Cross Cultural Lawyering

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WHY?

- To provide competent representation to your clients
  - ABA Standards 303(c), provides:
    - A law school shall provide education to law students on bias, cross-cultural competency, and racism:
      1. at the start of the program of legal education, and
      2. at least once again before graduation.

- To serve your clients to the highest values
WHAT?

- Understand Cross-Cultural Competency
- Develop Cross-Cultural Competency mindset
- Practice Cross-Cultural Competency skills
- Implement evaluation mechanism
- What is Culture?
- What is Cross-Cultural Competency ("3C")?
- Why is 3C important?
- What are the elements of 3C?
- How to apply 3C in lawyering?
What is Culture?

- “Cultura animi” - a living thing in its development process
- It is an umbrella term
- It is originated from or attributed to a specific region or location
- Humans acquire culture through learning processes
- A cultural norm codifies acceptable conduct in society

(Culture. In Wikipedia.)
Unlucky Number?
Black Cats

- **Japan**: symbols of good luck
- **Scotland**: prosperity befalls anyone who finds a stray black cat on their doorstep
- **Italy**: if you hear a black cat sneeze, unexpected wealth soon will come
- **India**: brings you bad luck
Cross-Cultural Competency (3C)

- The knowledge, skills, and affect/motivation that enable individuals to adapt **effectively** in cross-cultural environments.
- An individual capability that contributes to intercultural **effectiveness** regardless of the particular intersection of cultures.
- It’s not an end it itself but is a set of variables that contribute to intercultural **effectiveness**.
Why is 3C Important?

- Diverse world and Workforce
- 3C has been named among the most important skills for the future workforce
- Essential skill sets for effective global leaders
A survey of more than 30,000 people in 27 countries found that nearly 70% of respondents said their countries have become more diverse over the past 20 years.

The Census Bureau estimated that in 2020, international migration added one person to the U.S. population every 34 seconds.
Diverse Workforce

- Research shows that diversity:
  - Increase employee engagement
  - Knowledge-sharing through new perspectives
  - Greater innovation
  - Attracts and keeps top talent
  - Increased profits

- Technavio reports that the global market for cross-cultural training services is expected to expand by $1.2 billion between the years 2020-2024

- A 2020 report by McKinsey & Co. found the most culturally diverse quartile of companies performed 36% better financially than the least diverse quartile

- A 2021 article in EHS Today quotes Jeff Sorensen, PwC industrial products leader: “When we look at companies that report above-average diversity in their management teams, their revenue is 20% higher than those below average.”

- A survey conducted by the Harvard Business Review reveals statistically important relationship between diversity and innovation and that diverse companies had 19% higher revenue.

- According to a ZipRecruiter survey, 86% of job candidates consider diversity in the workplace important when seeking a new job.
CEO Action for Diversity & Inclusion

- The initiative launched on June 12, 2017
- The largest CEO-driven business commitment to advance diversity and inclusion
- More than 2400 CEOs have signed on
- 21 million+ employees represented in the U.S.

- We will continue to make our workplaces trusting places to have complex, and sometimes difficult, conversations about diversity and inclusion
- We will implement and expand unconscious bias education
- We will share best-and-unsuccessful-practices
- We will create and share strategic inclusion and diversity plans with our board of directors
Elements of the 3C

- Understand your own culture
- Acknowledge cultural differences
- Engage in self-assessment
- Acquire cultural knowledge & skills
- View behavior within a cultural context

*by the Georgetown University National Center for Cultural Competence*
Cultural Competency Self-assessment Checklist
*Designed by Central Vancouver Island Multicultural Society

- **Scale**
  - Never-1pt
  - Sometimes/occasionally-2pt
  - Fairly Often/Pretty Well-3 pt
  - Always/very well-4 pt

1. I view human difference as positive and a cause for celebration.
2. I have a clear sense of my own ethnic, cultural and racial identity.
3. I recognize that cultures change over time and can vary from person to person, as does attachment to culture.
4. I am aware that in order to learn more about others, I need to understand and be prepared to share my own culture.
5. I am aware of my discomfort when I encounter differences in race, color, religion, sexual orientation, language, and ethnicity.
6. I am aware of the assumptions that I hold about people of cultures different from my own.
7. I am aware of my stereotypes as they arise and have developed personal strategies for reducing the harm they cause.
8. I am aware of how my cultural perspective influences my judgment about what are “appropriate”, “normal”, or “superior” behaviors, values, and communication styles.
9. I accept that in cross cultural situations there can be uncertainty and that uncertainty can make me anxious. It can also mean that I do not respond quickly and take the time needed to get more information.
10. I take any opportunity to put myself in places where I can learn about difference and create relationships.
Hofstede Insights
*Founded in 1985, headquartered in Finland

- Power Distance
- Individualism
- Masculinity/Femininity
- Uncertainty Avoidance
- Long Term Orientation
- Indulgence

Taiwan United States
Cross-Cultural Lawyering

* Developed in 1999 by Sue Bryant and Jean Koh Peters
The Three Rings

Client

- Widowed
- 5 adult children
- Strong religious beliefs
- Complex estate

Female, Immigrant
- Harmony

Lawyer

- Married
- 2 minor children
- Simple estate

Provides for loved ones

Protection for family legacy

Law

- Estate planning tools

Completely different inheritance law

The Three Rings
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Client

- Not married
- 1 estranged sister
- 1 minor child
- Struggles to make ends meet

Female. Same age.
- Older parents.

Lawyer

- Married
- No sibling
- 2 minor children
- Financially stable

Best interest of the mom

Protection

- Guardianship and conservatorship is necessary
- Statutory requirements
- Legal procedure
- Court’s Involvement

Law

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2 minor children with special needs. Special school district. Wife stays home. No other family members in town.

Married. H&W both have a full-time job.

Protection

Best interest of the children

Estate planning tools

Complicated Trust Code and Medicaid planning

2 minor children. Regular school system. Close family members in town.
Enhance 3C Skills in Lawyering

- Listen and Learn
- Be open-minded
- Demonstrate humility
- Provide full advocacy
- Adventurous spirit
“Culture is the widening of the mind and of the spirit.”

– Jawaharlal Nehru

“We don’t see things as they are, we see things as we are.”

– Anais Nin
I don’t See any Borders

Do you?
THANK YOU

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