

Cultural Competency Training: Preparing Law Students for Practice in Our Multicultural World



Serena Patel

ABSTRACT

This Article advocates for increased cross-cultural competency training for lawyers. With increasing diversity in society and among future lawyers, it is necessary for lawyers to be able to effectively communicate and create trusting relationships with clients from a variety of cultures and backgrounds. This Article recommends that a seminar be offered in law schools to develop and practice cross-cultural skills in line with *The Five Habits: Building Cross-Cultural Competence in Lawyers*, developed by Professors Susan Bryant and Jean Koh Peters. Implementation of the proposed seminar would help prepare law students to be culturally competent, successful lawyers.

AUTHOR

Serena Patel is a J.D. graduate from UCLA School of Law. While in law school, she was a Chief Comments Editor for the UCLA Journal of International Law and Foreign Affairs and participated in the National Moot Court Competition. Serena has a B.A. from UCSD, where she majored in Human Development and minored in Education Studies.

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INTRODUCTION

Esmeralda, your new client, walks in for her intake meeting. She is accompanied by her sixteen-year-old son, who explains that he is there to translate as his mother speaks only Spanish. From the prescreening process, you know that Esmeralda is seeking your advice related to a domestic violence incident involving her husband, who is also her son's biological father. In such a sensitive situation, how should you proceed? There are many factors to consider, including possible language and cultural differences between yourself and your client. These differences can act as barriers, affecting your relationship with your client and your ability to succeed in her case.

In our growing multicultural society, cultural competency is increasingly important for professionals to create effective working relationships with their clients and adequately address their clients' needs. The backgrounds of both clients and service providers can affect the quality of communication and the level of trust between them.¹ Many professions currently require cultural competence training.² For instance, many health care institutions and medical schools require their students to train in cultural competence.³ These “[c]ultural competence educational initiatives in medical education vary widely and include language training, lectures and interactive sessions, workshops, elective courses, immersion programs, components within residency curricula and more.”⁴ By contrast, there is currently no formal equivalent for lawyers or law students.⁵

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1. POVERTY, HEALTH AND LAW: READINGS AND CASES FOR MEDICAL-LEGAL PARTNERSHIP 141 (Elizabeth T. Tyler et al. eds., 2011).
 2. Nelson P. Miller, *Beyond Bias—Cultural Competence as a Lawyer Skill*, MICH. BAR J. 38, 39 (2008), available at <http://www.michbar.org/journal/pdf/pdf4article1367.pdf> (pointing out that cultural competencies are taught to “educators, translators, social workers, nurses, missionaries, and a host of others who deal with diverse populations”); see also Annette Demers, *Cultural Competence and the Legal Profession: An Annotated Bibliography of Materials Published Between 2000 and 2011*, 39 INT’L J. LEGAL INFO. 22, 23 (2011) (indicating that scholars in the area of business, education, nursing and social work are expanding their understanding of cultural competency and seeking to build cultural competency in their professionals).
 3. POVERTY, HEALTH AND LAW, *supra* note 1, at 138.
 4. *Id.* (New Jersey requires cultural competence training in accordance with guidelines set by the Association of American Medical Colleges (AAMC) as a requirement for graduation from medical school. Physicians licensed before June 29, 2007 are required to complete a six-hour continuing medical education program on cultural diversity before license renewal, unless the physician already completed cultural competency training in medical school.).
 5. *Id.* (“In legal education, cultural competence training has not been offered in a systematic manner.”); see also Miller, *supra* note 2, at 39 (mentioning that cultural competencies are taught to a variety of professions that deal with diverse populations, but “by and large, they are not taught to lawyers”).

Since it is inevitable that lawyers will have clients from different cultural backgrounds,⁶ it is important that lawyers also become culturally competent. Not only lawyers who work in pro bono settings, such as legal clinics, but also lawyers who work at law firms with paying clients would benefit from an increased cross-cultural competency.⁷ For instance, lawyers working in a pro bono setting may have clients who have suffered trauma and feel uncomfortable discussing those experiences with a lawyer. At the same time, lawyers working for a large corporate firm may have international clients who are familiar with working with lawyers but adhere to particular customs when conducting business deals. These cultural norms and expectations can inhibit the lawyer-client relationship as much, or even more so, than language barriers.⁸

This paper advocates for the implementation of cultural competence training in law schools. Part I explains the goals of a training program that focuses on building cross-cultural competence in lawyers. The goals underscore the significance of cultural competency skills for law students' future careers as professionals working in our diverse society. Part II briefly explains the Five Habits outlined by Professors Susan Bryant and Jean Koh Peters, and their significance for increasing cross-cultural competence.⁹ Lastly, Part III provides the basic structure for a proposed cross-cultural competency training seminar, and discusses how the Five Habits can be implemented in such a course at a law school. This cross-cultural training should be available in law schools to prepare law students to be culturally competent lawyers.

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6. Susan Bryant, *The Five Habits: Building Cross-Cultural Competence in Lawyers*, 8 CLINICAL L. REV. 33, 39 (2001).
 7. Miller, *supra* note 2, at 40 (explaining that although the examples given involved pro bono settings with elderly clients, the cultural competencies described can be just as important in law firm settings with paying clients).
 8. Robert L. Gegios & Stephen D. R. Taylor, *Cross-Cultural Competency: A Non negotiable Skill for Lawyers Involved in International Commerce*, available at <http://www.primerus.com/business-law-articles/cross-cultural-competency-a-non-negotiable-skill-for-lawyers-involved-in-international-commerce-624201.htm> (“[T]ransnational commerce inherently crosses cultural boundaries, raising the question of whether domestic assumptions that underpin traditional legal reasoning travel effectively. The answer is that, more often than not, such assumptions do not translate well, and the result is that sound advice in one culture may be far from beneficial in another. . . . Cultural miscomprehension can alienate or confuse employees, partners, suppliers, customers, and key local constituencies. Needless misunderstandings or minor disagreements may be created or existing ones escalated into major crises resulting in significant costs and, sometimes, more lasting damage to future prospects. The scale of this challenge is significant. Differences in business culture may represent a greater obstacle to successful outcomes than even language differences.”).
 9. Bryant, *supra* note 6, at 33, 34.

I. THE GOALS OF CULTURAL COMPETENCY TRAINING

Culture can have a great impact on one's interactions with others. Culture can influence the way one views events; the importance one places on roles, hierarchy or personal relationships; priorities regarding the rights of individuals compared to the group; conflict resolution; emotions and the way emotions are displayed; and one's willingness to discuss intimate or embarrassing issues among other things.¹¹ For example, some cultures frown upon seeking psychological services, making members of that community unwilling to discuss sensitive, personal issues or to agree to go to therapy after suffering trauma. Another example highlighting the way business practices can vary based on cultural sensitivities and objectives is the following: ". . . in the United States, profit is seen as a legitimate goal, success in business can be measured empirically, and the work ethic is highly developed. For the Japanese, the focus may not be on the pursuit of profit alone, but on human efficiency; the group is superior to the individual."¹² Culture not only gives us our values and norms of behavior, but also affects how we judge and interact with other people.¹³ Thus, it is important that lawyers know both how to gain a client's trust in a culturally sensitive way and how to attribute the client's intended meaning to her behavior and communication.¹⁴

"The goal of striving for cultural competence is to remove barriers to access" as cultural differences can obstruct communication and trust between a lawyer and her client.¹⁵ Barriers to access occur when misunderstandings or miscommunication prevent successful representation. With increased cross-cultural competency, lawyers have a better ability to build trusting relationships and communicate with their clients. When lawyers and clients come from different backgrounds and cultural viewpoints, they often have a more difficult time creating a trusting lawyer-client relationship in which both parties feel comfortable sharing honest and accurate information.¹⁶ For instance, a client's culture or past experiences might make her wary of trusting people who are not a part of her culture.¹⁷ People sometimes prefer to seek services—whether legal, medical, or otherwise—from professionals who share their ethnicity. Or a client might not be

11. *Id.*

12. Gegios & Taylor, *supra* note 8.

13. Bryant, *supra* note 6, at 40.

14. *Id.* at 42–43 ("One important goal of cross-cultural training is to help students make isomorphic attributions, *i.e.*, to attribute to behavior and communication that which is intended by the actor or speaker.").

15. POVERTY, HEALTH AND LAW, *supra* note 1, at 141.

16. *Id.* at 52.

17. *Id.*

trusting of a lawyer because of a negative bias against lawyers. Since trust is an important part of creating any relationship, one of the goals of cultural competency training must be to teach students how to create trusting lawyer-client relationships with clients from different cultures than their own.

Furthermore, cross-cultural competency training has the goal of enabling lawyers and clients to understand each other's behaviors and communications.¹⁸ When people come from different cultural backgrounds, they might attribute different meanings not only to the same set of facts but also to others' body language.¹⁹ Lawyers must be taught about the potential for misattribution and develop strategies to check themselves and their interpretations of the facts given to them by clients.²⁰ They must also recognize differences in body language and take those differences into account so they do not judge their clients incorrectly.²¹ For example, in some cultures diverting your eyes is a sign of respect while in others it signals dishonesty and direct eye contact shows honesty.²² Using your left hand to give someone something is seen as disrespectful in those cultures where the left hand is considered dirty, while in other cultures it does not matter which hand is used. Lawyers should be aware of these differences in meaning so that they do not incorrectly conclude that their client is lying about the facts of a case or inadvertently disrespect their client. It is also helpful for lawyers to adapt their body language and communication style to facilitate communication with clients.²³ One way would be to speak to a client less formally, using less legal jargon, in order to make a timid client feel more comfortable and willing to talk. Howev-

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18. *Id.* at 43; *see also* BUILDING COMMUNITY TRUST: IMPROVING CROSS-CULTURAL COMMUNICATION IN THE CRIMINAL JUSTICE SYSTEM, A.B.A. CRIMINAL JUSTICE SECTION 1, 59 (2010), *available at* <http://www.americanbar.org/content/dam/aba/migrated/sections/criminaljustice/PublicDocuments/bctext.authcheckdam.pdf> (declaring that the correct interpretation of non-verbal cues, including "facial or postural cues such as eye contact, facial expression, posture, gestures, proximity, and vocal cues such as tone, volume, pitch, voice quality, or rate of speaking[,] is critical for effective cross-cultural communication") (alteration in original).
 19. Bryant, *supra* note 6, at 43; *see also* BUILDING COMMUNITY TRUST, *supra* note 18 (explaining that "culture shapes a range of behaviors, including communication style. . . [and] [d]iffering communication styles can be a source of cultural collisions").
 20. Bryant, *supra* note 6, at 43.
 21. *Id.*; *see also* BUILDING COMMUNITY TRUST, *supra* note 18 (declaring that the lawyer's awareness of her "own nonverbal language and comfort level with different nonverbal communication patterns are critical aspects of successful cross-cultural communication").
 22. Bryant, *supra* note 6, at 43.
 23. Miller, *supra* note 2, at 39 (The author provides an example of a lawyer who, "[a]lthough he could not understand the Guatemalan client's Spanish . . . quickly discerned from her hesitancy and tearfulness that she was probably communicating only in an intimate (child to parent) or at best casual (close friend to close friend) register. The lawyer quickly adjusted accordingly, speaking much more like a parent or friend than the lawyer would have when using the typical consultative register with which all lawyers are familiar.").

er, a client who can understand legal jargon, perhaps if they have a lot of experience working with lawyers, could be insulted if a lawyer speaks to them less formally. Thus, the way a lawyer communicates verbally as well as through their body language is context-specific. Lawyers must adapt depending on their client and the situation, which can change throughout the lawyer-client relationship. It is important that lawyers ask questions, are aware of culturally specific body language cues, and respond flexibly when interacting with their clients.

These goals of improving the lawyer-client relationship and facilitating honest and accurate communication highlight the positive effect cultural competency training can have on law students' success working with clients both during and after law school. Successfully learning cross-cultural skills will aid law students in becoming effective lawyers.

II. THE FIVE HABITS

Bryant and Peter's Five Habits for building cross-cultural competence is a valuable model for cultural competency training for lawyers. The Five Habits, which are briefly described below, can be used by professors to implement cultural competency training in law schools as detailed in Section III.

A. Habit One: Degrees of Separation and Connection

The first Habit asks students to identify the similarities and differences between themselves and their clients. Similarities and differences can exist in regards to race, ethnicity, gender, socio-economic background, age, and sexual orientation. Once students have identified these features, the instructor then asks the class to analyze how these similarities and differences may influence the lawyer-client relationship, especially during the information gathering process.²⁴ This habit is useful because when law students identify similarities and differences between themselves and their clients, they are able to see how possible cultural misunderstandings, biases, and stereotyping might arise.²⁵ It is important that students not only focus on the differences but also look at the similarities in order to recognize shared connections they have with their clients.²⁶ Shared connections can help a student understand their client's situation and thereby be a better advocate for that client.

24. Bryant, *supra* note 6, at 64.

25. *Id.* at 52.

26. *Id.*

B. Habit Two: The Three Rings

The second Habit implicates a deeper inquiry into the possible effects of the similarities and differences that exist between the client, the legal decisionmaker, and the lawyer. These three individuals compose the “three rings.”²⁷ This process involves considering what a successful client may look like to the legal decision maker, such as the judge, and how the actual client compares based on the client’s similarities and differences.²⁸ The law students should brainstorm which implicit cultural values and norms in the law will be applied to their potential clients²⁹ and how that impacts the attorney-client relationship. For instance, the judge may have a biased perception or stereotype of an indigent, criminal client that could affect his or her decision. Being aware of this risk can prompt a lawyer to find out more information about the client’s background and personal life, which the lawyer can present to the judge as mitigating circumstances. Law students should consider how similarities and differences between the three rings might affect their legal strategy for the client’s case.³⁰

C. Habit Three: Parallel Universes

The third Habit teaches students to explore alternative explanations for clients’ behaviors by thinking of multiple interpretations or “parallel universes.”³¹ Brainstorming other possible reasons for a client’s behavior is especially useful when a student might automatically judge a client or the client’s actions negatively and can reduce the student’s likelihood of making incorrect assumptions about the reasons for and meaning of a client’s behavior.³² For example, a lawyer might instinctively think that a client who does not readily provide details of an event relevant to her case is lying. The client may, however, feel uncomfortable discussing the details with a lawyer of the opposite sex, or may not know the specific words in English to describe the event. The client may have even suffered severe trauma or believe it is inappropriate to discuss the event based on her cultural or

27. *Id.* at 68.

28. POVERTY, HEALTH AND LAW, *supra* note 1, at 145.

29. *Id.*

30. Bryant, *supra* note 6, at 69.

31. *Id.* at 70–71.

32. POVERTY, HEALTH AND LAW, *supra* note 1, at 145; *see also* Bryant, *supra* note 6, at 70–71 (The author provides examples of multiple explanations for a client’s failure to seek therapy for her child as advised by her lawyer, including that “the client has never gone to a therapist and is frightened; in the client’s experience, only people who are crazy see therapists; the client has no insurance and is unable to pay for therapy . . . or the client did not think that she needed to get her child into therapy immediately, etc.”).

religious beliefs. If a student thinks carefully, keeping in mind the similarities between the student and the client, the student may realize there are many alternative reasons that could explain a client's behavior rather than their initial, negative assumption.

D. Habit Four: Pitfalls, Red Flags, and Remedies

The fourth Habit promotes culturally sensitive interactions with clients and active attention to the process of lawyer-client communication through consideration of culture, scripts, rituals and client understanding.³³ While the first three Habits prepare students to think like a lawyer who integrates cross-cultural knowledge into her analysis of cases and interactions with clients, this fourth Habit focuses on cross-cultural communication.³⁴ Students identify "some tasks in a normal client-attorney interaction that may be particularly problematic in cross-cultural encounters as well as . . . signs of communication problems."³⁵ With conscious attention to the communication process and preparation before the client meeting, students can identify potential cross-cultural pitfalls and red flags, such as indications that the client is "disengaged, angry, actively uncomfortable or using the lawyer's terminology."³⁶ For example, students can prepare for interviews by developing an introductory ritual and script to explain the legal process. In doing so, students should take into account the client's culture and use the first three Habits to identify potential areas prone to misunderstandings. Additionally, in planning for potential red flags, students should prepare potential remedies to correct for misunderstandings and disconnects between the student and the client.³⁷ Having a list of these culturally sensitive correctives will help the student learn remedial strategies, such as directing the conversation to one of the client's stated concerns or asking the client for examples that illustrate the problem and show the type of solution they are seeking.³⁸

33. POVERTY, HEALTH AND LAW, *supra* note 1, at 145; *see also* Bryant, *supra* note 6, at 73 ("Habit Four encourages culturally sensitive exchanges with clients, by identifying four areas on which students should focus carefully: (1) scripts, especially those describing the legal process, (2) introductory rituals, (3) client's understanding and (4) culturally specific information about the client's problem.").

34. Bryant, *supra* note 6, at 72.

35. *Id.*

36. *Id.* at 76.

37. *Id.* (emphasizing the importance of trying different approaches to correct problems, such as asking the client specific questions or asking for a narrative about a different situation, "if the client is not responding to a call for a narrative").

38. *Id.*

E. Habit Five: The Camel's Back³⁹

Lastly, the fifth Habit involves student's self-reflection, exploring themselves as cultural beings and bringing awareness to their own biases.⁴⁰ This Habit is valuable because awareness of one's own stereotypes and biases can enable students to actively prevent, or at least attempt to prevent, their stereotypes and biases from negatively impacting their lawyer-client relationships. This reflection should also acknowledge outside factors, such as stress, that can interact with preexisting stereotypes and biases to negatively influence the interactions between lawyers and their clients.⁴¹ Habit Five proposes two ways to work with biases and stereotypes: (1) creating settings in which bias and stereotype are less likely to govern, and (2) promoting reflection and change with the goal of eliminating bias.⁴² For instance, since stress makes one more likely to react in ways that are based on stereotypes, students should lessen stress by, for example, taking breaks during interviews.⁴³ This process of self-analysis helps students learn to respect clients and respond to their clients' individual needs.⁴⁴

III. IMPLEMENTATION OF CULTURAL COMPETENCY TRAINING IN THE LAW SCHOOL CURRICULUM

A. A Proposed Cultural Competency Seminar

Law schools should require, or at least offer, a cultural competency course for all law students in order to prepare them to be effective lawyers in our increasingly diverse world.⁴⁵ A semester-long seminar would be the preferable method

39. *Id.* at 77 (clarifying that "[l]ike the proverbial straw that breaks the camel's back, Habit Five recognizes innumerable factors that interact with bias and stereotype to negatively influence an attorney-client interaction").

40. *Id.*

41. POVERTY, HEALTH AND LAW, *supra* note 1, at 145.

42. Bryant, *supra* note 6, at 77.

43. *Id.* at 78.

44. *Id.*

45. While ideally, law schools would require or integrate cultural competence training into a required course, it is more realistic to advocate that schools offer an elective course to teach law students these important skills. See Katherine Frink-Hamlett, *The Case for Cultural Competency*, N.Y. L.J., Apr. 25, 2011, <http://www.law.northwestern.edu/career/markettrends/2011/plebiuwle1po.pdf> ("[T]here is little doubt that law students are better served by law schools that include cultural competency in their curricula" and remarking that Angela O. Burton, an associate professor at CUNY School of Law of New York, "considers cultural competency to be an extremely necessary skill that should be introduced to law students early on in their legal instruction and reinforced throughout their law school experience." At CUNY, not only is "cultural competency . . . taught as a distinct topic along with ethics, professional responsibility and substantive law courses," but also "the faculty at CUNY

of teaching cross-cultural lawyering because “[a]ttaining cultural competence is an ongoing process requiring a long term educational commitment. One does not ‘become competent’ at any one point. Instead, he or she becomes more knowledgeable, aware and sensitive in an attempt to reach competence.”⁴⁶ Though a student would not gain complete, “unconscious competence”⁴⁷ in just fifteen weeks, one semester would be a sufficient time for students to gain at least some of the skills required for cultural sensitivity, which they can further develop in their subsequent clinical and real world experiences as lawyers. While a year-long course might allow for an even more thorough development of students’ cross-cultural skills, the limitation on how many courses a single law student can take may render a semester-long course sufficient.

Moreover, consistent with the need to create an environment that is less judgmental towards students,⁴⁸ the small class size of a seminar would facilitate discussion and create a more comfortable environment for students to open up about their personal biases, stereotypes, and experiences working with clients of different backgrounds. Cross-cultural training theorists assert that it is important to create supportive learning environments where students are challenged to address issues of bias and power.⁴⁹ Support is important to decrease students’ resistance to learning and help students cope with what can be a difficult experience, while challenge is necessary to educate students and prevent them from doing harm to their clients.⁵⁰ This need for support and challenge in addition to a com-

has studied the issue of cultural competency so that it is included in CUNY’s curriculum in a deliberate and methodical way.”).

46. POVERTY, HEALTH AND LAW, *supra* note 1, at 144.

47. Bryant, *supra* note 6, at 63 (explaining that “[t]he final stage of development is one of ‘unconscious competence,’ in which students unconsciously incorporate” cross-cultural skills and perspectives in their interactions with clients, and while lectures may be sufficient for students to move from the first stage of “unconscious incompetence” to the second stage of “conscious incompetence,” more experiential learning is needed to move to the third stage of “conscious competence,” and to the final stage of “unconscious competence”); *see also* POVERTY, HEALTH AND LAW, *supra* note 1, at 144 (defining cultural sensitivity as “awareness plus’: awareness that there are differences between cultures *and* without assignment of value to those differences”).

48. Bryant, *supra* note 6, at 58.

49. *Id.*

50. *Id.* at 58–59 (arguing that the “support/challenge” components are both critical pieces of the overall goals of cross-cultural training; and indicating that if teachers allow racist, sexist or ethnocentric comments to go unchallenged, students may end up doing harm to their clients); *see also* Okianer Christian Dark, *Incorporating Issues of Race, Gender, Class, Sexual Orientation, and Disability Into Law School Teaching*, 32 WILLAMETTE L. REV. 541, 559 n.64 (1996). In ethnically, racially and gender-diverse educational groups, students who are members of oppressed groups, such as students of color and women, may not comfortably accept a learning environment that does not include challenges to racist and sexist comments.

fortable environment, in which students have the opportunity and time to learn cross-cultural skills, is best served by a small, semester long seminar class.

Providing a seminar to students the semester preceding or concurrently with a clinical course would be especially helpful. Clinics better prepare students to work with clients by giving them the opportunity to interact with real clients. Many clinical professors have acknowledged the importance of teaching diversity issues in clinics.⁵¹

The proposed course would be a fifteen-week seminar with a maximum of fifteen students.⁵² Ideally the seminar would take place concurrently with a clinic and could be worth a total of five units. If students are not participating in the clinical component it could be worth two units and graded on a pass/no pass basis. The seminar component should take place once a week for three hours and be taught by an expert in cultural competency. Three hours would provide adequate time for the professor to teach a lesson including student participation, engage in practice exercises to develop and improve students' cross-cultural competency skills, as well as regroup and discuss what students experienced and learned during the exercises. Students would split into smaller groups with different partners each week for each exercise. This would enable them to learn from each other and experience working with different people who each bring a particular culture and experience of their own into the classroom. Also, the exercises should provide an opportunity for all students to practice being the lawyer as well as to pretend to be the client. This would enable students to better recognize and understand the similarities and differences between themselves and potential clients as well as their biases and stereotypes. If the resources are not available to have an expert teach the class or the clinical professor is also well educated in cultural competency, the clinical professor could teach the seminar as well.

While this model is especially helpful for students who are participating in clinics, it is still essential and can be modified for students who do not have any personal, prior, or concurrent experience working with clients. For instance, students who do not already have clients they can refer to can be given short descriptions of hypothetical clients. Using the facts of this fictional client, students without live clients can still complete learning exercises, such as identifying the similarities and differences they might share with their potential client and brain-

51. Bryant, *supra* note 6, at 35–36 (noting that “[a] number of presentations at AALS [(The Association of American Law Scholars)] Clinical Teachers Conferences and [even] entire conferences sponsored by AALS” have been dedicated to analyzing ways that “diversity can be taught in the clinic and [the] classroom”).

52. These proposed guidelines are modeled after the structure of seminar classes at UCLA School of Law.

storming what questions and techniques they would use to create a trusting lawyer-client relationship despite cultural barriers. This version of the seminar or the use of these exercises as a component of a first-year lawyering skills class would also be useful for first-year students. It would be beneficial for law students to at least be introduced to the theory of cross-cultural competency as soon as possible in their law school training.

B. Applying the Five Habits in the Seminar Setting

A promising approach would be to base a cultural competency seminar on Bryant and Peter's Five Habits because the Habits were "designed to help develop analytical and interaction skills."⁵³ By adopting the Habits, professors can help law students develop cultural competency skills beyond mere cultural awareness.⁵⁴ The manner in which a professor will use the Habits, including which Habits are emphasized the most, can vary depending on both the professor and the students' backgrounds and skills.⁵⁵ Thus, the following includes an explanation of how a professor could implement the method, including exercises, from *The Five Habits*, with suggestions for application to a law school environment.

1. Recognizing Cultural Biases, Stereotypes, and Ways of Thinking

First, students need to gain an awareness of their own biases, such as a possible ethnocentric way of thinking, which influences the assumptions and judgments they make about their clients.⁵⁶ Consistent with Habits One and Two, students should brainstorm the similarities and differences between themselves and their clients as well as analyze the effects of the similarities and differences that exist between the client, the lawyer, and other actors in the legal system.⁵⁷ One way students can complete this exercise in line with Habit One is by creating a Venn diagram to map out the similarities and differences between themselves and their client.⁵⁸ This will enable students to recognize their own culture and biases.⁵⁹

53. Bryant, *supra* note 6, at 87.

54. *Id.* at 78 (advocating that the "Habits are a way to gain greater knowledge and awareness as well as develop skills essential to cross-cultural lawyering").

55. *Id.*

56. *See id.* at 88.

57. *Id.*

58. Jyoti Nanda, *Training for Lawyering in a Multicultural Context* (Oct. 17, 2013), <http://msmedia.law.ucla.edu:8082/mylaw/perm/LawyeringMulticulturalContextElCentro101713.wmv>.

59. *Id.*

Then, due to the complexity of the factors and their interactions with the “three rings” in Habit Two, professors should give students a concrete and detailed illustration of a particular case.⁶⁰ With a given scenario, students can focus on particular facts to identify the problems that could lead to misunderstandings and come up with possible ways that they, as lawyers, could explain their client’s behaviors or statements to a court that might not be familiar with their client’s particular culture.⁶¹ During this exercise, students should also compare the similarities and differences they recognized between themselves and their client to those recognized by other classmates. This will not only engage students with their classmates but make them aware of factors they might not have perceived themselves.

Habit Five can also be introduced by the professor when teaching Habits One and Two because Habit Five depends on the students’ analysis of the similarities and differences between themselves and their clients as well as the negative effects of bias and stereotypes.⁶² Students can discuss how their own behavior, biases, and ways of thinking impact their interactions and are influenced by their clients.⁶³ Focusing on a particular client, students should explore whether and how their thinking would differ if the cultural characteristics of their client were changed.⁶⁴ This is where having a small class size is important because quite often, the fewer the students there are, the more comfortable the students feel participating and sharing. It will be necessary for the professor to remind students that the seminar should be a safe space for students to share their feelings and beliefs without feeling judged and should try not to judge others. This is imperative to facilitate honesty in students’ self-assessments and discussion about their own cultural experiences and biases.

2. Making Isomorphic Attributions to Understand Client Behavior

Next, it is important for students to learn how to be flexible and make isomorphic attributions, which can be taught using Habit Three.⁶⁵ The concept of attribution, which illustrates how lawyers might attribute a different meaning to the facts of a client’s story or a client’s behaviors during a cross-cultural interac-

60. Bryant, *supra* note 6, at 88.

61. *Id.* at 89.

62. *Id.*

63. Nanda, *supra* note 58.

64. Bryant, *supra* note 6, at 89–90 (explaining that the goal of this exercise is to provide students with sufficient “support and information” so they can challenge themselves to acknowledge their assumptions and biases).

65. *Id.* at 90.

tion, should be introduced before students are asked to imagine different reasons for the client's behavior.⁶⁶ For instance, the professor can show a video scenario, perhaps of a client coming to her intake meeting with her sixteen-year-old son. The students should think of their initial instinct as to why the client's son was present and then brainstorm and list alternate explanations.⁶⁷ There could be multiple reasons the client's son accompanied her and multiple decisions a lawyer would need to make regarding what actions to take.⁶⁸ Should the lawyer allow the client's son in the interview room or have him wait outside? Should the lawyer allow the client's son to serve as her interpreter or seek the services of the office's professional interpreter? There could be problems such as confidentiality issues that conflict with the culturally influenced norms and preferences of the client.⁶⁹ Students' initial interpretations of the situation are likely to be based on their own experiences, but parallel universe thinking encourages students to think of alternate explanations and realize they might need to tailor their behavior to conform to a culturally appropriate response.⁷⁰

Once again, in a classroom setting, seminar students could be given hypothetical situations or reflect on experiences with their clinical clients in order to practice recognizing alternative reasons for client behavior. They should share their ideas with another student partner or in a class discussion so that they can learn from their classmates' interpretations as well.

3. Remaining Nonjudgmental in Cross-Cultural Interactions

Despite the judgmental nature of legal culture, lawyers must learn how to remain nonjudgmental in cross-cultural encounters.⁷¹ Professors can teach the skill of remaining nonjudgmental using Habits Three, One and Five.⁷² Exercises might include having students analyze a negative judgment they once made about a client, or might make about a fictional client, and using the parallel universe thinking of Habit Three to list different interpretations of that particular behavior that led to the student's negative judgment.⁷³ Exploring alternative explana-

66. *Id.*

67. *Id.* For instance, in this scenario, alternate explanations for why the client's son is present can include that he came to be her interpreter, or that he had to drive his mother to the clinic. He also could have accompanied his mother to make sure she wouldn't reveal information he does not want her to reveal, or because he has knowledge of facts that are relevant to her case.

68. *See id.* at 91.

69. *Id.*

70. *Id.* at 91–92.

71. *Id.* at 92.

72. *Id.*

73. *Id.*

tions can expose students to the limitations of relying on their own experiences and prevent snap judgments when interpreting their client's behavior.⁷⁴ Having students think of the similarities between themselves and their client as well as address their own biases and stereotyping in a nonjudgmental way, in line with Habits One and Five respectively, are other useful ways to counter negative judgments.⁷⁵

4. Building Cross-Cultural Communication Skills

Finally, Habit Four can be used to increase student's cross-cultural communication skills.⁷⁶ These skills can be taught through watching and interpreting videos of interviews, simulated role-playing in class, and student reflection.⁷⁷ For instance, students can identify various introductory rituals used by different cultures and integrate them into their simulated interviews.⁷⁸ They should also practice deep listening skills and interpreting their client's nonverbal cues, as both these skills are of heightened importance during cross-cultural interactions.⁷⁹ Comparing clients' behavior to their own and experiencing misunderstandings during role-play can help students recognize potential pitfalls and red flags, plus give them the opportunity to practice finding appropriate remedies.⁸⁰

Differences and similarities between a lawyer and client also may influence the lawyer's questioning as people tend to ask follow up questions when someone's story is inconsistent with what they would have done themselves and refrain from asking questions when the other person's story is consistent with what they would have done or believed.⁸¹ Students must be aware of differences and similarities and be sure to continue asking appropriate questions and refrain from making assumptions.

Through role-play, students should get the chance to experience being both the lawyer and the client. Students will learn not only from adapting their own behavior and tactics when playing the lawyer, but also from recognizing cultural norms and cues they give as the client. Getting feedback from their partner will also help students learn to recognize certain pitfalls and red flags. For example, after the exercise is completed the student-client can explain what cues and in-

74. *Id.* at 92–93.

75. *Id.* at 93–94.

76. *Id.* at 94.

77. *Id.*

78. *Id.*

79. *Id.*

80. *Id.* at 94–95.

81. Nanda, *supra* note 58.

formation she felt the student-lawyer picked up on and where the student-lawyer could have asked more relevant questions or avoided a misunderstanding. A discussion between the partners and practice in both roles will aid student reflection and with more practice in the classroom and subsequent clinics, students will become more familiar with recognizing cross-cultural competency issues and developing strategies to provide the best representation despite cultural barriers.

As described, Bryant and Peter's Five Habits can be successfully utilized in implementing cultural competency training in law schools and should be looked at as a model by law schools developing a cultural competency seminar.

CONCLUSION

Since it is highly unlikely that a lawyer will practice law without interacting with someone from a different cultural background at some point in his or her career—be it a client, witness, judge, or other lawyers—law students would greatly benefit from enhanced cultural competencies. Cross-cultural competency enables lawyers to create trusting relationships with their clients as well as effectively communicate with and understand their clients' needs. Considering the significant benefits of cross-cultural lawyering skills, cultural competence training should at minimum be offered through an elective course, if not required in the curriculum of all law schools across the country. Small seminars should be offered, in which professors can use Bryant and Peter's Five Habits to teach law students how to interact and solve problems that may arise when working with diverse clients. Regardless of which model is used, cultural competency skills should be taught in law schools, because the ability to effectively represent clients of diverse backgrounds will contribute significantly to the success of future lawyers.