**Cross-Cultural Dispute Resolution Fall, 2022
Mondays, 9:00 AM – 10:52 AM Anheuser-Busch Hall, Room**

**Prof. Juan Del Valle juandelvalle@wustl.edu**

**SYLLABUS**



**CREDITS: 3.0**

**COURSE DESCRIPTION**

Disputes and dispute resolution frequently involve cross-cultural conflict. Effective dispute resolution methods involve additional elements than those used in intra-culture adjudicatory and amicable dispute resolution processes. Through a harmonic integration of legal, sociological, psychological, and neurological concepts and findings, this course is designed to equip students with valuable tools that will allow them to choose suitable dispute resolution methods and strategies for resolving cross-cultural controversies, and managing legal conflicts involving individuals from diverse cultures and backgrounds, including but not limited to gender, religion, national origin, and race. The course is designed to enhance negotiation and dispute resolution skills by increasing cultural intelligence (CQ) for legal professionals who will be involved in diverse conflict resolution scenarios, whether as attorneys, negotiators, facilitators, or adjudicators. The course includes assigned readings, drafting, and simulations related to cross-cultural dispute resolution.

**ABA STANDARD COMPLIANCE**

ABA Standard 310 requires “not less than one hour of classroom or direct faculty instruction and two hours of out-of-class student work per week or the equivalent amount of work over a different amount of time” for each credit hour awarded. This course has been designed to meet this requirement, through the inclusion of mandatory readings, free research and assignments that will be explained during the course and a final essay, expecting each student to spend at least two hours of out-of-class time for each one hour of in-class-time per credit hour.

**COURSE OBJECTIVES AND LEARNING OUTCOMES**

By the end of the semester, students will be able to effectively:

* Recognize and utilize techniques to communicate and collaborate with cross-cultural stakeholders about their cases, the law, and policy in negotiations and mediation processes;
* Recognize and understand the existence of biases and their impact in information-collecting processes;
* Acknowledge ways to control biases and other informational barriers sourced in the adaptive unconscious;
* Recognize and understand the impact of context and the distribution of power in negotiations and mediations, including culture, gender, race, national origin, religion;
* Identify and understand the underlying interests of all of the stakeholders in dispute resolution processes where cultural difference may add challenges to the collection of information;
* Recognize and understand opportunities for and barriers for stakeholders to create and claim value on a sustainable basis in dispute resolution processes.
* Recognize and understand the impact of intrapersonal and interpersonal styles, and persuasion techniques in negotiations and mediations involving cross-cultural interactions;
* Identify and utilize necessary oral and written advocacy skills with and on behalf of stake- holders in negotiations and mediations involving cross-cultural interactions;
* Enhance communication, relationship development, trust building, and persuasion skills in negotiations and mediations involving cross-cultural interactions;
* Enhance collaboration skills and maximize effectiveness working as a team member to advance the interests of the stakeholders and the process in negotiations and mediations involving cross-cultural interactions;

**ASSESSMENT AND GRADING**

Students are expected to prepare for every class. Participation in class discussions and class exercises, including a final project will be highly graded and will be assigned twenty-five percent (25%) of the final grade. A final, anonymous essay of approximately 6 pages will have a seventy five percent (75%) weight on the grade.

**READINGS AND EXERCISES**

Students must read and prepare for a discussion of the assigned readings *prior* to each session and come to class prepared to actively participate in class discussions. Students are encouraged to read any additional material they find useful to complement lectures. The instructors may suggest complementary readings during the course.

**ATTENDANCE POLICY**

This is a participatory course. Its success depends on everyone’s active participation and preparation for the exercises that are assigned. Students are allowed to miss 2 classes without that absence negatively impacting their grade; provided that, (i) I am notified in advance of your expected absence (preferably at the previous class) and (ii) any materials you are required to turn in are delivered to me before the class you will miss. Failure to provide advanced notice of an absence, turn in any assignments prior to class or missing more than two classes (absent extreme circumstances approved by Elizabeth Walsh, Associate Dean for Student Services) will count as an unexcused absence. We can be notified about expected absences in class or by email. Unexcused absences will negatively impact both the class participation and performance portions of your grade.

**SIMULATION EXERCISES & CASE STUDIES**

We will have 2-4 exercises in the course of the semester.

For the simulations to be successful and allow you to develop your skills, it is important that they are approached as seriously as you would approach a real-life negotiation. It is also important that you maintain your assigned role, try to maximize the outcome of the party you are assigned and fully prepare for each simulation. Most of all, I want you to enjoy every single session of this course.

**LAPTOP POLICY**

Laptops may be used during class discussions to take notes and used during simulations if you are instructed to do so. At no time may laptops be used to surf the web or communicate about subjects not related to the class. Cell phones shall NOT be used at any time while class is in session to make calls, take in-coming calls, or text, except during class breaks. Use of laptops, cell phones, or other electronic devices during class at prohibited times is extremely distracting and reflects a lack of respect to your classmates and me and will result in a failing participation grade for that class session.

**CLASS PARTICIPATION**

Your final grade will be a combination of the following:
**Weekly Class Attendance, Class Participation, and Final Project (25%)**

**Weekly Participation:**

Your weekly class participation throughout the semester, as demonstrated through preparation and discussion of the assigned reading materials, active engagement in the simulations, and negotiation planning memos will be worth 25% of your grade.

**Final Essay:**

75% of your grade.

**\*Required Course Textbooks**

Fisher, R., Ury, W. (2011). *Getting to Yes: Reaching Agreements Without Giving In*. New York, NY: Penguin Books. ISBN-10: 0143118757; ISBN-13: 978-0143118756.

Lewis, R. (2018). *When Cultures Collide: Leading Across Cultures.* Boston, MA: Hachette Book Group. ISBN-10: 9781473684829; ISBN-13: 978-1473684829.

Randolph, P. (2016). *The Psychology of Conflict: Mediating in a Diverse World*. Bloomsbury Continuum. ISBN-10: 1472922972; ISBN-13: 978-1472922977.

**\*Required Additional Readings**

Cairns, D. (2005). *Mediating International Commercial Disputes: Differences in U.S. and Euro- pean Approaches.* Dispute Resolution Journal. Aug-Oct, 2005; 60, 3. Available at http://www.nysba.org/workarea/DownloadAsset.aspx?id=67718

Pair, Lara M. (2002). *Cross-Cultural Arbitration: Do the Differences Between Cultures Still In- fluence International Commercial Arbitration despite Harmonization?* ILSA Journal of International and Comparative Law. Vol 9, Issue 1, Article 2. Available at https://nsuworks.nova.edu/il- sajournal/vol9/iss1/2/

**\*Suggested Complementary Readings**

Groves, K., Feyerherm, A., Minhua, G. (2015). *Examining Cultural Intelligence and Cross-Cul- tural Negotiation Effectiveness.* Journal of Management Education, Vol. 39(2) 209-243. Available at www.sagepub.com.

**Class Schedule and Assigned Mandatory Readings**

Week 1: Basics of Legal Negotiation and Dispute Resolution

Readings: Fisher, R., Ury, W. (2011) Getting to Yes. Chapters I – IV.

Week 2: The Psychology of Conflict in Legal Dispute Resolution: Cross-Cultural Perspectives on Existentialism, Psychological Perceptions in Conflicts, and the Impact of Emotions

Readings: Randolph, P. (2016). *The Psychology of Conflict: Mediating in a Diverse World*. Bloomsbury Publishing Plc. Chapters 1, 2, 3.

Week 3: The Psychology of Conflict in Legal Dispute Resolution: Cross-Cultural Perspectives on Self-Esteem, Values and Polarities, Interpersonal Relationships, and Psychological Impact of Listening.

Readings: Randolph, P. (2016). *The Psychology of Conflict: Mediating in a Diverse World*. Bloomsbury Publishing Plc. Chapters 4, 5, 6.

Week 4: The Psychology of Conflict in Legal Dispute Resolution: Cross-Cultural Perspectives on Assumptions and Biases, Amicable Dispute Resolution, Differing Models of Negotiations and Mediations, Empathy, and Neurology of Conflict Resolution.

Readings: Randolph, P. (2016). *The Psychology of Conflict: Mediating in a Diverse World*. Bloomsbury Publishing Plc. Chapters 7, 8, 9.

Week 5: Overcoming Cross-Cultural Barriers in Legal Dispute Resolution: Language Differences

Readings: Lewis, R. (2018). *When Cultures Collide: Leading Across Cultures.* Boston, MA: Hachette Book Group, Chapter 1.

Week 6: Overcoming Cross-Cultural Barriers in Legal Dispute Resolution: Cultural Conditioning

Readings: Lewis, R. (2018). *When Cultures Collide: Leading Across Cultures.* Boston, MA: Hachette Book Group, Chapter 2.

Week 7, October 10: Overcoming Cross-Cultural Barriers in Legal Dispute Resolution: Culture Categorization, Culture Relativism v. Constructivism, and Integration

Readings: Lewis, R. (2018). *When Cultures Collide: Leading Across Cultures.* Boston, MA: Hachette Book Group, Chapter 3.

In-Class Activity Links: Video: Richard Evanoff. (2016). *How can People from Different Cultures get Along with Each Other?* TedX on Youtube.com. Link: <https://www.youtube.com/watch?v=osZr7DLxs8A>

Week 8: Overcoming Cross-Cultural Barriers in Legal Dispute Resolution: Time in Cross-Cultural Negotiations

Readings: Lewis, R. (2018). *When Cultures Collide: Leading Across Cultures.* Boston, MA: Hachette Book Group, Chapter 4.

Week 9: Overcoming Cross-Cultural Barriers in Legal Dispute Resolution: Power- less Communication, Power of Paraphrasing and Reframing, and Communication Gaps

Readings: Lewis, R. (2018). *When Cultures Collide: Leading Across Cultures.* Boston, MA: Hachette Book Group, Chapter 5.

Week 10: Overcoming Cross-Cultural Barriers in Legal Dispute Resolution: Motivation and Trust-Building, and the Low-Trust Syndrome

Readings: Lewis, R. (2018). *When Cultures Collide: Leading Across Cultures.* Boston, MA: Hachette Book Group, Chapter 9.

Week 11: Overcoming Cross-Cultural Barriers in Legal Dispute Resolution: Meeting of the Minds, Relationship-Building, Giving-In as a Strategy to Overcome Low Trust and Ot- her Cross-Cultural Barriers

Readings: Lewis, R. (2018). *When Cultures Collide: Leading Across Cultures.* Boston, MA: Hachette Book Group, Chapter 10.

In-Class Activity Links: Link: Rathi, A. (2015). *This Simple Negotiation Tactic Brought 195 Countries to Consensus.* Retrieved from [https://qz.com/572623/this-simple-negotiation-tactic- brought-195-countries-to-consensus-in-the-paris-climate-talks/](https://qz.com/572623/this-simple-negotiation-tactic-%20brought-195-countries-to-consensus-in-the-paris-climate-talks/).

Week 12: Gender, Race, National Origin, and Religion in Dispute Resolution

Preparation for class: Please research on recent studies regarding the influence of race, gender, and religion in dispute resolution processes. Please be prepared to share your findings in class.

Readings: Pair, Lara M. (2002). *Cross-Cultural Arbitration: Do the Differences between Cultures Still Influence International Commercial Arbitration Despite Harmonization?* ILSA Journal of International and Comparative Law. Vol 9, Issue 1, Article 2. Cairns, D. (2005).

Week 13: Cross-Cultural Views of Commercial Dispute Resolution
Readings: *Mediating International Commercial Disputes: Differences in U.S. and European Approaches.* Dispute Resolution Journal. Aug-Oct 2005; 60, 3.

*Cross-Cultural Arbitration: Do the Differences between Cultures Still Influence International Commercial Arbitration Despite Harmonization?* ILSA Journal of International and Comparative Law. Vol 9, Issue 1, Article 2. Cairns, D. (2005).

Week 14: Giving, transparency, and building trust in Cross-cultural dispute resolution processes.

In-class activity: Final project presentation and discussion.