

Handouts for Workshop on Cultural Competency

Led by: Professor Raquel Aldana & Professor Andi Curcio

Sample Rubrics

Intercultural Knowledge and competence Value Rubric - AACU

Cultural Knowledge and Effectiveness Rubric - Oregon State University

Journaling and Intercultural Knowledge and Effectiveness – Prof. Raquel Aldana

Sample Survey Instrument

Excerpt from: *A Survey Instrument to Develop, Tailor & Help Measure Student Cultural Diversity Education Learning Outcomes*, Andrea A. Curcio et al, 38 Nova L. Rev. 178 (2014)

Overview of the literature on measuring intercultural competence learning

Excerpt from: *Intercultural Legal Competence as Transformation*, Raquel Aldana

Cultural sensibility teaching resource bibliography

Bibliography of articles discussing teaching/measuring intercultural competence, authored by Professor Deborah Johnson, Roger Williams School of Law

Sample template for developing cultural sensibility learning outcomes

SAMPLE RUBRICS

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INTERCULTURAL KNOWLEDGE AND COMPETENCE VALUE RUBRIC

for more information, please contact value@aacu.org

The VALUE rubrics were developed by teams of faculty experts representing colleges and universities across the United States through a process that examined many existing campus rubrics and related documents for each learning outcome and incorporated additional feedback from faculty. The rubrics articulate fundamental criteria for each learning outcome, with performance descriptors demonstrating progressively more sophisticated levels of attainment. The rubrics are intended for institutional-level use in evaluating and discussing student learning, not for grading. The core expectations articulated in all 15 of the VALUE rubrics can and should be translated into the language of individual campuses, disciplines, and even courses. The utility of the VALUE rubrics is to position learning at all undergraduate levels within a basic framework of expectations such that evidence of learning can be shared nationally through a common dialog and understanding of student success.

Definition

Intercultural Knowledge and Competence is "a set of cognitive, affective, and behavioral skills and characteristics that support effective and appropriate interaction in a variety of cultural contexts." (Bennett, J. M. 2008. Transformative training: Designing programs for culture learning. In *Contemporary leadership and intercultural competence: Understanding and utilizing cultural diversity to build successful organizations*, ed. M. A. Moodian, 95-110. Thousand Oaks, CA: Sage.)

Framing Language

The call to integrate intercultural knowledge and competence into the heart of education is an imperative born of seeing ourselves as members of a world community, knowing that we share the future with others. Beyond mere exposure to culturally different others, the campus community requires the capacity to: meaningfully engage those others, place social justice in historical and political context, and put culture at the core of transformative learning. The intercultural knowledge and competence rubric suggests a systematic way to measure our capacity to identify our own cultural patterns, compare and contrast them with others, and adapt empathically and flexibly to unfamiliar ways of being.

The levels of this rubric are informed in part by M. Bennett's Developmental Model of Intercultural Sensitivity (Bennett, M.J. 1993. Towards ethnorrelativism: A developmental model of intercultural sensitivity. In *Education for the intercultural experience*, ed. R. M. Paige, 22-71. Yarmouth, ME: Intercultural Press). In addition, the criteria in this rubric are informed in part by D.K. Deardorff's intercultural framework which is the first research-based consensus model of intercultural competence (Deardorff, D.K. 2006. The identification and assessment of intercultural competence as a student outcome of internationalization. *Journal of Studies in International Education* 10(3): 241-266). It is also important to understand that intercultural knowledge and competence is more complex than what is reflected in this rubric. This rubric identifies six of the key components of intercultural knowledge and competence, but there are other components as identified in the Deardorff model and in other research.

Glossary

The definitions that follow were developed to clarify terms and concepts used in this rubric only.

- Culture: All knowledge and values shared by a group.

- Cultural rules and biases: Boundaries within which an individual operates in order to feel a sense of belonging to a society or group, based on the values shared by that society or group.
- Empathy: "Empathy is the imaginary participation in another person's experience, including emotional and intellectual dimensions, by imagining his or her perspective (not by assuming the person's position)". Bennett, J. 1998. Transition shock: Putting culture shock in perspective. In *Basic concepts of intercultural communication*, ed. M. Bennett, 215-224. Yarmouth, ME: Intercultural Press.
- Intercultural experience: The experience of an interaction with an individual or groups of people whose culture is different from your own.
- Intercultural/cultural differences: The differences in rules, behaviors, communication and biases, based on cultural values that are different from one's own culture.
- Suspends judgment in valuing their interactions with culturally different others: Postpones assessment or evaluation (positive or negative) of interactions with people culturally different from one self. Disconnecting from the process of automatic judgment and taking time to reflect on possibly multiple meanings.
- Worldview: Worldview is the cognitive and affective lens through which people construe their experiences and make sense of the world around them.

INTERCULTURAL KNOWLEDGE AND COMPETENCE VALUE RUBRIC
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Definition

Intercultural Knowledge and Competence is "a set of cognitive, affective, and behavioral skills and characteristics that support effective and appropriate interaction in a variety of cultural contexts." (Bennett, J. M. 2008. Transformative training: Designing programs for culture learning. In *Contemporary leadership and intercultural competence: Understanding and utilizing cultural diversity to build successful organizations*, ed. M. A. Moodian, 95-110. Thousand Oaks, CA: Sage.)

Evaluators are encouraged to assign a zero to any work sample or collection of work that does not meet benchmark (cell one) level performance.

	Capstone 4	3	Milestones 2
Knowledge <i>Cultural self-awareness</i>	Articulates insights into own cultural rules and biases (e.g. seeking complexity; aware of how her/his experiences have shaped these rules, and how to recognize and respond to cultural biases, resulting in a shift in self-description.)	Recognizes new perspectives about own cultural rules and biases (e.g. not looking for sameness; comfortable with the complexities that new perspectives offer.)	Identifies own cultural rules and biases (e.g. with a strong preference for those rules shared with own cultural group and seeks the same in others.)
Knowledge <i>Knowledge of cultural worldview frameworks</i>	Demonstrates sophisticated understanding of the complexity of elements important to members of another culture in relation to its history, values, politics, communication styles, economy, or beliefs and practices.	Demonstrates adequate understanding of the complexity of elements important to members of another culture in relation to its history, values, politics, communication styles, economy, or beliefs and practices.	Demonstrates partial understanding of the complexity of elements important to members of another culture in relation to its history, values, politics, communication styles, economy, or beliefs and practices.
Skills <i>Empathy</i>	Interprets intercultural experience from the perspectives of own and more than one worldview and demonstrates ability to act in a supportive manner that recognizes the feelings of another cultural group.	Recognizes intellectual and emotional dimensions of more than one worldview and sometimes uses more than one worldview in interactions.	Identifies components of other cultural perspectives but responds in all situations with own worldview.
Skills <i>Verbal and nonverbal communication</i>	Articulates a complex understanding of cultural differences in verbal and nonverbal communication (e.g.,	Recognizes and participates in cultural differences in verbal and nonverbal communication and begins	Identifies some cultural differences i verbal and nonverbal communication and is aware that misunderstandings

	<p>demonstrates understanding of the degree to which people use physical contact while communicating in different cultures or use direct/indirect and explicit/implicit meanings) and is able to skillfully negotiate a shared understanding based on those differences.</p>	<p>to negotiate a shared understanding based on those differences.</p>	<p>can occur based on those differences but is still unable to negotiate a shared understanding.</p>
<p>Attitudes <i>Curiosity</i></p>	<p>Asks complex questions about other cultures, seeks out and articulates answers to these questions that reflect multiple cultural perspectives.</p>	<p>Asks deeper questions about other cultures and seeks out answers to these questions.</p>	<p>Asks simple or surface questions about other cultures.</p>
<p>Attitudes <i>Openness</i></p>	<p>Initiates and develops interactions with culturally different others. Suspend judgment in valuing her/his interactions with culturally different others.</p>	<p>Begins to initiate and develop interactions with culturally different others. Begins to suspend judgment in valuing her/his interactions with culturally different others.</p>	<p>Expresses openness to most, if not all, interactions with culturally different others. Has difficulty suspending any judgment in her/his interactions with culturally different others, and is aware of own judgment and expresses a willingness to change.</p>

Cultural Knowledge & Effectiveness Rubric

Developed by the Oregon State University Student Affairs Assessment Council, 9-2010

Context Statement

Our commitment to students and learning, as well as the values held by our Assessment Council, the Division of Student Affairs, and the University have informed our work on this project and its implementation. Our Council strives to be purposeful, disciplined, open, caring, just and celebrative in our work and in our relationships with others.

We acknowledge that becoming proficient in intercultural and intracultural knowledge and skills is a continuous and lifelong learning process. While this rubric provides what the Assessment Council believes to be the key components of intercultural/intracultural knowledge and effectiveness, it is important to understand that intercultural/intracultural knowledge and effectiveness are more complex than the content reflected in a rubric. We also acknowledge that we will likely cycle through various levels and dimensions many times over our lives as we encounter differences of which we might never have been aware. The Council's intent is that this rubric will serve as a guide to units and departments in Student Affairs as they begin to develop, utilize, and assess their work in the area of diversity. How these concepts are implemented will be defined within the context of outcomes that each unit seeks to achieve with students who are engaged in the educational opportunities available to them in each unit.

Definitions/glossary of terms

The following definitions were developed to clarify terms and concepts used in this rubric:

- **Advocacy & Coalition Building**—Using attitudes, skills and knowledge to bring about social change in institutionally embedded matters of privilege.
- **Behavior-Action**—Using knowledge, skills and attitudes to bring about change; becomes second nature to act on issues of privilege.
- **Culture**—All knowledge and values shared by a group; may include but is not limited to history, values, politics, communication styles, economy, beliefs, and/or practices.
- **Cultural rules and biases**—Boundaries within which an individual operates in order to feel a sense of belonging to a society or group, based on the values shared by that society or group.
- **Empathy**—Imaginary participation in another person's experience, including emotional and intellectual dimensions by imaging his or her perspective (not by assuming the person's position) (Bennett, J. 1998).
- **Intercultural experience**—The experience of an interaction with an individual or groups of people whose culture is different from your own.
- **Intercultural/cultural differences**—Differences in rules, behaviors, communication and biases, based on cultural values that are different from one's own culture.
- **Leadership**—The process of social influence in which one person can enlist the aid and support of others in the accomplishment of a common task or goal.
- **Worldview**—Cognitive and affective lens through which people construe their experiences and make sense of the world around them.

Cultural Knowledge & Effectiveness Rubric
Oregon State University Student Affairs Assessment Council, 9-2010

		Beginning	Developing	Conversant	Advanced
Attitude	Openness <i>(to personal growth)</i>	Demonstrates little or no interest or willingness to learning more about one's own or other cultures. Has little or no awareness of one's own assumptions, judgments and biases.	Is open to opportunities to engage in experiences to broaden understanding of one's own culture and the culture of others. Expresses openness to interactions with one's own and other cultures.	Seeks opportunities and knowledge to answer questions to broaden understanding of one's own culture and the culture of others. Begins to initiate, engage, develop, and value interactions with members of one's own and other cultures.	Consistently seeks and integrates experiences that broaden understanding of one's own culture and the culture of others. Initiates, engages, develops, and values interactions with one's own and the culture of others. Demonstrates ability to assess the impact of interactions.
	Knowledge	Cultural self-awareness <i>(obtaining knowledge of self and others)</i>	Demonstrates little or no awareness of one's own assumptions, judgments and/or biases about self and others.	Begins to identify own assumptions, judgments and/or biases about self and others.	Articulates the influence of one's own assumptions, judgments and/or biases during interactions with one's own culture and the culture of others.
Cultural worldview frameworks <i>(obtaining knowledge of self and others)</i>		Demonstrates little or no understanding of social, relationship, or other dynamics important to one's own culture and members of other cultures.	Begins to demonstrate some understanding of social, relationships, or other dynamics important to one's own culture and members of other cultures.	Articulates understanding of social, relationship, or other dynamics important to one's own culture and members of other cultures.	Examines, compares and contrasts one's own culture with the culture of others. Demonstrates ability to assess the impact of assumptions, judgments, and/or biases related to one's own and other cultures.
Application	Skills <i>(using knowledge of self and others to improve intercultural relationships)</i>	Demonstrates few skills in working with members of one's own and other cultures and is unable to negotiate a shared understanding.	Demonstrates skills to work with members of one's own and other cultures intermittently or in some limited contexts and can sometimes negotiate a shared understanding.	Mostly incorporates diverse and multiple perspectives when working with members of one's own and other cultures and is able to negotiate a shared understanding.	Consistently incorporates diverse and multiple perspectives when working with others and is able to negotiate and facilitate a shared understanding. Demonstrates ability to assess the impact of incorporating multiple and diverse perspectives when working with one's own and other cultures.
	Advocacy & Coalition Building <i>(integrating & translating knowledge & behaviors into action)</i>	Demonstrates little or no action in support of members of one's own and other cultures.	Begins to demonstrate support for members of one's own and other cultures through some action.	Demonstrates support for members of one's own and other cultures through actions and behaviors to influence and/or implement positive change.	Demonstrates ability to influence, implement and assess the impact of institutional change.

Adapted from AAC&I Intercultural Knowledge and Competence VALUE Rubric, 2009

Oregon State University Student Affairs Assessment Council, 9-2010

AALS MEASURING LEARNING GAINS WORKSHOP JUNE 2015

JOURNALING AND INTERCULTURAL KNOWLEDGE AND EFFECTIVENESS

PROFESSOR RAQUEL ALDANA

A SAMPLE RUBRIC

		BEGINNING	1	2	3	4
K N O W L E D G E	Cultural self-awareness	<i>Demonstrates little or no awareness</i> of one's own assumptions, judgments and/or biases about self and others	<i>Begins to identify</i> own assumptions, judgments and/or biases about self and others	<i>Articulates the influence of</i> one's own assumptions, judgments and/or biases during interactions with one's own culture and the culture of others	<i>Evaluates</i> one's own assumptions, judgements and/or biases about one's own culture and the culture of others <i>Demonstrates ability to assess the impact of</i> assumptions, judgements, and/or biases related to one's own and other cultures	
	Cultural Worldview Frameworks	<i>Demonstrates surface understanding</i> of the complexity of elements important to members of another culture in relation to its history, values, politics, communication styles, economy, or beliefs and practices.	<i>Demonstrates partial understanding</i> of the complexity of elements important to members of another culture in relation to its history, values, politics, communication styles, economy, or beliefs and practices.	<i>Demonstrates adequate understanding</i> of the complexity of elements important to members of another culture in relation to its history, values, politics, communication styles, economy, or beliefs and practices.	<i>Demonstrates sophisticated understanding</i> of the complexity of elements important to members of another culture in relation to its history, values, politics, communication styles, economy, or beliefs and practices.	

A T T I T U D E S

<p>Curiosity</p>	<p><i>Demonstrates minimal interest in learning more about other cultures.</i></p>	<p><i>Asks simple or surface questions about other cultures.</i></p>	<p><i>Asks deeper questions about other cultures and seeks out answers to these questions.</i></p>	<p><i>Asks complex questions about other cultures, seeks out and articulates answers to these questions that reflect multiple cultural perspectives.</i></p>
<p>Openness</p>	<p><i>Shows minimal receptivity to interacting with culturally different others.</i></p> <p><i>Has difficulty suspending any judgment in her/his responses to culturally different others, and is unaware of own judgment.</i></p>	<p><i>Reveals openness to most, if not all, interactions with culturally different others.</i></p> <p><i>Has difficulty suspending any judgment in her/his interactions with culturally different others, but is aware of own judgment and expresses a willingness to change.</i></p>	<p><i>Begins to suspend judgment in valuing her/his interactions with culturally different others.</i></p>	<p><i>Suspends judgment in valuing her/his interactions with culturally different others.</i></p>

SAMPLE SURVEY INSTRUMENT



NOVA LAW REVIEW

NOVA SOUTHEASTERN UNIVERSITY

ARTICLES AND SURVEYS

A SURVEY INSTRUMENT TO DEVELOP, TAILOR, AND
HELP MEASURE LAW STUDENT CULTURAL DIVERSITY
EDUCATION LEARNING OUTCOMES

ANDREA A. CURCIO,
TERESA E. WARD, AND
NISHA DOGRA

APPENDIX A

Survey Instrument

1. Please indicate the degree to which the following influences your views about the U.S. legal system.

Scale: 1=No influence at all to 6=Very strong influence

- 1.1 Experiences arising from your racial identity
- 1.2 Experiences arising from your ethnic identity
- 1.3 Experiences arising from your religious identity
- 1.4 Experiences arising from your socio-economic background
- 1.5 Experiences arising from your gender
- 1.6 Experiences arising from your sexual orientation

2. Please indicate the extent to which you agree with the following statements:

Scale: 1=Strongly disagree to 6=Strongly agree

- 2.1 Clients look at legal problems through their own cultural lens.
- 2.2 Lawyers look at legal problems through their own cultural lens.
- 2.3 How a client communicates with his or her lawyer is not influenced by the client's cultural background.
- 2.4 I do not view the legal system through a culturally-biased lens.
- 2.5 If a client's cultural practice is to defer decision making to others in the client's family, a lawyer should help the client understand why he or she should make his or her own decisions about the case.
- 2.6 A lawyer's socioeconomic background influences how the lawyer perceives a client's behavior.
- 2.7 Legal education should not include education about cultural issues that may arise when providing legal services to people from different cultural backgrounds.
- 2.8 A lawyer should assume that a client's visible lack of emotion means that the client does not feel strongly about what is being discussed.
- 2.9 Judges do not look at legal problems through their own cultural lens.
- 2.10 In general, I am able to recognize when my reactions to others are based on stereotypical beliefs.
- 2.11 How a lawyer communicates with his or her client is not influenced by the lawyer's cultural background.

2.12 When a client refuses to look his or her lawyer in the eyes, the lawyer should assume the client is not being truthful.

2.13 In general, I can accurately identify my culturally-biased assumptions about others who are from cultures different from my own.

2.14 Lawyers belonging to racial and ethnic minorities bring culturally-biased assumptions into the lawyer/client relationship.

2.15 When a client shakes hands with a male attorney but refused to shake hands with a female attorney, the lawyers should assume the client will not respect advice given by the female attorney.

2.16 White lawyers bring culturally-biased assumptions into the lawyer/client relationship.

2.17 Law professors should discuss with their students the cultural assumptions embedded in appellate legal opinions.

2.18 A law student's ability to recognize cultural diversity issues as they relate to the lawyering process should be assessed during law school.

3. Law School Classes

3.1 Have you taken any clinics in law school?

3.2 Please tell us which clinic(s) you have taken.

3.3 Have you taken any law school classes in which the role of culture in the lawyering process was discussed?

3.4 Please tell us which course(s) or professor(s).

3.5 What have you encountered in your classes that has helped to foster, or to inhibit, discussion of the role of culture in the lawyering process?

4. Demographics

4.1 Please indicate your current year in law school. [I am a 2L (have completed 29 to 57 law school credit hours]

[I am a 3L (have completed in excess of 57 law school credit hours]

Gender [Female] [Male] [Transgender]

Ethnicity/Race (Choose all that apply.) [American Indian or Alaska Native] [Asian] [Black] [Hispanic/Latino(a)] [Hawaiian or Pacific Islander] [White]

Age [20-25] [26-30] [31-35] [36-40] [41-45] [46-50] [over 50]

We would appreciate any comments or suggestions you may have regarding the questionnaire or the topic.

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APPENDIX B: SURVEY ITEM MEANS BY STUDENT LEVEL

Survey Items		N	Mean	SD	Sig.
Experiences arising from your racial identity	Entering law students	309	3.14	1.55	
	2L or 3L	282	3.10	1.66	
	Total	591	3.12	1.60	
Experiences arising from your ethnic identity	Entering law students	309	2.85	1.60	
	2L or 3L	282	2.70	1.62	
	Total	591	2.78	1.61	
Experiences arising from your religious identity	Entering law students	309	3.20	1.59	
	2L or 3L	280	2.95	1.60	
	Total	589	3.08	1.59	
Experiences arising from your socio-economic background	Entering law students	309	3.92	1.43	
	2L or 3L	281	4.10	1.47	
	Total	590	4.01	1.45	
Experiences arising from your gender	Entering law students	309	3.41	1.59	
	2L or 3L	282	3.80	1.61	p<.01
	Total	591	3.60	1.61	
Experiences arising from your sexual orientation	Entering law students	309	2.31	1.54	
	2L or 3L	280	2.60	1.69	p<.05
	Total	589	2.45	1.62	
Clients look at legal problems through their own cultural lens.	Entering law students	309	5.04	0.97	
	2L or 3L	281	5.16	0.95	
	Total	590	5.09	0.97	
Lawyers look at legal problems through their own cultural lens.	Entering law students	307	3.72	1.31	
	2L or 3L	281	4.33	1.18	p<.000
	Total	588	4.01	1.28	
How a client communicates with his or her lawyer is not influenced by the client's cultural background.†	Entering law students	309	5.09	1.06	
	2L or 3L	281	5.30	1.00	p<.05
	Total	590	5.19	1.04	
I do not view the legal system through a culturally-biased lens.†	Entering law students	309	3.66	1.38	
	2L or 3L	280	4.09	1.34	p<.000
	Total	589	3.86	1.37	
If a client's cultural practice is to defer	Entering law students	306	2.82	1.23	
	2L or 3L	278	2.54	1.20	

LEVEL			Survey Items	N	Mean	SD	Sig.	
n	SD	Sig.	decision making to others in the client's family, a lawyer should help the client understand why he or she should make his or her own decisions about the case. †	Total	584	2.68	1.22	p<.05
1.55								
1.66								
1.60								
1.60			A lawyer's socioeconomic background influences how the lawyer perceives a client's behavior.	Entering law students	307	4.03	1.22	
1.62				2L or 3L	279	4.58	1.12	p<.000
1.61				Total	586	4.29	1.20	
1.59								
1.60								
1.59			Legal education should not include education about cultural issues that may arise when providing legal services to people from different cultural backgrounds than my own. †	Entering law students	308	5.08	1.13	
1.43				2L or 3L	280	5.04	1.31	
1.47				Total	588	5.06	1.22	
1.45								
1.59								
1.61	p<.01							
1.61								
1.54								
1.69	p<.05		A lawyer should assume that a client's visible lack of emotion means that the client does not feel strongly about what is being discussed. †	Entering law students	305	5.36	0.87	
1.62				2L or 3L	281	5.39	0.99	
0.97				Total	586	5.37	0.93	
0.95								
0.97								
1.31								
1.18	p<.000		Judges do not look at legal problems through their own cultural lens. †	Entering law students	309	4.42	1.24	
1.28				2L or 3L	279	4.91	1.18	p<.000
1.06				Total	588	4.65	1.23	
1.00	p<.05		In general, I am able to recognize when my reactions to others are based on stereotypical beliefs.	Entering law students	307	4.68	0.89	
1.04				2L or 3L	280	4.52	0.92	p<.05
				Total	587	4.61	0.91	
1.38								
1.34	p<.000		How a lawyer communicates with his or her client is not influenced by the lawyer's cultural background. †	Entering law students	309	4.50	0.96	
1.37				2L or 3L	280	4.86	0.99	p<.000
1.23				Total	589	4.67	0.99	
1.20								
			When a client refuses to look his or her lawyer in the eyes, the lawyer should assume the client is not being truthful. †	Entering law students	307	5.16	0.93	
				2L or 3L	279	5.21	0.91	
				Total	586	5.19	0.92	

Survey Items		N	Mean	SD	Sig.
In general, I can accurately identify my culturally-biased assumptions about others who are from cultures different from my own.	Entering law students	308	4.26	1.01	
	2L or 3L	279	4.14	1.06	
	Total	587	4.20	1.04	
Lawyers belonging to racial and ethnic minorities bring culturally-biased assumptions into the lawyer/client relationship.	Entering law students	309	3.22	1.32	
	2L or 3L	281	3.65	1.33	p<.000
	Total	590	3.42	1.34	
When a client shakes hands with a male attorney but refuses to shake hands with a female attorney, the lawyers should assume the client will not respect advice given by the female attorney.†	Entering law students	308	4.15	1.28	
	2L or 3L	281	4.04	1.35	
	Total	589	4.10	1.31	
White lawyers bring culturally-biased assumptions into the lawyer/client relationship.	Entering law students	309	3.26	1.36	
	2L or 3L	280	3.93	1.37	p<.000
	Total	589	3.58	1.40	
Law professors should discuss with their students the cultural assumptions embedded in appellate legal opinions.	Entering law students	308	4.67	1.08	
	2L or 3L	279	4.44	1.39	p<.05
	Total	587	4.56	1.24	
A law student's ability to recognize cultural diversity issues as they relate to the lawyering process should be assessed during law school.	Entering law students	309	4.23	1.31	
	2L or 3L	281	3.93	1.54	p<.05
	Total	590	4.09	1.43	

† Item was reverse coded

Note. Mean range = 1-6 with higher mean score representing higher level of cultural sensibility.

**Survey Item Means by Student Level (cont.)

OVERVIEW OF THE
LITERATURE ON
MEASURING
CULTURAL
COMPETENCE
LEARNING

Excerpt from: Intercultural Legal Competence as Transformation

Raquel Aldana*

Abstract

In recent years the transformation of legal practice through globalization and shifting demographics in the United States have made the inherent cross-cultural nature of lawyering more apparent. As a result, law schools are being more intentional about the teaching of intercultural legal competence as part of the law school curriculum. This increased interest by U.S. law schools to train lawyers in intercultural legal competence calls for careful engagement by legal educators to define what intercultural legal competence should mean, to develop methodologies in response to the desired outcomes, and to measure their effectiveness. This article offers a reflection on what it might mean to infuse the teaching of intercultural legal competence with the necessary lessons to avoid perpetuating cultural dominance and global power imbalances through law. This process necessarily requires transformation on the part of all who engage globally and cross-culturally. This article explains why the need for transformation and defines the type of transformation that law schools might encourage in future lawyers as part of legal education. The article also provides lessons on the methodology this type of transformational learning requires. The focus is principally on summer abroad programs as well as service learning opportunities that include student immersion in rich cross-cultural exchanges. Finally the article identifies ways to measure the effectiveness of law school programs aiming to teach intercultural legal competence by drawing lessons from what other disciplines have done in similar programs for at least half a century.

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* Professor of Law and Director of the Inter-American Program at Pacific McGeorge. I thank the support of Pacific McGeorge for my research and for allowing me to teach soulfully. I am especially indebted to Elizabeth Parker and Julie Davies for their support. Special thanks to my wonderful spouse Luis Mogollón and to Leticia M. Saucedo, José R. Juárez and Blake Nordahl who have been co-conspirators in our shared vision for educating law students. I also thank my excellent research assistant María Cristina Andrade. I wrote this article inspired by a symposium at Drexel University School of Law on Building Global Professionalism: Emerging Trends in International and Transnational Legal Education. I especially thank Prof. Anil Kalhan for his vision and dedication to this topic.

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III. MEASURING INTERCULTURAL LEGAL COMPETENCE

Undergraduate schools and many professional schools have for decades implemented educational programs that immerse students in other countries or with other cultures believing that such programs offer its students tremendous opportunity for positive personal growth, including the acquisition of greater intercultural competencies.¹ With some exceptions, however, law schools are very far behind, especially in comparison to universities and colleges, to being intentional and concrete about defining what intercultural lawyering should mean for the practice of law and in assessing whether the educational programming adopted actually achieves the identified outcomes.² In contrast, colleges and universities and some professional schools have for at least six decades been developing best practices for the teaching of intercultural competencies and related goals and synergistically developing instruments that are more precise in identifying factors – whether the characteristics of the participants or of program design – that contribute to the development of intercultural sensibilities or other related goals in adult learners.³ In general, these studies are measuring the impact of educational programs such as summer abroad or service learning on student acquisition of intercultural sensibilities, although some studies also focus on the effectiveness of trainings of teachers and professionals who work in intercultural settings.⁴

The lessons from these studies in general show positive outcomes from the educational experiences in terms of gains in intercultural competence.⁵ In this final section, I discuss the instruments available in

1. See e.g., Lisa Altshuler et al., *Assessing Changes in Intercultural Sensitivity among Physician Trainees using the Intercultural Development Inventory*, 27 INT'L J. OF INTERCULTURAL RELATIONS 387, 388 (2003). See also Durocher, *supra* note 89 at 119 (discussing a partnership between eight faculty members from 4 U.S. universities seeking to teach greater intercultural sensibilities to business students).

2. Andrea A. Curcio, Nisha Dogra, & Teresa Ward, *Using Existing Frameworks to Develop Ways to Teach and Measure Law Students' Cultural Competence in THE LEGAL PROFESSION: EDUCATION AND ETHICS IN PRACTICE* (DAVID A. FRENKEL ED., 2013).

3. Colleges and universities have been measuring intercultural results of educational programs since at least the 1950s. DAVID COMP ET AL., *LITERATURE AND RESOURCES FOR EDUCATION ABROAD: OUTCOMES ASSESSMENT IN A GUIDE TO OUTCOMES ASSESSMENT IN EDUCATION ABROAD* 97, 117 (Mell C. Bollen, ed. 2007). See also Dennison Nash, *The Personal Consequences of a Year of Study Abroad*, 47 THE JOURNAL OF HIGHER EDUCATION 191, 193 (1976) and W. Frank Hull IV, *Cross-cultural Experiential Programming*, 27 INTERNATIONAL REVIEW OF EDUCATION 64, 68-71 (1981) (discussing the few early studies of international programming in the 1970s).

4. See, e.g., Anaida Colón-Muñiz et al., *Language, Culture and Dissonance: A study Course for Globally Minded Teachers with Possibilities for Catalytic Transformation*, 21 TEACHING EDUCATION 61 (2010).

5. See, e.g., Jerry S. Carlson and Keith F. Widaman, *The Effects of Study Abroad During College on Attitudes Toward other Cultures*, 12

other disciplines to measure intercultural competencies and other related goals and discuss the innovative lessons and best practices that law schools and law professors can learn from to develop similar studies in order to advance best practices in the way we teach intercultural competencies.

A. *Instruments and Methodologies for Measuring Intercultural Competence*

Scholars studying intercultural communications have designed several instruments and methodologies for measuring intercultural legal competence. These studies rely on either quantitative or qualitative measurements, as described below, and sometimes combine the two methods to deepen insights and compare/validate the data.

1. *Quantitative Measurements*

a. *IES MAP (Model Assessment Practice)*

The Institute for the International Education of Students developed the IES Map for internal program assessment and first published it in 1999 after significant data analysis.⁶ The IES Map is widely recognized now as a leader in study abroad program assessment and the IES widely freely shares and distributes the tool to faculty and administrators of such programs.⁷ The IES MAP focuses on four academic areas: Student learning environment; Student learning, including assessment of intercultural development; resources for academic and student support and program administration and development.⁸ It is essentially a list of best practices in each of these areas that schools can use to self-assess their educational programming. These guidelines are easily accessible to anyone on the Internet.⁹

b. *The IDI*

In a 2003 article titled "Measuring Intercultural Sensitivity: The Intercultural Development Inventory, M.R. Hammer, et al., describe the development of the Intercultural Development Inventory,¹⁰ which was constructed to measure the reliability of M.J. Bennett's Developmental Model of Intercultural Sensitivity (DMIS) in capturing the different phases of orientations toward cultural difference.¹¹ The IDI measures an individual's or group's fundamental worldview orientation to cultural difference, and thus the individual or group's capacity for intercultural competence.¹² The IDI has been tested for validity and reliability in

INTERNATIONAL J. OF INTECULTURAL RELATIONS 1, 13-16 (1988); Susan G. Sample, *Intercultural Development and the International Curriculum* (on file with author) (reporting on positive intercultural gains at the University of the Pacific among students participating in the School of International Studies); Nash, *supra* note 161, at 196-201; Engle and Engle, *supra* note 134, at 230; Anderson, *supra* note 154, at 464; Vande Berg, *supra* note 104; Pedersen, *Teaching Toward an Ethnorelative Worldview*, *supra* note 81, at 82-85; R. Michael Paige et al., *Assessing the Impact of a Strategies-Based Curriculum on Language and Culture Learning Abroad*, XVIII FRONTIERS, THE INTERDISCIPLINARY J. OF STUDY ABROAD 253, 265 (2009); and Nelson and Scott, *supra* note 122, at 452-455. *But see* Altschuler et al, *supra* note 159, at 399 (reporting no gain in intercultural development in group of health professionals following brief trainings on intercultural sensibilities) and Jane Jackson, *Intercultural Learning on Short-Term Sojourns* (on file with author) (reporting on several studies of study abroad programs where inadequate preparation and unsettling intercultural encounters had negative effects on students such as entrenching negative stereotypes about the host country).

6. See Joan Gillespie, Larry A. Braskamp, and David C. Braskamp, *Evaluation and Study Abroad: Developing Assessment Criteria and Practices to Promote Excellence*, 5 FRONTIERS: THE INTERDISCIPLINARY J. OF STUDY ABROAD 101 (1999).

7. *Id.*

8. *Id.*

9. Visit <http://www.iesabroad.org/study-abroad/advisors-faculty/ies-abroad-map/map-for-study-abroad>, last visited 2/21/14.

10. M.R. Hammer et al., *supra* note 67.

11. See *supra* note 58-67 and accompanying text for a description of DMIS.

12. The IDI consists of a series of 50 statements with which the subject must either choose to disagree or agree or a five-point scale. IDI scores vary from an absolute low 5 to a perfect 25, when issues of cultural difference in five categories: DD, which combines the Denial and Defense stages of the DMIS and indicates a worldview that simplifies and polarizes cultural difference; R, which indicates a worldview that reverses "us" and "them" and polarization where "them" is superior; M; which refers to Minimization or a worldview that highlights cultural

measuring a person's degree of intercultural sensitivity guided the DMIS model.¹³ Since its development, the IDI has become a widely used measurement of program effectiveness in helping students grow in intercultural competence. Dozens of educational programs whether in high school, college, graduate schools, and even employers have used the IDI to evaluate wide-ranging educational programming, including study abroad, service learning, classroom teaching, and trainings.¹⁴

c. Other Measures

Other assessment instruments of intercultural sensitivity include the Cross Cultural Adaptability Inventory (CCAI),¹⁵ the Intercultural Conflict Style Inventory (ICSI),¹⁶ the Strategies Inventory for Learning Culture (SILC),¹⁷ the Sociocultural Adjustment Scale (SCAS),¹⁸ the Cross-Cultural World-Mindedness Scale,¹⁹ and the Intercultural Adjustment Potential Scale (ICAPS).²⁰ In general, these tests attempt to identify and measure certain attitudes and responses to cultural differences. Their usefulness includes identifying the type of orientation and training that is appropriate for the student,²¹ and could also be used to identify educational progress, like the IDI, if pre- and post-entry tests may trace changes in the results of each participant.

commonality and universal issues; AA, which combines Acceptance and Adaptation and indicates a worldview that can comprehend and accommodate complex and cultural difference; and EM, which measures "encapsulated marginality," characterized by feelings of cultural alienation in which one's worldview incorporates a multicultural identity with confused cultural perspectives. Engle & John Engle, *supra* note 173, at 229.

13. M.R. Hammer et al., *supra* note 67, at 440.

14. See, e.g., Engle and Engle, *supra* note 134, at 229 (reporting on a study using the IDI to test the effectiveness of a semester or full-year study abroad program in French study at the University Center of Provence (AUCP); Altshuler, *supra* note 159, at 397 (reporting on the first use of the IDI on training for healthcare professionals); Anderson et al., *supra* note 154, at 460 (using the IDI on college students majoring in business administration and monolingual); Jane Jackson, *Globalization, Internationalization, and Short-Term Stays Abroad*, 32 Int'l J. of Intercultural Relations 349 (2008) (using the IDI on college English-major students who grew up in Hong Kong and spoke Cantonese as their first language); Medina-López-Portillo, *supra* note 151, at 183 (using the IDI to assess U.S. participants in study-abroad programs in Mexico); Michael J. Vande Berg, Al Balkcum, MarckScheld, and Brian J. Whalen, *The Georgetown University Consortium Project: A Report at the Halfway Mark*, 10 THE INTERDISCIPLINARY J. OF STUDY ABROAD 101, 109 (relying on the IDI to evaluate the effectiveness of study abroad programs at 4 different colleges); Jackson, *Intercultural Learning*, *supra* note 163 (relying on the IDI, in part, to evaluate students from Hong Kong who took part in a short-term sojourn in England after fourteen weeks of preparation); Pedersen, *Assessing Intercultural*, *supra* note 111, at 74 (using IDI to test the effectiveness of a short-term and year-long study abroad programs in psychology); and R. Michael Paige et al., *supra* note 163, at 253 (using the IDI to test the effectiveness of different types of service learning programs in Hong Kong in teaching intercultural competence).

¹⁵The CCAI is a 50-item self-assessment instrument that tries to assess a person's orientation to new ways of thinking and behaving by measuring four qualities of intercultural adaptability: flexibility and openness (FO), personal autonomy (PA), emotional resilience (ER), and perceptual acuity (PAC). R. Michael Paige & Elizabeth Stallman Madden, *Assessment of Cultural Knowledge*, THE ENCYCLOPEDIA OF APPLIED LINGUISTICS 46 (2013).

¹⁶The ICSI is a self-assessment instrument that measures a person's orientation to conflict in intercultural communication terms. It measures tendencies in intercultural communication in conflict situations such as directness vs. indirectness (DI scale) and emotional responsiveness vs. emotional restraint (ER). The test yields four intercultural conflict patterns: discussion (direct and emotionally restrained); engagement (direct and emotionally expressive); accommodation (indirect and emotionally restrained) and dynamic (indirect and emotionally expressive). *Id.* 44-9.

¹⁷The SILC measures an individual's tendency to use particular learning skills when living in another culture and can be used to determine to what extent students use certain types of culture-learning strategies during their education abroad experience. The SILC is a 52-item series of statements that ask respondents to indicate how often they use a particular strategy for culture learning, based on nine different approaches: adaptation; culture shock/coping strategies; interpreting culture; communicating across cultures; communication styles; nonverbal communication; interacting with culturally different people; home-stay strategies; and reentry strategies. *Id.* at 45.

¹⁸SCAS consists of 29 items designed to test a person's socio-cultural adaptation in terms of how that persons thinks (cognitive dimension) and responds to (behavioral dimension) to a new culture. *Id.* at 47.

19. Finally, the CCWMS measures a variety of attitudes and values such as immigration, patriotism, world government and global economic justice based on responses to 26 statements with which the participant must agree or disagree strongly. *Id.* 44-9.

20. The ICAPS helps identify elements of a study abroad experience that contribute to intercultural adjustment. Richard J. Rexeisen et al., *Study Abroad and Intercultural Development: A Longitudinal Study*, XVII *Frontiers: The Interdisciplinary J. of Study Abroad* 1, 2 (2008).

21. Paige and Stallman, *supra* note 173, at 44-9.

2. Qualitative Measurements

Researchers also combine (or rely solely on) qualitative assessments with the more objective data to assess students' progress in intercultural development. Some studies, for example, conduct interviews of students who have participated in particular programs designed to improve intercultural competence.²² One significant challenge with self-assessment to measure student growth is that, in general, students tend to overestimate their self-perceptions about intercultural sensibilities.²³

In some studies, the approach is ethnographic and over-time with the researcher relying on a number of observations both formal and informal, including the reading of reflective journals and weekly open-ended surveys designed to draw out student views, their intercultural adjustment and reactions to cultural differences. In such studies, researchers use open coding and pattern-matching techniques to analyze the qualitative data, and generally rely on more than one researcher assessing the data (e.g., interviews, journal entries) to aim for consistency in the observation.²⁴

3. Methodologies

The types of assessments to measure the effectiveness of teaching intercultural competence have varied not only as to the instrument used but also as to methods used to make the evaluation. In general, many quantitative studies are conducted using a before and after, and sometimes during the program assessment of the students who participate in an educational experience such as study abroad. For example, using the IDI, students can be assessed prior to the program on their degree of intercultural sensibility, which also allows for the categorization of students according to factors that may already influence where they may score on the pre-test.²⁵ It can also help teachers and students alike gain insight about students' stages of intercultural development that can help guide and tailor the type of culturing mentoring necessary for a particular student during the program.²⁶

Many studies also rely on control group of students who have not participated in an intercultural learning experience, such as those who choose to stay at home rather than study abroad.²⁷ The selection of the control group is always challenging and may put to question the validity of the results in the study. For example, it may not be possible to choose comparable students and other differences, rather than the educational experience itself, between the control group and the participants may explain the outcome in

22. One such study asked U.S. college students who had participated in a year abroad program in France the open-ended question of what their main accomplishments had been, or sought self-assessment by way of self-conceptions through the completion of open phrases like "I am ..." or through a series of more directed questions aimed at assessing degrees of acculturation (e.g., preference for speaking French). Nash, *supra* note 161, at 192. See also Medina-López-Portillo, *supra* note 151, at 184 (similar study design for U.S. study abroad program in Mexico). Yet another study used a survey instrument in a Spanish foreign language program that implemented service learning in order to improve students' intercultural development. The survey instrument was designed by the Spanish department based on the learning objectives identified for the program in five categories: Applied Spanish and Service Satisfaction; Cultural Understanding and Knowledge of Hispanics; Citizenship and Social Responsibility; Leadership Skills and Personal Development; and Career Impact. Nelson and Scott, *supra* note 160, at 456-460.

23. See, e.g., Altshuler et al, *supra* note 159, at 393.

24. See, e.g., Medina-López-Portillo, *supra* note 151, at 184. See also Colón-Muñiz et al., *supra* note 162, at 66-7; and Paige et al., *supra* note 163, at 258, 261-2.

25. One such study conducted by the American University of Provence of a semester or year-long French study program abroad, for example, was able to determine that students with previous study abroad or with two years of foreign language study tended to score higher in the pre-IDI test than others. This knowledge also allowed researchers to trace student's degree of progress (or even regression) based on their participation in the program being assessed. Engle & Engle, *supra* note 173, at 230. See also Vande Berg, Balkcum, Scheld, & Whalen, *supra* note 172, at 109 and Durocher, *supra* note 89, at 150-55 (describing a similar methodology of testing students three times: At entry; during the program; and post-entry).

26. The American University of Provence study, *supra*, also distinguished students who completed the study abroad program for a semester and those who stayed the full year in order to trace the progression of the IDI score over time. Not surprisingly, students who stayed for the full year showed greater progress in the IDI score than those who stayed only a semester. Jackson, Intercultural Learning on Short-Term Sojourn, *supra* note 217, at 235.

27. See, e.g., Nash, *supra* note 161, at 194 and 196. See also Durocher, *supra* note 89, at 123.

the study.²⁸ Another challenge relates to the lack of motivation of control students in particular to participate in the study; it is generally easier for students to respond when motivated by faculty at the home institution.²⁹

Many studies are simply measuring whether participation in the educational experience in general have helped students who participated gain intercultural competence. These types of studies, however, fail to identify what components of the program can actually be credited with the success. This has started to change. In June 1998, for example, John and Lili Engle pioneered a very different approach to measuring the success of study-abroad programs by classifying them into eight independent variables that could significantly impact student learning.³⁰ Until then, the differentiation focused on program type (e.g., island, direct enrollment, experiential, service learning, etc.), without highlighting the differences in program design or factors that might be responsible for the success of the program. These new factors which include both programmatic and participant characteristics, include length of the program; student pre-departure second-language competence; required second language use, in class and out; host or home institution faculty teaching students; type of courses students take abroad (if immersion in host university or separate program enrolling solely program students or also international students); presence or absence of mentoring and guided cultural reflection; the inclusion of experiential learning opportunities; and the type of student housing.³¹

The most ambitious study that took all eight of the Engle factors into account is the Georgetown University Consortium Project.³² This particular study, which was a three-year assessment, decided to include the students at four different institutions of higher learning – Georgetown, University of Minnesota, Rice University, and Dickinson College – to capture a diverse range of very different student profiles participating in 61 different study-abroad programs or those staying at home as a control group.³³

Additional programmatic factors that some studies have attempted to isolate as potentially significant to the learning of intercultural competence have included pre- and-post programmatic interventions, such as orientations, trainings about intercultural competence, and post-entry programs.³⁴ As well, some studies evaluate whether trainings on intercultural competence as part of job training is helpful to improve human development in intercultural sensibilities.³⁵ Additional characteristic factors that some studies have assessed as predictive of intercultural sensitivity include gender, nationality, cultural background,³⁶ and

28. Nash, *supra* note 161, at 194.

29. Vande Berg, *supra* note 137, at 112.

30. Comp et al., *supra* note 204, at 107-08.

31. *Id.*

32. Other studies look at some but not all of the Engle factors. See, e.g., Anderson, et. al., *supra* note 197, at 460 (study seeking to ascertain whether a 4 week program in an English speaking country improves the cultural sensitivity of its participants).

33. Vande Berg, Balkcum, Scheld & Whalen, *supra* note 172, at 101. The finding of this major study included 14 findings related to intercultural education: (1) that study abroad participants made significant progress in intercultural learning; (2) that females but not males increased their IDA significantly as a result of the study abroad; (3) that academic major such as humanities/social science and foreign languages showed greater gains in IDA when compared to students in other majors; (4) that prior language study is significantly associated with gains in intercultural competence; (5) that previous experience living in another culture and (6) prior study abroad was not meaningfully associated with intercultural competence gains, although these students tended to start the program with higher IDI scores; (7) that program duration is significantly associated with intercultural gains and that 13-18 weeks showed the greatest gains; (8) that teaching courses in the target language was positively associated with intercultural gains; (9) that students who enrolled in target language courses made significantly more intercultural progress than those who did not; (10) that students learn best when they study in a hybrid classroom that combines host and U.S. students as opposed to in classrooms made up entirely of host country students; (11) that students who received cultural mentoring made greater gains in intercultural competence than students who did not; (12) that students' perceptions of degrees of similarity/dissimilarity of the host culture matters to intercultural gains, with the largest gain occurring among students who perceived the other culture as dissimilar as opposed to very similar, similar, or very dissimilar; (13) that students who lived with other U.S. students or with students from the host country showed statistically significant gains in intercultural learning in contrast to those who lived with host families (although those who chose to live with host families tended to have higher IDI scores); and (14) that students who tended to spend more time with host nationals tended to show greater intercultural gains. Vande Berg, Connor-Linton & Paige, *supra* note 102, at 18-24.

34. Vande Berg, Balkcum, Scheld & Whalen, *supra* note 172, at 112-13.

35. Altshuler et al, *supra* note 159, at 390.

36. See, e.g., *id.* at 392. See also Jackson, *Globalization*, *supra* note 172, at 351 (using the IDI on college English-major students who grew up in Hong Kong and spoke Cantonese as their first language).

academic ability.³⁷ Interestingly, several studies confirm that females tend to gain greater intercultural sensibilities when exposed to similar educational programming as compared to males.³⁸

Another variation of some studies is to measure the long-term impact of certain educational experiences by surveying participants months or years after the completion of the program.³⁹ Other studies have used the IDI test to assess students' long term effects of study abroad programs.

B. Measuring Beyond Intercultural Learning

While many academic disciplines and professions are aiming for similar gains in intercultural sensibilities, there is no question that specific fields of study and professions also have distinct learning outcome objectives. For example, foreign language programs also wish to assess language competencies and a number of assessment instruments have developed to measure, *inter alia*, the degree of language proficiency that is acquired in study abroad opportunities as compared to stay at home programs.⁴⁰ Few other disciplines, however, have developed similar instruments to test learning objectives beyond language and intercultural competencies but there is some progress from which law schools can benefit.

One study conducted as part of the Georgetown University Consortium Project, for example, included a third domain of discipline-specific learning objectives other than language and intercultural proficiency to assess the gains of study abroad programs. To develop such instruments, researchers held a series of workshops with faculty different disciplines, including humanities, business, engineering and science, to agree on a set of discipline-specific learning outcomes and design potential instruments to measure those gains.⁴¹ At the end of the workshop, the four-disciplines agreed on the following four additional learning outcomes: The ability to function on multicultural teams; an understanding of ethical and professional responsibility; an understanding of the impact of disciplinary solutions in a global and societal context; and an ability to apply the disciplinary knowledge.⁴² As well, the faculty consultants developed an interview guide that was field tested and consisted of three different hypothetical scenarios each of which asked students to imagine how they would response to a series of questions posed by an interviewer during a job interview or an interview for admissions to graduate school.⁴³ This is a fairly new instrument that has yet to be tested, but it reflects consensus for representatives of these various disciplines on learning outcomes and ways to measure gains in those outcomes from certain types of educational experiences.⁴⁴

There are also other instruments that measure either gains in substantive knowledge or measure ethics and values in ways that could be useful to educational programs that include global and social justice engagement. The most widely adopted approaches used in the study of moral judgment are the Defining Issues Test (DIT2), which is based on an adaptation of L. Kolberg's theory of cognitive moral development, and the Ethics Position Questionnaire (EPQ), which is based on D.R. Forsyth's approach to

37. Rexeisen et al., *supra* note 178, at 4 (studying, *inter alia*, whether academic ability as measured by GPA scores related to changes in intercultural development).

38. Altshuler et al, *supra* note 159, at 394. *See also* Vande Berg, *supra* note 137, at 20.

39. The 2002 survey conducted by the Institute for the International Education of Students, for example, surveyed more than 3,400 students (23% yield rate of response) years after participated in IES study abroad programs. The students overwhelmingly self-reported that they continued to develop their self-confidence and worldview after returning home from their study abroad experience. *See* Rexeisen et al., *supra* note 178, at 7-13 (finding that while college-aged U.S. students who studied in London showed short-term gains in intercultural development, the findings raised questions about the long-term effects since IDI score declined overtime).

40. *See, e.g.*, Vande Berg, *supra* note 137, at 108 (describing the Simulated Oral Proficiency Interview (SOPI) and the Oral Proficiency Interview (OPI) language competencies measurements). *See also* R. Michael Paige and Elizabeth M. Stallman, Using Instruments in Education Abroad Outcomes Assessment in *A Guide to Outcomes Assessment in Education Abroad* at 137, 140-41 (Mell C. Bolen, ed. ????) (discussing, in addition to the OPI and SOPI, the Speech Act Measure (SAM) and the Language Strategies Survey (LSS) which are used to measure second language acquisition).

41. Vande Berg, *supra* note 137, at 110.

42. *Id.* at 111.

43. *Id.*

44. Paige & Stallman, *supra* note 190, at 50.

the study of moral reasoning. Kolberg proposed a six-state developmental framework for understanding moral orientation: Pre-convention stages 1 and 2 focus more-or-less on self-centered fear of punishment; in conventional stages 3 and 4 individuals tend to make moral decisions based on rigid rules or for reasons that are influenced by peers; the principles stages 5 and 6 is when behavior is more autonomous and is controlled by universal principles of right and wrong.⁴⁵ The DIT2 instrument is comprised of five moral dilemmas, each of which is followed by 12 statements that participants rate according to their importance to the solution of the dilemma.⁴⁶ In contrast to Kolberg's more rigid model, Forsyth believes in personal variation in moral judgments and behavior that can be understood in terms of a person's preference for idealism and relativism. Forsyth's approach does not present a developmental model but relies on idealism and relativism to provide a classification of an individual's moral orientation.⁴⁷ The EPQ study asks students to complete three different questionnaires – demographics/psychographic questionnaire, a moral reasoning survey, and an intercultural development inventory or another test– at the beginning and at the conclusion of the study abroad experience. This approach allows the study of the relationship between intercultural competence and moral judgment (as measured by the EPQ study).⁴⁸ Another study called the “new environmental paradigm” (NEP) assesses eco-values and to measure environmental orientation. The most recent scale called the NEP2 is comprised of 15 Likert scale questions that evenly measures the resulting five hypothesized facets of ecological worldview: (1) people's beliefs about how easily the balance of nature is upset; (2) the right of humanity to rule over the rest of nature; (3) the existence of physical limitations for growth of human populations; (4) the possibility of an eco-crisis; and (5) human exceptionalism or the belief that humans are exempt from the constraints of nature.⁴⁹

C. Some Preliminary Lessons to law schools from Study Design and the Results of Studies Measuring Intercultural Competence and Beyond

There are a number of valuable lessons for law schools from the wealth of theory, research, and studies in other disciplines evaluating educational programs designed to teach students intercultural competence and other values of intercultural engagement, including ethics. The first is the need for law school faculty to come together to establish common learning outcomes and objectives in a more systematic way across a number of teaching methodologies (clinics, field placements, service learning, and study abroad) to prepare lawyers who will service different types of clients in different types of settings. Of course, this effort has already begun. This article as well as many others cited in Part II of this article written by legal educators have already theorized on the desired skills, values, attitudes and practices associated with good intercultural lawyering. A more recent book chapter co-authored by Prof. Andi Curcio also starts to help legal educators think about developing desired outcomes in the area of educating interculturally competent lawyers whether as a community of educators or as individuals.⁵⁰ Professor Curcio, for example, offers a series of proposed learning outcomes in intercultural lawyering training categorized in terms of knowledge, attitudes, and skills.⁵¹

The second lesson is that law schools need to start to measure the effectiveness of educational programs designed to help law students develop into the type of interculturally competent lawyer we have identified. The great news is that law schools can rely on pre-existing instruments already tested for validity and reliability in other disciplines. The IDI, for example, as well as some of the ethics

45. Rexeisen, et al., *supra* note 178, at 195.

46. *Id.*

47. *Id.*

48. *Id.* at 196.

49. *Id.* at 197-98.

50. Andrea A. Curcio, Nisha Dogra, & Teresa Ward, *Using Existing Frameworks to Develop Ways to Teach and Measure Law Students' Cultural Competence* in *THE LEGAL PROFESSION: EDUCATION AND ETHICS IN PRACTICE* (DAVID A. FRENKEL ED., 2013).

51. *Id.*

assessments have applicability in all academic fields. As well, law schools can learn significantly from best practices in the type of methodology that has developed in other disciplines to measure the effectiveness of educational programs in teaching intercultural competence. For example, law schools individually should assess their own programming, whether by isolating specific programs or by testing the entire curriculum's effectiveness in teaching students intercultural competence as part of the law school program. This would mean testing all incoming students for their intercultural competence at admissions and then again at graduation, at a minimum. Ideally, as well, students could be tested as part of their participation in programs offered at the school to help schools identify the most effective programs to teach intercultural competence in the context of law schools (i.e., simulations, clinics, field placements, service learning). We can also adopt the best practices that other disciplines have adopted through their own testing on the effectiveness of educational programs that are comparable to ours. Ideally, law schools should partner to do joint project to assess programming to improve the data and learn from each other.

We also as law faculty need to consider adapting or developing our own instruments that respond to the identified particular intercultural or related values associated with intercultural lawyering. Here, too, there has been some progress. Professor Curcio partnered with social scientists to develop a 29-question survey instrument designed specifically for law students based on previously identified learning outcomes and conducted a pilot study of the instrument to test it for validity and reliability.⁵² The study sought information about students' knowledge of how culture affects the lawyering process, their attitudes toward cultural diversity education, and their awareness of how their cultural background affects the ways in which they, and others, communicate and interact. The survey also asked demographic questions and contained a series of open ended questions seeking information about the survey design as well as students' thoughts about the role culture plays in their world-view and interactions.⁵³ After some revisions, this survey instrument has already been administered to incoming and upper level law students at two law schools with some promising results about the effectiveness of at these two law schools in teaching intercultural sensibilities. For example, in general, upper level students revealed greater awareness on how culture influenced lawyering and legal decision-making.⁵⁴ The study, however, did not identify which aspects of the educational experience could be credited with these gains. The results, as well, isolated certain demographic factors (such as gender and ethnicity) significant to intercultural sensibilities. The study, for example, revealed that minorities and women in law school tend to be more self-aware of how culture influences their views of the U.S. legal system, as compared to white students.⁵⁵ The authors acknowledge several limitations to this initial study, including the unreliability of self-reporting;⁵⁶ however, it is promising and exciting that legal educators are partnering with social scientists to conduct and develop instruments to be applied in the context of legal education.

A third important lesson for law schools relates our preparedness as legal educators to engage in the teaching of intercultural competencies. As law schools increase (or seek to increase) the multicultural and class diversity in the enrollment of law students into their J.D. or L.L.M. programs,⁵⁷ the pluralistic classroom demands approaches to teaching that recognize and are sensitive to difference not only in what we teach but how we teach law. As well, as law schools shift to consider more seriously the inclusion of intercultural legal education for all law students as an essential component of legal training in response to shifting demographics in the U.S.⁵⁸ or the role of globalization in transforming the practice of law, then

52. *Id.*

53. *Id.*

54. *Id.*

55. *Id.*

56. *Id.*

57. Matt Leichter, 'White Flight' Hits Nations Law Schools, THE AMERICAN LAWYER (Feb. 27, 2014) <http://www.americanlawyer.com/id=1202629911659/'White-Flight'-Hits-Nation's-Law-Schools?slreturn=20140127143114>

58. *Estimates of the Components of Resident Population Change by Race and Hispanic Origin for the United States: April 1, 2010 to July 1, 2012*, UNITED STATES CENSUS BUREAU (Feb. 27, 2014)

law schools must take seriously whether the educators are ready to practice intercultural sensibility in the traditional law school classroom or to teach intercultural competencies in programs with that stated purpose. The results may surprise us. In 2008, Kenneth Cushner published the results of a few recent studies testing the intercultural competency of mostly elementary school teachers in the U.S. and Hong Kong relying on the IDI instrument which reveal low levels of intercultural competence among the overwhelming majority of teachers.⁵⁹ Cushner suggests that the lack of diversity among teachers in the samples contributed to the low scores given the influence that early socialization has on the development of ethnic and cultural identity.⁶⁰ Law schools have made some progress in diversifying law faculty,⁶¹ but it has not on offering intercultural training to educators. This may also need to change.

A fourth lesson may relate to how and whether a law school's ability to assess intercultural competence accurately should bear on admissions decisions. In this article I have argued in favor of educating all students admitted to law school in intercultural competencies irrespective of their developmental stage. Once admitted, law schools need to provide a curriculum that is responsible to the needs of the profession and the needs of students. Levels of intercultural competence should not, in my view, impede access to law schools. Intercultural competence is teachable and students do make progress from thoughtful educational programming designed to teach intercultural competency. A different issue, however, is whether high levels of intercultural competence should weigh in favor of students seeking admission into law schools and the profession. Currently, law school admissions decisions are narrowly focused on measuring a narrow set of skills such as reading, writing, and analysis as measured by the LSAT or GPA. Many law schools do adopt holistic admissions policies and consider other factors such as demonstrated leadership, overcoming hardship, and work experience, to name a few. We have not, however, measure highly desirable skills, such as intercultural competence, as part of admissions decisions. This is at least something worth exploring.

<http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=bkmk>.

59. Cushner, *supra* note 95, at 167 (reporting, inter alia, on the Mahon (2003) study of 155 teachers in the U.S. Midwest in which all tested at minimization levels and below; the Grossman and Yuen (2006) study of 107 teachers in Hong Kong in which 55% of teachers were in the Denial/Defense or Reversal stages, and 43% in Minimization, with only 2% in the Acceptance and Adaptation stages).

60. *Id.* at 164-66.

61. *See, e.g.*, Chris Chambers and Sarah E. Redfield, *A Teacher Who Looks Like Me*, 27 J. CIV. RTS. & ECON. DEVL. 105 (2013).

**CULTURAL
SENSIBILITY
TEACHING RESOURCE
BIBLIOGRAPHY**

**SAMPLE TEMPLATE
FOR DEVELOPING
CULTURAL SENSIBILITY
LEARNING
OUTCOMES**

Outcome	Assessment Method	Beginning Stage	Developing	Conversant	Advanced

ISSUES OF CULTURAL COMPETENCY AND THE LAW SCHOOL CURRICULUM

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June 2015

Compiled by, and used with permission of, Deborah L. Johnson, Director of Diversity & Outreach and Adjunct Professor of Law, Roger Williams University School of Law

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