

Cultural Competence: Considerations for Legal Regulators – a Discussion

**Prepared by:
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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)
 - E. We must understand structural oppression and demonstrate awareness and commitment to social justice

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)

THE PHILOSOPHICAL ASPECTS OF CULTURAL DIFFERENCE DEVELOPED BY EDWIN J. NICHOLS, PH.D.

ETHNIC GROUPS ETHNIC WORLDVIEW	AXIOLOGY	EPISTEMOLOGY			LOGIC	PROCESS
		APPLIED	PEDAGOGY	METHODOLOGY		
EUROPEAN EURO-AMERICAN	Member-Object The highest value lies in the object or the acquisition of the object	One knows through Counting and Measuring	Parts to Whole	Linear and Sequential <i>-Assembly line-</i>	Dichotomous <i>Either/Or</i> <i>-Newtonian theory-</i>	All sets are repeatable and reproducible <i>-Technology-</i>
AFRICAN AFRICAN AMERICAN LATINO/A ARAB	Member-Member The highest value lies in the relationships between persons	One knows through Symbolic Imagery and Rhythm (function) <i>-Gladwell <u>Blink</u>-</i>	Whole Holistic Thinking <i>-The BIG picture-</i>	Critical Path analysis <i>-Cut to the chase-</i>	Diunital <i>Union of opposites</i> Difrasismo <i>-Aztec thought-</i> The In Between <i>Ibn 'Arabi</i> <i>-Quantum theory-</i>	All sets are interrelated through human and spiritual networks <i>-Black church-</i>
ASIAN ASIAN AMERICAN POLYNESIAN	Member-Group The highest value lies in the cohesiveness of the group	One knows through Transcendental Striving <i>-Tree the forest-</i>	Whole and parts are seen simultaneously <i>-To read a Chinese word-</i>	Cyclical and Repetitive <i>-Stroke order in writing a Chinese word-</i>	Nyaya <i>-The objective world is conceived independent of thought and mind-</i> <i>-Chaos theory-</i>	All sets are independently interrelated in the harmony of the universe <i>-Keiretsu-</i>
NATIVE AMERICAN	Member-Great Spirit The highest value lies in oneness with the Great Spirit	One knows through Reflection and Spiritual Receptivity <i>-Purification rites-</i>	Whole is seen in cyclic movement <i>-Seasons-</i> <i>-Medicine Wheel-</i>	Environmentally experiential reflection <i>-Rites of Passage-</i>	Great Mystery <i>-A set of 4 and a set of 3 form the whole-</i> <i>-Super string theory-</i>	All sets are interrelated through the elements, plant, animal, and spiritual networks <i>-White Buffalo-</i>

Traditional Ecological Knowledge

- Nichol's Model is consistent with a growing understanding and articulation of Aboriginal Traditional Ecological Knowledge: an Ancient and yet ever evolving body of knowledge, practice and belief which concerns itself with the inter relationship of all living things with and within their environment.

Afrocentricity

There is also a growing global and local understanding of the fundamental elements of African thought, culture and philosophy. Somewhat controversial, certainly not standardized, nevertheless its growing legitimacy has been established. Its hallmark is the assertion of a worldview that places all people of African descent at its centre, asserts a common culture, philosophy and history and critiques and perhaps even rewrites global history from this perspective

Bottom Line

People are Different
And we can not treat
different peoples as if we
were all the Same

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”)

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.

Appropriate Attitudes for Legal Regulators

Given the context of advancing acknowledgement of systemic racism in the criminal justice system (cf. Marshall, OCI's 2012-2013 report, etc.) and that access to justice is among the most pressing issues today in the field, and the shift in focus towards a proactive regulatory framework that establishes access to legal services, diversity and inclusion among its outcomes and proportionality among its approaches, cultural competence should reasonably be understood as an essential skill and value set.

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**

E) Social Justice Commitment

- We must understand the nature of privilege
- We must demonstrate an awareness of how structural issues affect our sector, its members and clients
- We must demonstrate an active programme aimed at addressing systemic issues of exclusion and oppression
- We must shift the burden away from oppressed and marginalized persons having to “prove” racism and construct the tools to dismantle it to privileged persons having to acknowledge and understand systemic oppression and having the responsibility to ensure equity

Challenges of a Complaints Based System

- Ex. Medical practice regulation
- A complaints based system only allows the regulator to discuss and consider issues that are brought to its attention.
- The nature of complaining is such that the vast majority of complaints will be offered by the most privileged and the subject of complaints will be the most marginalized
- “the poor make their own repairs”

Establishing “Alternative” Methods

- Ex. Child Protection Legislation and Practice
- Acknowledgement that current practices don't work
- Establishes “alternative” methods, conferencing, etc
- Often weak in definitions
- Challenges our concept of previously unquestioned ethical stances, ex. Confidentiality, dual relationships, necessity for clear boundaries within the profession

Propositions for CIC

- Identify and acknowledge and make transparent the race and diversity issues
- Acknowledge the privilege and power of your position
- Accept the responsibility to conduct investigations that “respect(s) and promotes diversity, inclusion, substantive equality and freedom from discrimination”
- Broaden the scope of inquiry
- Assess the resources you have to conduct investigation
- Seek additional resources

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