



Cultural competence:

an essential skill for success
in an increasingly diverse world



Ritu Bhasin

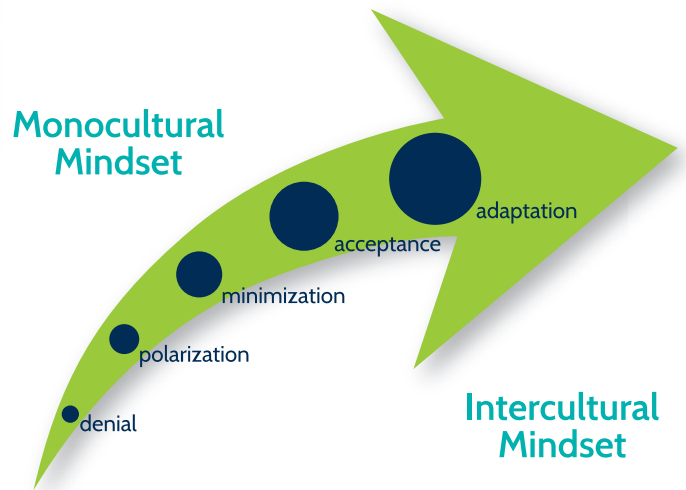
With each passing day, the legal profession becomes ever more diverse. That diversity brings challenges and opportunities. LAWPRO turned to diversity specialist Ritu Bhasin, Founder and President of bhasin consulting inc., for practical advice about the steps that lawyers and firms can take to welcome lawyers regardless of their personal and cultural identity characteristics, and to foster productive and creative collaboration.

What is cultural competence?

Bhasin defines cultural competence as “how we connect with people who are different from us.” Cultural competence is the ability to relate to others comfortably, respectfully and productively. Being able



Intercultural Development Continuum



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to effectively connect with people who are different from us – not only based on our similarities, but also with respect to differences – is the hallmark of cultural competence, and requires, as a prerequisite, the building of “cultural awareness.”

When asked what someone’s “culture” is, most people think of ethnicity. But when speaking in terms of cultural competence, culture is defined much more broadly and describes those aspects of a person’s values and behaviour that are connected to his or her personal identity characteristics. Beyond ethnicity, these characteristics may include gender, sexual orientation, age, religious beliefs, physical and intellectual abilities, and other characteristics.

While a firm can encourage lawyers to increase their cultural competence, success will depend on each lawyer increasing his or her own cultural awareness. Bhasin explains that most Canadians have been raised to intentionally ignore culture differences and to “treat everyone the same.” This “minimization” approach to culture, she notes, is less effective than approaches that strive for conscious acceptance of cultural differences, and active adaptation. The Intercultural Development Inventory, or IDI, developed by Mitchell Hammer, Ph.D., is a cross-culturally validated assessment of intercultural competence that measures cultural competence across five primary mind/skill sets that range from denial, through polarization, minimization, acceptance and adaptation.

When asked to explain what cultural competence looks like in practice across this continuum, Bhasin describes a lawyer who can identify, understand, and adjust to cultural dimensions of others’ behaviour. Learning how to do this requires not only knowledge of behavioural predictors, but also a willingness to actively learn and adapt.

Instead of trying to be “culture-blind” (a common strategy of minimization), a culturally competent lawyer should strive to build a working knowledge of behavioural predictors: cultural dimensions of behaviour that are shared by the majority of individuals within a cultural identity. Unlike stereotypes, behavioural predictors are grounded in science (for example, anthropology or sociology) and allow the user to assess a person’s behaviour against cultural generalizations.

Don’t ignore differences

Instead of just aiming to “ignore” differences, lawyers can improve their working relationships by taking active steps to adapt to people from diverse communities. Bhasin recommends that lawyers who encounter a cultural challenge try the following steps:

1. **Put on your cultural lens** by pausing to consider whether there is “something cultural going on,” in the sense that culturally-based

beliefs or behaviours – whether yours or someone else’s – are influencing your interaction.

2. **Ask questions to learn more** about the other person’s culture so you can better understand their expectations, behaviours, and assumptions.
3. **Reflect on your own reactions** by considering whether you are making negative judgments about others’ differences, or about culturally-based behaviour. Are you making assumptions or associations instead of actively trying to understand?
4. **Adjust your behaviour** to challenge your assumptions and the negative judgments that flow from them. Strive to understand the situation from the other person’s perspective, so that you can better appreciate their approach. Adapt your own behaviour to facilitate communication.

What might this mean in practice? Consider, for example, that your firm has admitted a new partner, a lawyer with 15 years’ experience in environmental law, who also happens to belong to a minority ethnocultural group. The hire resulted from a determination that the firm, which has begun representing large real estate developers, had a knowledge gap in this area. You are used to seeing senior-level newcomers work to “make their mark” by actively speaking up, and even challenging junior lawyers in early meetings. This new hire, however, has been quiet – he never speaks unless spoken to. You can’t help but wonder if he may not be as qualified as you’ve been led to believe.

But if you approach the situation with cultural competence, you would remind yourself that the new partner may belong to a culture in which, when joining a new company even at a senior level, deference and “paying dues” are valued more highly than “making your mark.” Knowing this, you can adjust by actively inviting the new partner to share his opinion in meetings, instead of waiting for him to speak up.

For many people, the second step in this procedure – asking questions to learn about culture – is the most difficult. If you are not accustomed to asking questions that are somewhat personal, you may feel that you are being intrusive. Bhasin suggests developing a few phrases with which you are comfortable to ease into the conversation. Say, for example, “may I ask you a personal question about your culture?” or “sorry if this comes out wrong or sounds offensive, but may I ask...”

Reminding yourself that you are asking questions to achieve a more accurate understanding of the other person (and to avoid making false assumptions) may help you overcome your initial discomfort. You will likely also find that others respond well to your sincerity. “Get out of your comfort zone,” Bhasin urges; “because unless you interrupt your fear of offending, you will limit your opportunities to learn about people.”

If you are a leader at your firm, you can encourage a diversity-friendly culture by modelling your adaptive behaviours (for example, asking for feedback from “quiet” meeting participants) for others to see. In adapting to others’ preferences, you demonstrate your support for a range of communication styles, which may prompt more junior lawyers or law firm staff to do the same.

“Layers” of difference

While behavioural predictors can be a useful place to start when seeking to understand people from diverse communities, not all individuals will behave the way the predictors suggest. Each individual is a blend of cultural behaviours and his or her own personality, and in some cases, personality traits “outweigh” cultural identity behaviours.

Also, people may belong to more than one culture – remember, “culture” is broader than, for example, ethnicity. A person may conform to some of the behavioural predictors of multiple cultures: for example, a lawyer who is young, South Asian, female, a lesbian, and non-religious will have what Bhasin refers to as “layers” of cultural identity. Each layer may influence how she interacts with other lawyers. Expecting her to behave “like every other South Asian person I’ve ever met” will likely not produce a useful understanding of her values, work style, and working life needs. Instead, by observing a person more carefully and by asking questions, Bhasin explains, “you can determine where he or she falls on the cultural difference spectrum for each layer.”

Common cultural differences at law firms

Bhasin, a lawyer herself, thinks there are three cultural differences that commonly impact the way lawyers work together: high/low hierarchy values, indirect/direct communication styles, and group/individual focus. Let’s look at each of these in more detail.

High vs. low hierarchy cultures

In a high-hierarchy culture, authority is ascribed to particular identity characteristics (for example, age, gender, workplace seniority) and encourages deference to those who possess them. In some cultures, for example, women defer to men; in other cultures, increasing age confers automatic status. While the characteristics associated with authority may vary from culture to culture, most high-hierarchy cultures expect that junior level employees will defer to those with more seniority. Deference may mean many things: not challenging ideas, speaking less in meetings, asking permission to express an opinion, and other behaviours. “The majority of the world’s cultures,” says Bhasin, “are high-hierarchy. Canada, the US, and the UK are all exceptions.”

Low-hierarchy cultures are not completely lacking in rules about deference, but they do tend to make positive judgments about



individuals who challenge authority. For example, an associate who speaks up in meetings and speaks with senior partners as though they are equals may be praised as a “go-getter” in a low-hierarchy culture; however, the same behaviour might be criticized as insubordinate in a high-hierarchy culture.

Low- and high-hierarchy values can coexist within societies. For example, in Canadian society – which is generally low-hierarchy – women are much more likely than men to display high-hierarchy behaviours like declining to express a contrary opinion unless invited to share it.

Indirect vs. direct communication; high context vs. low context

Another area in which cultures differ is in how directly they communicate ideas and opinions. A culture that favours high-context communication allows shared cultural assumptions, norms and experience to “fill the gaps” in communication. This often promotes an indirect style of communication rich in metaphor, storytelling, and unspoken assumptions. In these cultures, stating things directly or explicitly can seem crass, or can identify the speaker as an outsider.

Ethnically homogenous cultures are more likely to share a communications context, and therefore favour indirect communication. As a culture becomes more diverse (Canada is an example of a very diverse culture), members share increasing less context, and feel the need to express themselves more explicitly and directly.

People who come from high-context cultures may use more metaphors, leave more things unsaid, and may rely on stories to communicate meaning while building relationships and a common understanding within the group. A person from a low-context culture who tries to communicate with high-context individuals may feel like he or she is missing something, or that speakers are being deliberately obtuse or secretive.

In the workplace, the clash of high- and low-context styles can complicate communication. Low-context individuals may perceive a lack of openness or clarity, and high-context individuals may be uncomfortable with what they perceive as pressure to “show their hand” before interpersonal trust has been established.

Group vs. individual focus

Finally, working relationships can be affected by cultural differences in the value ascribed to group versus individual interests.

Most world cultures, says Bhasin, are group-focused: members deem it important to make decisions based not only on their own preferences, but on the interests of the group as a whole (the relevant group may be a family, town, tribe, and in the business context a company or even a law firm). North American culture places a much stronger than average emphasis on *individual* interests, even when individual interests conflict with the interests of the group.

In a group-focused culture, consensus-building, consultation, and collaboration are very important – sometimes as important as the results themselves. Agreement and social cohesion are highly valued.

An individualistic culture, by contrast, values, expects, and encourages self-promotion. Often, the ends are considered to justify the means (even if the means required ignoring others’ interests or opinions). Raises and promotions flow to those who demand them; quietly waiting to be noticed on the merits of one’s work may mean being passed over.

Within North American individualistic culture, there are, of course, individuals (of both genders) with strong group values; and women, as a gender, tend to be much more group-focused than their male peers.

Where do law firms fall on the culture spectrum?

Most Canadian law firms – even more than Canadian businesses in general – have what Bhasin describes as a “white-Canadian-male-centric” culture: low-hierarchy, direct low-context communication, individualistic. For lawyers who have different values (which means lawyers from most other parts of the world, and many Canadian women), law firm culture can be uncomfortable. For these individuals, success in a law firm environment may require changing one’s behaviour (even the aspects that would confer an advantage) to match the majority culture. Inability to convert to the firm culture may mean being assigned less important work, a longer path to promotion, and even the departure of members who feel uncomfortable.

Likeness bias and “blind spots”

Of course, most lawyers in positions of power do not *intend* to limit the career prospects of people from diverse communities. Bias is very often unconscious.

Our brains, explains Bhasin, are hardwired to prefer interactions with people we perceive as similar to us. The “likeness bias” that results colours the way we feel about people and interactions, even if we believe that we are not consciously racist, sexist, homophobic, ableist, or otherwise prejudiced. Our biases also create blind spots that prevent us from seeing that we treat other people differently based on their identity characteristics.

For example, if you believe that maleness and gray hair are associated with doctors and you are referred to a specialist who is female and 20 years younger than you, you may interact with her differently from other doctors in ways that are quite subtle: for example, you may be more likely to request additional tests. You may be conscious of your desire for more evidence to support her conclusions, but *not* conscious that your desire for more tests flows from a lack of

What are the implications of cultural differences for developing firm leaders?

An entrenched “white, Canadian, male” law firm culture can be a barrier to the development of leaders who exhibit behaviour that falls outside the expected culture. There are expectations in most law firms (and other businesses) about what leaders look like and how they behave. But requiring all leadership candidates to conform to these expectations means that organizations may forgo certain strengths (for example, collaboration) at the leader level. A conscious attempt to foster leaders from diverse communities can lead to a more balanced leadership that will, in turn, attract diverse candidates.

How low cultural competence impacts recruiting and retention

Most firm managers are aware that there are benefits to building a diverse workforce. However, even if a firm is committed to diversity in hiring, recruitment efforts may be hampered by a lack of understanding that the list of qualities deemed desirable in candidates is rarely culturally neutral.

While it has long been taboo to prefer male candidates over women “because women always leave to raise children,” hiring managers may not hesitate to emphasize their preferences for lawyers and articling students who are, for example:

- ambitious go-getters
- straight shooters
- a good fit with our existing staff
- assertive
- hardnosed or
- bold advocates

All of these characteristics reflect mainstream male North American culture. When they are expressed as *desirable attributes*, the implication is that the converse characteristic (for example, “sensitive” as contrasted with “hardnosed”) is undesirable. While it may no longer be okay to discriminate actively against women on reproductive grounds, disqualifying a candidate for being too sensitive, cautious, task-oriented, or conciliatory is still acceptable in many organizations, and hiring managers may be completely unaware that these “shortcomings” are not culturally neutral.

Even if a candidate from an underrepresented group is recruited, he or she may progress slowly through the ranks because of similar judgments. Consider for example a lawyer who, instead of adopting an aggressive adversarial stance in response to a lowball settlement offer, redoubles his efforts to communicate with the opposing party to find common ground. If senior lawyers characterize his approach as “lack of backbone” rather than “building rapport,” they may hesitate to assign similar files to the lawyer in future, which may limit his opportunity to achieve successes that support the value of his approach. Lack of access to work deemed important by the firm may in turn limit his prospects for advancement.

These management choices – which appear neutral when managers’ cultural lenses are not considered – may become barriers to the retention of lawyers whose values and behaviours don’t mirror those of their superiors.

faith in her competence. If so, you have a “blind spot” with respect to your judgment of her competence.

Identifying your biases and blind spots

If our biases are unconscious and we are blind to our blind spots, how can we overcome them?

Besides regularly asking ourselves the question “is something cultural going on?”, Bhasin recommends the use of self-assessment tests, such as the “Project Implicit” bias self-assessment developed by researchers at Harvard University. Test-takers may be surprised to discover that this test, which is designed to reveal unconscious bias, suggests that they do have biases even in areas where their conscious values are egalitarian. See the adjacent sidebar for more information on this test.

When thinking about blind spots, it can also be useful to reflect on the blind spots others may have toward *us*, so that we can be proactive in interrupting them. Bhasin, for example, finds that audiences sometimes misjudge her age, and are expecting a speaker who “looks more experienced.” To compensate for this, she finds that being introduced formally with her bio helps make the audience aware of her credentials and experience before they meet her.

Embracing cultural diversity is a service quality and business development imperative

Bhasin makes it clear that firm leaders who equate “managing diversity” with avoiding conscious discrimination are already falling behind their competitors. Where lip service is paid to tolerance but no effort is made to understand how cultural differences affect how people work, workplace culture remains prescriptive: firm members must adapt to the majority culture if they want to be leaders, or to have equal advancement opportunities.

This kind of prescriptive culture makes it difficult for members from diverse communities to bring their natural strengths to bear when searching for creative solutions for clients. Good listeners are forced to speak up; collaborators are forced to compete; and the firm does the same old things in the same old ways. But rather than expecting the same results, firms that resist the expansion of acceptable work styles can now expect to lose ground.

Assess your social attitudes with an online test

Project Implicit, a multi-university research collaboration, was created in 1998 to study implicit social cognition. One of the tests created under the Project Implicit label is the Social Attitudes test, which is designed to test subjects’ conscious and unconscious attitudes towards individuals with various personal identity characteristics.

The test works by assessing the speed of the test subject’s associations between words and images (for example, “thin”=“bad”, “gay”=“good”). It can provide useful insights into individuals’ unconscious biases, and may be useful as a training tool as part of an in-firm cultural competence development program.

Visit implicit.harvard.edu/implicit/selectatest.html to test your attitudes.

Not only are firms’ competitors evolving, their clients are becoming more demanding. Law firms may find that some of their clients – spurred on by their own management, shareholders, and regulatory requirements – are now disqualifying firms on the basis of diversity demographics and track records. The legal marketplace is moving toward “embrace diversity or die.” The good news? A culturally competent firm culture is the ideal environment in which to grow the creativity that the profession will need to adapt and survive. ■

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