

**Cultural Competence:  
Cox & Palmer  
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# Culturally Competent Lawyers: Why?

- As Racialized and Aboriginal Canadians gain increasing space in society, lawyers will need skill to represent competently their clients' interests in an increasing diversity of ways:

(Voyvodic's example of representing survivors of residential schools, working with immigrants and refugees and racialized clients in cases of discrimination and harassment)

# Culturally Competent Lawyers: Why?

- Principles of cultural competence are being recognized legally as foundational knowledge and reasoning that persons bring to the project of Justice seeking.

Consider :

*The reasonable person understands the impossibility of judicial neutrality, but demands judicial impartiality. The reasonable person is cognizant of the racial dynamics in the local community, and, as a member of the Canadian community, is supportive of the principles of equality* (R.v.S. (R.D.), [1997] 3

S.C.R. 484-1997-09-26, Supreme Court of Canada – Federal: Reasonable apprehension of bias – dealing with non-white groups – impartiality – evidence – credibility cited by 67 cases).

# Culturally Competent Lawyers: Why?

- Cultural Competence has begun to be “read into” Canadian standards of competence for lawyers (Voyvodic)
  1. Lawyers have the responsibility, as members of a self-regulating profession, to recognize the implications of representing members of a diverse community in a manner which protects their dignity;
  2. Lawyer competence incorporates knowledge of equality law, which in turn requires an understanding of the social contexts in which inequality exists;
  3. Lawyers are members of a profession which exists in the public interest to advance the cause of justice;
  4. Lawyer competence incorporates the requirement that skills, attributes and values are performed capably and appropriately.

# Cultural Competence: Definition

- Cultural competence refers to an ability to interact effectively with people of different cultures. Cultural competence comprises four essential capacities:
  - A. We must understand our own cultural positions and how they differ from and are similar to others (critical cultural self-analysis)
  - B. We must understand the social and cultural reality in which we live and work and in which our clients live and work
  - C. We must cultivate appropriate attitudes towards cultural difference
  - D. We must be able to generate and interpret a wide variety of verbal and non-verbal responses (client centred interviewing)

# A) Nichols' Model for Understanding Cultural Difference

Philosophical Perspective on Cultural Difference. Edwin Nichols (cf. work of Jung)

Different world cultures developed out of differing physical environments.

These world views have differing constructs:

- Axiology (values)
- Epistemology (way of knowing)
- Logic (principles of reason)
- Process (practice of reason)

## **B) Social, Cultural and Historical Context**

North American Diversity is fraught with complicated and tragic history

- **Enslavement of Africans, Genocide of First Nations, Global strife resulting in trans-global immigration etc.**

A local knowledge of how our racist history is a living legacy is necessary: Africville, Cornwallis.

(Aylward talks of the need for this knowledge to aid in our ability to “spot issues” of race)

## C) Appropriate Attitudes

Cultural competence requires that practitioners actually *value* diversity, not just tolerate it. In a nation that acknowledges multiple founding peoples, that was built up on the foundation of ethnic/immigrant labour and whose future depends on immigration any other attitude should reasonably be seen as unacceptable.



# D) Communicating Across Cultures

Cross cultural communication is a complex study in cultural hermeneutics. In sociology: the context of a person's world view is necessary for the proper understanding and interpretation of behaviour and rhetoric (Voyvodic, pp. 16, 17)

Before meaningless, unnatural, non-human or immature behaviour and corresponding values are attributed to people of another culture, it is better to begin by doubting the adequacy of one's own judgment and knowledge

- **Elmar Holenstein**

# Cultural Competence: How?

- Pre service training/clinical Law programmes
- Conduct organizational assessment of Cultural Competence
- Develop organizational plan to increase Cultural Competence
- Employ and support culturally competent practitioners as agents of change.
- Make available systematic coaching/consulting
- Provide and support continuing education in Cultural Competence

# Cultural Competence: How Not

- Do not place the responsibility for cultural competence solely on the shoulders of “diverse” staff – particularly when these persons are among the most junior persons on staff.
- Do not confuse cultural celebrations for cultural competence training.

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