



# Ottawa Immigration Law Conference 2021: Cross-Cultural Challenges and Tips

Shalini Konanur – October 2021

# Topic

- What is cultural competence
- Applying it in your practice and early on in the legal process
- How to create a culturally competent practice

# South Asian Legal Clinic of Ontario



The South Asian Legal Clinic of Ontario (SALCO) is a community based legal clinic funded by Legal Aid Ontario which provides free legal services to low income, non-English speaking clients who identify as "South Asian", including but not limited to Bangladesh, India, Pakistan, Sri Lankan, Indo-Caribbean, South Asian people from the African continent, and others from the South Asian diaspora. We are non-profit and are independent from the government.

In addition to providing direct legal services, we empower the communities we serve through public legal education and training for clients, communities, government stakeholders, decision-makers, and others.

Advocating for law reform is another priority of SALCO. Our Clinic has been involved in test case litigation, organizing grassroots campaigns, and making numerous submissions to all levels of government and to international human rights bodies to advance the rights of our clients and the broader communities of disadvantaged groups.

# What does cultural competence mean?



- “Cultural competency” is generally defined as a combination of attitudes and skills that promote clear and effective communication between individuals from different cultures, but has also been extended to include the provision of services that are appropriate and accessible to a diverse range of clients, as well as work that addresses issues of equality and access to justice. -*Cynthia Pay (Osgoode Hall Law School)*
- Culture is in many ways the lens through which we filter information – so in truth there is no such thing as a neutral observation
- Why do we want to do this? - Because of changing demographics and immigration patterns, legal services providers are increasingly working in cross-cultural situations.
- Also, racialized people are often disproportionately entangled within the justice system (examples: criminal, higher rates of poverty, discrimination) – we want to consider how to incorporate that lens into our work
- Reducing barriers to access to just through the cultural competence lens (ex: courtrooms)

# What does cultural competence mean?



I think of a culturally competent professional as someone who has made substantial progress but continues to work toward a number of goals, including:

- developing an awareness of personal, professional, and cultural biases that may adversely impact minority groups, immigrants and refugees;
- developing an awareness of the definitions and dynamics of racism, discrimination, and cultural oppression;
- acquiring knowledge about the history, culture, norms, and traditions of diverse group;
- developing relevant interpersonal skills and effective methods for working with diverse groups. This includes gaining an understanding of how race, culture, and language affect interactions with professionals; and
- taking action in the service and advancement of equality and justice. Professionals working with marginalized and oppressed groups should contribute to addressing injustice and discrimination in the lives of their clients (example: arguments about systemic racism incorporated into our work)

# Cultural competence early in the legal process



Developing a culturally competent practice early in your interactions with clients can have many benefits. In the legal context, cultural competence means that a service provider is able to:

- clearly communicate with their client and understand the client's needs and goals,
- To establish trust and a good rapport with the client, and, because the practitioner is aware of issues facing a diverse range of clients such as discrimination,
- to identify important issues that may not be initially apparent or explicitly raised by the client (my example: forced marriage).

A note on translation: As a starting point the ability to provide good translation is critical for client's who do not speak English/French. However, there are many barriers in translation as well to take into consideration (translators from the same community, family members/friends, ensuring the correct dialect, and trying to ensure that the translator actually translate word for word).

# Cultural competence early in the legal process



Some examples of possible cross-cultural misunderstandings that may take place:

- a client who makes limited eye contact is unconsciously viewed as evasive or less credible by a legal worker;
- a client does not return because they feel a lack of trust, rapport or poor communication with a lawyer;
- a practitioner assumes a client does not care about their own case because they are late for or misses a number of appointments;
- a client claiming disability benefits is perceived by legal clinic staff to be “noncompliant” or without a serious mental health problem because they refused a family doctor’s referral to a psychiatrist; the staff are not aware of the extreme stigma associated with mental health treatment in the client’s culture;
- a lawyer closes the file of an immigrant client who declines to take legal action against a landlord. The lawyer does not realize that the client mistakenly believes that any legal action would be recorded permanently in that person’s immigration file and may impact ability to get citizenship; and
- issues arising from a client’s case such as racial discrimination or racial profiling are not raised explicitly by the client and are missed by the interviewing legal worker. As a result, no legal action is discussed or taken.

# How do you incorporate cultural competence in your practice?



There are many ways to create a culturally competent safe space for your clients:

- Translation
- Value diversity in your own practice
- Address discrimination for the client you serve within the context of the case (thinking about raising issues related to discrimination in the case itself – ex: lack of cultural competence in assessing sponsorship applications from South Asian applicants)
- Engaging in learning about your diverse client populations to understand different cultural experiences – Instead of just ignoring differences, lawyers can improve their working relationships by taking active steps to adapt to people from diverse communities

*For example, Ontario judges are now seeking training to provide concrete information about the demographics and cultural values and practices of specific ethno-cultural groups to assist judges in understanding the people who appear in front of them and to inform decision-making.*

# How do you incorporate cultural competence in your practice?



Consider anti-racism training:

- This can provide a greater understanding of the impact of racism, discrimination and other specific legal issues that each community faces as a means of understanding client needs.
- Demographic information is also emphasized as a means of understanding the community's needs and experiences; and
- Attention is also paid to the need for organizational change to reduce barriers to service for diverse communities.
- Finally, in addition to examining culturally based communication styles, anti-racism training can also look at how the social context and experiences with racism in the justice system can present barriers to clear cross-cultural communication and rapport between clients and lawyers.



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