TEACHING CROSS-CULTURAL COMPETENCE TO LAW STUDENTS: UNDERSTANDING THE "SELF" AS "OTHER"

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Wherever you are, colors of the sky envelop you
Just as here . . . .
. . . birds are named
In the language of that place: a towhee came to the kitchen,
Scatter some bread on the lawn, juncos have arrived.
Wherever you are, you touch the bark of trees
Testing its roughness different yet familiar
Grateful for a rising and setting sun
Wherever you are, you could never be alien.

— Czeslaw Milosz

Abstract

Lawyer know thyself. Lawyer know thyself as a cultural being. This Article expands the repertoire of techniques to teach cross-cultural competence to law students to include a self and other lens. This Article revisits the famed attributes of cross-cultural competence developed by Susan Bryant and Jean Koh Peters in 2001 to adopt defining characteristics of culture that current academics and law students embrace. This expanded lens leads to the conclusion that cross-cultural competence is in essence an exploration of "self" and "other." This Article looks to other fields, particularly psychology and the work of

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1 Czeslaw Milosz quoted in Ryszard Nych, Every One of Us Is a Stranger: Patterns of Identity in Twentieth Century Polish Literature, in Framing the Polish Home: Postwar Cultural Constructions of Hearth, Nation, and Self 16 (Bozena Shallcross ed., 2002).
Wanda Lee, to flesh out the usefulness of the self and other analysis in the education of law students. This Article offers five stepping stones to understanding self and other through a cultural lens, which address self with respect to the “otherness” of clients, lawyers, and judges. The goal of this lens is to promote identity formation among twenty-first-century law students preparing for their legal careers.

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I. Introduction

Lawyer know thyself. Lawyer know thyself as a cultural being. This precept has become so ingrained in the core competencies of effective lawyering that it is an unwritten rule of professional responsibility. The now legendary Clinical Legal Education Association’s Best Practices for Legal Education: A Vision and a Roadmap has promoted the necessity for law schools to help students develop their capacity to deal sensitively and effectively with clients and colleagues from a range of social, economic, and ethnic backgrounds. Deeply cognizant of the need to know herself as a cultural being and to teach her students the skills of cross-cultural

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2 JEAN KOH PETERS, REPRESENTING CHILDREN IN CHILD PROTECTIVE PROCEEDINGS: ETHICAL AND PRACTICAL DIMENSIONS 298 (3d ed. 2007) (explaining that “know thyself” is a major principle in the approach to cross-cultural lawyering).

3 Id. at 300.

4 Id. The 1992 report from the American Bar Association’s Legal Education and Professional Development Committee, commonly referred to as the MacCrate Report, in referencing the importance of training lawyers in ethical values, explicitly addresses issues of gender, race, ethnicity, class, age, sexual orientation, and disability. AM. BAR ASS’N (“ABA”) SECTION ON LEGAL EDUC. & ADMISSIONS TO THE BAR, LEGAL EDUCATION AND PROFESSIONAL DEVELOPMENT—AN EDUCATIONAL CONTINUUM, REPORT OF THE TASK FORCE ON LAW SCHOOLS AND THE PROFESSION: NARROWING THE GAP 213-14, 229-30 (1992) [hereinafter MacCrate Report]. Several authors parlay this MacCrate Report reference into making a case for including cultural competency training in legal education. Beverly I. Moran, Disappearing Act: The Lack of Values Training in Legal Education—A Case for Cultural Competency, 38 S.U. L. REV. 1, 32-33, 44-52 (2010); Andrew King-Ries, Just What the Doctor Ordered: The Need for Cross-Cultural Education in Law School, 5 TENN. J.L. & POL’Y 27, 29 n.11 (2008). In addition, the ABA Standing Committee on Legal Aid and Indigent Defendants included “cultural competence” as one of the standards for providing legal services to the poor. ABA, STANDARDS FOR THE PROVISION OF CIVIL LEGAL AID, Standard 2.4 (2006). Other professions also view cultural competency as an ethical mandate. LISA ARONSON FONTES, INTERVIEWING CLIENTS ACROSS CULTURES: A PRACTITIONER’S GUIDE 7 (2008).

5 ROY STUCKEY ET AL., BEST PRACTICES FOR LEGAL EDUCATION: A VISION AND A ROADMAP 59 (2007).
lawyering, the author worked with two other law professors, Professor D’lorah Hughes and Professor Tienne Anderson, to explore common teaching methods and to develop a framework for student instruction on this topic. An emphasis on teaching cross-cultural competence is, after all, a norm of clinical legal education and formative in preparing new lawyers for practice.6

The three professors fine-tuned their exploration through co-presenting a workshop at the 2012 Southeastern Clinical Conference for clinical law faculty on teaching cross-cultural competence to law students.7 In 2013, the workshop was presented to an international, multidisciplinary audience of academic scholars and teachers in Amsterdam, the Netherlands.8

Based on her collaboration with these professors and her in-depth study of the topic of cross-cultural competence, the author has come to the conclusion that, stripped to its essence, effective cross-cultural lawyering requires understanding that one’s self is always distinguishable from the other. This is true whether the other is a client, a judge, another lawyer, a witness, a party, an expert, another professor, a colleague, a friend, or a family member. Another way of viewing this thesis is that each of us is a “different person” from the other.9 This

7 Christina A. Zawisza et al., Address at the Southeastern Clinical Conference: Cross-Cultural Perspectives on Teaching Social Justice in a Southern Political Climate (Mar. 16-17, 2012) [hereinafter Knoxville Conference].
8 Christina A. Zawisza & D’lorah Hughes, Address at the 33rd International Congress on Law and Mental Health: Teaching Cross-Cultural Competence in Law Schools: Understanding the “Self” as “Other” (Jul. 14-19, 2013) [hereinafter Amsterdam Conference].
perspective avoids our falling into the pitfalls of the "dilemma of difference," while concentrating on a more universal concept of "otherness." If conversations about differences begin with the other, discussions are more easily normalized.

Much has been written in the legal and nonlegal literature about addressing explicit and implicit bias and prejudice in academic settings. This Article does not in any way intend to minimize the importance of that conversation. However, the understandings surrounding "the other" make these difficult topics more accessible and approachable for law students.

The author finds herself a "bird of a different feather" in her transplanted home in Memphis, Tennessee. She teaches in a traditional Deep South culture, yet she finds herself and her students encountering clients and other participants in the legal process who

LAW 20 (1990). She posits the dilemma thus: treating people differently emphasizes their difference and might stigmatize or hinder them, while treating people the same might indicate insensitivity and is likely to stigmatize or hinder them on that basis. Id. Some commentators have departed from the scholarship of "difference" as they develop more understanding about interpersonal connectivity. Antoinette Sedillo López, 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, 39 n.11 (2008).

See MINOW, supra note 9, at 20.

10 See MINOW, supra note 9, at 20.

11 See generally Cynthia M. Ward & Nelson P. Miller, The Role of Law Schools in Shaping Culturally Competent Lawyers, 89 MICH. B.J. 16 (2010) (finding that bar associations are beginning to call for such conversations about difference in order to understand clients served, and this cultural competence, they understand, is a set of both personal and academic skills essential to practice).

12 PETERS, supra note 2, at 293.


14 PETERS, supra note 2, at 293.

come from a vast array of different cultural backgrounds. The author self-identifies as a Polish American from the Northeast, with strong family and spiritual connections. Her entire career has been devoted to legal services and public interest work. She teaches in a city in which the majority culture has been characterized as African American Delta, which references the legacy of a rural lifestyle, rich farmland communities bordering the Mississippi River, and an abundant heritage of black contributions to its history. African Americans are the dominant ethnic group, although small minorities of Hispanics, Asians, and African immigrants have moved to the city. Memphis remains marked by poverty. Few public interest organizations populate the mid-South.

The author chose the quote by Czeslaw Milosz, a prominent

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19 See University of Memphis 2012 Poverty Fact Sheet, U. MEM. DEP’T SOC. WORK, SCH. URB. AFF. & PUB. POL’Y, http://www.memphis.edu/socialwork/pdfs/fact_sheets/2012memphispovertyfactsheet.pdf (last visited Sept. 27, 2015) (reporting a poverty rate of 27.2% overall, a rate of 42.1% for children, a rate of 33.7% for African Americans, and a rate of 36.4% for Hispanics).

20 See also Holly Whitfield, Project 50, No. 6: Community Legal Center, I LOVE MEM., (Mar. 5, 2014, 4:41 PM), http://www.ilovememphisblog.com/2014/03/project-50-no-6-community-legal-center/. Only three organizations are prominent: Memphis Area Legal Services, Community Legal Center, and Memphis Immigration Advocates. Id.
Polish poet, because it exemplifies the poet’s belief that “home” is always other and that people take comfort in that knowledge. Ravaged by war, shifting geographic frontiers, government overthrows and takeovers, loss of home and family—not to mention the Holocaust—the Polish homeland has changed boundaries and complexion so many times that the Pole understands that every one of us is both someone foreign and someone not at home, and thus “the other.” “Home” then becomes where we are at any given time. As a second-generation Polish American who has moved from the Northeast to the Deep South, the author resonates with this notion.

From the precept that one’s cultural self is always other, the author re-examines the groundbreaking contribution to the clinical literature of Susan Bryant and Jean Koh Peters, who nearly fifteen years ago inspired clinical law professors to address cultural competence in their teaching. Bryant and Peters named the attributes of culture as ethnicity, race, gender, nationality, age, economic status, social status, language, sexual orientation, levels of sexual activism, physical characteristics, marital status, role in family, birth order, immigration status, religion, education, accent, skin color, education level, and values. But teachers and students no longer define the attributes of

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22 Id.; see Nych, supra note 1, at 15. In Polish studies, the “home” or “home studies” is a cultural text: a cross-, inter-, and multidisciplinary endeavor. Bozena Shallcross, *Home Truths: Toward a Definition of the Polish Home*, in *FRAMING THE POLISH HOME: POSTWAR CULTURAL CONSTRUCTIONS OF HEARTH, NATION, AND SELF*, supra note 1, at 1.

23 See Nych, supra note 1, at 15.


culture so narrowly. These individuals now define themselves far more expansively. They choose to adhere themselves to newer cultural categories such as sports, technology, politics, arts, hobbies, personality type, accomplishments, lifestyles, and a host of other characteristics. Academics and law students alike now often attach greater significance to these attributes when they self-identify than they do to the Bryant-Peters list.26 When students examine the culture of their clients, the breadth of attribution becomes even more apparent, with cultures of poverty, gangs, drugs, domestic violence, and a multitude of other factors entering into the picture. Part II of this Article examines various definitions of culture and cultural competence as well as the effect of bias and prejudice discussed in the legal and nonlegal literature. Promising methods found in the legal and nonlegal literature through which professors go about teaching cross-cultural competence are also described.27 Part III presents the stepping stones to teaching law students to understand themselves and others through a cultural lens. Here, the Article discusses research findings about the broader attributes of culture to which lawyers and law students now adhere.28 It addresses some possible explanations for the expansion of the Bryant-Peters factors, such as increased globalization, the effect of changing ethnic demographics in the United States, and the attitudes of the millennial generation.29 Also in Part III, the Article describes teaching cross-cultural competence in individual client representation in the Child and Family Litigation Clinic.

This preliminary understanding of one’s own culture in relation to the “culture of the client” paves the way for Part IV, which examines a law student’s understanding of other cultures that will have to be navigated as a legal practitioner. These other cultures include the culture of lawyers and lawyering and the culture of judges and judging. The conclusion in Part V discusses the value of the self and other thesis of this Article in student identity formation as twenty-first-century lawyers.

26 See Peters, supra note 2, at 309-10; Bryant, supra note 24, at 64-78; see also infra Section III.A, for the author’s elaboration on these characteristics.
27 See infra Sections II.B, D.
28 See infra Sections III.A-C.
29 See infra Sections III.A-C.
II. WHAT IS CULTURE? WHAT IS CULTURAL COMPETENCE?

The legal community is a relative newcomer to the field of “culture” studies for the most part, dating its entry into this arena to the 1992 MacCrate report and Bryant’s seminal 2002 work on the habits of cross-cultural lawyering. Other professions—particularly anthropology, social work, marriage and family therapy, medicine, and even philosophy—have, however, studied “culture” for generations. This Section will begin by borrowing definitions of culture that appear in the nonlegal literature and tracing their citation in the legal literature and will then move on to the characteristics of cultural competence.

A. Culture

Culture in its broadest sense is defined as one’s view of the surrounding world. Culture describes the significant experiences that lead a person to defined roles. It may be defined narrowly as limited to ethnicity or nationality, or broadly to include all potentially striking ethnographic, demographic, status, or affiliation variables. It has been defined as “the totality of what all persons learn from other persons.”

Anthropologists define culture as that complex whole, which includes knowledge, belief, art, morals, law, custom, and any other capabilities and habits acquired by human beings as members of society. Culture, to anthropologists, is a system of shared ideas, concepts, rules, and meanings that underlie and are expressed in the ways that human beings live.

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30 See MacCrate Report, supra note 4, at 3.
31 Bryant, supra note 24, at 34.
32 See infra Sections II.A-D.
33 PAUL PEDERSEN, A HANDBOOK FOR DEVELOPING MULTICULTURAL AWARENESS 81 (3d ed. 2000).
34 Id.
35 Id. at 29.
37 CECIL G. HELMAN, CULTURE, HEALTH, AND ILLNESS 2 (5th ed. 2007).
38 Id. (citing prominent anthropologists Edward. B. Tylor and Roger M. Keesing); see HAYS, supra note 25, at 14 (providing an overview of how anthropologists view culture); KENNETH A. RICE, Geertz and Culture, in ANTHROPOLOGY SERIES: STUDIES
Other professions already recognize the “self” and “other” thesis of this Article. A cultural psychology point of view describes culture as the way that subject and object, self and other, person and context, figure and ground, practitioner and practice live together, require each other, and dynamically, dialectically, and jointly make each other up.\textsuperscript{39} Culture is not only external, but “within the person,” so to speak.\textsuperscript{40} An existential philosophical model of culture suggests that genetic makeup and life experiences are exposed to five cultural filters: universal culture, ecological culture, national culture, regional culture, and racioethnic culture that frame the individual’s existence.\textsuperscript{41} Existential philosophers accept that everyone is multicultural because they are composed of multiple cultural influences rather than made up of a single attribute; thus everyone is the “other.”\textsuperscript{42}

Culture is complex.\textsuperscript{43} Every person assumes hundreds, perhaps thousands, of culturally learned identities and affiliations at one time or another.\textsuperscript{44} Culture is dynamic, not static.\textsuperscript{45} Individuals seek to balance the various attributes of culture in a fluid, ever-changing equilibrium, as one cultural characteristic replaces another attribute in prominence.\textsuperscript{46}

The law does not give its own definition to “culture,”\textsuperscript{47} but the

\textsuperscript{39} PEDERSEN, \textit{supra} note 36, at 8; JAMES W. STIGLER, \textit{CULTURAL PSYCHOLOGY: ESSAYS IN COMPARATIVE HUMAN DEVELOPMENT} 1 (James W. Stigler et al. eds., 1990); see also CLEMONT E. VONTRESS \textit{ET AL.}, \textit{CROSS-CULTURAL COUNSELING} 15 (1999).

\textsuperscript{40} PEDERSEN, \textit{supra} note 33, at 3.

\textsuperscript{41} VONTRESS, \textit{supra} note 39, at 7, 15.

\textsuperscript{42} Id.; see also Sarat & Kearns, \textit{supra} note 9, at 1 (quoting the historian Tzvetan Todorov, who acknowledges the universal desire of individuals to discover the “other”).

\textsuperscript{43} PEDERSEN, \textit{supra} note 33, at 32-33.

\textsuperscript{44} Id.

\textsuperscript{45} PEDERSEN, \textit{supra} note 36, at 8.

\textsuperscript{46} PEDERSEN, \textit{supra} note 33, at 32-33; see Perspectives for a Diverse American, \textit{supra} note 13, at 1.1, 1.3.

\textsuperscript{47} See, \textit{e.g.}, \textit{Culture}, BLACK’S LAW DICTIONARY (10th ed. 2014) (demonstrating how the word “culture” is not defined in the Black’s Law Dictionary).
concept of culture is integral to the law. According to one law professor, culture matters to the law because “neutral legal principles that pretend to disregard culture in fact privilege the dominant cultural norms.” One prominent area of the law in which culture matters, for example, is capital defense and mitigation in which culture is relevant in all stages of the proceedings. These phases include the attorney-client relationship, pretrial investigation and litigation, competency determinations, forensic and mental health evaluations, social history assessment, plea bargains, case resolution, guilt-innocence defenses, and sentencing. The legal scholarship in this area of culture studies is rapidly developing.

Another prominent area of the law where culture matters is, of course, family and juvenile law. Through issues ranging from joint custody to open adoption, third-party visitation, the meaning of

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49 Id. at 85.

50 Sharlette Holdman et al., The Role of Culture in Guantanamo’s Capital Cases, 42 U. MEM. L. REV. 935, 948-50 (2012) (discussing the uniqueness of Guantanamo detainee representation).

51 Id. at 949-50; see also 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, 908, 910, 913 (2012) (addressing the role of culture in criminal defense generally). See generally Hon. Dan Stidham et al., Satanic Panic and Defending the West Memphis Three: How Cultural Differences Can Play a Major Role in Criminal Cases, 42 U. MEM. L. REV. 1061 (2012) (narrating the criminal trial of three West Memphis, Arkansas, teenagers who wore distinctive clothing, listened to different music, and read different books than the majority culture; the teenagers were convicted and later freed).


fatherhood,\textsuperscript{54} and same-sex marriage,\textsuperscript{55} family law is part of a cultural conversation, either supporting the forces for social change or hindering those forces.\textsuperscript{56} Indeed, the very parameters of family law are entrusted to the states under the belief that this choice will make that body of law closer to and more consonant with differing cultural values.\textsuperscript{57} Tensions regarding race, class, economics, poverty, and structural changes in the family, moreover, are played out routinely in legal debates about the relations among child, parent, and state, which are at the core of family and juvenile law.\textsuperscript{58}

An entire textbook is now devoted to cross-cultural materials that link family law with international law.\textsuperscript{59} "A competent practitioner of family law cannot ignore the legal world outside of the country in which he or she practices."\textsuperscript{60} Globalization brings challenging legal issues to family law as well as new legal ideas.\textsuperscript{61} Determinations of the best interests of the child, child protection, the meaning of marriage, the acceptability of domestic violence, and reproductive rights all have cross-cultural ramifications.\textsuperscript{62}

Because the law does not define “culture,” legal scholars look to the definitions provided by anthropologists, psychologists, social workers, and human behaviorists to flesh out the concept of culture.\textsuperscript{63}

\textsuperscript{54} Id. at 232-33, 235-42, 253 (discussing the “channeling function” of family law, which is the means by which the law recruits, builds, shapes, sustains, and promotes social institution).


\textsuperscript{56} Dowd, supra note 53, at 234.

\textsuperscript{57} See Carbone, supra note 55, at 50, 55 (using the cultural differences of the independent West, the wealthy mid-Atlantic states, and the evangelical heartland as examples).


\textsuperscript{60} Id.

\textsuperscript{61} Id.

\textsuperscript{62} Id. at 124, 415, 553, 579, 969.

\textsuperscript{63} Bryant, supra note 24, at 40. According to Bryant, “Culture is like the air we
This Article uses the term "culture" in its anthropological sense because that definition is closest to the theory of self as other. Culture, to the author, is that complex whole which encompasses knowledge, belief, art, morals, law, customs, capabilities, and habits acquired by human beings as members of society.  

**B. Cultural Competence**

The legal literature also looks to other professions for definitions of cultural competence, including their characteristics or attributes and promising ways to teach them. The Thomas M. Cooley Law School Cross-Cultural Competence Model, for example, references the counseling professions, such as mental health and social work, to create the framework for legal workshops and a workbook on teaching cross-cultural competence. Carwina Weng's bent on multicultural lawyering training in legal clinics takes a distinctly psychological approach. The definitions of cultural competence in legal education used by Beverly Moran originate with the medical profession.

Because lawyers look outward to other professions, the author looks to family therapist Sara E. Schwarzbaum and psychologist Anita Thomas, who provide a comprehensive definition of cultural competence as "the ability to use skills, behaviors, or interventions to respectfully provide services to individuals through the appropriate systems, agencies, and organizations." According to Schwarzbaum...
and Thomas, it is the ability to adapt professional tasks and work styles to the values, expectations, and preferences of specific clients.\textsuperscript{70}

The awareness-knowledge-skills ("AKS") triad is the most commonly accepted framework in the counseling field.\textsuperscript{71} It spells out specific components of cultural competence training,\textsuperscript{72} often called the Multicultural Training Curriculum.\textsuperscript{73} Counseling professor Wanda Lee has fleshed out the Multicultural Training Curriculum by developing a list of required cross-cultural competencies and objectives.\textsuperscript{74} Lee's outline could easily elucidate the MacCrate fundamental lawyering skills and values rubric recommended for the legal profession,\textsuperscript{75} which at this point remains vague about the components of cross-cultural competence skills.\textsuperscript{76}

Lee's rubric focuses on three domains: a professional's awareness of one's own cultural values and biases; a professional's awareness of the client's worldview; and a professional's choice of culturally appropriate intervention strategies.\textsuperscript{77} In each of these domains, Lee addresses the necessary awareness (A), knowledge (K), and skills (S) required.\textsuperscript{78}

1. Awareness of Own Cultural Values and Beliefs

Regarding the first domain, awareness (A) of one's own cultural values and biases, professionals must examine their own attitudes and beliefs and move from being culturally unaware to aware of and sensitive to their own cultural heritages, valuing and respecting

\textsuperscript{70} Id.
\textsuperscript{71} See infra notes 72-74, 77-78.
\textsuperscript{73} See LEE, supra note 72, at 194-95; Weng, supra note 67, at 396.
\textsuperscript{74} See LEE, supra note 72, at 207-12.
\textsuperscript{75} See id.
\textsuperscript{76} See Moran, supra note 4, at 32-33, 44-52.
\textsuperscript{77} LEE, supra note 72, at 207-10.
\textsuperscript{78} Id. at 207-12.
Next, skilled counselors must be cognizant of how their own cultural backgrounds, experiences, attitudes, values, and biases influence the processes they undertake professionally. They must recognize the limits of their competence and expertise and become comfortable with differences between themselves and their clients. In order to gain knowledge (K), professionals must constantly seek to learn more about their own racial and cultural heritages and how they affect views of normality, abnormality, and the process of counseling. Skilled counselors must have knowledge and understanding of how oppression, racism, discrimination, and stereotyping have affected them personally and in their work and must acknowledge their own attitudes, beliefs, and feelings. Finally, professionals must have knowledge about their social impact on others and about communication style differences that may foster or detract from the client counseling process. In order to gain skills (S) in this domain, counselors must constantly seek out educational and training opportunities and engage in consultation with experts.

2. Counselor Awareness of Client’s Worldview

The next domain of importance to Lee is the counselor’s awareness (A) of a client’s worldview. Culturally competent counselors must identify their own attitudes and beliefs that might get in the way of working with clients. They must develop the knowledge (K) of the life experiences, cultural heritage, and historical backgrounds of their culturally different clients and how these might affect the counseling relationship. Finally, they must familiarize themselves through research and other educational experiences with the cultural

79 Id. at 207.
80 Id.
81 Id.
82 Id. at 208.
83 Id.
84 Id.
85 Id.
86 Id.
87 Id. at 208-09.
88 Id. at 209.
attributes of clients.  

3. Culturally Appropriate Intervention Strategies

Lee introduces her final domain, culturally appropriate intervention strategies, by calling for an attitude of respect: first, respect for the clients' religious or spiritual beliefs and values, including attributions and taboos, which affect worldviews and psychosocial well-being; second, respect for indigenous helping practices; and third, respect for bilingualism. 

The knowledge base (K) that professionals must acquire in this domain is large. Professionals must understand the norms and processes of their particular profession and how they might clash with cultural values of others. They must accept the institutional barriers to systems and services that clients must access. They must be familiar with communities and resources in communities as well as within families. Finally, they must acknowledge discriminatory practices at the societal and community level. The skills (S) required under this domain include the ability to engage in a variety of verbal and nonverbal responses and to adapt methods to the clients' culture. Counselors must anticipate and ameliorate negative impacts of their choices. They must be willing to engage cultural experts or cultural translators to help them understand culturally different clients. They must make the effort to arrange for assistance from individuals familiar with the language requested by the client. Finally, culturally competent professionals must strive to educate clients in a client-centered manner. For example, the goals, expectations, and orientations by a marriage therapist would be very different from those.

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89 Id. at 209-10.  
90 Id. at 210.  
91 See id.  
92 See id.  
93 See id.  
94 See id.  
95 See id.  
96 Id. at 211.  
97 Id.  
98 Id.  
99 Id.
communicated by a social worker.100

C. Bias, Prejudice, Stereotyping, and Discrimination

The author believes that Lee and her psychology colleagues set a very high benchmark for legal educators and the legal profession to emulate.101 This Article seeks to break down this steep learning curve for law students, particularly clinical law students, by focusing on understanding the self and comprehending that everyone else is the other. Before discussing methodologies for such instruction, however, the author must say a word about the education of law students in explicit and implicit bias, stereotyping, prejudice, and discrimination.102 There is no shortage of conversation on this topic in academic circles.103

100 Id. at 212.
101 Cynthia Batt et al., Opening Plenary Address at the Southern Clinical Conference on Teaching Cross-Cultural Competency: An Interdisciplinary Approach (Oct. 22-24, 2015). Dr. Lee was the only nonlawyer on the panel.
From a social psychology perspective, prejudice is a "disrespectful attitude toward or negative evaluative response to groups as a whole or toward individuals on the basis of their group membership." Prejudice manifests itself in bias, stereotyping, and discrimination. Entire curricula are developed around "prejudice studies," and this is, indeed, a critical pedagogical endeavor. Law professor Deborah Archer counsels that a study of the relationship of race to power and privilege is an essential element of teaching client-centered culturally competent lawyering.

But "prejudice studies" address highly charged and difficult issues, labeled by one prominent scholar, Jean Koh Peters, as "ghosts of diversity training past." Many students and trainees viewed diversity training, she says, "with a fear of being labeled as racists or culturally insensitive and also feared the shame of discovering abhorrent attitudes or conditioning in themselves." These fears, she believes, are major obstacles to law students' openness to the improvement of their cross-cultural competence. Teaching tolerance and civility through a construct of real-world diversity, including the student’s own otherness, makes it easier for students to learn, practice, and enhance these skills.

Even scholars who teach "prejudice studies" acknowledge that prejudice can be reduced when individuals focus on their multiple, often shared, identities. People tend to form positive attitudes about others

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105 Id. at 20-21.
106 Id. at 3.
107 Id. at 5.
108 Archer, supra note 103, at 72.
109 Peters, supra note 2, at 293-94.
110 Id.
111 Id.
113 Jackson, supra note 104, at 171 (summarizing the research of other psychologists).
categorized as part of their group. A sense of “we” with others effectively reduces prejudice even when people maintain a strong sense of their original group identity. Individuals form a dual identity that includes the original group and the higher order group. Further, the development of cultural identity is rich, complex, and ever shifting. The development of the self requires three ever-progressing stages: first, one must identify one’s own notion of the self; next, one must contemplate the ideal self; and finally, one must appreciate the self as reflected in the perception of others. The challenge of the law teacher, then, is twofold. First, she can instill among law students a sense of “we” accompanied by a higher order sense of otherness. At the same time, she can guide students through the series of ever-evolving developmental stages of self-identification so that they can then appreciate and discuss harder issues of difference more successfully and better fulfill the tenet of “lawyer know thyself as a cultural being.”

D. Methodologies for Teaching Cross-Cultural Competence

Before turning to a presentation of methods for teaching otherness, this Section glances at various methods currently in use for teaching cultural competence, both in other professions and in the legal community. All professions utilize the case study method. When psychologist Clemmont Vontress uses the case study method, he asks students to identify the presenting challenges and the case history (including family, marital, educational, work, medical, mental health, and social). Next, he asks students to analyze the case, by giving their conceptual, existential, and DSM perspectives. The

114 Id.
115 Id.
116 Id.
118 SCHWARZBAUM & THOMAS, supra note 69, at 47.
119 VONTRESS, supra note 39, at 82-87; ROBERT K. YIN, CASE STUDY RESEARCH: DESIGN AND METHODS xiii (2d ed. 1994).
120 VONTRESS, supra note 39, at 82-87.
121 See generally AM. PSYCHIATRIC ASS’N, DIAGNOSTIC AND STATISTICAL MANUAL
identification of intervention strategies is the next step in the Vontress method. Finally, he poses a number of discussion questions relevant to the case. Vontress credits his method to the commonly used law curriculum.

Schwarzbaum and Thomas use a “Life Story” approach to teaching cultural competence. Student counselors are instructed to ask their clients to tell a story about a particular moment in the client's life. The stories are then analyzed by content themes, and the professors provide students with resources and suggested readings, videos, discussion questions, and activities—such as visiting an ethnic neighborhood. The intent of this method is to instill in students the understanding that a story is but a snapshot along a continuum of a storyteller’s life—a moment of authenticity and a window into the client’s self-concept, developmental stage, and contextual dimensions at that point in time. Law students are encouraged to make similar uses of storytelling because “telling compassionate, three-dimensional, nonjudgmental stories in the client’s voice” advances justice.

Lee prefers various scales and inventories, such as the Multigroup Ethnic Identity Measure, which she reports has a high rate of reliability. She recommends that counselors use group-specific measures of acculturation or ethnic identity, along with various

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OF MENTAL DISORDERS (5th ed. 2013) (referring to the case study method from a psychiatric approach).

122 VONTRESS, supra note 39, at 71, 74-75.
123 Id. at 76-77.
124 Id. at 92.
125 Id. at 61.
126 See SCHWARZBAUM & THOMAS, supra note 69, at 73 (describing an example of what a life story tells about a person).
127 Id.
128 Id. at 173, 182.
129 Id. at 45.
131 GRACIELA L. OROZCO ET AL., INTRODUCTION TO MULTICULTURAL COUNSELING FOR HELPING PROFESSIONALS 48 (3d ed. 2014).
assessment tools for use with certain cultural groups. These groups include Native Americans, Latinos, African Americans, Asian Americans, and European Americans. Lee, who refined the AKS triad, favors practicum experience with cultural minority populations, multicultural supervision, and internships in cultural minority communities as the optimum multicultural training program.

Apart from the counseling professions, business professions also depend upon multicultural abilities in the development of global management skills. Organizational management professor Richard Steers and his colleagues favor experiential learning techniques in which “[p]eople try, make mistakes, and learn from those mistakes.” They suggest the Kolb experiential learning cycle as a teaching method. According to Kolb, the learning cycle begins with concrete experience in which individuals explore how they feel about and react to what happens in everyday life. People try to understand what is happening through observation and reflection. They then engage in abstract conceptualization and generalization to develop a plausible theory of what is happening. Finally, individuals try new behaviors through active experimentation. The Kolb model is an ideal paradigm for working across cultures, Steers believes.

132 Id. at 48-49.
133 Id.
134 OROZCO, supra note 131, at 4-5 (tracing the historical context of multicultural competence training and crediting Paul Pedersen with the development of the triad model).
135 RICHARD M. STEERS, MANAGEMENT ACROSS CULTURES: DEVELOPING GLOBAL COMPETENCIES 57 (2010).
138 Id.
139 Id.
140 Id. at 51.
141 See STEERS, supra note 135, at 57-59 (explaining that people learn from their mistakes and experiential learning teaches people how this type of learning happens).
Paul Pedersen takes the broadest approach to teaching cross-cultural competence and recommends an array of techniques to accomplish multicultural awareness. Field trips, role plays, cultural immersion, drawing, classroom lectures, group discussions, written materials, and media presentations are all within his repertoire.

In general, law professors also seek to utilize such a broad array of teaching techniques. The “Five Habits of Cross-Cultural Lawyering” are the signature pedagogies for multicultural training for law students. Legal clinics have thus far been a primary vehicle for instilling cross-cultural competence in law schools. In some clinics, such as international human rights clinics, law students actually spend time in another country working with and representing individual or group clients. Close case supervision in legal clinics, such as a Native American clinic, has been recommended as a promising law school practice.

III. STEPPING STONES TO UNDERSTANDING SELF AND OTHER THROUGH A CULTURAL LENS

Lee’s AKS triad of cross-cultural competency, as insightful as it is, is difficult for law students to master in its entirety during their legal education, given all of the other law school curricular demands. As previously documented, law schools have been latecomers to the field

142 See PEDERSEN, supra note 33, at 12-17, 81.
143 Id.
145 Bryant, supra note 24, at 64-78.
146 Id. at 35-36.
147 Kathleen Kelly Janus & 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, 482 (2012). The authors provide an appendix of international human rights clinics at U.S. law schools. Id. at 483-85. This methodology mirrors Lee’s preferred teaching style. See LEE, supra note 72, at 19-21.
148 LÓPEZ, supra note 9, at 48-53.
of cross-cultural competency, and this may be a clinic student's first exposure to the concepts. Thus, these ideas need to be dissected into readily accessible material. This Section, therefore, will explore the stepping stones or building blocks that the author utilizes in her clinic to help students understand self and other through a cultural lens. As the first step, students are instructed to define culture and describe themselves as cultural beings.

A. Stepping Stone One: Culture and Cultural Being

The author has used the first step, defining culture and describing “yourself” as a cultural being, in two different settings. One venue has been the large group conference setting, including an assemblage of clinical law professors at the Southeastern Clinical Conference in Knoxville, Tennessee, in 2012 and a larger international gathering of law professors and law practitioners and professionals from other disciplines at the 33rd International Congress on Law and Mental Health in Amsterdam, the Netherlands, in 2013. The other venue has been her Child and Family Litigation Clinic and its seminar component, which she calls “case rounds.”

1. Conference Setting

In the larger conference context, the author first engaged participants in an open-ended discussion of their definitions of culture. These discussions were not groundbreaking. Individuals

150 Dixon, supra note 149.
151 See generally Margaret Reuter & Carwina Wang, Navigating Cultural Difference, in LEARNING FROM PRACTICE (Leah Wortham et al. eds., 3d ed. 2016) (forthcoming publication) (acknowledging that an effective lawyer needs a healthy understanding of all cultural differences and an ability to navigate them with finesse and humility).
153 See Amsterdam Conference, supra note 8; Knoxville Conference, supra note 7.
155 Knoxville Conference, supra note 7.
156 Id.
identified culture in many of the ways that were previously addressed in Part I of this Article. These include a system of shared ideas, concepts, rules, and meanings that underlie and are expressed as a way of life.

As a prelude to the next exercise, the author displayed a power point slide of the twenty-four attributes of culture put forward by Bryant-Peters as examples of the characteristics of culture. Participants were then asked to label themselves as cultural beings, not with specific reference to the Bryant-Peters factors, but with cognizance of their personal and individual identities. Three different colors of sticky notes were handed out, and the audience was asked to jot down and hand in the three most salient ways that each participant would define herself or himself as a cultural being. Colors were assigned to first, second, and third place. The sticky notes were then sorted and categorized, and new categories were added to the Bryant-Peters list.

The findings from this simple project were astonishing in the number of contemporary ways in which conference participants defined themselves as cultural beings, compared to the Bryant-Peters outline. It is important to note that participants were professors, rather than law students. Common new categories they noted are the following:

1. Politics

2. Personality (extrovert, introvert, frenzied, energetic, independent, loud, nurturer, idealist,

157 Id.; see supra notes 24-26 and accompanying text.

158 Amsterdam Conference, supra note 8.

159 Peters, supra note 2, at 309-10. As previously noted, the Bryant-Peters attributes of culture are the following: ethnicity, race, gender, nationality, age, economic status, social status, language, sexual orientation, levels of sexual activism, physical characteristics, marital status, role in family, birth order, immigration status, religion, education, accent, skin color, education level, and values. Id.

160 See Knoxville Conference, supra note 7.

161 Id.

162 Id.

163 See infra notes 166-67.

164 See Knoxville Conference, supra note 7.

165 See Amsterdam Conference, supra note 8; Knoxville Conference, supra note 7.
nerd)

3. Geographical (Southern, city dweller, world citizen)

4. Generation (baby boomer)¹⁶⁶

5. Profession (advocate, teacher, community builder, mentor, public defender)

6. Hobbies and interests (martial artist, yogi, fisherman, inventor, poet, Bob Dylan fan, lover of art, lover of music)

7. Lifestyle (vegetarian, nonsmoker, world traveler, recycler)

8. Accomplishments (cancer survivor, recovered alcoholic, Nobel Prize winner, Olympian)

9. Skills (technologically savvy, listener, problem solver, leader, thinker)

10. Roles (learner, activist, helper).¹⁶⁷

¹⁶⁶ Alistair E. Newbern & Emily F. Suski, Translating the Value of Clinical Pedagogy Across Generations, 20 CLINICAL L. REV. 181, 183 (2013) (recognizing generational differences as a construct of cross-cultural lawyering). The greatest generation—born before 1928—is characterized by an event, World War II. PEW RESEARCH CTR., MILLENNIALS: CONFIDENT. CONNECTED. OPEN TO CHANGE 4 (2010), http://www.pewsocialtrends.org/files/2010/10/millennials-confident-connected-open-to-change.pdf. The silent generation—born between 1928 and 1945—is characterized by “conformism and civic instincts,” forged by the Great Depression and World War II. Id. The baby boomer generation describes those persons who were born after World War II ended, but before the advent of the birth control bill in 1964; they are characterized as vocal, anti-establishment mores. Id. Generation X—those born from 1965 to 1980—are described as comprising savvy, entrepreneurial loners. Id. The millennial generation refers to those born after 1980 and who came of age in the millennium. Id. All but the greatest generation were represented in Knoxville and Amsterdam. See Amsterdam Conference, supra note 8; Knoxville Conference, supra note 7.

¹⁶⁷ See Amsterdam Conference, supra note 8; Knoxville Conference, supra note 7.
Many of the professionals who attended the Knoxville and Amsterdam conferences did not define race, gender, or ethnicity among their top three attributes. What factors explain this expansion of the Bryant-Peters attributes? People today lead more capacious and diverse lives, and a higher order thinking, generational differences, and changing ethnic demographics modify the cultural equation. The self and other become more layered and nuanced.

One explanation is that, in Schwarzbaum-Thomas parlance, individuals today have multiple, shared identities that result in a sense of “we.” From that sense of we, individuals form a dual identity, which includes their original group and a higher order group. The author theorizes that this expansiveness evidences generational growth and evolution as individuals today live more integrated lives.

Generational differences also appeared as weighty influences in the conference results. All but the millennial generation identify a strong work ethic as a unique feature of their generation. While politics is a consistent defining attribute across generations, political values differ among older and younger generations. Older generations tend to think that the government is doing too many things that are better left to businesses and individuals, while younger generations tend to believe that the government should do more to solve problems. It is understandable, then, that politics might be a defining feature of an individual’s culture.

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168 See infra notes 171-190.
169 See infra notes 171-190 and accompanying text.
170 See infra notes 171-190 and accompanying text.
172 SCHWARZBAUM & THOMAS, supra note 69, at 47.
173 See Archer, supra note 103, at 63.
174 See infra notes 175-177 and accompanying text.
175 PEW RESEARCH CTR., supra note 166, at 5.
176 Id. at 63.
178 PEW RESEARCH CTR., supra note 166, at 63-84.
A third explanation may be the changing ethnic demographics in the United States and abroad.\textsuperscript{179} If language is still a marker of ethnographic change, then it is worth noting that the number of people living in the United States who speak a language other than English at home has grown from 40 million people (18\%) to 62 million people (21\%) since 2000.\textsuperscript{180} Since 2000, Italian and Polish have dropped off the list of the top ten non-English languages in common usage in the United States, and they have been replaced by Arabic and French Creole (as spoken by Haitians and Caribbean islanders).\textsuperscript{181} Since 2011, over fifty percent of U.S. births have been people of color, and the majority of the U.S. population is projected to be nonwhite by 2043.\textsuperscript{182} Today, Latinos make up a quarter of Americans between six and thirty-four years old.\textsuperscript{183} Immigrants make up over 8\% of the nation’s voting age population.\textsuperscript{184}

Shifting ethnic demographics worldwide also reflect the rapid globalization of individuals, experienced on a personal level.\textsuperscript{185} Steers comments that “[a]s [people] increasingly find themselves working across borders, their list of cultural lessons—do’s and don’ts, must’s and must not’s—continues to grow.”\textsuperscript{186} Globalization eliminates or reduces spatial and temporal barriers to our knowledge about one another’s needs, preferences, and situations.\textsuperscript{187} Globalization affects

\footnotetext[179]{179}{Id. at 9. All of the Knoxville attendees came from the United States, and a majority of the Amsterdam attendees did as well. See Amsterdam Conference, supra note 8; Knoxville Conference, supra note 7.}


\footnotetext[181]{181}{Id. at xiii.}

\footnotetext[182]{182}{America By the Numbers: Documentary Explores America’s Shifting Demographics, PARADE (Sept. 27, 2014, 5:15 AM), http://parade.condenast.com/340792/parade/american-by-the-numbers-documentary (announcing an October 2, 2014 PBS documentary).}

\footnotetext[183]{183}{Id.}

\footnotetext[184]{184}{Henderson, supra note 180.}

\footnotetext[185]{185}{STEERS, supra note 135, at 4.}

\footnotetext[186]{186}{Id. at xiii.}

\footnotetext[187]{187}{Garcia, supra note 171, at 20 (calling globalization transformative and a game changer).}
legal education worldwide.\footnote{Muna Ndulo, \textit{Legal Education in an Era of Globalization and the Challenge of Development}, 1 J. COMP. L. AFRICA 1 (2014).} Now, new curricula, teaching methodologies, and materials are shared with law faculty around the world at international conferences and through cross-cultural exchanges and consultations.\footnote{Peggy Maisel, \textit{The Role of U.S. Law Faculty in Developing Countries: Striving for Effective Cross-Cultural Collaboration}, 14 CLINICAL L. REV. 465, 466 (2008). The challenge of education, legal and otherwise, is to both widen and deepen the student's understanding of the global context in which the student must operate. Robert J. Morris, \textit{Globalizing and De-Hermeticizing Legal Education}, 2005 BYU EDUC. & L.J. 53, 78.} Corporations, civic associations, scientific bodies, and individuals now operate in cross-border networks.\footnote{Garcia, \textit{supra} note 171, at 3 n.5.} All three explanations, whether higher group thinking, generational differences, or globalization, expand individuals' self-view and fuel new opportunities for grounding cross-cultural competence skills around lessons in self and other.\footnote{\textit{See supra} notes 171-190.}

2. Clinic Setting

When the author opens the discussion of cultural competence to a group of eight students in clinic case rounds, the exercises flow slightly differently than large conference presentations.\footnote{\textit{Building Blocks}, \textit{supra} note 152.} First, students share their definitions of culture.\footnote{\textit{Id.}} These are often illuminating in their simplicity.\footnote{\textit{Id.}} Mores, beliefs, traditions, customs, and a way of life are sometimes offered.\footnote{\textit{Id.}} One insightful student proposed culture is "a lens through which one identifies herself or himself in the world."\footnote{Interview with AP, Student Clinician, University of Memphis Cecil C. Humphreys School of Law's Child and Family Litigation Clinic (Spring 2014).}

Next, the professor turns to the storytelling technique\footnote{\textit{See supra} notes 126-130 and accompanying text.} to open the floor to students to describe themselves as cultural beings in
The professor asks students to name their top three cultural characteristics. The professor then tells her "culture" story. The findings of this research exercise are similar to the Knoxville and Amsterdam conferences. The academic participants who have already formed their professional identities, and law students, who are working to establish their self-awareness as lawyers, each view the characteristics of culture more broadly than the Bryant-Peters attributes.

While the categories listed in Section III.A.1 often appear in law student stories, millennial generation students frequently add new dimensions to particular categories:

1. Geography (mountain, farm)
2. Personality (competitive)
3. Generation (millennial)
4. Hobbies and interests (sports, dance, video games)
5. Lifestyle (gym)
6. Technology (rather than a subset of skills, technology becomes a culture unto its own)
7. Roles (law student, multitasker).

Like their academic counterparts, students trend away from

200 Building Blocks, supra note 152.
201 See supra text accompanying notes 164-190.
202 See supra text accompanying notes 164-190.
203 Building Blocks, supra note 152.
defining self primarily with reference to race, gender, or ethnicity. Hobbies and interests, technology, lifestyle, closeness to family, and current roles define them much more frequently than the traditional elements of culture that made the Bryant-Peters list.

The fact that the majority of law students today belong to the millennial generation is a salient explanation for their expansion of the Bryant-Peters attributes. These students are often themselves diverse, accustomed to and comfortable with diversity, and more racially tolerant than their elders. Millennial students are far more likely to be biracial or multiracial than previous generations, and are more likely to be immigrants or children of immigrants.

The use of technology defines this generation, along with

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204 Id.; see Melissa D. Ousley, Hope for a More Equitable Society: Student Values and Perspectives on Race, Ethnicity, and Gender, 7 J.C. & CHARACTER 4, 7 (2006).
205 Building Blocks, supra note 152; Ousley, supra note 204, at 7.
209 PEW RESEARCH CTR., supra note 166, at 6.
211 See PEW RESEARCH CTR., supra note 166, at 5-6; see also LYNNIE C. LANCASTER & DAVID SPILLMAN, THE M-FACTOR: HOW THE MILLENNIAL GENERATION IS ROCKING THE WORKPLACE 7-8 (2010). “Digital natives” is a term which defines the culture of
music, pop culture, and lifestyle.\textsuperscript{212} Both millennials and generation X-ers are more likely than older generations to say that factors related to behavior and lifestyles set them apart from older generations.\textsuperscript{213} These factors might include single women having children, gay couples raising children, more mothers working outside the home, people living together without marriage, and more interracial marriages.\textsuperscript{214} Millennials seek unique ways to express themselves,\textsuperscript{215} and thus the culture of the gym, tattoos, and body piercings appear as defining factors.\textsuperscript{216} It also makes sense that some law students would identify farm or mountain roots as defining features.\textsuperscript{217} Millennials tend to live in more suburban and metropolitan communities than previous generations, and, thus, mountain or farm roots would be a distinctive attribute for certain students.\textsuperscript{218}

In summary, whether they are academics or law students, participants experience a similar impact of Stepping Stone One.\textsuperscript{219} Individuals acquire a deeper sense of culture and knowledge of themselves as cultural beings as they compare themselves to colleagues.\textsuperscript{220} Through these two exercises alone, participants easily recognize the self and other thesis of this Article.\textsuperscript{221} The first part of Lee’s AKS rubric, awareness of one’s own cultural values and beliefs, has been satisfied.\textsuperscript{222} Students in a law clinic setting, however, have the opportunity to dig even deeper as they work to form their professional
identities as legal counselors.223

B. Stepping Stone Two: Culture of Clients

Probing deeper into cross-culture studies, the next stepping stone is to ask clinic students to describe how their clients might describe the clients’ culture.224 Students in the Child and Family Litigation Clinic represent children in juvenile court who are abused or neglected and sometimes delinquent.225 When posed this question, especially at the beginning of the semester, students are more likely to say that their client would define himself or herself by race, gender, or age. This is not unexpected. The student has not had the opportunity to get to know the client more intimately or to inquire along cultural lines. The “tell me about yourself” inquiry has not yet come up. The professor, moreover, has not yet addressed the concepts of we or higher-order thinking previously described in this Article, so the student is still experiencing a learning curve. On the other hand, when law students are asked to describe how they, the law students, would define the culture of a child client, it is most often hobbies, role in family, lifestyle, age, and socioeconomic status that predominate. The sub-classifications they would list are both positive (sports, reading, dancing, oldest child, youngest child, stepchild, grandchild, and church) and often negative (drugs, gangs, violence, guns, domestic violence, poverty, and poor education). Students in the Child and Family Litigation Clinic see a unique slice of life attributable to the nature of the juvenile court docket.226

223 See, e.g., Martin J. Katz, Teaching Professional Identity in Law School, 42 COLO. LAW. 45, 46 (2013); Building Blocks, supra note 152.
224 Building Blocks, supra note 152.
In case rounds, there is expanded time for discussion of the concept of self and other. Despite that many clinical law students share a dominant race (white), a common age (mid-twenties), and similar educational background (college degree or professional school), no two students tell the same story when describing themselves as cultural beings. It is relatively easy, then, to point out that no client is exactly like the previous client, no client is exactly like the lawyer, and no student is exactly like another student. Taken together we are each self and other, even though we might share some common identities.

In summary, this second stepping stone and the exercises the author suggests begin to address the awareness (A) and knowledge (K) domains proposed by Lee. Law students are encouraged to reflect upon their own cultural values, attitudes, and beliefs. This way of thinking helps them understand how their own stories influence the professional processes they undertake in interacting with their clients. When students hear each other’s and the author’s narratives, they are better able to identify more normality and less abnormality in their clients’ cultures and are better prepared to develop their client counseling skills. These exercises, lastly, further Lee’s knowledge (K) rubric by opening law students to the process of asking questions and doing research about their clients’ experiences, cultural heritages, and historical backgrounds so that they might become better aware of their clients’ worldviews in an effort to relate to clients as their lawyers.

C. Stepping Stone Three: Assumptions and Habits

As noted previously, the signature pedagogies for multicultural training for law students are the “Five Habits of Cross-Cultural Lawyering.” Bryant and Peters suggest teaching law students to cultivate the following five habits: (1) Degrees of Separation and

227 See supra notes 224-226 and accompanying text.
228 See Building Blocks, supra note 152.
229 See id.; supra notes 224-226 and accompanying text.
230 See KRIEGER & NEUMANN, supra note 6, at 58.
231 Id.
232 See supra notes 82-99 and accompanying text.
233 See Bryant, supra note 24, at 64-78.
Connection; (2) The Three Rings; (3) Parallel Universes; (4) Pitfalls, Red Flags, and Remedies; and (5) The Camel’s Back. All of these habits, according to Bryant and Peters, further familiarize the student with the cultural surroundings of a particular client. They also fall into the teaching methodology of “Identifying Assumptions.”

To make the concept of cross-cultural competency readily accessible to clinical law students in one semester, it helps to not address all five habits—as revered as they have become—in one semester. It is more beneficial to dwell on Identifying Assumptions and concentrate on the habits of Degrees of Separation and Connection and Parallel Universes. These are the most illustrative of the self and other theme that the author strives to instill.

1. Assumptions

**Exercise #1a:** Think about one of your clinic cases. Identify an assumption you made about a client or a situation that proved to be true.

A student might answer, for example, that when she looked at a grandmother’s petition for dependency and neglect against a child’s mother due to drug addiction and a deplorable physical environment, she thought about her own grandmother, and she assumed this grandmother’s home would be neat, clean, comfortable, and suitable. It was.

**Exercise #1b:** Think about one of your clinic cases. Identify an assumption you made about a client or a situation that proved to be false.

The same student might answer that she assumed the mother of the above child would not appear in court due to her drug addiction.

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234 See id.; see also Peters, supra note 2, at 287-364.
235 Peters, supra note 2, at 292-93.
236 See id.
237 See Building Blocks, supra note 152; Knoxville Conference, supra note 7, at 7.
239 See Building Blocks, supra note 152; Knoxville Conference, supra note 7, at 7.
She further assumed that if a mother would not give sufficient attention to the physical environment in which she was raising her child, she would not pay attention to the necessity of appearing in court. But, the mother did appear in court and sought the appointment of an attorney. The student’s assumption was false.

These exercises, completed together, open up a fertile discussion about the myriad of assumptions each individual makes in everyday life as a product of each individual’s culture and as the lens through which the person views the world. Some of these assumptions are true and some are false. This mother at first blush presents two obvious cultural characteristics: low socioeconomic status and drugs. But she also shares a more universal aspect of culture, that of being a parent. The student assumed poverty and drugs resulted in disrespect for the court, which was erroneous. This self-reflection, that one’s conjectures might be right or might be wrong—startling as it is for many students—opens up the students to the Habit of Suspending Judgment. In order to suspend judgment, the lawyer must identify assumptions in daily practice, challenge assumptions with facts, and lawyer from the facts.

This exercise, in addition, fosters student awareness of a client’s worldview. Referring back to Lee’s tenets, it allows students to identify their own attitudes and beliefs that might get in the way of working with clients, and helps students realize that they must develop a knowledge of the life experiences, cultural heritage, and historical background of their culturally other clients in order to be successful counselors and advocates.

2. Parallel Universes

Exercise #2: Think about a client or a party in one of your clinic cases whose behavior was puzzling or troubling. Brainstorm five possible explanations for the behavior.

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240 Peters, supra note 2, at 292.
241 Id.
242 Id.; see also Lee, supra note 72, at 194-95.
243 See supra notes 79-100 and accompanying text.
244 See supra notes 79-100 and accompanying text.
245 See Building Blocks, supra note 152.
A student attorney might identify a mother who fed her infant nothing but water for four days. The baby had a seizure and stopped breathing. The child was rushed to the hospital and luckily survived. The student attorney's first explanation is "bad mother."

When the student is asked to come up with four more possible explanations, he adds these possibilities: (2) the mother was never taught to care for an infant, (3) the mother lacked the intellectual capacity to care for an infant, (4) the mother had no support system to utilize for help, and (5) the mother lacked money to buy formula. When other students and the professor weigh in on other possibilities, they come up with the following: (6) the mother was not resourceful enough to turn to the Women, Infants, and Children ("WIC") program, (7) the mother was too ill to get to the store, and (8) the mother had a cultural belief against using public benefit programs.

The habit of Parallel Universe thinking teaches students a "method for exploring alternative explanations for clients' behaviors," inviting them to explore multiple parallel universes or possible explanations for clients' behaviors. This exercise allows the professor to refine the habit of nonjudgmentalism and to introduce the skill of reframing.

Nonjudgmentalism first requires an acceptance of the fact that people make assumptions. Acknowledging that characteristic as fact

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246 See id.; Knoxville Conference, supra note 7, at 9.
247 See Building Blocks, supra note 152; Knoxville Conference, supra note 7, at 9.
248 See Building Blocks, supra note 152; Knoxville Conference, supra note 7, at 9.
249 See Building Blocks, supra note 152; Knoxville Conference, supra note 7, at 9.
251 See generally PETERS, supra note 2, at 346-48; Bryant, supra note 24, at 70-71.
252 Bryant, supra note 24, at 92-93; Christina A. Zawisza, Sprawuj Sie (Do Good): Using the Experience of Holocaust Rescuers to Teach Public Service Values, 81 REV. JUR. U. P.R. 1051, 1062-63 (2012) (defining the method of reframing as "a technique used to replace harmful and judgmental observations or actions with neutral or factual ones" in order to change one's view or interpretation of an event).
253 See PETERS, supra note 2, at 294; Zawisza, supra note 253, at 1063.
allows the individual to examine negative beliefs and replace them with more factual or, at least, more neutral ones. The Parallel Universe exercise, therefore, becomes a “fact-finding” endeavor rather than a critique. The Parallel Universe exercise mirrors the technique of reframing, which comes from the mediation field. It encourages the replacement of harmful and judgmental observations with factual or neutral ones. Transformative mediators urge the reinterpretation of negative observations to open up new possibilities through a three-step process. The steps are as follows: (1) describe the actors as they see themselves, (2) reduce negative opinions about the actors or the situation into facts, and (3) find the nobler intentions in the actors or the situation.

This exercise, whether called Parallel Universe thinking or reframing, encourages viewing the stakeholder, here the mother, as other, as opposed to a poor drug addict. The student becomes more open-minded and able to use more accessible lines of communication with the parent. Greater flexibility in case presentation, recommendation of rehabilitative services, and settlement opportunities ensue. Students are then less likely to assume that they understand the reasons for the behavior, that they have enough information to interpret what they are seeing, or that somehow the individual’s behavior is the student’s fault. Reflecting on Lee’s cross-cultural competence paradigm, the Parallel Universe exercise allows the student to become more aware of his own cultural values and beliefs, more cognizant of the stakeholder’s worldview, and more prepared to choose culturally appropriate intervention strategies.

255 See PETERS, supra note 2, at 294; Zawisza, supra note 253, at 1062-63.
256 PETERS, supra note 2, at 293-95; Zawisza, supra note 253, at 1062.
258 See Zawisza, supra note 253 at 1062-63.
259 See Zawisza, supra note 253, at 1063 (citing RICHARD S. GALLAGHER, HOW TO TELL ANYONE ANYTHING: BREAKTHROUGH TECHNIQUES FOR HANDLING DIFFICULT CONVERSATIONS AT WORK 104-05 (2009).
260 See Zawisza, supra note 253, at 1063; Knoxville Conference, supra note 7, at 13.
261 See, e.g., Bryant, supra note 24, at 70-72.
262 LEE, supra note 72, at 207-12.
3. Degrees of Separation and Connection

   Exercise #3: Choose one of your clients. Describe five ways in which you are similar to your client and five ways in which you are different from your client.\textsuperscript{263}

   A student attorney might choose Damien, a seventeen-year-old boy who is the subject of both a juvenile court delinquency petition and a juvenile court dependency petition. He has been placed in state custody and physically resides in a therapeutic program. The student attorney reflects that he is similar to his client in that they are both males, like sports, do well in school, and have future goals. He further remarks that he can recall bouts of hospitalization in his childhood, albeit not residential therapeutic treatment. He is different from his client due to the following: (1) race, (2) use of drugs, (3) membership in a gang, (4) childhood neglect and abandonment, (5) socioeconomic status.

   The identification of similarities allows the student attorney to connect with the client.\textsuperscript{264} As the author has stressed, these connections now occur much more broadly among the millennial generation of law students and society in general.\textsuperscript{265} This student attorney has connected with his client over the shared cultural lens of sports, school, future goals, and lifestyle (hospitalization).\textsuperscript{266} These associations allow lawyer and client to develop trust and some common contexts.\textsuperscript{267}

   The identified differences, on the other hand, cause the student attorney to probe more deeply and to ask more questions in order to fully understand the client in context.\textsuperscript{268} This particular client’s cultural differences cause the student attorney to research drug use and how to combat it, gangs and how to discourage them, the effect of persistence

\textsuperscript{263} Knoxville Conference, supra note 7, at 14.
\textsuperscript{264} See generally Steven Ellmann, What Are We Learning?, 56 N.Y.L. SCH. L. REV. 171 (2012) (stressing the importance of “client-centered” counseling).
\textsuperscript{265} See supra notes 203-218 and accompanying text.
\textsuperscript{266} See supra notes 263-264 and accompanying text.
\textsuperscript{267} See PETERS, supra note 2, at 227.
\textsuperscript{268} See generally KRIEGER & NEUMANN, supra note 6 (stating that a lawyer will cut himself or herself off from a great deal of information if the lawyer fails to identify cultural differences).
neglect and abandonment of a child, and the effect of poverty on this client. The questioning and the research allow the student attorney to fully develop the client’s story and to prepare a counseling and litigation strategy. Such a deep relationship with the client allows the student attorney to wisely choose intervention strategies, such as substance abuse counseling, mentoring, pro-social relationships, and services for family members. The AKS triad that Lee recommends is fully embraced in the Similarities and Differences exercise. In summary, this exercise is an ideal tool for highlighting the authors’ self and other theme. In this example, the student’s self mirrors all of the ways in which he is like his client, and the other illustrates all of the ways in which he is unlike his client.

It is beneficial to introduce students to the similarities and differences exercise as Stepping Stone Three. Students have already contemplated the meaning of “culture,” described themselves as cultural beings, listened to their colleagues’ descriptions of their cultures, and heard the professor’s narrative. They have attempted to describe their clients’ cultures, as well. Students have identified the assumptions they make in daily life, allowed themselves to recognize Parallel Universes, and challenged their assumptions with facts. A look at the Degrees of Separation and Connection at this point in the semester makes it a capstone “case rounds” topic, pulling together all of the preceding exercises. It is a quintessential Kolbian analysis, allowing the student to move through concrete experience, active experimentation, observation and reflection, and finally, abstract conceptualization and generalization.

IV. OTHER CULTURAL LESSONS

Understanding self as other in relation to clients does not

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269 See Ellmann, supra note 264, at 174, 179-80.
270 Id. at 174.
271 See supra notes 71-78 and accompanying text.
272 See supra notes 71-78 and accompanying text.
273 See supra note 263 and accompanying text.
274 See supra Section III.C.3.
275 See supra notes 136-141 and accompanying text.
complete a law student’s lessons in cultural competence. Once the student identifies her culture and the culture of her clients through the previous exercises, she is open to exploring other “cultures” she will have to navigate in her career, the most salient of which are the culture of lawyers and lawyering and the culture of judges and judging. These “cultures” will be described in this Section.

A. The Culture of Lawyers and Lawyering

Legal culture means “the ideas, attitudes, values, and opinions about law held by people in a society” with regard to, for example, “courts, justice, the police, the Supreme Court, and lawyers.” Legal culture is both external and internal. The external legal culture is the legal culture of the general population, while internal legal culture is the legal culture of those who perform specialized legal tasks.

The law student is probably more familiar with external legal culture, which is also referred to as popular legal culture. External legal culture includes: (1) the ideas and attitudes about the law which ordinary people or lay people hold; and (2) common items associated with law such as books, songs, movies, plays, and TV shows which are about law or lawyers and are aimed at a general audience. It also refers to (3) the way outsiders—people in society who play no role in

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276 See infra Sections IV.A-C.
277 See infra Sections IV.A-C. Lawyers specializing in juvenile and family law also have reason to be culturally competent in the norms of other professions, such as social work, psychology, marriage and family therapy, and even medicine. See, e.g., Clare Huntington, Happy Families? Translating Positive Psychology into Family Law, 16 VA. J. SOC. POL’Y & L. 385, 386 (2009) (“[P]ositive psychology .†.†. holds enormous potential to guide family law.”). The introduction of law students to these cultures is a prime subject for another article. See, e.g., id. at 386, 424.
278 See infra Sections IV.A-C.
281 Id.
282 See Friedman, supra note 279, at 1579-80 (discussing popular legal culture).
283 Id.
the regular legal system—perceive and define the legal system and expect it to be used, for example, as a catalyst for social change.\textsuperscript{284} Portrayals of lawyers in popular culture often have very little to do with the legal process.\textsuperscript{285} It is interesting, however, that law students have been shown to have a more realistic and accurate view of lawyering activities despite what they view on television; thus, the introduction of the law student to this aspect of legal culture is not difficult.\textsuperscript{286}

Internal legal culture is far more complex, and the term is used in a variety of ways.\textsuperscript{287} It has been characterized as "a set of deeply rooted, historically conditioned attitudes about the nature of law, about the role of law in society and the polity, about the proper organization and operation of the legal system and about the way law is or should be made, applied, studied, perfected, and taught."\textsuperscript{288} In the internal legal culture, internal legal actors—judges, judicial staff, legislators, administrators, law enforcement personnel, advocates, and law professors—perform assigned legal roles in legal institutions.\textsuperscript{289}

One way to view internal legal culture is as a set of claims of legal rights that are often adjudicated in courts of law through trials.\textsuperscript{290} Some believe, constitutions, statutes, judicial opinions, and the formality of dispute resolution form the foundation of legal order.\textsuperscript{291} Special formal rules—the rules of pleading and process—allow an individual to enter a court and frame disputes as legal claims of right.\textsuperscript{292}


\textsuperscript{287} See, \textit{e.g.}, David Nelken, \textit{Using the Concept of Legal Culture}, 29 AUSTL. J. LEG. PHIL. 1, 21 (2004) (focusing on the legal culture in Italy).

\textsuperscript{288} John H. MERRYMAN & ROGELIO PEREZ-PERDOMO, \textit{The Civil Law Tradition} 2 (Stanford Univ. Press, 3d ed. 2007).

\textsuperscript{289} Merryman, \textit{supra} note 284, at 718.

\textsuperscript{290} FRIEDMAN, \textit{supra} note 280, at 228.


\textsuperscript{292} FRIEDMAN, \textit{supra} note 280, at 234-35. Trial advocacy as a significant component
Some approach internal legal culture as the study of the language of the law. Lawyers talk and write in their own unique way, with technical legal words that insiders know and outsiders do not know, setting lawyers apart as a profession. Legal jargon, which the author calls "magic words," serve the function of ritual in the law. Examples abound: "the truth, the whole truth, and nothing but the truth," "give, devise and bequeath," "rest, residue, and remainder," and "all deliberate speed."

Another unique aspect of the internal fabric peculiar to law is a set of values maintained through rules of professional conduct and ethics, as well as through inculcation of norms of lawyering as a way of life, a social role, and a way of being a professional in law. Such values include: (1) a commitment to process, debate, and dialogue; (2) civil respect and tolerance; (3) and a commitment to morality, justice, privacy, and liberty.

Some scholars break down internal legal culture even further, choosing to focus on local legal cultures or the cultures of certain specialty areas. Shared mental models, or "rules of thumb," arise in
practice localities and become the practice norms of a given place. Unwritten rules, customs, and preferred ways of practice might predominate in any given locality. This concept is reminiscent of the "regional cultural filters" arising from genetic makeup and life experiences that existential philosophers speak of.

Urban legal practice, for example, is more formal due to increased diversity, anonymity, population density, and fewer mechanisms of social control. Rural practice, on the other hand, is less formal, and lawyers have different relationships with clients, communities, and colleagues. Rural relationships are multiplex because people see each other frequently in a variety of settings.

With regard to specialty areas, criminal defense practitioners develop "shared norms and folkways" learned through repetition and from repeat players. Bankruptcy lawyers also rely on repetition. Family law also has a distinctive culture, varying by state and locality, where lawyers learn to balance thoroughness of representation with affordability. Similarly, juvenile dependency lawyers have been characterized as having a "fraternity" or clubby culture, marked by provocative situations and set apart by strict confidentiality of proceedings. Some believe that family and juvenile courts are marked by relaxed advocacy, a culture that operates in contradiction to our advocacy-based legal system, and one that should be abandoned.

300 McNeal, supra note 299, at 212.
302 See, e.g., VONTRESS, supra note 39, at 5.
303 McNeal, supra note 299, at 214.
304 Id. at 216.
305 Id. at 215.
306 Id. at 216 (citing MILTON HEUMANN, PLEA BARGAINING: THE EXPERIENCES OF PROSECUTORS, JUDGES, AND DEFENSE ATTORNEYS 52 (Univ. of Chi. Press, 1978)).
307 McNeal, supra note 299, at 216.
308 Id. at 217.
It has become almost trite to say that law schools teach students to “think like a lawyer.” But, indeed, “thinking like a lawyer” sums up the culture of lawyering experienced on a daily basis and that tenet becomes an important component of cross-cultural competence. Students grow by understanding their self in relation to the other, in other words, the normative legal culture.

B. The Culture of Judges and Judging

Another culture the law student will encounter is the culture of judges and judging. While judges share the cultural norms of lawyers and lawyering, both external and internal, they also embrace some unique aspects of a judicial culture. A hallmark of judging is, of course, adherence to precedent. But precedent does not entirely constrain a judge’s decisions, as jurists are left with considerable room to express their personalities, worldviews, dispositions, and life experiences in their decision making.

It is in the nature of judging that jurists affect the lives of other individuals very deeply. Much of judging involves trying to decide cases of human beings in dispute, in discord, and in pain. While precedent deals with abstractions, the legal culture of judging is not only about ideas, but about the everyday consequences of those ideas on real people. Judicial culture, above all, requires that all likes are treated alike as a matter of professional identity, role, ethics and self-
understanding.  

Some judges view their culture as a managerial enterprise. Managerial judges take it upon themselves to steer the course of the litigation in a variety of ways, including informal status conferences, formal pretrial conferences, and the control of paper filings. The “judge as manager” attempts to rein in the cost of litigation as well as to promote just and speedy determinations by rationing the use of procedural rules by increasing their costs. They might do this by limiting interrogatories, setting firm trial dates, or imposing sanctions on attorneys. Managerial judges might also choose to limit issues by holding mini-trials or summary jury trials.

Specialty areas might occasion unique judicial cultures. Dependency court—the author’s area of expertise—has been characterized as using heuristics, defined as speedy, intuitive processes to reach conclusions as opposed to deliberate, effortful, and systematic strategies. Judging in dependency court is replete with high caseloads, significant time constraints, and complex role requirements. Juvenile judges are faced with high-stakes decision making that may mean life or death to a child and raise incomparable emotional issues for their parents and custodians. Juvenile judges seek to predict a child’s safety in the ambiguous realm of the “best interests of the child.” These judges serve simultaneously as confessors, taskmasters, cheerleaders, mentors, managers,
administrators, coaches, and problem solvers. The nature of dependency court leads judges to apply heuristics in a fast and frugal decision-making mode, with heavy reliance on intuition, hindsight, primacy, and over attribution, rather than lengthy evidence gathering and deliberation.

Another example of a unique judicial culture is small claims court, which is characterized by informality of proceedings, low filing fees, pro se litigants, and enhanced court access. Judges in small claims court are active participants in a hearing rather than passive observers, often choosing to examine and cross-examine parties and witnesses and equitably and impartially assisting each party. The judge in small claims court is the dominant player.

In a study of small claims court in Montreal, researchers squarely confronted the question of cross-cultural competence among judges. Although Montreal exemplifies sociocultural diversity, judges there come from a socioeconomic demographic much different from their litigants. Research findings revealed that none of the judges surveyed in 1996 considered it their role to improve access to justice for culturally different communities. They adhered to their own perspectives on how well different categories of plaintiffs accommodated themselves to the court process and were apprehensive

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331 Id. at 936.
332 Id. at 944. Primacy refers to the tendency for individuals to remember and believe what they hear first. Id.
333 Id. at 947. The over attribution error refers to the pervasive tendency of observers to overestimate personality or dispositional causes of behavior and to underestimate the effects of situational constraints on behavior. Id.
334 See id. at 922-49 (discussing the issues of small claims court judges concerning deliberation).
336 Id. at 69
337 Id. at 70.
338 Id. at 63.
339 See id. at 73-78 (discussing cultural differences between judges and litigants in Small Claims Court in Montreal).
340 Id. at 73.
of taking cultural norms into consideration.\footnote{Id. at 86, 94.} This study illustrates the often-experienced cultural divide between judges and litigants.\footnote{See id. at 63, 84-89.} To the Canadian claimant, the judge was always the “other.”

\section*{C. \textit{Summary}}

Lee’s final domain of cross-cultural competence is the selection of culturally competent intervention strategies.\footnote{See supra Section II.B.} The knowledge (K) base that professionals must acquire is an understanding of the norms and processes of their particular profession.\footnote{See supra notes 91-92 and accompanying text.} They must be aware of institutional barriers to systems and services that clients must access, and they must be familiar with communities and community resources.\footnote{See supra notes 93-94 and accompanying text.} Consideration of the cultures of lawyers and lawyering and judges and judging, then, is a critical step in teaching cross-cultural competence to law students.\footnote{See supra notes 279-342 and accompanying text.}

\section*{V. \textit{More Stepping Stones: Assumptions and Habits Applied to Lawyers and Judges}}

The Assumptions and Habits exercises prescribed previously for law student development of an understanding of self and other with regard to themselves and to their clients lend themselves nicely to the students’ comprehension of themselves in comparison to other lawyers and the judges before whom they appear.\footnote{See supra Section III.C.} This Part will illustrate possible uses of those exercises in regard to lawyers and judges.

\subsection*{A. \textit{Stepping Stone Four: Culture of Lawyers and Lawyering}}

1. Assumptions

\textit{Exercise \#1a: Think about one of your clinic cases. Identify an assumption you made about counsel or the process of lawyering that}
Having been briefed by his professor, the student attorney might remark that the attorney for the Department of Children’s Services, commonly referred to as “DCS,” tried her case exactly as expected, calling the appropriate witnesses and introducing documentary evidence. The student Guardian ad Litem (“GAL”) was able to easily go down his checklist and cross off three-quarters of his prepared questions. In his cross-examination, he focused only on a few facts that he was more familiar with than the DCS attorney. He assumed this attorney would be prepared, and she was, making his first court appearance a very comfortable experience.

Exercise #1b: Think about one of your clinic cases. Identify an assumption you made about opposing counsel or about the process of lawyering that proved to be untrue.

A student might answer, for example, that she was surprised about how smoothly her hearing went when she appeared as a GAL for three children and asked that the petition for dependency and neglect be dismissed. Between the time of the filing of the petition and the adjudicatory hearing, the mother had evicted her abusive boyfriend, finished parenting and anger management classes, and completed a domestic violence program. She had a suitable home and a job. The GAL negotiated with the mother’s attorney in the hall regarding the mother’s continuation of the services she had started, and the mother agreed. In her opening statement to the court, the GAL explained the case and announced the agreement. In her response to the GAL’s statement, the mother’s attorney said, “I could never have made that announcement as eloquently as she just did.” The student was startled by the overt compliment. She assumed the mother’s attorney would be aggressive and dismissive of a student attorney.

These two exercises open up a fertile discussion of lawyering as a ritual. Lawyers who appear before a certain tribunal each day adopt an assigned role that is predictable. The exercises might also

348 See Building Blocks, supra note 152.
349 See id.
350 Merryman, supra note 284, at 718-22.
allow for a discussion of local legal culture. In the culture in which the student lawyer appeared, good preparation was the norm, and a certain informality, cordiality, and relaxed advocacy style ruled the day. The courtroom is a comfortable place in this locality. The attorney in the latter exercise, furthermore, welcomed the new student lawyer to the “club” of juvenile lawyers by respecting her first oral advocacy efforts and encouraging her performance. The experienced attorneys in this locale are reducing the dilemmas of difference and attempting to substitute a shared “oneness,” a critical lesson for students.

2. Parallel Universes

*Exercise #2: Think about an attorney in one of your cases whose behavior was puzzling or troubling. Brainstorm five possible explanations for the behavior.*

A student attorney might report his befuddlement with an opposing counsel who vigorously mounted a defense of “accident” to a case of severe child abuse in which a ten-month-old baby was taken to the hospital as a “near fatality.” The baby had old and new subdural hematomas, a broken rib, bruising up and down his body, blood in his ear, a swollen eye, and abrasions on his back. He was rushed into emergency surgery. As a result of his injuries, he suffers physical developmental delays. The student attorney wonders why the lawyer did not simply stipulate to dependency and neglect, given the strength of the medical evidence.

When asked to come up with five possible explanations, the student attorney answers: (1) criminal charges are pending, (2) the attorney believes his client’s explanation, (3) the client refuses to stipulate, (4) the attorney is relying upon an independent expert, or (5) the attorney understands his role as that of a “zealous” advocate.

While a seasoned attorney might not find the behavior of counsel for the mother troubling, a student attorney might be guided at

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351 McNeal, *supra* note 299, at 200-16; *see supra* note 279-313 and accompanying text.


353 See Building Blocks, *supra* note 152.
this point to understand that the culture of lawyering, particularly in juvenile court, is an adversarial process. The role assigned to counsel for parents is to mount a plausible defense, especially when the stakes are so high for a mother: not only can she lose her parental rights but she might be convicted of a crime. The mother has legal rights, among them, the right to counsel and to an adjudication of fault in a court of law through a trial.

3. Degrees of Separation and Connection.

*Exercise # 3: Choose an attorney representing a party in one of your cases. Describe five ways in which you are similar to this attorney, and five ways in which you are different.*

One student might choose Dorothy who is representing a mother as court appointed counsel in a dependency and neglect matter. The student identifies the following similarities: (1) same gender, (2) same faith-base, (3) a passion for protecting children, (4) same law school, and (5) a few of the same professors. She identifies the following differences: (1) age, (2) race, (3) experience, (4) familiarity with the juvenile court process, and (5) familiarity with juvenile law. Despite differences, the student attorney comments that Dorothy treats her with the utmost respect.

In debriefing this exercise, the professor might reflect upon the set of values connected with the legal profession, including a way of being a professional in the law and the civil respect and tolerance expected of a lawyer. The discussion might also involve the importance of a new attorney seeking out and consulting mentors until they mature in the law and the valuable contributions Dorothy can make in that regard. The multiple relationships that one develops in a

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354 See VENTRELL, supra note 310, at xxi.
355 See TENN. CODE ANN. § 36-1-113(g)(4) (2015).
356 Id. § 39-15-403.
357 See Building Blocks, supra note 152.
358 See id.
360 See VENTRELL, supra note 310, at xxiii.
practice area are also a fertile ground for exploration through the use of this exercise. Here, the student attorney needs to appreciate that while she is the other, she shares some sameness even with experienced attorneys.

B. Stepping Stone Five: Culture of Judges and Judging

1. Assumptions

   Exercise #1a. Think about one of your clinic cases. Identify an assumption you made about a judge or the process of judging that proved to be true.

A student attorney might reflect on the same case described above in which a child nearly died of serious injuries. Astounded that a magistrate returned custody of the baby to its parents, the student attorney has prepared for a rehearing before the judge. Having done his due diligence about this particular judge, the student attorney expects a very formal hearing in which the judge pays close attention to the witnesses, takes copious notes, and allows the trial to play out according to the lawyers’ trial strategy.

The student’s choice of this scenario opens up a discussion about the judging culture of this particular jurist. This judge holds a worldview in which he views his role as treating all likes alike. The stakes are so high by the juvenile rehearing stage that the judge refrains from acting as a managerial judge. It is unlikely that the parents will take this case to another level. For the child, the judge may be making a life or death decision, and for the parents, a life-altering one. This judge sees no benefit to limiting the costs or the length of the litigation, given the high-risk factors involved.

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361 Id. at 133-34.
362 See Building Blocks, supra note 152.
363 See supra note 362 and accompanying text.
364 West, supra note 297, at 1358.
365 Fraidin, supra note 309, at 935-38.
366 See id.
367 See id.
368 Stempel, supra note 322, at 312-14.
Exercise #1b. Think about one of your clinic cases. Identify an assumption you made about a judge or the process of judging that proved to be untrue.\textsuperscript{369}

A student attorney might reflect upon the initial adjudicatory hearing for the child who nearly died. The student attorney offered an evidentiary deposition in which a highly experienced pediatrician on the Child Protection Team of the children's hospital described in depth the injuries—both old and new—of the baby and ruled out any other cause of trauma other than nonaccidental injury. The magistrate was very familiar with this particular doctor. The magistrate postponed the trial so that she could read the doctor's deposition. When the trial resumed several weeks later, it was clear that the magistrate had not read the deposition. The magistrate opined that the parents were young and had learned their lesson and returned custody of the child to the parents. The student attorney assumed the magistrate would err on the side of child safety and not on the side of family preservation, but this assumption proved to be untrue.

This example is an excellent illustration of heuristics in judicial decision making.\textsuperscript{370} This magistrate is confronted with a high caseload, significant time constraints, and complex role requirements.\textsuperscript{371} She has reduced her judging to a fast and frugal mode, but unlike many juvenile judges who underestimate the situational constraints in which many parents find themselves (poverty, youth, inadequate education), this jurist takes these factors into consideration and gives parents second chances.\textsuperscript{372} Understanding this view of the judge as "other" is an important insight for young attorneys.

2. Parallel Universes

Exercise #2: Think about a judge in one of your cases whose ruling was troubling or puzzling. Brainstorm five possible explanations for the judge's approach to the issue.\textsuperscript{373}

\textsuperscript{369} \textit{Id.}
\textsuperscript{370} Fraidin, \textit{supra} note 309, at 913-20.
\textsuperscript{371} \textit{Id.}
\textsuperscript{372} \textit{Id.}
\textsuperscript{373} See Building Blocks, \textit{supra} note 152.
A student attorney might choose to reflect upon a judge’s ruling on a motion to recuse himself from rehearing a juvenile dependency case. A parent’s attorney walked into the judge’s courtroom late with a motion to recuse in hand, presenting it to counsel who had not seen it previously. The basis for the motion was that counsel for the State had engaged in an ex parte conversation with the judge regarding an emergency stay of the magistrate’s ruling. The State’s counsel orally denied the allegations. After hearing from all counsel, the judge set the motion for a hearing after all parties had submitted briefs on the issue. The student attorney, believing that the motion was meritless, was puzzled that the judge did not immediately deny it.

When debriefing with his supervisor and other students, this student attorney can identify the following as possible explanations for the court’s decision: (1) the court holds firmly to the value of procedural due process, (2) the court needs the guidance of case law before ruling, (3) the court would not savor a reversal on appeal, or (4) the court wants to avoid a ruling based on intuition alone. With the supervisor’s guidance, the student attorney can add a fifth possibility, that the judge is running for election and does not want to appear biased for or against any attorneys or litigants.

This exercise is ripe for a discussion on the judicial culture of adherence to precedent and the fundamental fairness this particular judge accords procedural due process.374 But the example illustrates the human nature of judging where personal situations, such as running for office, cannot be completely eliminated from judicial culture. This illustration paints the judge as a complex human self with many attributes not totally visible to the student attorney. The student through this example again can see the judge as “other.”

3. Degrees of Separation and Connection

Exercise #3: Choose a judge in one of your cases. Describe five ways in which you are similar to the judge and five ways in which you are different.375

374 Mautner, supra note 316, at 218-23; Stephan, supra note 315, at 20-24; West, supra note 297, at 1350-58.
375 See Building Blocks, supra note 152.
The judge selected by the student might share these similarities: (1) white, (2) male, (3) same ethnic background, (4) graduate of same law school, and (5) grew up in same hometown. The student might list the following differences: (1) age, (2) experience, (3) generation, (4) politics, and (5) lifestyle.

As with attorney Dorothy, this judge might serve as a role model, mentor, or coach for the student attorney because of the many ways in which the student identifies with the judge. The student sees that judges play many roles including such mentorship.

The value of this particular example, however, lies in its relevance to a discussion of the judge as other to the litigant. Both student and judge are different socially, economically, and ethically from the majority of litigants in juvenile court, who are predominantly African American, poor, and undereducated. This exercise, harkening back to Lee’s domains of cross-cultural competence, helps students to compare the norms and processes of the legal profession with the cultural values of litigants and better understand the institutional barriers to services and systems that clients must face.

VI. CONCLUSION

Lawyer know thyself. Lawyer know thyself as a culture being. This Article rounds out the burgeoning scholarship on teaching cross-cultural competence to law students by offering a self and other lens. Today individuals, including lawyers and law students, no longer self-identify in limited ways and have multiplex identities that they bring to their chosen professions. They are more receptive to higher-order thinking, as they lead more diverse lives.

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376 See infra note 376 and accompanying text.
377 See Fraidin, supra note 309, at 913-20.
378 See LEE, supra note 72, at 207-12; see also supra Sections II.A-D.
379 PETERS, supra note 2, at 300.
380 Id.
381 See supra Part III.
382 See supra notes 171-190 and accompanying text.
383 See supra notes 172-173 and accompanying text.
Law professors need to teach through that lens.\textsuperscript{384}

The benefits of the self and other lens are many.\textsuperscript{385} It makes the discussion of “culture” more neutral and less threatening, allowing for difficult conversations about difference.\textsuperscript{386} For the law student, it reduces reliance upon personal biases or assumptions, and, through the suggested exercises, adds objectivity to case analysis.\textsuperscript{387} It helps to normalize and neutralize relationships with clients, judges, and other lawyers.\textsuperscript{388}

But perhaps the greatest advantage of the self and other lens is its usefulness in the formation of law student identity.\textsuperscript{389} The twenty-first-century law student is becoming a professional in a world in which the skills of cross-cultural competence, as outlined in Lee’s triad,\textsuperscript{390} are imperative to success.\textsuperscript{391} The stepping stones outlined in this Article expose student attorneys to opportunities to explore cultural identities, values, and outlooks inherent in the practice of law, especially with regard to themselves and then to clients, lawyers, and judges.\textsuperscript{392} They foster a self-integrative approach in law students and an understanding that “who we are drives what we do.”\textsuperscript{393} The self and other approach raises awareness of the power imbalances in lawyer-client relationships and in relationships of clients to courts without guilt or self-criticism.\textsuperscript{394}

\begin{thebibliography}{999}
\item[385] See supra Part III.
\item[386] See supra notes 43-46 and accompanying text.
\item[387] See supra Part III.
\item[388] See supra Section III.C.
\item[389] Reuter & Wang, supra note 151 (manuscript at 5); see Bryant, supra note 24, at 64-78; see also Peters, supra note 2, at 309-10.
\item[390] See supra Section II.B.3.
\item[391] See supra Section II.B.3. See generally Archer, supra note 103 (emphasizing the need for students to recognize the influence their racial attitudes have on the attorney-client relationship).
\item[393] Id. at 47.
\item[394] Id.
\end{thebibliography}
Such self-reflection nurtures the students’ capacity to “‘listen and respond to what is actually happening, being said, being felt’ rather than their perceptions or expectations of what ought to be happening.”395 Problem solving for clients is often internally derived, forcing students to confront themselves first in order to serve the other, the client, and then to work with other lawyers and the courts.396

As Professor David Hall so eloquently explains in The Spiritual Revitalization of the Legal Profession: A Search for Sacred Rivers, lawyers cannot fully predict or determine ahead of time what they may be able to add to a client’s life or how they may be able to assist the client’s journey.397 But “we can bring all of whom we are to the experience, and we can empower the client to do the same.”398 A lawyer’s sense of her ethical and cultural “home” is broadened.399 It is where she is at any given time.400 Clients as well as the legal process become the ultimate beneficiaries of the self and other lens.401

395 Id. at 50 (quoting DERRICK BELL, ETHICAL AMBITION: LIVING A LIFE OF MEANING AND WORTH 165 (2002)); see also Timothy Case, Reflective Practice in Legal Education: The Stages of Reflection, 20 CLINICAL L. REV. 317, 351 (2014) (arguing the point that such self-reflection changes the culture of law practice).
396 See Martin, supra note 392, at 53.
398 Id.
399 See supra notes 21-25 and accompanying text.
400 See supra note 23 and accompanying text.
401 See supra Part IV.