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The Makings of a Culturally Savvy Lawyer: Novel Approaches For Teaching and Assessing Cross-Cultural Skills in Law School

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ABSTRACT

All 205 American Bar Association-accredited Law schools in the U.S. must now define learning outcomes for their credit-bearing Juris Doctorate (JD) courses,¹ and publish them.² There is a developing trend for law schools to formulate and include learning outcomes that go beyond the minimal requirements. One emerging learning outcome that

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1. The American Bar Association recently amended its law school accreditation requirements, such that each law school now has to set and publish learning outcomes for their Juris Doctorate graduates, and the ABA specifically highlighted cultural competence as a professional skill. *See* STANDARDS AND RULES OF PROCEDURES FOR APPROVAL OF LAW SCH. 2020-2021 ch. 3, Standard 302(D) & Interpretation 302-1 at 17-18 (AM. BAR ASS'N 2020).

2. The June 2015 publication of ABA's Section of Legal Education and Admissions to the Bar, Standard 301, dictates that law schools in the U.S. must publish their learning outcomes and gives guidance, stating: "Learning outcomes for the school's overall program of legal education must appear in those places on its website and in its publications where the law school describes its mission and its curriculum. Similarly, learning outcomes for certificates or specialty tracks within the JD program must be published in those places where such certificates or specialty tracks are described. Learning outcomes for individual courses must be published in the course syllabi." AM. BAR ASS'N, MANAGING DIRECTOR'S GUIDANCE MEMO 6 (June 2015).

is presently adopted by about a quarter of all U.S. law schools relates to teaching and assessing cultural competency as a JD learning outcome.³ In this Article, I focus on this JD student learning outcome and develop three key points. First, I highlight and discuss why cultural awareness and inter-cultural skills is an increasingly critical skill set for all law students. Second, I review the various stages of cultural competency, highlight the barriers to acquiring a more nuanced cross-cultural skill set, and discuss habits that can foster law students' cross-cultural skills development. I next discuss the law school curriculum and how strategies could be adopted to introduce, or increase exposure to, "culture" in both non-clinical doctrinal law courses and law school clinics, providing options for law professors for incorporating and assessing these emerging student learning outcomes in a law school setting. The Article ends by offering options for more general intervention strategies that law school Deans and administrators can consider to raise cultural awareness on a law school campus-wide basis.

"Culture is like the air we breathe - it is largely invisible and yet we are dependent on it for our very being. Culture is the logic by which we give order to the world."⁴

I. INTRODUCTION

Our understanding of the world around us is in large measure influenced by "culture". We all belong to at least one culture. At its core, culture is the pillar on which we stand when we experience the world. Some have described culture as being "invisible and yet we are dependent on it for our very being."⁵ Indeed, we interpret situations we face in real-life through our individual filters and react and behave with that cultural filter as our foundation. These filters and cultural skews through which

3. The author and his research assistant reviewed the learning outcomes as listed on the websites of all 205 ABA-accredited law schools. Any learning outcome related to cultural competence was taken and a table created to list the law school and the language used in that school's learning outcome as it relates to cultural competence. See Appendix B cited *infra* note 224. From this research, about a quarter of the 205 ABA-accredited law schools had listed a learning outcome related to cultural competence on their law school's website.

4. Susan Bryant, *The Five Habits: Building Cross-Cultural Competence in Lawyers*, 8 CLINICAL L. REV. 33, 40 (2001).

5. *Id.*

we consciously and unconsciously see and react to the world around us develop over many years and are shaped by our families, friends, environment, communities and social networks, be it online or in-person, in which we live. Indeed, our community affiliations are often instructive and frame our cultural perspectives.⁶ Thus, culture comprises the values and traditions that we learn from our community and our ability to learn and modify our behavior is premised upon the extent to which we understand our own and other peoples' cultures. Said differently, two people are never identical.⁷

The delivery of legal services has never been more in need of being in tune with the culture in which it is being delivered, predominantly because the composition of the residents of our cities in America is rapidly changing around us. Yet, although human mobility and new technologies continue to bring rapid changes to our living environments, the field of law can be said to be lagging behind other fields such as Anthropology, Psychology, Psychiatry, Medicine, and Social Work in adapting to the changing cultural landscape in which we live.⁸ In particular, the field of law has been slower than some other fields to respond to the growing potential of cultural bias and to devise and adopt protocols that are designed to lessen the effects of such cultural bias when legal services are to be delivered. Indeed, the American Bar Association's new legal education standards have tied cultural competence to professional competence,⁹ and increasingly parallel provisions are appearing in some state bar admission standards.¹⁰

6. Paul R. Tremblay, *Interviewing and Counseling Across Cultures: Heuristics and Biases*, 9 CLINICAL L. REV. 373, 380 (2002) (cross-cultural lawyering is discussed in the context of community affiliations and group dynamics, particularly as it relates to minority cultures that "tend to share certain preferences, styles, patterns, and values").

7. Bryant, *supra* note 4, at 33, 41 (2001) ("[N]o two people can have exactly the same experiences and thus no two people will interpret or predict in precisely the same ways").

8. See Elizabeth H. Fong et al., *Developing the Cultural Awareness Skills of Behavior Analysts*, 9 BEHAV. ANALYSIS PRAC. 84 (2016).

9. See *id.*

10. *Frequently Asked Questions For New York's Skills Competency And Professional Values Bar Admission Requirement (RULE 520.18)* (December 2019), <http://www.nycourts.gov/ctapps/news/skills.pdf> ("In November 2015, the Task Force on Experiential Learning and Admission to the Bar recommended to the Court of Appeals that New York adopt a skills competency and professional values requirement for admission to practice. According to the Task Force, this separate admission requirement is necessary to ensure that prospective attorneys

Moreover, culturally skillful and respected attorneys play key roles in the civility and professionalism within the legal community. As is developed further in the next section of this Article, society and demographics in America are changing at a rapid pace and the field of law, unlike many other professions, has been slow to act. For example, although there is hope in some cases,¹¹ the percentage of lawyers who are racial or ethnic minorities are growing slowly and far apart from the growth of these communities in the general public across the U.S. Indeed, according to a 2019 report by the American Bar Association, nearly all minorities are underrepresented in the legal profession.¹² Only 5% of lawyers in the U.S. are African American, 5% Hispanic, and 3% Asian, and not only has this percentage remained unchanged in the past decade for all of these minorities, this disconnect between law and society is best reflected by the fact that the U.S. population comprises a much higher percentage of these minorities and this gap continues to get wider.¹³

These numbers make it even more critical for law students of all backgrounds in the U.S. to learn about and better understand issues related to culture and how it can affect their practice of law upon graduation. Irrespective of the lawyer's background, it is imperative in

possessed the requisite skills and are familiar with the professional values required for effective, ethical, and responsible practice in New York. In December 2015, the Court of Appeals adopted the Task Force's recommendations, thereby making New York the first state to require applicants to the bar to separately demonstrate that they have had essential practical skills training and gained sufficient understanding of professional values.”). A number of these practical skills are listed in the MacCrate Report of 1992, which is a useful starting point for identifying the skills and values with which future lawyers ought to be familiar. Yet, since this report was issued, newly emerging skill sets have been identified including “cross-cultural competency, collaboration in practice, use of technology to aid practice, knowledge and direct experience with improving access to justice for underrepresented individuals and groups, public administrative skills, professional self-development, developing and sustaining professional relationships, learning from experience through self-reflection and evaluation, and law practice management.” *See id.* at 5.

11. For example, while the percentage of the total numbers of lawyers in the U.S. who were women was a mere 4% in 1960, this percentage has grown over time to be 8% in 1980, 20% in 1991, 28% in 2000, 31% in 2009, and 36% in 2019, and promisingly, among current younger lawyers aged 25-34, the pool of women is on par with men. *See* Jennifer C. Day, *More than 1 in 3 Lawyers are Women*, U.S. Census Bureau (May 8, 2018) <https://www.census.gov/library/stories/2018/05/women-lawyers.html>.

12. *ABA Profile of the Legal Profession*, AM. BAR ASS'N, at 8 (2019) <https://www.americanbar.org/content/dam/aba/images/news/2019/08/ProfileOfProfession-total-hi.pdf>.

13. *Id.* 13.4% of the U.S. population is African American, 18.1% is Hispanic, and 5.8% are Asian. *Id.*

today's society where lawyers are valued as facilitators to have lawyers be able to skillfully navigate cultural issues and work with clients of all backgrounds. Thus, on a global perspective, it bodes well for law students, law professors, and practicing attorneys to have a deeper understanding of culture and how it affects the practice of law.¹⁴

Because all 205 American Bar Association-accredited Law schools in the U.S. must now define learning outcomes for their credit-bearing Juris Doctorate courses¹⁵, and publish them,¹⁶ I here set out preliminarily to determine which law schools have listed and published cultural competence, or related language focusing on cultural competence, as a Juris Doctorate student learning outcome. Because this JD student learning outcome goes beyond the minimal requirements for law schools, not all law schools have adopted and listed it on their website. Indeed, my research shows that presently only about a quarter of law schools in the U.S. have listed teaching and assessing cultural competency as a JD learning outcome¹⁷.

In this Article, I focus on cultural competency as a JD learning outcome and begin by highlighting and discussing why cultural awareness and inter-cultural skills are an increasingly critical skill set for all law students to have, especially in the context of current and future

14. A more global perspective may also indirectly encourage a more diverse intake into the legal community that better matches U.S. society and culture.

15. The American Bar Association recently amended its law school accreditation requirements, such that each law school now has to set and publish learning outcomes for their Juris Doctorate graduates and the ABA specifically highlighted cultural competence as a professional skill. *See* STANDARDS AND RULES OF PROCEDURES FOR APPROVAL OF LAW SCHOOLS 2020-2021 ch. 3, Standard 302(D) & Interpretation 302-1 at 17-18 (AM. BAR ASS'N 2020).

16. The June 2015 publication of ABA's Section of Legal Education and Admissions to the Bar, Standard 301, dictates that law schools in the U.S. must publish their learning outcomes and gives guidance, stating: "Learning outcomes for the school's overall program of legal education must appear in those places on its website and in its publications where the law school describes its mission and its curriculum. Similarly, learning outcomes for certificates or specialty tracks within the JD program must be published in those places where such certificates or specialty tracks are described. Learning outcomes for individual courses must be published in the course syllabi." *See supra* note 2.

17. The author and his research assistant reviewed the learning outcomes as listed on the websites of all 205 ABA-accredited law schools. Any learning outcome related to cultural competence was taken and a table created to list the law school and the language used in that school's learning outcome as it relates to cultural competence. *See* Appendix B cited *infra* note 224. From this research, about a quarter of the 205 ABA-accredited law schools had listed a learning outcome related to cultural competence on their law school's website.

U.S. demographics. Second, I delve deeper into the field of cultural competency, highlight the barriers to a multicultural education, and go on to showcase how through well-designed courses at law school, law professors and supervising attorneys can incorporate and assess these emerging skills sets relating to culture in both the non-clinical and clinical law school setting. I end by providing options for more general interventions law school Deans and administrators could adopt, to raise cultural awareness on a law school campus-wide basis.

II. DEVELOPING CROSS-CULTURAL COMPETENCE AS A REQUIRED SKILL

A. Origins of Cultural Competency and Legal Education

The concept of “cultural competency” in the professional services industry arose from the health industry in the U.S.¹⁸ The literature in this industry routinely cites a definition in 1989 by Cross and colleagues¹⁹. This model of cultural competency first provides a definition that focuses on the individual and their place of work and connects this to principles of fairness and inclusion, and then provides a framework for cultural competency, asking participants to “self-assess” their own level of cultural competency and also of the place where they work.²⁰

Although the field of law has lagged behind other fields such as Anthropology, Psychology, Psychiatry, Medicine, and Social Work in adopting protocols and ways to introduce the profession to cross-cultural issues, the legal field does have early pioneers. One of the early pioneer

18. *The Need for Cultural Competence in Healthcare*, HUSSON UNIV. ONLINE (2019), https://medcitynews.com/?sponsored_content=the-need-for-cultural-competence-in-healthcare; see also *Increasing Diversity In The U.S.: The Importance Of Cultural Competence In Healthcare*, MEDCOM (2016), <https://www.medcominc.com/new-nurse-topics/healthcare-cultural-competence/>.

19. Terry L. Cross et al., *Towards a Culturally Competent System of Care*, NAT’L INST. OF MENTAL HEALTH, CHILD AND ADOLESCENT SERV. SYS. PROGRAM (CASSP) TECHNICAL ASSISTANCE CTR., GEO. U. CHILD DEV. CTR., March 1989, at 13. Cultural competency is defined as “congruent behaviors, attitudes and policies that come together in a system, agency or among professionals and enable that system, agency, or those professionals to work effectively in cross cultural situations.” This definition highlights the importance of focusing both on the individual and their place of work and having an integrated approach to issues related to cultural competency.

20. *Id.* at 19.

teams addressing the concept of cultural competency within the legal field were professors Bryant and Koh. Bryant first published an oft referenced article on “the five habits” of cross-cultural lawyering in 2001.²¹ Although this model is generic and was designed in the context of a law school clinic with no particular minority group in mind,²² it does provide a mechanism to identify cultural issues in the attorney-client relationship and various versions of the five habits have been used by law schools in the U.S.²³ Indeed, so well-known is this model in clinical legal education, that although Professors Bryant and Koh retired in 2017 and 2019 respectively, they are leading other law professors in 2020 by putting together an internationally collaborative master teaching materials website on this topic of cultural competency at Yale Law School.²⁴

Yet, these models aside, the elephant in the room question is why do we, as law professors with expertise in varying fields, need to even focus on this topic of cross-cultural competence? To answer this question, one must better understand the evolving composition of American society and our role in readying law students to better face the practice of law now and into the foreseeable future.

B. Composition of American Society

According to the latest data released Census Bureau from 2017, roughly half (48.2%) of the residents in America’s five largest cities now speak a language other than English at home.²⁵ The number of residents

21. See Bryant, *supra* note 4, at 64-78. Bryant’s “Five Habits” include: (1) identifying areas of similarity and difference between lawyer and client (and reflecting on their potential significance for the relationship); (2) identifying areas of similarity and difference between the client and legal system and between the attorney and legal system; (3) brainstorming multiple alternative explanations for client conduct; (4) anticipating and planning for potentially problematic aspects of cross-cultural communication; and (5) becoming nonjudgmentally aware of one’s own biases and stereotypes and learning to detect and minimize their impact on interactions.

22. This model is discussed in further detail *infra* in part V.

23. *Id.* (the pioneering law professors Bryant and Koh, best known for their Habits of Cross-Cultural Lawyering, recently retired in 2017 and 2019. Generously, in 2020, they have offered on Yale University’s website a collection of their very useful materials. The website offers an invaluable resource for any clinical law professor wishing to explore this topic further).

24. Sue Bryant & Jean K Peters, *Five Habits of Cross-Cultural Lawyering and More, Clinical Law Teaching Materials from Sue Bryant and Jean Koh Peters*, YALE U. (2020), <http://fivehabitsandmore.law.yale.edu/>.

25. *Comparing 2017 American Community Survey Data*, U.S. CENSUS BUREAU (2017), <https://www.census.gov/programs-surveys/acs/guidance/comparing-acs-data/2017.html>.

across the U.S. speaking a foreign language at home was 35 million in 1990, nearly doubled to 60 million by 2010, and increased further to 67 million as of 2017.²⁶ The diversity that is happening around us in America is unstoppable and not limited to language. For example, if we consider race, the U.S. Census Bureau estimates that ethnic minorities will become the majority within about 25 years of this publication.²⁷ Moreover, presently, more than half of all of the cities in America have majority non-white populations, and further still, ever since 2012, over half of all births in the U.S. have been to people of color.²⁸

Having reviewed the United States Census Bureau's annual American Community Survey, which demographers consider the most comprehensive source for estimating the immigrant population, it is self-evident that the demographics are changing at a fast pace. According to figures published in Fall of 2018, the number of foreign-born people in the United States grew in 2017 to its highest share in over a century.²⁹ Indeed, according to this 2018 publication from the U.S. Census Bureau, within the next ten years, the foreign-born share of the U.S. population is projected to be higher than any time since 1850.³⁰

According to these latest figures, there are presently 44.5 million foreign-born residents in the U.S., translating to 13.7% of the U.S. population.³¹ This percentage of immigrants in the United States is the highest since 1910, when they made up 14.7 percent of the population.³² This percentage is also in line with an earlier study from 2015 that found

26. *Id.*

27. *Id.*

28. See AMERICA BY THE NUMBERS, www.americabythenumbers.org (last visited Oct. 21, 2020).

29. *Comparing 2017 American Community Survey Data*, U.S. CENSUS BUREAU (2017), <https://www.census.gov/programs-surveys/acs/guidance/comparing-acs-data/2017.html>.

30. *Id.*

31. Jonathan Vespa et al., *Demographic Turning Points for the United States: Population Projections for 2020 to 2060*, U.S. CENSUS BUREAU (Mar. 2018), <https://www.census.gov/content/dam/Census/library/publications/2020/demo/p25-1144.pdf> (Explaining that “[t]he nation’s foreign-born population is projected to rise from 44 million people today to 69 million in 2060, growing from about 14 percent to 17 percent of the population. The previous historic high was in 1890, when almost 15 percent of the population was foreign born.”).

32. *Id.* The Pew Research Center has estimated that the actual immigrant population is likely 3 percent to 5 percent higher than the number in the Census Bureau’s American Community Survey.

over 13.3% of the population are born outside of the U.S.³³ In some States, the workforce (who represent a sizable segment of clients for lawyers) comprises 34% of people born in another country.³⁴ For example, in New York, where I teach law, this figure is 28%.³⁵ This translates to the fact that about one in three potential clients for lawyers, at least in New York and California, are potential clients who are presently in the workforce and who were born outside of the U.S. Future lawyers beware: a significant portion of your future clients will have different heritage and backgrounds than you.

These facts all point to a change that is steadfastly occurring in society in the U.S. and this poses opportunities and challenges for service-focused industries such as law. Said differently, and from a business perspective, irrespective of whether an attorney in the future represents an individual or a large entity, the customer base (that is, client base from which the legal work will emanate for the lawyer) is changing. Thus, the legal profession ought to adapt to align the necessary skill sets such that the service provider (future lawyer) will be better positioned to offer services to this emerging new marketplace.

A less apparent factor related to culture is that citizens in the U.S. at large are becoming more globally minded and aware of cultures and the ways of life of others. Whereas in 1989 only 3% of U.S. citizens held a U.S. passport,³⁶ approximately half of the U.S. citizen population now own a passport, allowing them to travel abroad. Indeed, many U.S. citizens are traveling abroad, setting a record recently, according to the National Travel & Tourism Office, where 67 million U.S. citizens used their passports to travel abroad in 2016.³⁷ The reason this is significant, yet less obvious in the context of the present publication, is because even if the future client of a current law school student is from the majority and does not immediately raise cultural awareness issues, the expectation is

33. See Sandra Colby & Jennifer Ortman, *Projections of the Size and Composition of the U.S. Population: 2014 to 2016*, U.S. CENSUS BUREAU (Mar. 2015), <https://www.census.gov/content/dam/Census/library/publications/2015/demo/p25-1143.pdf>.

34. *Id.*

35. *Id.*

36. See Reports and Statistics: U.S. Passports, U.S. DEP'T OF STATE – BUREAU OF CONSULAR AFFAIRS, <https://travel.state.gov/content/travel/en/passports/after/passport-statistics.html> (last visited Oct. 30, 2020).

37. See Jennifer Wood, *A Record Number of Americans Traveled Abroad in 2016*, THE POINTS GUY (Jan. 4, 2017), <https://thepointsguy.com/2017/01/record-number-of-americans-traveled-abroad-2016/>.

now increasing on the part of the client pool who are becoming more culturally aware themselves because of increased international travel.

This will translate to an expectation that their lawyer should also have a certain level of cultural awareness, and if anything, this can provide the future lawyer the opportunity to connect with that potential client. That is not to say that future U.S. lawyers have to embrace foreign travel or indeed ever travel abroad,³⁸ however, it bodes well to prepare future U.S. lawyers of the evolving future clients' mindsets and expectations. This would better equip law students to connect with their future clients, even if on a personal common interest level before/during professional representation.

America is becoming more diverse by race and ethnicity. Although, the population of non-Hispanic whites is slowly shrinking,³⁹ all other race and ethnic groups grew between July 1, 2016, and July 1, 2017. Based on the latest figures, the U.S. population now comprises 198 million non-Hispanic white population, a growing Hispanic population of 60 million⁴⁰ (18% of the U.S. population), a growing population of black or African-American population of 47 million (14% of the U.S. population), followed by the fastest growing racial group being the Asian population whose numbers total 22 million in the U.S.⁴¹ Said different, in approximately twenty five years, the U.S. will become a "minority white" country.⁴²

Thus, as law students get ready for a career practicing law, the importance of knowing about cultural issues and being competent and understanding towards such concerns will only grow as students graduate and progress in their careers. Moreover, law professors and other legal educators must proactively respond to changes in society by prioritizing

38. According to the State Department, as of 2018, there are 137,588,631 valid passports in circulation, which means 42% of Americans own a valid passport (and therefore 58% of Americans do not have a passport and therefore cannot travel abroad). *See supra* note 36.

39. Non-Hispanic white population decreased by 0.02%, according to figures from 2017 of the U.S. Census Bureau. *See supra* note 25.

40. *Id.* 15.5 million of the U.S. Hispanic population represented by this figure live in California. The increase in the Hispanic population was mainly due to natural causes (births versus deaths), not net migration. *Id.*

41. The increase in the Asian population is primarily due to net migration. Interestingly, in Hawaii, Asians represent the majority of the population. *See id.*

42. William H. Frey, *The US Will Become 'Minority White' in 2045*, *Census Projects*, BROOKINGS (Mar. 14, 2018), <https://www.brookings.edu/blog/the-avenue/2018/03/14/the-us-will-become-minority-white-in-2045-census-projects/>.

the teaching of cultural competence as a crucial lawyering skill and not an optional soft skill to tangentially mention during a class. There are, of course, challenges to teaching and assessing cultural competence as a formal JD law student learning outcome.⁴³ First, in order to discuss the wider topic of cultural competence and the challenges and educational opportunities it provides, it is key to step back and unravel what cultural competence means.

III. THE CONTINUUM MODEL OF THE STAGES OF CULTURAL COMPETENCE: FROM ETHNOCENTRISM TO ETHNORELATIVISM

To elucidate how people consider cultural difference, Dr. Milton Bennett developed the Developmental Model of Intercultural Sensitivity (“DMIS”).⁴⁴ This DMIS can be used as a framework to explain how people experience and respond to cultural difference. In this model, his thesis is that intercultural skills are developed over a period of time as increasing number of cultural experiences lead an individual to more sophisticated and nuanced view of their surroundings. The DMIS describes six different phases that people transition in towards an increasingly more state of awareness of and reaction to cultural concerns.⁴⁵

The six DMIS stages include Denial, Defense Reversal, Minimization, Acceptance, Adaptation, and Integration.⁴⁶ To better teach and assess cultural competence as a learning outcome, it bodes well to be aware of these six developmental stages of intercultural sensitivity development.

The first three stages of intercultural sensitivity development are more *ethnocentric*, meaning the individual’s experience of his/her own culture is central to his/her reality.⁴⁷ The first stage, Denial, is when the individual only sees and experiences their own culture as the *real* culture and although discrimination against other cultures is not necessarily present, the denial of other cultures will typically include a disinterested

43. These will be explored in further detail *infra* in Parts IV and VI.

44. Milton J. Bennett, *A Developmental Approach to Training for Intercultural Sensitivity*, 10 INT’L J. OF INTERCULTURAL REL., 179, 179-95 (1986).

45. *Id.* at 180.

46. *Id.* at 181-82.

47. *Id.* at 182; *see also* Figure 1 *infra*.

posture towards other cultures.⁴⁸ The Defense stage includes someone who does not yet have a complex worldview to understand the “other” and feels threatened by other cultures and sees them as inferior.⁴⁹ The Minimization stage aims to pacify the significance of cultural differences, such that it is not a threat.⁵⁰ In this stage, the individual, rather than seeing the world from high up and treating culture as a universal issue, the individual instead prefers to minimize the extant differences present, for example, in people with different races, religions, buying power, etc. If a person is in the dominant culture, this minimization stage will also typically include masking of the dominance he/she enjoys and ignoring the institutional privilege it provides.

The second three stages of intercultural sensitivity development are more *ethnorelative*, meaning the individual’s experience of his/her own culture is in the context of other cultures.⁵¹ At its core, the Acceptance stage will involve the individual accepting that there are many different viewpoints which are not necessarily inferior to the individual’s viewpoint emanating from their own cultural lens.⁵² In the Adaptation stage to cultural difference, the individual adapts by recognizing the difference in the cultures and adopting behavior consistent with some identifiable norms for that culture.⁵³ So, it is not just appreciating the difference, but acting on it by transforming one’s attitude or doing something more than just showing an understanding or acceptance of the difference. This adaptation is not akin to assimilation, but rather the individual’s worldview is expanded to now also include other cultural worldviews. Finally, the stage of Integration includes one in which the individual molds his or her identity at the cusp or edge of two separate cultures with an ease to fully associate with one or the other depending on the context.⁵⁴

48. Bennett, *supra* note 44, at 183.

49. *Id.*

50. *Id.*

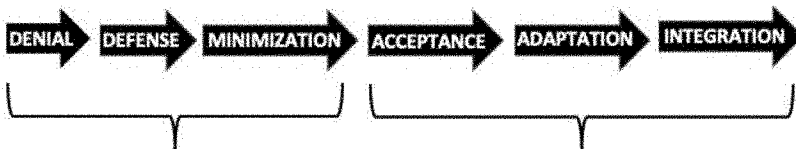
51. *Id.* at 181-82; *see also* Figure 1 *infra*.

52. Bennett, *supra* note 44., at 184.

53. *Id.* at 186.

54. *Id.* Sometimes this is felt by immigrants who come to the U.S. from another country and, after years of living in the U.S., feel part and at the cusp of two separate cultures, especially when communicating with immediate family abroad. For disclosure purposes, I can associate with this feeling firsthand because I too am an immigrant to the U.S., some 20 years fresh.

Stages For The Development of Cultural Competency



The above stages to different levels of cultural competency are not merely an academic exercise. It provides a framework for teaching and assessing law students on cultural competency learning outcomes in law school clinics or simulated non-clinic exercises in classrooms. For example, if a student were to confide to a Faculty member that she fully supported a military operation in Venezuela to get rid of President Maduro because he is a monster and his clique are corrupt, he/she is making ethnocentric judgments. The test then is to ask the student questions to see if he/she is giving the requisite humanity to all Venezuelans. This can be done by asking the student to identify what would be considered “good” about President Maduro from the perspective of some Venezuelans. It is through this process that one can teach the law student that he/she is imposing his/her values on others by assuming that his/her values were the most real and minimizing the differences and potentially labeling all who support President Maduro as being evil.

This is how one can attempt to move the student from an ethnocentric posture to a more ethnocultural posture by discussing how every human being is complex and will have behavior that is “good” to some (for example, Venezuelans who like President Maduro because they see him as standing up to America and the West in this current example), and yet that same behavior will be considered as “bad” by many Americans as well as a large portion of the Venezuelan public.

Importantly, the position taken on any such hot topic issue is not important because what is important in the context of this teaching opportunity is that the law professor can highlight that it is key for the law student to support his/her position in a more nuanced ethnocultural way. Thus, the position taken becomes irrelevant, so long as there is clear

demonstration of a more skilled law student who is more advanced in the developmental stages of cultural competency.⁵⁵

Others have also proposed a similar continuum to cultural competency as the stages for the development of cultural competency discussed *supra*. For example, Nuri-Robins *et al.* focus on the fact that this continuum to cultural proficiency has six stages and each indicates unique ways of acknowledging and responding to difference.⁵⁶ In their book on how to teach cultural proficiency, the first category described is the culturally destructive person who seeks to eliminate what is different to the dominant group.⁵⁷ In the second category, the person is culturally incapacitated, meaning he/she can tolerate cultural differences without actually accepting it.⁵⁸ In the next stage, the person is culturally blind, preferring to discount and dismiss the difference as inconsequential.⁵⁹ In this culturally blind stage, a teacher will, for example, indicate that he/she does not see color or race and treats all students the same.⁶⁰ Here, the culturally blind teacher fails to note the difference between equality (having equal rights, regardless of background or situation) and equity (being impartial and fair, with individual differences in mind).⁶¹

In the fourth stage of Nuri-Robins' model, the person is culturally pre-competent and understands the importance of developing skills to respond to differences and yet this person is unable to respond appropriately to differences.⁶² In this stage, a professor may try, for example, to say a small phrase in a foreign language to make a connection with certain foreign students in the class, but due to his/her accent the students hear something considered offensive.⁶³ In the penultimate stage of this continuum, the culturally competent person interacts with and understands differences and is able to act appropriately.⁶⁴ The final stage

55. I deliberately take short "discussion/practical lawyering detours" in my doctrinal classes and facilitate a short debate amongst students in the class on such issues before returning to our substantive IP-related doctrinal learning.

56. NURI-ROBINS ET AL., *CULTURALLY PROFICIENT INSTRUCTION: A GUIDE FOR PEOPLE WHO TEACH* 80 (3rd ed. 2012).

57. *Id.* at 80-82.

58. *Id.* at 85.

59. *Id.* at 89-91.

60. *Id.* at 90.

61. *Id.*

62. *Id.* at 94-95.

63. *Id.*

64. *Id.* at 98-100.

of this continuum is the culturally proficient individual, a person who appreciates both differences and similarities between cultures and is able to learn from both.⁶⁵

Similar to Dr. Bennett's Developmental Model of Intercultural Sensitivity, in which he describes six different phases that people transition through to become increasingly more aware of and reactive to cultural concerns,⁶⁶ Nuri-Robins *et al.* also describe personal or institutional barriers to becoming culturally proficient.⁶⁷ Such barriers include being unaware of the need to adapt, resisting change, systematic oppression, and a sense of entitlement.⁶⁸ The mindset for educators and institutions desiring to become culturally proficient includes being able to assess culture, value diversity by demonstrating an appreciation for difference in the community, managing the dynamics of this difference by responding appropriately in normal and conflict situations, adapting to diversity by updating and incorporating policies to support diversity and inclusion, and finally by institutionalizing cultural knowledge such that it becomes infused as part of the system.⁶⁹

What is evident from the literature on the developmental stages of cultural competency is that there are multiple phases to cultural competency/proficiency,⁷⁰ and that it is important for the law professor to have the correct mindset and to interact with and identify at which stage each student is in as a first step. From this foundation, the task begins of working with the law student, in a clinical or non-clinical setting, with the goal being to help the law student progress forward along the cultural competency spectrum.⁷¹

But the next big question arises as to how can a clinical or doctrinal law professor do this? There is no magic bullet with this, not least because

65. *Id.* at 101-03.

66. See MILTON J. BENNETT, BASIC CONCEPTS OF INTERCULTURAL COMMUNICATION: PARADIGMS, PRINCIPLES, & PRACTICES (2d ed. 2013).

67. See NURI-ROBBINS ET AL., *supra* note 56.

68. See NURI-ROBBINS ET AL., *supra* note 56.

69. See Mitchell R. Hammer, *The Intercultural Development Inventory: A New Frontier in Assessment and Development of Intercultural Competence*, in STUDENT LEARNING ABROAD 115, 115-36 (M. Vande Berg et al., eds., 2012).

70. See Milton J. Bennett, *Towards Ethnorelativism: A Developmental Approach to Training for Intercultural Sensitivity*, 10 INT'L J. OF INTERCULTURAL REL. 179, 179-96 (1986).

71. See Milton J. Bennett, *Becoming Interculturally Competent*, in TOWARD MULTICULTURALISM: A READER IN MULTICULTURAL EDUC. 62, 62-77 (J. Wurzel ed., 2nd ed. 2004).

the destination, cultural competence, is more amorphous than merely an end point. Indeed, it is not a destination but, rather, a way of existing where you remain curious and always open to learn about yourself and the people around you and share with others the cultural issues and expectations of varying environments you know well.⁷² But how does one progress themselves and help law students towards this level of cultural competence? To answer this, we must take an important detour first before we explore possible strategies for law classroom intervention, both in a clinical and non-clinical environment.

IV. BARRIERS TO MULTICULTURAL EDUCATION

Multiple non-exclusive factors—language, education, cultural beliefs, socioeconomic status, unfamiliarity with the law, conscious and unconscious bias, age, ethnicity, race, gender identity, feelings of being a minority—all make it difficult for people from diverse cultural backgrounds to access the legal system. As a profession, legal services have been slower than other professions, such as Medicine and Social work, in adopting measures to mitigate the effects of cultural bias that can arise due to lawyers representing individuals who have different cultural backgrounds and experiences.

However, there are many significant barriers to addressing the lack of a concerted effort to teach cultural competence to law students, not least of which is that law professors may have to face their own personal and professional challenges first before becoming comfortable engaging in dialogue and teaching in this field. For example, a white professor teaching a first-year law class may feel not particularly comfortable teaching cultural competence or be perceived as not the appropriate person to teach it if they have limited relevant background, particularly when the class may be a diverse and young first-year law school intake. Also, separately on a professional level, the law professor may feel there is little time during a busy semester of substantive law teaching to take time away to devote to cultural competence issues. To make the barrier even higher, depending on how law students perceive the topic of cultural competence when compared to more traditional law taught in a doctrinal

72. See Travis Adams, *Cultural Competency: A Necessary Skill for the 21st Century Attorney*, 4 WM. MITCHELL L. RAZA J. 1, 1-22 (2012), <https://open.mitchellhamline.edu/lawraza/vol4/iss1/2>.

class, law professors may experience significant student resistance to learning cultural competence as a lawyering skill at the expense of what they perceive to be more important substantive law.

Thus, there are extrinsic barriers to teaching multicultural competence at law schools and it will be left to progressive law professors to stand on the shoulders of pioneers such as Professor Bryant and Peters to push for early adoption of the inevitable infusion of cultural competence throughout the entire the law school curriculum. Outwith these extrinsic barriers mentioned *supra*, there are yet other more intrinsic barriers to teaching issues related to cultural competence. To begin, as a preliminary step on this journey, it is important to understand one's own culture and the biases one brings to the table.

A. Being Aware of One's Own Cultural Background as a First Step

There are many layers to a deep concept such as "culture" and everyone has multiple cultural backgrounds that shape the way that a person views and behaves in the world around them.⁷³ Although culture is a critical factor in the delivery of legal services,⁷⁴ law does not define what culture is⁷⁵ and instead legal scholars have drawn from other fields such as Anthropology, Medicine, Psychology and Social Studies to develop an appropriate concept applicable to the legal field.⁷⁶

The awareness-knowledge-skills triad, common in the wider field of counseling, identifies components of cultural competence training.⁷⁷ Counseling professor Wanda Lee developed a rubric through which cultural competency skills and this triad can be addressed,⁷⁸ focusing on three domains: awareness of one's own cultural values and biases; an

73. See Andrea A. Curcio, Teresa E. Ward & Nisha Dogra, *A Survey Instrument to Develop, Tailor, and Help Measure Law Student Cultural Diversity Education Learning Outcomes*, 38 NOVA L. REV. 177 (2014); see also Alexis Anderson, Lynn Barenberg & Carwina Weng, *Challenges of "Sameness": Pitfalls and Benefits to Assumed Connections in Lawyering*, 18 CLINICAL L. REV. 339 (2012) (discussing the pitfall of assuming "sameness").

74. *Id.*

75. See *Culture*, BLACK'S L. DICTIONARY (2nd ed., last visited Oct. 21, 2020) <https://thelawdictionary.org/search2/?cx=partner-pub-2225482417208543%3A5634069718&cof=FORID%3A11&ie=UTF-8&q=&x=6&y=7> (demonstrating how the word "culture" is not defined in Black's Law Dictionary).

76. See Christine Zuni Cruz, *[On the] Road Back in: Community Lawyering in Indigenous Communities*, 5 CLINICAL L. REV. 557, 566 (1999).

77. WANDA M. L. LEE, AN INTRODUCTION TO MULTICULTURAL COUNSELING 194-95 (1999).

78. See *id.* at 207-10.

awareness of the client's worldview; and culturally appropriate intervention strategies.⁷⁹ Thus, as a first step, it is critical to be aware of one's own background, upbringing, beliefs, values and biases.⁸⁰ This can help law students and lawyers examine their own attitudes on a host of issues that maybe of relevance to the client situation before them.⁸¹

The key at this first step is not just identifying and assessing one's own cultural background, but also seeing what potential impact that could have and ultimately respecting and valuing the differences between the lawyer and the client.⁸² A skilled law student or lawyer would then be able to acknowledge and feel comfortable about the differences between their client and themselves.⁸³ The journey of self-assessment and how one's own cultural background, attitudes and beliefs have been formed and how it can taint one's effective lawyering of a client from a diverse background is an on-going life-long journey for the future lawyer in which the professional must seek out relevant educational and training opportunities.⁸⁴ Only by taking this first step of becoming aware of one's own cultural background, can the law student or lawyer begin to effectively represent clients from all kinds of backgrounds.⁸⁵ And yet, many law students feel they already know this and that it is common for law students and lawyers to not appreciate that they are biased.⁸⁶

B. Are We Really All Biased?

At some level, yes. To properly address the topic of cultural competency and representing clients that are different to ourselves, one cannot escape the topic of implicit bias. This form of bias has its roots in

79. *See id.* at 207-12.

80. *See* Anastasia M. Boles, *Seeking Inclusion from the Inside Out: Towards A Paradigm of Culturally Proficient Legal Education*, 11 CHARLESTON L. REV. 209, 246 (2017), *see also*, LEE, *supra* note 77.

81. *See* LEE, *supra* note 77.

82. *See* Neil Hamilton & Jeff Maleska, *Helping Students Develop Affirmative Evidence of Cross-Cultural Competency*, 19 THE SCHOLAR 187, 204 (2019).

83. *Id.*

84. *Id.*

85. *E.g.*, LEE, *supra* note 77. Professor Lee's model was also consulted in this research, before a scoring rubric was formed for assessing the cultural competency skills of law students, as is discussed *infra*. The cultural competency scoring rubric I devised builds on the key work of others, including Professors Lee and Curcio among others; the scoring rubric is provided in the Appendix section of this paper.

86. *See* Hamilton & Maleska, *supra* note 82.

discriminatory behavior and is showcased by the unintentional act of grouping and/or considering a group of people together. This unconscious way of negatively judging others is wound into one's own cultural background.⁸⁷ That is, it is commonplace for people to think of others and mentally place them into social categories divided by, for example, traits, including age, nationality, gender, race, bodily appearance, educational background, socioeconomic status and others.⁸⁸

One of the current thought leaders in clinical practice on the issue of educating future lawyers to be culturally sensible is Professor Andrea Curcio. In a revealing survey of law students, she and colleagues showed that law students believed their legal training somehow makes lawyers less prone to thinking about and acting on stereotypes or biases than other people.⁸⁹ Interestingly, the survey results indicated that law students believed they understood their own biases and could identify them and know when they were acting upon their own perceptions.⁹⁰ And yet, in a second study of law students, the authors suggest how social cognition theory can be used as a foundation for self-awareness and the role that culture plays in lawyer-client interactions.⁹¹

Literature from theory on social cognition indicates that when one reports self-bias, it is generally inaccurate because implicit biases operate on a subconscious level.⁹² Social cognition theory, thus, can help law students, lawyers, law professors and judges appreciate that our own legal training fails to make us unbiased and highlights the issue of implicit bias and why it is critical for lawyers to understand the cultural biases they bring to the table during the lawyering process.⁹³ Indeed, this theory allows a way for law professors to assist their students appreciate the role cultural biases play on their own interactions and in the lawyer-client professional relationship.⁹⁴

87. See Curcio, Ward, and Dogra, *supra* note 73.

88. See Debra Chopp, *Addressing Cultural Bias in the Legal Profession*, 41 N.Y.U. REV. L. & SOC. CHANGE 367, 378 (2017).

89. See Andrea A. Curcio, *Addressing Barriers to Cultural Sensibility Learning: Lessons from Social Cognition Theory*, 15 NEV. L. J. 537, 540 (2015).

90. See *id.*

91. *Id.* at 562.

92. *Id.*

93. *Id.*

94. See Carwina Weng, *Multicultural Lawyering: Teaching Psychology to Develop Cultural Self-Awareness*, 11 CLINICAL L. REV. 369 (2005) (discussing how social cognition theory can help law students develop cross-cultural skills).

The reality is that all people have biases, and these may relate to one or more topics such as gender, religion, race, nationality, accent, age, ethnicity, economic wealth and the like.⁹⁵ We are able to use social cognition theory to understand how we all have stereotypes, biases, and prejudices.⁹⁶ As one can imagine, these biases affect the way we approach matters and interactions and, therefore, can be of concern for effective lawyering. The human mind handles extensive input it absorbs daily by taking mental shortcuts and grouping information together (schemas).⁹⁷ Stereotypes are schemas in which we group people in our perceptions based on our own experiences and background, and this has been referred to as “a faulty generalization about a group or its members.”⁹⁸ If one then applies stereotypes to individuals or groups of people, this is the showing of one’s biases or prejudices.⁹⁹ It is common for people to be unaware of their own biases and prejudices because at some level these develop slowly over time and are subconscious part of one’s personality.¹⁰⁰

To explore the topic of bias, several tests have been developed by psychologists that focus on certain indicators instead of the self-reporting of bias.¹⁰¹ A well regarded and validated test is the Implicit Association Test (“IAT”).¹⁰² This test has been routinely used to uncover hidden implicit biases under its interesting premise that it can take a fraction longer for the unconsciously biased individual to associate positive words to a group the person has a prejudice against.¹⁰³ Interestingly, this test also exposes situations where the person may have implicit biases that

95. *Id.*; see also Chopp, *supra* note 88.

96. See Michelle R. Gomez, *The Next Generation of Disparate Treatment: A Merger of Law and Social Science*, 32 REV. LITIG. 553, 568-69 (2013).

97. See Jeffrey J. Rachlinski & Cynthia R. Farina, *Cognitive Psychology and Optimal Government Design*, 87 CORNELL L. REV. 549, 555-56 (2002); see also Curcio, *supra* note 89.

98. Pamela A. Wilkins, *Confronting the Invisible Witness: The Use of Narrative to Neutralize Capital Jurors’ Implicit Racial Biases*, 115 W. VA. L. REV. 305, 324 (2012); see also, Katharine T. Bartlett, *Making Good on Good Intentions: The Critical Role of Motivation in Reducing Implicit Workplace Discrimination*, 95 VA. L. REV. 1893, 1908 (2009).

99. See Jody Armour, *Stereotypes and Prejudice: Helping Legal Decisionmakers Break the Prejudice Habit*, 83 CALIF. L. REV. 733, 742 (1995); see also Boles, *supra* note 80.

100. See *id.*

101. See Jerry Kang & Kristin Lane, *Seeing Through Colorblindness: Implicit Bias and the Law*, 58 UCLA L. REV. 465, 471 (2010).

102. PROJECT IMPLICIT has a list of IAT tests. PROJECT IMPLICIT, <https://implicit.harvard.edu/implicit/selectatest.html> (last visited Oct. 22, 2020).

103. See Deana A. Pollard, *Unconscious Bias and Self-Critical Analysis: The Case for a Qualified Evidentiary Equal Employment Opportunity Privilege*, 74 WASH. L. REV. 913, 919 (1999).

directly conflict with that individuals express values.¹⁰⁴ This is such a powerful issue to explore and consider at depth with law students, not least reflected by the fact that even judges¹⁰⁵ deciding legal disputes have been shown to harbor implicit biases that affect their judgments.¹⁰⁶

Yet, implicit bias is not the only type of subconscious form of bias; another form of subconscious bias is confirmation bias. This other kind of bias has been defined as “the tendency to seek out evidence consistent with one’s views, and to ignore, dismiss, or selectively reinterpret evidence that contradicts them.”¹⁰⁷ This form of bias helps explain how we subconsciously judge people and their interactions and work with us.

These manifestations of bias are associated with cultural stereotypes and certain of these stereotypes are so deeply rooted in our own culture that, without knowing it, it affects how we behave.¹⁰⁸ These unconscious forms of bias can lead to discriminatory behavior, even by individuals who expressly reject stereotypes and discrimination. Recognizing this fact and being able to discuss and explore this topic at a deeper level with law students is an important part of reflective aspects of clinic practice, albeit it is not void of its own pitfalls. For example, this kind of test and self-analysis may force students to confront realities about their subconscious biases and make them defensive and resist learning and gaining greater skills to handle cultural issues during client representations. Moreover, as another example, law students may not judge others’ biases and avoid introspectively assessing their own biased

104. See Patricia G. Devine, *Implicit Prejudice and Stereotyping: How Automatic Are They? Introduction to the Special Section*, 81 J. PERSONALITY & SOC. PSYCHOL. 757, 757 (2001).

105. See Pat K. Chew & Robert E. Kelley, *Myth of the Color-Blind Judge: An Empirical Analysis of Racial Harassment Cases*, 86 WASH. U. L. REV. 1117, 1156–58 (2009).

106. See Jeffrey J. Rachlinski et al., *Does Unconscious Racial Bias Affect Trial Judges?*, 84 NOTRE DAME L. REV. 1195 (2009) (discussing a study of over one hundred judges that took the IAT, with the test showing that a significant percentage of white judges demonstrated a white preference); see also *Judicial Diversity: a Work in Progress*, N.Y. ST. BAR ASS’N, JUD. SEC. (Sept. 17, 2014), https://cdn.ymaws.com/www.albanycountybar.org/resource/resmgr/docs/Balancing_-_Compiled_Materia.pdf (a reference the Honorable Rachel Kretser brought to my attention concerning the ongoing efforts to address such issues by Judges in the state of New York – a State that ranked 4th in diversity in the U.S. in 2011).

107. Scott O. Lilienfeld et al., *Giving Debiasing Away: Can Psychological Research on Correcting Cognitive Errors Promote Human Welfare?*, 4 PERSP. ON PSYCHOL. SCI. 390, 391 (2009).

108. See Christina A. Zawisza, *Teaching Cross-Cultural Competence to Law Students: Understanding the ‘Self’ as ‘Other’*, 17 FLA. COASTAL L. REV. 185 (2016), <https://ssrn.com/abstract=2622138>.

feelings.¹⁰⁹ In such a scenario, any self-reflection by the law student without a deeper appreciation for and understanding of literature in the social cognition theory can have undesirable outcomes because it can give the false belief to the law student that others are biased while the student is not. Thus, it is best to design the law course to first cover some key aspects of social cognition theory for the law student to understand their own biases before having self-reflection and introspection.

Professor Curcio's proposal to include the use of social cognition theory in the law school cross-cultural teaching pedagogy is illuminating.¹¹⁰ It can provide law students and their professors a better foundation from which to explore key topics of implicit bias,¹¹¹ the Implicit Associations Test,¹¹² confirmation bias,¹¹³ and see how these principals affect law practice and the lawyering process.

V. FIVE HABITS FOR BUILDING CROSS-CULTURAL COMPETENCE

The seminal work in the field of cross-cultural training of lawyers was done by law professors Susan Bryant and Jean Koh Peters.¹¹⁴ Their article laid the foundation and has served as a valuable model for clinical law professors and other legal educators to explore with their students, within the law school environment, the topic of culture in the delivery of legal services. Other scholars have built on this work to explore further how students can be taught to appreciate and comprehend how critical cultural outlook is on the lawyer-client professional relationship.¹¹⁵ Yet,

109. See Jerry Kang et al., *Implicit Bias in the Courtroom*, 59 UCLA L. REV. 1124, 1173 (2012) (discussing subjects were *primed* to feel objective when they were more likely to exhibit gender-based discrimination during hiring decisions).

110. See Curcio, *supra* note 89.

111. See Joyce Ehrlinger et al., *Peering into the Bias Blind Spot: People's Assessments of Bias in Themselves and Others*, 31 PERSONALITY & SOC. PSYCHOL. BULL. 680 (2005).

112. See Anthony G. Greenwald, *Implicit Association Test: Validity Debates*, U. OF WASH., http://faculty.washington.edu/agg/iat_validity.htm (last visited January 22, 2020)(Dr. Greenwald lists multiple IAT validity studies).

113. See Raymond S. Nickerson, *Confirmation Bias: A Ubiquitous Phenomenon in Many Guises*, 2 REV. GEN. PSYCHOL. 175 (1998).

114. See Bryant, *supra* note 4, at 39.

115. See Lisa Bliss et al., *Client and Patient Relationships: Understanding Cultural and Social Context*, POVERTY, HEALTH AND L.: READINGS AND CASES FOR MED.-LEGAL PARTNERSHIP 125, 147 (Elizabeth T. Tyler et al. eds., 2011).

Bryant and Peters' five habits can act as a framework for law professors wishing to implement cross-cultural competency training into their classes.

The first of the five habits asks law students to identify what makes them similar and different to a potential client. Thereafter, the teacher asks the wider class for input on how each of the identified differences and similarities can affect the way the lawyer communicates with the client to gather information about the legal issue at hand. This first habit allows law students to appreciate, think and identify a whole host of differences and explore how these can give rise to cultural biases and misunderstandings.¹¹⁶ The differences are sometimes just as important as the similarities because being able to connect through shared cultural background can be a powerful tool in the client representation. This first habit encourages an exploration of the similarities between the lawyer and the client.¹¹⁷

The second habit explores the effects such similarities and differences can have on the “three rings,”¹¹⁸ namely the lawyer, the client and the legal decisionmaker such as a judge. Here, it is expected that law students take time to think about and discuss what kinds of cultural values are each of the parties bring into the professional relationship and how that can impact how the parties work or how the judge decides. This can take the form of exploring the topic of bias and stereotypes and how that can affect how the “three rings” work together and thinking of strategies to best place client's interest forward.¹¹⁹

The third habit focuses on an exploration of the client's behavior and trying to list and understand all the possible explanations and alternatives for the way the client behaves. This indirectly also allows the law student to also explore his or her own negative assumptions when approaching whichever behavior the law student considers as different or alternative. This kind of issue becomes immediately relevant in situations where the client does not speak English well and/or comes from a strict religious upbringing.¹²⁰

116. See Bryant, *supra* note 4, at 52.

117. See *id.*

118. *Id.* at 68.

119. *Id.* at 69.

120. See Bliss et al., *supra* note 115 at 145; and see Bryant *supra* note 4, at 70-71.

The fourth habit to developing cross-cultural training for lawyers involves developing culturally sensible communication skills.¹²¹ In this phase, the teacher can help the law student in preparing for the client meeting and asking the law student to list any potential culture related pitfalls or red flags that can get in the way of a more typical lawyer-client meeting and representation and how these can be potentially mitigated. The first three habits can help with this fourth one because the law student has already thought about issues related to possible misunderstandings.

Finally, the fifth habit is focused on self-reflection and exploring all of one's own biases by breaking down and identifying each of the stereotypes that can get in the way of skillful representation of a client who hails from a diverse and less typical background. During this last habit, the student is encouraged to address their biases and stereotypes in two ways: first, by structuring situations that discourage biases and stereotypes to play roles, and second by promoting constant self-reflection to better identify and aim to eradicate bias from the legal representation process.¹²² For example, triggers such as being tired and hungry could push a law student to fall into traps of stereotyping clients. These triggers should be identified by each law student and steps taken to remove or lessen the likelihood of those triggers during the work with the client in the law clinic.

VI. TEACHING AND ASSESSING CULTURAL SKILLS IN LAW SCHOOLS

Although lawyers interface with people of diverse backgrounds in practice, especially in the globalized economy we live in and the ever-changing demographics of the U.S. population, law schools have yet to develop a systematic method for aiding in the development of cross cultural skills for law students to help them appreciate how this can affect all facets of the client representation.¹²³ Professor Lynch argues that the time is ripe for law schools to identify, teach and assess intercultural effectiveness outcomes because not only has the American Bar Association adopted new student learning outcomes, but that the demand

121. See Bryant, *supra* note 4, at 72.

122. *Id.* at 77.

123. See Beverly I. Moran, *Disappearing Act: The Lack of Values Training in Legal Education - Case for Cultural Competency*, 38 S.U. L. REV. 1, 24-26 (2010).

for inter-culturally effective professionals is rising as the legal employment landscape evolves to an increasingly globalized environment.¹²⁴ It is on this premise and the foundational work of law Professors Bliss, Boles, Bryant, Curcio, Koh, Lynch, Maurer, Miller, Piomelli, Sedillo Lopez, Weng, Zawisza and many others that this work is based.¹²⁵

A. Cultural Competency and The Law School Curriculum

Law school accreditors have in the past focused on input measurements, requiring law schools to teach their students particular kinds of knowledge, skills and values.¹²⁶ This way of accreditation has been criticized for failing to better help students be practice ready upon graduation, and for being unlike accreditation methods of other professions.¹²⁷ However, this traditional focus on input measurements is evolving and more law schools and accreditors are increasingly acknowledging the critical nature of focusing instead on an outcome-based way of approaching legal education.¹²⁸ Indeed, ever since the publication of a report by an internal Committee of the American Bar Association (“ABA”) that encouraged re-visiting the ABA’s Accreditation Standards and shifting the focus from input measurement to outcome measurements,¹²⁹ the focus has now become “Learning

124. See Mary A. Lynch, *The Importance of Experiential Learning for Development of Essential Skills in Cross-Cultural and Intercultural Effectiveness* 1 ALB. J. OF EXPERIENTIAL LEARNING 129, 129-47(2015), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2595464; see also Laurie Shanks, *Whose Story Is It, Anyway? - Guiding Students to Client-Centered Interviewing Through Storytelling*, 14 CLINICAL L. REV. 509 (2008).

125. This list is non-exhaustive, but a discussion of some of the contributions of these authors is mentioned throughout this Article.

126. See Maureen A. Rourke, *The “Law” and “Spirit” of the Accreditation Process in Legal Education*, 66 SYRACUSE L. REV. 595, 595-610 (2016).

127. See A. Benjamin Spencer, *The Law School Critique in Historical Perspective*, 69 WASH. & LEE L. REV. 1949, 1951-53 (2012).

128. See Mary A. Lynch, *An Evaluation of Ten Concerns About Using Outcomes in Legal Education*, 38 WM. MITCHELL L. REV. 976 (2012); see also Janet W. Fisher, *Putting Students at the Center of Legal Education: How an Emphasis on Outcome Measures in the ABA Standards for Approval of Law Schools Might Transform the Educational Experience of Law Students*, 35 S. ILL. U. L.J. 225, 225-26 (2011).

129. See Mary Crossley & Lu-in Wang, Essay, *Learning by Doing: An Experience with Outcomes Assessment*, 41 U. TOL. L. REV. 269, 272 (2010).

Outcomes.” These require law schools to list learning outcomes that focus on developing student competency in a number of areas.¹³⁰

As a result, there is now a growing chorus of advocacy from law professors for more overt outcome-orientated legal education because it is thought to not only be beneficial for law students, but to better enable law faculty and students to have clear stated learning objectives and simultaneously also better allow the law school itself to assess its curricula at large.¹³¹ The shift towards assessing what students have learned has resulted in the need to identify and ultimately assess learning outcomes. Based on the research conducted for this Article, reviewing information provided by all of the ABA-accredited law schools, approximately a quarter of the law schools in the U.S. have listed cultural competence or culture-related instruction as a Juris Doctor learning outcome.¹³²

Although the focus for some has been on highlighting the importance of law school clinics in fostering and providing a platform to teach and assess such inter-cultural skills, I here advocate for and attempt to think outside the box to propose options for mainstreaming cross-cultural skills development and assessment across the entire law school curriculum including non-clinical courses. This ought not to be a topic confined to law school clinic environments, much like communication skills as a separate learning outcome is not. To that end, I here have also created a scoring rubric that law professors and supervisors can use to assess law students on cultural competency.¹³³

B. Mechanism for Assessing Law Students’ Cultural Competency

Exposing law students to cultural competency issues and teaching in both a clinical and non-clinical setting is of paramount importance if law schools value preparing their law students to the practice of law in the U.S. in the 21st century. Unlike other more traditional Jurist Doctorate learning outcomes such as communication skills, this topic of cultural competence can be difficult to address and assess in the law school

130. *Id.*

131. See Lori A. Roberts, *Assessing Ourselves: Confirming Assumptions and Improving Student Learning by Efficiently and Fearlessly Assessing Student Learning Outcomes*, 3 DREXEL L. REV. 457, 461, 466-67 (2011).

132. See research results provided *infra* in the Appendix.

133. See Appendix A.

environment, namely because it is still newly emerging and only a progressive fraction of U.S. law schools have listed this as a Juris Doctorate learning outcome for their students. Thus, the pertinent question is how to uniformly assess law students on issues related to cultural competence.¹³⁴

Having reviewed multiple rubrics that can be used to assess issues related to cultural competence in different educational settings, this Article provides a check-list score card that has been devised and provided herein for possible use by law professors and supervising attorneys to assess their law students' proficiency on matters related to their cultural competence.¹³⁵

In this proposed rubric provided *infra*,¹³⁶ the law student would be assessed on six topics that inform on where the law student lies on the spectrum of cultural competency. First, the approach of the student is assessed in the rubric, focusing on the curiosity and openness of the student; second, how aware and knowledgeable the law student is of his/her own culture; third, how aware and knowledgeable the law student is of others' culture; fourth, how well is the law student able to demonstrate cultural empathy and an ability to relate to multiple world views; fifth, the law student's cross-cultural communication skills; and lastly, how able is the law student to influence other people's cultural understanding. In each of these six topics, the law student is graded as either beginner (1 point), developing (2 points), advanced (3 points), and mastering (4 points) for a total maximum cultural competency score of 24 points.

VII. HOW NON-CLINICAL AND CLINICAL LAW SCHOOL CLASSES CAN HELP GROW THE "CULTURALLY SAVVY" LAW GRADUATE

To address this topic of growing the "culturally savvy" law graduate at a root level, this Article seeks to highlight the challenges at the intersection of law and culture, and provide for a number of ways in which cultural sensibility training can be incorporated into law school

134. See Hammer, *supra* note 69.

135. See Appendix (showing a proposal for a rubric for law professors and legal educators and supervisors to use in order to assess the cultural competence of law students).

136. *Id.*

classrooms and clinics with the intention of better equipping law graduates to represent clients from varying backgrounds in an ever diversifying world.¹³⁷

A survey of 450 lawyers (300 private practice attorneys and 150 corporate counsel) and 100 law students in the U.S. in 2009 revealed that 90 percent of lawyers and 65 percent of law students stated that law schools “do[] not teach the practical business skills needed to practice law in today’s economy.”¹³⁸ Given this perception, state bar regulators have explored requiring more exposure of law students to clinical settings which is often ripe ground for exposure of law students to the topic of diversity and culture. For example, New York’s high court adopted, as part of its rules for admission, a requirement that “on or after January 1, 2015, ... every applicant shall complete at least 50 hours of qualifying pro bono service prior to filing an application for admission.”¹³⁹ Other states have also been “critical of law schools for not preparing students better for the practice of law,” and some have additional admission requirements.¹⁴⁰

The ABA’s 2014 Task Force on the Future of Legal Education reported that recent law graduates felt that “they received insufficient development of core competencies that make one an effective lawyer, particularly those relating to representation and service to clients.”¹⁴¹ The ABA now has pivoted to focus on the value of skills-based education, and has now revised its standard regarding learning outcomes for law

137. See Antoinette S. Lopez, *Beyond Best practices for Legal Education: Reflections on Cultural Awareness – Exploring the Issues in Creating a Law School and Classroom Culture*, 38 WM. MITCHELL L. REV. 1176 (2012).

138. LEXISNEXIS, STATE OF THE LEGAL INDUSTRY SURVEY 7 (2009), <http://www.managingpartnerforum.org/tasks/sites/mpf/assets/image/MPF%20-%20WEBSITE%20-%20WHITE%20PAPER%20-%20LN%20State%20of%20the%20Profession%20-%2012-10.pdf>.

139. State of New York, Rules of The Court of Appeals for Admission of Attorneys and Counselors At Law, § 520.16 (2012).

140. Several states have pre-admission requirements for law graduates who have graduated from an ABA-approved law school and passed their state’s bar exam, or requirements that must be fulfilled with one year of bar admission. See *Comprehensive Guide to Bar Admission Requirements*, NAT’L CONF. OF BAR EXAMINERS AND A.B.A. SEC. OF LEGAL EDUC. & ADMISSIONS TO THE BAR 17–19 (2017).

141. A.B.A TASK FORCE ON THE FUTURE OF LEGAL EDUC., REPORT AND RECOMMENDATIONS (2014).

students.¹⁴² The ABA issued a guidance memo in June 2015 that explains the standard.¹⁴³ That standard provides:

A law school shall establish learning outcomes that shall, at a minimum, include competency in the following:

- (a) Knowledge and understanding of substantive and procedural law;
- (b) Legal analysis and reasoning, legal research, problem solving, and written and oral communication in the legal context;
- (c) Exercise of proper professional and ethical responsibilities to clients and the legal system; and
- (d) Other professional skills needed for competent and ethical participation as a member of the legal profession.

Interpretation 302-1

For the purposes of Standard 302(d), other professional skills are determined by the law school and may include skills such as, interviewing, counseling, negotiation, fact development and analysis, trial practice, document drafting, conflict resolution, organization and management of legal work, collaboration, *cultural competency*, and self-evaluation. **[emphasis added]**

This recent addition of “cultural competency” is new. Progressive and entrepreneurial law schools, including Albany Law School in upstate NY where I work, have taken note and have already begun to explore ways of addressing issues related to cultural competence as a Juris Doctorate learning outcome. This Article is an attempt to help in that effort, and to mainstream cultural competency teaching and assessment across the law school curriculum in similar ways that communication skills are taught and assessed.

Professor Lynch and other scholars have observed that most law schools “do little to address the insights of the growing research on cross-cultural competency...or student preparation for the multicultural needs

142. *2014-2015 Standards and Rules of Procedure For Approval of Law Schools*, AM. BAR ASS’N 15, 15-25 (2014), http://www.americanbar.org/content/dam/aba/publications/misc/legal_education/Standards/2014_2015_aba_standards_chapter3.authcheckdam.pdf.

143. A.B.A. SEC. OF LEGAL EDUC. AND ADMISSIONS TO THE BAR MANAGING DIRECTOR’S GUIDANCE MEMO – STANDARDS 301, 302, 314 AND 315, 1, 1-7, (2015), https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/governancedocuments/2015_learning_outcomes_guidance.pdf.

of our changing world.”¹⁴⁴ Although the legal field may be behind other fields such as Medicine, there have been some significant inroads made by clinical law professors to explore and experiment with ways in which to teach and assess intercultural competence.¹⁴⁵ These best practices for teaching cultural competency are only now becoming better understood and being adopted by a small number of progressive law schools.¹⁴⁶

A. Classroom Interventions I: Strategies for Introducing Cultural Sensibility into A Non-Clinical Law Course

As mentioned *supra*, there are significant barriers to teaching cultural competence to law students.¹⁴⁷ Although law professors teaching traditional doctrinal courses may not particularly feel appropriate teaching cultural competence or fear being perceived by students as skipping other pertinent sections of their syllabus, it is important for the law professor to carve out time and opportunities to explore this topic in their course because to do so is to place their students in a better position for the practice of law upon graduation. There are strategies that can be adopted in this light, albeit this is not a one size fits all approach, but rather some ideas worthy of consideration.

Although teaching and training law students on cultural competency skills have traditionally been reserved to a law school clinic or seminar setting,¹⁴⁸ including examples given *infra* of how Harvard, Stanford,

144. See Mary A. Lynch et al., *Intercultural Effectiveness, in Building on Best Practices: Transforming Legal Education*, A CHANGING WORLD 338 (2015).

145. See *id.*

146. See Appendix herein for a list of all ABA-accredited law schools and in what language each school lists cultural competence as a learning outcome. This research shows that presently well less than half of the law schools have not listed cultural competence as a learning outcome on their websites, even though all learning outcomes must now be listed by law schools on their websites. This means only a progressive fraction of all law schools in the U.S., including many of the top 50 U.S. law schools, are leading on and exploring ways to adopt ways to teach and assess law students on their cultural competence.

147. See *supra* Part IV.

148. See Kathleen Kelly Janus and Dee Smythe, *Navigating Culture in the Field: Cultural Competency Training Lessons from the International Human Rights Clinic*, 56 N.Y.L. SCH. L. REV. 445 (2011-2012) (discussing how to train law students on cultural competency issues in a human rights law clinic); see also Serena Patel, *Cultural Competency Training: Preparing Law Students for Practice in Our Multicultural World*, 62 UCLA L. REV. DISC. 140, 149-56 (2014); Muneer Ahmad, *Interpreting Communities: Lawyering Across Language Difference*, 54 UCLA

Columbia and Fordham Law Schools are addressing this topic head on in their clinics,¹⁴⁹ creative thinking must be put into action by law educators to include cultural competency training as a necessary skill set in the non-clinical, doctrinal law school setting. As an example, let's consider the doctrinal class of Trusts and Estates. While traditionally an attorney's majority client base may have been an all-white husband and wife and two children, with the attorney assisting on all matters related to trusts for the children, wills and health care proxies, that dynamic is becoming less so. That all-white family will be the minority in the U.S. within the next 25 years.¹⁵⁰

The client pool for that Trusts and Estates attorney is changing rapidly.¹⁵¹ No longer will he/she be able to fall back on the assumption that as long as he/she performs their tasks competently and promptly, effective counseling of the client has occurred. Now, and for the foreseeable future, any attorney developing such a Trusts and Estates practice will have to contend with the dizzying changes that are happening to U.S. demographics¹⁵² because that is where the clients of 21st century will be. Also, whereas cultural issues surrounding same-gender couples and related adoption of children were rare for the Trusts and Estates attorney one generation ago, it is now more commonplace and the lawyer will have to have a strategy for learning and skillfully navigating such cultural issues. And so, the question becomes how can one help the law student interested in Trusts and Estates as a future legal career develop such cross-cultural skills.

Ideas for infusing cultural competence into doctrinal law school classes such as the above-mentioned Trusts and Estates example include asking law students to conduct research about a particular cultural issue that may have been relevant in a case. Irrespective of which doctrinal

L. REV. 999 (2007); Alexis Anderson, et. al., *Challenges of "Sameness": Pitfalls and Benefits to Assumed Connections in Lawyering*, 18 CLINICAL. L. REV. 339 (2012); and Christine Jolls and Cass R. Sunstein, *The Law of Implicit Bias*, 94 CALIF. L. REV. 969 (2006).

149. See *infra* Part VIIb.

150. See William H. Frey, *The US Will Become 'Minority White' in 2045*, *Census Projects*, BROOKINGS (Mar. 14, 2018), <https://www.brookings.edu/blog/the-avenue/2018/03/14/the-us-will-become-minority-white-in-2045-census-projects/>.

151. *Id.*

152. See *supra* Part II (discussing, for example, that approximately a third of the current workforce in America, who represent a sizable segment of clients for lawyers, are people who were born in another country. That is, a third of the client pool is of a different cultural background and upbringing than U.S. born attorneys).

class and the holding of a particular case aside, law professors could identify certain cases as presenting interesting facts related to cultural issues and ask law students to research particular cultural issues and write a memo on at least two cultural issues that the lawyers litigating the case ought to have addressed privately with their clients. This form of teaching also gives law students an insight into not just the legal holding of a case, but how the litigating parties would have been advising their clients both from a substantive level and from this culturally savvy perspective.

Other ideas can be taken and adopted from the approach other law schools take for addressing cultural competence in doctrinal classes. For example, the University of New Mexico School of Law includes a learning outcome that assesses students' abilities to address cross-cultural considerations.¹⁵³ They do this by requiring all first-year law students to take a one credit practicum that focuses on topics related to emotional intelligence, mindfulness practices and cultural competence, especially in the context of race, gender, sexual identity, ethnicity, economic background, etc.¹⁵⁴ To supplement the teaching and learning experience, clinical law professors are asked to engage with each student, coach them and provide feedback to help the student move to a more advanced level of cultural competency.¹⁵⁵

Other law schools likewise are experimenting with infusing cultural competence teaching into their doctrinal courses. In another example, first-year law students are required to take a "Foundations of Justice" course that focuses in part on cultural competency as an essential skill for lawyers.¹⁵⁶ In this course, students review relevant articles and work in groups to discuss their life experiences and backgrounds and explore cultural issues and biases.¹⁵⁷ Another course is a second-year course focusing on mentorship, where the class is required to read literature on different forms of bias, how it affects practice of law, and how to seek out strategies for eliminating it.¹⁵⁸ In both of these classes, students write

153. See *Our Unique First Year Curriculum*, UNM Sch. of L., <https://perma.cc/ZATE-92CJ> (last visited Oct. 31, 2020).

154. *Id.*

155. *Id.*

156. *Full-Time J.D. Program*, UST. THOMAS SCH. OF LAW, <http://www.stthomas.edu/law/jd/full-timeprogram> (last visited Oct. 31, 2020).

157. *Id.*

158. *Id.*

reflections on their readings as part of their learning experience related to cultural competence.¹⁵⁹

As the above suggestions highlight, with careful course design, it is possible for doctrinal law professors to use a number of opportunities to infuse cultural competency as a part of what their doctrinal course will teach and assess.¹⁶⁰ Although this is difficult for some doctrinal law professors and coupled with the fact that sometimes there will be student resistance to this kind of teaching in such a class,¹⁶¹ it is key that the law professor recognize they stand to do a service to their students. It may be difficult to implement, and their students may not appreciate it at the time, however, careful coverage of cultural competency concerns in a doctrinal law class will be a memorable experience for law students and one that is applicable and relevant to their careers in law post-graduation.¹⁶²

B. Classroom Interventions II: Strategies for Introducing Cultural Sensibility into a Clinical Law Course

The concept of educating law students in a law clinic within law schools has evolved greatly and is now a growing area for academic research and scholarship. The educational value of this clinical setting cannot be understated, as law students are encouraged, and indeed required at Albany Law School where I teach, to take at least one clinical course to be exposed to real-life situations. Under these circumstances, students learn to apply the theory and doctrines learned in a more traditional classroom setting and/or under the tutelage of the clinical law professor and the professor's practicing attorney contacts with whom the student will train.

The ABA-accredited law schools are currently required to teach at least six credits of experiential courses to every law student.¹⁶³ Several

159. *Id.*

160. Bidish J. Sarma, *Challenges and Opportunities in Bringing the Lessons of Cultural Competence to Bear on Capital Jury Selection*, 42 U. MEM. L. REV. 907 (2012) (discussing, for example, opportunities that criminal law professors can take from and use in their classes on matters related to cultural competence).

161. *See id.* at 930.

162. Neil Hamilton & Gerome M. Organ, *Thirty Reflection Questions to Help Each Student Find Meaningful Employment and Develop an Integrated Profession Identity (Professional Formation)*, 83 TENN. L. REV. 843, 847 (2016).

163. 2020-2021 Standards and Rules of Procedure for Approval of Law Schools, American Bar Association. See, Standard 303(a)(3), https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/standards/2020-2021/2020-21-aba-standards-and-rules-chapter3.pdf.

progressive U.S. law schools have been on the forefront of clinical legal education, with law school administrators increasingly recognizing the critical nature of clinical legal education to the prospects of a law school. This is reflected in the number of law schools that provide this clinic experience to their students rising from only 12 law schools out of the approximately 200 law schools in 2005 to 68 law schools in 2017 (that is, approximately a third of all ABA-accredited law schools) that provide this clinic or externship experience to their law students prior to graduation.¹⁶⁴

It is within this context of the growing importance and meteoric rise of law school clinic programs nationwide and the desire of law students to seek out clinical opportunities that teaching and exploring concepts related to cultural competence can find fertile ground to germinate.¹⁶⁵ Ever since the 2016-2017 academic year, law students are increasingly engaged with work through clinics, externships, or simulation courses.¹⁶⁶ These clinic and externship opportunities allow law students to interact directly with clients and through this experience, students will be exposed to clients who come from different backgrounds and cultures, thereby providing opportunities to experience and learn from the challenges of cross-cultural lawyering.¹⁶⁷

As an example of the fraction of law schools exploring this topic in depth, one can take the examples of Harvard, Stanford, Columbia and Fordham Law Schools. Two of these schools have specific clinical training programs in cultural competency in their clinics, namely Harvard

164. Robert Kuehn, *Clinical Legal Education by the Numbers*, WASH. U. SCH. OF L., Spring 2018, at 11, [https://clea.wildapricot.org/resources/Documents/CLEA%20Newsletter%20Spring%202018%20\(final\).pdf](https://clea.wildapricot.org/resources/Documents/CLEA%20Newsletter%20Spring%202018%20(final).pdf).

165. See Ascanio Piomelli, *Cross-Cultural Lawyering by the Book: The Latest Clinical Texts and a Sketch of a Future Agenda*, 4 HASTINGS RACE & POVERTY L.J. 131 (2006), https://repository.uchastings.edu/faculty_scholarship/637.

166. AM. BAR ASS'N, TRANSITION TO AND IMPLEMENTATION OF THE NEW STANDARDS AND RULES OF PROCEDURES FOR APPROVAL OF LAW SCHOOLS (2014), http://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/governancedocuments/2014_august_transition_and_implementation_of_new_aba_standards_and_rules.authcheckdam.pdf.

167. SUSAN BRYANT & CONRAD JOHNSON, TRANSFORMING THE EDUCATION OF LAWYERS: THE THEORY AND PRACTICE OF CLINICAL PEDAGOGY 258 (Susan Bryant et al. eds., 2014).

Law¹⁶⁸ and Stanford Law.¹⁶⁹ Moreover, while Fordham Law School's Center for Social Justice explores and analyzes the consequences of poverty and focuses on training on cultural "difference,"¹⁷⁰ Columbia Law School teaches cultural competency in the context of training the next generation of leaders in their "Davis Polk Leadership Initiative."¹⁷¹

Drawing from these examples and the scholarship of other law professors focusing on teaching "culture" in law school settings,¹⁷² I began experimenting by intentionally identifying and selecting diverse technology entrepreneurs for our students to work with in the hybrid Entrepreneurship Law in Emerging Technologies clinic I created and have been leading for the past four years. For example, on one occasion, I chose a technology entrepreneur from a different cultural background to the law students, so that the students could experience navigating this cultural issue on top of the substantive legal work they had in mind related to the technology, intellectual property, and innovation.¹⁷³

It is during such clinical experiences that students and their supervisors have cognizable opportunities to explore and facilitate a discussion on student reflection and how to address cross-cultural challenges as legal practitioners.¹⁷⁴ This kind of reflection is of great educational benefit to law students,¹⁷⁵ and time and effort taken by the supervisor or clinical

168. *The Case Studies*, HARV. L. SCH., <http://casestudies.law.harvard.edu/case-study-resources/> (last visited Oct. 31, 2020).

169. See for example, <https://law.stanford.edu/mills-legal-clinic/message-director/>.

170. *Fordham Law School's Feerick Center for Social Justice*, FORDHAM U. SCH. OF L., <http://law.fordham.edu/feerick-center/30506.htm> (last visited Oct. 31, 2020); see also Kimberly E. O'Leary, *Using a "Difference Analysis" to Teach Problem-Solving*, 4 CLINICAL L. REV. 65 (1997) (Here, it is suggested how one can use a "difference analysis" within the context of client interviewing in a clinical classroom setting to teach multicultural competence.).

171. See *Davis Polk Leadership Initiative*, COLUM. L. SCH., <https://leadership-initiative.law.columbia.edu/content/about-us> (last visited Oct. 31, 2020) (discussing cultural competency in the context of Columbia Law School's leadership training initiative).

172. See, e.g., Antoinette Sedillo Lopez, *Making and Breaking Habits: Teaching (and Learning) Cultural Context, Self-Awareness, and Intercultural Communication Through Case Supervision in a Client-Service Legal Clinic*, 28 WASH. U.J.L. & POL'Y 37 (2008).

173. For more information and additional cultural examples from the Entrepreneurship Law in Emerging Technologies clinic I started four years ago and lead, please see *In Semester*, INNOVATION SUMMER ACADEMY, <https://www.innovationsummeracademy.com/in-semester> (last visited Oct 31, 2020).

174. SUSAN BRYANT, ELLIOTT MILSTEIN & ANN SHALLECK, *TRANSFORMING THE EDUCATION OF LAWYERS: THE THEORY AND PRACTICE OF CLINICAL PEDAGOGY* 23-24 (Susan Bryant et al. eds., 2014).

175. See Jodi S. Balsam, Susan L. Brooks & Margaret Reuter, *Assessing Law Students as Reflective Practitioners*, 62 N.Y.L. SCH. L. R. 49, 49-68 (2018).

professor in identifying and selecting the client can facilitate a discussion and a learning environment on issues related to the interplay of client representation on substantive legal matters and matters related to culture.¹⁷⁶

Law school clinics provide a unique platform to teach and assess cultural context and self-awareness, as well as the necessary skill of communicating with people of different cultures.¹⁷⁷ Because it is a clinic, students also experience how such factors can have a direct effect on client representation. The clinic offers other forums to teach and assess cultural competency, including using research projects, reading, group discussions, roleplays followed by discussions, and live client rounds. Such law school clinic settings provide for the ability to assess law students on the topic of cultural competency and the ability of the student to engage in effective strategies for representing clients in inter-cultural scenarios.

The supervising attorney typically plays a key role in this process. The supervisor can be relatively rigid initially, as they outline what they expect the clinic student to do with the limited knowledge or skills they have at the early stage of the student-supervisor relationship. Having had more time in the clinic to absorb issues related to the client, the task at hand, and the law and skills relevant to assisting the client, the opening for a discussion on “culture” and “difference” is ripe. In this stage, students have met the client and are overall a little more settled and aware of the facts and potential legal issues. The supervising attorney at this stage can, if they so wish, give more flexibility to the law student and give a research and short prose assignment for the student that focuses exclusively on identifying if there are cultural issues that are going to potentially impact the representation. The supervisor can permit for as much flexibility as they wish at this stage, spanning from little guidance to giving specific material to read, watch, and/or consult with others from the relevant culture to better ascertain information related to that culture. This middle phase of the law student-supervising attorney is the best phase to address the topic of self-awareness, cultural sensitivity and related skills. The law student at this stage is typically gaining confidence

176. Cynthia Pay, *Teaching Cultural Competency in Legal Clinics*, 23 J. OF L. & SOC. POL'Y 188 (2014).

177. *Id.*

and this would be a subtle topic that they would not have focused much on in other law courses.

Once armed with the research and discussions with the supervising attorney, the student can then also consult with the client to ascertain the client's objectives and perspectives. At this stage, the student's own bias can be raised and nascent cultural issues (outside of the substantive legal issues) arising from the representation revealed and discussed. The supervising attorney has the goal of allowing the students to understand themselves and the cultural upbringing they bring to the table in the context of the client's cultural upbringing and perspectives, and encourage the students to develop appropriate openness and humility when hearing client perspectives different to their own. It is through these law student-supervising attorney discussions, where, at times, the attorney and the student are sharing information and ideas that the student will begin to appreciate the importance of culture and its inter-relation with the substantive legal issue at hand when representing clients.

In the law school clinic, the supervising attorneys play different roles during different phases of the representation. For example, in the latter half of the representation, I, as a supervising attorney in the Entrepreneurship Law in Emerging Technologies clinic I run, give the law students more flexibility to explore what they feel is appropriately related to how culture affects or can affect the legal issues in play during the representation. I start by directing the students to a small reference list of scholars who have written on this topic and we reflect and discuss general themes and, so long as the students' approaches are reasonable for their situations, my approach is to allow the students to feel empowered to make practical judgments related to client's specific culture, communication strategies and opportunities to connect with a client. Interestingly enough, this can also be a great learning exercise for the supervising attorney or clinical law professor too.

The extent of feedback students receive from their supervising attorney or the clinical law professor is also a key feature of their clinic experience, yet discussing the advances made by the students in identifying and confronting cultural issues in each specific representation can be difficult. Formative feedback during the clinic representation allows the student to learn and improve, whereas summative feedback can be used by the supervising attorney to evaluate a student's progress

on the cultural competence development spectrum.¹⁷⁸ By structuring formative feedback, supervising attorneys can pin down the objectives and personal goals of each student early on, give feedback during the representation on any cultural issues raised, and ask the student to self-evaluate to what level their own objectives have been met. The students would then also consider their self-awareness and their skills development. Finally, the students could consider the journey they personally have taken to grow and be better able to represent the client. In Albany Law School's Justice Center, our students and supervising attorneys also take a survey at the end of the year and this helps the institution as a whole self-assess to see what it can improve upon.

The supervising attorneys in clinics have an opportunity to address cultural competency matters by discussing the topics of self-awareness and cultural context and representing culturally diverse clients. As an example, as part of the Entrepreneurship in Emerging Technologies hybrid clinic I run, I traveled with two third-year law students to represent a distinguished Entrepreneur at a Technology Incubator. Even though he was located on the other side of New York, I had handpicked this Technology Entrepreneur because the stage of development of his idea was at a stage that would provide a lot of substantive learning opportunities for the students, but also because the Technology Entrepreneur was foreign-born and had a strong accent when speaking.

I suggested students may wish to take a moment to connect with the Entrepreneur by asking about his background and see if they can relate to whatever the Entrepreneur has to say. I also mentioned that if they felt it appropriate, I would see no problem if the student pair carried a short conversation not about the legal issues, but based on what he says about his background. Our discussion was on the subtle point of students recognizing that they did not need this connection to represent this Technology Entrepreneur on the substantive legal matters we covered, but understanding that this type of non-substantive connecting with a client has the best chance for the lawyer to get repeat work in the real world of private practice.

Although going into the meetings with the technology entrepreneurs the law students were prepared for the legal topics they planned to cover,

178. See *infra* and also Appendix A for a rubric that has been devised based on a review of many other rubrics. This rubric could be used to assess cultural competence of upper level law students in a clinical, practice-related environment.

they were also aware that this cultural connection issue was something non-substantive but one which I encouraged be explored in a conversational manner where possible.¹⁷⁹ Perhaps this was unconventional to raise this in a technology/innovation startup context, however, because the American Bar Association has newly articulated “cultural competence” as a learning outcome and because there is a clinical requirement at our law school and we have “cultural competence” as a separate JD student learning outcome, what better way to address this issue than in the context of our clinic, The Justice Center. This kind of exercise is also a great way for the supervising attorneys to continually learn and enjoy their work, as they supervise constantly changing cultural issues and themes with their different law student teams’ representations.

So long as there is buy-in from law school faculty and a cognizable forum for doing so, professors can help this effort. For example, any law faculty member who works in any kind of clinical setting with students can design experiential learning opportunities for law students that taps into cross-cultural communication issues. As in the example given above with my Technology Entrepreneurship Law clinic, this can take the form of careful client selection as a starting point so as to expose the law student to as many of the learning outcomes as feasible. In some clinics, students represent many clients and as such the opportunities to explore a myriad of cultural issues is plentiful, including for example, reflecting on the clients’ age, race, sex, socioeconomic background, education, bodily appearance, nationality, immigration status, language skills or lack thereof, hygiene, decorum, to name a few. Yet, in other types of clinics, a student team will face only a small number of clients and it is in these situations that the supervisors’ selection of the client can be important in providing the law student with the richest possible experience from their clinic experience.

179. The meetings went so well in fact that at the completion of the work the Entrepreneur, who was awarded the 2018 State University of New York Chancellor's Award for Excellence in Scholarship and Creative Activities and separately had funding from the National Science Foundation Innovation Corps., asked the students to apply to lead the aerospace-related Technology Startup as Entrepreneur Lead/Executive Officer. The students “connected” well with this culturally diverse Technology Entrepreneur, and did good substantive work. Both students indicated they had learned a lot from this experience and were excited by this unusual outcome from participating in this hybrid clinical course, with one applying for the role and the other opting to focus on studying for the New York State Bar Exam. One of the law students was offered and accepted the role to be the Entrepreneur Lead for this aerospace-related technology start-up company.

The goal of the law professor when designing such opportunities can be to find ways to teach students the art of live reflection on issues related to the differences that exist between themselves and the clients sitting opposite.¹⁸⁰ This reflective component allows for teaching moments that improve upon lawyering practices and communications with an ever increasingly diverse client base.¹⁸¹ Such law students then become best positioned after graduation to represent diverse groups of people that exist in our society, recognizing and being deftly attune to how culture and bias affect their everyday lawyering.

Having discussed how to set the stage for exposing law students to cultural competency issues and teaching this topic in both clinical and non-clinical settings, as discussed *supra*,¹⁸² this Article provides a novel rubric check-list score card that has been devised so that law professors and supervising attorneys can uniformly and easily assess their law students' proficiency on matters related to their cultural competence.¹⁸³ Separate from each law professor showing leadership in designing and implementing instruction on cultural competency matters on their own relevant courses and perhaps using the scoring rubric provided herein,¹⁸⁴ law school administrators also have a big role to play in taking up opportunities to foster and enrich the law school campus to become as culturally rich as possible and a welcoming and inclusive learning environment. In this vein and outside of strategies for possible adoption by individual doctrinal or clinical law professors as discussed *supra*,¹⁸⁵

180. Anastasia M. Boles, *The Culturally Proficient Law Professor: Beginning the Journey*, 48 N.M.L. REV. 145 (2018), <https://digitalrepository.unm.edu/nmlr/vol48/iss1/5>.

181. Susan L. Brooks, *Fostering Wholehearted Lawyers: Practical Guidance for Supporting Law Students' Professional Identity Formation*, 14 U. ST. THOMAS L.J. 412, 431 (2018).

182. See *supra* Section VI.b.

183. See *infra* Appendix A (showing a proposal for a rubric for law professors, legal educators, and supervisors to use to assess the cultural competence of law students. The rubric focuses on six key criteria for assessing cultural competency of the law student: first, the approach of the student is assessed in the rubric, focusing on the curiosity and openness of the student; second, how aware and knowledgeable the law student is of his/her own culture; third, how aware and knowledgeable the law student is of others' culture; fourth, how well is the law student able to demonstrate cultural empathy and an ability to relate to multiple world views; fifth, the law student's cross-cultural communication skills; and lastly, how able is the law student to influence other people's cultural understanding. In each of these six topics, the law student is graded as either beginner (1 point), developing (2 points), advanced (3 points), and mastering (4 points) for a total maximum cultural competency score of 24 points.).

184. See *infra* Appendix A.

185. See *supra* Section VII.

some potential options for parallel campus-wide strategies to address cultural competency learning of law students are outlined *infra*.

VIII. GENERAL INTERVENTIONS AND THE LAW SCHOOL ENVIRONMENT

There are five essential elements that can facilitate and actively contribute to an institution's ability to become more culturally competent. An institution that endlessly strives to be culturally competent (1) values diversity, (2) is able to periodically, culturally self-assess itself, (3) remains curious and conscious of inter-cultural dynamics when different cultures are present and occasionally collide, (4) has institutionalized cultural knowhow and knowledge, and (5) has developed adaptations to diversity.¹⁸⁶ Moreover, the guidance from others suggests that it is critical that each of these five elements be infused throughout the institution such that, for example, the policies be impartial and attitudes kept unbiased.¹⁸⁷ It is within this context that several general interventions can be made at the institutional level by a law school to help enrich the school's environment by facilitating and promoting a richer school environment reflected by a more culturally competent student body.

A. Language

Of the approximately 7,000 languages that are spoken on our planet,¹⁸⁸ I am writing and you are reading in the second most popular one. There are approximately one billion English speaking people on earth, closely second place only to the Mandarin Chinese-speaking population. This domination in a fundamental communication tool, language, poses challenges and opportunities for the agile law student/attorney. The opportunities are self-evident and not worth exploring here, however, the

186. Cross et al., *supra* note 19, at v.

187. Cross et al., *supra* note 19, at v.

188. The most extensive and authoritative catalog of the world's languages is by Ethnologue (published by SIL International), whose detailed list includes 6,909 distinct languages. See *Ethnologue: Languages of the World*, ETHNOLOGUE, <https://www.ethnologue.com/> (last visited Oct 31, 2020); see also STEPHEN R. ANDERSON HOW MANY LANGUAGES ARE THERE IN THE WORLD? 1 2 (2010), <https://www.linguisticsociety.org/sites/default/files/how-many-languages.pdf>.

challenges can be interesting to explore and especially so if any can be turned to become an opportunity.

There are many instances of “lost in translation” or “lost in cultural interpretation,” where some proficiency of language exists but the meaning is lost due to lack of fluency and/or understanding. One of my colleagues at Albany Law School is of Irish descent and gave the example of having read out messages from Ireland at her sister’s wedding in New York and the shock for some of the attendees to hear the well-wishers from Ireland wishing the attendees in the Bronx, NY a “good craic”¹⁸⁹ at the wedding at the height of when there was a drug problem in the Bronx.¹⁹⁰ There are even misunderstandings when both parties are fluent in the same language. As someone who grew up in the United Kingdom, I experienced this first hand and recall finding it interesting when I arrived in the U.S. to learn and adapt to say “Fall” instead of “Autumn,” “trunk” instead of “boot,” “elevator” instead of “lift,” “line” instead of “queue,” “sidewalk” instead of “pavement,” “sneakers” instead of “trainers,” etc.¹⁹¹

Teaching or formally providing opportunities to learn a second language during the J.D. educational experience can seem unorthodox and daunting, yet avenues do exist. For example, law students at New York University have the option of taking Spanish and Mandarin language law courses during their J.D. educational experience. The law school at the University of Pittsburgh is another example, where their “Languages for Lawyers” courses provide law students the opportunity to learn the basics of Arabic, French, German or Spanish in a legal context. The courses are designed to communications between the J.D. student and people speaking the language the J.D. student has interest in and is focused on. This allows for cultural awareness and perspective learning on the part of the law student and the ability to transmit a sense of the foreign legal culture toward the future American practitioner. Yet another law school experimenting with this mixing law and language approach is University of Michigan Law School, where their J.D. students can take foreign language credits earned at University of Michigan and have those credits count towards their J.D. degree, even if the language courses are entry-level.

189. Pronounced as “good crack.”

190. Lynch, *supra* note 124, at 129–30.

191. Jennifer Frost, *British vs. American English: 63 Differences*, GRAMMAR CHECK (Feb. 9, 2017), <https://www.grammarcheck.net/british-vs-american-english/>.

There are other credit-bearing options, as well as other extra-curricular opportunities, utilized by some U.S. law schools as a mechanism of providing opportunities for students to broaden their cultural perspectives during their education at law school. Indeed for students hoping to enter the increasingly globally minded legal profession, being able to speak a foreign language is useful and ever more desirable to employers.

Learning Spanish, Chinese or another language spoken by a large proportion of the earth's population, although unorthodox during a law school education that focuses on law, is undoubtedly a benefit in an increasingly integrated world and can be done in dynamic and interesting ways. In addition to the limited U.S. law schools that experiment with this, law students can be encouraged to travel abroad for a semester and for this to count for their credit requirements. Indeed, my own travels to a Summer Academy at a top tier Italian law school in Summer of 2018 and 2019 have shown me that this is a real possibility, especially given that options exist to take law courses in English at Italian law schools. There are cultural benefits of having U.S. law students travel to law schools abroad, more than just learning a law subject and the basics of a new language.

Finally, there are easier to implement programs to facilitate and encourage the learning of a foreign language by interested U.S. law students. For example, buying language learning software and making it freely accessible to the law students, as Hostra University Law School has done, or making connections between the law school and the foreign language department of the University can foster the requisite environment to attract certain law students to take up the opportunity to learn a language other than English while in law school.

B. Food

Food can be a source of identity and culture.¹⁹² One of the ways law schools can encourage cultural exchanges and learning is to organize various forms of an international food fair.¹⁹³ This can take the form of students from different cultural backgrounds bringing food they grew up with to a potluck event, and perhaps to wear the traditional attire of their heritage. These kinds of placeholders are great opportunities to start

192. Gina M. Almerico, *Food and Identity: Food Studies, Cultural, and Personal Identity*, 8 J. OF INT'L BUS. AND CULTURAL STUD. 1, 2 (2014).

193. See Bob Ashley et al., *FOOD AND CULTURAL STUDIES* (2004).

conversations and learn about a culture by asking about the food or clothing worn.

An alternative idea in this context would be to have a budget item where all student associations must choose from a list of “restaurant providers” for law school events they run, and making sure these providers are diverse kinds of cuisine. Some may not like some of the food that is ordered on occasion, but the value of the cultural experience outweighs not eating as much on a given event (even if to speak to others and say something negative about the cuisine). As is widely known in law schools, students will also be drawn to opportunities to eat and take a break. It is at times on these breaks and while having food from different countries that cultural conversations and learning from each other can occur.¹⁹⁴

C. Cabarets

One other general intervention a law school can make to infuse culture and cultural perspectives into the law school environment is to hold an annual Cultural Cabaret. This will typically be done near the end of the semester and can be promoted to be an opportunity for students and professors to perform any talents they have. It can be a barrier breaker, but admittedly not the right fit for every professor to be expected to engage students in this way.

The principal of widening the perspectives of students to the vocational abilities of their fellow students can give perspective and depth to the facets of different characters coming from different backgrounds. It can be enriching to decide your own position, while quietly thinking of the rich perspectives your friends’ backgrounds bring to bear as they are asked to take a position on the same issue. All this adds to experiencing cultural awareness at law school. This kind of event can assist the law school community to come together and for students who are friends already to solidify friendships and for new friendships and memories to form. Culturally, that is, from the perspective of learning and appreciating other people and possibly connecting with them, this

194. Claude Fischler, *Food, Self and Identity*, 27 SOC. SCI. INFO. 275, 275-292 (1988).

approach can be a benefit and indeed our law school has such an annual event halfway through every Spring semester.¹⁹⁵

D. Religion

Deft handling of religion can both garner the lawyer respect and trust from the religiously diverse client and can also be a crucial factor in effective cross-cultural client representation. And yet, it is generally undervalued by lawyers.¹⁹⁶ This is even when religion plays a central role in Americans' lives¹⁹⁷ and the lives of people the world over.¹⁹⁸ Although religion is one of at least seventeen likely "cultural groups and cultural norms" that the cross-culturally skilled lawyer is able to navigate,¹⁹⁹ it typically is intermeshed with other factors including, for example, race, ethnicity, and sex of the individual.²⁰⁰

With the importance of this factor in mind for the development of cultural competence of law students, the law school campus provides for some unique opportunities unavailable to most other entities. One could use the nature of this factor to routinely invite onto the law school campus

195. Alas, I have yet to perform with/for students in such a Cabaret, however, no doubt I'll rise to the challenge and do so one day. I did, however, upon strong request from the organizers, play guitar and sing two songs, including the Scottish National Anthem, at a formal Robert Burns dinner function in January of 2020 in Albany, New York to a group of about one hundred largely UK expats.

196. James A. Sonne, *Cross-Cultural Lawyering and Religion: A Clinical Perspective*, 25 CLINICAL L. REV. 223, 223-24 (2018).

197. FRANK NEWPORT, *GOD IS ALIVE AND WELL: THE FUTURE OF RELIGION IN AMERICA* 11 (2012) (noting that "about six in ten Americans consistently say that religion can answer life's problems").

198. *The Changing Global Religious Landscape*, PEW RESEARCH CTR. (Apr. 5, 2017), <https://www.pewforum.org/2017/04/05/the-changing-global-religious-landscape/> (showing data that "84% of the 2010 world population" has a religious affiliation).

199. Bryant, *supra* note 4, at 41 (2001) (citing religion as one of 17 likely "cultural groups and cultural norms" for cross-culturally skilled lawyers to have in mind); *see also* Ascanio Piomelli, *Cross-Cultural Lawyering by the Book: The Latest Clinical Texts and a Sketch of a Future Agenda*, 4 HASTINGS RACE & POVERTY L.J. 131, 133 (2006) (highlighting the importance of religion in cultural education); Christine Zuni Cruz, *On the Road Back In: Community Lawyering in Indigenous Communities*, 5 CLINICAL L. REV. 557, 565-67 (1999) (highlighting religion as one of the key cultural factors in community lawyering).

200. SUSAN BRYANT, ELLIOTT S. MILSTEIN, & ANN C. SHALLECK, *TRANSFORMING THE EDUCATION OF LAWYERS: THE THEORY AND PRACTICE OF CLINICAL PEDAGOGY* 388 (2014) (See chapter by Jean Koh Peters & Susan Bryant, *Talking About Race*. There, the authors highlighted the importance for a lawyer not to assume their client is limited to one cultural trait ("anti-essentialism") and instead approach the client as an individual with multiple cultural traits ("intersectionality").).

religious figures from all faiths to give talks on issues relevant to their faith. This will have several positive outcomes for a law school. Foremost, it will help students that hail from that religion to maintain a level of comfort to have a senior figure from that faith on campus to talk to students. Second, it will open dialogue and a better understanding of different religions, and by extension cultures, and how they intersect with law and society. It can also open the door for peer-to-peer dialogue and learning, which can sometimes be more effective than the teacher-student dynamic and bring communities together.

For example, a panel discussion can be held every semester, or even year, on “Law, Religion & Society,” with the law school inviting one senior figure from four different faiths to discuss a small list of topics and can be chaired by a clinical law professor. Alternatively, it can take the form of a monthly lecture series during the semesters on the same topic, with individual religious experts from each faith speaking on any aspect related to the intersection of law and people from their religion, followed by discussion. These kinds of campus-wide forums can help law students and law faculty learn and ask questions about religion in an academic setting and appreciate how just this one factor, out of about seventeen factors,²⁰¹ can play a crucial role in lawyer-client representations.

E. International Travel

The benefits of traveling to another country and seeing people live and speak differently is the type of immersion that leaves an impression on most folks, and law students would be no different.²⁰² When traveling abroad, the realization that in this new environment one is now the minority and the “other,” allows the traveler to see and understand societies different to the one he/she is experiencing in the U.S.²⁰³ This

201. *Id.*

202. See President Barack Obama, Address at Student Roundtable in Istanbul, Turkey: Exchanges Can Break Down Walls Between Us (Apr. 7, 2009) (“I’d like to find new ways to connect young Americans to young people all around the world, by supporting opportunities to learn new languages, and serve and study, welcoming students from other countries to our shores... Simple exchanges can break down walls between us.”).

203. See President George W. Bush, Address at the International Education Week 2001 (Nov. 13, 2001) (“By studying foreign cultures and languages and living abroad, we gain a better understanding of the many similarities that we share and learn to respect our differences. The relationships that are formed between individuals from different countries, as part of international education programs and exchanges, can also foster goodwill that develops into vibrant, mutually beneficial partnerships among nations.”).

realization, that when in a foreign country there is a dominant culture and that this culture is different from the culture in which one has been raised in the U.S., can only benefit a law student who after graduation has to represent clients in arguably the most heterogeneous country on earth with people hailing from abroad and/or having strong family ties to countries outside of the U.S.

The majority of law schools in the U.S. do not have programs or encourage their students to travel abroad in a professional setting or to a law school for a summer, semester, or year-long program. This is a lost opportunity. Yet, approximately half of the ABA-approved law schools who have embraced this opportunity are already benefiting.²⁰⁴ According to *U.S. News*, law students find the experience transformative and describe how the classroom part is valuable but also highlight the “opportunities to meet people from different cultures and deal with them.” Other students describe how the experience gave them “greater awareness” and helped build a network of contacts around the world.²⁰⁵ Students aside, the Dean of Georgetown University Law Center in Washington, D.C., was also quoted as saying studying abroad is “incredibly valuable.”²⁰⁶

Yet, for all the benefits that may exist, the data rounded off to the nearest thousand shows that 3,000 of America’s 111,000 JD students in the 2016-2017 academic year gained international experience.²⁰⁷ This figure focuses on credit-bearing opportunities and excludes non-credit bearing opportunities to experience international travel related to the student’s law school education.

How can law schools act on this issue? The reality is that there is excess capacity in existing programs that are approved by the ABA, and law schools that run existing programs are aware that should they not offer their international program for two-consecutive years, they will lose their ABA approval. Thus, even if a U.S. law school does not have or promote opportunities to their law students to study law for a semester or

204. Anne-Marie Slaughter, *The International Dimension of Law School Curriculum*, 22 PA. ST. INT’L L. REV. 417 (2004).

205. Christopher J. Gearon, *Law Schools Go Global*, U.S. NEWS (Mar. 29, 2011, 9:00 AM), <https://www.usnews.com/education/best-graduate-schools/top-law-schools/articles/2011/03/29/law-schools-go-global>.

206. *Id.*

207. Theresa Kaiser-Jarvis, *Preparing Students for Global Practice: Developing Competencies and Providing Guidance*, 67 J. LEGAL EDUC. 949, 959 (2018).

for a year abroad, the law school could explore opportunities with peer schools who have programs for the benefit of students at both institutions. Teaming up with other law schools that have existing programs can be a win-win outcome, as there is capacity in these existing programs and there is the fear that programs not offered for two consecutive years will lose their ABA approval. These collaborative approaches benefit both law schools and both sets of U.S. law students.²⁰⁸

Current examples of study abroad programs being offered by U.S. law schools include Western New England University School of Law sending students to Tel Aviv in Israel;²⁰⁹ American University sending their law students to Dundee in Scotland;²¹⁰ Santa Clara Law providing such opportunities for their law students to study in Geneva in Switzerland;²¹¹ Stetson University College of Law providing opportunities for their law students to study in Granada in Spain;²¹² Syracuse University College of Law providing similar opportunities for their law students to study law abroad in London, UK;²¹³ and the impressive Tulane Law School Summer Abroad program providing law students the opportunity to study in one of five countries in Europe for academic credit.²¹⁴

The law students taking these opportunities to travel abroad inevitably broaden their cultural perspectives and learn how the same area of law is developed in different ways by different cultures in different countries. This learning of the same field in different countries is also invaluable for better understanding, critiquing, and fine-tuning our own laws in the U.S. For example, for these types of study abroad programs, the topics vary, including studying Gender and Law in Israel, Entertainment and Media Law in England, Energy Law in Scotland, Environmental Law in Costa

208. Paula J. Pedersen, *Assessing Intercultural Effectiveness Outcomes in a Year-long Study Abroad Program*, 34 INT'L J. INTERCULTURAL REL. 70, (2010).

209. *Study Abroad – Israel & More*, WNE SCH. OF L., <https://www1.wne.edu/law/academics/jd-program/study-abroad.cfm> (last visited Oct 31., 2020).

210. *Study Abroad*, WASH. C. OF L., <https://www.wcl.american.edu/academics/study-abroad/> (last visited Oct. 31, 2020).

211. *Center for Global Law & Policy*, SANTA CLARA U., <https://law.scu.edu/international/summer-abroad-2019-wrap-up/> (last visited Oct. 31., 2020).

212. *Study Abroad in Granada, Spain*, STETSON U., <https://www.stetson.edu/law/studyabroad/spain/> (last visited Oct. 31, 2020) (cancelling program due to COVID-19).

213. *Most Unusual Law School Study Abroad Programs*, THE NAT'L JURIST (Jan. 10, 2018, 1:16 PM), <http://nationaljurist.com/national-jurist-magazine/most-unusual-law-school-study-abroad-programs>.

214. *Summer Abroad Programs*, TULANE L. SCH., <https://law.tulane.edu/summer-abroad> (last visited Oct. 31, 2020).

Rica. At least American University and Stetson University, who both have existing international programs, encourage engagement and collaboration from other U.S. law schools who have interest from their law school student population but have no existing international programs of their own.²¹⁵

Thus, there are certainly opportunities for all law schools in the U.S. to use and/or offer this mechanism by which a law student can become worldlier and gain a deeper understanding of cross-cultural issues and thereby develop valuable skill sets while in law school. In an effort to practice what I teach and discuss on issues related to culture in my law school classes, especially in the Entrepreneurship Law in Emerging Technologies clinic I started and have grown over the past four years, I fostered a collaboration with a colleague at the law school in Padova, Italy.²¹⁶ Through this collaboration, we have a Summer Abroad program, albeit not for academic credit, and numerous law students from our Albany Law School have accompanied me to attend these Innovation and Technology Law Summer programs in past summers. The law students have enjoyed every feature of this international opportunity, and we have reflected as a group on it after we came back to New York.²¹⁷

Moreover, the reciprocal opportunities to enhance the cultural environment of U.S. law schools by allowing foreign law students to study for a semester at a U.S. law school should not go unnoticed. Indeed, more U.S. law schools are seeing the non-financial campus cultural opportunities and offering summer and master of laws (LL.M.) programs to attract foreign law students in a narrow field of law.²¹⁸

215. See *International Programs*, STETSON COLLEGE OF LAW, <https://www.stetson.edu/law/academics/home/international-programs.php> (last visited Dec. 20, 2020); see also *Study Abroad*, AMERICAN UNIVERSITY WASHINGTON COLLEGE OF LAW, <https://www.wcl.american.edu/academics/study-abroad/semester-abroad/> (last visited Dec. 20, 2020).

216. University of Padova is one of the top five oldest Universities in the World, at 798 years old.

217. For more information on this, see *Albany Law School*, INNOVATION SUMMER ACAD., <https://www.innovationsummeracademy.com/> (last visited Oct. 31, 2020). For slideshows and videos of this collaboration between myself at Albany Law and Professor Claudia Sandei at Padova School of Law for the Innovation & Technology Law Summer Academy in Padova, Italy, see *Slideshows & Videos*, INNOVATION SUMMER ACAD., <https://www.innovationsummeracademy.com/in-summer> (last visited Oct. 31, 2020).

218. Here at Albany Law School, I devoted time to this kind of effort and for the past two summers have traveled to University of Padova School of Law and taken upper level Albany

E. Biennial One-Day Workshops: Faculty Attendance Compulsory

These kinds of workshops can be thought of as on the job refresher training. As described supra by way of examples, the myriad of issues around “culture” can trap the unwary and yet well-meaning law professor. Thus, where resources allow, having a one-day training of the full faculty on all matters related to culture can be valuable.²¹⁹

IX. CONCLUSION

It is evident that as much as the practice of law has changed from the 1950s to today, the law graduate of today will face an even greater pace of change in the law practice landscape in the next two decades. Technological advances and their effects on society aside, the principal foundation that will follow lawyers throughout their career is the ability to recognize and deftly and skillfully handle cultural issues that arise because of the people and clients of diverse backgrounds that the lawyer will undoubtedly interact with. It is ever more important for law educators in the U.S., namely all law faculty and administrators, to prepare law students for this changing landscape that will have a fundamental impact on the ability of lawyers to practice law for at least the next three decades.²²⁰ One way to do this is to address the topic of cultural competence head on while the student is in the learning environment of a law school, with the aim of assisting the law student in becoming “culturally savvy.”

Law students with me to participate in an Innovation & Technology Law conference and have also arranged for our upper level law students to stay in Italy to complete IP law Summer Internships. I will again be going to Italy with Albany Law students in Summer of 2020. For more information, slideshows, and videos on this, see *id.* I also provide guidance for fifth year Italian law students in Padova and third-year law students in the UK who have a desire to come to New York to study for an “L.L.M. for International Lawyers” degree.

219. 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).

220. Rosa Kim, *Globalizing the Law Curriculum for Twenty First Century Lawyering*, 67 J. LEGAL EDUC. 905, 907 (2018).

APPENDIX A²²¹

EVALUATOR/ASSESSOR TO ENTER STUDENT NAME AND TICK BOXES THAT APPLY
 PROPOSED CULTURAL COMPETENCE SCORING RUBRIC FOR ASSESSING LAW STUDENTS

Student Name:				
	BEGINNER 1 Point	DEVELOPING 2 Points	ADVANCED 3 Points	MASTER-ING 4 Points
1. APPROACH: CURIOSITY & OPENNESS	Minimal demonstration of interest on cultural matters, or openness to interacting with people of other cultures.	Basic questions asked that relate to cultural matters. Some interest and openness to interacting with people of different cultures. Open to understanding own culture & culture of others.	Deeper questions asked that relate to culture. Seeks out interactions with culturally diverse people. Engages & develops own cultural understanding and that of others.	Complex questions asked relating to culture and articulation of viewpoints that reflect understanding of complex cultural perspectives. Consistently open to all cultures, and ability to broaden understanding of own culture and culture of others through initiating and engaging in ways to explore cultural issues.
2. KNOWLEDGE & AWARENESS OF OWN CULTURE	Little to no awareness of own assumptions and biases. Uncomfortable identifying possible cultural difference with others.	Basic understanding of one's own assumptions and biases. Strong preference for those with same culture.	Ability to see new perspectives, and comfortable with complexities thereof. Not looking for sameness.	Ability to discuss own cultural biases and that of others; aware of how one's experiences shape those rules, and how to point out and respond to cultural biases.
3. KNOWLEDGE & AWARENESS OF OTHERS' CULTURE	Little to no awareness of complexities of other cultures (e.g. their history, beliefs, practices, politics, pop culture, values, communication norms)	Basic understanding of the complexities of other cultures (e.g. their history, beliefs, practices, politics, pop culture, values, communication norms)	Demonstrated adequate understanding of the complexities of other cultures (e.g. their history, beliefs, practices, politics, pop culture, values, communication norms)	Demonstrated sophisticated understanding of the complexities of other cultures (e.g. their history, beliefs, practices, politics, pop culture, values, communication norms)

221. This rubric builds on and is adapted from rubrics developed by others, including by the Association of American Colleges and Universities.

<p>4. CULTURAL EMPATHY & ABILITY TO RELATE TO MULTIPLE WORLD VIEWS</p>	<p>Little to no ability to connect and relate to cultural concerns of others who are different.</p>	<p>Basic ability to identify and relate to cultural concerns of others who are different.</p>	<p>Demonstrates recognition of and ability to relate to cultural concerns of another group.</p>	<p>Demonstrates ability to relate and be actively supportive to feelings of another cultural group. Interprets cultural experience from a world view perspective. Use of more than one worldview in interactions.</p>
<p>5. CULTURAL COMMUNICATION SKILLS</p>	<p>Minimal understanding of cultural differences in verbal and nonverbal communication</p>	<p>Some understanding of cultural differences in verbal and nonverbal communication; some awareness of misunderstandings that can occur, yet unable to have a common understanding.</p>	<p>Understands and participates in cultural differences in verbal and nonverbal communication; begins to have a common understanding.</p>	<p>Nuanced understanding of cultural differences in verbal and nonverbal communication (e.g. level of physical contact, sarcasm, direct/indirect meanings); able to skillfully share a common understanding.</p>
<p>6. ABILITY TO INFLUENCE OTHERS' CULTURAL UNDERSTANDING</p>	<p>Minimal if any ability to influence others' cultural understanding</p>	<p>Demonstrated some ability to influence others' cultural understanding</p>	<p>Understands cultural issues and is able to influence others' cultural understanding</p>	<p>Demonstrates complex skills to learn and communicate with other cultures, and also teach/influence members of other cultural groups</p>
<p>TOTAL CULTURAL COMPETENCE SCORE: (out of max. 24)</p>				

APPENDIX B

**U.S. LAW SCHOOLS'S ASSESSMENT OF CULTURAL COMPETENCY AS A JURIS DOCTORATE
(JD) LEARNING OUTCOME²²²**

Law School	Cultural Competency as a JD Learning Outcome
Albany Law School	Demonstrate an awareness and understanding of the knowledge, skills, and values necessary to be competent and effective lawyers in a multicultural world.
Arizona Summit Law School	Support and encourage diversity by considering a multi-cultural and global perspective.
Barry University Dwayne O. Andreas School of Law	Students should have the ability to work with others of diverse backgrounds and understand the importance of building an inclusive community characterized by interdependence, dignity and equality, compassion and respect for self and others.
University of California Berkeley Law	Other professional skills needed for competent and ethical participation in the legal profession (such as, interviewing, counseling, negotiation, fact development and analysis, trial practice, document drafting, conflict resolution, organization and management of legal work, collaboration, cultural competency, and self-evaluation).
UCLA School of Law	Have had exposure to problem-solving techniques that prepare students to practice in a diverse society and world, such as the ability to work collaboratively, to communicate effectively with clients, and to engage competently with persons from a variety of backgrounds and holding a variety of views.
California Western School of Law	III. Professionalism Students will be able to: Demonstrate honesty, integrity, fairness, respect, empathy, civility, and cultural competence.
Cleveland State University Cleveland Marshall College of Law	Interact effectively and sensitively with clients, colleagues and others from varied backgrounds.
Cornell Law School	Engage in culturally competent interactions in an increasingly global legal community connected across countries and cultures through technology, immersive study, and transnational practice.
Creighton Law School	Strong interpersonal skills, including the ability to work effectively across race, ethnicity, culture, gender, religion, and sexual orientation.
University of Dayton School of Law	Learning Outcome 9: Graduates will exemplify the Marianist charism of service, community, and inclusivity. Graduates will demonstrate achievement of this learning outcome by . . . Criterion 2: Displaying diversity skills, including sensitivity to social and cultural difference.
Drexel University Thomas R. Kline School of Law	Graduates will demonstrate the ability to communicate clearly and effectively both orally and in writing. <ul style="list-style-type: none"> ▪ Students should be able to effectively navigate cultural and other differences in their communication. Learning Outcome 5: Graduates will demonstrate an understanding of their professional and ethical responsibilities in serving clients, the profession, and society. <ul style="list-style-type: none"> ▪ Students should demonstrate cultural humility, including respecting diversity and pluralism and being culturally self-aware.

²²² Information taken from the relevant section of the Learning Outcomes, as listed on the website of each U.S. Law School. Information is current as of May 2019.

Elon Law	3L Outcomes – Context and Values Culture and society—Understand how culture and social mores play a role in the formulation and application of legal rules.
Florida Coastal School of Law	Cross cultural lawyering: Students will be able to recognize inter-cultural issues, demonstrate cultural sensitivity, and utilize appropriate lawyering techniques to prepare themselves to practice in an increasingly global and pluralistic society.
Florida State University College of Law	Other professional skills needed for competent and ethical participation as a member of the legal profession. These will vary depending on each student’s individual educational program but may include one or more of the following: interviewing, counseling, negotiation, fact development and analysis, trial practice, document drafting, conflict resolution, organization and management of legal work, collaboration, cultural competency, interdisciplinary analysis of law and policy, knowledge and understanding of the workings of the regulatory state, and self-evaluation.
Fordham University School of Law	Demonstrate sound judgment and lawyering skills in areas such as counseling, advocacy, negotiation, reflection, teamwork, legal research and factual investigation, initiating and sustaining professional relationships, competence in interacting effectively with people across cultural differences, and commitment and responsiveness to a client’s needs.
University of Illinois College of Law	Conduct himself or herself professionally and in keeping with the highest standards of civic virtue. This requires: 4.4 The self-awareness and empathy necessary to understand and be understood across various social, economic, cultural, political, national, racial, gender, and ethnic backgrounds.
Indiana University Bloomington Maurer School of Law	Our students will empathize with and respect those affected by their work, take ownership of their own career development, employ the habit of dynamic learning, and engage with the communities to which they belong. Learning outcomes: Identify, appreciate, and navigate cultural, social, political, and viewpoint differences in both personal and professional interactions.
The John Marshall Law School	Act with sensitivity and respect when dealing with individuals of different identities, backgrounds, cultures and abilities (See The John Marshall Law School Protection from Discrimination and Harassment Policies for students, staff, and faculty).
University of La Verne College of Law	Students shall apply cultural competency while exercising their legal skills.
Loyola University New Orleans College of Law	Organization and working with others: Graduates will be able to organize and manage individual work and deadlines, network within the profession, understand the importance of cross-cultural competence as a factor in communication and working with others, evaluate the work of others and work in a collaborative environment.
University of the Pacific McGeorge School of Law	Demonstrate the ability to understand, collaborate, and engage with people of diverse backgrounds and experiences in a variety of legal settings and contexts.
University of Memphis Cecil C. Humphreys School of Law	Graduates will demonstrate competency in those other professional skills and values necessary for legal practice. • Criterion 4: Exhibiting civility, awareness of cultural differences, and respect and consideration of others.
Mercer University School of Law	Cultural Competence Cultural Awareness (Novice)

LO 1: Develops awareness of positionality and how it affects the understanding and interpretation of legal, historical, social, and political texts LO 2: Develops awareness of ones own positionality and how it shapes knowledge acquisition and interpretation of legal, historical, social and political texts LO 3: Develops awareness of deep characteristics that comprise culture (relationship to time, methods of communication, social mores, etc.)

Cultural Investigation (Advanced Beginner) LO 1: Investigates the impact of culture on the shaping of

legal, historical, social, and political epistemologies and texts LO 2: Develops an understanding of how deep cultural characteristics shape knowledge acquisition, interpretation, and interaction of/legal,

historical, social, and political texts LO 3: Develops strategies that cultivate inclusiveness of deep cultural

characteristics in legal communication, and client and colleague interactions

Cultural Competence (Competent) LO 1: Understands and appreciates the impact of culture on the shaping of legal, historical, social, and political epistemologies and texts LO 2: Understands and appreciates how deep cultural characteristics shape

knowledge acquisition, interpretation, and interaction of/legal, historical, social, and political texts LO 3: Actively cultivates inclusiveness of deep

cultural characteristics in legal communication, and client and colleague⁹ Cultural competence encompasses the exercise of proper professional and ethical responsibilities to clients and the legal

system and other professional skills needed for competent and ethical participation as a member of the legal profession.

University of
Montana School of
Law

Our graduates are proficient in fundamental lawyering skills, including:
Cross-cultural competence.

University of
Nebraska-Lincoln
College of Law

A Nebraska Law graduate will acquire the foundational knowledge and understanding necessary to work successfully with clients from diverse backgrounds and cultures, and to collaborate successfully with other professions and professionals.

University of New
Mexico School of
Law

Professional Skills Needed for Competent Participation as a Member of the Legal Profession:

Have professional skills needed for competent participation as a member of the legal profession, including the ability to collaborate effectively; the ability to manage time, effort, available resources, and competing priorities; the ability to navigate cultural considerations; and the ability to engage in reflective practice.

New York Law
School

Understands the fundamentals of basic lawyering skills such as:

- Cross-cultural competency

University of North
Dakota School of
Law

LEARNING OUTCOME 4: Leadership, Collaborative, and Adaptive Skills

Our curriculum will provide students with the skills and knowledge to solve problems and function effectively in any setting. After completing our program of legal education, students will have the abilities to:

h. Effectively work with and for diverse individuals and communities

Northern Illinois
University College
of Law

Other professional skills needed for competent and ethical participation as a member of the legal profession, which include interviewing, counseling, fact development and analysis, document drafting, conflict resolution, organization and management of legal work, collaboration, cultural competency and self-evaluation.

Northern Kentucky
University Chase
College of Law

USE INTERPERSONAL SKILLS TO PARTICIPATE COMPETENTLY, PROFESSIONALLY, AND ETHICALLY AS A MEMBER OF THE LEGAL PROFESSION:

- Be aware of cultural differences that may impact representation of one's clients.

University of Notre Dame Law School	Core competencies are those we believe are important for all our graduates, regardless of the fields of law or kinds of practice in which they may engage.
Pace University Elisabeth Haub School of Law	<p>2. PROFESSIONAL SKILLS</p> <p>Core Competencies:</p> <ul style="list-style-type: none"> • Cross cultural skills, such as the ability to interact with clients, lawyers, and others from various cultures and socioeconomic groups <p>Exercise of proper professional and ethical responsibilities to clients, officers of the courts, the legal system, and society, including the following: the exercise of professional judgment consistent with the values of the legal profession; knowledge, understanding and appreciation of the profession's values of justice, equal access to justice, fairness, candor, honesty, integrity, professionalism, respect for diversity and the rule of law; recognizing and resolving ethical dilemmas; cross cultural competency; organization and management of legal work, including the appropriate use of technology; and collaboration in practice.</p> <p>Students will be able to:</p> <ul style="list-style-type: none"> • Articulate, and demonstrate the fundamental values of the profession, including <p>Demonstrating the ability to conduct themselves with honesty, integrity, fairness, respect, empathy, civility, and cultural competence.</p>
Pennsylvania State University Dickinson Law	<p>III. PROFESSIONAL VALUES</p> <p>Category 8 — Professional Identity and Perspectives. Each graduating student will understand:</p> <p>c. the important role that cultural competency serves in a lawyer's ability to deliver competent legal services to clients.</p>
University of Pittsburgh School of Law	<p>6. Other Professional Skills: Students will develop competency in the skills required of a legal professional, such as: interviewing, counseling, negotiation, fact development and analysis, advocacy, document drafting, conflict resolution, organization and time management, interpersonal communication, cultural competency, collaboration, and self-evaluation and reflection. Each student will develop competency in those skills most directly related to the student's planned career path.</p>
Roger Williams University School of Law	<p>Oral Communication Skills and Interpersonal Skills – Students will be able to:</p> <p>c. Demonstrate cultural sensitivity to a broad range of people with differing backgrounds, ideas, and experiences.</p>
Saint Louis University School of Law	<p>Graduates will exemplify SLU LAW's mission.</p> <p>Performance Criteria:</p> <p>Graduates will demonstrate the ability to provide competent and culturally sensitive legal services to all clients, including those who are underserved.</p>
University of St. Thomas School of Law	<p>Teamwork and Relationship Skills</p> <p>Graduates will demonstrate competence in initiating and sustaining professional relationships and working with others toward common goals. Graduates will also demonstrate competence in interacting effectively with people across cultural differences.</p>
University of San Francisco School of Law	<p>Capacity for, awareness of, and openness to working in a diverse environment, from a global perspective, and toward the advancement of social justice.</p>
Seattle University School of Law	<p>Lawyering Skills</p> <p>Graduates will be able to perform their lawyering tasks consistent with professional ethical requirements and with the cultural competence necessary for effective, respectful interaction with individuals from diverse backgrounds.</p>
University of South Dakota School of Law	<p>Each student will demonstrate an understanding of, and sensitivity to, the diverse backgrounds and perspectives of people they encounter, both within and outside of the profession.</p> <p>Related Performance Criteria</p>

<p>Southwestern Law School</p>	<p>Each student will demonstrate achievement of this learning outcome by:</p> <ol style="list-style-type: none"> 1. Exhibiting an awareness of cultural differences. 2. Exhibiting an awareness of social differences. <p>Leadership and Service. Students will be able to appreciate the role of the legal profession in fostering justice and diversity through leadership, public service, and community involvement.</p> <p>Performance Criterion 2.3: Students will identify and respect diverse backgrounds and perspectives that may affect client representation or professional work generally.</p>
<p>Stetson University College of Law</p>	<p>Learning outcome: 6. Demonstrate competencies and character traits important to the role of a professional.</p> <p>Performance indicator: Demonstrate the habits and activities of: e. cultural awareness</p>
<p>Temple University Beasley School of Law</p>	<p>Learning Outcome 6: Students will demonstrate knowledge of the importance of service to the profession and to the community at large, including the legally underserved.</p> <p>Performance Criterion 6.2 Students will demonstrate knowledge of the importance of understanding and appreciating people from diverse backgrounds and cultures.</p>
<p>Texas Tech University School of Law</p>	<p>Learning Outcome 6: Graduates will develop other professional skills needed for competent and ethical participation as a member of the legal profession.</p> <ul style="list-style-type: none"> • Criterion 3: Maintain civility and respect for cultural diversity.
<p>Thomas Jefferson School of Law</p>	<p>VII. Other Professional Skills Needed For Competent And Ethical Participation As A Member Of The Legal Profession</p> <p>A. Graduates will demonstrate competency in an array of other professional skills needed for competent and ethical participation as a member of the legal profession, including two or more of the skills contained in any of the following categories</p> <p>Client Interaction, including skills selected from among the following:</p> <p>c. Cultural Competency, including understanding diverse cultures, recognizing explicit and implicit bias, engaging appropriately across differences in race, ethnicity, gender, class, religion, or sexual orientation/identity.</p>
<p>Western New England University School of Law</p>	<p>Learning Outcome 6 Graduates will demonstrate the knowledge, skills, and professionalism necessary for effective, ethical, and responsible participation as members of the legal profession in order to serve the public, the profession, and society/the community. These additional skills may include interviewing, counseling, negotiation, trial practice, document drafting, conflict resolution, organization and management of legal work, collaboration, cultural competency, and self-evaluation.</p>
<p>Western State College of Law</p>	<p>2. Practice Skills</p>

Students will demonstrate the development of other law practice skills. Each student's chosen outcomes within this category will be varied based on the student's particular interests, coursework and work experiences. They may include, but are not limited to, the following topics: oral presentation and advocacy; interviewing; counseling; client service and business development; negotiations, mediation, arbitration, or other alternate dispute resolution methods; advanced legal research and writing (excluding purely academic papers and the first four units earned in introductory first-year legal research and writing class); applied legal writing such as drafting contracts, pleadings, other legal instruments; law practice management or the use of technology in law practice; cultural competency; collaboration or project management; financial analysis, such as accounting, budgeting project management, and valuation; cost benefit analysis in administrative agencies; use of technology, data analyses, or predictive coding; business strategy and behavior; pre-trial preparation, fact investigation, such as discovery, e-discovery, motion practice, assessing evidence, or utilizing experts; trial practice; professional civility and applied ethics; a law clinic that includes a classroom component; or a legal externship that includes a classroom component.

7. Client Sensitivity and Cultural Competency

Students will demonstrate an awareness of clients' needs and goals, including a sensitivity to clients' background and circumstances (including, but not limited to, socio-economic, gender, race, ethnicity, educational, disability and/or religious background(s)), the ability to make decisions that reflect an appropriate focus on those needs and goals, and awareness that cultural issues may affect the relevance of facts and application of the law.

6. Other professional skills.

Other skills needed for professional competency may include counseling, interviewing, fact development and analysis, trial practice, conflict resolution, negotiation, organization and management of legal work, collaboration, cultural competency, and self-evaluation.