the competition have become more and more cross-cultural. This led the ICC to invite external research on culture at the competition in February 2011. The questions raised in this research pertain not only to the ICC competition, but also to international commercial mediation more generally. These questions include how to address tensions between the standardization of procedures and the diversity of the competition's participants, a tension between form and practice that can play a role in any culturally diverse mediation setting.

In this article, I describe the competition and the external research project question, discuss the culture of the competition, identify some of the cultural issues the competition raises, and make some proposals about how to better conceptualize the field of cross-cultural mediation, which I prefer to consider under the phrase "mediation and culture."

The ICC International Commercial Mediation Competition

The ICC International Commercial Mediation Competition has been held at the ICC in Paris since 2006, and 2013 was its eighth year. It is a student competition in some ways comparable to similar well-known events such as the Villem C. Vis International Commercial Arbitration Moot in Vienna, and it has a very significant profile of its own.

This competition has grown quickly, from fourteen participating student teams of two-to-four students each in 2006, to thirty in 2008, forty-five in 2010, fifty-seven in 2011, and sixty-five in both 2012 and 2013. In 2006, teams came only from the U.S. and Western Europe, while by 2011 teams from every continent participated, with twenty-six countries represented. The largest number in 2011 were from the U.S. (thirteen) followed by India (five), with one team each from such diverse countries as Australia, Brazil, Israel, the Russian Federation, Poland, Singapore, South Africa, Tunisia, and Ukraine. In 2013, the list included thirty-one states, representing an even greater geographical and cultural range.

The competition has always been organized with students negotiating as requesting and responding parties in simulated mediation sessions mediated and adjudged by professional mediators, lawyers, or other professionals, so that the ICC competition is a meeting of students, who are generally accompanied by coaches, representatives of universities, and professionals. The majority of professionals attending have been largely from Western Europe and the U.S., and professional representation is considerably less geographically diverse than student representation. Nonetheless, here, too, greater diversity is becoming apparent as the competition grows. Over the years, working groups of professional mediators, teachers, and organizers have worked on the competition rules, the competition problems (the cases used in the simulations), and on managing such issues as diversity.

In 2011, for the first time, the competition organizers invited a small team of external researchers, none of whom had attended the competition before, to observe. The team was recruited from students currently completing the master's degree in mediation at European University Viadrina in Frankfurt an der Oder, Germany. I was one of those researchers, and I also attended the 2012 and 2013 editions of the competition as a professional (judge and mediator).

The aim of the research project was to explore the interplay of cultural diversity and standardized rules within the competition. For the purposes of this project, the call for research defined diversity in several different ways: "Students and professionals come from a wide diversity of geographical, cultural, legal, and linguistic backgrounds — as well as from very different dispute resolution, negotiation, and, in particular, diverse mediation cultures and traditions" (ICC call for research 2010). It went on to speculate that there might be a problem of cultural bias at the ICC competition, specifically referring to winners and losers: "Throughout the previous years, it has become clear that university teams from Anglo-Saxon countries are generally more successful in the Mediation Competition. Therefore, the question arises whether the claim that the Mediation Competition fosters and increases cultural awareness and the celebration of diversity in international mediation holds true or whether a very specific 'American-British' mediation model (what would this model look like?) is the only one which is finally regarded as 'successful'" (ICC call for research 2010).

As one of the participating researchers, my goal was to examine the competition system as a whole and not focus on a specific isolated element such as students' cultural origins, mediation styles, or the cultural mindset of the rules and regulations. My hypothesis was that all of these factors and many more will interact within a complex system that itself interacts with larger systems, including, among others, the ICC, the world of professional commercial mediation, and educational and legal systems around the world.

The Culture of the Competition

My research methods included collecting statistics about all the competition's participants, conducting a quantitative survey of opinion about various aspects of culture at the competition, observing eleven mediation sessions, and conducting twenty-two in-depth interviews with participants, as well as studying the competition documentation. Rather than describe my methods and results in detail here, I will concentrate on just a few key results.

First, the competition perceives itself to be highly diverse, more so the student participants than the professionals. The main category — but not the only one — used at the competition to define this diversity has been national origin. Students and professionals at the competition together have such a wide range of international experience and skills that the competition, with more than four hundred participants each year since 2011, is overwhelmingly

seen as a magnificent opportunity to meet other people interested in mediation and enter into dialogue with them. For students, it represents a unique opportunity to interact with professional mediators who are often at the top of their profession, while for professionals the competition gives them opportunities to network, experiment, and share expertise. One indicator of participants' interest in the competition is that many students and nearly all the professionals finance their own participation and expenses. Opportunities for international encounter and exchange are key attractions of the competition culture.

Nonetheless, the competition also perceives a general need to increase cultural awareness, without yet having developed clear and targeted ways of doing this. A diversity working group has attempted to broaden the outreach of and thus also participation at the competition, while orientation for professionals both in meetings and documentation now encourages greater cultural sensitivity. But some students and professionals would like to see a more culturally diverse group of professionals at the competition.

A model of mediation and negotiation with a clear Western provenance is embedded within the competition at a number of key junctures. "Western" is a term that, while frequently used, is actually difficult to pin down, but for the purposes of my analysis here, I use Western to mean those models of communication and negotiation that derive from influential American negotiation theories and are now taught and applied worldwide. In addition, I use the term to denote the U.S., Canada, and Western Europe.

For participants at the competition, on the other hand, "Western" may well mean the U.S., Canada, and Western Europe, but it may also mean other places or other things, depending on their own perspectives. With all definitions of "culture," the standpoint of the observer is fundamental. "Western" is thus only useful if perspective is borne in mind. While viewers looking from "outside" the "West" at an institution such as the ICC competition may question how much non-Western participation there is, I have also found evidence indicating that distinctions between the "West" and the "outside" are less significant within a context in which the shared cultural values of international commercial mediation supersede other cultural values. In other words, in the case of this competition, a shared professional culture may outweigh national cultures

Beyond the question of professional representation, two important areas in which the ICC Competition system can be said to operate within Western parameters (in both senses of the term used here) are in the competition rules, scoring, and judging, and in the choice and wording of cases used for mediation simulations in which the student teams compete against each other.

The student teams do not act as mediators — they negotiate with each other in a session facilitated by a professional. Each team at the negotiation

table consists of two students, a representative of the party and his or her legal counsel. Thus, this is, essentially, a negotiation competition, in which the negotiation works on the premises of collaborative lawyering and encourages the parties to use communication techniques from mediation (active listening, empathy, creating options, etc.), a process that is assisted by a mediator who is encouraged to facilitate but otherwise to remain in the background.

The competition judging and scoring procedures are clearly derived from the American negotiation model of “principled negotiation” or “interest-based negotiation,” in which parties present and defend their own material interests clearly, while also showing appreciation for the interests of the other side. The 2011 general competition rules encouraged a “problem-solving approach [. . .] to mediation in which participants discern each other’s interests, brainstorm options and create a solution that meets their interests and needs better than their BATNA [best alternative to a negotiated agreement].” They also encouraged students to “defend their interests strongly” (ICC 2011, 2012, and 2013 Competition Rules). These guidelines and the score sheet used by all judges are based largely on concepts that can be directly traced back to Roger Fisher and William Ury’s seminal book *Getting to Yes* (1981).

Teams are evaluated on the legal, factual, and assertive strength of their opening statements, on their teamwork within teams, their problem solving in their relationship with the other party, their information gathering, and their ability to generate options (ICC Competition Rules). Fisher and Ury (1981) emphasized the importance of information gathering, and defined four steps in principled negotiation: separating the people from the problem, focusing on interests rather than positions, generating options, and using objective criteria — of these, the first three are directly reflected in the ICC competition rules and judging criteria.

The role of the BATNA is also central to *Getting to Yes*. The Mediation Plan that teams in the competition submit in advance of each session, and which is also evaluated by the judges, also closely follows the rationale of principled negotiation. Students are asked to focus on strategy and goals, the interests of the two parties, and their BATNA and WATNA (worst alternative to a negotiated agreement) (ICC Competition Rules). While it would be impossible to ascertain to what degree judges are able to apply these scoring criteria uniformly, it seems likely that many of the judges (and not only those who come from Western European and North American backgrounds) have themselves learned and often also practice and teach “principled negotiation,” and that therefore applying these standards and scoring is not difficult for them.

A second area of the competition system in which there has been a clear Western dominance is the settings of the negotiation simulations. (These are called “problems” within the ICC competition). The 2011 competition used

eight problems, scenarios in which two parties to a dispute meet for mediation. In some ways, these are very varied, with the nature of the dispute ranging from business conflict between old friends or within a family and within just one jurisdiction or state, to impersonal cross-border conflict between large companies contracting with each other for the first time. Some of the cases involve companies from fictional states, while others clearly name or imply the states of origin.

In the cases that named or clearly imply states of origin, the following were identified for the requesting and responding parties (the list does not take third parties into account): U.S. (3), France (3), Italy (2), Belgium (1), Hong Kong (1), and the United Kingdom (1). The list indicates a clear American and Western European bias.

Most of the cases involved fictional individuals or company representatives as requesting and responding parties, and, in almost all cases, their fictional names were Western names — the cases are gender neutral, but not geographically diverse. In 2012 and 2013, the balance had shifted, with a far less pronounced but still evident concentration on the U.S. and Western Europe — there were more problems that used purely fictional names for states of origin of the parties, while the balance between real place names of American or Western European origin and others was six against two in 2012 and four against two in 2013.

Mediation and Culture: Relevant Research

Research on mediation and culture is a growing field. While it was possible fifteen years ago to claim that culture was an unexplored variable in the early negotiation theories that were largely created in the U.S. (Avruch 1998, 2000), this is now changing, and the ICC's growing sensitivity to the issue is certainly timely.

As Kevin Avruch (2000) and Michelle LeBaron and Nadja Alexander (2010) have noted, a Western model of “principled negotiation,” with its origins in rational choice theory, has been and is exported all over the world by teachers, trainers, and practitioners. The ICC competition can be seen as a notable example of this process of export, not merely during the competition week in Paris, but because students from all over the world prepare for the event and in so doing train a certain mediation model and approach to conflict.

Some scholars have argued that interest-based (or principled or integrative) negotiation, with its emphasis on the autonomous individual asserting his or her predominately material interests and claims, is not culturally universal and thus is not applicable all over the world. These critics argue that many of the precepts of the model are culturally relative and do not transfer easily to different settings. They question the universality of Western concepts of individualism and of conflict that underlie modern conflict resolution theory and practice. (They also sometimes offer a more

far-reaching critique related to the colonial history of the West and post-colonial studies.)

Is getting the issues on the table and trying to solve problems better than avoidance, for example, or is this not rather an ethnocentric bias based on the kind of communication norms reflected in popular Western negotiation theories?

According to the model of the groundbreaking cultural theorist Edward Hall, these norms are “low-context,” meaning that they involve direct, assertive, and explicit communication, as opposed to “high-context” communication, which uses less direct, more covert, and more situationally dependent styles (Hall 1976). This then can be linked to “face theory”: “face-saving” techniques will play a more important role in high-context cultures than interest-based negotiation typically allows for (Augsburger 1992; Ting-Toomey and Takai 2006; Ting-Toomey 2010). Critics have raised similar concerns about facilitative mediation models based on problem-solving paradigms taken from interest-based negotiation. Mediators, such critics charge, fail to address issues that cannot be resolved via problem-solving strategies, such as issues of relationship and identity.

The “problem-solving orientation” has been seen as “closely aligned with an individualistic ideology that is central to the mainstream culture of the United States” (Folger and Bush 2005: 303). Joseph P. Folger and Robert Bush argued that collaborative problem solving in mediation is based on an ideology that “conflicts represent problems faced by autonomous individuals in achieving mutual needs satisfaction. Further, it reflects the view that conflict resolution can and should involve finding solutions that maximize the satisfaction of every individual involved” (2005: 304).

Leo Montada has also pointed out a number of features of what he called the “standard model” of mediation, which he too saw as highly influenced by conceptions of human actors pursuing rational economic benefit. For Montada, this standard model is individualistic in cultural terms, and among its features he includes: direct and adversarial confrontation of issues and differences between the parties; voluntary participation; separation of factual or substantial issues from emotional issues; the use of neutral third-party mediators; and the autonomy of the parties in making decisions (Montada 2009).

Alexander responded to Montada, and also argued against the universal relevance of interest-based mediation and for an awareness of the cultural relativity of the Western model, adding the notion of “confidentiality” to Montada’s list of relative values. She noted that “the forces of globalization — and some would argue, Americanization — have seen the facilitative model of mediation exported worldwide by first-world consultants, training institutions, and universities” (Alexander 2009: 512–513). Kevin Avruch has argued that practice produces theory, and, to date “the practice has overwhelmingly been culturally situated within a North American, male, white,

and middle-class world” (2000: 343). If for “North American” in Avruch’s formulation we substitute “North American and Western European,” then this observation holds roughly true for the ICC International Mediation Competition, in which the majority of professionals — but no longer a very large majority — fit this description.

More fundamental critique of the model and its transfer across cultures is provided by looking to the history of Western colonialism. David Kahane (2004) has argued that interest-based mediation is rooted in Western liberalism, which historically excluded large parts of the world from its definitions of civilized humanity and thus also from access to justice. Seen in this light, notions of neutral adjudication or impartiality are relative and linked to historical constellations of power that pertain to this day. Interest-based negotiation, Kahane wrote, had its historical and cultural roots within a hegemonic and imperialist Western tradition of values and institutions, and to endeavor to implement this model across the world is arguably an ethnocentric continuation of Western hegemony. Kahane noted that the template of Western negotiation theory as exemplified by *Getting to Yes* (Fisher and Ury 1981) “is presented as universally applicable” but may well be “culturally laden, presupposing a social ontology that regards us as individual bearers of interests and maximizers of utility for us or our group.” Kahane continued: “Critics say that because interest-based understandings of conflict and conflict resolution reflect a particular cultural background, these ADR methodologies unwittingly favor a dominant cultural perspective, especially if the third-party ‘neutral’ is of the dominant culture” (Kahane 2004: 33).

Perhaps the most far-reaching and challenging critique of the Western hegemony over conflict resolution theory is represented by Morgan Brigg’s book *The New Politics of Conflict Resolution* (2008). He has argued that Western conflict resolution arises within the norms of power of the rational liberal order. Brigg has asked important questions as to how conflict resolution across cultures encounters and deals with “difference,” a term that he has taken from contemporary postcolonial and postmodern social theory and philosophy. “Rational individualism” not only disavows the other person’s differences, it also disavows the difference within oneself (Brigg 2008: 160). Brigg’s contribution is important as it represents a less common application of a critical identity theory to conflict resolution.

The critiques of a dominant “individualistic” Western approach to conflict resolution could be complemented by looking at work on other or “different” conflict resolution and mediation cultures, in which the Western model that the above commentators have sought to question is not seen as the dominant mode. Nabil N. Antaki (2006) wrote about “Cultural Diversity and ADR Practices in the World,” and discussed a number of informal alternative dispute resolution practices in Muslim communities, China, Japan, and Africa, all of which offer alternative value sets to

the interest-based model of the West. The main distinction that Antaki has focused on is that between “communitarian” and “individualistic” societies — with communitarian describing more traditional indigenous practices across the world that have significantly different expectations about how mediators and disputants might behave. And in their book on mediation in Asia, Joel Lee and Teh Hwee Hwee (2009) asked important questions about the appropriateness of direct, individualistic, interest-based conflict communication within cultures in which “connectedness,” “face,” “relationships,” “harmony,” and the “authority” of leaders (in the case of mediation within these cultures, mediators could be seen as leaders) are prime cultural paradigms.

Research and theory on mediation and culture, with its attempt to critically identify cultural differences that can have crucial impacts on conflict resolution, argues against any universally valid model — interest-based negotiation or any other. But much of it may fall prey to one weakness: it often argues in terms of cultural absolutes, without any greatly refined sense of context. In other words, much of the writing on culture and mediation does not consider what kind of mediation is taking place where and with whom. It is to context that I will now turn, as the ICC competition provides an excellent example of a mediation context that invites us to be a little more circumspect when it comes to talking about mediation and culture.

Mediation and Culture: The ICC Competition

For several good reasons, I have thus far avoided defining culture in an article that addresses mediation and culture. The concept of culture itself may well be a product of colonial politics, used to denote differences within systems of knowledge power. The very concept of “culture,” as Kwame Anthony Appiah has argued, is a Western one: “people have been inclined to fret about the export of Western culture; but among the most successful Western exports is the concept of culture itself” (Appiah 2005: 119). “Culture” orders and objectifies that which it observes and defines; it “produces the difference of which it speaks” (Brigg 2008: 39). Historically speaking, defining “culture” was a discriminatory practice in European history and science that “has served as a way of ordering difference in colonial and modernist social science projects by drawing boundaries among groups within an overall Western knowledge project that struggles to recognize other ways of knowing and being” (Brigg 2008: 156).

Scholars of cross-culturalism often operationalize their theories by taking an approach based on typologies and dimensions of *national* cultures. A prime example is the work of perhaps the most-cited popular and populist cross-cultural theorist of the last twenty years, Geert Hofstede, who proposed five dimensions to measure cultural difference (Hofstede and Hofstede 2005).

All too often, approaches to cultural difference are based on “tribal culture, ethnic culture, or national culture” (Avruch 2000: 15). This produces “culture as behavior” (Brigg 2008: 28–29) and concepts of national character that can be reductionist, essentialist, timeless, and nondynamic (Avruch 2000: 340–341). These concepts emphasize difference and can reinforce stereotyping of all kinds — and can be seen as related to the historical function of the concept of culture within Western discourse. Or put more mildly: “it seems that one reasonable ground for suspicion of much contemporary multicultural talk is that conceptions of collective identity they presuppose are indeed remarkably unsubtle in their understandings of the processes by which identities, both individual and collective, develop” (Appiah 2005: 107). Emphasis on simple categories of difference reduces the complexity of ourselves to a large extent, while so much sameness that we may share across cultures is not acknowledged. These reservations made, it must still be possible to formulate concepts of cultural difference, and differences between national systems and people of different nationalities. National systems, after all, produce legal, educational, and structural frameworks of all kinds that do indeed influence the values people hold and the way they think.

But culture is not monolithic, and nor are individuals — we move in and out of different cultural categories, ranging from nationality and ethnicity, to gender, languages, professional background, religious or world-views — affiliations of many kinds, from family to peer groups and beyond. Simplistic categories based on nationality or binary dimensions such as collective and individualistic cultures cannot do justice to the complexity of shifting cultural identities in an increasingly cosmopolitan world. In this world, culture is highly contextual, in that a particular setting may have its own culture to which the agents involved in that setting contribute. The individual, it follows, is a subject able to adapt culturally to a greater or lesser degree to settings, and is not the object of some deterministic cultural programming.

This insight is important for a better understanding of the culture(s) of the ICC International Commercial Mediation Competition, and also when assessing the value and usefulness of the critique of Western negotiation and mediation models as outlined above. That individualistic and rationalistic models of interest-based negotiation and conflict resolution have specific cultural origins and may not be universally applicable remains beyond doubt, but to raise these reservations without looking at specific contexts may amount to presenting a view of culture — in this case, the culture of Western mediation — that is as monolithic as that which Western categories arguably project onto the rest of the world.

No single Western conflict resolution model is universally applicable, because mediation and negotiation, as areas of practice and not just as theoretical fields of inquiry, require specific settings. To address their

alleged values without addressing the diversity of those settings will inevitably produce abstract models with more theoretical than practical value. This is clearly a weakness of much of the critical opinion of the Western model outlined above: it takes issue with an abstract system, which, as such, is coherently presented and coherently critiqued.

But in order to do this, it posits a huge and highly abstract difference between “us” in the West and “them” not in the West, drawing on the concept of “culture” to define this difference. In practice, there may well be just as much difference between phenomena that occur *within* the “Western” tradition as between those situated in the “West” and those not in the “West.” As Appiah wrote: “Treating international difference, between [. . .] ‘the West’ and ‘the non-West,’ as an especially profound kind of something called ‘cultural difference’ is, in my view, a characteristically modern mistake” (Appiah 2005: 254). The question that is not asked when critics of “Western” mediation and conflict models posit a single “Western” system, is: What happens when that system comes into contact with the many variables of practice?

I wish to conclude by suggesting a more integrated approach to the subject of mediation and culture, an approach that refuses to address any one aspect in isolation. Viewing participants in negotiation and mediation only in terms of their alleged cultural mindsets and values obscures the role of the setting of the interaction that those participants enter into, while looking only at idealized conceptual parameters of the setting obscures the role of the participants. A more integrative and systematic approach is required.

This approach is not just systematic, but systemic, meaning that I propose seeing mediation as a system that interacts with other systems, and attempting to understand the relationship between mediation or negotiation and culture in systemic terms. I will illustrate this briefly, making reference to the ICC International Commercial Mediation Competition.

Mediation and negotiation involve three interrelated systems, each of which interrelates with other systems outside the world of mediation, and none of which can be entirely abstracted from the others. Mediation, like any communicative and social human activity, does not take place in isolation, and its cultural parameters cannot be investigated in isolation. Put simply, the three systems of mediation I propose are:

1. the system *around* the mediation;
2. the system *of* the mediation; and
3. the system *in* the mediation.

The system *around* the mediation is the larger social, legal, political, or administrative setting in which mediation takes place. Looking at this in terms of culture would involve comparative studies not only of the relationship between mediation and a country’s legal system and ADR culture,

but also issues such as the prevalence and functions of mediation, its fields of application, its acceptance, and access to it. In terms of the ICC competition, the system around the mediation includes international commercial mediation practice, ICC ADR services, the modern ADR tradition in the U.S., Canada, and Western Europe, and also the various education systems that the competition overlaps with. Clearly, this system is not culturally monolithic, but it does have cultures of its own that draw on all these named elements.

The system *of* the mediation is the process of mediation itself — the way it is shaped, beginning with where and when it takes place and who takes part, and includes such characteristics as the selection and role of the mediator, the phases of the mediation, standard communicative techniques, and the goals and aims of the mediation. This system is *always* culturally relative and takes place within the setting of the first system, the system around mediation. In general terms, this second system of mediation may be defined by the culture of mediation within a given setting, whether this be the culture of commercial mediation, family mediation, victim-offender mediation, etc., as each is practiced in a given setting. For the ICC competition, international commercial mediation practice as experienced by the professionals who take part, filtered through an understanding of the competition rules written and unwritten, define this system.

The third system, the system *in* the mediation, concerns the people who participate as disputants and mediators, and their expectations, values, and actions, all of which are culturally shaped, though not in any deterministic way. Participants are agents of change, and will play active roles within the mediation that will interact with and change the systems of mediation and the systems around mediation outlined above. One weakness of many approaches in cross-cultural studies is that they frequently assume that people embody cultural values that are expressed in specific behaviors, and they address these behaviors as “cultural standards” or “cultural dimensions” in isolation of the larger systems of institutions and organizations within which parties also operate and with which they interact.

At the ICC competition, the participants in their diversity contribute to the system, but the system *around* the mediation and the system *of* the mediation are both strong forces that can diminish the role of other cultural differences that participants bring into the system. This is a standardized competition system, and the standards are strongly defined. As Jacob Bercovitch and Ole Elgström wrote, the “realist focus on unitary actors, rational decision-making and concerns about power and interests leaves little room for cultural variables” (Bercovitch and Elgström 2005: 132). This may well also be the case, however, for the larger system with which the competition interacts: the world of international commercial mediation may well, rightly or wrongly, be heavily focused on the optimization of material interests.

This nonetheless does not mean that the system is impermeable and fixed, nor that the actors who participate in it in many different ways, including by defining procedures and standards, will not change the system. But for this system to change, participants must take on roles as systems designers (at the ICC competition such roles are catered for in various comprehensive feedback formats, and on committees that develop procedures for admissions, competition rules, procedures, choosing the simulations, etc.) and make it change, and the present systems designers must be open to change. This holds true both for the ICC competition and for the field of international commercial mediation as a whole.

While certainly based on Western paradigms of negotiation and conflict resolution theory and practice, these systems are subject to the influence of all those who enter into them. As participation and stakeholding become more diverse, a standardized system may consolidate in order to reinforce the norms it embodies, or it may change and adopt new norms. One of the great strengths of the ICC International Commercial Mediation competition is its openness to new participants and to the spirit of dialogue that takes place during the event, and it has become both a venue for exploring difference and a learning organization open to change. The tension between culturally determined rules and procedures versus diverse participation will not go away, but it may well shift — and this may well be the case in any field of mediation subject to international and cultural processes of exchange.

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