

# **Mediation Talk in Cross Cultural Perspective:**

## **The Contribution of Conversation Analysis**

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# Brief Outline

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# 1. Introduction: Conversation Analytic Perspectives on the Problematics of Language and Cultural Difference in Mediation Sessions

- Language & cultural differences exacerbate differences that exist in all interactions
- These differences are made more centrally relevant by conflict
- Achieving and maintaining intersubjective understanding therefore more critical in situations of conflict
- Contribution of Conversation Analysis as method of studying how intersubjectivity achieved

“Comparison of the various ways in which people talk in different sociocultural and linguistic communities can easily lead to two, apparently contradictory, conclusions. On the one hand, the *diversity* of conduct is striking. People speak different languages, they are oriented to markedly different sociocultural norms of posture and tone, they inhabit very different social (as well as economic, political, etc.) worlds and thus find occasion to talk in vastly different “contexts.”... On the other hand, the *commonalities* are what are remarkable. Everywhere turns-at-talk are constructed and opportunities to speak distributed, courses of action are launched and co-ordinatively managed, troubles of speaking, hearing and understanding are located and their repair attempted. These commonalities suggest that, for all the diversity we see, people everywhere encounter the same sorts of organizational problems and make use of the same basic abilities in their solutions to them—a capacity for reading other’s intentions, anticipating and projecting actions, calculating inferences, and processing information available to them (see Levinson 2006, Schegloff 2006).” (Sidnell, 2009, p. 3)

# Focus of this Paper

How mediation participants identify and repair troubles in talk:

- Cultural Differences in Mechanisms for Identifying Troubles In Talk And Accomplishing Repair
- Other Techniques for Achieving Intersubjective Understanding

## 2. Review of the Literature: Cultural and Language Difference Issues in Mediation and Other Types of Interactions

- Language Difference
- Dialect Difference
- Differences in Underlying Values and Cultural Perspectives
- Differences in Use and Interpretation of Nonverbal Behaviors
- Differences in the Pragmatics of Communication

### 3. Brief Introduction to Conversation Analysis

- Qualitative Method
- Naturally Occurring Data
- Videotaped, Transcribed Interactions
- Sequential Analysis
- Procedures & Techniques used to Coordinate Talk and Accomplish Social Action



## 4. Data Sets

- Small Claims Mediation and "Consumer Complaint" Cases
  - Business Disputes (Child Care Center; Hotel, Bus Services, Auto Repair Shop, Contractors)
  - Landlord Tenant
- Divorce and Family Mediations
- Neighborhood and Interpersonal Disputes

## 5. Challenges and Opportunities of Applying Conversation Analysis to Understanding Cultural Difference in Mediation

### a. Schegloff on “Procedural Consequentiality”:

We can not assume that gender, ethnicity, race, and so on are the *causes* of behaviors unless participants *display an orientation* to these identities in the interaction.

## b. West and Zimmerman (1982) on Gender and Interruptions

The validity of studying distributions of actions and responses.

c. Garcia (1998) on Demonstrating the Relevance of Gender

“Distributions Plus” (Incorporating the Broader Interactional Context into the Analysis)

d. Garcia & Ritchey method for studying perceptions of bias in mediation

Integrating conversation analysis with modified “Impact” method (Frankel)

## 6. Conversation Analytic Contributions to the Understanding of Cultural Differences in Mediation Sessions

- a. The Identification and Repair of Errors, Misunderstandings, and other Troubles in Talk
- b. Coordinating Turn Exchange
- c. Achieving Topical Coherence

## a. The Identification and Repair of Errors, Misunderstandings, and other Troubles in Talk

There is a tension in mediation between the convention that opposing disputants wait while the other disputant "tells their story", and the interactional preference for prompt identification and repair of errors:

- Schegloff et al. (1977) "Preference for Self Correction"
- Garcia (1991) "Dispute Resolution Without Disputing"

## b. Coordinating Turn Exchange

Language difference does not just affect comprehension of speech, it also affects pragmatics of communication:

- Example: Japanese grammar and locations for turn exchange (Hayashi, 2003)



## c. Achieving Topical Coherence

Example: Native American Topic Development  
(Phillips, 1983)

# 7. Discussion & Conclusions

Redefining Mediation in an Age of Globalization:

A Proposal for Change

- We can not solve all the problems of translation and culture in every instance.
- We need to model “learning as acquiring the capacity to participate in the discourses of an unfamiliar knowledge community, and teaching as supporting that participation” (Northedge, 2003).
- In terms of mediation, this means changing the purpose of mediation to include reaching understanding across differences, howsoever they may be defined (see Longxi, 2010).

While mediator impartiality and disputant self-determination are considered to be fundamental aspects of mediation (AAA, 2005), in today's globalized world these values may not be as important as achieving and maintaining intersubjective understanding. Making sure everyone understands everyone else should be the central purpose of mediation. This may require a revisioning of the process of mediation, including its phases, techniques, and priorities.

## 8. Future Directions for Research

### a. Research Proposals in Progress (Garcia & Ritchey)

1. Staff vs. Family Member Interpreters in Mediation Sessions
2. Translating in Mediation and Perceptions of Bias (Targeted Surveys in Response to Videotaped Mediation Sessions involving translators)

# Additional Further Research Suggestions

Configurations of Shared Language in Mediation  
(E.g. comparing mediation sessions where one participant shares a language with the mediator, and the other requires a translator, vs. those where the mediator's language is different from that of both disputants)