

15 August 2012

Nottingham University

Translating Cultures in International Dispute Resolution

Danny McFadden LLM, FCIArb
Managing Director CEDR Asia Pacific- Hong Kong

Interpreter experience



Xiamen China 1988



Acting as an Interpreter

Fujian International TV Festival 1988

Participants: USA, Italy, Japan, Belgium, Australia, Germany

- Difficulties
 - Role of interpreters
 - Mediating
 - Neutrality and Cultural Bridge
 - Face saving

Use of non - professionals

The Creepy Crawly

Language not just about the words

Different persona

Meeting expectations both sides

- Australians
- Mum and Dad Chinese

Mixed messages

- Difficulties mediation for neutral

“Without communication there is no negotiation.... When the parties speak different languages the chance for misinterpretation is compounded.” (Getting To Yes-Fisher)



Communication

- 7% through the words used in an interaction

Paralanguage

- 38% through the pitch, tone, pace, of the voice

Body language

- 55% through the gesture and appearance

Active listening



- Observing and understanding non-verbal communication
- Awareness and use of own non-verbal signals
- Appropriate use of silence and Reflection of feelings
 - Paraphrasing and summarising
 - Use of questions.

Facilitated negotiation

Interpreters as conduits for the communication



Facilitated negotiation

Interpreters as actors in the mediation



Technology

- Use of technology



Refugee torture case

- Difficult subject matter
- Dealing with the emotion of the speaker
- Parties and advisers familiar with the scenario
- Need to assist interpreter handle the emotion
- Psychological preparation



Listen to the Parties not the interpreter

Hainan case

- Use of “their” interpreter
- Part of their team
- Limelight and status
- Start to focus on the interpreter not the key actors
- Comfort zone
- Payback “loss of face”

Mediating with Interpreters

- Mediator as interpreter
 - Role confusion
 - Mediator language competence
 - Level of interpreter competence



“To intercede or not to intercede that is the question”

- Mediator training working with interpreters
- Choice of “Pivot” language
 - Who chooses?
- Ethnicity and Nationality of the Mediator
 - Importance
- Language spoken by the Interpreter

Tips: Working with Interpreters

- Talk to the receiver or speaker, not the interpreter- Eye contact
- Encourage party talk directly to you (arrange seating)
- Use plain English/Mandarin
- Do not speak too quickly (or too slowly)
- Keep sentences short: one idea or question at a time
- Pause allow sufficient time for translation
- Repeat the same information in different ways

Tips: Working with Interpreters

- Avoid over-simplification of information
- Avoid culturally specific metaphors
- Encourage the interpreter to suggest when to clarify information
- Provide opportunities for the party to use their preferred communication style e.g. tell a story rather than using question and answer routines
- Understand linguistic and politeness conventions
- Check frequently the message has been understood



Mediator training

Put picture here